

## **FOREWORD**

### **SSR Stock Taking**

*Dr. Jean-Jacques de Dardel*

Change has been one of the few constant aspects in international and security affairs in the last decade. Some changes came more or less over night and only needed little political guidance; others had to be managed more actively. Security Sector Reform (SSR) certainly belongs to the second category of necessary but sometimes painful changes. The Swiss government supports this important aspect of a broader transformation policy towards open, democratic, free-market oriented and constitutionally guided societies. SSR not only makes the security apparatus more efficient, but also more accountable to democratic standards and rule of law. These are essential factors for stability.

Switzerland has put SSR high on its EAPC agenda and actively promotes this topic as the main Swiss contribution. The establishment of the Geneva Centre for the Democratic Control of the Armed Forces (DCAF) in 2000 has been a clear symbol of our commitment. The pooling of resources and expertise and diffusion of that expertise is an important task of DCAF. Its unique position in the 'peace capital' of Geneva provides for a close co-operation with other relevant actors and institutions active in the broader international security context.

This publication provides analysis of the status, success and failure of civil-military relations and SSR in the countries of Central Europe, South-Eastern Europe, and the Black Sea region. This stock taking programme is an important step in a comprehensive reform process. It is critical to assess the current state of the security sector and to evaluate its weaknesses, strengths and requirements for change. Only by carefully examining the current state of the sector is it possible to tackle specific problems and design specific projects.

But we have to be aware that the important challenge lies in the implementation of the reform projects. This level can only be achieved if the target countries see a real need for the reforms. In that sense, concrete and flexible concepts are needed to support a tailor-made reform of the security sector. Only a supported bottom-up approach that includes the key domestic stakeholders can bear fruit. External actors, such as international organisations, states, think-tanks and NGOs, can lend support to such an implementation process as facilitators.

Switzerland thinks that by continuing this process of active support of these transformation processes it can contribute to the further stabilisation and sustainable development of regions that are important to us.

Dr. Jean-Jacques de Dardel

Head

Centre for International Security Policy

Federal Department of Foreign Affairs

Switzerland

## Preface

True to its mandate, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) focused its initial activities immediately after its creation on South Eastern Europe and the Former Soviet Union.

In its short existence, DCAF has supported and initiated over a hundred seminars, publications and international cooperation projects. After being heavily engaged in strategically advising then President of the Federal Republic of Yugoslavia Kostunica on security sector reform during the transition period after Milosevic's fall, DCAF has offered to set up an International Security Advisory Board (ISAB) for South East Europe (SEE), actively supports both the Demobilization and Retraining effort in Bosnia and Herzegovina and Border Management Reform in Albania, Bosnia and Herzegovina, Croatia, Macedonia, and Serbia & Montenegro. DCAF substantively supports the Stability Pact for South East Europe and the SEEGROUP with studies such as this one.

In the field of Parliamentary Oversight and Reform of the Security Sector, DCAF will make the Handbook on Parliamentary Oversight (jointly edited with the Inter-Parliamentary Union and published 2003) available in Albanian, Macedonian and Serbian. This handbook, together with other materials of foundational character prepared by DCAF, will be used in DCAF-organised seminars for parliamentarians and committee staffers.

DCAF is an international foundation established on the joint initiative of the Swiss Department of Defence, Civil Protection and Sports, and the Department for Foreign Affairs. Its stakeholders are the 42 governments which have hitherto joined its foundation council, and the international community. The present study is the result of a fruitful and close cooperation between DCAF and local governments and partners. It fully represents their views and assessments.

Philipp H. Fluri, Ph.D.  
DCAF Deputy Director

## **Introduction**

From January to December 2002 the Geneva Centre for the Democratic Control of Armed Forces (DCAF) conducted a special programme on the progress of security sector reform in South East Europe. The project was executed on the Mandate of the Swiss Department of Foreign Affairs as an overall contribution to the Table III programmes of the Stability Pact.

The countries invited to participate in this self-assessment programme are signatories of the Stability Pact: Albania, Bulgaria, Croatia, Macedonia, Moldova, and Romania. Over the last twelve years their governments have both made considerable efforts to reform their defence and security according to democratic requirements and to adjust to the changing security environment. The general objective of the programme was to assess the progress to date, review lessons learned, and identify requirements for reform programmes implemented in each country as well as leading to regional cooperation. Opportunities provided by the Stability Pact were a guiding theme.

The method of the programme was stock-taking and self-assessment. Policy makers in the target countries would assess the stages of reform so far attained, prioritise the immediate requirements and, working with external experts, define both the feasibility and implementation of consequent reform activities.

DCAF selected a Programme Leader, Senior Fellow Dr. Jan Arveds Trapans, who worked with policy makers, engaged local and external non-governmental experts, established liaison with and provided information to supporting governments and institutions, managed the conduct of workshops, guided the consolidation, production, and dissemination of project reports or special studies.

### **Project Preparation and Organization**

In the first stage of the project, during January and February 2002, DCAF staff prepared background analyses of the situation in each target country, surveys of their ‘political and reform landscape’, organized working relations with their policy-makers as partners in a joint effort and identified local institutes and outside expertise.

DCAF invited the earmarked governments of Albania, Bulgaria, Croatia, Macedonia (FYROM), Moldova and Romania to participate, provide lists of experts, governmental and non-governmental, and helped establish an administrative infrastructure for conducting activities. The response was very positive in every country.

DCAF representatives Dr. Fluri and Dr. Trapans conducted meetings in each participating country with government officials, parliamentarians, presidential offices, and research institutes. There were meetings of the respective countries’ ambassadors at Brussels (NATO).

From March to July 2002, DCAF convened workshops in every participating country. The participants included policy-makers, non-governmental experts, and government representatives. In most cases, the Defense and Foreign Ministers participated (in Macedonia, the President did so), senior policy makers, and the military, ambassadors of Western states and international organizations, and non-governmental organizations and the media.

The objective of the workshops was to identify clearly the present state of defence and security sector reform, success and lessons learned, and the areas where external expertise is required and how it can be best provided. The overall framework was:

- Security sector reform objectives and the sequence of their implementation
- An analysis of requirements and external support needed, provided by external experts experienced in security reform in post socialist countries, matching requirements with resources, to reach the objectives.
- A review of policy: “findings and recommendations”.

The specific topics dealt with in the workshops were:

#### *Constitutional, Legal, and Procedural Provisions and Adequacy of Democratic Control*

- The role of Parliaments in their legal, institutional and procedural aspects
- Democratic control of armed forces: Parliament, Executive and General Staff
- Democratic control and reform of intelligence, police and border management
- Transparency and Accountability

#### *National Security Development*

- National security strategies and defence and security policy
- Reform and reduction of armed forces
- Regional cooperation to meet new threats and conflicts
- Preparation for crisis management, and peace support operations

#### *Capacity Building*

- Approach used until present, areas of success or failure
- Identification of external assistance and experience (“lessons learned”) in other new democracies,
- The role of civil society: non-governmental organizations and the media
- Institutions and individual experts, capable of dealing with the problems of reform
- The role of external institutions and programmes active in the participating countries (EU, Stability Pact, NATO, Partnership for Peace, MAP, OSCE, etc.)

As a follow-up for the workshops, special studies, written by non-governmental experts, with support from governmental civilian and military staff, were the concluding part of this programme.

From August to December 2002, under DCAF guidance and coordinated by a local trustee – as a rule an internationally renowned scholar with a long-standing working relationship with one of the programme leaders and/or DCAF – security experts in the participating countries wrote special studies. For each country, there were ten papers (listed below) as well as an overall introductory-summary paper for the country as a whole; sixty-six studies in all. The studies will be published in two volumes:

- (I)     Albania, Bulgaria, Croatia,
- (II)    Macedonia (FYROM), Moldova, Romania.

A third volume will provide analyses of the texts and comment their implications for coordination and assistance programmes and action plans by the international community.

The topics of the study papers are:

**Democratic Oversight and Control over Defence.** Constitutional and procedural provisions on the responsibilities, and functions of the Head of State, the Cabinet, the Defence Minister, the Chief of Staff and special institutions (National Security Council).

**The Parliament.** Constitutional, legal, and practical provisions, the role and authority of the committees, budget approval process, powers of inquiry, hearings, and questions to cabinet members. Working relations between parliament and the defence community.

**Transparency and Accountability.** Democratic oversight of security and defence. Relations between executive, legislative, and civil society. Reports by the Cabinet to the Parliament. Dissemination of information to media and society.

**Democratic Oversight and Control over Intelligence, Police and Border Guards.** Laws on duties and responsibilities, and legal powers and governmental oversight. Reorganisation and response to changing South East European security environment.

**Civilians and the Military in Defence Planning.** Defence planning process, national security concepts, and defence policy. The roles and functions of civilians and the military. Introduction of best practices in resource management and long-term planning, and information to the Parliament.

**Good Governance in Security and Defence Reform.** Reform of the civil service, parliamentary staff, and the military. The emergence of a ‘defence community’. Recruiting. Civilians and the military. The use of non-governmental organisations and experts.

**Civil Society.** Legal provisions on non-governmental organisations, the media, and freedom of information. The relationship of non-governmental experts, as policy advisers, to policy makers in the government and to the parliament. The role and capability of the media.

**Crisis Management.** Legal and organisational provisions for managing domestic crisis situations and emergencies. Responsibilities and cooperation of civilian and military authorities. Structures and procedures for crisis management.

**Peace-keeping and Regional Security.** Formation of peacekeeping units for contingency operations, particularly in region. Participation in multi-national, regional peacekeeping formations (e.g. SEEBRIG)

**International Requirements and Influence.** Standards and requirements observed by the participating country concerning democracy and market economy in security and defence sector. External inventory of international actors and initiatives in security sector reform.

Policy makers in every target country expressed great interest in the findings of the project and that it be continued. Results were made available to the SEEGROUP SEESTUDY project leader upon special requests from participating countries.

The proposals for continued work include an international advisory board, to be organized and guided by DCAF, the development of national security concepts, risks and threat analysis, enhancing the work of parliamentarians and parliamentary staffers, crisis management, and other issues<sup>1</sup>.

The present study is one of four extensive programmes funded by the Department of Foreign Affairs of Switzerland on behalf of the Stability Pact and executed by DCAF. All four programmes reflect a profound concern with transparency-building, democratic oversight and reform of the security sector:

- ***The South East Europe Documentation Network*** (<http://www.seedon.org>) aims at creating on the internet a comprehensive virtual library of crucial information for decision-makers from the field of civil-military relations and democratic oversight of the security sector in south-east Europe.

---

<sup>1</sup> DCAF has – as of February 2003 - offered to set up an International Security Advisory Board (ISAB) for South East Europe (SEE), and also actively supports the Demobilization and Retraining effort in Bosnia and Herzegovina and supports Border Management Reform in Albania, Bosnia and Herzegovina, Croatia, Macedonia, and Serbia & Montenegro. In the field of Parliamentary Oversight and Reform of the Security Sector, DCAF will make the Handbook on Parliamentary Oversight (jointly edited with the Inter-Parliamentary Union and published in 2003) available in Albanian, Macedonian and Serbian. This handbook, together with other materials of foundational character prepared by DCAF, will be used in DCAF-organised seminars for parliamentarians and committee staffers (also see the Annex to this volume).

- ***The Transparency in Defence Procurements Programme*** seeks to establish data on existing and planned practices in SEE and to make them available in the SEEDON framework on the internet
- ***The Stock-Taking Programme*** on needs and demands for technical assistance in civil-military relations and security sector reform in South East European countries led to the present results.
- ***The Needs Assessment in Expert Formation*** seeks to establish demands and needs for future expert formation programmes in the security field.

The findings and conclusions of all these programmes will be published and made available by summer 2003.

The Editors



**DEFENCE AND SECURITY SECTOR  
GOVERNANCE AND REFORM IN SOUTH EAST  
EUROPE: INSIGHTS AND PERSPECTIVES**

**ALBANIA**

**A SELF ASSESSMENT STUDY**

## **TABLE OF CONTENTS**

### **Part One: Summary Security Sector Reform**

1. Security Sector Reform in Albania.....3  
*Aldo Bumçi*

### **Part Two: Democracy and Defence**

2. Civilian and Democratic Control of the Armed Forces.....27  
*Mentor Nazarko*
3. The Parliament and the Security Sector.....45  
*Viktor Gumi*
4. Civilians and Military in Defence Planning: From a National Security Concept to a Force Development Plan.....58  
*Igli Totozani*
5. Democratic Control of the Intelligence Service.....72  
*Sokol Berberi*

### **Part Three: Government and Society**

6. Good Governance in Civil-Military Relations.....87  
*Sander Lleshi and Aldo Bumçi*
7. Transparency and Accountability in Governance.....104  
*Blendi Kajsiu*
8. Security and Defence – Civil Society and the Media.....121  
*Henri Cili*

### **Part Four: International and Regional Influences**

9. An Institutional Perspective on Security Issues.....136  
*Enika Abazi*
10. Peacekeeping and Regional Security.....157  
*Gjergji Gace*
11. Crisis Management.....170  
*Mirela Bogdani*

# CHAPTER ONE

---

## SECURITY SECTOR REFORM IN ALBANIA

*Aldo Bumci*

### Introduction

The aim of this paper is to provide a general picture of the state of civil-military relations and progress in security sector reforms in Albania. The relevance of this study is twofold: first, since Albania is a transition country emerging from a totalitarian regime, it is useful to look at the degree to which it has achieved democratic control over the armed forces, in other words, prevented the military from taking an active role in politics. Second, considering the regional environment and the existence of Albanian populations in Kosova and Macedonia, establishing democratic and civilian oversight while carrying out security sector reforms would at least reduce or eliminate the threat that the military could embark on adventures.

However, the experience of this decade has shown that despite the conflict in Kosova and Macedonia, the Albanian state remained clearly outside the conflict. The Albanian army was not only unable to help the Albanians in Kosova but also lacked the capacity to protect the country against a possible Serbian aggression. Therefore this second concern does not really apply to the Albanian case and the relevance of this study is confined to the democratic process. But before we look at the state of affairs in civil-military relations we should place this dimension in a larger context. It is very important to have an understanding of the weight of the military institution in Albania because only in this way can the issue of democratic control of armed forces and the problems that might appear be appreciated. If the military were an important actor, then even a relatively small problem in civil-military relations would be important. On the contrary, if the military were an insignificant player then even seemingly major problems would not have any impact on the democratic process. In the following section we will look at the tradition of civil-military relations and the weight of the military vis-à-vis other security agencies, the police and intelligence services.

## The Legacy of Civil-Military Relations

During the communist period the military constituted one of the main institutions through which communist authorities defended their regime. The communists knew very well that power rests in the barrel of a gun. However, as the communist regime consolidated its domination over the country, other instruments of control gained more importance vis-à-vis the military: the extensive network of secret police and the indoctrinating institutions and mechanisms. It was mainly through the secret police that the authorities instilled fear into the population. In addition to this, the military has never been an independent actor, but was under the firm control of the civilian communist authorities. This control was realised by various means: through recruitment processes the communist authorities made sure that only people from reliable families could fill key positions in each institution. As can be imagined, this policy was even more pronounced for such an important institution as the military.

Another instrument of control was the party. A large proportion of officers were also party members. In addition to the party committees there was also the institution of the commissar, who was a party representative and a co-commander with the commanding officer of each army unit. Needless to say, indoctrination was a constant element of control. As a result the army was over-politicised. Nevertheless, control was not confined to the measures mentioned above, but also included repressive measures to instill fear. In the mid-1960s the top communist leadership abolished military ranks, probably in a move to weaken the corporate spirit that characterises this institution. This was a big blow to the professionalism of the armed forces. In 1974 Enver Hoxha declared that he had uncovered plans for a military coup. The then minister of defence and many high-ranking military officers (former generals) were executed and many others imprisoned. The fact is that there was no military coup in the making. This was only part of a campaign of eliminations and purges initiated by Hoxha that included many other segments of the top communist leadership. A large number of officers were imprisoned or released from duty. Between 1965 and 1980, 2,500 trials of military personnel were held.<sup>1</sup> As we can see, civil control was not achieved by the constitution – communist states

---

<sup>1</sup> Elmas Leci, *Eliminimi i Lidershipit Ushtarak*, (Tirane: Institut i Sigurimit dhe Mbrojtjes, 2002), pp.185.

were not governed by their constitutions.<sup>2</sup> This fact obliges us to look not just at the legal structures but at the actual behaviour of the armed forces.<sup>3</sup>

All these measures and the overwhelming control that the communist party had over the army reduced its professionalism. The decisions to militarise Albanian society and to build hundreds of thousands of concrete bunkers, draining the country's resources, were not made by the military but by the paranoid civilian leadership. This clearly shows that civilian leadership without the democratic component does not necessarily mean better leadership.

As the communist system was unravelling, there was a fear that the army would be used by the authorities to suppress popular protests. An attempt at a military coup was actually made, although to what extent it could have been successful or the military hung on to power is another question. In February 1991 disgruntled officers at the Enver Hoxha Military Academy had announced the creation of a movement for the Defence of the Interests of the People and Homeland. An ultimatum was addressed to the top civilian authorities demanding that a state of emergency be declared and the Democratic Party, the first opposition party, be outlawed. The attempt failed. It seems that hardline communist party leaders were behind the move.<sup>4</sup>

### **Democratic Politics, the Military and Reforms**

The democratic processes naturally necessitated the transformation of the army and of civil-military relations in general. The restructuring process involved not simply a considerable reduction in the size of the armed forces but also the need to de-politicise them. As we mentioned earlier, the army's mission was to defend the party in power and the recruitment process had been considerably politicised. As can be imagined, the reform and downsizing of the army created discontent. The officers that were demobilised had to face the difficulties of integrating themselves into civilian life at a time when the whole country was going through a painful transition. During the 1997 crisis, military officers demobilised during the reform process joined and played an important role in the rebellion that was sparked by the financial crisis caused by the collapse of pyramid

---

<sup>2</sup> Vojin Dimitrijevic, 'Societal and Cultural Prerequisites for Promotion and Implementation of the Democratic Control of the Armed Forces', *DCAF Working Papers Series*, No. 67, August 2002.

<sup>3</sup> Daniel Nelson, 'Civil Military Relations, International Security and Democracy', presentation to the conference *Taking Stock on Civil-Military Relations: An International Conference*, The Hague, The Netherlands, May 2001.

<sup>4</sup> Elez Biberaj, *Albania in Transition*, (Boulder, CO: Westview Press, 1998), pp. 92-93.

schemes.<sup>5</sup> The events of 1997 are very complex and one needs historical distance in order to fully analyse and comprehend them. Moreover it is not the aim of this paper to focus on this. It is important to stress, however, that those former military officers who played a role constituted only one dimension of the event. The financial crisis and the way the political forces, both government and opposition, behaved determined to a great extent the course of events. In addition, when we speak about civil-military relations and military involvement in politics, we have in mind the official institutions. In this respect the 1997 crisis was not caused by the army, nor was it a military coup. The army disintegrated together with the state.

It could be said that during the democratic experiment of the last decade the army has clearly not shown any praetorian tendencies, which is in line with its tradition. And this is not the case because of the proper establishment and functioning of democratic institutions. On the contrary, the Albanian democratic experiment has been far from successful. Albania has not yet passed the test of free and fair elections. The conduct of all the parliamentary elections, except those of 1992, has been challenged by the losing party and has been below democratically-established standards. Contested election results have been accompanied by institution-building which has lacked legitimacy and consensus and has been politicised. Due to the polarised political atmosphere and the ongoing political struggle and insufficient economic resources, the Albanian state could very well be characterised as a weak state. However despite all this, the military has not been a factor in Albanian politics. Nor has the military used the exploding situation in Kosova to demand greater support and a greater say in government.

The inclination of the military to intervene in politics is only one side of civil-military relations. The other side of the coin is the tendency of civilians to use the military, and it is precisely here that problems have been seen. As mentioned above, institution-building in Albania was done in such a way as to allow the political forces in power to control the institutions by bringing in their own people and carrying out massive purges, and the military institutions have not escaped from this. Thus after the coming to power of a left-wing coalition, 1,500 officers of different ranks were purged from the armed forces, among them around 400 officers who had received education and training in the West in 1992-96.<sup>6</sup> While this reflects a clientele culture, we need to qualify the way the political forces have used the military by comparing it with the other two security institutions – the police and intelligence service.

---

<sup>5</sup> Besnik Mustafaj, *Albanian Human Development Report 1998*, (UNSECO 1998), pp. 78

<sup>6</sup> Elmas Leci, *Eliminimi i Lidershipit Ushtarak*, (Tirane: Instituti i Sigurimit dhe Mbrojtjes, 2002), pp. 463-470.

The Albanian experience has shown that the opposition has always criticised the government for the way it has used the intelligence service and the police against political opponents. The harshest criticism has been directed at the intelligence services, while the police have also been criticised because they have been used to exert pressure during elections or have used excessive force against the opposition in demonstrations. The lack of free and fair parliamentary elections reveals that the governing parties have had the will to use the institutions in order to change election results. However, they have not used the army in these ‘exercises’. It is too cumbersome to use the armed forces to rig an election.

Despite the fact that the Albanian military has shown no propensity to intervene in domestic politics, it is still worth looking at the current legal framework that regulates civil-military relations in Albania, and also at a number of other issues that focus on the reform process in the armed forces. As we have shown, during the communist period, civil control over the military was not the result of constitutions but of other instruments of control. However, in a democratic state a legally sound framework that regulates these relations is indispensable. Civilian control is not confined to the political aspect, but should also involve the ability of the civilian authorities to hold the military responsible for their use of financial resources and defence budgets. There are two more issues that deserve attention, the need to focus on the civilian side of civil-military relations and the need to involve civil society in debates on defence issues.

### **The Legal Framework**

The new constitution approved in November 1998 lays down the legal framework that regulates civil-military relations and responsibilities in the security sector. It is important to note that although the opposition boycotted the referendum on the new constitution and has not voted on a number of laws related to the democratic control of the army and documents on defence strategy, this should by no means be understood as indicating a lack of consensus between the political forces on civil-military relations. First, the political stance of the opposition at that time consisted of a general boycott of the parliament, which was not related to legal acts on civil-military relations. Moreover, there is no disagreement between political forces in Albania with regard to civil-military relations, since the current opposition was in power in the 1992-96 period during which the first major changes in this direction were made.

The Constitution and the legal acts on civil-military relations provide a clear delineation of authority and a system of subordination of control and command of defence structures in times of war and peace. However, a certain period of time would be necessary in order to identify lacunae or contradictions that might exist in the legislation regarding civil-military relations. In this section we will look briefly at the hierarchy of authority with regard to the armed forces. According to law 8671, dated October 26, 2000, 'on the powers and command authority and strategic direction of the armed forces of the Republic of Albania' these powers and authorities have this hierarchical order: the parliament, president, council of ministers, prime minister, minister of defence, general staff, chief-of-staff, commanders of the army, navy, and air force.

### **The Authority of the Parliament**

The parliament, whose role has been enhanced in the new constitution, represents the main and most important institution concerning democratic control. The parliament: approves the strategic document on national security and the document on defence policy and other laws in the field of defence; it approves the budget; exerts parliamentary control over activities connected to the armed forces; decides on sending troops on missions abroad; allows the passage or stationing of foreign troops and their status; ratifies, or renounces treaties and international agreements connected to the territory, alliances, political and military matters, and membership in international organisations; in cases of threats or international requirements for collective action, it confirms the declaration by the president of a state of war and imposition of mobilisation; and parliament declares the end of the war. 'In case of armed aggression against the Republic of Albania, the President of the Republic, by request of the Council of Ministers, declares the state of war.' Thus in extreme cases, such as an armed aggression when it is impossible for the parliament to convene, the president and the council of ministers decide on declaring a state of war. But if the parliament is left out in the first phase, such a decision needs its approval in its first session. Concerning appointments in the armed forces, the parliament is not included in the process. Naturally, if serious problems arise the parliament may request explanations from the Minister of Defence or the Prime Minister.

### **The Competencies of the President**

The new constitution has reduced the powers of the President, who no longer enjoys law-making authority, and has few appointment competencies. The President is Commander

-in-Chief of the armed forces. In peacetime he exercises his authority over the armed forces through the Prime Minister and the Minister of Defence, while in wartime he leads the armed forces directly or through the Commander of the Armed Forces. He enjoys complete command authority of the armed forces and has these duties and responsibilities: approves on the proposal of the Defence Minister the organisational structure and the action plan in peacetime and during states of emergency; decides to demobilise the army during peacetime; in times of war on the proposal of the Prime Minister appoints and dismisses the Chief of Staff; orders the initiation of military actions when the integrity of the Albanian land, sea, and air space has been breached; approves the decisions of the Commander of the Armed Forces to use the armed forces in military operations during wartime; proposes to the parliament the end of 'the state of war' and in the meantime decides the way to conduct peace talks; orders the introduction of different levels of the state of alert depending on the gravity of the emergency situation. In addition, the president recommends to the Council of Ministers changes in the defence budget to meet war needs. As well as the above-mentioned duties, the president also appoints officers to the rank of general or above.

### **The Republican Guard**

The President, on the proposal of the Prime Minister, appoints and dismisses the Commander of the Republican Guard. A number of contradictions are embodied in the organisation of the Republican Guard such as its dependence on the Ministry of Public Order while at the same time it is composed of conscript soldiers, which is a defining element of the armed forces. Thus the Republican Guard is a hybrid structure in terms of composition that to a certain extent contradicts the Constitution with respect to the chain of command for the armed forces on the one hand, and the police on the other. The solution to the problem could be the creation of structure similar to the French Gendarmerie or Italian Carabinieri.

### **The National Security Council**

According to article 168, 3<sup>rd</sup> paragraph, the National Security Council is an advisory organ to the President of the Republic. The advisory concept is new in comparison to the previous constitutional framework, in which the National Security Council was foreseen to be a decision-making body. While the general tendency in the constitution is to reduce the competencies of the President, on military affairs the National Security Council, due to its advisory role, does not restrict the President. However some observers point to a

contradiction since in peacetime the president has limited authority over the armed forces, concentrated in appointments and decreeing ranks. In this light, the role of a National Security Council that provides only advice is not clear, since the President, who is supposed to take decisions, does not exercise this authority in peacetime.

### **The Prime Minister and the Council of Ministers**

The duties of the Council of Ministers and the Prime Minister are to prepare the legal framework and documents on defence policy; to propose the budget, salaries and other financial elements, policies toward recruitment and conscription; the proposal of extraordinary measures in part or the whole territory, etc. The authority and responsibility of the Prime Minister concerning the armed forces and towards the Parliament and President consist of: proposing the nomination and dismissal of the Chief of Staff; discharging or demoting senior military officials; appointing heads of department in the Ministry of Defence and the General Staff with the exception of the generals.

### **The Minister of Defence**

The Minister of Defence is a civilian, represents the highest official in peacetime of all military and civilian personnel of the armed forces. He is responsible before the Parliament, the President and the Prime Minister for implementing defence policy. The Minister of Defence has the authority to propose defence policy, the budget, military appointments (except for the rank of general) and military attaches. There is a gap concerning the role of the Minister of Defence in peace and war time with regard to appointments that needs to be clarified.

### **The Chief of General Staff**

The Chief of General Staff is elected to a three-year mandate with an extension option. The President appoints the Chief of General Staff, who should have the rank of general and the necessary experience, on the proposal of the Prime Minister. The parliament has no role in this process, as is in general the case with high-ranking officials. In his daily work, the Chief of General Staff cooperates with the Minister of Defence. In times of war, the Chief of General Staff may be elected Commander of the Armed Forces. The Chief of General Staff is responsible to the President, the Prime Minister, and the Defence Minister. This relationship assures the neutrality of the Chief of General Staff which might

not have been the case had he been responsible to only one authority. The duties and responsibilities of the Chief of General Staff are: approving the doctrines of the ground, air and naval forces and their action plans in peacetime; presenting to the Minister of Defence projects on the structure, numbers, and organisation of the armed forces; proposing to the Minister of Defence long-term plans of development and modernisation of the armed forces; budget distribution and other organisational aspects.<sup>7</sup>

## **Parliamentary Oversight**

The Parliament is the key institution that performs not only democratic control functions but also aims at ensuring transparency and accountability in the governance of Albania. In this section we will see to what extent this is actually achieved.

The Parliament has developed a number of operational mechanisms to perform its oversight functions. Standing Parliamentary Committees constitute the most important instruments through which the Parliament can influence the policy-making process. In the framework of the standing committees there are sub-committees set up to deal with a particular subject. For example the Parliament has created a special sub-committee to control the Intelligence Service. In addition there are also ad hoc and investigative committees.

Ad hoc committees are created to examine specific and complex legislative acts as well as to prepare specific legislative proposals. They function more or less in the same way as the standing committees but they have a more specific focus. The investigative committees, while sharing many similarities with special committees, have in addition, as is understood from the name, an investigative character which makes them crucial instruments in ensuring transparency and accountability of the executive branch. Such a committee was created recently by the Parliament to investigate certain aspects of the work of the Intelligence Service. Since this constituted a novelty in the history of the Albanian Parliament, we will focus on this experience in greater detail. Other instruments that are at the disposal of the Parliament include: Questions, Interpellations, Petitions and Motions of Confidence.

---

<sup>7</sup> As argued by Mentor Nazarko, 'The Relationship Between the Armed Forces and the New Institutions in Albania – a Model-in-the-making of Civilian and Democratic Control', in this series of Albanian self-assessment studies.

The oversight function of the Parliament is very well reflected and embodied in the passing of the budget, which constitutes one of the most crucial tasks performed by the Parliament. The ability of the Parliament to amend the budget is affected by a number of factors such as: the capacity of the committees to undertake or to be provided with well researched analysis of the budget; the degree to which committees are involved in the process; whether powers of amendment are concentrated in the committee or in the house; the amount of time at the disposal of the committees; the cooperation between different committees that ensures a better division of labour. Unfortunately, the Albanian Parliament performs poorly in all these areas and as a result its capacity for changing the budget is low.

A number of factors account for this, ranging from the lack of an established parliamentary tradition to legislative shortcomings, limited resources, and finally to the problems that result from the deficiencies of the executive branch. The ‘Rules of Procedure in the Albanian Parliament’ do not provide for any formal process for approving the budget. However, the Finance Committee occupies the central role in this process. Due to the lack of clearly specified procedures, cooperation between different committees and the Finance Committee takes place in an unregulated manner. It is facilitated more by the fact that MPs have the right to participate in more than one committee. The absence of legislation in this respect is even more acute in the Albanian case given the lack of parliamentary tradition. The time allocated to the Committees in order to analyse the budget and come up with proposals is insufficient. Everything depends on the moment when the government submits the budget to the parliament. In practice there is a period of four weeks for approval, while in more consolidated, functioning western democracies the budget approval period would take two to three months on average.

The problem with the limited timeframe becomes even more acute if the resources at the disposal of the parliamentarians are taken into account. The Finance Committee has currently access to only one researcher. There is no independent parliamentary research service available and the support that could be provided to MPs by the party structures in terms of research is very limited. At the same time, public policy institutes are not involved in the process. Currently the Albanian Parliament and OSCE are developing ‘Presence in Albania’, a long-term project for reinforcing and consolidating the research capabilities within the Parliament. Despite the deficiencies listed above with regard to the committees, due to their small size and specialisation the debate produced at this level is of a higher quality than the one in the Parliament. Nevertheless, Albanian parliamentary

practice shows that most of the process is consumed by general debate on the floor, which is often unrelated to the budget. In addition to factors of a technical nature, the political will of the parliamentarians to hold the government accountable is indispensable in order to ensure parliamentary oversight. However, as is often the case, the decisions are political. The last element that influences the capacity of the Parliament is the lack both of a proper and detailed breakdown of the budget and of an integrated database, which makes it very difficult for the parliamentarians to examine it closely.

Now we turn our attention to the oversight function that the Parliament performs with regard to the security sector. First we will look at the military and then at the Intelligence Service.

### **The Parliamentary Defence Committee**

The Parliament, through the Defence Committee, is the most important organ of democratic control, in addition to trying to ensure transparency and accountability – something that in the case of the defence and security sector in general is more complex than in other governmental branches. The Defence Committee among others is expected to perform the following tasks: to oversee the implementation of the defence budget; to check and assess the efficacy of existing laws, and recommend respective measures according to specific issues; to examine reports, to ask for written explanations by the Minister of Defence or other relevant actors and suggest measures to be taken by Parliament or the Council of Ministers.

The shortcomings and factors that we mentioned above while looking at the budget adoption process intervene by reducing the ability of the committee to properly carry out its duties. Due to the specificity of defence issues, expertise is often lacking among the parliamentarians that make up the committee. Moreover, there is only one adviser attached to the Defence Committee. The crucial problem is that the parliamentarians have to rely on the information emerging from the government and the military, the very institutions that they are expected to oversee. This dependency relationship is further aggravated by the closed nature of the security sector due to its typically military work, culture and security laws. Thus it has been the case that in the defence committee the budget has passed after only three meetings, while on average there is a two-week period for the budget. Given the limited resources of the defence committee even in important matters such as the defence budget, the final word is not with this committee but with the Finance Committee.

Lack of proper debate is noticed even when defence-related documents are approved, which is mainly attributed to limited expertise but also to lack of interest in defence issues. Independent expertise in the security sector is more difficult to find. Defence and military issues are not in the agenda of local NGOs. We will focus more on this in the last section when we look at civil society. In addition the Defence Ministry has not taken measures to increase transparency and accountability by producing periodic reports, the so-called ‘Defence White Papers’. One of the objectives of the Defence Ministry was to prepare and present a White Paper by the end of 2002. However, no such document has been issued so far. Providing information on a regular basis would assist the MPs in the Defence Committee in following budget execution item by item.<sup>8</sup>

### **Parliamentary Oversight of the Intelligence Service**

During the communist period the Secret Police (Intelligence Service) was the personification of that system. It was through this institution more than anything else that the Communist authorities instilled fear and terror in the population and protected their regime. With the collapse of communism, special attention was attached to the democratisation of this institution. Notwithstanding the efforts that were made, the diatribes against the Intelligence Service and the governing party never ended. However, the recent experience of setting up an investigatory committee to oversee some parts of the work of this institution has established a very positive precedent.

In order to perform the oversight function over the Intelligence Service, the Parliament has established a special sub-committee, which functions like the other parliamentary committees. The head of the Intelligence Service is obliged to report to the sub-committee at least once a year. However, in practice the head of the SIS has been invited more often by the sub-committee to report on specific issues. The sub-committee conducts its oversight also during budget considerations and when draft laws related to national security are presented. The parliamentary sub-committee may also undertake to oversee special cases of human rights violations.

The investigatory committee that was set up to oversee the work of the Intelligence Service has a constitutional basis. Article 77 of the Constitution of the Republic of Albania

---

<sup>8</sup> See Viktor Gumi, ‘Thinking Globally and Acting Locally: Exploring Parliamentary Control from Two Perspectives’ and Blendi Kajsiu, ‘Transparency and Accountability Still Lacking in Albanian Governance’, in this series of Albanian self-assessment studies.

stipulates: "The Assembly has the right and, upon the request of one-fourth of its members is obliged, to designate investigatory parliamentary committees to review a particular issue." Its conclusions are not binding on a court of law, but they may be made known to the office of the prosecutor, which evaluates them according to legal procedures. There are many democratic achievements in the provisions of this law: an investigatory committee can be established at the request of the opposition; the investigatory committee agrees to the request tabled by a member of the investigatory committee for investigation or collection of evidence without resorting to voting; and the minority's opinion is always attached to the final decision of the investigatory committee, which is made public.

On July 2002, on the initiative of a group of opposition MPs, the investigatory parliamentary committee on the Intelligence Service was set up. The scope of the activity of this committee was: investigation into eavesdropping and surveillance, especially with regard to the opposition; investigation into the involvement of the SIS in the murder of opposition MP Azem Hajdari; investigation into claims of abuse in the financial area; and investigation into the relations between the SIS and the media.

The establishment of the first investigatory parliamentary committee to look into such a sensitive area as the secret service was a difficult parliamentary challenge and test. At the end of the investigation, agreement was reached that the Chairman of the investigatory parliamentary committee should submit two reports to the Parliament, drawing diametrically opposite conclusions, which expressed the opinions of the majority and minority in the investigatory parliamentary committee. The work of the investigatory committee to look into the Intelligence Service gave rise to unusual public interest and increased the transparency of the functioning of this service.<sup>9</sup>

In addition to the Parliament there are other institutions that in their activities perform also the function of democratic control. The Constitutional Court of Albania verifies the constitutionality of the laws, which of course includes those of the defence sector. There are other aspects of control such as the one exercised by the High State Control office, which performs auditing, and the office of the Ombudsman. The role of public opinion with regard to civil-military relations will be analysed in the last section of this paper.

---

<sup>9</sup> This section on Parliamentary Oversight over Intelligence Services is derived from Sokol Berberi, 'Civil Control of the Intelligence Service in Albania', in this series of Albanian self-assessment studies.

## **The International Environment**

Before we move on to other elements of democratic control and reform in the armed forces it is important to bring into the picture the international environment. Needless to say, developments in Albania cannot be studied in a vacuum but are inseparable from developments in the larger European context. International organisations such as NATO, EU and OSCE have played a crucial role in transforming the dynamics of pan-European relations at a variety of levels. The presence of these institutions and their willingness to remain open for the post-communist countries has provided the latter with much-needed orientation and a kind of a road map that they had to follow in order to ultimately join these institutions. However, while the assistance provided to the countries of central and Eastern Europe has been important, in the case of Southeast Europe we can say that the role played especially by NATO (but also OSCE and EU) has been crucial. The outbreak of the Yugoslav wars of cessation posed a serious danger to the whole region. Albania was directly threatened by the southward spread of the Yugoslav conflict. If the conflict had spread to Albanian-inhabited territories then Albania would have ultimately been dragged in as well and the Albanian armed forces lacked the capability to defend the country. The only real security guarantee was in building a close partnership with NATO. Actually Albania was one of the first countries in Central and Eastern Europe to ask for NATO membership. Had NATO not intervened in the Balkans, not only would the Bosnian and later the Kosova war been transformed into protracted conflicts but also in a self-help system the behaviour of the other Balkan countries would have been very different.

Albania was among the first countries to join North Atlantic Cooperation Council (NACC) in June 1992, and the Partnership for Peace (PfP) in February 1994. These steps were important in bringing Albania closer to the Alliance. The PfP programme based on the defence Planning and Review Process (PARP) has contributed to the restructuring and of the Albanian military establishment and capabilities in conformity with NATO standards. After the 1997 crisis and disintegration of the armed forces, the PfP programme took the main role in developing a programme of assistance for rebuilding the Albanian Armed Forces. Continuing on the same line as the PfP programme, the new practice was named Individual Partnership Programme. The programme consisted of two pillars.

The first involved NATO as an organisation in a programme of assistance. The assistance was concentrated in three areas: the development of the national defence concept and its legal framework, providing for a democratic control of forces and civil-

military relations; the structural reorganisation and adjustment of military command and armed forces increasing their operational abilities and efficiency by developing an essential Command, Control, Communication and Information (C3I) system; the resolution of technical issues related to the storage and safety of ammunition and armaments.

The second pillar was aimed at channelling bilateral assistance from allies and partner countries. The mission was to assess the necessities and priorities, coordinate bilateral actions and avoid overlaps. For this purpose a special forum of coordination named Clearing House on Albania (CHA) was created and a NATO office was established in Tirana, the only one in the partner countries. Preparing seriously for membership of NATO, the National Membership Action Plan (MAP) was issued by the Albanian Ministry of Defence in October 2001. In April 2002, Albania accepted a very demanding Partnership Goal package, comprising 53 Partnership goals, of which 31 were MAP-related. Their implementation is supposed to be part of the new Albanian Armed Forces Structure and Implementation Plans during the period 2002-2010.

The fact that Albania was not included in the second wave of enlargement has increased the pressure on the government to improve its performance since to achieve NATO membership takes more than military reforms.

### **European Union**

Relations between Albania and the EU go back to 1992 and are very comprehensive. The EU has provided substantial assistance – humanitarian, financial and technical – to Albania in order to support its participation in the Stabilisation and Association Process. In 2001 the European Commission concluded that it was now appropriate to proceed with SAA with Albania. The consultation meetings between Albania and the EU Task Force gathered for their fourth meeting in November 2002. However, the decision was to postpone the opening of negotiations for the signing of the Association and Stabilisation Agreement until early the following year.

In addition to these two organisations, OSCE and WEU have been present in Albania since 1997. The scope of the OSCE's work has been very wide; however, it has focused in particular on mediating between political forces and assisting the process of institution-

building. WEU on the other hand has established a Multinational Advisory Police Force (MAPF) in Albania, in order to provide advice and training to the Albanian police.<sup>10</sup>

## National Security Strategy

The international factors that we mentioned above and in particular NATO are reflected in the National Military Strategy of Albania. The drafters of the document state that the development of the armed forces is based on an analysis that takes maximum advantage of the current relatively favorable regional security environment and the anticipation that it will remain so for the foreseeable future. NATO's presence in the region is perceived as the major factor that guarantees the integrity of the country.

This analytical perspective concludes that this is a favorable period for the development of a strategy and a transitional armed force to face current and future threats and challenges. As has been said, the NATO presence in the region is seen as an indispensable factor that contributes to regional security, making possible the implementation of the reform. In addition, one of the major aims of the reform itself is to achieve NATO membership. Let us look in more detail at what the military strategy consists of.

The essence of the military reform is the establishment of a force with a Western orientation that is based on professionalism. This means that the peacetime active military units will be mostly based on a professional force, and only a few of them will contain conscripts. The aim is to build a force with a greater operational capability than the current forces, to defend the country's interests as well as for participation in international operations. Special importance will be given to the joint operations of two or three of the forces/services, based on 'The Joint Doctrine of the Armed Forces', which has already been prepared but awaits approval. Special units and segments of the armed forces will be able to participate in joint operations with other NATO and partner forces.

The Rapid Reaction Forces will be located mainly in the centre of the country near the communication highways to act rapidly when required. The reserve forces will be located throughout the country in order to achieve a higher degree of flexibility in their use and to facilitate their recruitment during peacetime. The Military Strategy also acknowledges the dangers posed by non-traditional security threats and risks, which will be handled by

---

<sup>10</sup> This section on 'International Context' is derived from Enika Abazi, 'An Institutional Perspective on Security Issues: The Case of Albania', in this series of Albanian self-assessment studies.

developing the special armed forces. The military strategy supports the creation of special armed forces that, in addition to the traditional military responsibilities, will also be trained to perform special tasks to safeguard the constitutional order. In order to achieve the above, the government would increase the defence budget by 0.1 percent every year so that by 2010 the military budget would reach two percent of GDP.

All these measures and the reform itself will be implemented by keeping in mind the requirements for NATO membership. In addition to the political, economic and legal aspects, the reform in the armed forces is a crucial element for membership in NATO. The professional armed forces will be organised and trained to operate fully according to NATO standards by 2006. The goal is to achieve interoperability in terms of organisational structures, work procedures in the military headquarters, military doctrine and training, acquiring an operational level in proficiency in the English language, and in the long term to acquire also equipment and systems that NATO countries have.<sup>11</sup>

The new national security strategy requires the Albanian armed forces, in addition to its traditional functions, to provide assistance to the population in case of natural disasters and emergency situations. This enhances the legitimacy of the military and improves their image in the population at large. In the following section we will briefly look at the role that military should play in crisis situations.

## **Crisis Management**

The Albanian Constitution, under the heading ‘Extraordinary Measures’, stipulates general principles and measures that should be taken in crisis situations. According to Article 170 of the Albanian Constitution, “Extraordinary Measures” should be implemented in the following instances: during times of ‘War, Extraordinary Situations, and Natural Disasters’. It is also sanctioned in the Constitution when and how such measures can be declared. Thus Article 81, paragraph 5, of the Constitution of the Republic of Albania stipulates that in order to ratify the Law on Extraordinary Situations a qualified majority of 3/5 is necessary. The same majority is needed to approve any civil rights restrictions as a result of the emergency situation.

A state of war comes into effect in those cases where there is armed aggression against the Republic of Albania. Under these circumstances the President of the Republic of

---

<sup>11</sup> As argued by Igli Totozani, ‘The Military Strategy of the Republic of Albania’, in this series of Albanian self-assessment studies.

Albania can declare a state of war through a Presidential Decree, after such a measure has been required by the Council of Ministers. The decree is then presented to the Parliament within 48 hours of the time of its signature. The role of the armed forces is obvious in this case. The extraordinary situation comes into effect in the following instances: if there is a threat to the constitutional order and a threat to public order. In this case it is the Parliament that at the request of the Council of Ministers can declare an Extraordinary Situation. The extraordinary state can last for as long as the threat to either of the above-mentioned elements, public and constitutional order, is present, but not longer than 60 days from the time it came into effect. The extraordinary state can be prolonged only by the Parliament, and this can be done only every 30 days, but not beyond a 90-day period. This timeframe has been clearly defined and stipulated in the Albanian Constitution. During the extraordinary state, it is the police force that has to intervene in order to restore public order. In those circumstances when it is not the public but the constitutional order that has come under threat, and when the police force is not capable of restoring the public and constitutional order, the intervention of the military forces is called for. Nonetheless this is done only through a decision by the Parliament. A 'Natural Disaster' situation comes into effect through decisions of the Council of Ministers.

In terms of structures responsible for managing civil emergencies, the Council of Ministers operates through the Inter-Ministerial Committee for Civil Emergency Situations. The Ministry of Local Government is responsible for preparing and implementing the national plan designed to cope with civil emergencies. The Ministry of Local Government also contains the Department for Planning and Coping with Civil Emergency Situations. The structure of this body, however, is defined by the Council of Ministers. In order to assist the Department for Planning and Coping with Civil Emergencies a Technical Advisory Commission has been created, composed of experts from different ministries, institutions and other entities.

The operational structures in cases of civil emergencies, according to the law on Civil Emergencies, are: the Civil Emergency Service, composed of the Civil Defence Centre, which is a structure under the authority of the Ministry of Defence; the Armed Forces can be used when a civil emergency crisis is expanding rapidly, with the approval of the Prime Minister or Minister of Defence. A number of exercises have taken place in Albania for training the armed forces (and peacekeeping units) in crisis management-type scenarios. These exercises are aimed at the implementation of national civilian-military

procedures for the management of civil emergencies. The hierarchy of command for the armed forces has already been shown in the section on the legal framework.<sup>12</sup>

In addition to their contribution in dealing with civil emergency situations, the Albanian armed forces are expected to participate in international peacekeeping forces. In fact they already do.

### **Peacekeeping and Regional Security**

Peacekeeping is a new concept for the armed forces and Albanian society in general. The international and in particular the regional environment mentioned above necessitates the introduction of these units in the structure of Albanian armed forces. The National Security Strategy and the Defence Policy documents have clearly acknowledged the objective/fact of the Albanian Armed Forces contributing to regional stability by participating in peace support operations mandated by UN, OSCE, NATO or WEU.

In this context a special commando unit exists in the Albanian Armed Forces, which is prepared to undertake, among other missions, peacekeeping. This special unit is trained and equipped with contributions from partner countries in NATO through the PfP programmes and joint exercises.

The Albanian Parliament takes the decision to allow the participation of the Albanian armed forces in international peacekeeping missions. The Minister of Defence proposes a draft law concerning the establishment, selection and dispatching of a peacekeeping unit and passes it to the Council of Ministers for endorsement. The Council of Ministers then sends the draft law to the Parliament for approval. It should be noted that the parliamentarians, when it comes to debates relating to the dispatching of peacekeeping units abroad, are more focused on the financial aspect of the matter rather than the political. There is consensus or a bi-partisan policy concerning security issues and contributing to the provision of security abroad.

The Albanian Armed Forces have participated in the SFOR mission in Bosnia as part of the German SFOR mission since 1996. Under an agreement between the Albanian and German Defence Ministries, the latter provides logistical support for the Albanian contingent participating in the IFOR mission and afterwards in the SFOR mission.

---

<sup>12</sup> As argued by Mirela Bogdani, 'Crisis Management', in this series of Albanian self-assessment studies.

Concerning the participation of the Albanian armed forces outside South East Europe, this first occurred in 2002 when a special commando unit of 30 soldiers of the Albanian armed forces was dispatched to Afghanistan for a period of six months in the structure of the International Security Assistance Force as part of the Turkish mission unit. This is the first time in the history of the Albanian armed forces that they have been deployed outside the SEE area. It is important to stress that the assistance from partner countries Germany, the United States and Turkey has been indispensable for reaching the mission objectives and thus making this participation successful.

The Albanian armed forces contributed to the establishment of the South East Europe Brigade (SEEBRIG) under the auspices of the South East Europe Defence Ministerial (SEDM) in 1999. The SEEBRIG Headquarters is actually located in Plovdiv, Bulgaria, and is rotated every four years. SEEBRIG was established in accordance with the Multinational Peace Force South East Europe (MPFSEE) Agreement, which was signed in Skopje on 26 September 1998. The participant states are Albania, Bulgaria, Greece, Italy, Macedonia, Romania and Turkey, while the US and Slovenia take part with observer status. SEEBRIG comprises a multinational HQ, HQ Company, Signal Company, manoeuvre units, combat support units and a multinational combat service support battalion. The aim of SEEBRIG is to be available for possible use in UN or OSCE-mandated, NATO-led or WEU-led conflict prevention and other peace support operations. In a crisis situation, the Chairman of the Politico-Military Steering Committee (PMSC), upon a proposal by a member state or on his own initiative, convokes the PMSC in order to discuss the situation and formulate proposals for ministerial approval, providing subsequent appropriate guidance to the Commander of the SEEBRIG. The decision for participation in operations and deployments, which is initially to be proposed by the Politico-Military Steering Committee, will be subject to political and military consultation within the MPFSEE decision-making mechanism, and will be approved by the members through their respective national legal procedures. Considering the Balkan context, the establishment of SEEBRIG constitutes a noteworthy achievement.<sup>13</sup>

### **Capacity-Building and the Role of Education**

So far we have looked at some of the transformations that were necessitated by the democratic changes such as: the need to create a new legal framework that regulates civil-military relations and establishes democratic control over the armed forces; the need

---

<sup>13</sup> As argued by Gjergji Gace, 'Peacekeeping and Regional Security', in this series of Albanian self-assessment studies.

to strengthen parliamentary oversight to ensure transparency and accountability; the initiation of defence sector reform as reflected in the military strategy and other documents, and the need for the armed forces to perform new roles both domestically in emergency situations as well as in international peace missions. It is obvious that to implement the reform in the armed forces, leadership and administrative capacity is needed. Thus, naturally, in the end it all comes down to people. If people's attitudes, values and skills have not changed in the same way as the formal and institutional structures, than the reform of the defence sector has still a long way to go. There is a need for the values that institutional structures are trying to uphold to be internalised among military (but also civilian) personnel. In this respect education emerges as an indispensable agent of change that will equip both military and civilians with the necessary knowledge to perform their new roles.

The education system was one of the main channels through which communist political socialisation and indoctrination took place. With the collapse of the communist regime it was of paramount importance that the education system be radically transformed. The mission of the armed forces was no longer to be a guardian of communist ideology and the ruling elite but to show full loyalty towards the rule of law and legitimate political authorities. Thus old subjects such as Marxism-Leninism were removed from the educational programmes of the Military Academy, and new subjects were introduced. Subjects of leadership, social sciences, law, and foreign language replaced the previous curricula. New institutions such as the Defence Academy and the Defence College have been established. A major objective of the 1995-2000 reform was to equip the new military officers with a university diploma, besides a military one. It was envisaged that the new officers, after finishing the "Skenderbej" Military Academy, could pursue university studies as full or part-time students. However this proved to be impractical, thus leaving unaccomplished one of the major objectives of the reform. The lack of a diploma makes it very difficult for the military personnel to reintegrate into civilian life. In addition to their education in the domestic system, hundreds of military personnel have been and are being trained and educated in Western Countries.

Another important component of defence sector reform is the civilianisation of the Defence Ministry administration. The number of civilians has gradually increased and they now fill very important administrative positions, as well as political posts. The aim is to increase the number of civilians from the current 25 percent, to 75 percent of those employed in the administration in the next four years. This is, of course, a challenging task, since it is not only a matter of merely increasing the number of civilian servants but

also of enhancing their expertise in defence matters. A rapid civilianisation will most probably lower the level of professionalism and result in poor performance. Although the limited financial resources at the disposal of the Albanian authorities constitutes an important factor impeding a quick and sound implementation of defence sector reform, there are other factors of a political and administrative nature, which have a determining effect on the reform progress. Education and training for civilians is lagging behind, since most of the attention has focused on the military. Civilian personnel have not benefited from education abroad as the military has. The domestic institutions that provide courses and training for civilians are designed only for civilians in high positions; politicians dealing with defence issues such as Minister of Defence, members of the Parliamentary Commission on Defence and civilians in high administrative positions. In order to be effective they should enlarge these programmes to include civil servants who work in second level administrative positions. The civilianisation of the administration should proceed gradually so that the achievement of this objective does not lower the administrative capacity.

Due to lack of education and work experience many civilians lack the necessary expertise. This is reflected in the dissatisfaction that is sometimes voiced by military personnel. This does not help the building of sound civil-military relations in the Ministry of Defence. In addition to education, other problems related to career perspective, low salaries or politically-motivated purges have also had a negative impact on the development of the administrative capacity in the defence sector. Thus instead of building on the capacity and experience developed, massive purges have taken place after power rotation. When the Socialist-led coalition came to power in 1997 following the pyramid schemes crisis that led to the collapse of the Albanian state and disintegration of the army, 1,500 officers of different ranks were purged from the armed forces, military education institutions and the Ministry of Defence. Among them were around 400 officers who had received education and training in the West in 1992-96. The same thing holds for the civilian staff. Although the process of civilianisation started after 1992, it is difficult to find in the administration civil servants from that period. As was said at the beginning of this section, administrative capacity is not an abstract thing but it comes down to people. Therefore a new approach towards building the administration should be developed.<sup>14</sup>

---

<sup>14</sup> As argued by Colonel Sander Lleshi and Aldo Bumci, 'Good Governance in Civil Military Relations: the Role of Education', in this series of Albanian self-assessment studies.

## **Albanian Society and the Military**

During the communist era, due to the high degree of militarisation of Albania, there existed a close link between society and the military. However this period left a very negative legacy. The Albanian people became alienated from the communist authorities, who used paranoia and nationalistic rhetoric to justify their isolationist and repressive policies, and the economic hardships that the country was going through. This was the general mood that characterised Albanians in the 1990s. Thus, despite the existence of the unresolved Albanian national question, there was little discussion about defence and military capabilities among the public at large. Military and defence issues were the last in a long list of problems that Albanians were and are facing. Similarly NGOs, public institutes and the media have not generated any debate on these issues. The attitude of the non-governmental sector can be explained by two main factors. First the NGO sector in Albania is donor-driven. There are no domestic funds for the NGOs and in order to survive they rely on foreign donors, which naturally focus more on issues related to democratisation, human rights, economic issues rather than military ones. Second, after the enforcement of a collective life that suppressed the individual during the communist period, people have gone to the other extreme of individualism making any collective effort extremely difficult. This explains the lack of representative NGOs in general and in the military field in particular.

However, the authorities have not helped the media and civil society get more involved in defence issues. Contacts between the Ministry of Defence and the media have been scarce. Although this is gradually changing now, state institutions, under the framework of NATO membership, provide large amounts of information of an almost propagandistic nature on ‘military diplomacy’, while other issues regarding conditions in the barracks, the status of the military, the cultural and patriotic training of the military, are considered a throwback to the past and are scarcely dealt with at all. In the same fashion, when security-related documents are presented to the Parliament, public policy institutes are not invited to present their views. There is no effort to reach the public and to gain legitimacy, for example, on why the defence budget should be increased if we have other more acute concerns.

However, the new Defence Strategy, approved recently by the Albanian Parliament, acknowledges for the first time in an official document the need for the participation of civil society and public opinion in the discussion and drafting of new defence and security

policies: "The role of public opinion, the media and civil society in drafting, discussing, and implementing the strategy on national defence and security policies, is necessary."<sup>15</sup>

---

<sup>15</sup> As argued by Henri Cili, 'Security and Defence - Two Unfamiliar Issues for Media and Civil Society', in this series of Albanian self-assessment studies.

## **CHAPTER TWO**

---

### **CIVILIAN AND DEMOCRATIC CONTROL OF THE ARMED FORCES**

*Mentor Nazarko*

#### **The Legal Aspects of Democratic and Civilian Control: Constitution and Law**

Albania is a parliamentary republic that lacks an established tradition in democracy. It is important to mention that Albania has had a complete constitutional framework, monitored by the Council of Europe, for only the past four years and it can be easily imagined, with regard to implementing this declared parliamentarism, that there is little experience. According to the new constitution approved in November 1998, the president has limited political competencies, that is executive authority; he does not have law-making authority, and has few powers of appointment. On the other hand, the president cannot belong to a political party, let alone lead one, something that was permitted in the past and allowed the previous president during the 1992-1997 period to have a major role in the political life of the country.

In 1991 Albania was emerging from a dictatorial experience and behaviour which showed the influence of this experience was more acceptable at the time. In the meantime, it is the opinion of the author that during the last five years, 1997-2002, the way the mandate was exercised by the president of the republic, Rexhep Meidani, has set an example which contributes to strengthening the parliamentary component and spirit of the Albanian republic. On the other hand, the spirit of conflict that has characterised the political life of the country, resulting in the turmoil of 1997 and the destruction of the Albanian Army, including the turmoil of September 1998, has left its mark on the way the constitutional and legal framework regulating the institutional life of the country was adopted.

Thus the opposition boycotted the referendum on the new constitution, which was still adopted since it received the required majority from the people in a referendum. The opposition has not voted for a great number of laws, among them those connected to the

democratic and civilian control of the army and documents on defence strategy. However, it is important to note that during the drafting process the opposition did not present any objections connected to the content of the laws but took a general political stance to boycott all laws or acts presented by the governing parties during that time. If we refer to a classification by Plamen Pantev in order to determine the components of the legal concept of DCAF, then we can say that Albania has not been able to come up with a fundamental (formal) agreement between the political actors in society (majority and opposition), on the role and place of the armed forces and on different aspects of democratic control over them.<sup>1</sup> The assistance of several international organisations and military missions of partner countries which are present in Albania and which have regularly monitored the law-making process compensates for the lack of input and participation from the opposition side in the law-making process to a certain extent. If we mention the international obligations of Albania, we should note that Albania is an OSCE member and therefore a party to all the international documents pertaining to democratic control of armed forces. In particular, Albania has accepted the Code of Conduct on Political-Military Aspects of Security, adopted by OSCE in 1994. During the 1992-1997 period efforts were made, at least in the legal dimension, to achieve what Danopoulos calls the four ways or instruments of establishing democratic control in the army: depolitisation, departisation, democratisation, and professionalism.<sup>2</sup>

Albania has a relatively complete legal framework concerning the armed forces, their organisation, and relationship with the executive and legislative bodies. If again we refer to the legal aspects of the DCAF concept, Albania appears to have developed a constitutional and legal framework with a clear delineation of authority and a system of subordination of control and command of defence structures in times of war and peace. However, we have to mention that the implementation of this legal framework, which would provide us with the opportunity to verify the problems and contradictions that might rise, would require time.

The existing legal framework is based on the constitution of the country approved in November 1998 in which section 15 is dedicated to the armed forces. This is the first and most fundamental proof of the importance that the lawmakers wanted to give to those issues for which a significant sensitiveness exists from the point of view of the level of

---

<sup>1</sup> Plamen Pantev, 'Legal Issues of DCAF in the Process of Security Sector Reform: The Case of Post-Communist Countries in Southeast Europe', paper presented at the seminar, 'Legal framing of Democratic Control of Armed Forces and the Security Sector', organised by the Geneva Centre for the Democratic Control of Armed Forces, May 4-5, 2001.

democracy, democratic and civilian control of the armed forces. This is a prerequisite for the integration of Albania into NATO. On the other hand they display the philosophy of the lawmakers, which characterises this constitution: the constitutional regulation of the organisation of new and fundamental parts of the state.

This constitutional part is composed of: a) a number of paragraphs taken from the section on constitutional principles; b) articles and legal acts defining the competencies of different institutions; c) and two different sections – 15 on the Armed Forces and 16 on extraordinary measures. The lawmakers wanted to emphasise with this broad constitutional regulation the importance of certain specific moments, such as the participation in collective security systems, the authority of the parliament to decide (by approving a law with a qualified majority) on the use of the territory by armies or forces of different military alliances, or on sending our troops abroad on different peace and humanitarian missions; as well as on border security, democratic and civil control of armed forces and the neutrality of the armed forces in political matters by underlining them in the chapter of fundamental principles.

Article 166 of the constitution defines military duty or the choice of an alternative service, if for reasons of conscience the citizen does not accept service in the army. This is a new element in the Albanian constitution, which brings it closer to the constitutional framework of many western countries. This is another step towards greater respect for human rights and liberties. Article 167 defines the position of the recruit or that of the citizen who has chosen an alternative service. "...active duty soldiers may not be elected or appointed to other state duties nor take part in political events. Members of the armed forces or citizens who have chosen to complete an alternative service, enjoy all human rights except when otherwise stated by law."

According to the Albanian constitution, members of the armed forces, besides enjoying a certain status, with the privileges entitled to it, generally "enjoy all human rights, except when otherwise stated by law." Thus only participation in the political life of the country is prohibited by the constitution. In fact, in this provision we have a contradiction: the limitation of human rights by a law and not by the constitution. According to the general principles of the constitution, the case of human rights, their protection and limitation is generally a constitutional matter. Article 168 defines the composition of the army. It defines the competencies of the main leaders of the country in times of war and peace.

---

<sup>2</sup> Costas Danopoulos, *The Military and Society in the Former Eastern Bloc*, (Boulder, CO: Westview Press, 1998), pp.2-7.

The article defines the hierarchy of authority and leaves a number of detailed elements to the specific law.

It should be underlined that the new constitution introduced a new concept to the definition of armed forces. The armed forces no longer include the "secret services and police forces." Until 1995 they were considered part of the armed forces. It is self-evident that with this step civilian control over other components of security sector has increased. This means that over these sectors that are no longer part of the armed forces, complete civilian control may be extended. The broad concept of armed forces, which included the Police and Secret Service, created problems in 1997 when the Army – a typical component of the armed forces – was put under the command of units of the Secret Service, in which the chief of the Secret Service, declared a general, directed an army operation to suppress a popular uprising in the south of the country. These units, which until a new law came into force in 1998 that restricted the tasks of the Secret Service to that of an intelligence-gathering agency, acted as police and military units creating confusion and conflict between institutions.

These institutions were often found to be in roles or chains of command not appropriate for a democratic country. On the other hand, such a concept gave the President of the Republic broad powers over the respective institutions, secret services and state police. The President appointed the directors of these institutions and used extensively the position of General Commander, which applied under the old law. This period marks an obvious case of using the army for duties outside its constitutionally assigned role. This happened because of the extensive interpretation of the concept "constitutional order", which marked an authoritarian period in the functioning of the state. The secret service controlled the army instead of the parliament and the president held most powers. All this happened while the state of emergency was in place and thus a number of rights were suspended for all citizens.

Without going into the practical experience of this period, we can move on to the actual concept of armed forces. According to this concept, defined in the first paragraph of article 168, "the armed forces are composed of the army, navy, and air force". Automatically, the role of the President has been limited in the other two institutions, the Secret Service and the Police. The President may only appoint and dismiss, after the Prime Minister has proposed it, the director and deputy director of the Secret Service. The President has the right to be briefed regularly and may request to be informed by the service any time he sees fit. The President has no powers over the Police. The Prime

Minister appoints high-ranking officials for the Police forces because a decision of the Council of Ministers has established a ranking system for the State Police different from that of the army. The President has the right to appoint only the highest-ranking police officer after the Prime Minister has proposed it.

### **The Institutions Involved in the Democratic and Civilian Control: the President**

Article 168 defines the role of the President in the army as the General Commander of the Armed Forces and also in paragraph three provides the definition of the National Security Council as an advisory organ to the President of the Republic. While the general tendency in the constitution is to reduce the powers of the president, the consultative role assigned to the National Security Council runs against the spirit of the constitution. The National Security Council from a decision-making body is transformed into an advisory institution.

The authority of the President of the Republic over the armed forces is closely related to the concept of civilian and democratic control over the armed forces. This power is enhanced by article 169. Article 169 defines the main powers of the President of the Republic as Commander-in-Chief of the armed forces. The first paragraph states: "The President in...times of peace exercises his authority over the armed forces through the Prime Minister and the Minister of Defence". The delegation of powers to the Prime Minister and Minister of Defence needs to be interpreted as an enhancement of democratic and civilian control of the armed forces. This is demonstrated by article 168 defining a) the authority commanding the armed forces in times of peace, b) the appointment by the President of the Chief of Staff on the nomination of the Prime Minister c) the powers of the Chief of Staff and Commanders of different forces to appoint commanders of armed forces on the nominations of the Prime Minister and Minister of Defence. In this case the constitution has determined the hierarchy of command and at the same time provides for a more balanced civilian control of the armed forces through article 89 which states: "The President of the Republic may not hold any other public office, may not be a party member, nor may he undertake any private activity."

The competencies defined in article 168 cannot be understood without looking at the specific law of October 2000, titled: "law on the powers and authorities of command and strategic direction of the Armed Forces of the Republic of Albania." Let us continue with a contradiction in the role of the President in times of peace and war. In contrast to the

article 169/3, in peacetime: The President of the Republic, on the nomination of the Prime Minister, appoints and dismisses the Chief of Staff and on the nomination of the Minister of Defence appoints and dismisses the commanders of the Army, Navy and Air Force.

According to article 169/2: The President of the Republic, in times of war, on the nomination of the Prime Minister appoints and dismisses the Commander of the Armed Forces. In fact here exists a new situation in terms of nomination and command different from that in peacetime. Considering the ongoing and intensifying relationship with NATO through PfP and the Membership Action Plan and the aspiration to join the Alliance, this could appear problematic in terms of the civil-military line of command. Even though the nomination and appointment mechanism between Prime Minister and President is not altered, as it is shown in the case for the Chief of Staff, it could become a problem in practice by avoiding the Minister of Defence. A negative experience, while implementing a similar disposition, appeared during the 1997 crises when the chief of the Secret Service was raised to the rank of general and commander of military operations. Although article 169/4 mitigates some of the problems, yet it does not fully address them.

This concern, even though not trivial, is closely related to the articles of the constitution on extraordinary measures, which aim at maintaining and safeguarding a system of checks and balances, the rights and freedoms and the parliamentary character of the Albanian state. So the "fate" of these constitutional rights is linked to the decisions taken by the parliament, not to any individual figure, even the President of the Republic. We will deal later in greater detail with the role of the parliament in the democratic and civilian control of the army. Let us continue with the President. The content of article 169, paragraph 4 is in contradiction with the general constitutional principles according to which the relationship between constitutional organs is in general a constitutional matter not one of laws. Since this dependence/relationship is of special importance, it should be approved in the parliament with the same voting formula – requiring a two-thirds majority – as for the constitution itself. Meanwhile in the Albanian juridical system, legal acts which are adopted with a two-thirds majority like the constitution do not enjoy special powers in comparison to other laws. In this system only the decisions of the Constitutional Court are equivalent to the Constitution. Thus a law on the relationship between constitutional bodies concerning their command over the army is not stipulated in those laws that require a qualified majority for their approval.

## **The Competencies of the President**

What are the competencies of the president as sanctioned by law with regard to the armed forces? Let us refer to the law "on the powers and command authority and strategic management of the army" number 8671, dated October 26, 2000. "The President...in times of war leads the armed forces directly or through the Commander of the Armed Forces. He enjoys complete command authority of the armed forces and has these duties and responsibilities: approves on the proposal of the Defence Minister the organisational structure: the action plan in peacetime and during the state of emergency cases; decides to disband the army during peacetime, or on mobilisation and readiness; in times of war on the proposal of the Prime Minister, appoints and dismisses the Chief of Staff; orders the initiation of military actions when the integrity of Albanian air, sea, and land space has been breached; approves the decisions of the Commander of the Armed Forces to use the armed forces in military operations during wartime; proposes to the parliament the end of "the state of war" and in the meantime decides on the way to conduct peace talks; orders the introduction of different levels of the state of alert depending on the gravity of the emergency situation. In addition, the president recommends to the Council of Ministers changes in the defence budget to meet war needs; the creation of new units and the introduction of new programmes to further modernise the armed forces. As can easily be imagined, in a potential scenario, while carrying out and exercising its duties, the president legitimises but also controls the proposals coming from the military establishment. In addition to the above-mentioned duties the president also appoints officers to the rank of general by decree. Army officers who hold this rank move from one job position to another only by a decree of the President. The role of the president in the democratic and civilian control of army is aided by the information he is entitled to receive. The institutions are constitutionally bound to provide regular information on their functioning and activities.

## **The Republican Guard—a Hybrid Structure**

The Republican Guard is a structure which reflects the transition period between the old and new constitutional framework, in which the President has a defined role to play. The President, on the nomination of the Prime Minister, appoints and dismisses the Commander of the Republican Guard. A number of contradictions are embodied in the organisation of the Republican Guard such as: dependence on the Ministry of Public Order; it is composed of conscript soldiers, which is a defining element of the armed

forces, but it has also structures from the Ministry of Public Order. The duty of the Republican Guard is to safeguard different personalities and principal state institutions. So, in contrast to the spirit of the actual constitution, the Republican Guard is an intertwined structure in terms of composition that to a certain extent contradicts the Constitution with respect to the chain of command that functions for the armed forces on the one hand, and the police on the other. The solution to the problem could be the creation of structure similar to the French Gendarmerie or Italian Carabinieri, which could include: the Republican Guard, Military Police and the Special Battalion (Commandos) as a structure in the framework of the armed forces. In this way, one could find an appropriate solution within the constitution concerning the armed forces and the police.

### **The National Security Council**

According to article 168, 3<sup>rd</sup> paragraph, the National Security Council is an advisory organ to the President of the Republic. According to the law "on the powers and authorities of command and the strategic management of the Army" this Council "helps the President of the Republic in matters of security and defence of the country, as well as in the management of human and material resources. The council discusses and gives opinions on matters of defence policy, arms control and all security and defence matters (article 13 of the law in question). The 'advisory' concept is new in comparison to the previous constitutional framework, in which the National Security Council was seen as a decision-making body.

The National Security Council is composed of the highest state and governmental authorities: the President, Prime Minister, Minister of Foreign Affairs, Minister of Defence, Minister of Public Order, Minister of Transportation and Minister of Health, Chief of Staff and Chief of the National Intelligence Service. Other actors are also invited to participate according to the issues that are being addressed, such as: the head of parliamentary commissions dealing with security issues; the commanders of the Army, Navy and Air Force.

This change in the functioning of this organ is part of the general change concerning the institution of the president. Under the previous constitutional framework, the president had more powers in terms of appointments in the judicial system and other civilian institutions, while he had limited powers in the military field due to the decision-making nature of the National Security Council. Under the new constitution, the president has limited civilian powers but is no longer limited by the Council, due to its advisory role, on

military affairs. According to the former President Rexhep Meidani (1997-2002), "the council in question is called by the president of the republic, in his capacity as Head of State and General Commander, to be consulted on serious national security issues such as regional and cross-border disturbances". However, according to Thodhori Sollaku<sup>3</sup>, we have an inconsistency here. In peacetime, the president has limited powers over the armed forces, concentrated in appointments and decreeing ranks. In this light, the role of a National Security Council that provides only advice is not clear, since the president, who is supposed to take decisions, does not exercise this authority in peacetime. From this point of view, I do not consider very appropriate the meetings of this council during peacetime in order to provide information on the situation on the borders or during humanitarian crises. Probably the only meeting of the National Security Council that was justified was the one during the Kosovo crises when Yugoslavia was in a state of de facto war with Albania even though not de jure. Yugoslavia broke off diplomatic relations and Serb troops violated the border by shelling a number of Albanian villages situated near the border and mining the area. According to them, the KLA was using Albanian territory as a base for their attacks.

The current president is following the logic of the previous two. Alfred Moisiu, a retired army officer, has summoned the council twice without the need to make any decisions. The aim, probably, was to attract greater attention to the issues discussed. Again, according to Sollaku the role of the president in the military sphere needs to be clarified. For example, "who is the commander of the armed forces in times of war?" In fact the question would be better asked in another way: through whom does the president exercise his powers as the General Commander of the armed forces in times of war? Since in times of peace, article 169/1 states: "the president in times of peace leads the armed forces through the prime minister and the minister of defence." According to the former president of the republic, Rexhep Meidani: "this change (the new constitution) diminishes the influence and the role of the president on security matters by offering him a moral position rather than one with constitutional, legal, and decision-making capacities."

However, there exists a rationale and the practical usefulness for the existence of such a council. The getting together of the main actors of the state raises the sensitiveness for major problems in the national security sector such as those concerning the budget which have an extraordinary importance for a country with severely limited financial resources

---

<sup>3</sup> Interview with Thodhori Sollaku, General Prosecutor and former legal adviser to the previous two Albanian Presidents.

such as Albania. There is also a historical reason to have such a structure, since it exists in other parliamentary republics too.

It has to be noted that without a specific law or constitutional basis, even the prime minister has created another structure, called the National Security Committee. The committee has been called only a few times, by Prime Minister Fatos Nano. There is a greater rationale in the existence of this structure, which could and should dedicate more attention to defence policies. Article 102, 2<sup>nd</sup> paragraph, of the Albanian constitution, perhaps a unique article in a parliamentary republic, states: "the prime minister is the one who presents the main directions of the general state politics." As this article states, perhaps it is more important for such a council to be attached to the prime minister rather than close to the president.

Yet, even though the National Security Council is not a decision-making organ, it represents an important structure, which even through discussions may function as an important element of democratic and civilian control of the armed forces or over the security sector in general.

### **The Parliament and its Role in Democratic and Civilian Control**

The parliament represents the main and most important institution in this respect, which has been enhanced in the new constitution by reflecting the shortcoming and problems that appeared during the 1997 events. According to law 8671, dated October 26, 2000, "on the powers and command authority and strategic management of the armed forces of the Republic of Albania", these powers and authorities have this hierarchical order: the Parliament, President, the Council of Ministers, Prime Minister, Minister of Defence, General Staff, Chief of Staff, commanders of the army, navy, and air force.

Since the parliament embodies peoples' will, hence giving to the parliament more powers to propose, control, and make decisions in the security sector can be considered a step towards greater democratic and civilian control of the armed forces. Article 171, on declaring the state of war, states: "In cases of armed aggression against the Republic of Albania, the President of the Republic, on the request of the Council of Ministers, declares the state of war." As can be observed, in extreme cases, such as an armed aggression when it is impossible for the parliament to convene, the President and the Council of Ministers decide on declaring the state of war. But if the parliament is left out in the first phase, such a decision needs its approval in a second phase: "In cases of a

foreign threat or when the obligation for common defence is mandatory by an international agreement, the Parliament, on the proposal of the President of the Republic, declares the state of war, imposes the mobilisation status and the general or partial demobilisation." The same also holds for article 172 on the presentation before the parliament of the state of war declaration in which it is clarified: "In the case of article 171, paragraph 1, the President of the Republic presents to the parliament the state of war decree within 48 hours of its signing, while specifying the rights to be restricted by it." A qualified majority of parliamentarians is needed to approve such a decree. In the Albanian parliament of 140 members more than 70 votes are needed.

Article 173/2 imposes a serious regulation in order to prevent individual abuses in the use of the Armed Forces: "With the imposition of the emergency situation, the intervention of the armed forces is allowed by the Parliament only when the police forces are not able to restore order." This disposition tries to correct the legacy of the past that we have already mentioned - the events of 1997 - when army forces were used to restore order. The armed forces may be used only when a) the state of emergency is in place; b) there is a specific parliamentary decision to use the army c) police forces are not able to restore order. An exception from this situation, even though of a temporary nature, can be found in article 176, on normative decrees during the state of war: "When the parliament may not convene during war time, the President of the Republic by proposal of the Council of Ministers, has the right to enact acts which have the power of law that should be approved by the parliament in its first meeting."

### **The Competencies of the Parliament**

Let us now get into the legal framework of the activity of the parliament with regard to the armed forces. If we refer to the law "on the powers and command authority and strategic management of the armed forces", we can better understand the area of activity of the parliament. The parliament: "Approves the strategic document on national security and the document on defence policy and other laws in the field of defence; b) approves the budget; c) the number of people in the Armed Forces d) exerts parliamentary control over activities connected to the armed forces; e) decides on sending troops on missions abroad; f) allows the passage or stationing of foreign troops and their status; g) ratifies, or renounces treaties and international agreements that are connected to the territory, alliances, political and military matters, and membership in international organisations; h) in cases of threats or international requirements for collective action, on the proposal of the president declares the state of war, and imposes the mobilisation status; i) declares

the end of the war, and peace; j) declares the imposition of the "extraordinary measures" and defines the obligations and limitations during this period; k) decides on the use of the armed forces when the police are not able to reestablish order and l) decides on the hierarchy of authorities and command, in times of peace, war and state of emergency.

As can be observed from the above summary, the Parliament has an important role to play and provides safeguards concerning the democratic and civilian control of the armed forces and control of the security sector in general. On the other hand, in Albanian legislation, the mechanism of "checks and balance" concerning the appointments in the Armed Forces can be found in the line Defence Minister-Prime Minister and President, while the parliamentary structures and the parliament itself are not included in this process. Naturally, if serious problems arise, the parliament may request a hearing with the Minister of Defence or the Prime Minister. In serious cases they may request an investigation by a parliamentary commission.

### **The Prime Minister and the Council of Ministers**

The law "on the powers and command authority and strategic management of the armed forces" that we have extensively discussed defines the powers of the Council of Minister and the Prime Minister in particular. The Council of Ministers and the Prime Minister take part in the democratic and civilian control of the armed forces in a number of aspects. These aspects focus mainly on the preparation of the legal framework, documents on defence policy, the number of people in the armed forces, budget, salaries and other financial elements, policies toward recruitment and conscription, the proposal of extraordinary measures in part of or the whole territory, and the use of the army. The authority and responsibility of the Prime Minister, concerning the armed forces, towards the Parliament and President, consist of: proposing the nomination and dismissal of the Chief of Staff; discharging demoting senior military officials; head of departments in the Ministry of Defence and the General Staff with the exception of generals. The Prime Minister approves the organisational structure of the army and coordinates the work of institutions involved in defence policy.

### **Minister of Defence**

The Minister of Defence represents the highest official in times of peace of all military and civilian personnel of the armed forces. He is responsible before the Parliament, the President, and Prime Minister for implementing defence policy. In contrast to the

established tradition during the communist period, when the Minister of Defence came from the ranks of the army, during the transition period the Minister of Defence has been a civilian. The Minister of Defence has the authority to propose defence policy, budget, military ranks (except for the rank of general), and military attaches. The Defence Minister represents the country in international military relations. The minister creates the Defence Policy Council mainly composed of high-ranking officers, but also civilians such as the director of the Juridical Department or other persons invited by the minister. This structure has been modelled on the National Security Council.

### **The Chief of General Staff**

The Chief of General Staff is elected to a three-year mandate with the option to continue. He should have the necessary experience and a high rank (general). The President appoints the Chief of General Staff after he has been nominated by the Prime Minister. The parliament has no role in this process, as is in general the case with high-ranking officials.

In his daily work, the Chief of General Staff cooperates with the Minister of Defence. In times of war, the Chief of General Staff may be elected Commander of the Armed Forces. The Chief of General Staff is responsible to the President, the Prime Minister, and the Defence Minister. This relationship assures the neutrality of the Chief of General Staff that might have not been the case had he been responsible to only one authority. Many military specialists consider this an achievement which assures the "checks and balance" principle. The Chief of General Staff cooperates with the president in times of war, when the powers enjoyed by the President are enhanced; with the Prime Minister in times of peace, and with the minister who deals with the everyday duties in managing defence issues and policy. The Chief of General Staff is the highest consultant of the President, Prime Minister and Minister of Defence. This position significantly raises the authority of the Chief of Staff, which is consolidated by the definition: "the Chief of Staff is the highest ranking officer in the Republic of Albania." The President represents the direct superior of the Chief of Staff.

An important element that strengthens the position and stability in office of the Chief of General Staff lies in the conditions that need to be met in order to discharge him. These conditions, which are similar to those of other principal state personalities such as the President, the Chief Prosecutor, Members of the Constitutional Court, are: constitutional breaches, health impairment of over six months, and acts which discredit his stature. In

this way the law has created a system of safeguards that guarantee the dignity of this senior military figure from the civilian authorities.

The responsibilities of the Chief of General Staff are connected with the readiness of the armed forces, human resources planning, organising and commanding military activity. The duties and responsibilities of the Chief of General Staff are: approving the doctrines of the ground, air and naval forces and their action plans in peacetime; presenting to the minister the projects on the structure, numbers and organisation of the armed forces; proposing to the Minister of Defence long-term plans of development and modernisation of the armed forces; budget distribution, and other organisational aspects. He represents the armed forces in international military organisations.

### **Relationship between the Chief of General Staff and the Minister of Defence**

On a day-to-day basis, this relationship represents the first point of contact between civilians and military officers. The two institutions are physically under the same roof since the General Staff offices are in the building complex of the Defence Ministry.

Let us clarify a few questions in order to better understand the relationship in practice between the Chief of Staff and the Minister of Defence. The General Staff has personnel of 180 people and the ministry of 160 employees. Very few civilians work at the General Staff, mainly in the service sector. In the Ministry of Defence there are about 60 army officers. The predisposition is towards increasing the number of civilians in the administration. Since 1997 the number of civilians in the Ministry of Defence has increased by around 30 percent. The civilians generally work in fields such as human resources management, the juridical department, the foreign relations department, the budget and the financial sector. According to Arshi Cela, adviser to the Chief of General Staff and Defence Minister, the need for a civilian presence in the ministry is greatly felt. Cela says that the time has come to create the notion of "career civilians" in the defence sector.

Right now, with the help of an American company (SAIC), specialising in army reform in all countries aspiring to become NATO members, the Ministry of Defence and the General Staff are undergoing organisational reform. The Staff will become bigger even though the number of forces is being reduced to prepare the country for NATO membership. The project on the reorganisation of the Armed Forces and Defence Ministry has been presented to the Prime Minister.

However, in the relationship between the armed forces and civilian authorities there are no clear dividing lines. Decision- and policy-making is not entirely a civilian matter as well. Two important political documents, "the national security strategy" and "the defence policy document" have been approved in the form of a law. For the first time in the armed forces history, the Minister of Defence and the Chief of General Staff have defended these two documents in parliament. The Chief of Staff has also participated in the meetings of the parliamentary commission on defence, focusing on major military issues. On the other hand, in the preparation of these two fundamental defence policy documents, civilian structures in the executive, the office of the President and Parliament, took part alongside military ones. After a broad discussion these two documents have been approved as laws in the parliament.

According to Arshi Cela, an experienced army officer in the defence ministry staff, "a good balance has been achieved in the need for civilian command of the army and the respect of military professionalism. During the last five years the minister of defence has been changed five times. However, the effect has been minimal on the ministry staff and the general staff. The work has continued normally."<sup>4</sup>

An important element in the civil-military relationship in the defence ministry consists of the role that the military play in the decision-making process. "The general tendency of this process is positive and has brought a delegation of competencies from civilians to military personnel," says Cela. In this context, the nature and notion of commanding has changed from that of the "order" type, a characteristic of the Warsaw Pact armies, to "mission" type, which is typical of NATO countries. Thus, the Minister of Defence gives directives that are implemented by the officers. Speaking about the delegation of competencies process, Cela mentions their division into these levels: the Minister of Defence appoints commanders of brigades, of academies, autonomous units, and attachés. The Chief of General Staff appoints the staff chiefs from the battalion level and continuing to brigade level. Earlier it was the minister who would appoint commanders at almost all levels. This change has enhanced cohesion and operability as well as showing a greater recognition of professionalism in the army.

Naturally, the current situation of the civil-military relationship is not perfect. Military officers say that the concept of civilian control is sometimes misinterpreted. So even for

---

<sup>4</sup> Interview with Arshi Cela, Ministry of Defence.

low-ranking military officers to take leave of absence, permission has to be obtained from the Minister of Defence. Although the tendency is to reduce the number of ordinances given by the Minister, the number is still high – and now stands at around 100 orders a year. The misunderstood role of civilian control is also revealed in those cases when the only civilian in a given ministerial department is in a commanding position. As a military officer in the Ministry of Defence has put it: "We can understand that the minister may command, but not any member of his staff". Positive steps have been taken, however, a number of competencies need to be established in law, such as those of the deputy ministers and heads of different departments.

According to the extensively referred to law "On the powers and authorities of command and strategic direction of the Armed Forces of the Republic of Albania", the composition of the General Staff reflects the relative weight of the three armed forces. According to the law, the initiation of policies is the duty of the General Staff. The members of the staff, depending on their plans and expectations, make their demands in terms of required financial support and human resources. The input of the General Staff is indispensable in building defence policy.

However, there are tendencies towards the monopolisation of duties by civilians, especially in the area of procurements. For a military officer it is difficult to understand that "to buy fuel for four helicopters, the commander of the air force has to wait for the procurements department to organise a tender". Concerning financial issues such as salaries, there are cases when decisions have discriminated against the officers. A few months earlier an increase in the wages of the public administration, aiming at enhancing the professionalism, affected only civilian personnel at the Ministry of Defence. The salary of the Chief of Staff is similar to that of the adviser to the minister. Efforts are being made to address these issues.

### **Civilian and Democratic Control through the Judiciary, Institutions and Public Opinion**

It is in the authority of the constitutional court of Albania to verify the constitutionality of the laws, which of course includes those of the defence sector. This is another aspect of civilian and democratic control over the armed forces by the judicial system. There are other aspects of control such as that exercised by the High State Control, which performs auditing oversight. The Office of the Ombudsman or the specialised NGOs also monitor in different ways. A seminar organised in November 2002 addressed complaints by army

officers to the Ombudsman concerning the status of military personnel approved by law in the last two years and citing the treatment of military personnel during and after they quit service. In this seminar high-ranking military officers from the General of Staff, the NGO sector, and the Ombudsman also participated.

Public opinion as well represents an important component in the civilian and democratic control of the army. However, many problems are present in this sphere. The public relations sector in the Ministry of Defence does not keep intensive contacts with the press and through it with public opinion on important matters such as the budget. Throwbacks to "keeping secret" continue to be present. Even though Albania takes part in programmes such as Partnership for Peace and the Membership Action Plan and our foreign partners are regularly informed, Albanian public opinion does not get informed on a number of issues. There are very few press conferences by the Ministry of Defence or the Chief of the General Staff.

## **Conclusions**

Albania is trying to quickly integrate its army into NATO structures even though it is not part of the big first wave of integration announced at the summit in Prague. Albania has problems of a political nature, as well as problems of a technical nature related to the need to reduce the number of military personnel from 18,000 to 16500, and to the budget. The budget is around 40 million USD and represents only 0.9% of GDP, whereas NATO standards require a military budget at two percent of GDP. However, Albania is quickly implementing reform in the defence sector, and is being assisted by NATO members partner countries as well as specialised foreign agencies.

Albania has a complete and modern constitutional framework for democratic control of the armed forces. This framework assures respect for military professionalism by clearly delineating the realms of political and military decision-making. The Parliament, the President, the Council of Ministers, the Prime Minister or the Minister of Defence represent the political forces and from this point of view it is difficult to envisage reducing to zero the level of politicisation in the civil-military relationship.

In the meantime, there are problems with respect to the legal framework which should be improved and integrated in these directions: a clear definition of the powers of the president in peacetime; a review of the role of the National Security Council; a clear chain of command for the General Staff in times of war thus avoiding a potential duplication of

authority among civilian leaders; a review of the current legal framework regulating the relationship between the Ministry of Defence and the General Staff toward a more democratic relationship; an increase in the presence of specialised civilian leaders in the administration of the Ministry of Defence by creating a clear career system for them as well; an improvement in the public relations sector to better inform public opinion on developments in the defence sector. On the other hand, there is lot of work to be done in improving the living conditions of the military personnel.

## CHAPTER THREE

---

### THE PARLIAMENT AND THE SECURITY SECTOR

*Viktor Gumi*

#### Introduction

The essential purpose of Parliament, legislative oversight of the Executive, has been a contentious matter since the earliest days of the United Kingdom's House of Commons in the late 14<sup>th</sup> century. Taking into consideration the well-documented development of the British Parliament, the one aspect of governing which tilted the balance of power with respect to the question posed above was the financial needs of the Sovereign. As the head of state's financial needs increased, so did the need to raise levels of taxation, a process which eventually led the Parliament to demand the right to oversee the activities on which the taxpayers' money was spent.

The importance of legislative oversight as a tool in monitoring government activities was underscored when Woodrow Wilson, President of the United States of America, wrote in 1885:

There is some scandal and discomfort, but infinite advantage, in having every affair of administration subjected to the test of constant examination on the part of an assembly which represents the nation... Quite as important as legislation is the vigilance of the administration.<sup>1</sup>

Albania has not had the advantage of the United Kingdom, where the Parliament could evolve over centuries, nor the fortunate place on the globe of the United States of America, which developed its political institutions, largely in the 19th century, with virtually no interference in its domestic affairs by other powers. Albania is a latecomer to democracy, multi-party politics and constitutionalism. Nonetheless, the principle of legislative oversight largely remains as espoused by the 14th-century House of Commons and reinforced by the Wilsonian political philosophy, its application in modern

<sup>1</sup> W. Wilson quoted in European Group on Public Administration Study Group on, *Legislative Oversight*, (Glasgow: Caledonian University, 2001), p.1.

days demands that there be a set of objectives or standards against which it can be assessed and measured<sup>2</sup>. If this is not done, then the Parliament's legislative ability and oversight roles are unclear because there are no identifiable criteria by which to judge the reporting bodies – given the new politico-economic order where many government functions are being hived off to agencies outside ministerial control. In this regard, the future of parliamentary control must be guaranteed by the functions that national constitutions assign to each organ of government to perform, with parliaments ensuring that the bills are properly enforced and that preventive policies are put in place to counter fraud, waste and abuse of public funds.

### **The Nature of Political Discourse**

One of the significant traits of Albanian democracy is the identification of state institutions with the political party that in turn is identified with the government, which in the democratic process is replaced periodically by other political parties through the electoral system. There is a very fine distinction between government and state in the first place, since the former has authority to act on behalf of the later. In the case of Albania this distinction has been blurred to a disturbing extent. As has already been mentioned, elections in Albania do not bring a change in government alone but in the state apparatus as a whole, since politically-motivated replacements are widespread in the state administration. The phenomenon is not confined to clannish practices and nepotism, still alive in the mentality of the political elites, but has to do with the fact that political elites, once in power, identify their party with the state, behaving as if they own the latter.

Therefore the floor of the Parliament or Committee rooms are, at times, less places where the elected representatives of the people deliberate and decide and, perhaps, more like arenas where factions battle or divide political spoils. Nonetheless, to put the Albanian political situation in perspective, we have to recall that very similar political factionalism with little differentiation between the powers of the parliament, government, and state is to be found in the recent political histories of other Balkan states. The Report *Nations in Transit* reviewing the year 2001 wrote that the Republic of Albania continued

---

<sup>2</sup> Still there is no general definition of the term "parliamentary oversight". Many different words refer to parliamentary oversight; a first concept is referring to overviewing the government and to set broad guidelines for the government and its agencies. A second concept is "good governance" referring to a whole system of democratic management in which the parliament should be playing a significant role. Generally speaking it is accepted that with regard to parliamentary oversight, the essence is to grasp the dividing line between the parliament and government: to what extend should the parliament be involved in the activities of government? – for a comprehensive analysis of this phrase and in particular within the security sector see H. Born, 'Learning From Best Practices of Parliamentary Oversight of the Security Sector', *Working Paper Series*, No.1, Geneva Centre for the Democratic Control of Armed Forces, (unpublished paper).

to consolidate democratic political institutions during a difficult period in the Balkan region:

While the 1999 Kosovo refugee crisis presented particular challenges, Albania sustained its reform process and made discernible progress. The 2000 local elections were marked by an orderly first round, a problematic runoff, a substantially improved voter registration system, and the application of a new electoral code.... Large voter turnout indicates increased public participation in the political process.<sup>3</sup>

National parliamentary elections in 2001 tested the stability of this progress and did not find it weak. Nonetheless, the process does not yet produce a strong Parliament. It has not tilted the balance of power away from the administration toward the legislature.

## **The Constitution**

The Constitution of the Republic of Albania was accepted in a national referendum in November 1998. In general, Western observers appreciate the Constitution's content and the procedure of the referendum. The Council of Europe concluded that the Constitution, particularly the human rights chapter, was in conformity with European and international standards. A Joint Observation Team noted that the referendum on the Constitution followed an open and transparent process where advice on constitutional issues was accepted from many sources, domestic as well as international.

The principal provisions of the Constitution say that Albania is a parliamentary republic, a unitary and indivisible state, where governance is based on a system of elections that are free, equal, general and periodic. Sovereignty in the Republic of Albania belongs to the people and the people exercise sovereignty through their representatives or directly. The people will enjoy individual, human rights and freedoms, social justice, constitutional order, pluralism, national identity and inheritance, religious coexistence, and minority rights. The Constitution is the highest law in the Republic of Albania, although it applies international law that is binding upon it. The system of government in the Republic of Albania is based on the separation and balancing of legislative, executive and judicial powers. Political parties are created freely and their organisation shall conform to democratic principles. The armed forces secure the independence of the country, as well

---

<sup>3</sup> Scott Carlson and Wendy Betts, 'Albania', in Adrian Karatnychy, Alexander J. Motyl, and Amanda Schnetzer (eds.), *Nations in Transit 2001: Civil Society, Democracy, and Markets in East Central Europe and the Newly Independent States*, (Freedom House ) p. 57, See also:

as protecting its territorial integrity and constitutional order. The armed forces maintain neutrality in political questions. Local government in the Republic of Albania is founded upon the basis of the principle of decentralisation of power and is exercised according to the principle of local autonomy.

Against this background, we have to look at democracy and parliamentarism in Albania. In a study, *Albania — A Weak State and a Weak Democracy*, the authors Blendi Kajsiu, Aldo Bumci and Albert Rakipi have written:

So far Albanian democracy has been understood through a transition paradigm... At least in its initial phases Albanian democracy could not be analysed away from a multiple transition Albania was going through. First of all the country opened up to the world after being the most isolated society in Europe. Secondly, there was a transition from a centrally planned to a market economy, a process that is still taking place. Thirdly, there was a movement from a totalitarian, communist regime to a democratic system. The handicaps of the fragile Albanian democracy were, and to a large extent still are, attributed to the multiple challenges the country was being faced with simultaneously.<sup>4</sup>

## **Parliamentary Oversight: Transparency and Accountability**

The key of proper parliamentary oversight is transparency and accountability. From a financial responsibility perspective it must be borne in mind that the military sector shares many of the characteristics of other sectors and the citizens of any country will benefit from a military sector that is subject to the same broad set of rules and procedures of other sectors. As such high priority is given to principles such as transparency, accountability to the elected civil authorities and comprehensiveness of budget coverage. Failure to follow sound financial management procedures in the military sector is often justified by the need for secrecy to protect national security. However there appears to be a tendency to employ the notions of "sensitivity" and "confidentiality" and to use the need for confidentiality in some areas of the military sector to reduce opportunities for scrutiny by oversight bodies in parliament and by civil society. It is important to be clear, however, about the distinction between confidentiality and the lack of public scrutiny. In any case,

---

[http://www.freedomhouse.org/pdf\\_docs/research/nittransit/2001/06\\_albania.pdf](http://www.freedomhouse.org/pdf_docs/research/nittransit/2001/06_albania.pdf)

<sup>4</sup> Blendi Kajsiu, Aldo Bumci and Albert Rakipi, *Albania—A Weak Democracy and a Weak State*, (Tirana: Albanian Institute for International Studies, 2002), p. 5.

the practice has proven that it is possible to retain a high degree of confidentiality in highly sensitive areas without compromising the principle of financial accountability.

According to D. Bruce LaPierre, political accountability must comply with the principle that those who have the power or the responsibility to make a decision "should bear, to the fullest extent possible, the costs and benefits and the credit and blame for their decisions". The purpose of political accountability, LaPierre adds, is to "enable the electorate to control policy and to provide for majority rule".<sup>5</sup> Although political scientists, such as R. Dahl and W. Riker, were the first to speak of accountability as being at the very heart of democracy, this formula remains particularly difficult to implement in practice, especially in present-day Albanian parliamentary politics.

Thus, the legislative arm may indeed enact laws but it becomes politically irresponsible if the laws enacted remain vague or are interpreted in different ways nationally, or else if the substance of their enforcement is left up to the discretion of other agencies. Within the context of contemporary administrative law, some authors come close to concluding that "unaccountable legislation is unconstitutional legislation". If we expect the Parliament or Government to be truly politically accountable, it must not only implement equitable, fair laws that match the aspirations of a democracy, but it must also define clearly and as accurately as possible its policies, including of course defence policy. It should be recalled that the government alone is the 'owner' of the definition of public interest, and defence policy is part of that public interest.

Analysing the effectiveness of the Albanian Parliament, a Western institution, the 'Centre for European Security Studies in the Netherlands', concluded:

(W)hen one focuses on the 'democratic' dimension proper – looking at legislative oversight, for instance. This is perfunctory, as candid Albanian officials acknowledge. They say that the Parliament is 'only pretending' to exercise oversight. There are monthly committee meetings; but the legislature generally gives 'rubber stamp approval' on security related issues and does not ask questions.<sup>6</sup>

Again, independent observers are even more dismissive. Thus one critic notes that "the National Security Strategy was endorsed (January 2000) without any discussion or

---

<sup>5</sup> D. Bruce LaPierre, 'Raising a First New Amendment Hurdle for Campaign Finance Reform', *Washington Review Law Quarterly*, Vol. 76, 1998, pp. 217-225.

consensus".<sup>7</sup> Another says that even specialist committees "have traditionally not been seriously involved in overseeing the activities of the armed forces" and that most "reforms and measures ... have been approved without any prior discussion."<sup>8</sup>

We believe that establishing solid democratic control, as provided for in the 1998 Constitution, may require more than ongoing attention. In fact, even in official briefings, Albanian spokespersons are more forthright. They say only that the country has "implemented some of the basic features of a democratic, transparent and civilian-controlled defence planning system" and recognise that "much more is needed to be done." These were the views from Albania's Ministry of Defence. Independent observers use stronger language.<sup>9</sup>

In the Albanian reality there are a lot of things to be done in consolidating parliamentary oversight. A necessary condition is the existence of the willingness of political parties and parliamentarians for implementing reform of both the political and parliamentary system and the security sector. If parliamentarians do not want to use their powers in holding the government accountable, their constitutional and legal powers are of little use.

### **The Executive and the Parliament**

In theory, the principle of ministerial responsibility is simple: the legal responsibility of a Minister extends to all legal acts within the administrative jurisdiction of his department. The Minister is invested with authority for any decision regarding his department's policy, and he is accountable to the Parliament. The Minister is responsible for the management and organisation of his department, and all his civil servants are also accountable to him, since they are appointed on a revocable basis. Ministerial accountability implies that a Minister may be held responsible for any action that does not comply with morality, that he has the duty to be accountable to Parliament as well as the obligation to account administratively for actions carried out or decisions made.

The Constitution of Albania, in Article 80, states that the Prime Minister and any other member of the Council of Ministers are obligated to answer interpellances (i.e. questions)

---

<sup>6</sup> Centre for European Security Studies, *Assessing Aspirants for NATO Membership* (Groningen: Centre for European Security Studies, 2001), p. 87.

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> Centre for European Security Studies, *Assessing the Aspirants for NATO Membership* (Groningen: Centre for European Security Studies, 2001), p. 87.

and questions of the deputies within three weeks. A member of the Council of Ministers has the right to take part in meetings of the Assembly or its committees; he is given the floor whenever he requests it.

Albania's Constitution does not make an explicit requirement for the Ministers to provide information, in person or through documents, concerning their policy formulation or implementation. Article 15 does say that the Parliament "controls the activity of the Council of Ministers" and article 20 on Commissions (i.e. Committees) says that the Parliament elects from its ranks permanent and temporary Committees which examine the draft laws and normative decrees of the President of the Republic, follow and control the activity of the ministries and other state organs according to the respective sectors, and forward problems to the Parliament or the Council of Ministers. However, a defence law or "Document on Defence Policy" of January 2000 declares that transparency in defence planning and the civil and democratic control of the armed forces are the basic principles of defence policy.

### **Parliamentary Committees and Oversight Bodies**

In the parliamentary systems, Committees are used to refer to the formation or constitution of a group of Members of Parliament who are delegated to address a specified mandate whose terms of reference and remit are spelt out.<sup>10</sup> A Committee is expected to operate according to the procedure of a particular parliament; such a committee is distinct from the whole house and any extra parliamentary bodies including party causes or inter- and intra party formations. Committees may be given different powers to meet different circumstances. They may be created ad-hoc to meet a particular requirement or be reappointed from session to session or from Parliament to Parliament to carry out a more continuous function. The idea that it should be in part through Committees that the parliament should play an active part in informed criticism and scrutiny of the aims and actions of the executive is one which is central to any parliamentary committee system.<sup>11</sup>

While Committees and Legislatures differ in terms of size, facilities and in their procedure and practice, they are driven by common principles. These principles are clearly demonstrated in one the most fundamental roles of the Parliament, the oversight of

---

<sup>10</sup> E. May, *Parliamentary Practice*, (London: Butterworths, 1989), 21<sup>st</sup> edition , p. 23.

finance and the budget process in general. The underlying principle is that Parliaments have a constitutional mandate to scrutinise government spending and it is in the realisation of this constitutional mandate that the future of parliamentary oversight lies.

Albania's Parliament elects standing committees from its midst and may also establish special committees. The Parliament has the right to designate investigation committees. In the defence and security area, there are two committees, a Committee on Defence and a Committee on Public Order and Security. Presumably, they have weekly meetings.

However the Parliament alone cannot guarantee effective oversight and hold Albania's government accountable for all activities and policies. Politicians do not have time, resources or expertise to keep a close watch over the complex and large government activities. Certain steps can be taken in the future for achieving a consolidated Albanian parliamentary oversight over the Government.

### **The Budget Process**

Budget control is at the heart of parliamentary control. Most countries have developed or are developing a systematic approach for evaluation and approval of budget proposals. The national budget is the most important policy document of the Executive and reflects the fundamental values underlying the national policy. As the representative of the people, the Parliament is the appropriate place to ensure that the budget matches the nation's needs with available resources, an ability that is specially critical considering the current challenges to prioritise within and between different sectors in the society.

The political process includes a tension between the roles of the executive and the legislature - between state policy and democracy.<sup>12</sup> In virtually all countries it is accepted that the executive has the mandate to prepare the budget, as it possesses the most comprehensive information on which to base revenue and expenditure decisions. The role of the legislature is to exercise oversight and to authorise the executive to raise revenue and spend money.<sup>13</sup> The basic dilemma between state policy and democracy has led to a compromise internationally whereby most parliaments have restricted their

---

<sup>11</sup> The committee system has been described as Parliament's 'engine room'. See R. Calland and M. Taylor, 'Parliament and the socio-economic imperative – What is the role of national legislature?', (unpublished paper).

<sup>12</sup> For this topic see Marvin H. Kosters (ed.), *Fiscal Politics and the Budget Enforcement Acts*, (Washington, DC: The AEI Press, 1992).

<sup>13</sup> See in general Inter-Parliamentary Union, 1986, pp. 1049-1053

powers over the Budget. In return, most were able to maintain their sovereignty by keeping a closer watch over budget compliance, thereby strengthening the capacity to make informed amendments. Every system will have to balance this tension through the design of the process and its rules.

In Albania, in this important area, there is gap between Constitutional provisions and Parliamentary practice. The principles and procedures for preparing the draft budget and for implementing the budget are defined by law. The draft law on the Budget is approved by the Parliament. The Albanian Parliament, theoretically at least, has the right to amend the budget. The Prime Minister, on behalf of the Government (the Council of Ministers) has to present to the Parliament the budget draft during the Autumn Session. The Parliament has to act upon the Budget, within three months of the end of the preceding Budget Year and its Session cannot be terminated until it does so. If the Parliament fails to do so, the Government can spend, every month, the same amount that it spent, on the average, during each month of the preceding year.

Despite the Constitutional framework, currently there are no organised, established procedures for approving the budget although there are general Rules of Procedure. The time allocated to the Committees depends on the moment when the Government submits the budget to the parliament (in practice for several years the time from submitting the budget until its approval has been around four weeks). In this area, even well-resourced organisations are hard-pressed to deliver detailed, substantive comment on their immediate issues, let alone the entire budget. The two bodies responsible for security policy, the Committee on Defence and the Committee on Public Order and Security, do little effective work. Given the weak performance of committee deliberations currently in Albania, most of the process is consumed by general debate on the floor, often unrelated to the budget. Given the present, haphazard Budget practice, the Committee on Defence and the Committee on Public Order and Security have abdicated their responsibility, which has been assumed by the Finance Committee.

### **Budget Amendment**

When most legislation is initiated by the executive, a Parliament's role in the policy-making process is in many cases determined by its ability to change legislation once it has been introduced. Therefore, the ability to amend the budgets is strongly influenced by the effective role of the committees in the budget process. The extent of committee involvement in the parliamentary process depends upon the location of amendment

powers, i.e. whether amendment powers are vested in the committee or in the Parliament as a whole<sup>14</sup>; the amount of time dedicated to committee debate in the deciding House; which committees are involved, and the interaction between them, as well as committee access to independent research and departmental information.

The Constitution provides Albania's Parliament with the right to amend the Budget. Article 160 of the Constitution: "During the financial year, the Assembly may make changes in the budget." At the same time "No non-governmental draft law that makes necessary an increase in the expenses of the state budget or diminishes income may be approved without taking the opinion of the Council of Ministers, which must be given within 30 days of the date of receiving the draft law." (Article 82) As we have seen, neither the Parliamentary process, the floor debate, nor the Parliamentary Committee system functions well in Albania.

The ability of Parliament to change the Budget is influenced by which committees are involved and the relationship between these committees. In terms of the ability of the Albanian parliament to change the budget, Albania is at the minimum level of parliamentary systems.<sup>15</sup> The Committees do not have currently the capacity to utilise it effectively; consequently the ability of the parliament to change the budget will be low. However, at the time of writing, there are proposals for changing and improving the financial legislation in Albania and a revision of the Rules of Procedure in the parliament.

## **Parliamentary Staff**

There are few parliamentarians in any country today – in the mature or new democracies – who have sufficient knowledge to deal with defence affairs on their own. This is no reflection on their abilities. In Western countries every parliamentarian has a private staff. There also is a research staff working for every parliament as a whole. These expert civil servants have the knowledge, skills and tools to support the elected representatives so that they can hold defence officials and the military accountable. Parliaments in the transition countries do not have such large resources. However, staff expertise is a prime requirement, and educating civilians in defence affairs is a primary requirement.

---

<sup>14</sup> In many bicameral Parliaments, the power of the Upper House in budgetary matters is restricted.

<sup>15</sup> See Article 160 of the Constitution: "During the financial year, the Assembly may make changes in the budget." At the same time: "No non-governmental draft law that makes necessary an increase in the expenses of the state budget or diminishes income may be approved without taking the opinion of the Council of Ministers, which must be given within 30 days from the date of receiving the draft law". (Article 82)

Somewhere in the zone between ministerial responsibility and the political accountability of the Parliament lies the position of the parliamentary staff.

In most cases in the former Socialist countries (Albania in this instance is no exception), parliaments have only a very small research staff, where the Government can rely on the staff of the Ministry of Defence and other ministries dealing with the security sector. In addition, parliamentarians are only elected for a limited period of time to the parliament, whereas civil servants and military personnel in the majority spend their entire career in the Defence Ministry.

The Albanian Parliament has no access to expertise in the important area of security and defence reform. There is no Parliamentary research service and individual Committees have, at best, one staff specialist assigned to them. This is the situation with the Finance Committee. There is no independent parliamentary research service available, nor is there a tradition of researchers available to individual members.<sup>16</sup> Each parliamentary "group" (i.e. party) has very little money for special research.

## **Conclusion**

The basic problem is that parliaments rely on information emerging from the government and military, but yet these are institutions they are supposed to oversee. This creates a great problem; the asymmetrical dependency relations between parliament, government and military. This situation is aggravated by the closed nature of the security sector due to its typically military work, culture, education and security laws. In the Albanian context this is the major challenge in the next few years.

The right of citizens to participate in the functioning of government is a fundamental principle and eventual requirement of democracy. Experts from civil society must be invited to the parliamentary hearings. Civil society and the media should be encouraged to become actively involved in ensuring the accountability of government. Their role should be recognised and further enhanced through appropriate modalities and mechanisms.

In most Parliaments, committees utilise independent sources of analysis together with access to the executive and other public agencies. This means that committees are

---

<sup>16</sup> Currently, the Albanian Parliament has started with OSCE Presence in Albania, a long-term project for enforcing and consolidating the research capabilities within the Parliament.

reliant on the breadth and depth of the information supplementing the proposed Government Budget. In addition, committees require information on the implementation and impact of the current Budget and development of the Budget of the following year. Access to this information is critical – greater capacity to monitor Budget implementation is often the trade-off that legislatures accept in return for restrictions on amendment powers. In general, the greater the quality and timeliness of information available to the appropriate committees, the stronger will be their input and therefore the ability of Parliament to change Budgets.

The Committee system assumes great importance since parliament in its corporate nature cannot have complete oversight over government and its activities. In the oversight of finance, the Committee relies on the High State Auditor's output. To make both effective, the Assembly should ensure that Committee reforms are simultaneously pursued with appropriate legislation for the independent State Auditor's Office.

At least up to now, Albanian parliamentarians may have been willing, at times, but not able to oversee government activities due to lack of human and budgetary resources. These resources, such as parliamentary staff (in quality and quantity), are a necessary mechanism for parliamentarians; they provide parliaments essential capability to perform oversight.

The Assembly must make full use of the reports and the other state institutions responsible for overviewing the security sector, such as the judiciary, accounts/auditors. All the budget documents must be available to the parliament and to the general public. Secret budget items must be available only to a selected group of parliamentarians. The government for its part should provide readable and understandable financial documents to the Assembly and parliamentary committees in particular so those members are able to scrutinise the executive. Sufficient time should be made available in the Assembly for oversight functions.

However the Parliament alone cannot guarantee effective oversight and hold Albania's government to account for all its activities and policies. Politicians do not have time, resources or expertise to keep a close watch over the complex and large government activities. Certain steps can be taken in the future for achieving a consolidated Albanian parliamentary oversight over the government.

However, the prognosis for Albania's parliamentary democracy need not be entirely gloomy:

Although the Albanian political scene presents us with a gloomy picture, certain positive developments should not be ignored. While it is true that the political spectrum is very polarised and politics is still quite confrontational it is perhaps the first time in Albanian politics that such a large part of the conflict is taking place within an institutional setting. The political parties, the Parliament, the Constitutional Court and the Office of the General Prosecutor have been in the media spotlight and have turned into forums of debate as well as of confrontation. In a sense they have regained their importance.<sup>17</sup>

---

<sup>17</sup> Blendy Kajsiu, Aldo Bumci, and Albert Rakipi, *Albania—A Weak State and a Weak Democracy* (Tirana: Albanian Institute for International Studies, 2002), p. 12.

## CHAPTER FOUR

---

### CIVILIANS AND MILITARY IN DEFENCE PLANNING: FROM A NATIONAL SECURITY CONCEPT TO A FORCE DEVELOPMENT PLAN

*Igli Totozani*

#### National Security Strategy

The Albanian National Security Strategy was approved by Parliament and decreed by the President in January 2000. In the same month the document on Defence Policy was approved. In 2002 the government approved the Military Strategy of the Republic of Albania. Before we look in greater detail at the Military Strategy we should focus on the document of the National Security Strategy.

The National Security Strategy is prepared by an inter-ministerial body composed of those ministries that are directly involved in their daily work with issues that the national security strategy deals with – the Ministry of Foreign Affairs, Ministry of Public Order, Ministry of Defence, Intelligence Service, Ministry of Finance, Ministry of Local Government, Ministry of Health and Environment. The draft document is then presented to the parliament for approval.

The National Security Strategy was adopted without any proper debate. The opposition in the Albanian Parliament did not debate and vote upon the National Security Strategy. However, this was not because of disagreement about the document of the national security strategy or other laws pertaining to defence issues but because of the political stance and strategy that the Albanian opposition was pursuing, which consisted of boycotting the parliament. As the adoption of the Military Strategy this year showed, the scanty debate on this document resulted from the lack of expertise and even interest in defence issues. With regard to the public involvement we could say that these issues are even less debated in the society at large. This is the result of a number of factors, such as the reaction to the communist legacy that presented the country as surrounded by enemies, the high degree of militarisation during that period; and the fact that people are

overwhelmed by domestic economic, political and social problems. Media and policy institutes or NGOs have focused very little, if at all, on defence issues. We could also add here a certain culture in public institutions that do not yet feel that they should discuss these issues with the public at large.

As can be seen from the approval date, the document was prepared during 1999, a period when NATO had launched its air campaign against Serb forces in Kosova, and Albania itself was attacked and its territorial integrity was violated several times by Serbian forces. This acute security concern is reflected in the document, in which the attempt to create a Greater Serbia is identified as the cause of the problem. Even after the Kosova war was over, due to the lack of democratisation in Serbia and the fact that Milosevic continued to hold power in Belgrade, Serbia continued to be identified as a source of instability in the region. At the same time the national security strategy recognised that external threats could stem also from inter-ethnic conflicts, which were not specifically identified. The document also recognises the indispensable role that international organisations such as NATO, OSCE and EU have played in providing security and that Albania should increase its efforts to join these organisations. The need to develop close cooperation with these organisations stems from the fact that, as is recognised in the document, Albania has insufficient means to provide for its own security. The national security strategy states that Albania is against the changing of borders by force and does not have any territorial claims, while at the same time declaring that it is interested in the welfare and the rights of Albanians living outside its borders. The Albanian state also declares that it will abide by all international obligations in order to find a permanent solution to the question of Kosova's future status.

In terms of an external threat coming from Serbia, the national security document is clearly outdated. In the last two years the situation in the region has experienced considerable transformations. Democratic changes have taken place in Serbia, Milosevic is no longer in power and Albania has not only re-established diplomatic relations with Belgrade but has also signed several agreements. Consequently the national security strategy needs to be reviewed in order to reflect a new regional milieu.

The National Security Strategy also identifies other sources of threats such as those stemming from the domestic situation, organised crime and trafficking, and terrorism. Due to the multifaceted processes of globalisation, the line between internal and external issues has become blurred. The same could be said about the classical division line between hard and soft security concerns. After the end of the Cold War, traditionally low-

ranking security concerns became more salient and have since then attracted considerable governmental attention and resources. This is the case for Albania and its citizens as well, where non-traditional security concerns are now high in the agenda.

The National Security Strategy considered the country's political situation as a serious source of instability. Considering the Albanian democratic experience in the last decade, this concern could not be overstated. Albania could be characterised as a weak state. The sources of this weakness are diverse, ranging from the legacy of communism to the current experience with institution-building. The communist legacy has constituted one of the biggest obstacles to the establishment of properly functioning democratic institutions and a market economy and Albania continues to be one of the most underdeveloped economies in the region and the state cannot provide its citizens even with basic services such as a water supply and electricity on a continual basis. Unemployment is high and the grey economy very large. In addition, the political scene has been characterised by a fierce political struggle for the control of state institutions. The institutions have not been built over a wider political consensus but have been politicised. This has meant that the institution-building process has had to restart after each power rotation. The fact that the losing party has always contested the elections has meant that the institutions have suffered also from crises of legitimacy.

The 1997 crisis thus represents the breakdown of the state as a result of the erosion caused by domestic processes. The 1997 turmoil was sparked by the financial crisis that resulted from the collapse of pyramid schemes, and the situation escalated into an armed rebellion. The government lost control of large parts of the territory and army depots were looted. In addition to this, the country relapsed again into turmoil a year later. As a result of these events, the recovery process has been very slow and the potential for the country experiencing political disorder far from remote. The main reason for this was the inability of the political elites to reach a consensus. However, the situation has considerably changed in the last months. A new political climate exists in the country that has achieved a greater and visible degree of stability, which could be illustrated also by the decision of the EU to open negotiations on a Stabilisation and Association Agreement with Albania. Thus, to some extent the problems identified in the 2000 document are outdated. This does not mean that currently there are no problems, but that it is important to have a new assessment of the domestic situation in order to better identify the potential domestic sources that could still cause problems.

The problem with organised crime and trafficking at the transnational level has appeared more forcefully due to the combination of the above-mentioned problems, the outbreak of the Yugoslav wars of secession and the existence of weak states that face difficulties in fully upholding the rule of law. The problems related to organised crime and trafficking are truly regional phenomena and cannot be confined to a particular country.

The strategic location of Albania, like other Balkan countries, has also contributed to the phenomena. The territory of our country with its favorable access to the Adriatic and Ionian seas constitutes an important transit route that connects the Balkan hinterland, through the Italian peninsula, with western European countries. In this way, Albania could serve as an important entrance point for goods, values and people that by crossing its territory contribute to economic development. Two regional projects – the Corridor VIII that would connect the seaport of Durres in Albania via Macedonia and Bulgaria with Istanbul in Turkey and the AMBO pipeline project that would connect Bourgas in Bulgaria with Vlore in Albania – illustrate this point. However, at the same time, this strategically-located territory provides an opportunity for illegal activities and trafficking from one shore of the Adriatic Sea to the other. As a result, maintaining public order and the rule of law is of vital importance not only for the security and stability of Albania, it also has an effect on the neighbouring countries. This security concern is actually more prominent than the traditional security threats. This constitutes one more reason for a new National Security Strategy that will direct the resources and efforts of the state in the right direction.

## **The Military Strategy of 2002**

The Military Strategy is a comprehensive and detailed document of one of the components of the National Security Strategy. It follows a recently developed comprehensive National Military Review, which started in the year 2000. This strategy is a product of Albanian military thinking, based on Western-oriented management of national military issues and the best national traditions.

The General Staff prepared the Military Strategy, the Ministry of Defence then presented it to the government and then the draft project was presented to the parliament. As mentioned earlier, the parliamentary discussion on the draft has been insufficient, even though the opposition was present.

Post-Cold War political, economic, military, demographic, environmental and technological developments have significantly influenced the national, regional and global

security environment. With the end of the Cold War and the international system that accompanied it, as well as the ensuing democratic processes in the former communist bloc, the national security concepts and strategies for the national defence had to be transformed to meet the new reality. This transformation brings considerable advantages, but also produces various challenges and uncertainties for the present and the future. The Albanian concept for facing these challenges is presented and embodied in the National Security Strategy, which describes the principal instruments of power for advancing the national interest. The Military Strategy of the Republic of Albania, approved by the Albanian Parliament on July 25, 2002 and decreed by the President on August 9, 2002, presented the strategic direction of the national leadership for the concept, the vision and its related plans for the implementation of the restructuring process of the Albanian Armed Forces in order to achieve the national security objectives. It is important to underline that this document has a special importance because of the fact that it was the first time that such a document had been added to the other documents on military and national security. Furthermore the moment of its publication coincided with the intensification and the depth of the defence reform, and stressed the value of this strategy.

The Military Strategy of the Republic of Albania considers the Armed Forces as one of the main institutions of a democratic state. The main objective of maintaining and modernising the armed forces is the protection of Albanian vital interests and its citizens whenever they are threatened, as well as their involvement in other non-military missions, mainly the protection of citizens and their goods from consequences of natural and other disasters and maintaining the public order according to the constitutional provisions, when the police forces are no longer able to perform their tasks.

In the process of developing this strategy the strategists have adopted a holistic approach, paying attention to the different dimensions and elements of this document such as: constructing a hierarchy of national interests from vital ones to other important interests; developing cost analyses that takes into consideration domestic resources and constraints as well as international support. In this document, among other elements of national security, the armed forces are identified as an active and central factor, which will play a decisive role for the protection of the country always in cooperation and harmony with other elements of national power.

For drafting this document four categories of national interests were analysed, which include: the protection of the territorial integrity of the country; regional interests;

economic interests and national traditions. The harmonisation of these concerns provides us with a long-term vision for the development of the Armed Forces, aiming at addressing and coping with menaces and risks that might threaten Albania's future by increasing the quality rather than quantity aspect of the armed forces.

## **Risk and Threat Analyses**

The Strategy of the Republic of Albania is based on two main pillars: First, it is designed by considering the missions that the Armed Forces will accomplish in the current and future security environment, and second, it is developed from a clear understanding of the limited resources that the country has for military purposes, now and for the foreseeable future. This approach makes the strategy realistic and credible, while at the same time making sure that it is not a document that will remain on paper but will be implemented as well.

Our country currently has limited national resources and defined critical priorities. Hence the use of national resources for the development of the economy of the country, for education, public health, national infrastructure and social issues, as well as for strengthening democratic institutions, is a reasonable policy, which will be visibly reflected in an increased level of security in the country. The development of the Armed Forces and military of the country, which is based on an analysis that takes maximum advantage of the current relatively favorable geostrategic environment and the anticipation that it will remain so for the foreseeable future, but also considers any reasonable risk, is seen as the best policy course to be pursued. Thus the Military Strategy of the Republic of Albania could be defined as a pragmatist strategy that aims at addressing admissible risks.

The military strategy does not provide an elaborate analysis about threats and risks as the national security strategy does. This is of course understandable since it is the latter that should offer that analysis and the military strategy should dwell more on the defence planning and provide guidance for the reform process that is under way. However, even in a brief analysis of the nature of security threats we could notice differences with the national security strategy of January 2000. Serbia is no longer identified as a security threat, while the possibility of inter-ethnic conflict is still considered as constituting a potential external threat. Despite the fact that regional security threats are still mentioned, they do not stand out, as was the case in the national security strategy. This is due to the changes that have taken place in the region – the democratisation processes and the

determining role and efforts of the international community to create a new security architecture for Southeast Europe. At the same time concerns about the domestic situation, organised crime and terrorism seem to have become more salient in this document.

The analysis and assessment of the regional security environment, leads to the conclusion that for the next ten years there will be no direct or imminent threat to the security of the country. The NATO presence in the region will be one of main factors for the protection of the integrity of the country. Threats and challenges, which might affect Albania, will be of a non-traditional nature. The analysis concludes that this is a favourable period for the development of a strategy for a transitional Armed Forces faced with current and future threats and challenges.

### **The New Concepts that Permeate the Military Strategy**

The National Military Strategy of Albania consists of a mid-term transitional platform, open to changes and revisions in order to be updated and adjusted in light of regional security developments. The development of armed forces, their missions and objectives will reflect the security concerns in our geostrategic environment as well as the level of budgetary support earmarked for military purposes.

The Armed Forces will develop a new concept and balance between the professional, conscript and reservist components. The essence of the project is the establishment of a force with Western orientation that is based on professionalism. This means that the peacetime active military units will be mostly based on a professional force, and only a few of them will be topped up with conscripts. The development of a peacetime professional force in accordance with the projects will result in a force with an increased operational capability than at present to defend the country's interests, as well as for participation in international operations. Based on a professional army concept, Albania, while decreasing the size of its armed forces, will enhance their quality and capacity to fulfill a wide range of missions. The national defence concept will be based on flexible defence and not on protecting the entire national territory and airspace. This concept will be applied mainly by the peacetime forces, which should develop towards the model of rapid reaction forces. The operations and activities of armed forces in coping with different tasks will be based on "Force Package" and "Task Force" concepts. This means that whenever it is possible and necessary the General Staff will create a force group for special duties. These forces will be put together on the principle of proportionality,

autonomy of action, joint force, as well as cooperation with other agencies of the state. A special importance will be given to the joint operations of two or three forces/services, based on "The Joint Doctrine of the Armed Forces", which has already been prepared but awaits approval.

The Military Strategy will lay down the changes in terms of force dislocation requirements during peacetime for the future armed forces of 2010. The Rapid Reaction Forces will be located mainly in the centre of the country near the communication highways to act rapidly when required. The reserve forces will be located throughout the country in order to achieve a higher degree of flexibility in their use and to facilitate their recruitment during peacetime. Also, the training of the future reformed armed forces of 2010 will mainly consist in increasing their operational capabilities to act rapidly as a compact force of land, air, and naval units fully integrated and operational. Special units and segments of the armed forces will be able to participate in joint operations with other NATO and partner forces.

The transformation of the current armed forces into the future reformed armed forces of 2010 will entail also a considerable reduction and reorganisation of the existing military facilities, and armaments. In this way financial resources will be more efficiently used for modernising a smaller but far more capable and credible armed forces.

Taking into account that current human resources are much higher than the needs for recruits in the military service it is foreseen that the universal conscription system will be replaced by an alternative model. Those conscript soldiers that have ended military service, and choose to remain, through the selection system, will form the future conscript army. The development of an NCO career in order to complete the future reformed armed forces of 2010 is one of the main objectives of human resource management. Professional NCO officers as a consolidated force will form the backbone of the Albanian armed forces.

The reservist forces that will be reorganised according to a Western model will constitute the bulk and the main force to face a potential foreign aggression. During peacetime the reservist forces will be provided with sufficient military and civilian personnel to deal with their training and organisation.

Non-traditional security threats and risks will be handled by developing the special armed forces. The Military Strategy supports the creation of special armed forces that in addition

to the traditional military responsibilities, will be trained to perform special tasks to safeguard the constitutional order.

All these measures and the reform itself will be implemented by keeping in mind the requirements for NATO membership. In addition to the political, economic and legal aspects, the reform in the armed forces is a crucial element for membership in NATO. The professional armed forces will be organised and trained to fully operate according to the NATO standards by 2006. The goal is to achieve interoperability in terms of organisational structures, work procedures at military headquarters, military doctrines and training, acquiring an operational level in the proficiency of the English language, and in the long term to acquire also equipment and systems that NATO countries have.

### **Defence Reform: The Future Force Structure of Albanian Armed Forces – 2010**

Based on the assessment of our geostrategic environment and the capacity of the country, the Albanian Armed Forces will develop a transitional medium-term force with a peacetime active force of approximately 16,500 compared with the current 31,000. This force will comprise the Ministry of Defence, General Staff, Army, Navy and Air Force, Doctrine and Training Centre (TRADOC) and Logistics Command.

- **General Staff** will continue to consolidate itself as a joint staff for planning, coordination and leading the joint operation of its forces. It will be structured according to the NATO command structures standards J1-J9. Some units and strategic assets will be subordinated directly to the General Staff. These units are: Civil Protection Base, Intelligence battalion, Communication battalion, General Staff battalion, Military Police battalion and some other units.
- **Land Forces** as the main force during peacetime will mostly be a professional army composed of a Rapid Reaction Mechanised Brigade with a battalion of the "Task Force" type, one Commando Regiment, and one Sapper Brigade. This force will be augmented in wartime with five Infantry Brigades and one Artillery Reserve Brigade.
- **Air Forces** will be focused in developing: a multi-purpose helicopter squadron, which will support the Rapid Reaction Forces and Commando units and conduct air surveillance. They will also develop an Air defence Brigade, and various supporting units.

- **Naval Forces** will be organised in two naval bases. They will include a Coastal Surveillance Battalion and various supporting units. Naval Forces will be responsible for exercising sovereignty over territorial waters and within the recognised exclusive economic zone, and carrying out maritime surveillance, law enforcement and similar coastguard tasks.

In the condition of a reduced 2010 future reformed armed forces it is not economical for Albania to maintain a separate military education system. Joint Forces and Operations ask for similar concepts, programmes, standards and doctrines in order to achieve optimal synergy. The Military University and a National Training Centre will be two main pillars of the TRADOC. At the same time special importance will be given to the Logistics Command, which will contain a logistics brigade, a transport brigade, a maintenance battalion and other supporting elements. This command will be responsible for providing sustainable logistics support to the armed forces.

For the education of the military personnel there will a division of labour between military and civil universities. For the Albanian Armed Forces, military education and training of the personnel will concentrate solely on military professionalism and issues. The additional knowledge that is required – of a non-military nature – will be acquired in cooperation and through the civil educational system. Overall Inclusion is Another Strategy Requirement.

## **Legal Support**

This will aim at the institutionalisation of National Security/Defence System by setting up a two-year term for reviewing the National Security Strategy, Defence Policy and National Defence Strategy. The intention is to create a new strategy combining diplomacy, economy, defence, public order, and a legal and social framework. Integration of individual strategies in a common document will constitute the National Security Strategy. The Military Strategy consists of seven annexes, comprising the essential principles that will guide the development of the reformed 2010 Armed Force. One of these annexes focuses on the legal implications of the military reform. The legal package will aim at providing legal support for the AAF Restructuring Process, Personnel Management System, Military Units Deployment, Defence Structure and Infrastructure Modernisation, C4I and Intelligence System, Logistic and Resources Integration Support System, and other requirements.

## **Financial Support**

The Ministry of Defence is aware of the current economic constraints and the extent to which the state can actually support the military budget. Although the armed forces will undergo a considerable downsizing, we should take into consideration that the professional force structure that will be developed under this project will require more financial resources than what is actually spent on the current conscript system. What differentiates these two models of armed forces is the different level of operational capabilities.

The Government "contract" with the Armed Forces, for the implementation of defence reform and modernisation programmes in order to achieve the target of 2010, provides for the funds earmarked for the military to experience a progressive annual growth of around 0.1 % of GDP each year till the military budget reaches 2% of GDP in 2010. An Integrated Planning System is designed to guarantee the effective execution of funds allocated for defence. The prevailing opinion in the Ministry of Defence and the whole Armed Forces is that this is a realistic and reasonable option. The reason the Armed Forces require a 10-year contract with the civilian authorities is so that power rotation and governmental changes should not affect the planned level of support for the armed forces.

## **Civilian Control**

The Albanian armed forces abide by the law and obey civilian control. However, they would like the "dividing line" between civilian control and military professionalism to be respected so that the two agencies do not interfere in each other's competencies. The Parliamentary Committee on Defence constitutes one of the main organs that performs the function of democratic and civilian oversight. The Ministry of Defence and the General Staff are obliged by law to provide to the Parliament or parliamentary committees explanations about the way they have managed the financial resources. In order to increase the transparency and accountability, the Ministry of Defence plans to create in its organisational structures a "special staff" that will administer its relations with the Parliament. This unit/department will be composed of senior civilian experts and military personnel from the Defence Ministry and the General Staff, which will deal with the drafting of military policies and strategies and will defend it in the governmental and parliamentary structures. Transparency on military issues will be further enhanced

through a periodic reviewing of the Military Strategy that will take place every two years – in 2002, 2004 and so on. In this context the Ministry of Defence will prepare a white paper after the strategy of the new structure of the armed forces has been finalised.

### **Military Expertise**

The General Staff has already started work to coordinate the different efforts that are made in developing the strategies and standards that will direct the reform process. The National Military Strategy will be supported in succession by the elaboration of the joint doctrine of the Armed Forces, and the separate doctrines of each force, which will explain in greater detail the way the armed forces will operate in order to implement the Military Strategy. The strategy and doctrines will make possible the advancement of the communication and information systems through the development of the C4I architecture, the construction of an integrated national logistics system, etc. The role of the Training and Doctrine Command Centre is indispensable for the whole of this process. Similarly the setting up of a multiple-year Management Resource System for planning and programming, and Human Resource Management System for the civilian and military personnel, with the assistance of the USA, will constitute the two main challenges.

### **Motivation**

It is generally recognised and acknowledged that in a professional army the military profession, in contrast to civilian professions, is less attractive due to the considerable privations that accompany it. In order to make it more attractive, it should be associated with appropriate advantages so that a greater number of people opt for this profession. Thus the reformation of the armed forces that we are trying to implement necessitates greater benefits for the military personnel, but always within the financial possibilities of the government. This special treatment should not be viewed with resentment and envy by the civilian sector, since the opportunities are open and anybody can weigh the benefits that each profession offers.

The continuous reduction of the armed forces personnel should aim at retaining and further developing those that are more educated and motivated, and should be paralleled by a substantial but gradual increase in salary for military personnel, solving or facilitating the housing problems for them and improving conditions of leave. The salary structure/pyramid should be made simpler and it should be based on rank and service years. The actual deformed pyramid of ranks and age in the armed forces will be

reorganised in order to overcome the problems that exist in terms of limited career opportunities, thus making the armed forces more attractive for younger generations.

## **Public Relations and Media**

The intention is to achieve strong support from the public and legislature for all the above-mentioned reforms. Achieving and maintaining strong public support for reform of the military sector will remain an important element throughout this process. The Ministry of Defence and the General Staff will try to be open and transparent during the implementation of the reform agenda. Considering the problems that have existed so far in terms of relations with the media, a new platform for public relations will be launched. It is very important to inform the public about the importance of the armed forces and the need to modernise them so that the financial resources that would be spent for restructuring the armed forces are not perceived as being squandered. It is important to make the public aware that the Armed Forces serve not only for protecting the territorial integrity and sovereignty of the country but also for assisting the population in case of natural disasters, providing support in combating illegal trafficking and protecting public order.

## **Conclusion**

The Albanian government has developed two fundamental documents on national security – the National Security Strategy and the Military Strategy. The drafting of these documents is an important step forward that provides strategic direction and greater transparency about the reform in the armed forces and the direction in which state resources will be channelled.

As we showed, the National Security Strategy adopted in January 2000 reflected that particular historical period, which is very much linked with the Kosova war and the real danger of a confrontation with Serbia. However, the dramatically transformed regional security environment necessitates the drafting of a new national security strategy that would better reflect the new security challenges.

The Military Strategy adopted in July 2002, is an integral part of the National Security Strategy, providing detailed guidance about the defence sector reform and the future shape of the Albanian armed forces in 2010. In this way the document provides a long-

term vision that facilitates implementation of the reform while at the same time creating greater transparency.

The drafters of the military strategy have also considered the favourable regional environment and the stabilising role of NATO, EU and other organisations and the economic situation and financial constraints that the country faces while preparing the document. This analysis makes the document more realistic, which will facilitate its implementation as well.

## **CHAPTER FIVE**

---

### **DEMOCRATIC CONTROL OF THE INTELLIGENCE SERVICE**

*Sokol Berberi*

#### **Introduction**

National security is of major importance to the progress of a society. However, in the case of a constitutional democracy, national security is the instrument that creates the possibilities for the safeguarding of public order. At the same time, national security should fall into line with the development of democracy and the protection of human rights.

Under the communist regimes, security services played a key role in the defence of dictatorships. In the framework of the institutional reforms undertaken at the outset of democratic processes in the former communist countries, Albania falls under this latter group, and special attention was attached to the democratisation of the national security services.

The democratisation of these services through reforms, intertwined with the legal policies, should comprise an important aspect of the performance of the Parliament of the Republic of Albania that needs following-up.

#### **Constitutional and Legal Framework**

Article 80 of the Constitution lays down the Government's general obligation to answer the questions and interpellations from parliamentarians, in terms of the government policies and implementation of legislation. This article states that:

1. The Prime Minister and any other member of the Council of Ministers are obligated to answer interpellations and questions of the deputies within three weeks.
2. A member of the Council of Ministers has the right to take part in meetings of the Assembly or of its committees; he is given the floor whenever he requests it.

3. The heads of state institutions, on request of the parliamentary committees, give explanations and inform on specific issues of their activity to the extent that law permits."

In Albania, Law no. 8391, dated 29 October 1998, amended by Law no. 8479, dated 29 April 1999, regulates the State Intelligence Service. This law provides that the Parliament oversee the performance of the State Intelligence Service (SIS) through the permanent parliamentary sub-committee set up to that effect.<sup>1</sup>

The National Security Policy Document adopted by Law no.8572, dated 27 January 2000, in the paragraph with the title "Relations with Public Opinion" states that:

Public information, transparency and consensus for strategic solutions, and the enhancement of the resources for national security are seen as crucial for the success of the security strategy. Security state institutions plan normal procedures for providing information and they will not allow it to be used for deceiving public opinion. Issues related to the priorities of strategic decisions and enhancement of the security resources will be submitted to debate and the approval of public opinion. The Albanian taxpayers will have access to the information and the required transparency for the resources used. In this way it will help to enhance trust and better understanding of the strategic priorities which should be followed for the achievement of the national objectives and interests.

### **Policy and Financial Accountability**

There is no clear obligation for the elected representatives to be informed or consulted in the course of the policy-making and planning process. The Constitution, laws and government normative acts contain no clear provision according to which the administration is obliged to reveal, explain and justify its policy and plans in the security domain.

Similarly, the Constitution, laws and government normative acts contain no clear provision according to which the administration is obliged to reveal, explain and justify its expenditure for defence purposes.

Article 158 of the Constitution lays down the procedure for introducing and considering the Draft State Budget by the Prime Minister:

---

<sup>1</sup> See article 7 of the Law no. 8391, dated 29 October 1998, amended by Law no. 8479, dated 29 April 1999.

## Article 158

1. The Prime Minister, on behalf of the Council of Ministers, presents to the Assembly the draft law on the budget during the autumn session, which cannot close without approving it.
2. If the draft law is not approved by the beginning of the next financial year, the Council of Ministers implements every month one 12th of the budget of the previous year, until the new budget is approved.
3. The Assembly approves the new budget within three months of the last day of the previous financial year, except when extraordinary measures have been decided.
4. The Council of Ministers is obligated to present to the Assembly a report about the implementation of the budget and about the state debt from the previous year.
5. The Assembly takes a final decision after having also listened to the High State Control report.

There are no provisions for elected representatives to be informed and/or consulted in the course of official programming and budgeting.

The Intelligence Service budget does not require an explicit formal approval. This is a separate budget within the overall state budget, which is approved as a whole in the plenary session. Each committee considers the draft budget especially in the area on which it focuses. All the proposed changes are considered in the Economic and Budget Committee. This committee submits the draft budget to the plenary session for approval, including the amendment reached by consensus.

There is a constitutional institution called the High State Auditor's office, which reports to the Parliament about public expenditure, including that made in the security area. Article 164 states that:

1. The High State Control presents to the Assembly:
  - a. a report on the implementation of the state budget;
  - b. its opinion on the Council of Ministers' report about the expenses of the previous financial year before it is approved by the Assembly;
  - c. information about the results of monitoring any time it is asked by the Assembly.
2. The High State Control presents to the Assembly a yearly report on its activities.

The High State Auditor performs the traditional audit function focusing on the legality of spending and does not gauge the efficiency and the effectiveness.

The draft budget must contain the figures for income and expenditure, for each budgetary institution, for the past year and the intended figures for the coming year. The incomes and expenditures must be divided in different items as foreseen in the law. The Law no.8379, dated 29 July 1998, "On the Drafting and Implementation of the State Budget of the Republic of Albania", provisions 6, 7 and 19, prescribes the obligation mentioned above.

The State budget approved in 2001 is a 197-page document. This document is published in the Official Gazette. In the Parliament the debate is mainly conducted between parliamentary groups and the ministers concerned. The parliamentary committee on budget and economy has initiated a good practice by inviting to the meeting of the committee other interested "outside" actors so as to give opinions on the budget items. But it is not yet an institutional process of real consultation and involvement. The positive aspect to it is that it has been given the necessary "space" for the opposition to present its remarks and alternatives.

### **Parliamentary Oversight**

The oversight of the security services by the parliament in particular, as the representative body of the people, constitutes a significant component of their democratisation. The Members of Parliament should see to it that in a transparent way the government renders account to the parliament on the policies, programmes and funding of national security.

The parliament conducts its oversight in ordinary forms such as questions and interpellations; the obtaining of information by inviting ministers and heads of the central government departments to report to the parliament, as well as the performance of the permanent parliamentary committees.

Besides the ordinary forms in which parliamentary oversight is exercised, specific instruments are made use of to check on the Security Service. Law no. 8391 mentioned above prescribes that the parliament establish a special sub-committee in order to oversee the State Intelligence Service (SIS).

### ***Composition of the Permanent Parliamentary Sub-Committee of the SIS***

The Permanent Parliamentary Sub-Committee of SIS is made up of five members and a chairman and a deputy chairman are elected from among the five. Parliamentary groups are represented in the sub-committee in accordance with the general principle, while preserving the proportion they have in the Parliament. Three out of the five members belong to the opposition, and two of them represent the majority. The small number of members in this sub-committee might be debatable as this prevents small parliamentary groups from being represented there, and a small majority takes decisions. However, at the same time, it might be a positive thing from the viewpoint of the confidentiality required in terms of the information resources and the sub-committee members' specialisation.

### ***Functioning of the Sub-Committee***

From the way its meetings are organised, this sub-committee functions like all the other parliamentary committees. An exception to this is that, on the basis also of the aforementioned law on SIS, "during the reporting in the meetings of this sub-committee, care is taken to ensure that information sources and classified information are protected."

### ***Forms of Parliamentary Oversight in the Sub-Committee***

The Parliamentary sub-committee oversees the performance of SIS by inviting its head to report at its meetings. The law states that the head of SIS reports to the sub-committee at least once a year. However, in practice we have seen that the head of SIS has been invited more often by the sub-committee to report on specific issues, and the head of SIS has always accepted this invitation. The members of the parliamentary sub-committee may put questions to the head of SIS and demand that he provide explanations.

The parliamentary sub-committee conducts its oversight also during consideration of the bills of law related to national security by inviting their drafters to be present, and assessing the need for legal changes. This is an important aspect that helps draw a dividing line between the security service and the legal policies in this area, which is the competence of the Parliament only.

## **Budget Control**

Another crucial aspect of the parliamentary oversight is reflected in the adoption of the budget and the check on the spending of the funds intended for SIS. During the process of the adoption of the budget by the Parliament, in compliance with their relevant areas each parliamentary committee assesses its needs for public funds. The Parliamentary Sub-Committee of the SIS invites the head of this service to contribute to the assessment of these needs. During the debate they consider how the previous year's funds have been spent so as to judge their effectiveness.<sup>2</sup> This debate takes place before allocating the new budget.

The parliamentary sub-committee may also undertake to oversee special cases of human rights violations. To this end, the parliamentary sub-committee should leave different non-governmental actors from civil society more leeway to cooperate with it.

## **Other Forms of Oversight: Parliamentary Investigation**

In early May 2002, the Parliament of Albania passed a law on the organisation and functioning of the Parliament's investigatory committees.<sup>3</sup> The investigatory parliamentary committees are important instruments to conduct parliamentary oversight of the Government, and collect information on important issues of public interest so as to reach particular political conclusions.

It should primarily be said that the investigatory parliamentary committees have a constitutional basis. Article 77 of the Constitution of the Republic of Albania stipulates:

The Assembly has the right and, upon the request of one-fourth of its members is obliged, to designate investigatory parliamentary committees to review a particular issue. Its conclusions are not binding on a court of law, but they may be made known to the office of the prosecutor, which evaluates them according to legal procedures. Investigatory parliamentary committees operate according to the procedures set by the law.

---

<sup>2</sup> See article 8 of the Law no. 8391, dated 29 October 1998, amended by Law no. 8479, dated 29 April 1999.

<sup>3</sup> Law no. 8891, dated 2 May 2002 'On the Organisation and Functioning of the Parliament's Investigatory Committees'.

In the Rules of Procedure of the Parliament adopted by Decision no. 357, dated 9 April 1998, amended by Decision no. 399, dated 4 February 1999, the investigatory parliamentary committees are regulated by articles 164 and 165. Besides the principles laid down by the Constitution of the Republic of Albania, both these articles contain the rule that all the parliamentary groups are represented in an investigatory parliamentary committee in proportion to the number of seats they have in the Parliament. These articles also stipulate that the duties, the number of members, the composition and the term of the activity of the investigatory parliamentary committee are outlined in the decision the Parliament takes on its establishment. However, neither of these articles can provide for the regulations necessary to be implemented in the parliamentary investigation, which is a very important activity of the Parliament.

Under Parliamentary practice there are cases where the activity of an investigatory committee set up to look into a special issue is regulated by law. Law no. 8254, dated 12 November 1997, regulated the performance of the "Investigatory parliamentary committee dealing with the events that happened in Albania in January-June 1997". Upon the depositing of the Final Report and the adoption of the relevant decision by the Parliament, the investigatory parliamentary committee ceased to exist and, consequently, the above-mentioned law is "null and void". Even this specific law did not provide a detailed description of the organisation of investigatory parliamentary committees. And most important, it did not clearly set forth the principles on which an investigatory parliamentary committee should operate.

The new law handles in detail the manner of the organisation and functioning of investigatory parliamentary committees. This paper will further on address several fundamental elements of the law, which are of definite interest:

1. The law, based on the Constitution of the Republic of Albania, provides for two procedures to be followed for the setting up of the investigatory parliamentary committees. First, at the request of one-fourth of the total number of MPs (35 MPs), the Parliament is obliged to set up a similar committee. The establishment of the committee by "minority vote", as it may be called, constitutes a democratic "advancing" of the Constitution of the Republic of Albania in this aspect. Second, the law prescribes that the Parliament is entitled to set up an investigatory committee when this is required by not less than five MPs, or by a permanent parliamentary committee.<sup>4</sup>

---

<sup>4</sup> See Article 5 of Law no. 8891.

2. As Article 77/1 of the Constitution of the Republic of Albania states, an investigatory parliamentary committee may be set up "to review a particular issue". In this case, it is up to the Parliament or one-fourth of the MPs to choose whether it is necessary to set up an investigatory parliamentary committee. The law has also determined several cases where investigatory parliamentary committees need to be established.<sup>5</sup> Article 3 of the Law stipulates: "The investigatory parliamentary committee is set up also for the purpose of investigating officials with immunity, who are related to the matter under investigation." According to this provision we have to understand situations in which, during the investigation conducted by the investigatory parliamentary committee suspicions arise with regard to official persons with immunity, who are involved in the matter under investigation. Official persons with immunity will mean those entities established as such by the Constitution of the Republic of Albania. However, in this case, too, "The committee cannot make criminal charges and exercise the attributes of a court of law."<sup>6</sup> We should draw the distinction between this provision mentioned earlier on and the case where the Parliament is driven into action by the Prosecutor General to lift the immunity.

3. The law states that: "The Parliament is entitled to establish an investigatory parliamentary committee wherever the procedure for the dismissal of high-ranking officials provided for in Articles 62, 73, point 3, 90, point 2, 128, 140, 149, point 2, and 162 of the Constitution of the Republic of Albania is initiated, as well as for the cases where under law the Parliament is entitled to remove other officials." The above-mentioned provisions prescribe the following constitutional entities: the President of the Republic, the Members of Parliament, the People's Advocate, the judges of the Constitutional Court, the judges in the Supreme Court, the Prosecutor General and the Chairman of the State Control office. Given the constitutional status of these bodies and the structure of the above-mentioned constitutional provisions, the law has incorrectly grouped these constitutional entities under the heading "procedure for dismissal of high officials." In the case of a Member of Parliament there can be no talk of initiating a procedure for dismissal. Instead, we can talk of lifting the MP's immunity to allow for criminal proceedings to start. Second, the Constitution of the Republic of Albania does not provide for special reasons for the dismissal of the People's Advocate and the Chairman of the State Control office, for which a special investigation would be required. These constitutional bodies have "the immunity of a judge of the Supreme Court" and, according to the constitutional provision, they may be subjected to criminal proceedings

---

<sup>5</sup> See Article 3 of Law no. 8891.

<sup>6</sup> See Article 3, point 4, of Law no. 8891.

with the approval of the Parliament.<sup>7</sup> In this case, too, a different procedure other than the procedure for dismissal is required. Third, in the case of initiating the procedure for the dismissal of the President of the Republic, a judge of the Constitutional Court, a judge of the Supreme Court and the Prosecutor General the establishment of an investigatory parliamentary committee would be compulsory so as to prove the reasons for dismissal as the Constitution of the Republic of Albania stipulates. In this case we could mention also the jurisprudence created by the Constitutional Court with regard to the case for the dismissal of the Prosecutor General, Arben Rakipi.<sup>8</sup>

4. The Constitution of the Republic of Albania does not stipulate the powers due to the investigatory parliamentary committees. The Constitutions of several European countries<sup>9</sup> prescribe that the investigatory parliamentary committees do not have the procedural competencies of the indictment body in terms of the collection of evidence. The new law stipulates: "The regulations provided for in the Criminal Procedure Code are directly applied by the investigatory parliamentary committees for as long as the present law does not state otherwise."<sup>10</sup> It should be pointed out that, although the investigatory parliamentary committee operates as a public prosecutor concerning the accumulation of evidence, the investigatory parliamentary committee is not an indictment body, and in this case reference is made neither to assumption nor to overlapping of competencies.

5. An important element of parliamentary investigation is the relationship between the outcomes of the latter and the criminal proceedings carried out by the office of the prosecutor and a court of law. The Constitution of the Republic of Albania states that "its conclusions are not binding on a court of law, but they may be made known to the office of the prosecutor, which evaluates them according to legal procedures." Article 4, point 7, of the law stipulates: "the Prosecutor General informs the Parliament on the progress of investigation of the cases recommended to be investigated. On this occasion the relationship with the Office of the Prosecutor General should be interpreted in such a manner as to make sure that the above-mentioned general principle is not affected, and that an institutional conflict does not occur.

6. The relationship between the majority and the opposition in parliamentary investigations constitutes an important element so as to make sure that parliamentary

---

<sup>7</sup> See Articles 61, point 3, 137 and 165 of the Constitution of the Republic of Albania.

<sup>8</sup> See Decision no. 75, dated 19 April 2002, and Decision no. 76, dated 25 April 2002, of the Constitutional Court.

<sup>9</sup> See Article 82 of the Italian Constitution, and Article 44 of the Fundamental Law of Germany.

<sup>10</sup> See Article 4 of Law no. 8891, dated 2 May 2002.

investigations are made use of in a fair and effective way. Firstly, the very fact of an investigatory parliamentary committee being set up upon the request of a "minority", one-fourth of the total number of MPs, as mentioned earlier on, is important. Secondly, the law on the composition of the investigatory parliamentary committee provides for the rule determining that "the investigatory parliamentary committee is made up of MPs from the majority and the opposition, with the number of MPs representing either of them being as close as possible, but the difference shall not be more than one member."<sup>11</sup> This rule is a deviation from the general principle of the proportional representation in the parliamentary committees. Thirdly, the investigatory parliamentary committee agrees to the request tabled by a member of the investigatory parliamentary committee for investigation or collection of evidence without resorting to voting. This rule prevents the majority in the investigatory parliamentary committee from "abusing with the vote" for political reasons so as to prevent the evidence requested by the minority in the investigatory parliamentary committee from being collected. Fourthly, it is stipulated: "The minority's opinion is always attached to the final decision of the investigatory parliamentary committee, which is made public."<sup>12</sup> This rule recognises the minority's entitlement to adopt a different approach from that of the majority, and to declare it publicly.

7. Reference should also be made to the principle that: "The meetings of the investigatory parliamentary committee are as a rule open, except for the cases where the investigatory parliamentary committee decides otherwise. Every meeting of the investigatory parliamentary committee is as a rule recorded, and in every case minutes of the meeting, in which everything said in the meeting is recorded, are taken. 'Open' meetings will help 'absorb' tendencies to exploit the investigatory procedures for political reasons, and enable the media and public opinion to observe and come out with an independent approach on the matter under investigation by a parliamentary committee, and the high officials involved."

### **The Practice of the Parliamentary Oversight: some Assessments**

The priority the Albanian Parliament has set itself at the current stage of its institutional development is to render the mechanisms and instruments of parliamentary oversight effective, taking into consideration the importance of law enforcement and the problems that have arisen in this aspect.

---

<sup>11</sup> See Article 9 of the above-mentioned law.

The implementation of the oversight instruments the Parliament employs in the course of practice has proven that the Members of Parliament do not possess the necessary facilities and assistance to collect the information required on an issue made subject to parliamentary oversight. It becomes indeed more difficult if they are to access this information in an accurate and systematic manner over a short period of time. Parliamentary committees should make parliamentary oversight an important part of their performance, taking into account also the "flexibility" of the meetings of these committees in which, contrary to plenary sittings, no rigid rules are applied. In practice, the representatives are very rarely engaged in the policy-making and planning process. The adoption of the National Security Policy Document by the Parliament in 2000 established a good practice, which is not clearly laid down in the law.

There are very limited resources for the national "security committee" to access and to generate informed commentary on, and perform effective scrutiny of, major "doctrine and strategy" documents, policy statements and proposals. The only adviser attached to the committee cannot perform these duties. No other services in the Parliament's administration are in place to perform these duties. The financial resources for hiring outside expertise are very limited.

The executive has not yet succeeded in introducing institutional behaviour concerning a parliamentarian's involvement in the policy-making and planning process. There exists a general opinion that the MPs do not have the required capacities to generate policies, with this power being concentrated in leadership of the party in office.

Generally speaking, parliamentarians are pleased to play a "rubber-stamp" role, especially those representatives who are affiliated to the party in power. The opposition is trying to play a strong role in supervising the government. However, in the majority of the cases the parliamentarians adopt strong political positions and it is difficult for institutional supervision to be initiated by the Parliament.

In the course of practice, things are not done the way they should concerning the budget control and approval. One reason that accounts for this is that the respective experts, who have the potential to make this assessment, are not attached to the parliamentary sub-committee. The law on SIS states that the parliamentary sub-committee may assume

---

<sup>12</sup> See Article 4 of the above-mentioned law.

responsibility for checking on the funds available to this service. What basically occurs is that this is made subject to scrutiny at the time when the budget is submitted to the Parliament for approval.

Improvements in the process of budget approval, in the course of which the effectiveness of expenditure is also evaluated, make up another priority to ensure the institutional development of the Parliament. It should be taken into account that the approval of the budget is one of the most important decision-making moments in the Parliament. During this process many different policies contained in the political programme of the government are combined. At the same time, consideration and approval of the budget by the Parliament should serve as an instrument to check whether the government spends the budget effectively, which is essentially the money collected from the tax-payers.

From the other side, it appears that the administration does not take positive actions to provide and to make this information available to the public. There is no institutional behaviour from the administration related to transparency and public information.

### **The Ad-Hoc Parliamentary Investigation Commission on the Intelligence Service: an important change**

By Decision no. 52, dated 31 July 2002, on the initiative of a group of opposition MPs the investigatory parliamentary committee on SIS issues was set up. The scope of the activity of this committee was "... to examine the constitutionality and legitimacy of the performance of the State Intelligence Service and its director Mr Fatos Klosi, and especially the charges made in a debate session held in the Parliament of Albania with the Prime Minister on 2 May 2002."

Pursuant to the provisions of Law no. 8891, dated 2 May 2002, in its first meeting the investigatory parliamentary committee established the main directions on which initial investigation had to focus, with the members of the investigatory parliamentary committee being broken up into several working groups, depending on the matter under investigation, and the agreed investigation plan. Agreement was reached on the following:

1. Investigation into eavesdropping and surveillance, especially with regard to the opposition;

2. Investigation into the involvement of SIS in the murder of MP Azem Hajdari;
3. Investigation into claims of abuse in the financial area;
4. Investigation into the relations between SIS and the media.

The investigatory parliamentary committee conducted an investigation into the SIS and several other institutions, held some hearings with the head of this service and a considerable number of witnesses who were related to or had knowledge of the facts and circumstances concerning the object of the activity of the investigatory parliamentary committee.

The establishment of the first investigatory parliamentary committee to look into such a sensitive area as the secret service was a difficult parliamentary challenge and test. On the other hand, the general sensitivity displayed towards the performance of this committee, and the political importance the outcomes of this investigation had for the majority and the opposition, highlighted some of the long-standing contradictions among the political forces, and rendered the activity of the investigatory parliamentary committee difficult.

These contradictions and the biased political approaches brought about concrete and evident consequences to the performance of the committee, and contributed to its deviation from being a genuine instrument of parliamentary oversight and investigation, and its transformation rather into a forum for a public show. Opposite tendencies were constantly clashing in the performance of the investigatory parliamentary committee.

This confrontational approach within the investigatory parliamentary committee was quickly picked up by the whole of public opinion, which in point of truth took an extraordinary interest in the activity of the investigatory parliamentary committee. In this aspect, the majority claimed that the opposition commissioners were exposing the secrets of the intelligence service.

At the end of the investigation, the investigatory parliamentary committee adopted two approaches: the representatives of the majority and the representatives of the opposition came out with their own respective approaches. The differences between the majority and the opposition in terms of the required investigation emerged particularly at the moment of the final report to the Parliament. Following intensive negotiations between the parliamentary groups of the majority and the opposition, the agreement was reached that the Chairman of the investigatory parliamentary committee should submit two reports

to the Parliament, drawing diametrically opposite conclusions, which expressed the opinions of the majority and minority in the investigatory parliamentary committee. The ensuing parliamentary debate was again indicative of two totally contrary approaches maintained by the majority and the opposition, which in itself does not constitute deviation from the standards of parliamentary activity.

The majority declared that, throughout its activity, the SIS had acted in compliance with the Constitution of the Republic of Albania and the law, and had not had the political purpose of eavesdropping on the opposition. Likewise, the majority came to the conclusion that the SIS was not involved in the murder of MP Azem Hajdari. As far as the financial aspect was concerned, the majority and the opposition shared the same opinion that the SIS, and the head of this institution in particular, had committed legal violations in the administration of public funds.

The opposition commissioners adhered to the idea that during the past five years the intelligence service had operated in violation of the law against the opposition, and this service had its own share of responsibility in the murder of the opposition MP Azem Hajdari.

Such a "politicising" of the investigation, as was the case with the investigatory parliamentary committee, is rather an outcome of the mentality and perception, and relates to the current stage of the transition Albanian society is going through.

Although the politicising of the activity of the investigatory parliamentary committee, on account of the outdated mentality to retain party power in state institutions, affected the normal functioning of the investigatory parliamentary committee, its establishment and performance can be considered a success in terms of its being used as an instrument of parliamentary oversight.

The difficulties in the functioning of this investigatory parliamentary committee were also due to the fact that the investigation concerned the activity of the intelligence service, which is a sensitive area for parliamentary oversight to be exercised in even in countries with consolidated democracies.

The setting up of the investigatory parliamentary committee for the examination of the legitimacy of the performance of the State Intelligence Service, despite the reasons behind its establishment and the way the final report was drafted or the approach the

Parliament adopted towards it, is without doubt a step forward in the Albanian parliamentary activity, and is evidence of the increased awareness of the public of one of the activities of the Parliament. Now we have a new Albanian experience, although other attempts have already been made before, concerning a parliamentary instrument largely employed in the European Union countries, irrespective of the diversity of its composition, its legal basis or its competencies.

The action undertaken by the Parliament of Albania by setting up an investigatory parliamentary committee to look into the State Intelligence Service gave rise to unusual public interest and increased the transparency of the functioning of this service, which in Albania had for decades been veiled in mystery. On the other hand, this activity will contribute to the improvement of the law governing this service, and its more rigorous application in the future, either by the head of this institution or by the other employees of this service, thus constituting a step forward in the democratisation of Albanian society.

Albania has definitely parted with the secrecy psychosis but it has still to go a long road to ensure that transparency becomes part of culture and the behaviour in institutional practice. The adoption of the National Security Policy Document by the Parliament in January 2000 and the Investigation Parliamentary Committee on the State Intelligence Service are important institutional actions to develop transparency in this area.

## CHAPTER SIX

---

### GOOD GOVERNANCE IN CIVIL-MILITARY RELATIONS

*Sander Lleshi and Aldo Bumçi*

#### Introduction

Good governance is an extensively used term, ranging in scope from the functioning of the governmental structures in terms of efficiency, efficacy and accountability, to the degree of citizen participation, and informed public opinion. Albania, like many other countries in the region, has a long way to go to achieve a relatively satisfactory level of good governance for its citizens. The legacy of the past combined with limited resources and often even lack of will, has resulted in sluggish progress. However, elements of change lie in the aspiration to join the EU and NATO, in addition to the domestic public pressure that forces the authorities to improve the quality of governance. While we can adopt a holistic approach to the good governance concept, we can as well focus on a given governmental institution and analyse its functioning and contribution to the quality of governance in general. The institution that we will focus on in this paper is the ministry of defence and more specifically civil-military relations.

After the collapse of communism the ministry of defence, like other governmental and state institutions, had to undergo profound transformations. However, in addition to personnel changes and administrative restructuring, the reform agenda for the MoD included also a specific item – the (partial) civilianisation of the administration. During the communist period very few civilians worked in the defence ministry, and performed only minor tasks. Needless to say, during this period all the ministers of defence came from the military. With democratisation, as part of the security sector reform, civilians are filling not only the top political leadership roles but also many administrative positions, and the tendency is to further increase their numbers. As can be imagined, this constitutes both a novelty and a challenge.

The military personnel have no previous experience of working with civilians (it is important to clarify that during the communist period the armed forces were firmly under the control of the civilian communist authorities.) At the same time the civilians employed

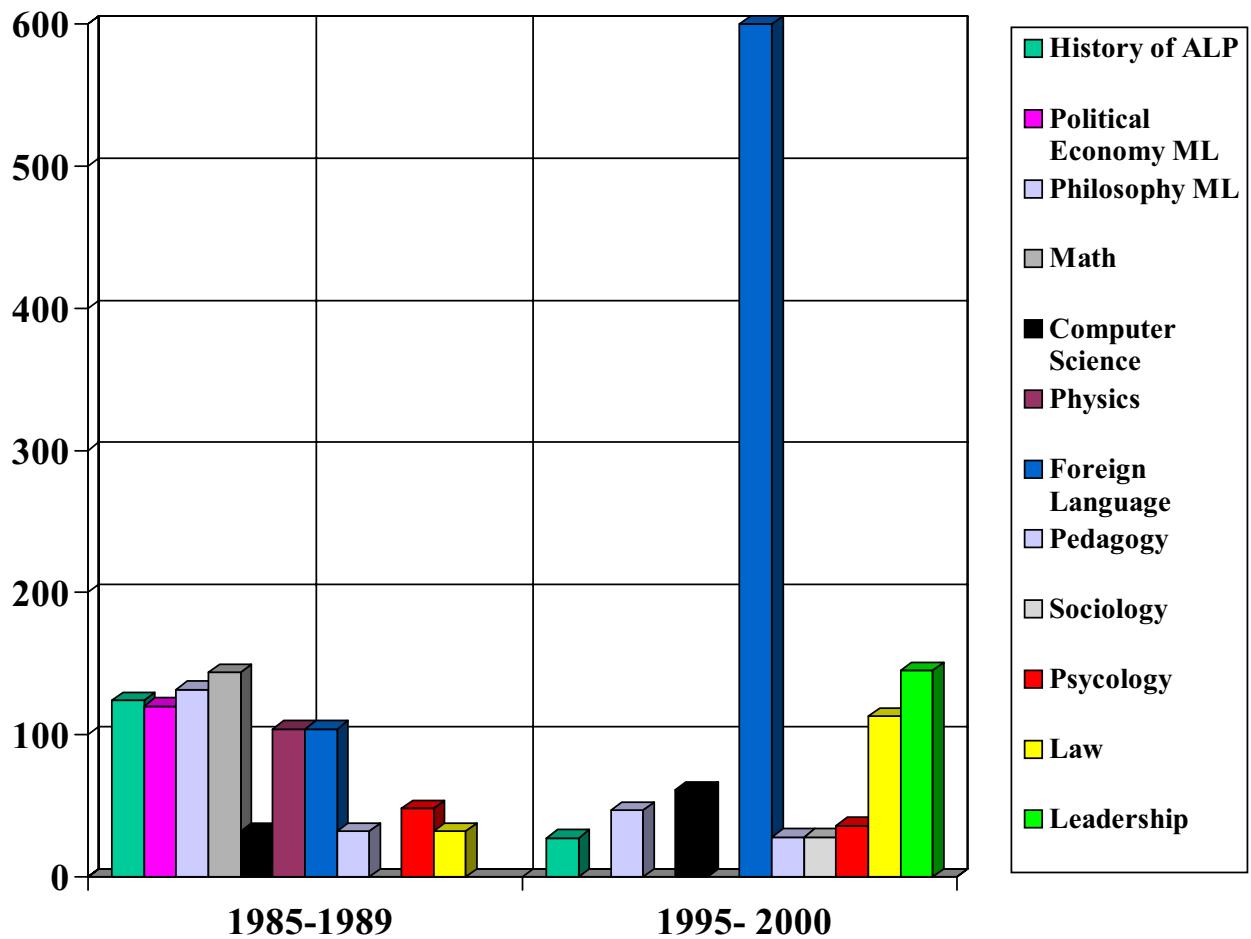
in the ministry of defence lack any expertise in defence issues. Thus the fact that the military agency is not prepared for the restructuring that the defence sector would undergo together with lack of expertise on the civilian side does have a negative impact on the capacity of the administration to implement policies. Nevertheless these handicaps, which are seen as inevitable in the initial phases of reform, are expected to gradually disappear over time. And it is mainly through the education system that domestic and interested international institutions are trying to bring about change.

Education is seen, thus, as the key to the success of the defence sector reform. Not only in defence matters but also in general education is considered as one of the most important agents of change. It is believed that education can address to some extent the reluctance among military personnel to implement security sector reform. At the same time it is through education that the military will internalise a new system of values and attitudes that is compatible with democratisation as well as equip them with new knowledge and skills, especially in social sciences such as management and foreign languages. Similarly, education and training is the only way to expand civilian servants' knowledge on defence matters.

In this paper we will focus first on reform in the military education sector as well as career structure and problems that appear in this respect. Then we will look at the process of civilianisation of the defence sector administration. In the last section we look at the problems that have emerged as result of this process and put forward a few suggestions that might help in addressing them

### **Short Historical Background**

During the communist period the army constituted one of the main pillars of the communist dictatorship. Having annihilated the anti-communist forces and silenced any dissenting voice, there was a fear that danger could come from within their own ranks or from such institutions as the armed forces. Aware of the importance of this institution, the communist authorities kept the armed forces under a firm grip. They employed different measures to instill fear and obedience, such as abolishing military ranks. However, apart from coercive means, they also relied heavily on education as the main instrument through which they could indoctrinate the armed forces. The education system was one of the main channels through which communist political socialisation was taking place. Thus, from the communist era, Albania inherited a military educational system, which



reflected and embodied the main characteristics upon which the country's political system was built, such as isolation, dogmatism, and inefficiency.

With the collapse of the communist regime it was of paramount importance to radically transform the education system. The mission of the armed forces was no longer to be a guardian of communist ideology and the ruling elite. The essence of the reform consisted in changing the profile of the military officer. If in the past the military officer was considered as a military technician with 'absolute political correctness and faith', the new model was working on the creation of a military leader with full loyalty toward the law and legitimate political authorities.

The reform process was multidimensional and was implemented in different stages. Old subjects of Marxism-Leninism were removed from educational programmes of the Military Academy, and new subjects were introduced. Leadership, social sciences, law, and foreign languages replaced the previous subjects. Other subjects of general education such as maths, physics and chemistry were removed from educational programmes of the Military Academy based on the rationale that university education would pass from the domain of the academy to the civil universities of the country. Many technical attributes were transferred to the NCO corps.

A major objective of the 1995-2000 reform was to equip the new military officers with a university diploma, besides the military training. For this objective it was envisaged that the new officers after finishing the ‘Skenderbej’ Military Academy could pursue university studies as full or part-time students. However, because of the high cost and interruption of part-time studying possibilities, this important objective was rendered impossible. Thus, the new situation meant the military educational system lacked one of its very important components. Important changes of the basic strategic political documents and the need for a higher level of military education to a full-university level form the basis upon which the new concept of reform of the Albanian military educational system is built.

### **The Essence of the New Concept**

In a survey conducted by a US War College, some years ago, thirty-two generals and other officers who were to receive the rank of general were asked about the qualities that should characterise the officer of the future. According to the survey, characteristics like flexibility, communication, political sharpness, intuition, and visionary capacity, ability to negotiate with partners from different cultural backgrounds – diplomacy, resource managing skills, and also a combination of technical, tactical and military abilities, which complement each other, are the main characteristics of the profile of the future officer.<sup>1</sup>

We are convinced that the new political and geostrategic developments in the region and in Europe have substantially transformed the range of tasks that the officer should perform, and that we should work toward developing those abilities to address these new needs. The political-military leadership, local educational institutions, universities, and also Euro-Atlantic partners are seriously engaged in this very important process. Based on the assessment that the officer of the future will be facing more ‘operations other than war’ missions, it is thought that his profile should reflect the diverse characteristics of the soldier, educator, rescuer who should be capable of acting in national and international structures.

The officer of the future should also be able to succeed in civil life, after his military career is over, which ends before retirement time for a great number of officers. This is another reason that is orienting efforts for the reform of the military system towards a new

---

<sup>1</sup> Richard A. Chilcoat, *US Army War College Vision Statement*, April 1995, quoted in: R. A. Chilcoat, ‘The Fourth Army War College: Preparing Strategic Leaders for the Next Century’, *Parameters*, Winter 1995 – 1996, p. 8.

curriculum, which is to a considerable degree similar to that of management and public administration faculties. Why precisely management?

In his book "The Soldier and the State", Samuel Huntington writes that the first capability that is required of an officer is organisation, direction, and control of a human formation, whose first function is the use of power.<sup>2</sup> The creation of a new profile for the officer, that besides the characteristics of a military leader he should embody also those of a modern manager, is the aim of the future military education system.

General Edward C Major says: "Leadership and management are neither synonymous nor interchangeable. Clearly good civilian managers must lead, and good military leaders must manage. Both qualities are essential to success."<sup>3</sup> Believing that the professions of the military officer and the manager have many things in common, the development of new curricula and a new structure for the Albanian Military Academy is in progress.

The future curriculum rests on four main pillars:

- Leadership, directing and managing
- The science of behaviour and society
- The science of politics and the state
- Law

This curriculum will be complemented by a powerful component of general military and physical training, and also by an extensive study of the English language and good preparation in computer science. Studies at the 'Skenderbej' Military Academy, which will have a programme similar to university level, fully accredited by the National Accreditation Agency, will take four years compared to three years currently. The academy will play the role of the military university and will be the main institution for preparing officers for the Army, Air Force and Navy.

All the knowledge an officer will need to carry out the specific aspects of his tasks of the service where he serves, will be received after accomplishing his studies at the "Skenderbej" Military Academy, in the schools of the specific services and corps. Overall, it can be said that the Military Academy will prepare officers for the Army, Air Force and Navy in four years of study. In the meantime, the specific schools of different corps such

---

<sup>2</sup> Samuel P. Huntington, *The Soldier and the State*, (Tirana: 1995), p. 15.

<sup>3</sup> See: <http://www.dean.usma.edu/bsl/programmes/slmbottom.htm>

as the army, air force, etc will prepare infantryman, tank crews, communicators, artillerymen, pilots and others in a one-year period.

### **Education for the New Structure and International Missions**

The implementation of the 'Armed Forces Structure' and fulfillment of the new and broad spectrum of the missions determined in the 'New Military Strategy of the Republic of Albania'<sup>4</sup> require that the education of the officers be adapted to the new structures and new missions.

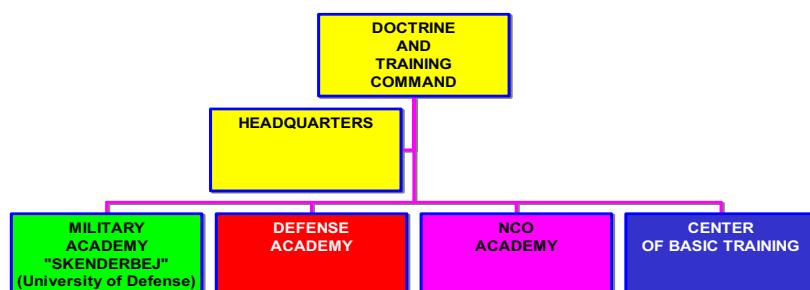


Fig. 2 Organisational Structure of Doctrine and Training Command

The new structure contains the Doctrine and Training Command (TRADOC) whose mission is to complete the general preparation of the officers and soldiers, and also the preparation of doctrine and training standardisation. In the structure of this command are included the Military Academy (officers preparation), the Defence Academy (qualification of the officers for duties at the General Headquarters), the NCO Academy (preparation of NCOs), Basic Training Centre (general preparation of soldiers), and also studying centres, where the processing of the doctrine and standardisation of the training will take place.

The Defence Academy represents the highest institution of military education whose mission is the qualification and preparation of military officers to carry out tasks at headquarters and other leading functions. The essence of the Defence Academy is the "Basic Staff Officer Course", which prepares officers for headquarters work, the "Course of Functions at Headquarters", a headquarters officer's qualification, the "General Headquarters Course", which prepares top military leaders, and also the Defence College, which provides courses for senior military and civilian leaders about security and

<sup>4</sup> Official Document of the Republic of Albania Nr. 30, 2002, pp. 1462 – 1465.

defence issues. Another important part of this system will be the specific schools of different services and corps, which will have the mission of preparing officers, NCOs and soldiers to face specific aspects of their tasks within the frame of the corps they are serving.

### **Education as an Instrument to Cope with New Tasks**

Despite the economic and social hardships that accompany transition and with a modest Armed Forces, Albania has made great efforts to contribute to the "Partnership for Peace" (PfP) programme, in the framework of bilateral, regional and peacekeeping missions.

- ❖ Since October 1994, Albania has participated in the UN observers mission in Georgia.
- ❖ Since 1996, Albania has participated in the SFOR peacekeeping mission in Bosnia with the following troop levels:
  - During 1996-2000 a platoon.
  - Since 2000 a company.
- ❖ Since 5 March 2002, Albania has participated in the ISAP mission in Afghanistan with a platoon.

International engagements, as mentioned above, have demanded new ways of preparing Albanian contingents for peacekeeping missions.

The preparation of military leaders to accomplish tasks in international missions, where the classic reaction (use of force) represents only an "ultima ratio", demands major changes in the content and form of military education. Officers who participate in international missions are required to be farsighted and to understand the strategic and political impacts of their actions. They are required to be successful before international partners, who come from different cultural and political backgrounds, and do not necessarily share similar ideas. This is the reason that in the new programmes an important part should be dedicated to the English language, knowledge of international and humanitarian law, and communication skills. These elements are part of the new military officers' education in the Military Academy.

Moreover, the knowledge described above is put into practice in the planning and educational training in the "Peacekeeping Operations at the Defence Academy". This

aim is served by the numerous Albanian military officers who have earned qualifications from Western military academies, and also by continuous participation in international training and related activities.

### **The Career Structure**

As everywhere, the Armed Forces in Albania are a centralised and hierarchical organism. The small officer corpus, organised like a hierarchical-pyramid of military ranks, advances career-wise according to the respective laws approved by the Albanian Parliament, in 2000. Advancement in the military ranks comes as a result of a combination of age and education. This is a selective law. Officers who cannot achieve the next military rank, are required to leave the Armed Forces. Achieving a military rank means passing the respective course in one of the military academies, having a good work evaluation by a superior, a minimum required age and a suitable vacancy on the staff (TOE) for this military rank.

The law of military ranks and career aims to guarantee the necessary preconditions for keeping a sound and dynamic hierarchy of ranks and age in the Albanian Armed Forces. The application of this law is bringing major improvements to the military officers' corpus. On the other hand, the application of this law has also brought some side effects.

All officers who cannot advance to a higher military grade are forced to leave the military structures. Leading a civilian life is not a simple normal act for an Albanian military officer. The problem is based on the education of this officer. The actual job market in Albania does not offer integration possibilities for an officer with a military education, in the classic meaning of this term.

The common alternative for military officers who leave the Armed Forces is to collect the social security benefits provided by the state and undergo all the consequences that this social status brings to them. The insecure and shady prospects for this category of officers, who are forced to leave the military structures, even when they want and are capable of successfully staying inside the military, is a very important factor that obliges military officers to "struggle" to stay in the Armed Forces. This understandable "insistence" of military officers on staying on blocks military career paths. This blocking is associated with officers staying on as long as they possibly can in career "posts" of the military hierarchy, which brings problematic deformations of the pyramid of military ranks and the military hierarchy.

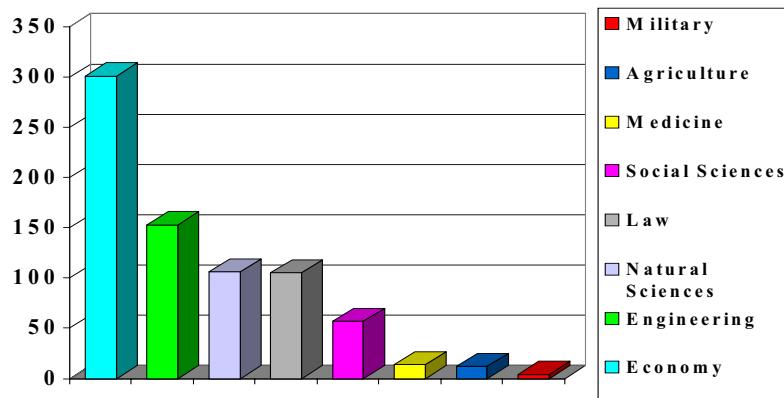


Fig 3: Requests for employment published in the "Shekulli" newspaper July 2000-June 2001

By sensing the danger of this phenomenon, the modern military education will offer solutions to this problem by increasing the efficiency of the Armed Forces. The idea behind this analysis is to find answers to the question marks in Figure Four (below). Thus, by offering a modern solid military education similar to full university education level, known and accredited by the respective institutions, it will bring the possibility for military officers not to face an insecure future, but to enjoy all the opportunities for a successful integration into public and social life.

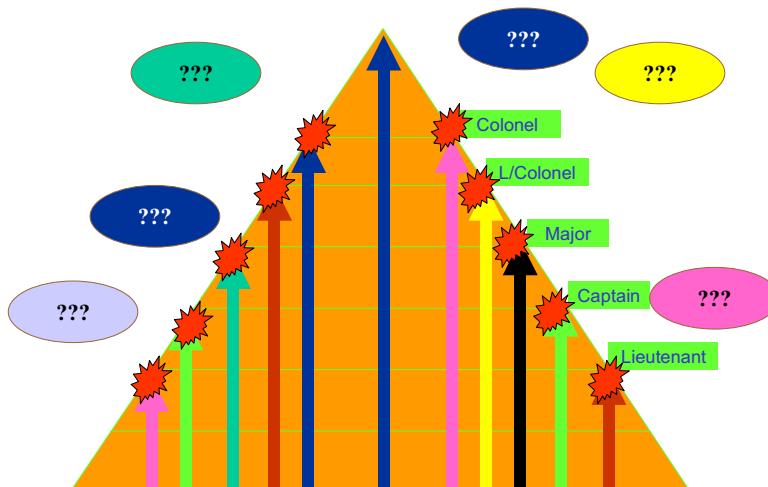


Fig. 4 The Blocked Career Pyramid due to a Lack of Perspective of those who have to leave the Military Structures.

Military officers who have a full university-level education and good experience as a military leader will have many opportunities, not only to integrate into civil society, but

also to become an important bridge of communication, and turn into a strong lobbying constituency for the Armed Forces in society.

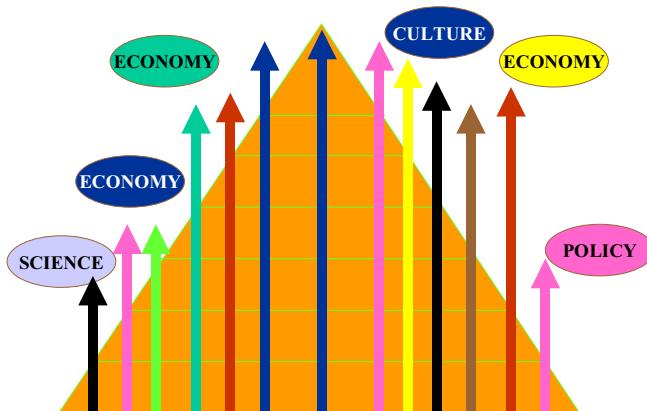


Fig. 5 The alternatives for a military officer with a university-level education

### The Civilianisation of the Defence Sector Administration

As mentioned in the introduction, the process of civilianisation of the administration started after the democratic changes. The number of civilians employed in the Ministry of Defence has gradually increased and currently stands at about 25 percent, while the desired target is to reach 75 percent of those employed in the administration in the next four years. This is, of course, a challenging task, since it is not only a matter of merely increasing the number of civil servants but also of enhancing their expertise in defence matters. A rapid civilianisation will most probably lower the level of professionalisation and result in poor performance. Although the limited financial resources at the disposal of the Albanian authorities constitutes an important factor that prevents a quick and sound implementation of defence sector reform, there are other factors of a political and administrative nature, which we will explore below, that enter into the equation and have a determining effect on the reform progress.

The new law on the status of the civil servant was adopted in December 1999. The status of the civil servant does not apply to the military and police forces, which have their own regulations. At the same time there are people employed in the administration, though in small numbers, whose work relations are still regulated by the labour code of 1995. The recruitment of civil servants in the Ministry of Defence follows the same procedures as for

the rest of the Albanian state administration. The Ministry of Defence presents to the Department of Public Administration, which is a separate institution dealing solely with public administration issues, the vacant positions in the Ministry of Defence by specifying the necessary qualifications required for the position. The Department of Public Administration then creates a commission composed of experts from the Ministry of Defence, Department of Public Administration and outside experts. There should be at least four candidates applying for a given position in order to declare the competition valid. The best three candidates are then presented to the Ministry of Defence which selects one of them. If a civil servant is dismissed for reasons other than those stipulated in the law, than he can file a complaint to the Civil Service Commission, whose members enjoy a seven-year tenure in office in order to guarantee their impartiality. If he/she is not satisfied with the Commission's decision, the case can be taken to court.

Training and education of civilian personnel is done through the Department of Public Administration, the Institute for Training and Education of Personnel, as well as from the Ministry of Defence. Nonetheless, training for civilian servants leaves much to be desired. In the past decade, naturally, most of the attention and resources have focused on the military. Thus, they have benefited mostly from education and training abroad. This is not just a domestic priority but also an international one. Education and training abroad is not financed by the Albanian government but depends on those education opportunities that partner countries offer. Most of the education and training for civilians is done through the domestic system. The Defence Academy and the Defence College organise courses for civilians or combined courses for both civilians and military, which are often directed by foreign lecturers. However, these programmes are designed only for civilians in high positions; politicians dealing with defence issues such as the Minister of Defence, members of the Parliamentary Commission on Defence and civilians in high administrative positions. However, in order to be effective, these programmes should be extended to include also civilians working in the second level of administrative positions, since it is at this level of defence policy that civilians and the military encounter each other.<sup>5</sup> Of course, not all positions in the Ministry of Defence require knowledge on defence matters, yet even in these cases the civil servant should become familiar with the particular military milieu that surrounds him, so that inter-agency communication runs smoothly.

---

<sup>5</sup> Jan Arveds Trapans, 'Security Sector Reform in Central and Eastern Europe, the Work of Civilians and the Military', *DCAF Working Papers*, No. 50, July 2002, pp. 7-8.

As mentioned at the beginning, besides issues related to education and training, political and administrative factors also inhibit the strengthening of administrative capacity. First, the law on civil servants in terms of a career system is to a certain degree "stationary" meaning that a civil servant could start and end his/her career in the same position, which is in stark contrast to the career system of the military personnel. This does not mean that the civilian personnel cannot advance in their careers, but that there are no clearly established rules that can regulate the process. The lack of a clear career perspective combined with low salaries results in lack of motivation. As a civilian employee interviewed put it: "If it is decided that the position of head of department will be assigned only to military personnel then this will de-motivate the civil servant since his career advancement will no longer be possible." In addition, due to political affiliations and backing, favoured people are raised to senior positions despite lack of experience. Although the law on civil servants does provide a certain degree of protection, politically-motivated purges do take place. This phenomenon is more widespread during power rotations; however, it has occurred even after cabinet reshuffles of the same governing majority.

In addition to the problems concerning training and career perspectives of the civil servants, which do have an effect on their performance, there exists also a wider problem that is related to the perceptions of the Albanian public and society toward defence and military issues. During the communist system, Albanian society was subject to a greater degree of militarisation than any other society in Central and Eastern Europe.<sup>6</sup> The communist authorities used nationalistic and patriotic rhetoric to justify their isolationist and repressive policies, and the economic hardships that the country was going through. Hundreds of thousands of bunkers that were built all over the country are a good illustration of the communist authorities' paranoia. In the end, the result of such policies and practices was the alienation of the population from anything that involved nationalist and patriotic rhetoric. Thus after 1990, despite the existence of the unresolved Albanian national question there was little discussion about defence and foreign policy issues in the public at large.

In addition to the legacy of the past, the image of the army has been tarnished during the 1997 crisis, which brought about the collapse of the Albanian state and the disintegration of the armed forces. Military depots were looted and hundreds of thousands of weapons ended up in peoples' hands. During the Kosovo war in 1999, the Albanian military could

---

<sup>6</sup> Elez Biberaj, *Albania in Transition*, (Boulder, CO: Westview Press, 1998), p. 84.

not respond to the Serb forces which made several incursions into Albanian territory in the northeast. With the overwhelming presence of the NATO troops in the region, naturally the question that might rise is: 'what is the rationale for the existence of the armed forces?' There is no public debate on the security challenges the country faces and the place and role of the armed forces in addressing these needs. In this respect we could very well question to what extent do the civilians who start working in the Ministry of Defence respect, and have a clear vision about the importance and mission of the institution they are serving. A positive image of the armed forces and high public confidence in them would influence also the attitude of the civil servants that are working there.

### **Good Governance in Civil Military Relations: Problems and Prospects**

It is expected that any major transformation from one system to another would require a certain time for adjustment until new values and skills are acquired. However, this is thought to be an inevitable first stage that will lay the foundations for building, in our case, a new professional army. However, it is exactly here that the problem lies. The experience of the past decade has shown that the foundations have never been properly laid and the process has to restart, if not from scratch, then at least from a very low point. This is the case for both the military and civilian bodies in the Ministry of Defence.

After the Socialist-led coalition came to power in 1997 following the pyramid schemes crisis that led to the collapse of the Albanian state and disintegration of the army 1,500 officers of different ranks were purged from the armed forces, military education institutions and the Ministry of Defence. Among them were around 400 officers who had received education and training in the West during 1992-96<sup>7</sup>, whereas officers who were demobilised in 1992 were appointed in their places. So instead of building on what was achieved until then, resources and time had to be spent again for the same purpose. This has created a negative precedent that could be repeated after power rotation.

The same thing holds for the civilian servants. Although the process of civilianisation started after 1992, it is difficult to find in the administration civil servants from that period. As we showed in the previous section, due to the politically-motivated purges, lack of clear career prospects and low salaries, the retention rate is low. Under these conditions the process of civilianisation should proceed slowly after a certain level of expertise has

---

<sup>7</sup> Elmas Leci, *Eliminimi i Lidershipit Ushtarak*, (Tirana: Institut i Sigurimit dhe Mbrojtjes, 2002), pp. 463-470.

developed among civilian servants, otherwise this will have a negative impact on the reform process as well as on civil-military relations. Thus, some officers who were interviewed voiced their concern that the pace and degree of civilianisation of certain departments had revealed problems such as in the Juridical Department. Despite the appropriate educational background of those employed, the fact that they had no knowledge of military affairs and specialities created problems. In those cases where there are loopholes or the law needs to be interpreted or amendments should be proposed, apart from legal expertise the people employed need to know the particularities of the military life and profession. The same concerns were voiced about the Human Resources Department that manages not only the civilian but also the military personnel. Reservations were expressed about the ability of the civil servants to show the right judgement and manage military personnel. While some of these dissatisfactions should be attributed to the fact that the military personnel has no tradition of working with civilians, however, this should not overshadow properly grounded concern about the lack of expertise among civil servants. It seems that the process of creating civilian cadres with expertise on defence matters will be a lengthy one, since the only way, so far, to improve their knowledge is through their daily work experience. A suggestion was made that if a civilian was heading a department then the second-ranking person should be a military one, and vice versa. This will provide reassurance that the necessary expertise can still be found in a given department while at the same time building a sound foundation for civil-military relations.

There is another issue that influences civil-military relations in the Ministry of Defence – difference in salaries for the same administrative position. Thus, for the position of the head of department, a civilian is paid more than a military officer in the same position. While for lower levels – technical or second level – the military personnel are paid more than the civilian. This disparity has a negative impact on relations, especially at the lower level where most of the civil servants work. There is an urgent need to standardise the salaries in the Ministry of Defence.

Another proposal that might be worth considering concerns military education but at the same time has a direct impact on civil-military relations. As we mentioned in the section on the reform of the military institutions, one of its aims was to equip the new military officers with a university diploma, besides military training. It was envisaged that after finishing the Military Academy the new officers could pursue university studies as full or part-time students. However, this solution proved to be impractical. The fact is that military officers who are forced to leave the armed forces as result of the general reform

in the defence sector or due to early retirement have a hard time in integrating themselves into civilian life or finding a job. The suggestion that would address to some extent this problem consists in offering university students who graduate from different departments such as engineering, economy, social and natural sciences the opportunity to pursue a military career. This proposal is based on the fact that currently the majority of the courses at the Military Academy are similar to the courses that are taught in universities. Students who agree to pursue a military career should be enrolled only for one year in the Military Academy to study military subjects. This year there were sixty applications for fifteen such positions offered. This arrangement would solve the problem for those military officers who are demobilised to reintegrate themselves into civilian life. At the same time it would greatly improve civil-military relations. As has been said, reform in the security sector should produce civilians with expertise in defence issues as well as military officers who participate in administrative work.

So far we have focused on civil-military relations in the Ministry of Defence. The fact that civilianisation of the administration is a key component of the security sector reform provides the rationale for looking at this issue. However, the ultimate aim is improving good governance in defence issues. Therefore, the opposite process of introducing military experts (probably after they have been demobilised) in some other institutions could be a positive step. Thus, since membership in NATO constitutes one of the major objectives of Albanian foreign policy then it could be useful to employ in the Ministry of Foreign Affairs military personnel who could provide advice. Similarly, in the Ministry of Education which decides on the curricula for military education, military personnel could also be introduced. In the Finance Ministry which allocates funds for the defence sector, military personnel could be useful as well, since the aim is to increase the defence budget to two percent of GDP. The same thing could be done also in the parliament in order to enhance the capacity of the staff.

## **Conclusions**

The collapse of communism and the democratic changes also made necessary the transformation of the defence sector. In the last decade Albania has made great progress toward establishing a legal and institutional framework that regulates civil-military relations and assigns new roles to the armed forces. However, in the end it all comes down to people. If peoples' attitudes, values, and skills have not changed in the same way, as the formal and institutional structures, then the reform of the defence sector still has a long way to go. In this respect education emerges as an indispensable agent of

change that will equip both military and civilians with the necessary knowledge to perform their new roles.

In the last decade the military education system has undergone radical changes – the curriculum of the Military Academy has been thoroughly transformed and new institutions such as the Defence Academy and the Defence College have been established. At the same time hundreds of military personnel have been trained and educated in Western countries. However, an unaccomplished objective of the reform is the inability to provide military officers with a university diploma. The solutions proposed turned out to be impractical. The lack of a diploma makes it very difficult for military personnel to reintegrate into civilian life. As we showed, this has also caused problems related to the career advancement.

Another important component of defence sector reform is the civilianisation of the Defence Ministry administration. The number of civil servants has gradually increased and now they fill, besides political roles, very important administrative positions. However, education and training for civilians lags behind, since most of the attention has focused on the military. The domestic institutions that provide courses and training for civilians should enlarge these programmes to include civilian servants who work in lower level administrative positions. The civilianisation of the administration should proceed gradually so that the achievement of this objective does not lower the administrative capacity. Due to lack of education and work experience many civilians lack the necessary expertise. This has been reflected in the dissatisfaction that is sometimes voiced by military personnel.

In addition to education, other problems that are related to career perspective, low salaries or politically-motivated purges have also had a negative effect on the development of the administrative capacity in the defence sector. The experience up to now has been that after power rotation everything has to start almost from scratch.

Sir Thomas Gresham, founder of the Royal Exchange in London in 1566 formulated a principle according to which “bad money drives out good money”, which means that, if bad money is being circulated, good money is put aside and saved.<sup>8</sup> The same thing happens to many professional groups, among them military officers. Bad military officers

---

<sup>8</sup> A. Smith, *Paper Money*, (London: Mc Donald, 1981), p. 106.

drive out good military officers. We should avoid this happening to military and civilian personnel, otherwise we are never going to achieve good governance.

## **CHAPTER SEVEN**

---

### **TRANSPARENCY AND ACCOUNTABILITY IN GOVERNANCE**

*Blendı Kajsiu*

#### **Introduction**

In the framework of the campaign against corruption “transparency” has become a key word in Albanian political life recently. Although the word itself has been used to mean a variety of things in different contexts, for the purpose of this paper we will focus on two levels of transparency. First, in its broader sense transparency will refer to that state of affairs when citizens are informed about government policies and publicly debate them. Second, in its narrower sense, transparency pertains to the relations between parliament and government and takes place when the former has the necessary information at its disposal to make sound policy decisions. In both cases transparency will be evaluated in regard to the democratic control of armed forces. Thus, at the heart of transparency is the availability of the necessary information to debate and discuss government policies, be it for the public at large or for specific institutions that supervise the government, such as the parliament.

On the other hand, accountability in its broader sense refers to responsibility for the actions taken. To be accountable means not only to reveal the necessary information but also to explain and justify it. In the case of the Ministry of Defence, and security forces in general, such explanation is due to the government, as well as to the parliament. Accountability is the ultimate expression of the democratic rationale that eventually power rests with the people which is why governments have to respond for what they do to elected representatives and through them, or even in a more direct manner, to society at large.

Even in the case of accountability there are two areas of particular interest we shall focus upon. First, we will deal with policy accountability as the obligation of government to explain and assume responsibility for its actions. Second, we shall deal with a more particular kind of accountability, financial accountability that pertains to budgeting and financial matters in general. In both cases accountability should extend to both policy-

making and policy execution. The absence of one or the other seriously undermines accountability in general. Thus it is not enough to have accountability in policy-making and not in policy execution. In fact this is one of the major challenges transition democracies face.

Transparency and Accountability are key concepts in explaining the inner workings of a democratic system. The two concepts are interrelated and complementary. In their absence democracy would be relegated to being simply another method of governance, stripped of its core characteristic of being "rule by the people" and some would add, at least in a consolidated democracy, "for the people". Transparency is the path that should lead to accountability, which in itself is the principle that ensures that people are still in control of the agenda, although they do not directly participate in government, but choose to govern themselves through elected and appointed representatives.

### **Transparency and Accountability: The Albanian Context**

For our analysis to be valid, two elements are crucial. First of all parameters against which the analysis and its conclusions have been derived should be clearly defined. In the case of transparency it is important to clearly define the concept both theoretically and operationally. Only in this way will it be possible to assess the level of transparency in a given system or sub-system. The same is true for accountability. Secondly, but not in terms of importance, it is equally important to contextualise both the parameters and the analysis. This means that a given sub-system cannot and should not be evaluated only in isolation, away from the larger system to which it belongs, although this might be expedient analytically. This in turn calls for two levels of analysis, first the analysis of the sub-system as such and secondly a comparative analysis of the sub-system against the system or the larger context. Thus, when assessing transparency and accountability in the Albanian armed forces, which in itself is a sub-system of Albanian governance in general, such an assessment should be both against the defined parameters as well as in comparison to governance in Albania in general.

Unless this is done, conclusions can be very misleading. From a purely hypothetical standpoint it is very possible to conclude that civil-military relations in Albania fall short of the required democratic standards or parameters/benchmarks. This is only one step away from concluding that in Albania there is no democratic control of armed forces. At the same time transparency and accountability in the Albanian armed forces, or the democratic control of armed forces might be the last in the long list of challenges

Albanian democracy is being faced with.<sup>1</sup> Therefore, such a conclusion is futile unless we contrast and compare it with the workings of the system as a whole. In other words the conclusion has to be contextualised.

Finally, there are two other dimensions that should be borne in mind when assessing the level of accountability and transparency in the democratic control of the Albanian armed forces. The first dimension is the assessment of legislation in place. For analytical purposes it will be called "the theoretical dimension". It pertains to the shortcomings or advantages that derive from the legislation and procedures that are in place. The second dimension, which again for analytical ease will be labeled "the practical dimension", is the way in which legislation and procedures translate into practice. The two dimensions, albeit intrinsically related, should not be confused. It is true to say that the theoretical dimension affects the practical one and vice versa, but their interdependence is a lot more complex than that.

Some of the most frequent analytical and assessment fallacies have originated from the confusion of these two dimensions that at first seem easy to differentiate. More often than one would expect, democracies in transition – Albania is no exception here – have been rated solely (or mainly) through the theoretical dimension, such as the legislation in place, the number of free media outlets, rules and procedures in government and so on. The practical dimension, a lot harder to operationalise, has quite often been absent. It is important to move beyond the rights and freedoms as enshrined in the constitution and evaluate the degree to which they are applied in practice. It is equally important to assess how free and independent the media are beyond the numbers of media outlets that claim to be so. Otherwise, concepts such as democracy, transparency and accountability will simply generate endless political rhetoric and nothing more.

### **Parliamentary Oversight: Theory, Constitution, Law**

As outlined above, we will begin by exposing the theoretical dimension of the parliamentary oversight on government policy and policy execution. This will be done first for the parliament as a whole and than for the defence commission in particular. By giving an overview of such oversight as outlined in the law and rules of procedure, two objectives will be accomplished. First loopholes, grey areas or shortcomings in the legislation will be identified. Second, the theoretical dimension will be compared and

---

<sup>1</sup> In fact as I argue later on in the paper that this seems to be the case with Albania.

contrasted with the practical one, so that real shortcomings, and not only those resulting from legislative limitations, will be identified. Some tentative suggestions/recommendations will also be made.

First of all, in Albania, just as in any other parliamentary democracy, the parliament is the legislative branch. It is responsible not only for ratifying laws but it also performs the oversight of the executive branch, at least theoretically. In order to perform the oversight of the executive branch the parliament has numerous instruments at its disposal as sanctioned in the constitution.

The most important of these instruments are standing parliamentary committees. Such committees are elected and organised according to Article 22 of the Rules of Procedure of the Albanian Parliament.<sup>2</sup> It is important to point out, for reasons that pertain to the practical dimension that will be touched upon later, that in standing committees MPs from all parliamentary groups participate, in proportion to the seats they hold in parliament. As part of the standing committees, sub-committees can be formed in order to deal with specific issues within the broader working area of the standing committee. Standing committees are the most important tool of parliamentary committees since they tend to be better staffed and have more expertise than other parliamentary instruments of oversight.

Some of the most important duties of standing committees as sanctioned in Article 28 of the Rules of Procedure are the following:

- a) To analyse and review draft laws and normative acts of the Council of Ministers and prepare the consequent reports that will be voted upon by the parliament later on.
- b) To perform studies on the efficacy of the current laws, analyse written government reports presented by government ministers as well as provide recommendations to the Council of Ministers and other relevant institutions.
- c) To follow and scrutinise the activity of various ministries and other government institutions according to their area of focus and present any shortcomings or identified problems to the parliament or the Council of Ministers.
- d) To prepare draft laws, resolutions and declarations that are presented to the parliament in plenary sessions.<sup>3</sup>

---

<sup>2</sup> <http://www.parlament.al/kuv-pop/rregull.html>

<sup>3</sup> <http://www.parlament.al/kuv-pop/rregull.html>

As can be easily deduced, the duties of the standing committees are numerous and very important in ensuring accountability in policy-making and policy execution. It should be once more emphasised that this deduction is valid only within the theoretical dimension, i.e. to what has been sanctioned by law.

### **Parliamentary Oversight: The Functions**

Besides standing committees, there are also ad hoc or special committees. These committees, as sanctioned in article 30 of the Rules of Procedures are set up in order to examine specific and complex legislative acts as well as to prepare specific legislative proposals and other specific matters. These committees function more or less in the same way as the standing committees but they have a more specific focus. They are also important in ensuring transparency as far as government policy is concerned, as well as accountability for a given policy issue they were set up to examine.

Another important committee in parliamentary oversight is the investigation committee. Such committees are similar to special committees in that they focus on a specific issue and they are formed on an ad hoc base. Yet, unlike special committees, they have an investigative character, which makes them crucial instruments in ensuring transparency and accountability from the executive branch. Nevertheless, there are limitations to the powers of such committees. Thus, their conclusions are not binding on the courts, but they may be made known to the office of the prosecutor, which evaluates them according to legal procedures. The heads of state institutions, at the request of the parliamentary committees, give explanations and information about specific issues of their activity to the extent permitted by law (See Article 77 & Article 80, paragraph 3 )<sup>4</sup>.

In order to ensure transparency, committee meetings are open to the media and public with the exception of those cases when the committee votes to hold closed meetings. Also committees in order to fulfill their duties have the right to call upon experts of the respective areas and engage them in committee work, though without the right to vote.

Apart from parliamentary committees, parliamentary oversight is also conducted through other instrument such as Questions, Interpellations, Petitions and Motions of Confidence. What all these instruments have in common is the right of specific MPs to ask questions and demand reports from the executive branch in general and government ministers in

---

<sup>4</sup> Albania – General Constitutional Powers of Parliament and Government affecting the executive branch, including defence and security sectors. <http://www.odci.gov/cia/publications/factbook/geos/al.html>

particular. Always from the theoretical dimension, these instruments should ensure transparency and accountability for government actions for which the executive has the legal obligation to report to the parliament. Some of these instruments are available not only to parliamentarians but also to the ordinary citizens.<sup>5</sup> Furthermore, it should be emphasised that Motions of Confidence (or Non Confidence) are important tools in removing the head of the executive, always from a legislative perspective.

In order to fulfill its legislative obligations and oversight of the executive, the parliament also has the right to request and access government information necessary for preparing and promulgating laws. The executive has a legal obligation to provide information to specific MPs or parliamentary committees (normally within a two-to-three week period). However this information is not provided regularly, nor has it been sanctioned by law or procedures that it should be provided so. Thus, in the case of the Albanian Defence Ministry, information is provided only through a yearly report and not periodically during the year. The same is true for other ministries.

Oversight of the defence sector is performed through the parliamentary committee of defence, which functions in the same way as other parliamentary committees. The duties of such a committee are as follows:

- To exercise Parliamentary Control over the activity of the executive that falls within its area of focus.
- To examine, in accordance with its objectives, any lawmaking initiative, regardless of the initiators.
- To oversee the implementation of the state budget in those areas of the executive that the committee covers.
- To examine normative decrees and evaluate them, providing recommendations in the plenary sessions.
- To check and assess the efficacy of existing laws, their implementation, and recommend respective measures according to specific issues.
- To prepare draft laws and draft acts and declarations and present them to the parliament.

---

<sup>5</sup> According to Article 48 of the Albanian Constitution, every citizen has the right to address the parliament through petitions.

- To examine reports, to ask for written explanations from the Minister of Defence or other relevant actors and suggest measures to be taken by Parliament or the Council of Ministers.<sup>6</sup>

Besides the power to perform oversight, to request information and initiate legislation, the parliament also has control, sanctioned by law, over the budget in general and the defence budget in particular. The draft law on the budget is approved and amended by the Parliament. Also the Cabinet submits a report to parliament on budgetary implementation of the previous year. Furthermore, the parliament hears a report prepared by the High State Control, the highest institution of economic and financial audit and an advisory body to the Parliament on public finances and expenditures.

The powers of the Albanian parliament and the Defence Committee are have been modeled on some of the best practices of parliamentary oversight of the security sector. First of all the Defence Committee functions according to rules of procedure sanctioned by law, which is one of the basic requirements of parliamentary oversight. Judging from the powers and competencies of the parliament, we should not rush to the conclusion that transparency and accountability have been guaranteed by law. In order to assess this, first we will point out some legislative and procedural deficiencies and than move deeper by exploring how oversight translates into practice.

Even from a purely legislative perspective, the defence committee makes recommendations and decides on specific issues, which is a normal thing to expect in a parliamentary democracy such as Albania aspires to become. In other systems, especially presidential ones such as the USA, committees have greater competencies, as well as resources. Yet such a limitation has a direct impact on the level of transparency and accountability.

Nevertheless, there are shortcomings even within the legislation as such, shortcomings that affect the level of transparency and accountability of the executive. While it would be impossible to identify them all, most of them pertain to the absence of rules and procedures and even legislation. To mention just a few, while the Defence Ministry has the obligation to provide an annual budget and report to the defence committee and parliament, there are no laws or regulations that require the Defence Ministry to do so periodically. Although the parliament has the right to demand answers and explanations

---

<sup>6</sup> <http://www.parlament.al>

from this ministry, this happens not according to established periodical junctures but on a more ad hoc and individual basis.

The Defence Ministry has not yet begun to provide periodic reports, the so-called "Defence White Papers", on short, medium and long-term resource management. This has direct bearings on the level of accountability as well as on the level of transparency as far as the budget and the policy-making process is involved. There exists a legislative or procedural vacuum in this respect.<sup>7</sup>

The information is not provided regularly, except for the yearly report and budget, but when the Defence Ministry is asked to do so. This is not to say that there is no exchange of information between the Defence Ministry and parliament. Yet, a better regulated periodical exchange of information between the executive and parliament would certainly enhance the level of transparency and accountability. A regulated periodical exchange would not only increase the amount of information but also boost it qualitatively. This in turn would make it easier to trace funds and the execution of government policies, which in turn would improve the level of accountability.

Such a legislative deficiency is not limited to civil-military relations. It is found in all other areas of governance. As a rule, although the parliament does enjoy the right to ask questions to the executive, the exchange of information is not regulated on a periodical basis, beyond the yearly budget and report. This is even more disconcerting in areas such as the economy, or energy, which constitute more of a priority for the country than the armed forces. While the defence ministry does not present White Papers to the parliament, resource management and expenditure in the short, medium and long term is not properly presented even for the budget as a whole.

Legislative and procedural deficiencies also exist with regard to the cooperation between different committees. Such cooperation and coordination happens, if at all, only on an ad hoc basis and is not regulated by rules of procedure beyond the very general principle that committees have the right to cooperate, or the right of one MP to participate in more than one committee. The absence of legislation in this respect is even more acute in the Albanian case given the lack of parliamentary tradition. To enforce transparency and accountability, not only on budgetary issues, there has to be consistent inter-committee coordination between the committees relevant for the security sector: the defence

---

<sup>7</sup> One of the future objectives of the Defence Ministry is to prepare and present White Papers to the parliament. It remains to be seen to what degree this objective will materialise.

committee, home affairs committee, budget committee, finance committee and foreign affairs committee. When such coordination is absent by tradition, it might be advisable to guarantee and enforce it through rules of procedure.

One could go on and on about numerous other legislative shortcomings. Yet they cannot be understood in their entirety away from practical deficiencies that pertain to the everyday working of parliamentary committees and parliament. A list of legislative loopholes and shortcomings might create the mistaken impression that once the complete legislation is in place the parliament will work smoothly and ensure the transparency and accountability of the executive. Such a view is only partially true, which is why we now turn to the practical deficiencies which limit the oversight of the parliament over the executive.

### **Parliamentary Oversight: the Practical Dimension**

Even in the hypothetical situation where all the necessary legislation, rules of procedures and tradition were in place, the Albanian parliament would still not be capable of successfully performing its oversight on the executive as a whole and on the security sector in particular. Although the reasons for this are numerous and interrelated, they will be placed in two categories: resource-related deficiencies and political deficiencies. Although none of these is unique to the Albanian scenario, of the two categories the first one is more characteristic of the Albanian setting.

As far as resource-related deficiencies are concerned, the most acute one for the Albanian parliament at present is the lack of both requisite and qualified staff. The parliament, and especially its committees, cannot yet afford the necessary numbers of personnel and even less the needed quality. Although there has been improvement recently, the trade-off is between quality and quantity. Both are needed if a given committee is to perform oversight and ensure transparency or accountability. For example, in the case of the committee of defence there is only one adviser to the committee and one secretary. In the given case there is more expertise among the MPs, some of whom have a long experience with the military, than among the "hired experts".

With such a limited staff it is impossible for this committee to challenge the expertise of the Ministry of Defence, which has numerous staff, and experts who have spent most of their careers on defence and military matters. There exists a disturbing asymmetry since even when the defence committee reviews the budget or reports of the defence or

security sector they rely on government expertise, the very expertise they have to pass judgment upon. This is not to say that there is no oversight of the defence policy or budget but that under these circumstances it becomes difficult to ensure transparency and even more challenging to secure accountability, unless something goes very wrong, by which time it might be too late.

Limited staff implies that parliamentary committees do not perform some of their central duties, to which they owe part of their existence. Thus, the reader should remember that one of the duties of the parliamentary committees, and the defence committee is no exception in this case, is to prepare draft laws. Such duty, or competency, remains in the realm of the theoretical dimension only, since in practice, and this has been the experience of the defence committee, all the draft laws or draft acts were and still are prepared by the Ministry of Defence.

To make matters worse, not only is the staff limited, but there are no clearly set regulations, timeframes and deadlines on when the defence budget will be submitted to the defence committee. This happens on an ad hoc basis, and depending on when it receives the budget, the committee then decides on how much time it will need to work on the budget. Although this might sound practical in theory, in practice it is not. Mainly because for a variety of reasons, not least of which political, the committee is hard pressed to pass the budget, which in practice means that reviews are hasty and superficial<sup>8</sup>. Thus it has been the case that in the defence committee the budget has passed after only three meetings, while on average there is a two-week period for the budget (which is not much given that committees usually meet only three times a week)<sup>9</sup>. Therefore, a better-regulated timeframe is necessary to avoid this practical deficiency.

Given the limited resources of the defence committee even in important matters such as the defence budget, the final word is not with this committee but with the Finance Committee. Verdicts on budget are given by this committee, especially due to its political composition and leverage. Here too there is a very limited and unregulated timeframe. So far budgets have been approved within a two-to-three week period on average, while in more consolidated functioning Western democracies the budget approval period would take two to three months on average. Furthermore, the budget is approved en bloc, which makes transparency very difficult to enforce. Quite often there are discrepancies

---

<sup>8</sup> For the sake of clarity it is important to mention here that given the limited resources allocated to defence and the military one of the most important functions of the defence committee is not actually the oversight but to lobby for more funds in the parliament and with the executive. This is the case with other committees too.

between the fiscal package and the government programme, yet there is neither the time nor the resources, nor the political will to explore them.<sup>10</sup>

Yet, limited resources, unclear and random timeframes are only part of the problem. Lack of accurate and reliable as well as coordinated information is another major obstacle, not only for the parliament but also for the executive itself. As of now there is no central database of information which specific committees can draw upon – information that has to be updated and compared with that of the executive, in order to make sure that all parties have the same information pool and availability.

This brings us to another major problem that makes transparency and accountability difficult to implement in practice, not only for the defence sector. Despite the larger staff and greater expertise at its disposal, even the government and its ministries do not have all the necessary information and administrative capacities to prepare accurate budget and/or short, medium and long-term strategies. A lot of guesswork goes into preparing draft budgets and calculating economic growth. Many estimates are calculated on the basis of unreliable information which is rarely updated and seldom disseminated properly. Thus, even if the parliament and its committees had the necessary staff, expertise, time and political will to ensure transparency, they would have to face further structural challenges that reflect the realities of Albanian transition.

The scarcity of reliable and accurate information is important to emphasise since at the very beginning of this paper transparency was defined as that state of affairs where the parliament has the necessary information at its disposal to make sound policy decisions. The absence of such information, combined with administrative deficiencies, not only makes the decision-making process less transparent but also produces mismanagement and waste of resources, which in turn feeds perceptions of corruption way beyond actual corruption levels.<sup>11</sup> At the same time mismanagement might also create more room and incentives for corruption, especially as in the absence of transparency, accountability remains nothing more than rhetoric.

---

<sup>9</sup> Personal interview with Eranda Fejzullahu, Secretary to the Committee of Defence. 5 November 2002.

<sup>10</sup> Personal interview with Genti Arapi, adviser to the Committee of Finance. 8 November 2002.

<sup>11</sup> A word of caution here since, although this statement is very strong, it is based on anecdotal evidence rather than on hard facts. Nevertheless, it is safe to say that in Albania, due to high actual levels of corruption, perceptions on the phenomenon seem to embrace everything from mismanagement to injustices. Everything that goes wrong tends to be labeled 'corruption'.

Due to scarcity of resources there is as yet no expert on national security in the Albanian Parliament, thus government policy has to be judged through government experts, and again transparency and accountability remain rhetoric. Lack of resources also means that many of those powers that are vested upon MPs, committees and subcommittees through legislative acts, rarely, if ever, materialise. Thus, although an MP may take or propose a certain initiative which entails a certain cost, for the initiative to materialise the MP, or group of MPs also have to suggest a budget change, i.e. the reallocation of funds within a given budget item. Of course this would entail research and expertise, which is not available, so budgets rarely go through radical revisions or amendments.

Lack of resources means that independent expertise, much needed given the political context that will be elaborated upon later, cannot be brought in. This is even more so in the case of the defence and security sector. While there are few well-functioning independent think-tanks in Albania in general, for a variety of factors, there are even fewer on defence or security matters.<sup>12</sup> This is due to the fact that think-tanks and NGOs in Albania are donor driven and there is not much funding for NGOs by foreign donors, especially in the area of defence since in the case of Albania it is not perceived to be one of the top priorities.

Finally, lack of resources does not only undermine transparency but most of all accountability. If the parliament and its committees do not have the necessary expertise and resources to perform oversight of policy-making, this is even less so in the case of policy execution. In fact one of the major obstacles to policy accountability, according to MPs from the Defence Committee, is the inability of this committee and parliament to follow budget execution item by item. While this is difficult to do in most areas of governance, it is even more difficult in the case of defence and security sectors, not only because of the need for very specific expertise but also since some of the expenditure might qualify as classified, which in turn leaves room for abuse.

So far we have focused on the resource-related deficiencies of the practical dimension of transparency and accountability. Now we turn to what I labeled earlier as political deficiencies. These are intrinsically related to resources, and the distinction is above all for analytical ease. One should be aware that one produces the other and vice versa.

---

<sup>12</sup> Here I refer to 'hard security', such as policing, border control and so on. There are more NGOs and think-tanks on soft security issues.

The political willingness to hold government accountable is the most important element in ensuring transparency and accountability. Thus "[u]nless elected representatives have a commitment or the political will to hold the government to account, no amount of constitutional authority, resources, or best practices will make them effective".<sup>13</sup> But why would parliamentarians not be willing to scrutinise the government? Well, there might be a variety of factors, but certainly the most important one is party politics – Albania is no exception in this case.

First of all we can begin with the very composition of the parliamentary committees. According to the rules of procedure, the committees are formed by the MPs of all the respective political parties in proportion to the seats they hold in parliament. Thus, the majority party gets to control all the committees, be they standing committees, or even investigating committees, even if they have been initiated by the opposition. At the same time, the executive is in the hands of the majority party. Therefore the willingness to scrutinise and find faults with government policy is minimal on the part of the majority of the committee members. This is even more so given the limited numbers, resources, time and especially the fact that the executive is comprised of the leading members of the majority party. Thus, in the end decisions are political.

Moreover, politics determines also the functioning of inter-committee relations. While there is no written procedure on committee hierarchy, some committees are more important than others, such as the Finance Committee. Key political figures, both in terms of expertise and political stature are placed in these committees. Thus, they have the upper hand on many decisions even outside their area of expertise. As I have already mentioned, the defence budget does go through the defence committee but the Finance Committee ultimately approves it, although military expertise in this committee is quite often absent. Any conflicts among committees are resolved eventually in a political fashion where the upper hand lies with the more important political figures.

Politics is also a determining factor in setting up and running investigative committees, one of the most powerful tools of parliamentary oversight. The fact that there has been only one investigative committee so far in the Albanian parliament, called "The Investigative Committee for the Secret Service", is indicative of the importance of the

---

<sup>13</sup> Hans Born, 'Learning from Best Practices of Parliamentary Oversight of the Security Sector', Geneva Centre for the Democratic Control of Armed Forces (DCAF), *Working Papers Series*, No. 1 (2002), p. 4.

political rationale in parliamentary oversight. Especially when the possibility to set up investigative committees is set in constitutional law.<sup>14</sup>

Another "political" problem is the fact that transparency both by rules of procedure and tradition is restricted mostly at the higher executive levels. Both committees and individual MPs have the right to and usually do call government ministers to hearing sessions. Most shortcomings at the executive level are scrutinised from a very top-down approach, which makes it difficult to ensure transparency and accountability if deficiencies lie within the higher executive ranks. This problem, although not limited to Albania, is more acute in the Albanian scenario given the shortage of staff and expertise needed to perform auditing and investigation at the intermediary levels of the executive. Here again the upper hand lies with the executive branch and especially government ministers, especially when political will to combat corruption and mismanagement is absent.

At this point it is clear that although theoretically the parliament oversees the work of the executive, and to a certain extent it does, the powers of the executive both in theory and practice are a lot greater for all the above-mentioned reasons. However, transparency and accountability do not begin and end only with the parliamentary oversight. In order to accurately assess the level of transparency and accountability it is equally important to explore governance in relation to society at large. For this reason we now turn to the relation of the public and civil society with state and government institutions, particularly in the defence sector.

### **Transparency and Accountability: Society and Institution**

Most of the problems that affect parliamentary oversight of the defence and security sectors also impair the relations of these institutions with the media, civil society and society at large. Some of these problems, especially in the case of the media and NGOs as well as think-tanks, are: lack of expertise, limited resources, and bureaucratic red tape. However, while these problems impair transparency and accountability in the Albanian governance in general, it is even more so in the case of the defence sector. As has already been mentioned, this happens because there is not much interest on the part of NGOs, the media and think-tanks on defence issues. Most security challenges nowadays are perceived to be internal rather than the traditional threats from a hostile

---

<sup>14</sup> Lack of parliamentary tradition, besides politics is another factor why certain oversight instruments are not used.

neighbour. The defence sector is not much news for the media, except in cases of scandals and abuse. Even in this instance the focus is more on civilians that have abused defence sector funds, i.e. more related to transparency, rather than on debating, covering or discussing national defence strategies. The NGO and think-tank sector, on the other hand, is more donor-driven and thus focused on those issues that are better funded, such as minority rights, institution-building or economic development. They rarely touch upon defence matters. In general it is safe to conclude that there is little debate within the so-called civil society on defence and military matters since it is not perceived as a problematic or priority area.

Also the information provided to civil society and the public at large is patchy and not always relevant. Part of the reason for this is the internal structure of this ministry. For one thing it still sustains a relatively small number of civilians (some 25% according to internal ministry sources). The civilians, given the lack of rigorous implementation of standardised hiring procedures, have little expertise on military and defence issues. This makes it difficult on their part to clearly and accurately articulate military matters to the media and the public at large. Combined with the lack of expertise and the scarcity of interest from civil society on the defence sector this certainly does not give rise to high levels of transparency and even less accountability.

However, there is information on the defence sector on the website of the Ministry of Defence. Here the visitor can find information on the restructuring of the armed forces, the progress towards NATO membership, as well as some legislation related to the defence and security sector. Furthermore the website is updated regularly with new information. Yet it is important to bear in mind the limited number of citizens who have access to the internet in Albania. Also some crucial information has not been provided, be it for the expert or the public eye. For the expert, figures on civil-military ratios are missing. The same can be said for important defence documents such as the national defence strategy, or future military reform and growth. For the general public, crucial information relating to drafting procedures and criterion is missing. While one has to admit that there has been some progress and that the Albanian defence sector is going through very rapid and thorough transformations, it also quite obvious that the website needs more information.

In fact there is important information that, given the uninterested attitude of the media, has not yet reached the public at large. Thus, besides the absence of budgeting, defence policy and laws on conscription, there is little information and explanation on the

right of the citizen to avoid military service and serve in the civilian sector. This is an important right that has been sanctioned by law but it is little known by the public at large. There is also little information on the restructuring of the Albanian armed forces and their future role. Such information is rarely found in the media, nor is there much debate on the future role of the army. Beyond the generally agreed upon NATO membership, there is little debate about the future role of the army in the Albanian society. Even existing military publications, such as "Ushtaraku" ("The Military"), are little known and read beyond closed military circles.

## **Conclusion**

This paper evaluates transparency and accountability in the defence sector in particular as well as in the Albanian governance in general. As the paper indicates, the challenges the Albanian defence sector has to face are enormous. The same could be said about the level of transparency and accountability in this sector. It is even more difficult to ensure transparency in the defence and security sector than in other areas of governance. This is so not only because of the lack of interest on the defence sector and lack of expertise on part of the civilians, but also because of the secrecy laws in this area.

Yet, this assertion should be approached very cautiously and within the Albanian context, otherwise it could be very misleading. The fact that transparency is difficult to ensure in the defence sector, as is the case with governance in general in Albania, does not mean that there is no civilian control of armed and security forces. Such a control exists, and it is very strong, but not democratic enough. In fact one of the major challenges in the defence sector is to free it from undemocratic civilian control which has undermined their efficacy in times of crisis. It is not the military which manipulates the civilians, but the other way around. This is why parliamentary oversight of the executive is important. It is because of the limited parliamentary oversight of the executive that there is not enough transparency on the defence and security sector. The military in this aspect are less of a problem.

Furthermore, it would be a mistake to presume from the above analysis and exposition that the lower the levels of transparency in the defence sector, the lower the levels of accountability. First of all, it must be emphasised again and again that transparency has been wanting to a considerable degree in the Albanian governance in general. This can be easily understood by the limited control of the executive by the parliament. It is difficult to quantify the level of transparency in the Albanian defence sector and compare it with

other areas of governance. However, it is safe to assert that the higher the stakes the lower the levels of transparency in governance. This has been the Albanian experience so far. Thus there is even less transparency and accountability in other more profitable areas such as customs or in the security sector (policing). In this area political pressures are even greater.

Even in the hypothetical case that the level of transparency in the defence sector is lower than in other areas, it would be a mistake to conclude the same for the level of accountability. The very nature and hierarchical structure of the military makes them a lot more accountable than the civilians. At least this has been the Albanian experience. It is in fact political pressures and interferences that lower accountability levels, distort military structures, weaken the chain of command, lowering both efficacy and accountability. The reader has to remember that we defined accountability as responsibility for actions taken. In the military everyone's duties are more clearly defined than elsewhere and it is easier, given the hierarchical structure and chain of command, to assign responsibilities.

It is in fact for this very reason that the military has been one of the most, if not the most, successful sectors in the reform process. The military has performed more with increasingly less resources at their disposal. This is not to say that there has not been abuse or mismanagement in the defence and military sector. Certainly such abuses have occurred, but it is also very certain that they have not been larger or more frequent than in other areas of governance. One could even go a step further and claim that there has been less mismanagement and corruption in the defence sector, especially on the part of the military, but that would be the topic for another paper.

## CHAPTER EIGHT

---

### SECURITY AND DEFENCE – CIVIL SOCIETY AND THE MEDIA

*Henri Cili*

#### Two Views on the Perception of Security and Defence Issues

The Albanian people, media, and civil society perceive the soldiering profession as ill-fated. In contrast, they perceive the position of chief of a police station or of an officer in the secret services as lucky, a good opportunity in the 'job market', for which one has to recompense government or political party officials. Meanwhile no (or very few) young people look forward to studying at the local military academy or at others abroad. According to local polls among youngsters on the desirability of professions, the military comes last in a preference list where the positions of lawyer and economist are top.

There is a rational explanation to the poll results. Thousands of career soldiers were forced to retire from the army as a result of a drastic reduction of military staff in the forces. The unemployment pension was too small to cover family needs in a market where state wages have depreciated constantly over the last ten years. The newly-retired military emigrated or started small businesses or became small street traders. The blow to their economic status was no different to that of other public sector professionals. It would not have been that dramatic if the military had not been a privileged group during the communist regime, with the highest state wages, bonuses, and other benefits. The old status of the military was completely shattered by the new developments.

The other blow to the status of the military in post-communist Albanian society was internal de-motivation with the fall of communist ideology. No valid argument related to the new values, on which the army of a democratic state is based, was brought in to motivate the military. Even if that had been the case, the closed ideological education of our military hindered the acceptance of new ideas. Furthermore, the degradation of the socio-economic status of the military was accompanied by indifference towards defence issues after the 1990s. People perceived defence issues as last in the list of public issues of interest, as they ran from the madness of the communist regime's "we are surrounded by enemies" outlook to that of "no one threatens us". For Albanians, the idea of "love for

"the motherland" had been so abused that it turned into a symbol of isolation and falling behind the developed world. The opening up of the country marked the abandonment of these values and the "enemy" of yesterday turned into the "promised land" for thousands of Albanians, who wanted to emigrate by any means. If the motherland notion lost its importance for Albanians, security and defence deserved even less attention.

Contrary to the developments in the military, perceptions of the police and secret services were marginally re-evaluated. A position in the Albanian police force or secret service was perceived as a golden opportunity to benefit from corruption or trafficking. So it happened that former senior military officials turned into small street traders, while police chiefs became investors in private businesses and owners of villas and luxurious restaurants. The Albanian media and civil society have also supported the above perception of the two symbols of security and defence, the police and the military. For a clearer understanding of the above, it is necessary to look into the role and impact of the Albanian media and the civil society on national security and defence issues.

### **Civil Society in Albania, Introduction to a Complex World**

The organisation of free people into associations, foundations, and centres had started in Albania by the end of 1990, when the communist state accepted *de jure* the freedom of citizens to engage in and join organisational structures different and independent from the state. At the same time, people attained the freedom to create or join political parties or other political structures.

Thus, civil society in Albania came to life at the same time as political pluralism, differently from some other East European countries where the freedom to create and join non-political organisations was accepted before political pluralism. This double birth has determined to some extent a certain politicisation of civil society, a tendency that has gradually diminished. Nowadays "the division of work" in the public sector has brought about an ever-increasing specialisation of all actors, in accordance with their nature and scope.

One has to acknowledge the great deficiency of the civil society tradition in Albania, coming from fifty years of total prohibition of the citizen's right to associate in independent political or non-political organisations. Civil society during the communist regime was smothered by politics, which was in turn dominated by a single party, the Labour Party of Albania.

A number of other organisations, known as "organisations for the masses", were created by the Party, and operated under its diktat. They were organisations of different character, age, class, gender (Union of Young Workers of Albania, National Committee of Veterans, Union of Women of Albania, Democratic Front of Albania), or profession (Writers and Artists League, Sport Hunting Association, Professional Union of Albania). These organisations were referred to as "transmission lines" from the Party to the people. This super control from the Party produced a strong tendency in the beginning of the 1990s among all new organisations to dissociate themselves from political parties. To this end, many organisations' names included the term independent.

The Albanian Constitution sanctions the right to create and join non-political organisations. Up to 1999, a law on non-governmental organisations governed the founding and functioning of a civil society organisation. In 1999, in cooperation with civil society, a new law on not-for-profit organisations was approved. The new law re-established the criteria for founding and legalising a new organisation. It was a step towards the liberalisation of procedures for the registration and functioning of these organisations.

The concept of an NGO has evolved from non-governmental organisation to not-for-profit organisation. The new term, not-for-profit, is a result of the waning of the tendency of these organisations to stress their independence from the government and the need to differentiate from business enterprises. A new division into representative and non-representative organisations has also developed.

*The first group* includes organisations with a representative character, associations which are founded and function on the basis of delegating representation from the lowest levels of the association to its highest structures. Membership is very important in these organisations, in order to represent the interests for which they are created.

*The second group* includes foundations which generally function in accordance with the financier's and founder's will, preserving the "majority principle".

*The third group* includes "centres", which can be created by one or more individuals. They have a precise scope and are not conditioned by the representation principle.

There is no specific legal framework that governs public policy institutes. They are classified as "centres" and provide expertise and assistance in public policies and legal

development. The main conditions for the legalisation of a non-governmental organisation are the drafting of founding acts, statutes and programmes in conformity with the law, and the classification of the organisation into an association, foundation, or centre<sup>1</sup>. The Albanian courts require a clear statute that determines the functioning of the organisation, its scope, programme, and area of activity, all of them formalised in accordance with the type of the organisation. The organisation must, in principle, state that its activity will be performed in accordance with the constitution, will respect the constitutional order in force, will respect human rights and freedoms, and will respect the law. The approval procedure pays attention to the latter elements; that is, stating clearly that the organisation will act within the constitutional framework and will respect human rights and freedoms. The internal structuring of the organisation is wholly dependent upon those who create it.

Civil society in Albania is working in an environment less than hospitable. Furthermore, Albanians' expectations of civil society are very low. Few people believe that the activity of civil society can bring about change. People's attention is directed towards politics, disillusion with which has grown constantly in recent years.

Of all civil society organisations, those with a representative character, associations, have almost totally failed in Albania. After forced collectivisation, enforcement of a collective life against individual will, Albanians have, like everywhere else, passed to the other extreme. They do not want to 'get together' to fight for a cause, they do not want to share their cause and their problems with others, they think the best way to face such problems is on one's own, or at most, within the family circle.

Syndicalism, professional associations, other representative associations, have little or no impact at all on public decision-making. Strikes, when groups that can initiate them exist, have very little success. Even in the public sector (education, health, public administration) strikes are mild and very short. On the other hand, Albanian governments have not been sensitive to public demands and pressure, and they have always found a justification for their insensitivity in the continuous crisis situation and limited financial means.

---

<sup>1</sup> Law nr. 8781 date 3/5/2001 'On Not-for-Profit Organisations'.

Associations of retired military officials are no different from other associations. They have only managed to exert weak pressure on Albanian governments with regard to their members' social-economic status, or their participation in security and defence issues.

### **Access of Civil Society to Official Documents: *De Jure* and *De Facto* Reality**

Civil society organisations have *de jure* access to all political documents and public administration documents, except those classified as secret in accordance with the law on state secrets. In such cases, the head of the specific institution must argue why a certain document is classified as a state secret. The Albanian Law 'On the Right of Information on Official Documents'<sup>2</sup> states: "Everyone has the right to request information on official documents related to the activity of state structures and individuals who exercise state functions, without the need to provide a motivation for the request. Public authorities are required to release all information related to an official document, except when the law states otherwise."

Political documents on defence and security issues are generally not classified as state secret; thus it is *de jure* possible for civil society organisations to have access to such documents. In practice, the exercise of this right by individuals and civil society organisations is hindered by a series of technicalities.

State institutions, including the President's Office and the Ministry of Defence, have created information offices and public relation departments. Such offices and departments are being widely introduced in all governmental institutions, at both central and local level. The introduction of these offices has come in parallel with the creation of a new mentality in these institutions and their directors, according to which, public relations are not only a legal requirement for transparent governing, but also a means through which their work is better publicised.

However, Albania is still at an early stage of development of the concept of public relations in state institutions. Thus this concept is nearer to the older mentality of "propaganda" than to the new mentality, which aims at publicising better the work and activity of a given institution or a given director. Contact with press or information offices is easy, but that does not mean that one can retrieve the useful information easily, even if that information is not classified as a state secret. Several factors are responsible for the

---

<sup>2</sup> Law nr. 8503 dated 30 June 1999 'On the Right to Information on Official Documents'.

actual situation: the staff lack the necessary freedom to be open to the public with regard to official documents; inefficient organisation of offices; deficient information technology. In short, there is little goodwill from senior officials to release information. Even when the goodwill is there, it is not technically possible to retrieve the required information. Donors and other international organisations that assist Albania have always stressed this aspect of the public administration. Many grants and investments are concentrated to that end. Spokespersons and officials from government information offices have been trained locally and abroad. Little by little, press conferences and contacts with press representatives are becoming a tradition. However, contacts with the press are not regular. Such contacts are reserved to few journalists and newspapers, and there is no free information for all.

Albanian government officials treat the pro-government and opposition media very differently. News media nearer to the governing majority are much favoured in their quest for information, while opposition media are discriminated against. This is an old tradition in Albania, regardless of who holds power. Thus in 1992-1997 when the Democratic Party held the majority, the major opposition newspaper "Koha Jone", found it impossible to gain access to government offices. The same situation, in reverse, now exists with power held by the socialists. Robert Rakipllari, Chief Editor of the important daily "Shekulli", which is close to the socialist majority, has said:"It is easy for the newspaper to contact spokespersons and institution directors. Many journalists and editors can contact the Minister of Defence or the Minister of Public Order directly on their mobile phones and confirm news, or retrieve information."

On the other side, Mero Baze, Chief Editor of the major opposition daily "Tema", has said:

It is awfully difficult for me or my staff to contact "their" directors for an interview or a conversation. My newspaper was never included in the official protocol of the President's Office in 1997-2002, a period during which the socialist Rexhep Meidani was President of the Republic. Furthermore, I personally managed to enter the offices of the Parliament only in July 2002, when the majority and the opposition were negotiating the election of the new President of the Republic, almost five years after the last visit, at a time when democrats were the majority.

Thus, high government officials are very selective in their relations with the media. This phenomenon has a negative affect on the representation by the press of the truth and

the real activity of the administration, including those of the defence and security institutions. Propagandistic news on the "successes in defence and security" are published in the pro-government media, while the opposition media publishes unconfirmed news about defects and deficiencies in defence and security. Public notifications on security and defence issues are very few. There exists an overall mentality according to which such issues are classified as state secret, even when an operation in helping civilians, or the number of new passports at the disposal of the Ministry of Public Order are concerned.

This mentality has gradually changed towards more transparency and de-mystification of the defence and security issues, previously considered as concerns only for "those high enough". Thus ex-Minister of Defence Luan Rama arranged a round table with journalists and members of the Albanian press aimed at "founding a new culture to govern relations between the armed forces and the media, in order to publicise defence and security issues".

Meanwhile, under the framework of the integration in NATO, state institutions provide heaps of information, almost of a propagandistic nature, on "military diplomacy". The quantity of information regarding these issues is so large, that one gets the impression integration is the only issue for the Albanian armed forces. Other issues such as conditions in the barracks, the status of the military, the cultural and patriotic training of the military, are considered a throwback to the past and are almost not dealt with at all. The armed forces newspaper "The Army", part of the old communist propagandistic press, is still published and sometimes touches upon the above issues, but its readership is small and has no authority in decision-making regarding these matters.

In the last couple of years, the information and press offices have used the electronic media (e-mail, Internet) as an effective means of distributing news. The increasing use of the Internet by the media and the introduction of information technology in public institutions have helped this phenomenon. However, the updating of the state institution web sites is usually done with time lags, and information posted concerns only general issues. The Information and Press Office of the Prime Minister has made great progress in this direction. It maintains a dynamic site, which is updated with all the Council of Ministers and Prime Minister's activities. Foreigners who wish to be informed on the activities of Albanian institutions find it relatively difficult to retrieve useful information, even when such information has already been published in Albanian. Information in foreign languages is mainly released by the Telegraphic News Agency, a state agency

which broadcasts an edition of news and government press releases in English and French. State institutions are making sporadic efforts to translate important information into English, but such information includes only basic issues, not the everyday activity of the institutions.

### **Civil Society, Away from the Debating Table and Political Decision-Making**

The new Defence Strategy<sup>3</sup>, approved lately by the Albanian Parliament, acknowledges and sanctions for the first time in an official document the need for the participation of civil society and public opinion in the discussion and drafting of new defence and security policies. "The role of public opinion, the media, and civil society in drafting, discussing, and implementing the strategy on national defence and security policies, is necessary."

Participation by public policy institutes and research centres in these areas has been very small. Andrea Lako, Research Director in the Legal and Public Studies Institute, one of the best-known institutes for public and legal issues, says: "In five years of work we have never participated in or developed any project related to defence and security issues. To civil society these issues look distant and a monopoly of the specific officials."

Sokol Berberi, Director of the Parliamentary Studies Centre and a lawyer with long experience in the offices of the Albanian Parliament, says: "Engagement of expertise independent from the government in defence and security issues is minimal. There is a strong need for many more activities, in which the civil society can participate. Donors should encourage financially the participation of civil society in areas little explored or debated by the public, and modestly valued by independent experts."

However, there is an increasing tendency to include the work, information and studies of non-government organisations in public administration. A recent example is the establishment of a partnership on foreign affairs issues between institutes and research centres active in political, strategic or diplomatic matters, and the Ministry of Foreign Affairs. Furthermore, a series of seminars and meetings regarding civil control of the armed forces is serving as a first rendezvous point between civil society and institutions that deal with processing and implementation of defence policies. Lately, a new centre with the participation of army specialists and ex-military was established, the Institute of Security and Defence.

---

<sup>3</sup> *The Defence Strategy*, (publication of the Defence Ministry of the Republic of Albania).

The relationship between the Albanian State and civil society has gone down a delicate path. On the one hand the State has hindered the work of civil society, on the other it has turned it into an obedient partner, severely undermining its role in a democratic society.

In contrast to a certain reciprocal ‘animosity’ between the right-wing administration of the Democratic Party in 1992-1997 and civil society, after the rise to power of the socialists, the Socialist Party leader Fatos Nano advocated the involvement in government of the most prominent members of civil society. Many current and former ministers of the socialist governments were previously active in civil society.

The socialist administration, in power since 1997, has operated in a close partnership with civil society, and has abused this close partnership in recent last years. This approach has brought about an overlap of the civil society with the left-wing administration, undermining civil society's role as an opposition to the government. Donors' policies have also helped to reach a point where the majority of non-governmental organisations have turned into a basis of support for government activities instead of opposing them. The contrast between these two different situations that civil society has faced has fuelled radical opinions, which describe civil society in Albania as an extension of the left wing.

Work in parliamentary commissions occupies a small space of the daily activities of the Albanian Parliament, as the real ‘lawmaker’ is the Executive. Even when parliamentary commissions commit themselves to drafting specific laws, the habit of bringing in expertise from independent sources of civil society does not exist. The culture of lobbying decision-making is still strange to Albania. There are no systematic cases in which opinions from non-governmental organisation experts are considered in relation to the subject under consideration.

Parliamentary expertise on specific matters, including defence and security, is mainly provided by specialists from government institutions. The majority holding power drafts the defence and security policies through its government, legalises these policies through its majority in the parliament, and implements these policies through (yet again) its government structures. Thus, one deals with a closed institutional circle, where theoretically the only opposing voice is that of the opposition in parliament.

## **Public Policy Institutes, Financial Survival and the Dimension of Foreign Cooperation**

The Albanian government is constantly dependent to a great extent upon foreign financing. Under these circumstances, the day in which it will itself financially support civil society organisations for research on defence and security issues is very distant. At present the Albanian government does not use professional expertise outside the public administration. Furthermore, there is no method for systematically collecting the contribution of civil society organisations, apart from sporadic contacts.

The majority, if not all, of the financing for public policy institutes comes from abroad, generally from Western Europe and the USA. Foreign funds are necessary for the survival of a wide network of non-governmental organisations and public policy institutes. Meanwhile, after 12 years of international assistance for civil society in Albania, available funds are diminishing and many organisations face financial problems (for example, the Soros Foundation, one of the major donors in the country, has gradually reduced its financial involvement).

Under these circumstances, the survival of civil society in Albania is in doubt. Albania still lacks an internal mechanism to support civil society financially. The government has limited resources and finds it practically impossible to finance civil society through public funds. In addition, there is no political will to encourage, through fiscal legislation, donations from the business community to civil society. The lack of will can be partly explained by low tax payment rates and high fiscal evasion, which create an environment where such fiscal arrangements would pave the way for further abuse.

All fund-raising activities from civil society organisations are directed at international donors, either their local offices, or their offices abroad. Many experienced organisations have managed to find stable partners, international donors or western governments, which provide them with institutional backing. In other words, these partners provide financial support to the organisation, part of which covers the financial needs of some major projects, while the remaining funds are managed by the organisation in accordance with its priorities.

There has been continuous cooperation among international donors and local organisations, but this cooperation has not been as effective as it could be, as in most cases the priorities of the donors do not match those of the local organisations. It is

understandable that the priorities of the international donors have precedence. Cooperation under these conditions does not respond to the actual needs of civil society and does not match its current state. The perception of this cooperation by the media and public opinion has led to the formation of a general opinion according to which donors perceive Albania as too far backward and large funds are spent at little avail. While it was meaningful until some years ago for local organisations to follow donor priorities, it is now reasonable to combine the priorities of both actors. This is an urgent issue, which affects directly the effectiveness of foreign donations in Albania.

Under the framework of the Stability Pact, contacts among public policy institutes in the Balkans have grown more systematic, partly because donor financing has become conditional upon the inclusion of cooperation with regional partners in new projects. Similar problems faced and joint challenges have created the foundations for effective cooperation among public policy institutes in Southeast Europe. However, keeping up the cooperation with public policy institutions or other organisations abroad has additional financial requirements, which are not easy to be provided by donors.

### **The Media: Freedom of the Media in Albania, Legal Guarantees and Restrictions**

The Albanian Constitution has adopted in full the European Convention on Human Rights and Freedoms. It states: "Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent states from restricting the licensing of broadcasting, television or cinema enterprises."<sup>4</sup>

The Constitution guarantees the freedom of the press in Albania. There are no legal restrictions on the freedom of expression and the press; on the contrary, the law protects this freedom. After several years of conflict between the state and the press, which was a result of a contested law on the press, the Parliament in 1998 abolished the old law and approved a new one. Similarly to the American law, the new Albanian law on the press has only one article: "The press is free".

---

<sup>4</sup> Constitution of the Republic of Albania, 22 November 1998

The lawmakers of the new parliament constituted after the 1997 elections, in a sign of gratitude towards the free press, their sole ally in their opposition years, abolished the old law, arguing that the penal code was enough to define defamation, fraud, and divulging of state secrets.

There is no need for a license to start a newspaper; it is enough to register it as a juridical entity with the courts. Meanwhile, audio and visual media is perceived as more complicated, and is governed by separate legislation. Albanian lawmakers have adopted a view according to which, taking into consideration the large penetration scale of these media, and their impact on public opinion, behaviour and culture, a specific legal framework is needed to regulate their activity. A specific law regulates radio and television activity. This law determines licensing requirements and monitoring of electronic media through a structure named the National Council of Radio and Television. The law on audio and visual media restricts licensing. New radio and television stations have not respected the current legal requirements; however, the government, which has envisaged the drafting of more liberal requirements for radio and television licenses, has accepted this.

The Penal Code deals with divulgence of state secrets. Its provisions generally penalise the officials responsible for the deed, but not the journalists. In a famous trial involving the publication of state secrets in 1993-1994, in a case between the Ministry of Defence and the daily newspaper "Koha Jone", the Court ruled in favour of the newspaper. Other trials are rare. First-level courts suspended most of them; while in others state officials have withdrawn their charges.

A specific law defines the classification criteria for state secrets. This law, together with the one that determines access to administration documents, completes the legislation that regulates the transparency of administration activities.

Individual and media rights of information on state administrative documents is restricted by two clauses in the Albanian law: the right of information can be restricted (1) to protect public interests, (2) to protect third party interests. The Albanian Constitution determines the above as the only cases in which the right of access to information is restricted. Andrea Lako of the Institute of Public and Legal Studies, one of the Albanian lawyers that have worked in drafting the legislation in this area, comments: "The right of accessing information can only be restricted by the law "On State Secrets" and the law "On Protecting Privacy". It is understandable that state secrets refers to public interest, while

protection of privacy refers to third party interests. However, even in cases where information cannot be released for one or both of the above reasons, according to article 4 of the law "On the Right of Access to Information", public authority is obliged to express the reason for the restriction in writing. In practice, not all information contained in an official document is classified. In such cases, the law requires public authorities to release that part of the information which is not classified as a state secret."

The Penal Code includes specific provisions on defamation, falsehood, fraud, which also cover the press. However, trials against journalists for falsehood, fraud or defamation, have generally failed. Even in such cases where the courts have ruled against journalists their ruling either has not been enforced, or the President of the Republic has absolved the guilty party.

## **Media Environment**

Albanian media entities are private. Exceptions are three party newspapers (with low circulations), Albanian Radio Television, and the Albanian Telegraphic News Agency. Private media has opened the way to free competition and increasing professionalism. However, privately-owned media has also brought about negative phenomena, which stem from the government's policies on the media. The relationship between the media and the government has followed two different paths dependent upon the period under consideration. Freedom of the press has been seriously endangered in both cases.

In 1992-1997, the right-wing administration of the Democratic Party harshly confronted the opposition media, which was actually the greater part of the media. Several trials of state officials and media representatives were held, and the general approach aimed at restricting the free press.

After 1997, when power passed to the socialists, the outdated methods of controlling the media through violence, trials and imprisonment, were abandoned in favour of a more sophisticated system of control. Economic control and financial conditioning of the media or media owners have brought the majority of the media under control. Unbalanced government advertising, subventions from the government of Ilir Meta, the awarding of contracts and tenders, licensing of pro-government media bosses, have created an environment where the greater part of the print and electronic media is close to the socialist majority. In addition, the opposition media are financially persecuted directly,

through the involvement of tax authorities or indirectly, through intimidation of entrepreneurs willing to finance them.

The Daily "Tema", prominent in its stand against the majority holding power, provides an example of the socialists' tactics. It often complains about financial discrimination by the government. While other newspapers, close to the government, publish daily six-seven pages of government advertisements, there is not a single such advertisement in the pages of "Tema". Furthermore, the newspaper receives no advertising requests from private entrepreneurs because of its stand relative to the government. Mero Baze, Publisher and Chief Editor of Tema, says: "Many businessmen claim that they are ready to pay in order not to advertise in Tema, because the day after advertising there, their office would be swarming with Tax Police."

The Albanian Government has *de facto* become the owner of the pro-government media, which in turn constitute the most important part of the Albanian media with regards to circulation, audience and penetration. Prec Zogaj, MP and member of the Parliamentary Commission on Media, says: "The Albanian Government 'owns' the controlling majority in the Albanian media entities. There is freedom of the press in Albania, but there is no free press."

Press distribution systems are also private in Albania. The old distribution system through the involvement of the Albanian Post Office has failed, and has been replaced by two-three new incomplete distribution systems, which are owned by publishers. This distribution structure is a major cause of the actual deformation of the market in Albania, as publishers use the distribution channels to discriminate against their competitors.

### **Government Information Distribution**

State institutions, starting from the Office of the President of the Republic, have founded and refined their information and press offices. It is easier nowadays to contact state officials, and their approach to the media is improving. However the evolution is not qualitative. Thus pro-government media are favoured, while others are discriminated against in contacting and retrieving information from state officials. Press conferences from senior state officials are not regular. They are mostly related to significant events, or visits from abroad.

Senior Albanian officials are increasingly keen to create and preserve formal and informal contacts with the media. Robert Rakiplari, Chief Editor of "Shekulli", the largest daily in the country, says: "Information regarding defence and security issues is scarce. Even when such information reaches media offices, there are no competent people to deal with and administer it. Thus, news reports or articles in the press do not cover defence and security issues; instead they deal with financial abuses in tenders or weapons smuggling."

According to Mark Marku, Journalism Professor at Tirana University: "The Albanian media, where defence and security issues are concerned, suffer from the lack of ethics in dealing with these delicate matters. Media is one of the major actors that have caused damage to matters related to defence and security. During the transition period it has never shown appropriate attention, ethics, and expertise, and has not been led by national interest in dealing with defence and security matters. The media approach to these issues has not differed from that of an ordinary citizen."

Public appearances by Ministry of Defence officials are few. Press releases from the Ministry of Defence are even fewer. It has now become a habit that such releases relate only to visits by foreign delegations. Releases and news from the Ministry of Defence mostly concern defence strategy and negotiations to join NATO.

State administration information and press offices are increasing the use of Internet as means of information distribution. Electronic mail has become an important means of communication. Web sites have also been introduced, but they are not updated in a timely fashion and contain general information which is not useful to the journalist.

## CHAPTER NINE

---

### AN INSTITUTIONAL PERSPECTIVE ON SECURITY ISSUES

*Enika Abazi*

#### National Security and the International Perspective

At the present time in Carnovale's words "vital security interests are no longer national interests, and national security interests are no longer vital"<sup>1</sup>. Vital national interests are challenged by a wide range of problems that go beyond the military ones that have almost become anachronistic in the face of economic and environmental problems, terrorism, migration, civil unrest, resurgent nationalistic splits and fear of further escalation of tension across borders. These challenges require an adequate, complex and instrumental approach. A single state cannot provide sustainable and satisfactory solutions to all contemporary challenges. The institutional approach is the most appropriate in providing the solution to the new challenges, especially to those related to security and defence issues. The purpose of international institutions and their role is to "provide an acceptable balance between the sovereign equality and independence of states on the one hand and the reality of an interdependent world and the international law commitment to human dignity on the other"<sup>2</sup>. To these considerations should be added the assumption that institutions could attenuate the burden of difficulties that amount from the transition processes – most of the Balkan countries are part of it – that aim at transforming centralised regimes into democratic ones.

With the end of the Cold War, the challenges of formulating European defence and security policies have changed considerably. For over five decades, the East-West conflict substantially structured the strategies, defence-planning priorities and military needs of Europe. This contributed to European security, but today the European internal context carries instability and challenges to the formulation of security policies. In this unfamiliar and uncertain new environment, security policies cannot be based any more on the outdated assumptions of the past decades. The new environment is not

---

<sup>1</sup> M. Carnovale, *Vital and National Security Interests after the End of the Cold War*, M. Carnovale (eds.), *European Security and International Institutions after the Cold War*, (New York: St.Martini's Press, 1995), p. 1

sufficiently shaped and the national consensus about the content over security concerns in the Post- Cold War Era is not clear-cut. This presents difficulties in establishing a shaped and appropriate multilateral security system for post-Cold War Europe. Nevertheless, the institutional approach is the most appropriate one to address the new challenges. This analysis has a direct implication for building security for the Balkans since such institutions are seen as a constituent part of its security architecture.

### **The Balkan Context and the Role of International Institutions**

Historically, the Balkan Peninsula is considered the powder keg of Europe and apparently it has not changed much over time. Being geographically between Europe and Asia, with a powerful position in the Mediterranean Sea, the Balkans has been a point where interests have clashed continuously in the course of history. This pattern has influenced state creation in the Balkans by drawing the state borders according to the geopolitics of the moment and not ethnic considerations. All Balkan countries have territorial claims against their neighbours and ethnic minority problems. The Balkan countries are very sensitive about those problems and those issues could very easily be a cause for war as has been the case with the Balkan wars in the past and recently it was the cause of war in Bosnia-Herzegovina, Kosova and Macedonia.<sup>3</sup>

Beside historically shaped insecurities, the end of the Cold War has raised in the Balkans two serious problems related to security issues. The first problem is linked to the economic crisis, which started with the process of modernisation at the beginning of 1980s and provoked the revival of neighbour-blaming and ethnic nationalism.

The second problem relates to questions of political legitimacy. Legitimacy is based mostly on a leader with a charismatic personality. On the one hand, this legacy could lead to authoritarianism and on the other hand the correlation between economic and ethnic problems and charismatic leaders could violently affect the legitimacy of the regime and the process of democratisation.<sup>4</sup>

---

<sup>2</sup> R. Higgins, *Intervention and International Law*, H. Bull (ed.), *Intervention in World Politics* (Oxford: Clarendon Press, 1986) p. 30.

<sup>3</sup> P. A. Goble, 'A New Age of Nationalism', in S. Bruce (ed.) *The Access Guide to Ethnic Conflicts in Europe and Former Soviet Union*, (Washington, DC: Access, 1994), p. 168; J. Bugajski, *Ethnic Politics in Eastern Europe: A Guide to Nationality Policies*, (New York: OME Sharpe Armonk, 1994) pp. xi-xxvi; R. J. Art, 'Why Western Europe Needs the United States and NATO', *Political Science Quarterly*, No. 111 (Spring 1996), pp. 1-40.

<sup>4</sup> J. R Lampe, 'Southeastern Europe and the Legacy of Insecurity', in P. S. Shoup & G. W. Hoffman (ed.) *Problems of Balkan Security, (Southeastern Europe in the 1990s)* (Washington, DC: The Wilson Centre Press, 1990) pp. 9-30.

Under such circumstances international institutions could play an important role in managing these transitional problems that closely relate to security issues in the Balkans. At an early stage and in the short term, institutions could intervene through political dialogue and mediation before tensions explode; producing a political solution suitable for the parties would avoid running the risk of a costly military confrontation that carries the danger of regional escalation. In the long term, institutions, especially the European ones, could extend the process of political, economical and security integration to the Balkan countries. The Western experience is a good example of managing and pacifying the old rivalries between states. On the other hand, the institutions could guarantee the democratic transition by providing the right institutional checks and balances over the process and aid and assistance in support of democratic moves until the legitimising process creates the democratic culture that is missing in most Balkan countries.

### **The Regional Context**

Albania is shaped and affected in all dimensions by Balkan historical developments. To begin with, Albanians in countries neighbouring the Albanian state in number equal the internal population of Albania proper. The external population has been subjected to discriminatory policies by the host countries, which until recently ensured that Albania's relations with the neighbours remained tense. The intervention of the international community in cases of the violation of human rights of Albanians in Kosova and Macedonia released the tension, thawing the insecurities in short term. Nevertheless the situation is one of perpetual transition, since nothing is settled conclusively, preserving the potential for the replication of insecurities in the future. Apart from that, Albania, having emerged from the most destructive communist dictatorship remains the poorest country in the Balkans, unable to provide for its own security due to its economic backwardness. Under such circumstances, the Albanian question in the Balkans represents a sensitive issue with important implications for Albania proper and the stability of the region as well.

### **NATO's Expansion and the Balkan Context**

The end of the Cold War has opened the debate about the expansion of NATO. The new members coming from the former Warsaw Pact into the alliance, and the second wave of enlargement that took place at the Prague summit in November 2002, dispersed the doubts about the future of NATO and its expansion toward the East. Nevertheless there

remain concerns about NATO's expansion in the Western Balkans, since it remains the most unstable area in Europe.

Though none of the Balkan countries had initially been forecast to join in the first wave of NATO enlargement, at the Prague summit three of them, Slovenia<sup>5</sup>, Bulgaria and Romania did join the North Atlantic club. However a sort of security guarantee should be provided to the newly democratic countries of the Western Balkans. This is for two reasons: first, to avoid a new dividing line in Europe and the Balkans after NATO's second expansion in Central-Eastern Europe; second, lest insecurity push the Western Balkan countries to search for other alliances or security alternatives, which could give rise to a new struggle for power and influence in the Balkans and be highly destabilising even for Europe itself.<sup>6</sup> The arms trade deals and aid allegedly offered for the air defence capabilities of Iraq by Serbia and Republika Srpska<sup>7</sup> are an example of a larger politico-military integration between some countries of the Western Balkans such as Serbia and Macedonia with Ukraine and Iraq. Alliances of this kind indicate a strategy of challenge towards NATO expansion and a counter to Alliance actions in the Balkans<sup>8</sup>, increasing insecurities and fears for a return to the animosities of the past.

Justifications for furthering enlargement of NATO in the Western Balkans are directly related to commonly perceived security problems facing the US and its European partners in the Balkans. The security concerns are related primarily to the growth of nationalism and rebellious tendencies in the Western Balkans. These tendencies became evident in the violent dissolution of Yugoslavia and the war in Bosnia-Herzegovina, followed by the civil unrest in Albania and Serbia during 1997 and the events in Kosovo and Macedonia quite recently. A turbulent region at Western Europe's door does not match either European or the US interests. The only appropriate instrument to deal with the instability is NATO, as was proved by the intervention in Bosnia and recently in Kosova. But for a permanent solution, only extension of NATO membership in the Western Balkans could stabilise the region, provide the right framework for the continuation of the process of democratisation and economic reform towards a market

---

<sup>5</sup> Slovenia does not consider itself a Balkan country. Due to the fact that for a long time it has been in the Yugoslav Federation since its creation and other variants of it before the Second World War, Slovenia in one way or another has been part of many Balkan processes and this could serve as an argument that would put it in the Balkan countries basket more than another part of Europe.

<sup>6</sup> R. D. Asmus and F. S. Larrabee, 'NATO and the Have-Nots', *Foreign Affairs*, December 1996, Vol. 75, No. 6, pp. 1-7.

<sup>7</sup> Washington Post 23 October 2002, *RFE/RL Newsline*, October 2002 Vol. 6, No. 200, p. 23; See also on the same issue *Jane's Defence Weekly*, 6 November 2002.

<sup>8</sup> Diplomaticus, 'Integrimi I Helmetave ne Kiev-Beograd-Shkup-Bagdat' (The Integration of Helmets in Kiev-Belgrade-Skopje-Baghdad), *Gazeta Shqiptare* (21 October 2002), p. 6.

economy and democratic system. From a larger perspective, NATO expansion would contribute to "preserving the strategic balance within Europe"<sup>9</sup> by removing fears of a return to the policies of coalitions and rivalries of the past.

Furthermore, there is a need to strengthen the southern wing of NATO, which appears to be weak either because of the tensions between Turkey and Greece, or because of the situation in the Middle East. The extension of conflict in the Western Balkans would further deepen the division, providing the alliance with very delicate dilemmas, since the two 'problematic' members would most probably align themselves with different sides in the case of a conflict in the Balkans.

Third, there is a dangerous environment close to the Balkans, which may affect it, namely Islamic fundamentalism and terrorism related to it. There are fears of its expansion in the Balkans. In the Balkans there is a large Muslim presence, made up of Turkish, Albanian and Bosnian communities. An explosion of a war in the Balkans could favour the expansion of fundamentalism and involvement of regressive forces in its support. These fears are increased by the presence of volunteers from fundamentalist organisations coming from the Muslim countries of the Middle East to support the Bosnian Muslim community during the Bosnian war and the presence of dubious humanitarian Muslim organisations in the Balkans. An explosion of war in the Balkans might be a good opportunity for transforming the conflict into a clash between different civilisations based on religious affiliations.

This situation could be dangerous not only for the Balkans but for Europe also. The events of 11 September 2001 and its aftermath proved that the danger of terrorism is real and its networks could encompass Western Balkans that is not only in a period of transition but also plagued by criminal networks of illegal smuggling of drugs, human trafficking and arms. The reality of conflicts in the Western Balkans among other considerations revealed, as Kaldor<sup>10</sup> observes, that fighting took place between multiple armed factions with different political objectives and fractured lines of command. As the Bosnian case witnessed, conflict was not bound by geography, fighters of a 'holy war' did join the Bosnian cause and later were found to support international terrorist networks. Financial and propagandistic forces that supported the war transcend state borders. New

---

<sup>9</sup> Meeting of the North Atlantic Council, Final Communiqué, Copenhagen, 6-7 June 1991

<sup>10</sup> M. Kaldor, 'Cosmopolitanism and Organised Violence', *Paper prepared for Conference on Conceiving Cosmopolitanism*, Warwick, 27-29 April 2000; M. Kaldor, 'Introduction', in M. Kaldor and V. Basker (eds.), *New Wars: Restructuring the Global Military Sector*, (London: Pinter, 1997) pp. 3-33. See also S. Kalathil, 'Nationalism in Net', *The Asian Wall Street Journal*, 22 February 2002.

information channels such as the Internet have made terrorism and nationalism indiscernible in many respects, multiplying the sources of insecurity, especially for countries in a difficult and problematic transition to democracy.

In such circumstances, in Shea's words NATO 'either takes them [the Balkan countries] in, and tries to deal with their problems, or the latter will grow and affect NATO anyway, sooner or later... if you are not perpetually going forward, you'll fall off.'<sup>11</sup> Accordingly, it is also important to see the reverse side of the coin, and to envisage a situation where NATO interests, dilemmas and factors influence its enlargement into the Western Balkans, and by implication the chances of Albanian membership in the organisation.

After the end of the Cold War three factors negatively affected NATO's enlargement in the Western Balkans. First, there was a divergence in the perception of national interest and political priorities between the United States and its European allies in the Balkans. The four years of crisis in Bosnia-Herzegovina and the crisis of 1997 in Albania illustrated this. Washington's reluctance to send ground troops to Bosnia-Herzegovina and the EU and WEU involvement in the Albanian crisis could serve as examples. Furthermore, the divergence among the Alliance members over the bombing campaign in Yugoslavia reinforces this idea. Again at the Prague summit in November 2002, divergences of interests, compromises and balancing actions among the Alliance members resulted in decisions that favoured membership for Bulgaria and Romania, while it was decided that ex-Yugoslavia, minus Slovenia, plus Albania, be treated as a compact entity defined geopolitically as the Western Balkans. In this neo-appellation a dividing line in the Balkans is crystallising that for the moment has shelved the divergences of major members of the alliance in this area. These divergences once initiated the process of dissolution of Yugoslavia and opened the way to the wars of the 1990s.<sup>12</sup>

Second, Russia has opposed and would continue to oppose extended NATO enlargement in the Balkans. In the Balkans, Russia began to act as protector of the Serbs. The motive is not only 'Pan-Slavism' and the alleged bond of kinship with the Serbs; it is also related to other interests such as oil pipelines.<sup>13</sup> Emerging from the shock of defeat after the end of the Cold War, Russia is trying to re-stabilise its zone of

---

<sup>11</sup> J. Shea, 'Should NATO Be Enlarged to the East?', in M. Carnovale (ed.) *European Security and International Institutions after the end of the Cold War*, (London: St. Martin's Press, 1995), p. 87.

<sup>12</sup> See the unilateral recognition of Croatian and Slovenian independence by Germany, which sped up the process of dissolution of Yugoslavia in 1990-1991. See also International Herald Tribune, 22 November 2002.

<sup>13</sup> On the idea see Norman Stone, 'Two Cheers for Colonel Tony Benn', *The Times*, 26 March 1999.

influence in the Balkans and find a role that would be acceptable for its status as an ex-great power. In order not to upset Russia,<sup>14</sup> NATO will at least delay any enlargement in the Western Balkans.

Third, after the three new Balkan members, further NATO enlargement in the Balkans is going to affect NATO cohesion. In a way this is not a strong argument since the alliance has always been based not on numbers but on a sharing of common democratic values.<sup>15</sup> Nevertheless, the newcomers are not able to bear all the costs of such membership; the old members have to provide for it. Following this logic, NATO enlargement in the Western Balkans looks very distant from a cold financial logic<sup>16</sup>. Furthermore one cannot ignore the fact that the Western Balkan countries are still far from representing consolidated democracies.

## NATO and Albania

Focusing on the Albanian case, there is logic behind the idea that Albania should be an exception and win early membership of NATO. Membership of NATO would contribute to the security of the region and avoid the outbreak of interstate conflict in the Balkans. The main reasons for this are detailed below.

First, Albania has almost a compact ethnic population, 98 percent being Albanians, and with no territorial claims from its neighbours. Therefore, a stable and pro-Western Albania would be an important asset in the creation of a stable pro-Western centre in the Balkans.

Second, the Albanian question in the Balkans has reached boiling point. Kosova's undecided status and its resolute demand for independence represents a new challenge for the future geopolitical configuration of the Balkans. This situation could be more challenging if the process of building multiculturalism in Macedonia, based on the Ohrid Agreement should fail. In the long run, the Albanian national question may cause a major threat to the security and stability of the Balkans. Thus, anchoring Albania to the West

---

<sup>14</sup> R. Murphy, 'OSCE hopes Russia Will Keep Trying in Kosovo', *REUTERS*, 6 April 1999; C. Giacomo, 'Albright Seeks Common Ground with Russia on Kosovo', *REUTERS*, 12 April 1999; B. Schweid, 'Trying to Mend Fences with Russia', *Associated Press*, 13 April 1999.

<sup>15</sup> Shea, 'Should NATO be enlarged to the East?', p. 86.

<sup>16</sup> Military Expenses of Albania for the year 2003 represent only one per cent of GDP, while the requirement for new members of NATO is at least two per cent of the GDP. R. Mejdani, 'Buxheti, Kushti qe nuk Plotesojme per NATO-n', 'Budget, the Condition we fail for NATO membership', *Gazeta Shqiptare*, 28 November 2002, pp. 12-13.

would constitute an intelligent move from a geo-political and strategic point of view and would help defuse one of the most explosive threats to regional stability.<sup>17</sup> In this case NATO enlargement would contribute to maintaining the security of the region and would create the environment for negotiable solutions in the Western Balkans.

Third, the threat of a possible aggression against Albania has increased due to the fact that Albania has a very weak defensive system which deteriorated with the serious damage caused by the civil riots of 1997 and the conflict in Kosova, which saw a continuous violation of the Albanian borders by the Serb army and more recently by the Macedonian army. Accordingly, a modernisation of the Albanian defence system would be of primary importance. It is difficult for the Albanian government alone to carry out this process, so NATO's support in achieving this purpose would be of great importance. That could be realised at a first stage through an active PfP programme that would lead to future membership in NATO.

### **NATO Expansion from the Albanian Perspective**

Having emerged in a democratic transformation process from an isolated period and an alliance vacuum, Albania is eager to promote itself among the other European countries and cope with its deficiencies while guaranteeing its sovereignty and independence. NATO membership takes top priority in Albanian government policy, whichever political force is in power, as a guarantee of the democratic nature of the transition process. Meanwhile it provides much-needed security coverage. Based on this logic, the Albanian Government was the first among Central-East European countries to ask for NATO membership<sup>18</sup>. Albania was among the first countries to join the North Atlantic Cooperation Council (NACC)<sup>19</sup> in June 1992, and the Partnership for Peace (PfP) in February 1994. These steps are considered important moves towards integration into the new architecture of Euro-Atlantic security architecture. Furthermore, PfP provides the essential assistance that serves to strengthen Albanian security and also contributes to the strengthening of security and stability in the region: enhancing confidence and security -building measures (CSBM) among the Balkan countries; by involving them in common exercises, exchange of information, meetings of the military staff and personnel at every level.

---

<sup>17</sup> F. S. Larrabee, 'US Policy in the Balkans: From Containment to Strategic Reengagement', in F.S. Larrabee (ed.) *Crisis in the Balkans, Views from the Participants*, (London: Western Press, 1997) p. 285.

<sup>18</sup> *Jane's Defence Weekly Interview*, 24: 11, 16 September 1995.

<sup>19</sup> Today the Euro Atlantic Partnership Council (EAPC).

In this framework Albania has been actively supporting and participating in NATO operations and initiatives in the search for a peaceful solution to the Balkan crisis and a secure future for the region. The Albanian navy has closely cooperated with NATO and WEU's missions in monitoring the UN resolutions on Yugoslavia, under the 'Sharp Guard' operation. Furthermore Albania offered to the Alliance its air and naval capabilities in support of the 'Safe Haven and Deny Flight' operation over Bosnia and recently in support of the NATO operation 'Allied Force' in Yugoslavia. The Albanian armed forces have participated in other national and multilateral exercises in the framework of bilateral, regional and NATO-PfP activities, such as 'Cornerstone 2001' in Albania, 'Seven Stars', 'Dynamic Response' and the 'SEEBRIG CAX'. Albania is contributing in SFOR with a company, a participation that has contributed both to the improvement of the experience and expertise of Albanian staff and its readiness to be not only a consumer of security but a provider as well<sup>20</sup>. All this aims to show "reliability, the most precious asset of an ally"<sup>21</sup>, which would improve the chances for early membership of Albania in NATO.

The PfP programme based on the defence Planning and Review Process (PARP) aims: to restructure and harmonise Albanian military structures and capabilities in conformity with NATO standards; to put decision-making structures and procedures under civilian control and compile the legal framework for it; to train and exercise military structures on peacekeeping, humanitarian and search and rescue missions, thus preparing Albania's future membership into the Alliance. For this purpose, a large number of joint exercises have been held between NATO and Albanian military forces.<sup>22</sup>

### **The Year 1997 and its Consequences**

1997 was a momentous year for Albania. A general violent outburst spread all over the country due to the frustration caused by the loss of life savings by hundred of thousands of Albanians in the 'pyramid' investments schemes. The event was followed by a total disintegration of the military structures and capabilities. As a result conscripts abandoned military units and their officers, military installations became prey to criminal elements, arms and ammunition were stolen. This situation led to new elections and the

---

<sup>20</sup> *Action Plan for Membership of Republic of Albania in NATO*, Albanian Ministry of Defense, (Tirana: 2001); and G. Robertson, *NATO-Albania Relations, Strong and Growing Stronger*, at the US Embassy in Italy Website at: [http://www.usembassy.it/file2001\\_05/alia/a1051815.htm](http://www.usembassy.it/file2001_05/alia/a1051815.htm) (18 May 2001).

<sup>21</sup> A. Copani, 'The New Dimensions of Albania's Security Posture', *NATO Review*, Vol. 44, 2 March 1996, pp. 24-28.

<sup>22</sup> Cobani, 'The New Dimensions of Albania's Security Posture'.

establishment of a new socialist government. The new elections solved the problem politically and the multinational force that was mandated by the UN Security Council provided the necessary humanitarian assistance and created order by its presence, but the problem of the disintegration of military structures was not solved. Under such circumstances the PfP programme took the main role in developing a programme of assistance for rebuilding the Albanian Armed Forces. Continuing on the same line as the PfP programme, the new practice was named as Individual Partnership Programme (IPP).

The programme consisted of two pillars. The first pillar involved NATO as an organisation in a programme of assistance. The assistance was concentrated in three areas:

- The development of the national defence concept and its legal framework, providing for democratic control of forces and civil-military relations;
- The structural reorganisation and adjustment of military command and armed forces increasing their operational abilities and efficiency by developing an essential Command, Control, Communication and Information (C3I) system;
- The resolution of technical issues related to the storage and safety of ammunitions and armaments.

Another aim of the first pillar was to keep Albania tied to the main PfP activities in the framework of the Partnership Work Programme.

The second pillar aimed at channelling bilateral assistance from allies and partner countries. The scope was to assess the necessities and priorities and coordinate bilateral actions, avoiding overlaps. For this purpose a special forum of coordination named Clearing House on Albania (CHA) was created and a NATO office was established in Tirana, the only one in the partner countries.<sup>23</sup>

The Clearing House programme was another project that aimed at the collection of dispersed weapons. The project was financed by UNDP and operationalised by the Albanian police forces. Up to February 2002 one third of looted weapons from governments arsenals in 1997 were collected, of which 100,000 were destroyed. In February 2002 the programme shifted from the collection of small arms to controlling them. Besides the collection of arms, the two-year programme aimed at creating a

---

<sup>23</sup> On the assistance programme after the crisis of 1997 see, G. Katsirdakis, 'Albania: A Case Study in the Practical Implementation of Partnership for Peace', *NATO Review*, Vol. 46, No. 2, Summer 1998, pp. 22-26.

national public awareness and advocacy strategy focusing on the socio-economic impact of light weapons. This is a policy that is based on the UNDP priorities for development and human security<sup>24</sup>.

### **Albanian Preparation: PfP and MAP**

Following these lines of cooperation, a new Individual Partnership for Peace programme was signed between Albania and NATO for the year 1999. The programme aims to strengthen the Albanian army and Albania's cooperation with NATO as an organisation and with its members and partners.

Preparing seriously for membership in NATO, the National Membership Action Plan (MAP) was issued by the Albanian Ministry of Defence in October 2001<sup>25</sup>. The overall objectives of MAP cover a large spectrum and aim at the transformation of Albanian society and at enabling it to handle by itself all internal and external challenges to security. The MAP objectives aim at:

- Continuation of reforms that would enhance the development of a market economy and rule of law, while fighting against corruption. Improving respect for human and minority rights, while supporting efforts for strengthening democratic institutions and increasing the efficiency of governance.
- Strengthening of civilian control over military structures and command while continuing the military reform that aims at the harmonisation of legislation with that of the North Atlantic Alliance. Increasing compliance and participation in international efforts to fight terrorism and organised crime in relation to the participation of Albania in the antiterrorism coalition of states.

In April 2000 Albania accepted a very demanding Partnership Goal package, comprising 53 Partnership goals, of which 31 are MAP-related. This ambitious reform amounts to a comprehensive transformation of the Albanian Armed Forces. Its implementation is supposed to be part of the new Albanian Armed Forces Structure and Implementation Plans during the period 2002-2010<sup>26</sup>.

<sup>24</sup> *Albania Moves to Tighten Controls on Small Arms*, UNDP, Tirana, available at: <http://www.undp.org/dpa/frontpagearchive/2002/february/6feb02/>

<sup>25</sup> See *Action Plan for Membership of Republic of Albania in NATO*, op. cit. note 20.

<sup>26</sup> *Ibid.*

## **WEU in Albania**

The WEU is the only European organisation empowered to carry out independent military operations. WEU is a totally intergovernmental organisation addressing the needs of its members and requests coming from the EU. Looking at WEU role solely after the end of the Cold War, it is related to 'humanitarian and rescue tasks, peacekeeping tasks and task of combat forces in crisis management, including peacemaking, otherwise known as 'Petersberg Tasks'. Furthermore, WEU will be ready 'to support, on a case-by-case basis and in accordance with its own procedures, the effective implementation of conflict prevention and crisis management measures, including peacemaking activities of the CSCE<sup>27</sup> or the United Nations Security Council'.<sup>28</sup>

Dealing with the new challenges in Europe after the collapse of the Soviet Union and the dissolution of the Warsaw Pact, WEU paid attention to the new democracies of Central-East Europe. In this framework, a Forum of Consultations was established at Petersberg in June 1992, involving the WEU members and eight countries of Central Europe. In May 1994, the Kirchberg Declaration constituted a new development in cooperation with the countries of Central-East Europe. A new status – that of association – was established with the countries that possess a European Association Agreement, opening up possibilities for more intensive cooperation with them.<sup>29</sup>

Albania does not yet have an Association Agreement with the EU. As a result Albania does not have partner status and as such formalised cooperation with the WEU. Nevertheless, the WEU is present in Albania under the provisions of the Maastricht Treaty where it is declared that 'the Union requests the Western European Union (WEU), which is an integral part of the development of the European Union, to elaborate and implement decisions and actions of the Union which have defence implications'.<sup>30</sup> Although the EU Foreign Ministers, at their meeting at Apeldoorn, on 15-16 March 1997, did not decide to send a military force to Albania as a response to the request of the Albanian government, they agreed to dispatch a military and police 'advisory force' to help the newly-elected government restore order after the collapse of the pyramid investment schemes. Accordingly, a fact-finding mission from the WEU Planning Cell was

---

<sup>27</sup> Today OSCE.

<sup>28</sup> *Petersberg Declaration*, European Union Council of Ministers (Bonn, 19 June 1992).

<sup>29</sup> *Kirchberg Declaration*, European Union Council of Ministers (Luxembourg, 19 June 1992).

<sup>30</sup> Article J.4 (2) of Maastricht Treaty (10 December 1991).

sent to Albania to monitor the situation. Based on the results provided by the fact-finding mission, the WEU Council decided on 2 May 1997 to establish a Multinational Advisory Police Force (MAPE) in Albania, in order to provide advice and training to the Albanian police. 'The main missions of MAPE were to:

- Advise the central echelon on law and order, frontier policing and the reconstruction of the Police Academy;
- Organise training programmes.<sup>31</sup>

The mission became operational after the signing of the Memorandum of Understanding between WEU and Albanian authorities on 24 June 1997. The Mandate of MAPE was extended and strengthened two times by the WEU Council. The mandate has been extended until April 1999 and the number of officials has increased from 60 to 100. Furthermore, the WEU Multinational Advisory Police Element in Albania is considered a contribution to stability in the region, so further areas of cooperation are foreseen for the future. The MAPE advisory role will be extended including advice on police monitoring and controlling the border area. In order to improve Albania's ability to monitor and control its borders, further training and provisions of equipment are foreseen for Albanian police. Moreover, WEU is examining if further contributions could be made in accordance with NATO assistance programmes in the field of military training and restructuring of the Albanian armed forces.<sup>32</sup>

### **The EU Approach in Projecting Security in the Balkans**

The European Community<sup>33</sup> created after the end of the Second World War with the aim of preventing wars between Europeans, has succeeded in creating a community of security, democratic stability and economic prosperity. The world today is no longer a stable place; it is shaken and confused as it is by the end of the Cold War and by different 'internal crises of identity, rights or power'<sup>34</sup>. After the end of the Cold War the European Union remains the most important regional power in Europe, representing a fortress of prosperity and security and as such an attractive reference for the other countries of Europe. In this context, as a community of common democratic values, the EU has the duty to extend order to other European countries. More specifically, 'the EU

---

<sup>31</sup> Report, Document 1589, Assembly of the Western European Union (5 November 1997).

<sup>32</sup> Rhodes Declaration ,WEU Ministerial Council (12 May 1998).

<sup>33</sup> Today European Union.

<sup>34</sup> J. Santer, 'The European Union's Security and Defence Policy, How to Avoid Missing the 1996 Rendez-Vous', *NATO Review*, Vol. 43, No. 6, November 1995, pp. 3-9.

attaches great importance to cooperation both with and among the countries in the [Balkan] region. European stability and prosperity cannot be dissociated from developments in the countries in South-East Europe. Their political stability and economic well-being will be assured. The EU will continue to stand firmly beside them, both politically and in terms of economic and financial assistance.<sup>35</sup>

The EU has no direct economic interests in the Balkans; first because the Balkans does not represent a large and competitive market, and secondly because the presence of the EU there is very limited, since the levels of the EU exports-imports and direct investments with the countries of the region are at insignificant levels. On the contrary, for all Balkan countries the EU represents the main partner in trade and direct investment, a fact that shows the importance that the EU has for the region.

Nevertheless, considering its political and security interests, the EU cannot neglect the Balkans. First, the EU has a moral obligation to address Balkan issues. Second, due to the geographic proximity, the Balkan's security is an important issue for the security of the EU as a whole and for particular states explicitly. Nowadays there is no fear of invasion coming from the south; the main concern is of another nature, being related to the invasion of economic refugees. The Balkans crisis and tension 'has brought the Balkans back on the mental map of most west Europeans', because the Balkans constitute the EU's immediate neighbour. Historically the EU members have perceived their interests in the region differently and nowadays this historical background is shaping in many cases their behaviour toward the Balkan states.<sup>36</sup>

Meanwhile abandonment of the Balkans would create a dividing line in Europe between prosperous and poor countries that may break the existing balance of alignment and increase animosity in Europe and the risks for a return to Europe's history of conflict. Accordingly an integrated policy toward the Balkans is the most appropriate policy that would tie the Balkan countries to Western values. Integration would offer a stable framework for new democracies to develop and prosper. The European approach toward insecurity in the Balkans is a regional policy – considering the region as a whole – aiming at the modernisation and development of respective economies, societies, and political cultures, and bringing them up to contemporary European standards.<sup>37</sup>

---

<sup>35</sup> Statement by the EU Presidency (Luxembourg, 8 April 1999).

<sup>36</sup> L. Tsoukalis, 'The European Union and the Balkans', in *The Volatile Powder Keg, Balkan Security After the Cold War* (Washington DC: The American University Press, 1994) pp. 220-223.

<sup>37</sup> P. More, 'Planning for the Future of the Balkans', *RFE/RL*, Vol. 3, No. 90 (10 May 1999).

Influenced by the Wilsonian consideration that democracies do not fight each other, the EU approach to building security in Europe beyond its own borders is mostly oriented toward the promotion and encouragement of democracy based on a sustainable market economy and well-developed democratic and civil society as part of it. In fulfilling this goal, the PHARE<sup>38</sup> was established as an important instrument of assistance, aiming 'to promote socio-economic development and support the reform process in Central European Countries (CECs); to increase the effectiveness of the cooperation process; and to promote EU-CES partnership'.<sup>39</sup> Meanwhile the PHARE provides and supports a range of different instruments to aid the reform process in the non-candidate countries, as is the case of Albania. This support consists mainly of know-how, investment support, and investment in infrastructure.

In support of civil society, the PHARE has developed the PHARE Partnership Programme (PPP). The idea behind this Programme was the development of civil society in ex-communist countries as an important part of consolidating democracy. In this framework the empowerment of citizens influences the political life of the country and decision-making process. Generally the conditions citizens live in are considered an important step toward a consolidated democratic political culture. In this regard the NGO development is regarded as an essential indicator that could make a significant contribution to the creation of a democratic political culture.

The PPP was established in 1993 to support the role of Non-Profit Organisations/Non-Governmental Organisations (NPOs/NGOs). The PPP help in building up the EU-Balkans countries partnership and networks between decentralised NGOs as an important mechanism for the transfer of know-how and experience from the EU to help both the reform and integration process. The philosophy behind these efforts is that financial assistance has to build moral support and legitimacy as a learning process from the Western experiences.

In their dealing with the Balkan countries that lack an association agreement, such as Albania, Bosnia and Herzegovina, Croatia, FRY, and FYROM, the EU has established a strategy based on conditionality. On this basis, the EU has agreed to establish, in the

---

<sup>38</sup> PHARE originally stood for 'Poland and Hungary Aid for the Reconstruction of the Economy'. Later it was extended to other Central-Eastern European countries. At present fourteen countries are included under this Programme: Albania, Bosnia and Herzegovina, Bulgaria, the Czech Republic, Estonia, the former Yugoslav Republic of Macedonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia and Croatia.

framework of the regional approach, political and economic conditions as the basis for a coherent and transparent policy towards the development of bilateral relations in the field of trade, financial assistance and economic cooperation as well as of contractual relations allowing for a necessary degree of flexibility. This EU strategy is supposed to serve as an incentive, and not an obstacle, to the countries affected by these conditions. While the exact level of relations with each of the countries varies, certain general conditions apply to all of them as part of a pre-settled regional policy.<sup>40</sup> Accordingly 'the interest of the EU in the [Balkan] region will be pursued through two channels, first in the framework of the EU as a whole actor and secondly, bilaterally through bilateral agreements on economic, trade, transport, and political issues and technical assistance and aid.'<sup>41</sup>

### The EU in Albania

The EU role in Albania supports the transformation of a centralised economic and political system to a decentralised market economy and pluralistic society that offers equal opportunities to every one and a liberal democracy based on individual rights, constitutionalism and rule of law. This endeavour aims at the least to achieve compliance with EU requirements for a future integration into the EU. The EU assesses its support in the light of Albania's commitment to the above principles and their implementation in line with the EU regional approach.<sup>42</sup>

Since 1992, Albania has adopted a clear pro-Western foreign policy and aims to upgrade its links with the EU. This policy remains constantly the main concern of all political spectrums in Albania and all governments in power since 1992.

The first act laying down a path for cooperation between the EU and Albania has been the Agreement on Trade and Economic Cooperation, in force since December 1992, with a perspective of association between the EU and Albania foreseen in its preamble. Anyhow this agreement does not have a preferential character. A joint Declaration on Political Dialogue followed the signature of the Agreement.

---

<sup>39</sup> 'The Report on the Evaluation of PHARE Partnership Programme', *European Commission, DG IA* (December 1998).

<sup>40</sup> 'Council Conclusions on the Application of Conditionality with a View to Developing a Coherent EU-Strategy for the Relations with Countries in the South-East Region', *2003<sup>rd</sup> Council Meeting* (Luxembourg, 29/30 April 1997).

<sup>41</sup> Tsoukalis, 'The European Union and the Balkans', September 2002, p. 221

<sup>42</sup> '1.4.63. Council Conclusions on Albania', *EU Bulletin*, 3-1997, also available at <http://europa.eu.int/abc/doc/off/bull/en/9703/p104063.htm>

In 1993 an Agreement on Trade in Textile Products between the EU and Albania entered into force. The agreement creates space in the European market for Albanian textile exports, aiming at the development of the textile industry and related investments. Since early 1992, Albania has been a PHARE partner country. Between 1991 and 1997, Albania received ECU (Euro) 450.6 million in PHARE support, including E30.3 million for infrastructure development and E74.5 million in critical aid. At present, PHARE resources are concentrated in four main areas of interest: public administration and institutional reform, local community development, large-scale infrastructure development, agriculture. Only in 1997, did the PHARE commit E34 million in national and E20 million in cross-border cooperation programmes. In addition, special assistance worth E14.9 million was foreseen for budgetary support to public administration reform. Support was also given to the OSCE in organising the June-July 1997 elections, amounting to E1.5 million.<sup>43</sup>

During the 1997 crisis in Albania, caused by the collapse of pyramid investment schemes, PHARE support was interrupted. Nevertheless, humanitarian aid through ECHO continued in order to cover the most urgent needs of the poorest sections of the population. This aid amounted to E17 million and consisted of food and medicine supplies. The European Commission also continued to finance some activities promoting democracy, security and economic stability, including support to the OSCE for organising elections.

New developments in Kosovo and the issue of the Albanian question in the Balkans have opened a new approach toward Albania and its integration into Euro-Atlantic structures. The integration of Albania into Euro-Atlantic structures is considered an important element in the context of the proposed Stability Pact for South-Eastern Europe. 'In order to draw Albania closer to this goal, every effort will be made to implement and actively use all existing assistance and cooperation instruments and to examine all possibilities of further enhancement'.<sup>44</sup> In the first stage the assistance consisted in the extension of the regime of General System of Preferences (GSP) in trade between Albania and the EU, aiming at closer economic cooperation between the two parties. The system of these preferences was upgraded in 1999 with the entering into force of a New Trade Regime between the EU and Albania. Under the dispositions of this new agreement specified

---

<sup>43</sup> Source: Department of Economic Development and Aid Coordination (Tirana, Albania).

<sup>44</sup> Joint Statement Following the Political Dialogue Meeting at Ministerial Level Between the European Union Troika and Albania, Press/99/121 (Luxembourg, 27 April 1999).

quotas of Albanian industrial and textile goods are permitted to access the entire EU market duty-free. The second stage of enhanced relations, which would allow an upgrading of contractual relations between the EU and Albania, would be the signing of the Association Agreements. The Association Agreement represents a more difficulties step since Albania is not yet ready for such an association with the Union. On the other hand the EU is concerned with the ten candidates for membership<sup>45</sup>. The EU does not want to upset the process by hasty preferential treatment for newcomers as in the cases of Albania and Macedonia, which were not considered in the first round. Nevertheless a formula is under discussion as a response to the emergence of the security issues in the Balkans. Perhaps a technical association could be provided instead of a full association agreement that would mean the prospect of free trade and the reduction of custom duties.<sup>46</sup>

The consultation meetings between Albania and the EU Task Force (CTF4) gathered in their fourth meeting in November 2002. The opening of negotiations for the signing of the Association Agreement with the EU was postponed. This postponing of associations aims at bringing economic, legal and social standards of Albania up to those of the most advanced European countries, opening the way to a developed market economy and well established democracy. Nevertheless this agreement, more than for its economic and social implications, is an act of political significance; it has political and security implications that would lead to solutions benefiting peace, stability and security in the country and the building of regional integration as a way to a peaceful Balkans integrated in Euro-Atlantic institutions and structures.

## Conclusion

The end of the Cold War, corresponding to the end of the Communist era, has opened a new era for Albania. She is eager to integrate itself into the international arena, build alliances that would help her to recover from the backwardness inherited from the isolationism of the previous regime, and settle her security dilemmas. Meanwhile, Albania is not undermining the good relationship and cooperation with neighbour countries. In her foreign policy toward her neighbours, Albania aims to establish good relations and

<sup>45</sup> On 12-13 December 1997, in Luxembourg, the European Council endorsed the Accession Partnership as a new instrument, which would be the key feature of the enhanced pre-accession strategy. Ten countries were selected for the first round of accession: Bulgaria, Czech Republic, Estonia, Lithuania, Latvia, Hungary, Poland, Romania, Slovakia and Slovenia.

<sup>46</sup> Breffni O'Rourke, 'Albania/Macedonia: EU to Develop Ties to Guard against Instability', *RFE-RL Research Report*, 22 April 1999 available at

<http://www.rferl.org/nca/features/1999/04/F.RU.990422130024.html>

maintain a balanced position toward the ethnic Albanians living in neighbouring countries and mostly in accordance with the international community policy. This approach aims to elicit the praise of the Western states and organisations for its policy and conduct in the belief that in return Albania would be compensated with aid and assistance, which are very important to the economic and political survival of the country.

In the Balkans, and particularly for Albania, the role of institutions is of great importance. This role consist of mediating and assisting both the consolidation of fragile internal ethnic equilibrium, as is the case of Macedonia, and the settlement of tense inter-state relations, as may be the case in Bosnia and Kosova. More than that, they provide the security guarantees necessary for economic development and cooperation as one of the pre-conditions to stability and security in the region. Meanwhile, the institutions support the development of democratic values and civil society as an important part of the whole security architecture of the Balkan countries. Furthermore, membership of these institutions, to which all Balkan countries are looking forward, elicits complex requirements that move between conditionality and necessities. Reforms and modernisation processes that are requirements for membership are a necessity for Balkan countries and Albania as well; they are the passports for entering the club of democratic and developed countries. On the other hand conditionality is a guide that keeps the transition process towards integration into Euro-Atlantic institutions on the right track which in turn implies stability as a necessary condition for development.

Finally, looking at practical implications, some possible scenarios can be summarised for the Balkans' and Albania's future. In this Balkan framework, theoretically, there are three options for the future:

- Total war, all against all. As a result, an unstable region will threaten all the Balkan countries but the continent also. This option does not have any realistic future. The Balkans are part of Europe, according to a number of different perspectives. The Balkans are within the European geographical unit, they share with the continent a common historical cultural heritage and memories, and they have been historically part of European political life. The EU represents the allure of democratic values, economic performance and the rule of law and the Balkan's countries, as part of Europe cannot remain rejected. Also it is in Europe's interest to have a stable neighbourhood. Furthermore, five of the Balkan countries are/will be members of NATO and one is a member of the EU, so the instability could easily be transferred to Europe.

- Division into different alignments would put the Balkan's countries on the side of different major powers. This could result in turning the Balkan's lands into a theatre of clashes between Europe and the US, both testing their power and dividing it into zones of influence. It is probable that the EU and the US share more interests in common than divisions, so there is little possibility that this option would gain ground.
- Integration into Euro-Atlantic structures. Integration would resolve all inherited problems, rivalries and ethnic problems by making borders insignificant and creating the environment for cooperation and development. This is the most discussed version and a Stabilising Plan along these lines is foreseen for the Balkans after the recent events in Kosova and Macedonia.

The last version looks the most suitable and probable. It involves, besides security, the concept of a new dimension of security in the Post-Cold War era, free economic market and civil society developments, since integration into these organisations presumes compliance with a set of democratic values and practices and economic standards.

Assessing options for the future of Albania, three likely policies emerge:

- Leave Albania alone in its efforts. This will lead the country to anarchy and social confrontations. At present it is difficult to think that the same isolation could be equally repeated without affecting the neighbourhood. A destabilised Albania would threaten the region and the EU neighbour members such as Italy and Greece. The threat has firstly an economic character related to the flow of refugees to neighbouring countries. At the same time it assumes a political dimension by threatening the internal political equilibrium of neighbouring countries by breaking the fragile ethnic equilibrium.
- The other option is to integrate Albania into international structures. This option involves two approaches – multilateral and bilateral. According to the multilateral approach, the region's countries have to find a common language of trust, cooperation and political dialogue that would lead towards regional integration as a first step and a further integration into the European family as a second step. Albania would be part of this regional integration trend. According to the bilateral approach, Albania could join individually the Euro-Atlantic structures that would assign to it the role of stabiliser in the region.

Both the last options are suitable for settling Albanian security dilemmas and contributing to Balkan stability and peace. Priority will be accorded to the version that best suits institutional interests for stability in the region. Integration would be a political process rather than one based on standardised indicators for membership of these institutions, because Albania like many the Balkan's countries, is still far from compliance with the settled pre-conditions for membership. Nevertheless the regional two-step approach has gained ground recently in the belief that an integrated and peaceful Balkans as a whole will be the best solution for the security of the region's states. The European experience after the Second World War influences the decision and choices.

## CHAPTER TEN

---

### PEACEKEEPING AND REGIONAL SECURITY

*Gjergji Gace*

#### Developing Peacekeeping/Multinational Units

Peacekeeping units from the Albanian armed forces are a relatively new phenomenon. Although other socialist countries participated in peacekeeping operations under the aegis of the United Nations, Albania, withdrawn in complete isolation, did not. The notion of peacekeeping came with democratic changes in the early 1990s. As part of substantial reforms that were undertaken by the Ministry of Defence, there was the establishment of a new peacekeeping unit. Their purpose was to participate in peacekeeping missions abroad under a clear mandate of multinational security organisations. Their establishment was a signal that the Albanian armed forces would not only safeguard the sovereignty and territorial integrity of their country but that they would contribute to stability in the areas in conflict and crisis management. Thereby Albania would re-enter the international community of sovereign states and become not only a consumer of security but also a contributor to security in South Eastern Europe and beyond.

After the Prague summit, Albania, Croatia and Macedonia discussed plans to enhance their bid to join NATO, after they were not invited to accession talks for membership. The presidents of the three nations agreed to work more closely together to achieve their goals. A series of regular meetings between the presidents, government advisers and foreign ministers have also been agreed. "The three countries hope to get NATO membership as soon as possible," the leaders said in a joint statement following the Prague summit. "Joint problems such as regional security, strengthening of democracy, market economy and armed forced reforms and the fight against terrorism will find a better solution through our cooperation."<sup>1</sup>

---

<sup>1</sup> NATO, Prague Summit, 21-22 November 2002, An Agenda For Change . Also see <http://www.nato.int/docu/speech/2002/s021122k.htm>  
[http://www.nato.int/docu/comm/2002/0211-prague/more\\_info/membership.htm](http://www.nato.int/docu/comm/2002/0211-prague/more_info/membership.htm)

The announcement followed a meeting between the Macedonian President Boris Trajkovski and his Albanian counterpart Alfred Moisiu in the Macedonian town of Ohrid. The Croatian head of state Stipe Mesic did not attend these talks but had agreed on the initiative. The three nations will have to embrace broad economic, political and military reforms if they are to meet membership criteria in the next phase of NATO enlargement. US President George W. Bush met the Albanian, Croatian and Macedonian leaders on the second day of the summit, telling them that they would "have the support of the leading NATO members". The Alliance would continue to have a major role in the region, providing not only stability and security, but also support for democratic development.

### **Peace Support Operations**

Albania's National Security Strategy clearly shows that one of the aims of the Strategic Concept of National Security is the active engagement of Albania in international efforts to achieve regional and European security through its commitment to crisis and conflict prevention, restoration of peace inside and outside the country. This is shown further in the Defence Policy document of Albania where it is stated that following the mission of Albanian Armed Forces in the protection of territorial integrity, national independence and sovereignty and the constitutional order they will:

- contribute to regional stability through participation in crisis management missions;
- participate in peace Support Operations mandated by UN, OSCE, NATO or WEU.

In the Albanian Armed Forces there is a special commando unit trained in the area of Zall-Herr near Tirana, which is prepared to undertake very difficult tasks and special missions, peacekeeping missions included. The peace support capability is planned according to the operational capabilities plans of the Armed Forces. This special unit is trained and equipped also with the contribution of the partners' armies of NATO through the PfP programmes and joint exercises.

The Albanian Armed Forces have participated actively in the past and are doing so nowadays in regional peacekeeping missions such as SFOR as part of the German SFOR mission, located near Sarajevo. The participation of Albanian armed forces in the SFOR mission in Bosnia and Herzegovina started in 1996 after an agreement was reached between the Albanian and German defence ministries. According to the

agreement, Germany was to provide the logistic support for the Albanian contingent which was to participate in the IFOR mission and afterwards in the SFOR mission.

The Albanian unit was to carry out its duties as a part of the German contingent. The first group to be dispatched was made up of thirty-five professional soldiers selected from the peacekeeping company of the Albanian Army and was trained for peacekeeping purposes for a month in Germany. The training consisted of familiarisation with German arms and equipment and the special duties needed to perform a peacekeeping mission situation. The first group arrived in Bosnia on 6<sup>th</sup> September 1996. In the beginning the Albanian unit was assigned as a part of the German unit with duties in Zadar, Croatia, and in January 1997 was moved to Rajlovac (near Sarajevo) where it is still deployed today. The main duty of the Albanian peacekeepers has been the security of the German logistics base and later the security of the whole German military camp. From the year 2001 the number of Albanian peacekeepers was doubled and the unit was selected from the commando Brigade of the Army. Still, every Albanian contingent is having a short period of training in Germany before being deployed in Sarajevo. Every six months the mission's troops are replaced by the fresh ones, after having several weeks training in Albania and Germany. The size of the mission is nearly seventy troops rotated every six months.

On 16 November 2002, seventy members of the Commando Brigade, which constitute the 12th Peacekeeping Contingent of our Armed Forces, left for Bosnia to carry out the peacekeeping mission, in the framework of SFOR. After the exercise training of six weeks in the Federal Republic of Germany, the Albanian peacekeepers will serve in Bosnia for six months, in the framework of SFOR. They will fly the Albanian flag under German command.

The Albanian government has offered to participate also in the KFOR mission but due to the very delicate situation after the Serb army pulled out and NATO troops entered Kosovo it was decided that it should not to be involved in KFOR, instead contributing a rear logistics support base for the KFOR mission. The COMMZWEST command was established in Durres, Albania, mainly to secure the supply routes for the KFOR mission in Kosovo.

The same logic was used in the case of FYROM after the Ohrid Agreement was reached, through the Essential Harvest or Amber Fox missions.

Concerning participation of the Albanian armed forces outside South East Europe, the first involvement occurred in 2002 when a special commando unit of thirty soldiers of the Albanian armed forces was dispatched to Afghanistan for a period of six months in the structure of ISAF (International Security Assistance Force) as part of the Turkish mission unit. This is the first time in the history of the Albanian armed forces that they have been deployed outside South East Europe.

Military peacekeeping operations are designed to monitor and facilitate the implementation of an agreement, such as a ceasefire or truce, and to support diplomatic efforts to reach a long-term political settlement. Many of the training activities with NATO countries have been developed around multi-national peacekeeping efforts and peace support operations. The experience accumulated has allowed thirty-one nations (Partner and Allied) to work together in the Bosnia Stabilisation Force. Examples of peacekeeping forces that PfP nations have participated in are the Central Asian Battalion (CENTRASBATT), the South East Europe Brigade (SEEBRIG) and the Baltic Battalion (BALTBATT).

So the establishment of a peacekeeping company within the armed forces was a very positive step towards transforming the Army into a tool of the state to not only protect its own borders but to provide security and stability in the neighbourhood and beyond.

The peacekeeping unit is permanently trained for peacekeeping purposes and is actively participated in joint exercises with other allied and partner armies simulating the state of conflict and emergencies and on how to deal with them.

The rapid development in the peacekeeping unit is due also to the support of NATO countries and partners which through the Partnership for Peace Programme have made possible such a progress. As we have mentioned above, even in the case of participation in the peacekeeping missions abroad, the support of NATO countries such as Germany, USA, Turkey has been indispensable in reaching the mission objectives and making thus the participation successful.

A lot of joint exercises have taken place in Albania for training peacekeeping units in crisis management-type scenarios. Those exercises were aimed at the implementation of national civilian-military procedures for the management of civil emergencies, the exercise of staff and civilian-military civil defence authorities and supporting bodies, execution of current methods of communication and the system of information

management. The exercises are also aimed at the enforcement and increase of opportunities in facing actual crises in other countries. It is intended to explore the possibility of applying national procedures and to facilitate regional coordination.

Albania has given a positive contribution with a company for SFOR in Bosnia-Herzegovina, for COMMOZ and ultimately in Afghanistan. However, we cannot participate in the activities of the Alliance, unless we are sponsored. This means that we have not advanced towards the fundamental financial concept of "cost sharing" in the Alliance. For this purpose, the Ministry of Defence will cover by its own budget only 10% of the activities of the Programme with NATO for the year 2003.

Conceptual, Planning and Operational Aspects of Peacekeeping are as follows:

*Scope/Objectives*

- Improvement of conceptual understanding with respect to the interrelationships between political, military, civil and humanitarian dimensions of peacekeeping.
- Development of conceptual issues including logistics, training, financial, legal, public and community relations, civilian organisation/military coordination (e.g. ICRC) and command and control.
- Improvement of inter-operability in the field of peacekeeping.
- Identification of the generic and specific training and education requirements of non-military personnel involved in peacekeeping operations.
- Exchange of experience and development of lessons learned from peacekeeping operations.
- Development of common procedures and rules of engagement, and consideration of equipment-related issues.
- Mine awareness and de-mining training.
- Development of knowledge and understanding of the legal parameters covering peacekeeping, peace enforcement and other peace support operations.
- Exchange of views and experience of military lawyers and judges with regard to the prosecution of serious violations of international conventions, laws and customs applicable in peacekeeping, peace enforcement and other peace support operations.
- Fostering of mutual understanding of the role and mandate of the various military and humanitarian actors in a complex emergency environment.
- Promotion and dissemination of knowledge and understanding of international humanitarian law and action, particularly on treaty and customary law applicable in peacekeeping, peace enforcement and other peace support operations.

*Activities:*

- Expert briefings, expert groups.
- Committee discussion involving national, UN, OSCE, NATO staff.
- Participation in courses, seminars, and workshops in NATO and in PfP Partner training and academic institutions.
- Seminars and workshops on the law applicable in peacekeeping, peace enforcement and other peace support operations for military commanders and experts at various levels.
- Workshops involving key military and humanitarian staff.
- Seminars and workshops on the law applicable in peacekeeping, peace enforcement and other peace support operations for officers active in training of the armed forces.
- Creation of a database of relevant training instruments and publications, inventory of public and private information sources with a view to creating synergies.

The National Security concept as we have mentioned earlier provides among other things, for the active engagement of Albania in international efforts to achieve a new regional and European security, its commitment to crisis and conflict prevention and restoration of peace inside and outside the country as well as the protection of Albanian citizens wherever they are.

This includes participation in and activation of peacekeeping units formed with neighbouring countries. The perfect example is the establishment of SEEBCRIG (South East Europe Brigade) under the auspices of SEDM (South East Europe Defence Ministerial) in 1999. The SEEBCRIG Headquarters is actually located in Plovdiv, Bulgaria, and rotates every four years. The next host country where SEEBCRIG HQ will be located is Constanca, Romania, for another four years.

SEEBCRIG was established in accordance with MPFSEE (Multinational Peace Force South East Europe) Agreement, and activated in Plovdiv, Bulgaria, on 31<sup>st</sup> August 1999. Its activities are consistent with the purposes and the principles of the United Nations Charter.

The structure of the South-Eastern Europe Brigade is as follows:

SEEBRIG comprises a multinational HQ, HQ Company, Signals Company, manoeuvres units, combat support units and multinational combat service support battalion. Units allocated to the Brigade will remain at their permanent home base locations, and they will come together for exercises and training, and finally for the missions in a theatre of operations. Only HQ Company and Signals Company, provided by the host nation, are located in the same place, with the HQ in Plovdiv.

After the signing of a Second Additional Protocol by defence ministers, an Engineer Task Force was assigned to SEEBRIG. The mission of the Engineer Task Force was to provide the parties with emergency relief and humanitarian intervention capabilities. SEEBRIG will be available for deployment in UN or OSCE-mandated NATO-led or WEU-led conflict prevention and other peace support operations, including peacekeeping, peace-making, peace-building and humanitarian operations. It could also participate in "coalition of the willing"-type international initiatives. The Brigade will also function "within the spirit" of PfP.

After activation, the preparations in making the Brigade operational for future missions continue. The first exercise was a Command Post exercise, with the participation of staff personnel of assigned units between 1 and 10 December 1999.

The Agreement on the Multinational Peace Force South-Eastern Europe was signed by defence ministers in Skopje on 26 September 1998. First and Second Additional Protocols were signed later. The parties are Albania, Bulgaria, Greece, Italy, Macedonia, Romania and Turkey. The observer nations are Slovenia and the USA.

The aim of this initiative is to contribute to regional security and stability, and to foster good-neighbourly relations among the countries of South-Eastern Europe in the context of the South-Eastern Europe Defence Ministerial (SEDM) process, the Euro-Atlantic Partnership Council (EAPC) and in the spirit of Partnership for Peace (PfP).

This initiative is transparent and open to NATO and PfP nations in the region, "able and willing" to contribute constructively at any later stage

## **Crisis Management**

Before explaining MPFSEE's potential for crisis management, I would like to express our views on crisis management mechanisms used by many organisations and institutions in

the world. Generally, crisis management mechanisms appear to have failed, in other words, they don't work effectively. That is why many conflicts or disputes in the world are not prevented before they turn into armed conflicts, wars or open hostilities. Putting the behaviour of the parties to a conflict aside, there may be also some faults and gaps in the crisis management mechanisms. I believe that many lessons learned from previous conflicts will be used to establish optimal crisis management mechanisms for creating lasting peace in the world and also for gaining people's confidence.

After these general views I would like to move on to how MPFSEE will tackle any crisis occurred in our region. The MPFSEE crisis management mechanism is now based on three mutually-reinforcing elements, namely the very good atmosphere of dialogue and goodwill I strongly believe we have, cooperation between nations, and the maintenance of MPFSEE's collective reaction capability. All of these are designed to ensure that a crisis affecting South-East European security can be prevented or solved peacefully. Consultations among the parties will play an essential role in crisis management, and they take on particular significance at times of tension and crisis.

In this context, MPFSEE's political and military consultation and decision-making will be carried out through meetings of Ministers of Foreign Affairs, Ministers of Defence, Chiefs of Defence Staffs and the Politico-Military Steering Committee.

During a defence ministerial meeting in Bucharest on 30 November 1999, the parties agreed on the establishment of a Crisis Information Network (CIN), initially a PfP Information Management System (PIMS)-based capability. The CIN is intended to serve as the primary information source and link between the PMSC (Politico-Military Steering Committee), the Commander of the SEEBrig and the parties.

In a crisis situation, the chairman of the PMSC, upon a proposal by any party or on his own initiative, convokes the PMSC in order to discuss the situation and formulate proposals for ministerial approval, providing subsequent appropriate guidance to the Commander of the SEEBrig.

The decision to participate in operations and deployments, which is initially to be proposed by the Politico-Military Steering Committee, will be subject to political and military consultation within the MPFSEE decision-making mechanism, and will be approved by the parties through their respective national legal procedures.

After the joint case-by-case political decision is made for participation in operations and for the deployment of the Brigade, by the parties, they must make their contributions available for the Brigade within the timeframe proposed by the relevant authorities and decided by the PMSC. Participation in a particular force 'package' for a specific operation is a purely national choice.

For the first time in the history of the region, seven nations have come together, understood each other, and established the Multinational Peace Force South-Eastern Europe initiative with its institutions including the South-Eastern Europe Brigade. Of course from a purely military point of view, having a brigade is not enough to secure peace in any region, because almost every country has at least one brigade. However, from the wider point of view, our Brigade represents the common aim of seven nations, stands as the peace centre of the region, brings military personnel from seven nations closer and creates a very friendly atmosphere. But most of all, the countries in the region know the value of the peace.

The participants – army representatives from all the countries in region – do their best to achieve the objectives given by their nations and to meet their expectations.

Far too few politico-military successes emanate from the Balkans, which is why the formation of the Southeast European Brigade (SEEBRIG) is exceptionally noteworthy. This brigade, composed of about 5,000 troops from seven NATO and non-NATO countries, will be part of a strategy to foster regional security and stability within the framework of NATO's Partnership for Peace (PfP), the South-Eastern Europe Defence Ministerial (SEDM), and the Euro-Atlantic Partnership Council (EAPC).

Once it is trained, the brigade can be made available for conflict prevention and other regional peace support efforts mandated by the UN or the Organisation for Security and Cooperation in Europe (OSCE), including peacekeeping, peacemaking, peacebuilding, and humanitarian operations. There are no self-imposed geographic limitations on its use; it can be deployed in the Balkans or as an expeditionary force. Looking east, for example, the Caspian Sea area looms as a volatile mix of oil, natural gas, and political instability, where such a force might be requested one day.

Although the brigade is primarily designed to carry out short-term peace support missions, it will also promote better relations among the member nations in the Balkans. It establishes several channels of communication among the countries, encourages

military staffs to train together and address inter-operability problems, teaches non-NATO members fundamental concepts concerning the Alliance, serves as a point of Greek-Turkish teamwork, and can help make the Balkans an area of cooperation, not confrontation.

Turkey was instrumental in moving SEEBCRIG from a concept to a reality, while Greece's strong support for the brigade helped overcome some potentially troublesome problems concerning its establishment. Italy, Hungary and Slovenia have recently formed a unit with similar capabilities and missions. This is probably why Hungary and Slovenia are not providing troops for SEEBCRIG. However, both countries are inextricably linked to southern Europe since they form the nexus between it and central Europe.

The international community looks to NATO as the mechanism for providing stability in the Balkans. Therefore, some type of NATO affiliation for the brigade is important to all participating nations. In fact the founding states agreed that the brigade will be attached to a conflict prevention effort or other peace support operation led by NATO or the Western European Union (WEU).

While SEEBCRIG will not be a NATO force per se, cooperation in establishing it has already proven to be an excellent way to introduce the non-NATO members to the Alliance's terminology, decision-making procedures and process of achieving consensus. The commander's nationality, the training area sites, and the amount of infrastructure provided by each country are all being worked out because the nations can see beyond short-term individual interests to a more collective imperative to promote regional stability. For example, Greece and Turkey are cooperating to make the brigade a success and not another item of confrontation.

The brigade will be an "on-call" land force of battalion-size units, with combined training in reconnaissance, command post exercises, field manoeuvres and crisis management. Communications among the nations' militaries will be improved, and senior officers will have increased opportunities to share views on security and defence issues. Military planners, especially those from Greece, Italy and Turkey, can draw upon NATO's experience in fielding a multinational force in Bosnia and use it as a prototype.

As in the early stage of any multinational force, logistics will be a major problem. What classified information will be exchanged and how will it be protected? How can a multinational system be designed to support soldiers from seven countries in one unit?

How much inter-operability can be achieved? NATO procedures and practices will be used as much as possible in answering these questions. For instance, the SEEBrIG nations have already agreed that the Status of Forces Agreement between NATO and PfP countries will be applicable to the brigade.

The effective functioning of the brigade requires the upgrading of political and military consultation mechanisms among the SEEBrIG countries. Meetings of foreign affairs and defence ministers, as well as chiefs of defence, will occur at least annually. In addition, a Politico-Military Steering Committee (PMSC) is being established to provide oversight and policy guidance for deployment of the force.

The steering committee will be the primary forum for the drafting of policies governing the use of SEEBrIG. It should promote a common understanding of Balkan and regional problems and assist in conceiving agreed-upon courses of action. Potentially, the steering committee has the potential to become the centrepiece of a multinational structure for regional policy formulation.

For Bulgaria and Romania, which are strongly pursuing NATO membership, SEEBrIG comes at a particularly opportune time. However they need broader Alliance support to make this goal a reality. Working with Greece, Italy and Turkey will help in this regard.

NATO is closely following the formation of SEEBrIG, will be monitoring its deployment, and will be judging the potential for Bulgaria and Romania to join the Alliance. The involvement of Bulgaria and Romania in SEEBrIG is an opportunity to demonstrate their geostrategic importance, political sophistication and military capabilities to some important NATO members.

For countries with bilateral issues to resolve, such as Albania and FYROM, Greece and FYROM, or Greece and Turkey, the SEEBrIG initiative gives defence and foreign affairs officials a common objective on which to focus their energies. SEEBrIG will not be a remedy for existing bilateral disputes, but it can help dispel the negative perceptions some countries have of others by broadening the dialogue among the member countries.

Sharing the vision that dialogue, cooperation, and good relations are necessary for peace and stability in the region, seven nations have agreed to focus their efforts on a collective military force. The force is important, but it is the recognition of underlying common

interests by the member nations that makes the effort truly exciting. It is also heartening to see Greece and Turkey working together harmoniously.

Lasting peace and stability in the Balkans will ultimately require economic integration as well as political and military cooperation. SEEBRIG is a positive step in this direction and deserves the support of all interested parties.

### **Government Policy and Public Support**

The Albanian government follows its legal procedure to reach a decision to participate in peace support operations as follows:

The Minister of Defence propose the Bill of Law concerning the establishment, selection and dispatching of a peacekeeping unit from the armed forces into peace support operations to the Council of Ministers for approval. After approval from the Council of Ministers the latter sends the draft law to the Parliament for approval.

The Parliament, based on articles 78, 81 para 1, and 121 para 1/a of the Constitution of the Republic of Albania and on a relevant resolution of the UN Security Council or binding decisions of other relevant multinational security structures, adopts the draft law, turning it into a Law entering in force with immediate effect.

On the other hand the adopted Law decides that the Council of Ministers shall provide financing and determine the length of time for the peace support mission. The Ministry of Defence then defines the mission of the peace support operation, the duties, area of responsibility, composition and implementation of the operation.

Concerning operational command and control, following the past experience of Albanian peacekeeping units, these units were put under the operational command of another country's army, followed also by a supplementary financial contribution of that country towards Albanian peacekeepers in addition to the financial provision of the Albanian government.

The proportion of defence budgeting towards development of peacekeeping units compared to the forces designated for national defence is relatively high. Although there are no exact data in this respect, it is assumed that most of the cost is covered by the country which is sponsoring and directly commanding the operation. In the case of

IFOR/SFOR mission, most of the expenses were covered by Germany and in the case of the ISAF mission to Afghanistan most of the expenses and equipment were provided by Turkey.

It should be noted that parliamentarians, when it comes to the debates relating to the dispatching of peacekeeping units abroad are more focused on the financial aspect of the issue rather than the political ones. There is consensus or a bi-partisan policy on security issues and contributing to the provision of security abroad.

When it comes to the public perception and views linked with the dispatching of peacekeeping units abroad, most people think that it is good for the country to pursue such a policy, but on the other hand a dose of added sentimentalism is noted among the relatives and people concerned with the soldiers being sent abroad.

## **CHAPTER ELEVEN**

---

### **CRISIS MANAGEMENT**

*Professor Mirela Bogdani*

#### **Introduction**

National security, the maintenance of peace and order, and the safeguarding of national interests are certainly the top priorities that stand at the very foundations of a state in general and of a democratic state in particular. National security is at the very heart of the sovereignty concept, a concept that otherwise would be empty rhetoric.

It is for this very reason that in Article 3 of the Constitution of the Republic of Albania it has been sanctioned that the independence the state, its territorial integrity as well as the constitutional order are basic components of the state which the latter is responsible not only to respect but also to uphold and safeguard, always within constitutional bounds.

The end of the Cold War era marked the beginning of new and unpredictable security threats for Albania as well as the international system in general. During this period Albanian national security has been menaced by new security threats of which the ones that stand out are: regional conflicts of ethnic and/or religious origin; illegal migration; and recently terrorist activities and assaults. Under these circumstances, faced with keen challenges or crisis situations, the state has to act accordingly and live up to its constitutional obligations of maintaining law and order and safeguarding national security and interests.

At this point it is important to give an accurate and operational definition of crisis management. While there are various definitions on crisis management, we will define it for our purposes: crisis management means utilising the appropriate means in order to deal with a dangerous and unforeseen situation that is developing or has developed in a given country by isolating it immediately and preventing its spread.

One should notice that as outlined in the above definition, measures that will be undertaken to safeguard national security require a recognition as well as knowledge of

the crisis and its isolation. This in turn implies that the crisis has to be tackled in its early phases, as otherwise preventing it from spreading becomes a very difficult task.

If we take a closer look at the above definition we notice that it contains two very important elements that are interrelated. The first element is also the first part of the crisis management concept, i.e. the utilisation of the necessary and appropriate means in order to cope with and handle a crisis situation such as a natural disaster, civil or other emergency situation. The utilisation of appropriate means has to be emphasised here since in absence of such action the crisis might deepen instead of being mitigated.

The second important element is the isolation of the crisis and preventing it from spreading even further. Of course this element is related to and naturally follows from the first one. It is in fact the follow-up of the first phase of the crisis management. The word 'follow-up' here might be misleading which is why it is important to emphasise that the isolation of the crisis takes place at the same time as its handling. The handling of the crisis and its isolation should take place simultaneously, and should be understood as complementary.

### **The Characteristics of Crisis: Albania's Experience**

In order to better understand the concept of crisis management, we also need to focus on the very definition of a crisis that has been given above as part of the crisis management definition. Going back to the crisis management concept we see that there are two basic elements or prerequisites for a situation to qualify as a crisis.

The first element is the fact that the situation should be *unforeseen*. It is important to emphasise this in order not to blur the important distinction between problematic situations in general and crisis situations in particular. Thus, no matter how problematic the upcoming situation, it should not be defined as a crisis for so long as it has been foreseen.<sup>1</sup> Under such circumstances the state cannot be said to be facing a crisis, even if the situation presents a threat to national security, since there existed the possibility of taking the necessary measures beforehand. The unexpectability of the crisis situation is important to emphasise so that the concept "crisis" will not be extended to every problematic situation and thus lose any operational usefulness.

---

<sup>1</sup> It is worth mentioning here that the word 'crisis' is used quite differently from its everyday meaning.

The second element that is needed for a problematic situation to turn into a crisis situation is the threat it presents to national security. This is especially the case in some crisis situations such as in times of war or in times of extraordinary situations. Above all it is important for the threat to exist, no matter how minimal. At the same time it is of no consequence whether the identified threat is perceived to be actual (existing or happening at the moment) or potential (that it will happen or exist) so long as such a threat is directed towards national security. Thus, neither the degree nor the potentiality of the threats is important if national security is endangered by it. In such a situation we conclude that the state is facing a crisis situation, be it a civil emergency, natural disaster or otherwise.

Furthermore it is important to stress that in the above-mentioned scenarios the two conditions should be met simultaneously for a given situation to qualify as a crisis situation. So, as mentioned above, even if the situation presents a real or potential threat to national security, it does not qualify as a crisis situation if it has been foreseen by the state. In a similar fashion, a problematic situation might happen very unexpectedly so that the authorities did not have the time and knowledge to take the necessary measures, but if this situation does not endanger national security, it does not qualify as a crisis.

There are quite a few examples of crisis situations that have been taking place in Albania recently. One of the crises worth mentioning is that of February, 2002, where large parts of the country both in the south and in the north were cut off due to deteriorating and unforeseen weather conditions. In this case the situation was not only unforeseen but it also presented a national security threat since the lives of large numbers of citizens was seriously endangered and entire communities did not have electricity or food supplies and could not communicate with the rest of the country. Another, slightly more complex crisis situation was the closure, allegedly due to technical problems, of the border crossing on the Greek-Albanian border. In this scenario too the situation was unforeseen while also presenting a potential threat to national security.

Since by their very nature crisis situations are unforeseen the measures that need to be undertaken will vary from one crisis to the other. Yet, there are certain general regulations and measures stipulated by law that should be undertaken by the government and other state institutions in times of crisis or under other extraordinary situations. Such measures and regulations can also be found in different documents and acts of the Albanian legislature.

## **Legal Provisions Concerning Crisis Situations**

First of all some general principles and measures that should be taken in crisis situations are stipulated in the Constitution of the Republic of Albania, in paragraph 16, under the heading "Extraordinary Measures". In this part the constitution outlines general principles and measures that need to be undertaken in situations such as natural disasters, extraordinary situations or in times of conflict and war. According to Article 170 of the Albanian Constitution, "Extraordinary Measures" should be implemented in the following instances:

- War
- Extraordinary Situations
- Natural Disasters

For as long as the country has entered one of the above situations and for as long as these situations persist, so do the Extraordinary Measures. Under these circumstances, the law has sanctioned the principles according to which public bodies and institutions function. It is also sanctioned in the Constitution when and how such measures can be declared. Thus, Article 81, paragraph 5 of the Constitution of the Republic of Albania stipulates that in order to ratify the Law on Extraordinary Situations a qualified majority of three-fifths is necessary. The very fact that in order for such law to go into effect a qualified and not a simple majority is needed, implies that here we are dealing with a particularly important piece of legislation.

Under the Law of Extraordinary Situations during its entire duration some basic Constitutional rights and freedoms can be curtailed, but certainly not all rights and freedoms. It has also been sanctioned in the constitution in Article 175 paragraphs 2 and 3 which rights and freedoms can be curtailed; some examples would be the sanctity of one's home, property rights, or the freedom of movement. Nevertheless, any restrictions concerning these rights have to be ratified by law through a majority that requires three-fifths of the vote in the parliament.

According to the Albanian Constitution, there are also certain rights that cannot be curtailed or restricted even in war situations, extraordinary situations or during natural disasters. These are mostly fundamental rights and freedoms that are enjoyed by the

citizens. Some of the general principles on these rights and freedoms have been stipulated in Chapter I of the Constitution, whereas some individual liberties that cannot be restricted under these situations are stipulated in Chapter II of the Constitution.<sup>2</sup>

Furthermore, it is important to emphasise that the measures taken under these emergency situations cannot be arbitrary. All the measures and actions that will be undertaken in order to deal with such situations should be proportional to the degree of danger that the given situation presents and should aim to restore normality for the state as soon as possible. It has to be underlined that during such situations there cannot be any amendments or changes made to the Constitution of the Republic of Albania, no changes can be made to the Laws on Parliamentary Elections as well as laws on local government elections or to the laws on extraordinary measures.

It is required by law that all normative acts that declare a state of war, extraordinary situations or natural disaster situations should explicitly outline, and possibly in a very detailed fashion, all the fundamental rights and freedoms that will be curtailed or restricted under the given situation. This has been stipulated in Article 175, paragraph 3 of the Constitution of the Republic of Albania. There is room for improvement in this article in order to state even more clearly the specific restrictions that should be allowed in times of crisis on individual liberties. If such improvements are to be made they should conform to and draw from article 17, paragraph 2 of the Albanian Constitution which stipulates that any necessary restrictions on individual rights and freedoms cannot infringe upon the essence of these rights and freedoms and furthermore under no circumstances should such restrictions go further than those outlined and allowed for in the European Convention on Human Rights which has also been ratified by Albania.

However, to better see the conditions under which such situations are declared and come into effect, let us take a look at each of them separately. In this way we can compare and contrast each situation.

### **The State of War**

A state of war comes into effect in those cases when there is an armed aggression against the Republic of Albania. Under these circumstances the President of the Republic

---

<sup>2</sup> Article 175, Paragraph 1 of the Constitution.

of Albania can declare the state of war through a Presidential Decree, only once such a measure has been requested by the Council of Ministers.

The decree that has been enacted by the President of the Republic on the declaration of the state of war is then presented to the Parliament within 48 hours of the time of its signature. The decree also outlines those fundamental rights and freedoms that will be restricted for the duration of the state of war. In this case the Parliament examines the Presidential Decree and then decides to ratify it or not through simple majority voting procedures. Thus, in order to ratify the Presidential Decree a simple majority is needed.<sup>3</sup>

## **Extraordinary Situations**

An extraordinary situation comes into effect during the two following instances:

- If there is a threat to the constitutional order
- If there is threat to public order

In this case it is the Parliament that on the request of the Council of Ministers can declare the Extraordinary Situation. An extraordinary situation can last for as long as the threat to either of the above-mentioned elements, public and constitutional order, is present, but not longer than 60 days from the time in which it came into effect.<sup>4</sup> An extraordinary situation can be prolonged only by the Parliament, but this must be done every 30 days, and not beyond a 90-day period. This timeframe has been clearly defined and stipulated in the Albanian Constitution, which is indicative of the importance of the time limit within which the Constitution can be restored along with the public and Constitutional order, despite the prevailing situation and its gravity.

During the extraordinary situation the police force has a very special and important role. It is in fact the police force that has to intervene in order to restore public order.<sup>5</sup> In those circumstances when it is not public but constitutional order that has come under threat, and when the police force is not capable of restoring order, the intervention of military forces is called for. Nonetheless this is done only through a decision by the Parliament.<sup>6</sup>

---

<sup>3</sup> Articles 171 and 172 of the Constitution.

<sup>4</sup> Article 173, Paragraph 1 of the Constitution.

<sup>5</sup> Article 173, Paragraph 2 of the Constitution.

<sup>6</sup> *Ibid.*

## **Natural Disasters**

Natural disaster situations come into effect through decisions of the Council of Ministers. Such a state is declared so as to facilitate the taking of all decisions and measures needed to deal with a given situation. This state can be declared in those instances when there is a major technological failure or disaster (such as the case of Chernobyl) or during other natural disasters. Natural disaster situations cannot last for more than 30 days from the day the situation has come into effect. The natural disasters situation can be prolonged only through a decision of the Parliament.

The natural disaster situation can be declared either for the country as a whole or for particular areas of the country where natural disaster has struck.

In all the above-mentioned instances, be it natural disaster, extraordinary or war situation, all the acts through which such situations come into effect should clearly outline those rights and freedoms that will be curtailed for the duration of the situation. Furthermore, when and where possible it is also required that the degree to which these rights and freedoms will be restricted should be made explicit. Nevertheless, as mentioned earlier, under no circumstances should these restrictions go further than those restrictions stipulated in the European Convention on Human Rights.

In this case, the European Convention on Human Rights, in terms of the juridical hierarchy, is above the constitution. This is stipulated in article 4 and paragraph 2 of the Constitution, which declares that in case of a conflict the European Convention on Human Rights represents the 'higher law'. This is a special case which is not against the letter and spirit of the constitution. This in fact shows that our state not only recognises and guarantees the rights and liberties of the individual but when it is necessary the interests of the individual prevails over the general state interest, which concerns those cases when the restriction of civil liberties is in question.

The second regulation and adjustment of these situations is done by the law no. 8756, dated 26 March 2001 on 'Civil Emergencies'.

The law itself in its second paragraph provides the definition of the concept 'Civil Emergencies', which is understood as a situation that has been caused by a variety of factors. These include natural, ecological, industrial, social or terrorist factors, or military

activities during wartime, which cause immediate and severe damage and injury to the life and health of the population, livestock, environment and historical and cultural inheritance. While the notion 'National Civil Emergencies' refers to a critical urgent situation of a temporary nature that seriously threatens and damages the lives of the citizens, livestock and environment to such a degree that it surpasses the ability of the local authorities and institutions to cope with it, or a situation that acutely threatens the ability of the central government to safeguard the sovereignty and territorial integrity of the country.

The rationale behind the approval of this law is connected with the prevention and lessening of the damages or the consequences of the crisis situations; to create and safeguard the necessary conditions so that public and private institutions can carry on with their economic, social and political activities; to guarantee the use of all the resources and instruments at the disposal of the state in order to protect the national economy and isolate the causes as well as the consequences of the civil emergency situation.<sup>7</sup>

As can be seen from the law, the government and other authorised institutions should take a number of measures, administrative, technical, etc, in order to draft plans and strategies and to prepare interventions to address the crisis situations and provide protection to the citizens. In these situations the state police should immediately intervene by coordinating their activities with those of other security agencies, as well as firefighters and first aid medical services.

Which are the organs that are authorised to cope with civil emergency situations? In order to cope with these situations different structures are set up at either local or national level of a temporary or permanent character.<sup>8</sup>

### **The Council of Ministers**

Naturally, the first responsible body is the Council of Ministers as the highest executive organ in the state. It is the duty of the Council of Ministers to approve the general policy guidelines and programmes at national level, to plan the measures that should be taken in order to address the emergency situation as well as to define, in cooperation with foreign donors, the procedures in order to benefit from international assistance in

---

<sup>7</sup> Article 1 of Law 8756, dated 26 March 2001, on 'Civil Emergencies'.

accordance with the conventions that the Albanian government has signed with foreign partners.

The Council of Ministers operates through the Inter-Ministerial Committee for Civil Emergency Situations. The latter is created any time that a civil emergency situation occurs. The Council of Ministers appoints the head and the members of this committee, in accordance with the nature of the crisis. The committee remains on duty until the factors that have caused the crisis are eliminated. The committee can involve other specialists and experts in order to collect their contributions and opinions.

The Council of Ministers is obliged to inform the President of the Republic and the Parliament about the civil emergency situation, the consequences either actual or anticipated that could stem from this situation and about the measures that should be taken for coping with the current situation as well as in the future in order to prevent such events.<sup>9</sup>

### **The Ministry of Local Government**

The Ministry of Local Government is responsible for preparing and implementing the national plan that is designed to cope with civil emergencies. At the same time this Ministry coordinates its work with other institutions and the Council of Ministers. The Ministry of Local Government develops programmes and strategies to deal with the situation and presents them for approval to the Council of Ministers and informs the latter every six months. The Ministry also provides the Inter-Ministerial Committee for Civil Emergency Situations with all the necessary information about the emergency situations, the dangers that they pose, controls the work on preventive and protective measures, and defines the procedures for using national material and financial resources, etc.

In the Ministry of Local Government is also set up a Department for Planning and Coping with Civil Emergency Situations. The structure of this body, however, is defined by the Council of Ministers. The tasks of this organ are to prepare and implement the national plan for coping with civil emergencies.

In order to assist the Department for Planning and Coping with Civil Emergency Situations is created the Technical Advisory Commission, which is composed of experts

---

<sup>8</sup> Article 4 of Law 8756, dated 26 March 2001, on 'Civil Emergencies'.

from different Ministries, institutions, entities and other operational forces. The same director that heads the Department for Planning and Coping with Civil Emergency Situations heads this Advisory Committee. The structures for planning and coping with the civil emergency situations that we mentioned above are also set up and operate at the regional, municipal and commune level.

## **Operational Structures**

The operational structures in the cases of civil emergencies according to the law that we have already referred to are: The Civil Emergency Service, which is composed of the Civil Defence Centre, which is a structure under the authority of the Ministry of Defence; The Armed Forces could be used when a civil emergency crisis is expanding at a quick pace with the approval of the Prime Minister or Minister of Defence. The same is the case with the state Police and other security agencies that are involved in civil emergency situations.

In the case of civil emergencies, the state budget constitutes the primary financial resource for planning and managing the emergency situation. In addition, in the annual budget of the Ministry of Local Government and other Ministries, a special item of the budget for managing civil emergency cases is earmarked. Meanwhile, other financial resources that could be utilised in such occasions are: the state budget planned for the Council of Ministers, the revenues of the Local Government, different donations and other legitimate and legal financial resources as provided by law.<sup>10</sup>

Article 33 of the Law on Civil Emergency Situations has also stipulated the sanctions that should be administered in those cases when the legally binding obligations are not respected. The breaching of these dispositions is considered a penal violation and it is penalised with a fine.

The third Regulation of these situations is done by Law 8671 dated 26 October 2000, on the 'Powers and Authority to Command the Strategic Direction of the Armed Forces of the Republic of Albania'.

---

<sup>9</sup> Article 5, Paragraph, Point ç of the Law 8756, dated 26 March 2001, on 'Civil Emergencies'.

<sup>10</sup> Article 32 of Law 8756, dated 26 March 2001, on Civil Emergencies.

According to this law the authorities that can command the armed forces are: Parliament, President, Council of Ministers, Minister of Defence, General Staff, Chief of General Staff and the Commanders of the Land, Air and Naval forces.

### **The Parliament**

The Parliament has the authority on the proposal of the President of the Republic to declare a state of war, a general or partial mobilisation or demobilisation of the Armed Forces.

The Parliament also enjoys the right on the proposal of the Council of Ministers to declare Extraordinary Measures in those cases when the constitutional order and the public security are put in jeopardy or during national calamities for the whole national territory or in particular parts of it. The Parliament decides on the use of the Armed Forces in restoring public order only in those cases when the police forces are no longer able to fulfill this function.

### **The President of the Republic**

The President of the Republic is the Commander in Chief of the Armed Forces. This role in peacetime is performed through the Prime Minister and the Minister of Defence, while in wartime this function is performed through the Chief of Staff. In those cases when the President declares a 'state of war' by decree, he should present this to the Parliament for approval within 48 hours after he has signed it, while at the same time clearly specifying the rights that are being restricted as a result of this.

The Presidency of the republic is the institution with the authority to approve the organisational structure of the armed forces; to approve their operational plan; to order the start of military operations when the territorial integrity of the country is violated; he orders the state of military alert during the state of emergency and extraordinary measures, the President has the right to declare a state of war and to end it.<sup>11</sup> In order to effectively exercise these duties and responsibilities assigned by law, the President has the right to issue Orders and Instructions/Directives. For crucial decisions for which the President is held accountable, the President has the right to consult with the National

---

<sup>11</sup> Article 7 of the Law on 'The Powers and Authority for the Command of the Armed Forces of the Republic of Albania'.

Security Council, which is only an advisory organ, defined by the Constitution without any decision-making powers.

### **The Council of Ministers**

The main powers of the Council of Ministers are to prepare draft laws for the protection of the country, documents on the National Security Strategy, National Military Strategy; approve the general mobilisation plan during wartime on the proposal of the Minister of Defence; it approves the plan for the human and financial resource management of the country, organises civil defence and in case the constitutional order is jeopardised requests the Parliament to declare Extraordinary Measures.<sup>12</sup> For exercising its duties and responsibilities assigned by the law the Council of Ministers enjoys the right to issue Sub Legal acts.

The Prime Minister is accountable to the Parliament and the President for the state and direction of the armed forces.

The Minister of Defence in contrast to the Prime Minister is responsible to the President for implementing the defence policy of the armed forces.

### **Conclusion**

The fall of the totalitarian communist system led to major political, social and economic transformations. Naturally these transformations were reflected also in the security sphere. The legal framework which regulates the relations in this sector, including the civil emergency situations, has also undergone significant reformation. Since the very beginning, western guidance and orientation has been present while drafting and preparing the legal framework in order to achieve an efficient management of crisis situations. Likewise, the operational structures and forces involved in the civil emergency cases have also undergone major transformations.

The National Security Strategy provides for and describes the procedures, organisational structures and institutional resources that should be used in cases of civil emergencies. While the legal framework has been prepared and already exists, the actual ability and capacity to deal with a crisis situation is not the same thing. The discrepancy emerges

---

<sup>12</sup> Article 14 of the law on 'The Powers and Authority for the Command of the Armed Forces of the Republic of Albania'.

from the fact that the ability of the institutional structures to manage and cope with civil emergency situations is intrinsically linked to the general political, economic and social conditions in the country.



**DEFENCE AND SECURITY SECTOR  
GOVERNANCE AND REFORM IN SOUTH EAST  
EUROPE: INSIGHTS AND PERSPECTIVES**

**BULGARIA**

**A SELF ASSESSMENT STUDY**

## TABLE OF CONTENTS

### Part One: Summary of Security Sector Reform

1. Security Sector Reform in Bulgaria.....4  
*Velizar Shalamanov*

### Part Two: Democracy and Defence

2. Democratic Oversight of Defence.....27  
*Velizar Shalamanov and Blagovest Tashev*
3. The Role of the Bulgarian Parliament in Reforming the Security Sector.....44  
*Tsonko Kirov*
4. Civilians and the Military in Defence Planning.....63  
*Todor Tagarev and Dobromir Totev*
5. Democratic Oversight and Control Over Intelligence and Security Agencies....82  
*Ivo Tsanev*

### Part Three: Government and Society

6. Good Governance: Reform of the Civil Service, Parliamentary Staff and the Military.....98  
*Plamen Pantev*
- Impartial Recruiting: Selection and Promotion Systems for Civilians and the Military: Removal of Political Control and Influence in Security and Defence Affairs & Legal Regulation of the Process of Human Resource Management in the Defence and Security Section.....110  
*Rossen Ivanov*
7. Transparency and Accountability: The 'Necessary Evil' For Bulgarian Security Sector Reform.....119  
*Ralitza Mateeva and Petya Dimitrova*
8. Media, Civil Society and Public Policy.....132  
*Stoyana Georgieva and Avgustina Tzvetkova*

### Part Four: International and Regional Influences

9. International Requirements and Influence: Standards and Requirements on Democracy and the Economy Relevant to Defence and Security Sector Reform .....150  
*Konstantin Dimitrov and Maria Atanassova*
10. Peacekeeping and Regional Security.....172  
*Valeri Ratchev and Yantislav Vanakiev*

11.	Crisis Management: The Ministry of the Interior.....	189
	<i>Jivko Jivkov</i>	
	Management of Non-Military Crises – Civil Protection Agency View.....	202
	<i>Nikola Nikolov</i>	

## **CHAPTER ONE**

---

### **SECURITY SECTOR REFORM IN BULGARIA**

*Velizar Shalamanov*

#### **Introduction**

Security Sector Reform (SSR) is an essential part of the transformation of totalitarian states to democratic ones. Security was motive, tool and excuse for the Communist Parties to control totally the state, economy and society altogether. As a result the armed forces were extremely large, powerful, secretive, under Communist Party control and separated from society.

For the economy, transition from state ownership to private ownership is a difficult process. For the armed forces transition from Communist Party ownership to society ownership is even more difficult. It is not only the transfer of ownership, but a change in missions, structure, equipment, culture and rules (ethos) as well as reintegration with the other sectors of the country.

Some of the biggest problems are connected with the disintegration of the sector, the 'privatisation' of some elements of the security sector in the transition period directly or indirectly, and the lingering on of the wrong habits of party control over certain elements.

The processes are so large, deep, complex and crucial to the overall transformation of the country, the resistance to change is so hard and deep-rooted that success of the SSR is only possible if the political leadership can call on clear vision, faith, will and capabilities.

In Bulgaria many positive and successful steps have been taken in the last twelve to thirteen years, especially the last four-five years, but at the same time SSR is far from finished. It is in its most advanced stage in the area of the Defence Ministry. Moreover, effective finalisation of the reform of the different elements of the security sector is

possible only by keeping in mind the final goal of an integrated security sector appropriate to the current understanding of integral security.

The goal of this paper is to analyse, assess and propose trends in the SSR of Bulgaria on the basis of the results of Stock-Taking Workshop held in Bulgaria as a joint endeavour of the Geneva Centre for Democratic Control of Armed forces (DCAF), the George C. Marshall Association – Bulgaria and the Atlantic Club of Bulgaria, with the participation of more than thirty experts from these organisations, members of the Bulgarian Parliament, top and high level officials from the administration and the academic sector.

The main idea is that transformation of the security sector is an essential process for overall democratisation of the country, directly related to good governance and key to Euro-Atlantic integration. SSR is a process of deep change in the concept of security, a reorientation, restructuring, change of ownership, reintegration of the security sector. There is a need for a new results-oriented 'business model' for the security sector relevant to the current state of society and most of all to the current risks and threats to security (organised crime, terrorism, the proliferation of weapons, instability and failing statehood in certain regions, ethnic and religious clashes or other types of long-time confrontation, and the disintegration of 'artificial' state structures).

The security sector has to cope with the above threats, trying to prevent them, neutralise them or if possible to restore normal life after the conflict/damages caused by that threat. The threat has its source as either human or natural. The security sector has to provide an early warning, preventative action, a rapid response/reaction, a full-scale operation if the threat materialises, and afterwards recovery measures as well as preparation and training for current and future threats in parallel to those actions.

The ten topics of the workshop were proposed by the Stability Pact/DCAF but the real content was the result of the ideas and experience of the contributors. Our Bulgarian decision was to have two authors for every topic – one from the Parliament/Administration and other from the academic/NGO sector. There are only two exceptions – for crisis management both contributors are top-level officials (the Chairman of the State Agency for Civil Protection and the Director of the National Gendarmes Service)

and for civil society – one contributor is the Secretary-General of the Atlantic Club and the other the director of the e-media organisation Mediapool.bg.

## **Security Sector Transformation 1989-2002**

It was clear that transformation was needed in the country and a formal start was made in late 1989 when the Communist Party decided that it was time to take the lead in order to keep political control for as long as possible and to transform it into economic power. The security sector was the object and to a great extend the subject of the transformation planned by the Communist Party and later by other political players.

There is a set of *External Reasons* for SSR:

- the changed security environment after the dissolution of the Warsaw Pact, Soviet Union, Yugoslavia, the establishment of NACC (EAPC), PfP (MAP), the development of SEDM and currently the invitation to accession talks to NATO/joint target date for EU membership;
- new security threats after 9/11 and influences from the Caucasus, the Middle East, former Yugoslavia.

There is a set of *Domestic Reasons* as well:

- deep political changes connected with democratisation of the country and the need to transfer ownership of the security sector from the Communist Party (and the same party-grown military leadership) to a democratically-elected Parliament and Government as representatives of society;
- fundamental economic changes connected with the market economy and respective economisation of the security sector;
- serious changes in perceptions of security in a society more focused on non-military threats and concerns about funds spent for security in comparison with other public sectors;
- demographic issues (level of education, health, readiness to serve) and the need to use security forces for peacetime missions in the country and outside the country in multinational operations.

As a result of the above reasons, a new definition of security needs was extremely important, but it was not developed until 1998/1999 (National Security Concept/Military Doctrine) and even then the definition was not comprehensive.

At the same time the process of disintegration of the Warsaw Pact-type armed forces had begun with attempts to privatise some of the elements of the former State Security Committee by the President institution, to hide others under the conservative old military leadership of the General Staff (including military intelligence and counterintelligence) to disperse other former security sector structures among newly-established national services in the interior ministry, and to transform some elements of services into private companies and even media institutions. Any new risk/threat was used to establish a service without sound coordination among them or a clear legal basis.

In the new Constitution of 1991 responsibility for security matters was distributed among the Parliament, President, Government, Judiciary, armed forces and citizens. There is no definition of the security sector as such. The previous communist-era content of the armed forces was seriously changed by subsequent laws on Defence and the Armed Forces (1995), on the Ministry of the Interior (1991), on the establishment of state companies to replace Transport troops, Construction troops and Telecommunications troops, as well as Decrees of the President and Government to establish a National Intelligence Service (1990), a National Protection Service (1992), a State Agency for Civil Protection (2001), registration in court of new defence companies separate from the ministries of defence and the interior (1990s), the privatisation of defence companies that were in the Ministry of the Economy (Industry), the restructuring of many commissions and committees on the military-industrial complex and mobilisation readiness, arms trade control and others. In the past, the armed forces covered all security/defence-related services up to the Central Committee of the BCP and its Politburo, including the State Security Committee, Ministry of Interior services, Ministry of Defence, troops and services in Ministry of Regional Development and Construction, Ministry of Transport and Telecommunication, Ministry of Justice and even officers in the Ministry of Education (Basic/Initial Military Training) as well as in the Defence Industry, the Defence Science and Technology/Research and Development establishment and Defence Support Organisation (training of future conscripts and training of volunteers).

Currently, after the last changes in legislation, the armed forces consist only of the Bulgarian Army (General Staff, Land Forces, Air Force and Navy) and military services subordinated directly to the Minister (Military Information Service, Military Policy and Counter-Intelligence Service, Defence Staff College, Military Medical Institute). Provisions of the National Security Concept (NSC) to establish a System for National Security and to have laws on all different elements of this system (elements of the security sector) have not been fully implemented.

In this transformation of the armed forces some elements were lost, others were intentionally closed (but they appeared as private structures – for example political police in the form of media organisations and private investigation organisations). With the downsizing and the appearance of private security companies (including insurance companies) and arms trade companies, people from former security sector with their experience and most of all information files and operative networks were 'privatised'. Some 'economic entities' disappeared from the security sector and reappeared as private enterprises.

Currently the need for a Law on National Security to define security as an integral service, the structure of the security sector, its management and civil control is largely recognised. It was stated by the Chairmen of both Commissions (on foreign policy, defence and security and on internal security and public order) in Parliament that a multiparty working group with external experts will develop such a law to clarify the provisions of the Constitution in the area of National Security and to define the environment for all other functional and institutional laws on different aspects of security and elements of the security sector. Such a law was expected in Spring 2003.

The National Intelligence Service, the National Protection Service and the State Agency for Civil Protection are not covered by special legislation, but all other elements of the sector and some important functional areas of security are not satisfactorily regulated according to the experts.

## **Security Sector Reform as a Tool for Security Sector Integration**

The concept of Security Sector Integration (SSI) is a key element for the next stage of the SSR. Such a concept is needed to bring together all different definitions of the Security Environment, Security Sector, and Security Sector Management. On the basis of the SSI concept, developed after a deep security sector strategic review, the second generation of plans for Defence Reform, Police Reform (home affairs), Civil Protection Reform, Special Services Reform, Diplomatic Service Reform, Coordination and Integration Reform (the role of the Security Council and joint committees) should be prepared, discussed publicly and approved by the Parliament. With such plans, a National Programme for Security Sector Modernisation (SSM), Research and Development (R&D), Science and Technology (S&T) with implications for the national defence industry and through outsourcing and offset mechanisms for the national economy at large could be approved by the Parliament for at least the next 10 years, plus a forecast for the following ten years, with the budget secured.

The concept of Security Sector integration, together with the modernisation programme, is the main tool for the successful second generation of reform and through its influence for the public policy and overall development of the country. Security sector integration and modernisation programmes are the basis for regional cooperation and Euro-Atlantic integration and would be used for the Bulgarian contribution to the transformation process of NATO and the EU.

The first stage of the reform was focused on dismantling the totalitarian armed forces. These reforms in the framework of democratisation of the country, cooperation with NATO and EU (WEU), an active role in OSCE and UN as well as regional initiatives and processes made the country eligible for NATO and EU membership (NATO accession talks invitation from Prague, November 2002, and 2007-joint goal for EU membership from Copenhagen, December 2002).

The second phase of the reform is a triple “I” process: *Integration* inside the ministries/agencies (integrated defence, interior and foreign ministers, security services, Civil Protection); *Integration* at a national level (between the foreign, defence and interior

ministries, security services, Civil Protection, , with the Security Council and joint committees); *Integration* at international level – both Euro-Atlantic and regional.

### **Defence Establishment Reform – example for the overall SSR.**

In the period up to April 1999 (approval of the Military Doctrine) there was a lack of consistent policy formulation at a Parliamentary level, or sound planning on this basis. There were no realistic programmes for restructuring, downsizing, modernisation, a budget was 'impossible'. In the programmes of the political parties there were no clear provisions for defence reform.

In late 1998 it was clear that without serious change in the MoD, the personal involvement of the Prime Minister and sound Parliamentary and Presidential support as well as close cooperation with foreign experts, "the rusty wheel of defence reform will not move". Starting in November 1998, a defence Reform Team was formed to study defence reform (with the participation of General Kievenar (US) and General MacKenzie (UK) principal adviser to the Defence Minister, Prime Minister and President – both later decorated by the President). The team used a Defence Resource Management Model to study more than one hundred variants of the armed forces and defence establishment developed by different teams. Results were processed by seven working groups and the final result was a new Military Doctrine and Guidance for Defence Reform Plan/Membership Action Plan 2004.

In the process of developing the Defence Reform Plan/Membership Action Plan up to October 1999, a set of legal and organisational changes were made by amendments in the laws and decrees of the Government and President.

As a result defence establishment was transformed through:

- establishing a Defence Planning Directorate (DPD) in the MoD on the basis of the Defence Reform team;
- establishing Programming, Integration and later Modernisation Councils in the MoD as civil-military consultative structures led by a deputy minister and deputy chief of General Staff;

- PPBS was established under Programming Council supported by DPD;
- the military education system was transformed as the Defence Staff College was subordinated to the Minister by decision of the Parliament with a new structure (National Security and Defence Faculty, Command Staff Faculty, Interoperability Faculty, Advanced Defence Research Institute, Military History Centre and Museum) and four Service academies were transformed into one National Military University under the General Staff, supported by the services training bases;
- A separate Euro-Atlantic Directorate was formed (with a Situation Centre) to manage the integration process and support the Integration Council;
- four Executive Agencies were established for infrastructure management, military clubs and information activity management, for recreation base management and for testing and measurement support of procurement;
- a system for social adaptation (resettlement) was established with four regional centres and a set of framework agreements to cooperate with NGOs, businesses and other institutions;
- all economic activities (including farms, repair and maintenance, construction, clothes and shoes production, population defence training and others) were organised in commercial companies outside the Defence Ministry and some of them opened to privatisation;
- outsourcing was established as a principle in Military Doctrine and practice in Defence Ministry activity;
- a new model for officer, NCO and professional soldier careers was established with a manual approved by a decree of the Government;
- for RMA issues special studies were initiated in the area of C4ISR, AD, PKO and specialised Interoperability Faculty was established in 1999, Modernisation Study was negotiated with US for 2001 and large programme of foreign military consultants was approved by the Defence Council, later implemented with support of US, UK, France, Germany, Netherlands, Italy, Greece;
- the institution of Chief Information Officer (CIO) was established to manage information technologies in the defence establishment;
- special effort was taken in the framework of defence planning and integration process to develop a universal task list and list of defence capabilities as well as 'pillars of defence' for structuring the armed forces around these pillars to produce the capabilities required to form mission capabilities packages;

- an attempt was made to transfer PPBS and other management practices (CIO) to other elements of the security sector through interministerial bodies.

## **Security Sector Reform Environment**

A SSR Stock-Taking Seminar in July 2002 was focused mostly on content contribution from different players in different areas of the SSR as well as security sector performance in action. It can safely be said that in Bulgaria there is very active participation from all respective elements of the environment and security sector. The following is a Bulgarian understanding of the SSR environment and examples of its dynamics.

### **Parliament**

There is a need for the Parliament, with certain declarations and approval of a set of normative and political documents, to establish a clear vision of security and defence (the security environment, security sector, its management and control).

These documents have to be public and widely discussed and gain public support. Informed decisions and public support can be only based on an open-minded analysis of the possible alternatives.

Parliamentary Commissions (foreign policy, defence and security; internal security and public order) are essential, because they provide an opportunity to discuss and consult security and defence matters on a multiparty basis. Consensus building on a political level is extremely important in this area.

The Bulgarian Parliament with the National Security Concept, Military Doctrine, Interior and Defence Ministry laws as well as ratification of agreements with NATO, with the main NATO countries and those on regional cooperation have established a real environment for the SSR, but the challenge to develop a National Security Law is still ahead.

## **President**

The main tools of the president are: his Constitutional authority to represent the state in international relations; his Constitutional position as Supreme Commander-in-Chief of the Armed Forces; his Chairmanship of the Consultative Council of National Security (established under separate law according to the Constitution); his authority to sign all laws approved by the Parliament before their publication in the State Newspaper for implementation. In addition the President has under his authority the national intelligence service and national VIP protection service, he can establish consultative (advisory) bodies (either as part of the Presidential Administration or on a volunteer basis) with the four secretaries for Foreign Policy, National Security, Defence and Armed Forces with their staff as well as a public council on Euro-Atlantic integration. He participates with his representative in meetings of the Security Council of the Prime Minister, can address the Parliament (in plenary sessions) and society (through the national media). Historically the first President Petar Mladenov failed to carry out one of his responsibilities to deal with a crisis situation and resigned because of that. The second President Jelyu Jelev was very supportive of Euro-Atlantic integration and even during a socialist government encouraged Bulgarian participation in the PfP Programme. President Stoyanov was the first to put NATO integration as a key element of his election campaign in 1996, won the elections and during the transition government, Bulgaria applied for NATO membership, established an Interministerial Committee on NATO Integration with the first NATO Integration Programme. Stoyanov was very successful at crisis management in early 1997 when transition from a failed socialist government through free elections to a second UDF government was accomplished. Another positive example was his leadership during the Kosovo crisis, but vis-à-vis defence reform and intelligence reform, lack of mutual understanding with the Prime Minister Kostov and 'general's games' delayed some important steps.

The current President maintains a good balance, starting very positively with a public lecture on foreign policy priorities, but is not as 'productive' as the previous one in initiatives and vision. In the next phase of the SSR, relations with the General Staff and Intelligence services is expected to be a big test for the President.

## **Government**

The Council of Ministers has primary responsibility in the area of National Security. For the first time Prime Minister Philip Dimitrov (UDF) brought in a civilian minister of defence and a civilian minister of the interior. An attempt at defence and security sector reform was made, but there were many other priorities for the country and the period in office of about one year was not enough. The next two defence ministers were in practice not civilians and reforms were cosmetic, with full dominance of the General Staff and a lack of civilian defence expertise in the administration. Prime Ministers were not at all interested in defence and SSR. A crucial moment for SSR was the election of the UDF Government of Prime Minister Kostov and Defence Minister Ananiev in the context of good cooperation with the Parliament, President, a clear Euro- Atlantic integration priority and improved civilian capacity as well as effective international cooperation. A step back was made with the appointment of Ambassador Noev (a former deputy minister in the most criticised Bulgarian Government of Prime Minister Berov and minister of defence in the transition government before elections won by the BSP, and the head of Bulgarian NATO mission under socialist Prime Minister Videnov). The current government capacity for SSR is limited because of a lack of vision and experience, the restored dominance of the military and 'professionals' in the defence and interior ministries, lack of involvement of Prime Minister Simeon Saxe-Coburg Gotha and a new cycle of the 'generals' game' with the socialist President Parvanov. It is important to mention that there are good intentions in the defence and interior ministries. But some scandals as with the destruction of missiles, MiG-29 modernisation, force structure review, defence law, TEREM arms deals, changes of key deputy ministers and directors, phone tapping of politicians and journalists, the advance of organised crime and grey economy bosses and other factors do not lead to positive expectations. The high level of reliance on NATO guidance and passive attitude to national responsibilities for developing the Bulgarian security sector to the highest possible standards for the benefit of society and effective NATO membership is another concern the experts of the SSR coalition have expressed in many public events and reports.

Even in this situation, the active foreign policy promoted by the Prime Minister, Foreign Minister Passy and the positive role of the Chairman of the Foreign Policy, Defence and Security Commission Ilchev (as well as Internal Security and Public Order Commission

Chairman Donchev) and mainly because of the strong base established by the team of Prime Minister Kostov (Foreign Minister Mihailova and Defence Minister Ananiev), supported by the President Stoyanov in 1999, Bulgaria was invited for accession talks with NATO in Prague (November 2002).

The way to overcome some of the embedded shortcomings of the current situation in governance of the security sector is to strengthen the role of joint committees and to increase cooperation with the academic/NGO sector and businesses on the basis of transparency, accountability and clear responsibility. The current challenge in the area of administration is the establishment of the Integrated Defence Minister and Integrated Interior Minister

## **Business**

There are two steps in the economic aspects of defence reform – the first is to separate from defence, interior and other ministries all activities and institutions that are not military but economic ones. The second is to strengthen the practice of outsourcing off all non-military activities on a competitive basis.

Under this policy all construction, production, repair (overhaul) and maintenance units, farms and civil protection units were separated from the Defence Ministry in 1998-2001.

The practice of outsourcing of services is introduced in the area of logistic support and especially catering, and facilities support. One of the important steps in strengthening a Public-Private Partnership in defence matters is forming of business associations to cooperate with state institutions in the area of national security and defence. A good example from Bulgaria is activation of the Business Executives for National Security Association, provoked by study of *Economic Benefits from Bulgarian Membership in NATO* presented during a Vilnius Group Summit in Sofia in October 2001.

There are a set of agreements signed between the Defence Ministry, NGOs, Employers Association and international institutions such as the World Bank and on a bilateral international level that create an environment for pursuing successful solutions in released military resettlement area. The Defence Ministry established a special network

of social adaptation centres to facilitate the process. Initiatives of retired officers and NCO associations are welcome to cooperate with this network.

## **Academic Sector**

Currently with the reduction of the R&D capacity of the Ministry of Defence and the Defence Industry there is a natural way to involve the academic sector in technical areas (supporting acquisition, modernisation and utilisation plans) by outsourcing and with different studies (including the Strategic Defence Review, and White Papers). Issues of education and training of security area specialists and dual-use areas require more humanitarian and technical academic institutions to be involved. Framework agreements and joint committees established between the Defence Ministry and many academic institutions and between academic institutions and defence industry companies are good examples for Bulgaria. The Bulgarian Academy of Sciences as a leading academic institution established the Centre for National Security and Defence Research in order to coordinate these efforts in cooperation with the Parliament, President's Office, government, security sector ministries and agencies, industry and other academic institutions.

## **Media**

There are some specialised media – newspapers of the Defence Ministry and interior ministry, the Military Journal. There are currently efforts to establish a type of military television. In addition there are special blocks in the national media (radio and TV) and specialised journalists in practically all printed and electronic media. In addition to the professional journalists there is an increased number of publications and other contributions made by academic sector and NGO representatives. Normally SSR related events are reported in the news. Very active and professional in these area is Mediapool.bg, an internet news agency. In the executive agency 'Military Clubs and Information' in the Defence Ministry there is a good analysis of all printed media coverage on defence issues, that if made public will improve the environment. In the last year before the expected NATO invitation, some good attempts were made to produce video advertisements for SSR.

Journalists are regularly invited to press conferences, exercises, demonstrations and other events of the security sector. According to the Administration Law every Minister/Chairman of the Agency has a spokesman and press office, a website and annual reports are prepared.

Most of the media are private (there are Bulgarian National Radio and National TV that are considered public media); there are some party newspapers and well-developed regional press and cable television. The feeling in society is that the main newspapers and some electronic media are free but not democratic, with the monopolistic presence of certain private economic and political interests and manipulative articles and commentaries.

There is still not enough coverage of SSR in the international media and exchange of news between countries in the region.

Great potential in improving situation is envisioned through NGO/academic projects to present monthly and in cases of need through express publications printed and electronic versions of 'Security Watch' and 'Security Sector Reform Focus' editions under the project of the SSR Coalition.

## **Civil Society and NGOs**

There is a lot of experience already gained in NGO-Defence Ministry cooperation in the area of organising public discussion and debate on defence policy, defence reform and modernisation as well as the practical participation of NGOs in resettlement of demobilised soldiers and in information campaigns. The role of unions of retired military, veterans, alumni associations and youth organisations is very interesting. A good example is the step taken in the defence and foreign ministries to coordinate all these relations through a special cell. With approval of a Charter for cooperation between public authorities and NGOs by the Bulgarian Parliament scheduled for 2002/2003 there will be even more space for the NGO role.

Currently there are two main projects being developed by the 'SSR Coalition' of NGOs: Readiness Report for Joining NATO (will be transformed to capabilities contribution

report) and NATO Integration Programme (this will be used to develop a set of action plans on different aspects of the integration process). Many round tables were organised on different issues of security and defence policy, modernisation, role of C4ISR projects, participation in international operations, .

The Coalition sent a Memorandum to the President, Prime Minister, Parliamentary Commissions Chairmen and the foreign and defence ministers to organise a hearing for the ratification and integration process. A special meeting of the National Security Consultative Council of the President was scheduled as well. In a parallel project on transparency of defence policy, budgeting and procurement together with another project about the challenges after Prague were to be started to support public awareness of SSR and NATO integration issues.

### **International Dimension**

There are different aspects of the international dimension. What is important to mention is that this element of the environment is secondary to the internal elements. If there is not enough internal power and dynamism in the environment, international influence cannot generate positive results. It means these factors have to build internal capacity and to shape the environment through these internal elements that are powerful enough to generate progress with local ownership.

Well planned and prepared studies are powerful tools to build integrated teams (civilian and military, national representatives with foreign experts) in key priority areas and to prepare deep analyses and strategies. Good examples are the defence reform study, C4 study, AD study, modernisation study, study on the organisation of the Defence Ministry, and democratic control of armed forces. These studies for Bulgaria were used for example to develop the Military Doctrine, to form the Defence Planning Directorate (DPD), Armaments Policy Directorate, to establish the institution of Chief Information Officer and to start many other initiatives, including development of Reform Plan 2004, establishment of the National Military University and Advanced Defence Research Institute, Situation Centre, and the Transparency Building Centre.

In many cases, if well integrated into national structures and bodies, foreign consultants can facilitate implementation of good practices, team building and team training as well as enriching transparency and accountability. At the same time they can provoke generation of more resources for priority areas. An excellent example is the work of the British, German, French, Italian and Greek consultants in the Bulgarian Defence Ministry as well US MLT (plus PfP coordinating and FMF coordinating officers, attached to the US embassy). Coordination among them on the basis of the inter-operability faculty and DPD gave very good results. At the same time for countries to be invited to join NATO in Prague the next challenge was to provide such consultants to other PfP nations and step by step to rely more on domestic expertise for internal reforms.

Involvement in international activity through UN, OSCE, NATO, EU, the Stability Pact and other organisations and treaties as well intensive regional cooperation led to the establishment of working groups and other bodies for planning and coordination that strengthened civil-military relations, cooperation with other ministries and generated a lot of administrative capacity based on the experience of the international organisations. There is a special role played by international NGOs – for example the Geneva Centre for Democratic Control of Armed forces, CESS and many others which facilitate organisation and implementation of initiatives in the area of defence management.

### **Transparency, Accountability, Civil Control and Coordination**

A real start to the development of a transparency culture in the security sector was given with the public debate on the Military Doctrine, Defence Reform Plan 2004 and Membership Action Plan 2004, a White Paper on Defence and Annual Reports on National Security, Defence and Armed Forces, on the websites of the defence and interior ministries. Involvement of NGOs, the academic sector and business, as well as our foreign partners gave impressive results. A key role for transparency are educated and responsible civilians in the security sector from the top political level down to the middle/low level of administration.

This approach is a big challenge, mostly for the civilians. They have to enter a specific area which needs special education and training. For civil servants good career opportunities are a motivation if stability can be achieved in administration structures.

For experts in the area of policy development, close to the elected civilians, stability can be achieved through NGOs, the academic sector and business as well as the development of solid capacity for political parties internally.

A measure of success for the role of civilians in the national security system is society's satisfaction with the security sector and public support for the sector on the one hand and the state of civil-military relations inside the security sector on the other.

Bulgaria has passed the most difficult tests of the 'first generation' reforms and has embarked on tasks that should lead to civil-military relations and democratic control over the whole security sector which, while probably not perfect, are certainly more mature. The 'second generation' reforms in that field are connected with the effective operation of institutions and procedures, the acquisition of shared norms and values of civilians and the military.

The problem is the process of returning more decision-making power in resources and structural matters and initiatives in even political area of normative regulation of the security sector by uniformed professionals started in the Ministry of Defence with Minister Noev and clearly visible with relations between Minister Svinarov and Chief of General Staff General Kolev (with former Chief of General Staff General Mihov with the same rank on active duty in the Ministry of Defence, serving as secretary to the President). Similar is the situation in the Ministry of the Interior with relations between Minister Petkanov and Chief Secretary General Borisov.

Having a second centre of power in the defence and interior ministries, non-transparent, non-accountable publicly and politically, is eroding civil-military relations and the basis for effective civil control according to democratic standards.

The real test for civil-military relations and civilian control is the level of implementation of the PPBES in the security sector and the role of civilians – including the administration and Parliament in this system. The role of civilians in the professional security sector education system is another important test and currently subordination of the Defence Staff College to the Minister is a powerful tool if used properly. Direct subordination of the security services to civilians, who are politically responsible, is something achieved

in the Defence Ministry, but not in the Interior Ministry, and in certain aspects in the President's office.

The building of structures around results (processes) is only the first step – coordination between different departments in 'network centric' administration is another challenge. Coordination cannot be successful if not regulated legally with clear responsibilities of all elements of the security sector vis-à-vis the security needs of the state (country) and distribution of power among elected (politically accountable) civilians for decision-making and directing these security sector elements.

The former practice of internal classified instructions, signed by both ministers, is not so effective, and if coordination is envisioned to be based only on the orders of uniformed professionals when the security sector is not integrated and there is hidden competition between the services is a recipe for failure in critical situations.

In addition to the government that according to the constitution is the main executive element of power, the other central coordination body is the Security Council of the Prime Minister, established by government decree under the provisions of the National Security Concept. It was one of the biggest achievements of the government of Prime Minister Kostov in the area of security. Currently the council is not used in an effective way, but many experts believe the National Security Law will introduce clear provisions for the Prime Minister and its Security Council in the area of coordination.

The Consultative Council on National Security under the President is playing a positive role in the area of political consultations on issues of security, but without direct power to change the situation and to have an operational role.

Many inter-ministerial councils (on NATO Integration, on the Military Industrial Complex and Mobilisation) are playing a good coordination role, but without a sound legislative base. The proposal of the NGO experts is to establish a clear set of commissions around the Security Council of the Prime Minister to play a constitutional role in coordination and management of the national security system.

There are some technical arrangements in progress such as an Air Sovereignty Operation Centre (for both military and civilians to control Airspace), a Navy Sovereignty Operation Centre (for both military and civilians to control Sea-space), a National (and even regional) Emergency Response Centre (for both military and civilians to control emergency operations, as well as a network of situation centres in different ministries and local authority bodies), and a National Military Command Centre (for national level coordination of all security sector operations related to defence). In future National Intelligence and Counterintelligence centres are envisioned. These projects are improving the level of coordination. One very good practical example is the Joint Transport/Logistics Centre established to support KFOR transit in Bulgaria.

A good basis for coordination is the process of establishment of a national body to coordinate Research and Development, Science and Technology, and the Security Service Reform Coalition in the NGO/academic sector, to coordinate studies and informally educational programmes in education and training institutions. Participation in RTO, NC3A, NIAG and other NATO (in future EU) security-related structures is considered a tool for better coordination if these structures can embrace the concept of integration and multi-nationality larger than now.

Still, coordination is considered by NGO experts as the main challenge and the solution is for more attention to be given to this issue by the Parliament and Government.

## **Security Sector in Action**

SSR is not only to respond to new realities by downsizing, transfer of ownership, restructuring and reintegration of the security sector, but mainly to have realistic capabilities to carry out an active security policy. This policy was developed through the National Security Concept, Military Doctrine and many decisions of the Parliament and government, based on a formula of "security through cooperation and integration, active actions to shape the security environment and respond to current threats with available capabilities as well as effective use of resources to build new capabilities, adequate to the future threats and responsibilities".

## **Security through Cooperation and Integration**

This element of the actions of the security sector is evident through regional cooperation in South East Europe (SEEDM, SEEGROUP, Stability Pact, 2+2 cooperation) and the Black Sea area (BLACKSEAFOR) as well as through progress in NATO and EU integration. The active role of Bulgaria as a temporary member of the Security Council of the UN and the upcoming chairmanship of the OSCE is an important dimension of this aspect of the SSR. Shaping the environment and preparing for the future is performed through these cooperation and integration processes, but with reliance on internal resources and the comparative advantages of the Bulgarian security sector.

The big challenge for the country is the future NATO membership and the role Bulgaria will play in the Alliance, including through the PfP Programme in SEE, the Caucasus and Central Asia as well in the Mediterranean and Middle East.

## **Crisis Management**

The Bulgarian security sector was confronted with crisis situations in the early 1990s around the Bulgarian Parliament and Building of the Central Committee of the Communist Party that were managed successfully. Its performance during the Gulf Crisis was adequate and favourable for Bulgaria. The last crisis around the Parliament in early 1997 was a great test of the maturity of the internal security forces. The political, military and internal security dimensions of the security sector were tested during the Kosovo crisis, the fires and earthquakes of 1999, as well as during the critical situations in Serbia and Macedonia in 2000/2001. Currently the Foreign Ministry has been very successful in supporting Bulgarian citizens in trouble abroad.

There are many documents – decrees of the President and government – to regulate crisis management, but the only available comprehensive document was the Concept of Crisis Management, approved by the Security Council of the Prime Minister in 1999. Since 1999 many attempts have been made to prepare and pass in the parliament a law on Crisis Management without success.

Nevertheless, according to the existing concept and old decrees, teams and arrangements for crisis management are established in the foreign, defence and interior ministries, the State "Civil Protection" Agency (and the Permanent Commission on Protection of the Population from Disasters and Catastrophes, chaired by a member of the government), other ministries and local authority bodies.

Very positive is the Bulgarian leadership in South East Europe under SEEDM (CMEP) and Stability Pact (DPPI) to introduce a Regional Council on Emergency Management, a Regional Centre for Emergency Management and an information network and pool of teams and resources.

Another attractive example is the experience of the National Service Gendarmerie, which is a specific force in the interior ministry between a military force and a police force, adapted to Bulgarian traditions and current and future needs of crisis management in a NATO/EU operations context.

## **Peacekeeping**

Practical experience was gained through UNTAC in a 1992-1993 mission with an infantry battalion and military observers, after which a National Concept for participation in peacekeeping operations was elaborated in 1994, but not approved at a governmental and parliamentary level. Bulgaria has experience with military observers and staff in Tajikistan, Angola, Eritrea and other missions. A special course at the Defence Staff College was established to train officers and a section in the General Staff to manage the process.

Currently Bulgaria participates in SFOR, KFOR, and ISAF with not only military units, but police contingents (KFOR) as well. We offered to deploy an infantry battalion in Cyprus. Bulgarian citizens work in OSCE missions and UN peacekeeping structures. Under PfP/MAP as a Partnership Goal there is a reasonable Bulgarian contribution declared for NATO-led peacekeeping operations (a total strength of 1,650 persons) and a peacekeeping package is available for EU-led operations.

Logistical support for peacekeeping (including medical) is well-known to our partners in KFOR. Bulgaria provided support to both operations in the Gulf (1990/1991) and in Afghanistan (2001/2002).

Currently further steps are being taken to define Bulgarian specialisation, to enlarge the Bulgarian contribution from both the defence and interior ministries as well as from the State "Civil Protection" Agency. The Bulgarian contribution to NATO's Rapid Response Forces is being discussed publicly as well as improvements in our participation in SEEBRIG, BLACKSEAFOR, and the building of other combined units in the region.

## **Conclusion**

SSR in Bulgaria achieved its first goal – to start a well-planned restructuring and downsizing under publicly-approved documents, to generate a set of real combat-ready units for national defence, participation in peacekeeping, and to receive an invitation to join NATO. The second phase is to finalise everything that was postponed because of the attitude of the military leadership and conservative part of population that "we know what and how to do it, but let them first invite us", and to proceed with an integrated security sector strategic review that will bring us to the NATO Integration Programme already attuned to the NATO transformation process.

The Security Sector Reform Handbook facilitating development of the SSR Action Plan on a large scale – nationally, regionally and in a NATO/PfP context will be good tool for this. The SSR Assessment methodology that can produce SSR Progress Reports is the other tool for reform management.

SSR is for society and if society is not involved SSR will never be adequate to society's needs. The Security Sector has two main competitive advantages over Organised Crime, Terrorism and other security threats – the monopoly over the development and use of force, and public and international support. The first one is questionable with modern technologies; the second is no less a challenge to the leadership of the security sector. Civil society is one of the key elements in strengthening the two advantages of the security sector if involved in Action Plan development and assessment and the progress reporting process.

To harmonise the interests of society, business and security sector professionals with the capabilities of administration and the academic sector is the challenge for good governance models implemented in Bulgaria. What was accomplished in the period 1998-2002 and the key year of 1999 is the source of many positive lessons, but it is not enough. Even the advice of NATO and its members is not enough. Again, the most important thing is national vision, will, faith and capabilities for planning, programming, budgeting, acquisition, training and employing of force in a modern security environment.

## CHAPTER TWO

---

### DEMOCRATIC OVERSIGHT OF DEFENCE

*Velizar Shalamanov and Blagovest Tashev*

After 1989 Bulgaria embarked on a fundamental and complex process of political, social and institutional transformation. One of the first tasks of the reform movement was to guarantee the irreversibility of democratisation in the country. Therefore very early in the process – even before the creation of the constitutional framework – the reformers attempted to de-politicise state institutions, including the Ministries of Defence and the Interior. Round-table negotiations – an ad-hoc institution created to guide and manage the political transition – agreed to ban political activities in the Bulgarian Army. In this early phase of transition, the political parties and society broadly agreed on the basic principles and values defining the role and functions of the armed forces in Bulgaria. There emerged an agreement that the Bulgarian Army must be apolitical and democratic, and that no political party or single institution should have the ability to dominate it. Guided by those principles and values, the framers of the Constitution of 1991 embedded in legal provisions the precise authorities, duties and responsibilities of the institutions in the security and defence area. Consequently, the Parliament embarked on further defining the institutional framework of national security by creating its legislative basis.

#### **The Parliament (National Assembly)**

One of the important consequences of the intention to prevent the concentration of authority over the armed forces is the dispersal of authority and responsibilities between the National Assembly, the President and the Council of Ministers.<sup>1</sup> According to the Constitution, the National Assembly holds legislative power in the state and thus passes, amends and rescinds all laws pertaining to the Armed Forces, including its budget.<sup>2</sup> Moreover, the Constitution requires the functioning of the Parliament during war, armed

---

<sup>1</sup> For a more detailed discussion of the role of the Parliament see the chapter in this book by Tsonko Kirov.

<sup>2</sup> Constitution of the Republic of Bulgaria. Available from <http://www.government.bg>.

hostilities or other states of emergency. Thus the National Assembly continues to oversee the Armed Forces even in extraordinary situations. In fact if the President declares war, the Parliament is required to endorse the decision. It alone can declare martial law or a state of emergency. The Parliament is further authorised to approve any deployment and use of the armed forces outside the country's borders. According to the Constitution, the National Assembly is the only institution authorised to ratify or denounce by law all international instruments which are of a political and military nature.

The National Assembly's functions in defence include:

1. Declaring war and concludes peace.
2. Approving the deployment and use of Armed Forces outside the country's borders, and the deployment of foreign troops on the territory of the country.
3. On the motion of the President or the Council of Ministers, declaring a state of war or another state of emergency on all or part of the country's territory.
4. Ratifying and renouncing international treaties of political and military nature.
5. On a motion of the Council of Ministers, approving the National Security Concept and the Military Doctrine.
6. Approving long-term programmes for development of the Armed Forces.
7. Approving the armed forces' budget.
8. Upon a motion of the Council of Ministers, approves the size of the armed forces.
9. Passing laws creating paramilitary and other structures of civilian defence to act in cases of natural disasters and accidents.
10. Exercising parliamentary oversight and control over the Armed Forces.

11. Establishing, restructuring and closing down military academies and schools of higher military education.

Along with the constitutional provisions defining the Parliament's authorities in the area of security and defence, there gradually emerged practices that further specified the authority of the legislative power. Thus, the National Assembly exercises ongoing oversight over the armed forces, as any member of parliament can request information or an explanation from the Prime Minister or the Minister of Defence during the weekly sessions of parliamentary oversight. Furthermore, the parliamentary Commission on Foreign Affairs, Defence and Security can call upon the Minister of Defence to testify before the Commission.

The Parliament approves official documents for the state national security, defence and the armed forces including the Report on the Status of National Security, the Report on the Status of Defence and the Armed Forces, and the White Paper on Defence.<sup>3</sup>

With the accumulation of civilian expertise in defence, the Commission becomes the focal point of discussions of security and defence matters before the Parliament takes on these issues. For example, the Parliament influences the long-term security and defence policies by approving the National Security Concept<sup>4</sup> and the Military Doctrine<sup>5</sup> proposed by the Council of Ministers. One of the shortcomings of the Parliament in the early post-communist transition was its lack of expertise in security and defence matters. Only the Bulgarian Socialist Party was able to attract high-ranking retired officers as members of parliament while the other parties represented in parliament possessed little civilian capacity in defence and security matters. In recent years, however, all parties were able to either develop an independent capacity or use the expertise of the proliferating security and defence think-tanks.

---

<sup>3</sup> Report on the Status of National Security (Sofia: People's Assembly, 2001); Report on the Status of Defence and Armed Forces (Sofia: Ministry of Defence, 2001); White Paper on Defence (Sofia: Ministry of Defence, July 2002); White Paper on Defence (Sofia: Ministry of Defence, July 2002).

<sup>4</sup> National Security Concept of the Republic of Bulgaria. State Gazette 46 (22 April 1998). Available in English at <http://www.md.govment.bg>.

<sup>5</sup> Military Doctrine of the Republic of Bulgaria. Approved by the XXXVIII National Assembly of the Republic of Bulgaria on 8 April 1999 (Sofia: Military Publishing House, 1999). Amended in February 2002. Available in English at <http://www.md.govment.bg>.

The role of the National Assembly in security and defence matters is potentially large, as the body has extensive legislative, deliberative and oversight prerogatives. The Parliament also includes opposition parties, which can ensure democratic and civilian oversight over defence.

In principle, Bulgaria professes to have the machinery for democratic control in place. A recent study by Western experts, carried out for the Ministry of Foreign Affairs of the Netherlands, says: "In terms of constitutional form and legal arrangements it has. Whether 'control' is effectively exercised is a more open question. For instance, there is appropriate formal provision for legislative oversight of defence affairs. The National Assembly is not, however, a particularly diligent overseer. In-depth discussions on defence matters are limited to scrutiny of an abbreviated budget and specific issues arising in the armed forces (typically raised during parliamentary Question Time each Friday)".<sup>6</sup>

## **The President and Presidential Administration**

According to the Constitution, the President is the supreme commander-in-chief of the Armed Forces (Art. 100). The Bulgarian Constitution has created a relatively weak presidential institution and the security and defence areas are no exception. Although the President is authorised to appoint and dismiss the higher command of the Armed Forces, bestow all higher military ranks, and proclaim general or partial mobilisation on all or part of the country's territory, those functions are always on motions from the Council of Ministers. All in all, the President defers to the decisions of the Cabinet except for its ability to declare martial law or any other state of emergency whenever the National Assembly is not in session. Those emergencies, according to the Law on Defence and the Armed Forces, represent the only cases in which the President is given extraordinary powers as he takes command of the defence of the country and makes decisions for the use of the Armed Forces.<sup>7</sup> The President approves the plans for the preparations and conduct of combat operations and the defence of the country prepared

---

<sup>6</sup> Centre for European Security Studies, *Assessing the Aspirants for NATO Membership*, Groningen: 2001), p. 112.

<sup>7</sup> Law on Defence and Armed Forces of the Republic of Bulgaria. People's Assembly of the Republic of Bulgaria. Adopted in 1995, amended in 1996, 1998, 2000 and 2001. Available in Bulgarian from <http://www.md.government.bg>.

by the Supreme Command. To facilitate the President's duties as the supreme Commander-in-Chief in a state of war or any other emergency, the Chief of General Staff – the most senior military officer in the Ministry of Defence – acts as a member of the Supreme Command. According to the Law on Defence and Armed Forces the Supreme Command includes the Prime Minister, Minister of Defence, Minister of the Interior, Minister of Foreign Affairs, Minister of Transport and Communications, Minister of Regional Development and Public Works, Chief of General Staff and others as called by the commander-in-chief.<sup>8</sup>

Upon the motion of the Council of Ministers, the President's other prerogatives as commander-in-chief include: to proclaim partial or general mobilisation of the Armed Forces; to coordinate efforts to involve international security organisations in order to abate armed conflict or war; to implement war-time plans; to impose restrictions on the use of information related to defence; and, to propose peace conditions to the National Assembly.

One important function of the President is the appointment of all flag officers. The President's military appointments influence the distribution of military ranks and in general determine the rank pyramid. Bulgaria has endured constant criticism for its failure to deal with the disproportionately large number of high-ranking officers to other military personnel. Frequently the high command successfully lobbies the President, regardless of his political affiliation, to avoid addressing the problem. Only recently, on the approach of the 2002 NATO Summit in Prague, has Bulgaria been able to deal with the issue.

The President's advisers (secretaries) who are members of his administration assist the commander-in-chief in the area of security and defence. Appointed by the President, the advisers are experts in various areas of international relations, defence and security and provide expertise that is independent from the executive power. The first two presidents after 1990 established the tradition of appointing retired high-ranking military officers as their military advisers. President Georgi Pyrvanov, elected in 2001, established a precedent by selecting an acting general, former Chief of General Staff General Miho

---

<sup>8</sup> Ministry of Defence, *Zakon za Otbranata i Vyoryzhenite Sili na Republika Bylgaria*, (Sofia: Voenno Izdatelstvo, 2000).

Mihov, as his military adviser. The choice was perceived as controversial as General Mihov retained the same military rank as the newly-appointed Chief of General Staff, a condition that contradicted the legal requirement that the Chief of Staff is the most senior military officer in the state. More importantly, the move seemed to blur the separation of powers since the Presidential administration, rather than creating an independent capacity in military affairs, 'borrowed' one from the executive branch of government.

According to the Constitution, the President presides over the Consultative National Security Council, the status of which is established by law. The Council has played a positive role by building consensus among national institutions and formulating a common foreign or domestic policy in response to international (as in Kosovo in 1999) or domestic (Bulgaria in early 1997) crises. In general countries in transition, which lack a consolidated institutional framework, find it very positive to have such deliberative bodies bringing together various institutions.

By law, the President also has representatives in the Defence Council of the Minister of Defence and in the Prime Minister's Security Council. While the Defence Council has established itself as an important body assisting the functions of the Minister of Defence, the Security Council has yet to find its proper role.

According to law, the President has authority over two of the security services, the National Intelligence Service and the National Protection Service (VIP security service). It must be noted that laws, which comprehensively regulate the role and functions of security services, are yet to be passed.

Although formally not embedded in the Constitution, the role of the President in defence and security can be potentially extensive. As the institution which embodies the unity of the nation and represents the country in international relations, the President can influence security and defence policies by stimulating debates, giving opinions, and reconciling differences among institutions. On security and defence issues, successive Bulgarian presidents, reflecting the limited peacetime functions of the office, have had a relatively cordial relationship with the Council of Ministers. Bulgarian politics are yet to witness a precedent challenging the established pattern of presidential deference to the executive branch of government in that area.

## **The Prime Minister and Council of Ministers**

The Bulgarian Constitution defines a powerful executive branch of government, not unlike most other post-communist governments in Eastern Europe. Indeed, although legislation is debated and voted upon in the Parliament, the Council of Ministers is the institution that usually formulates and proposes new laws, which are passed with minor amendments. The ability and willingness of the Parliament, in practice dominated by the cabinet, to alter legislation related to national defence is even more limited due to the legislative branch's lack of adequate independent expertise and resources in those areas. The Parliament's ability to influence defence and security policies is further limited by its lack of authority over the appointment of the Chief of General Staff and senior officers.

Furthermore, the Council of Minister's powerful role in defence and security is explicitly required by the Constitution as Article 105 entrusts the Council of Ministers with guaranteeing internal order, ensuring the nation's security and managing and leading the Armed Forces. The Council of Ministers' functions in defence and security is further strengthened and specified by the Military Doctrine and the Law on Defence and Armed Forces.

As the executive branch of government, the Council of Ministers participates in the formulation, development and implementation of Bulgaria's defence policy. The Council exercises overall guidance over the Armed Forces (Article 105 of the Constitution). A key role is played by the Prime Minister, assisted by the Security Council, which includes the Minister of Defence, Minister of Foreign Affairs, Minister of Internal Affairs, Chief of General Staff, Chief Secretary of the Ministry of Internal Affairs and, if needed, their deputies and the heads of secret services and a representative of the President. According to the Law on Defence and Armed Forces, the Council of Ministers' main prerogatives include:

1. Defence and security policies planning:
  - a. Conduct of national defence policy.

- b. Management and coordination of defence planning.
- c. Proposals on deployment and use of armed forces outside the country's borders, and the deployment of foreign troops on the territory of the country.
- d. Proposals on sending and use of armaments and military hardware outside the country's borders.
- e. Approves plans for development of the armed forces.

2. Defence management and maintenance:

- a. Approves the transport, energy, and communication systems standards to meet defence requirements.
- b. Manages and controls the production of and trade in military armaments and equipment.

3. War-time planning:

- a. On the motion of the Ministry of Defence, approves a general national wartime plan.
- b. On the motion of the Minister of Finance, submits to the National Assembly a wartime budget proposal.
- c. Following the National Assembly's approval, organises the implementation of the wartime budget, assisted by the Ministry of Finance, Bulgarian National Bank, and national and local agencies.
- d. Approves rules and procedures for building a national wartime reserve.
- e. Approves mobilisation plans and territorial defence plans.
- f. Manages mobilisation of the armed forces and the country's transition from peace to state of war;

4. Crisis management:

- a. Manages the transition from peace to state of war or other states of emergency;

5. Management of human resources:

- a. Approves the number of servicemen and women within each rank.
- b. Submits to the President proposals to appoint and dismiss the higher command of the Armed Forces.
- c. On the motion of the Minister of Defence, restructures, closes down and defines the status of departments, institutes and colleges which are part of the military higher education.
- d. Approves the rules and procedures of military service.

The Council of Ministers proposes to the President the appointment of the Chief of General Staff. The two branches of government hold consultations on the potential appointment and so far there has been no public debate over the candidates. The Chief of Staff is an appointment for a term of three years but it is not entirely clear whether the Council of Ministers or the President is his direct superior. Furthermore, the law does not specify whether and in what cases the Chief of General Staff can be removed before expiration of term or what institution can seek his dismissal.

Despite the checks and balances created by the Constitution and the accumulation of defence and security expertise by the Parliament and independent think-tanks, the Council of Ministers, by virtue of constitutional design, remains the most powerful institution to define the role and functions of the Armed Forces.

### **The Minister of Defence and MoD Administration**

The Minister of Defence is nominated by the Prime Minister and appointed by the National Assembly along with the rest of the cabinet members. The Minister of Defence leads and implements state policy in the Ministry of Defence. The Minister is the chief

executive in the Ministry of Defence. In his duties he exercises civilian control over the Armed Forces. The Minister's main functions<sup>9</sup> include:

1. Defence policy formulation. Assesses the defence and military capabilities of the country and formulates plans for the development of the Ministry of Defence in the context of the requirements of the Constitution, National Security Concept, Military Doctrine and other relevant legislation in the national security system. Implements and controls state policy in the Ministry of Defence. Coordinates and manages bilateral and multilateral relations with international organisations and states. In this function, the Minister is assisted by his Political Office. This function also includes:

- a. Formulation of national military doctrines and plans for the development of the Armed Forces.
- b. Defence planning.
- c. International defence cooperation.
- d. Management of military diplomacy.
- e. Budget management.
- f. Formulation of military strategy.
- g. Proposals for strategic defence review.

2. Administering of defence policy implementation. In this function the Minister is assisted by the General Administration of the Ministry. The General Administration supports the functions of the Civilian Administration and the Military Administration. The Civilian Administration's functions include:

- a. Guiding the management of information-gathering related to defence and national security.
- b. Controlling labour conditions in the Ministry.
- c. On the motion of the Chief of General Staff appointing, dismissing and promoting military officers.
- d. Managing the process of the formulation of defence development.

---

<sup>9</sup> Law on Defence and Armed Forces, Article. 34-41.

- e. Managing the protection of confidential information in the Ministry of Defence.
- f. Guiding the Ministry's information and publishing activities;
- g. Guiding the public relations activities of the Ministry.
- h. Overseeing the legal management of the Ministry.
- i. Managing the state's military property.

3. Wartime planning. In this function, the Minister is assisted by the General Staff. The functions include:

- a. Making proposals for general or partial mobilisation
- b. Formulating plans for territorial defence.

4. Control of Defence policy. In this function the Minister of Defence is assisted by the Inspectorate, General Accounting Office, and the Security-Military Police and Military Counter-Intelligence Service. The first two bodies perform financial control, and the latter protects the Ministry from foreign intelligence activities, maintains order in military areas, investigates crime and performs guard duties. The Minister's main control functions also include:

- a. Guiding the control of the implementation of defence policy.
- b. Managing cooperation with military non-government organisations and civic organisations related to defence and security.

As discussed above, the Parliament also has oversight of the Ministry of Defence. Although legally not prescribed, the media and non-government organisations have gradually begun to exercise civilian control over the work of the Ministry. In the last decade civil society has accumulated expertise in military affairs and correspondingly increased its influence over and participation in defence policy.

In his duties, the Minister of Defence is assisted by his Political Office, the Defence Council and the Chief of the General Staff. The Political Office includes the Deputy Ministers, the Parliamentary Secretary, Spokesperson of the Ministry, Chief of the Political Office, assistants – all of them civilians. In its functions the Political Office is

assisted by experts. The Political Office acts in accordance with the Law on Administration and has consultative and analytical functions. It assists the Minister in formulating specific decisions for the implementation of state policies in defence. Another very important function of the Office is to inform the public about national defence policy.

Another body assisting the Minister of Defence is the Defence Council. It has a consultative role and includes the Minister, Deputy Ministers, Chief of General Staff and his deputies, the Chiefs of Land Forces, Navy, and Air Force. According to the Law on the Armed Forces, the Minister informs the Commander-in-Chief about discussions in the Defence Council. Although not legally prescribed, the Ministry of Defence has also adopted the practice of using the expertise of non-government organisations and foreign teams and experts in the formulation and implementation of defence policy. Following Bulgaria's decision to seek integration in Euro-Atlantic security institutions, the Ministry of Defence actively sought outside expertise in defence and security matters and made great use of foreign expert groups, consultants, and domestic experts in its attempts to reform national defence.

Ever since 1991, the defence minister has been a civilian. This practice was also embedded in the Law on Defence and Armed Forces. It must be noted that although the appointment of civilians to lead the Ministry of Defence has become a tradition affirming civilian, democratic control over the armed forces, the already cited lack of civilian expertise in military matters, especially in the first years of transition, has frequently handicapped governments' ability to implement much-needed reforms.

Despite some of the problems created by the infusion of civilians in the Ministry, there have been deliberate attempts to assure civilian presence at all levels and currently the proportion of civilians to military is approximately equal. For example the civilian-military ration among the directors of executive agencies in the Ministry is two to two and among directorates is three to nine. It must be noted, however, that some of the civilians are former military officers. Joint civil-military working groups, studies and councils bring together the two groups and assure their interaction at all levels. Some of the most important venues are the Programming Council, Modernisation Council, Integration Council and the Defence Council.

Under the established PPBS rules and procedures governing the Ministry of Defence, those joint civil-military councils and groups are the only venues at which the General Staff can initiate policy decisions. However, successive presidents and numerous members of parliament have been all too willing to lend an ear to the high command and promote policies conflicting with those of the Council of Ministers.

In the last few years the Ministry of Defence has been willing to accept outside expertise, including from abroad and domestic non-governmental organisations. Proposals for reform and defence policy are carefully considered and many of the suggestions are implemented.<sup>10</sup>

### **The Chief of General Staff**

The Chief of General Staff is the most senior military officer in the Ministry of Defence. He is directly responsible to the Minister of Defence and to the President in his/her functions as a commander-in-chief. On a motion of the Minister, the President appoints him to a three-year term which can be extended for two more years. The Chief of General Staff's main functions include:

1. Co-signing the minister's orders on:
  - a. Development, planning, maintenance, military preparedness and mobilisation readiness of the Bulgarian Army.
  - b. Preparation and conduct of mobilisation of the Armed Forces.
  - c. Participation of the Armed Forces in dealing with the consequences of natural disasters and accidents.
  - d. Participation of the Armed Forces in peacekeeping, humanitarian and other operations outside the country's borders and as part of joint operations in the country.

---

<sup>10</sup> For a recent example of a non-government contribution to the reform effort in the Ministry of Defence, see Shalamanov V., Tashev B., Nalbantov I., Tsonkov S., Ivanov R., 'Model of Defence Management of Republic of Bulgaria in the 21<sup>st</sup> Century', a Project of the Association George C. Marshall-Bulgaria, sponsored by Open Society Foundation-Bulgaria (July 2002).

2. Participating in the formulation and implementation of military doctrines, strategic and operational plans as well as territorial defence plans.
3. Guiding and overseeing the development, planning, maintenance, military preparedness and mobilisation readiness of the Bulgarian Army.
4. Approving joint operational plans and the plans for the military branches.
6. Proposing to the Minister personnel policies for the General Staff and approves all other positions' distribution in the Bulgarian Army.
7. Proposing to the Minister personnel appointments and dismissals including appointments to positions at embassies and international organisations.
8. Overseeing and directs military intelligence.
9. Organising and managing the safeguarding and defence of the national borders.
10. Proposing to the Minister and, if approved, implements general or partial mobilisations and places the Armed Forces on alert.
11. In state of war, implementing the Commander-in-Chief's orders.
12. Organising the protection of classified information in the Bulgarian Armed Forces.
13. Receiving all information from the Security-Military Police and Military Counter-Intelligence Service.

In his functions, the Chief of General Staff is assisted by the General Staff. In wartime, the General Staff is transformed into the General Staff of the Armed Forces.

It is obvious that the Chief of General Staff has extensive functions and prerogatives that in some areas clash with those of the Minister of Defence, as in the case of the Chief of General Staff's right to co-sign the Minister's orders (this right fundamentally contradicts civil authority over the armed forces). All too often in the past the Minister of Defence and the Chief of General Staff have openly clashed and it cannot be said that the civilian leader has always come out on top in the dispute. In many cases the controversies have resembled disputes between equals or between politicians. The reason for this state is as much the still fledgling civil-military relationship in the country as it is the inadequate laws governing the security and defence sector. Recently, the political leadership has attempted to create a more integrated Ministry of Defence that would not only prepare the Armed Forces for functioning in the framework of Euro-Atlantic security, but also precisely define the civilian and democratic character of defence leadership in the Ministry.

### **Transition from Peace to State of War or other Emergency**

The conditions and method of declaring a state of war or another state of emergency are stipulated by law. When a state of war or another emergency situation is declared, the President commands the defence of the country and makes decisions for the use of the Armed Forces. The President approves the plans for the preparations and conduct of combat operations and the defence of the country prepared by the Supreme Command, which is headed by the Prime Minister and includes the Council of Ministers. The Prime Minister directs the day-to-day operation of the Territorial Defence Command, which is created by the General Staff of the Armed Forces.

The law is not very precise on the exact functions of various institutions in time of war or another emergency and since there has been no such situation since the Constitution's inception there is little political precedent to guide us. For example, the Constitution and existing law provide extraordinary powers to the president during war or another emergency yet they say little about the functions of the Prime Minister or the Minister of Defence, the two officials who are most familiar with the state and functions of the Armed Forces and the state administration. The Prime Minister, politically the most powerful position in the state hierarchy as in most other parliamentary systems, seems to have vaguely defined functions during a state of war. Obviously this is one area in

need of further legislative work. Bulgaria has yet to experience a situation which would test the capacity of institutions to act and interact during extraordinary developments. The flood disasters of 2002 in Central Europe are only the latest example of the need for efficient government capable of responding to emergency situations.

## **Conclusion**

One of the first objectives of Bulgarian reformers after 1989 was to establish civilian control over the Armed Forces and depoliticise its structures. The immediate motive was to deny the still formidable Communist Party the ability to use force to reverse the process of democratisation. Later in the framework of the Parliament while crafting the first post-communist constitution, the political parties embarked on a more systematic attempt to establish armed forces whose only functions were the defence of the country and the implementation of the policy choices of the political leadership while remaining politically neutral and with no influence in domestic policies. In the late 1990s the reform process gained another dimension as Bulgaria decided to seek NATO membership and accordingly had to implement further reform in response to new requirements.

The record over the last 12 years of reform is rather mixed. Bulgaria certainly succeeded in eliminating the ability of one party or institution to exert exclusive control over the armed forces while establishing civilian control over defence matters. The military does not act as a political organisation with autonomous power in domestic politics. Constitutionally, it accepts democratic and civilian guidance in developing defence and security policies. Yet much remains to be done before Bulgaria achieves fully democratic and civilian control of the armed forces.

There are two main factors that determined the current state of democratic and civilian control of the armed forces. First, the former communists dominated the process of framing the Constitution and consequently the basic document reflected their notions of civil-military relations. Second, unlike most other post-communist countries in Eastern Europe, Bulgaria did take a while to achieve a consensus on the country's foreign, security and defence policies. Accordingly, the reform process in the armed forces reflected this lack of consensus as the defence and security policies of consecutive

governments pursued diverging objectives. Only after Bulgaria's decision in 1997 to seek integration in NATO did the country implement more systematic military reform.

The lack of military reform also hampered the accumulation of precedent and democratic practices which are so valuable in the institutionalisation of proper civil-military relations. The lack of clear and consistent security and defence policies and the general lack of security expertise among civilian leaders enabled the armed forces to retain subtle but significant influence in the political process over defence matters. This state of affairs was also facilitated by the frequent turnover of governments and members of parliament leading to the lack of both policy consistency and legislative and executive expertise in security and defence matters. Conversely, the steady accumulation of security and defence expertise in the non-governmental sector, a source of reform ideas and a means of democratic oversight, must be noted.

## **CHAPTER THREE**

---

### **ROLE OF THE BULGARIAN PARLIAMENT IN REFORMING THE SECURITY SECTOR**

*Tsonko Kirov*

The supreme law of the Republic of Bulgaria – the Constitution established by the Grand National Assembly on 12 July 1991 – in its first article states that Bulgaria is a parliamentary Republic. The second clause of the same article states that "the entire power of the state shall derive from the people. The people shall exercise this power directly through the bodies established by this Constitution". The Constitution sets out the fundamental rights and obligations of the citizens of the Republic of Bulgaria, the roles and responsibilities of the National Assembly, of the President, of the Council of Ministers, the judicial power, the local government and the Constitutional Court. It further defines the procedures how to amend the Constitution or to adopt a new one.

Bulgaria has a one-chamber Parliament – the National Assembly – which adopts new or amends existing legislation and exercises parliamentary control over the executive branch of state power. The Assembly is a directly-elected body with two hundred and forty members who serve for a term of four years. In case of war, armed hostilities or other emergency of similar type, the work of the Assembly may continue till the crisis situation is over.

The Constitution confers on the National Assembly important functions and responsibilities in respect to national security. The Parliament resolves on the declaration of war and conclusion of peace (Art. 84 /10/). If the Assembly is in recess, the President of Bulgaria declares war upon aggression against the country, a state of war or other emergency situation (Art. 100 /5/). In such a case the Assembly is immediately convened to sanction the President's decision. The exclusive power of the National Assembly on the declaration of war has provided for its active involvement in the assessment of security risks and threats and in policy-making concerning possible involvement in military conflicts. In addition, the deployment and use of Bulgarian armed forces outside the country's borders, and the deployment of foreign troops on the

territory of the country or their crossing of that territory have to be approved by the National Assembly (Art. 84 /11/). On a motion from the President or the Council of Ministers, the Parliament introduces martial law or a state of emergency on all or part of the country's territory (Art. 84 /12/). The National Assembly ratifies or denounces all international treaties and agreements which are of political or military nature, or concern Bulgaria's participation in international organisations (Art. 85).

The Bulgarian Parliament has exercised its powers in all these aspects. For example, in 1993 the National Assembly adopted a special declaration on Bulgaria's military non-involvement in the conflict in former Yugoslavia. It proclaimed that Bulgaria should not be involved in any form – directly or indirectly, including under the authority of the UN Security Council – in military action on the territory of former Yugoslavia. The declaration established a rigid framework for Bulgaria's foreign and security policy in the region to be pursued by the government in the period of 1993-1995. In a similar manner, in 1998 the National Assembly through its committees on Foreign Policy and National Security followed closely the situation in Kosovo and was actively involved in the formulation of the national position. In March 1999, it adopted a Declaration on the development of the Kosovo crisis reiterating the non-participation, either directly or indirectly, in military actions in FR Yugoslavia and expressing solidarity with the Euro-Atlantic community. During the air campaign, and as a result of an extensive and open debate, the Parliament granted over-flight rights to NATO aircraft. More recently, the Bulgarian Parliament adopted a declaration supporting the international campaign against terrorism. It decided to provide an air base for US Air Force tankers and later approved sending Bulgarian troops to participate in the operation 'Enduring Freedom' in Afghanistan.

Gaining experience in the years after communism, the National Assembly has turned into the main institution for democratic direction and control of the armed forces and the other organisations in the security sector of Bulgaria. The National Assembly debates and authorises the state budget through a dedicated law. It examines and approves the report for the implementation of the state budget. It has to agree to any government loan prior to signing a loan contract, e.g. for major defence procurements. Members of Parliament are empowered to put questions to the Council of Ministers or individual members of Cabinet. The ministers are obliged to respond (Art. 90 /1/). Furthermore, on

the proposal of one fifth of the MPs, the inquiry and the response may be debated in plenary session and the Assembly decide on the issue under debate (Art. 90 /2/).

The National Assembly elects the Chair and 10 members of an Audit Chamber (National Audit Office) that exercises oversight of budget execution. The Law on the Audit Chamber defines the organisation and the responsibilities of the Audit Office. This Office regularly reports to Parliament on its findings and is required to present to Parliament a comprehensive report on the annual account of the Bulgarian National Bank on the implementation of the state budget.

In overseeing the security sector, the Parliament interacts with both the President (elected by general vote) and the government. For example, all parties in Parliament are represented at the Consultative Council for National Security to the President. Another example is the equal access to the reports of the intelligence services, granted to the President, the Speaker of the Parliament and the Prime Minister.

### **Parliamentary Committees, Subcommittees, and Working Groups**

A number of its functions the National Assembly exercises through standing or provisional committees it elects. The standing committees are empowered by the Constitution to exercise parliamentary control on behalf of the National Assembly (Art. 79 /2/). The National Assembly elects provisional committees to perform specific inquiries and investigations (Art. 79 /3/).

The political parties represented in Parliament participate in each committee – standing or provisional – in proportion to the seats they have in Parliament. Four of the Committees in the current 39<sup>th</sup> National Assembly perform important functions in regard to defence and security:

- The Committee on Foreign Policy, Defence and Security (CFPDS);
- The Committee on Internal Security and Public Order;
- The Committee on Budget and Finance;
- The Economic Policy Committee.

These committees have the power to summon government and military officials, as well as citizens, to provide information necessary for the work of the Committee. Officials and citizens, when invited, are obliged to appear and to provide the required information and documents (Art. 80). To date, there have been no cases of refusal to appear in front of a committee, and the information provided has been generally considered satisfactory.

Members of the Cabinet are among the officials obliged to appear in front of the Assembly or its committees and to answer questions posed by Members of Parliament. The only exception is that if a Minister wishes to do so, he or she will have priority (in terms of time schedule) in giving their statements.

The meetings of the National Assembly, including meetings dedicated to hearings, are public. As an exception, the Assembly may decide to hold a closed meeting (Art. 82).

The procedures for the work of the Parliament are detailed in the Regulations for Organisation and Activities of the National Assembly. On that basis, each committee approves its own 'Internal Rules'. Therefore the rules for the functioning of each committee follow a similar logic. While this paper examines in detail the Rules of the Committee on Foreign Policy, Defence and Security, the description may be used as an indication of the work of the other committees with responsibilities in the area of security and defence.

According to the 'Internal Rules of the Committee on Foreign Policy, Defence and Security', it is a specialised organisation of the National Assembly participating in the formulation of foreign policy, national security policy, and defence policy of the Republic of Bulgaria and assisting in their implementation. It examines draft laws and proposals for decisions and declarations, prepares reports and makes recommendations in areas of its responsibility, as well as when tasked by the Speaker of the Parliament. Once a week, at a set time, it holds regular meetings. Invitations to appear at a regular Committee meeting are sent at least 48 hours in advance. The Committee also holds unscheduled – extraordinary – meetings. Immediately after the decision to hold an extraordinary meeting is taken, the Committee Chairperson summons officials to appear at the meeting and to provide requested information.

The Committee examines reports of ministers and officials from the Ministry of Defence, the National Intelligence Service and the National Service for Protection. The CFPDS has access to classified information related to its activity; this information is used according to the provisions of the ‘Law on the Protection of Classified Information’. The discussions and the minutes of the closed meetings are considered state secrets; all Committee members and invited persons shall abide to the related requirements for protection of that information.

Given that, the rule of the National Assembly for openness and public access to the meetings is reversed when it comes to meetings of this committee: any meeting is closed unless the Committee Chairperson decides to open it to the public. This rule is also valid for joint meetings with the participation of the CFPDS unless its Chair and the chairpersons of the other participating committees decide otherwise. However, the decisions of CFPDS meetings are public, unless as an exception the Committee decides otherwise.

The CFPDS may create, from its members, permanent or temporary subcommittees or working groups to study and prepare positions, reports and proposals on a variety of issues in areas of its responsibility. The Committee decides on the composition of each sub-committee and working group. As a rule and as much as that is practical, the composition reflects the representation of the political parties in Parliament. The CFPDS Chair decides who shall chair a sub-committee or working group.

So far, the 39<sup>th</sup> National Assembly has no practice of establishing permanent sub-committees with responsibilities in defence and security. As a whole, the Bulgarian Parliament has limited experience in establishing subcommittees on a permanent basis.

Sub-committees and working groups function within the framework of a mandate defined by CFPDS. In a given timeframe they prepare a report to the CFPDS that includes analysis of the specific problems at hand and a proposal for a CFPDS position. Information on the work of sub-committees and working groups may be released only by decision of the CFPDS Chair. When a sub-committee or a working group cannot reach consensus on a particular issue, its Chair is obliged to report to CFPDS on the various positions and the motives for each position.

Subcommittees and working groups, as well as parliamentary committees, are not authorised to make decisions. As a result of their inquiries, sub-committees and working groups present a proposal to the parent committee. Once this proposal is endorsed, it is passed to the plenary session, where the Assembly can make a decision, change, amend or reject the proposal.

The budget of a sub-committee or a working group is provided by the Chair of the parent committee within the budget limits for the whole committee established by the Speaker of the Parliament in accordance with the Regulations for Organisation and Activities of the National Assembly and the National Assembly's budget. Within these constraints, the Committee Chair may appoint permanent staff, comprising both secretariat and experts, and appoint advisers.

In one recent example, on the initiative of the Chairman of the Committee for Foreign Policy, Defence and Security and using this Committee's budget, a group of non-government think tanks launched a project providing impartial and objective assessments of Bulgaria's readiness to join NATO. Two reports were already made available to CFPDS, thus enabling informed commentary on and effective scrutiny of major security and defence policy decisions, plans and other documents. Notably, a summary of the NGO report was disseminated to the participants of the meeting of the NATO Parliamentary Assembly, held in Sofia in May 2002.

The current National Assembly and its Committee on Foreign Policy, Defence and Security have extensively implemented their vested powers. Recent examples include the creation of dedicated subcommittees and working groups for preparation of changes in arms trade legislation and on the issues of the review of force structures (conducted by the Ministry of Defence and the General Staff in implementation of Partnership Goal 0028), leading to changes and amendments to the Law on Defence and the Armed Forces and changes in the Military Doctrine. CFPDS played an important role in the following cases:

- CFPDS made an inquiry into alleged problems in the implementation of Partnership Goal 0028 'Review of Force Structures' and the leaks of a negative

NATO assessment of the proposed force structure and modifications of the defence reform. The Minister of Defence and the Chief of the General Staff were summoned before the Committee. As a follow-up, CFPDS closely monitored the process of adaptation of Plan-2004 requesting regular updates from the executives.

- During the discussions on decommissioning the SS-23 'Spider' ballistic missiles, the CFPDS initiated the setting of a deadline for the missiles' destruction. The CFPDS proposal was later approved in plenary session.
- Prior to the plenary debate on the Law on Amendment of the Law on Control of the Foreign Trade in Arms and Items and Technologies with Possible Dual Use, CFPDS initiated important amendments in regard to the licensing of intermediaries. Later, during plenary session, the Parliament approved the CFPDS proposal requesting that the Council of Ministers, in no more than two months, adopt Regulations for implementation setting detailed requirements and procedure for issuing licences to intermediaries, which are at the same time equivalent for both Bulgarian and foreign citizens.

### **Elaborating Roles of Parliament in Relation to Security Sector Reform**

The National Assembly is constitutionally vested with an important role in establishing the long-term principles and priorities of Bulgaria's foreign, security and defence policy. To this effect, the National Assembly adopts the National Security Concept and the Military Doctrine, as well as decisions and declarations on key foreign and security policy issues.

#### *Concept for National Security: Distribution of Roles within the Security Sector*

The 38<sup>th</sup> National Assembly adopted the first post-Cold War Concept for National Security – a 'Grand Strategy' document – in April 1998. During plenary debates the National Assembly introduced 25 amendments to the draft proposed by the government, some of them substantial. In particular, the parliamentary intervention provided for an improved balance between the responsibilities of the different institutions in the national security system. The relevant parliamentary committees proposed several of the changes, in particular in the language concerning NATO membership.

Parliamentarians defined the obligations of the 'Bulgarian citizens, society and state' to generate and guarantee their security (Art. 21) and recognised that "security is guaranteed when the country successfully protects the national interests, goals and priorities and, when necessary, is in a position to protect them effectively from external and internal threats" (Art. 22). The Parliament defined the 'level of security' as the degree of protection of the interests of 'Bulgarian citizens, society and state', accounting not only for 'protection of ... sovereignty and territorial integrity of the country', but also for individual rights and personal safety, living standards, social and health insurance, etc. (Art. 23).

Further, the legislature requested formulation of a security policy that "distributes the national resources [among the organisations in the security sector] in such way as to protect Bulgaria from imposition of a foreign political and economic will and ensures its right to a sovereign choice in all aspects of domestic and foreign policy, and security and defence policy" (Art. 36). After examining all 'security instruments', the Parliament requested that, in implementation of the Concept for National Security, the executive branch present a Military Doctrine to serve as foundation for developing a programme for defence reform (Art. 45).

In regard to the reorganisation of the security sector, the Concept reiterated the role of the National Assembly in providing the legislative basis of the national security system and specified responsibilities of parliamentary committees in control of 'the executive power and the special security structures as far as the observance of laws and effectiveness of actions are concerned as well as the efficient use of resources' and in assessing political risks (Art. 52).

#### *Military Doctrine: Roles and Missions of the Armed Forces*

With the adoption of the Military Doctrine of the Republic of Bulgaria in April 1999 the Parliament clearly defined the risks and threats facing the country in the new millennium, general principles of defence policy and the tasks of the armed forces. Notably, the legislature set out basic principles for Bulgarian defence policy aiming at development of a military-strategic environment in which the country will have the necessary resources

to meet military threats and to preserve sovereignty, the territorial integrity of the country, and the population. The implementation of this principle allows the country to rely on the deterrent role of military action but also to be actively involved in shaping the military-strategic environment. Instead of waiting for war to take place and expending immense resources for a successful military operation, the military doctrine examines more efficient ways of shaping the military-strategic environment; in other words the doctrine encourages the development of benign military-strategic conditions in the region as a way to achieve national security. According to the doctrine, the Republic of Bulgaria has a defence policy in which:

- no country is regarded as an enemy;
- problems and disagreements threatening the national security of the country will be solved primarily through non-military means;
- the defence and security of the country are viewed as part of the development of regional, European, and Euro-Atlantic security and defence systems;
- Bulgaria supports and participates in disarmament, arms reduction, and arms control initiatives;
- defence planning is aimed at maintaining an adequate defence potential;
- Bulgaria actively participates in initiatives for strengthening transparency and cooperation in the military field, in international military-political cooperation, in bilateral or multinational initiatives and exercises, and in building multinational military forces;
- it supports the efforts of the United Nations and the Organisation for Security and Cooperation in Europe (OSCE) in the area of arms control, conflict prevention, and peace restoration;
- the participation of specially prepared Bulgarian units in different international operations and missions is viewed as a long-term investment in Bulgaria's own security; and,
- Its armed forces will have the readiness for immediate action to assist the population and protect the infrastructure in natural disasters, industrial emergencies, dangerous pollution of the environment, and other humanitarian crises both on the territory of the country and as assistance to other countries in the region.

Through the doctrine, parliamentarians further specified a number of requirements to guide the military towards the goal of shaping the environment, such as:

- the armed forces are to be trained to carry out tasks independently and within the framework of multinational forces of a temporary or permanent character (Art. 94);
- in the education of troops and headquarters staff, priority is given to foreign language training to a level required by NATO standards (Art. 95);
- in the modernisation and rearmament of the armed forces the requirements for inter-operability with NATO are taken into account (Art. 96); and,
- Command, control, communications, computer and intelligence (C4I) systems have priority in the modernisation since they will enable inter-operability with the armed forces of NATO countries and also encourage the country's transition into an information society (Art. 97).

The Parliament clearly delineated the missions and tasks of the armed forces in times of peace, in times of crisis of a non-military character, in cases of international humanitarian crises, in cases of international military-political crisis, in operations other than war, in the case of escalating military-political crisis and direct threats to the country and, finally, in case of a military conflict (war) against the Republic of Bulgaria.

In the aftermath of 11<sup>th</sup> September 1991, the 39<sup>th</sup> National Assembly amended the Military Doctrine to take into account the threat of terrorist activities and to outline requirements for preparation to combat terrorism.

#### *Military Doctrine: Main Parameters of the Force Structure*

According to the 'Law on Defence and the Armed Forces' (LDAF), the National Assembly decides on the size of the armed forces, in response to recommendations of the Council of Ministers. The Bulgarian Parliament exercised this obligation when it adopted the Military Doctrine in April 1999. In article 93 of the Military Doctrine the legislature decided that:

The military strategic environment, the goals in the sphere of defence, the new missions and requirements of the Armed Forces, as well as the resources of the country, define the need for optimisation of the structure of the Armed Forces, so that their manpower does not exceed 45,000 people in peacetime. The transformation is performed through a plan for the build up, organisation and structure of the Armed Forces by the year 2004. The mobilisation plans of the Armed Forces incorporate the possibility of an increase in personnel up to 250,000 people.

Importantly, the legislature decided to abolish the paramilitary formations attached to other ministries and state agencies. It further defined the functions of the services and their main staffs, as well as the principles for effective defence management. Based on the three years of experience in the implementation of the plans for defence reform and accounting for the results of the Review of Force Structures, in February 2002 the 39<sup>th</sup> National Assembly amended the doctrine. It clarified the term 'Armed Forces' and their composition and further limited the wartime personnel level to 100,000 people.

It should be noted that defence reform plans Plan 2010 and Plan 2004, approved by the Council of Ministers respectively in 1998 and 1999, were not debated in Parliament. Issues of great social impact such as troop location, infrastructure developments and the participation of defence and other local industries were decided by the executive branch, often even by the military staff acting without proper civilian control. There was no formal procedure, initiated either by the legislature or the government, to involve the elected representatives of the people in this process with a sometimes grave impact on local communities. Members of Parliament usually showed an interest only at the time of base closures, and then to no significant effect. In contrast, the actualisation of Plan 2004 was conducted under close oversight of the Parliamentary Committee on Foreign Policy, Defence and Security.

### *Budgeting and Budget Implementation*

Each year the Parliament adopts a 'Law on the State Budget', defining both income and expenditure among functional areas, major organisations and appropriations. The draft budget of a few hundred pages is submitted to Parliament by the Council of Ministers.

The Committee on Budget and Finance is the leading committee in the preparation of the Law on the State Budget. It coordinates its stance with other committees in relation to their areas of responsibility. The Committee on Foreign Policy, Defence and Security examines that portion of the draft budget related to defence and foreign relations – organisationally, the portion of the state budget for the Ministry of Defence and the Ministry of Foreign Affairs.

The Law of Defence and Armed Forces (LDAF) provides for examination of the draft budget for defence programmes. In its article 25 /7/, LDAF defines the opportunity for the National Assembly to 'adopt long-term programmes for the development of the Armed Forces'. However, so far that opportunity has not been utilised meaningfully.

Similarly to the procedures of the US Congress, the legislature has the power to change, add or delete line-items in budget proposals. As any other decision, that would require a positive vote of the deputies in a plenary session.

The Parliament oversees the implementation of the budget either directly, or through the Audit Chamber. The direct examination is conducted through hearings and inquiries or through examination of dedicated reports by functional areas.

#### *Modernisation, Reduction of Weapon Systems and Infrastructure*

Currently, the National Assembly deals with defence procurement on a case-by-case basis. It may be expected that the role of Parliament and its Committee on Foreign Policy, Defence and Security in that respect will increase. A possible option is to examine, approve and oversee the implementation of a long-term plan/programme for modernisation of the Armed Forces. The issue of how to deal with excess armaments has been on the attention of CFPDS, in particular in regard to particular classes of weapons such as the SS-23 missiles. Likewise, the legislature deals with the problems of excess defence infrastructure and looks for efficient ways for its utilisation in the broadest interests of society.

### *Defence Industry and Arms Trade*

The problems of the Bulgarian defence industry have been the subject of attention of parliamentarians. The Economics Policy Committee is the one with the primary role in that respect. The need for closer cooperation with CFPDS has already been identified.

One area requiring further attention of the National Assembly is how to utilise the defence modernisation programmes in order to provide jobs and technological development in the national defence industry. Unlike other Western, Central and Eastern European countries, Bulgaria has no ‘Law on Offsets’. Nevertheless, there is a strong expectation that taxpayers’ money spent on defence modernisation should bring benefits to the Bulgarian industry and/or Bulgarian society in general.

One recent example of the Parliamentary role in the oversight of the arms trade, especially when that trade relates to the national foreign and security policy, is the adoption of the ‘Law on Control of the Foreign Trade in Arms and Items and Technologies with Possible Dual Use’ on 18 July 2002.

### **Parliamentary Oversight**

In addition to parliamentary hearings and inquiries, the National Assembly oversees the implementation of policy and plans, including defence reform plans, through assessment of a system of annual reports as follows:

- Annual Report on the Status of National Security (Prepared by the Government to meet the requirement of the article 55 of the Concept for National Security);
- Annual Report on the Status of Defence and the Armed Forces (Submitted by the Prime Minister in meeting the requirement of LDAF, Art. 32a);
- Annual Account of the Bulgarian National Bank, etc.

Additionally, there is a great potential in the parliamentary oversight of regular studies and policy documents such as the conduct of ‘Strategic Defence Reviews’ and the publication of the ‘White Paper on Defence and the Armed Forces’. Another promising area is to extend the traditional audit function, focused on financial probity and propriety,

to value-for-money auditing, looking at economy, efficiency and effectiveness in spending taxpayers' money. One opportunity is to build up capacity for comprehensive value-for-money auditing of the security sector in the existing Audit Chamber. An alternative option, already explored by the National Assembly and its Committee on Foreign Policy, Defence and Security, is to utilise more extensively the expertise available in academia and other independent non-governmental organisations to provide an objective assessment of specific programmes of the Ministry of Defence and other security organisations.

## Conclusion

The rights and responsibilities of the Bulgarian legislature – the National Assembly – has been defined in a modern, comprehensive manner in the Constitution of 1991. Throughout the years of transition since 1989, successive Bulgarian Parliaments have followed the principle of supremacy of the people's elected representatives in all spheres of social development, at the same time learning and elaborating rules of effective democratic governance. Nonetheless, a critical Western investigation of Bulgaria's political and military developments concluded:

The elected representatives of Bulgaria would find it hard to keep the security sector under really close surveillance anyway, because the authorities' commitment to domestic transparency is less than wholehearted. Recent governments have not been held accountable *in detail* for either their actions (policy accountability) or their spending (financial accountability) because they do not routinely publish *details*. Thus a long-promised White Paper has yet to appear (by 2001), though there have been consultations on the content of such a policy statement (a series of Roundtables, reports of which were posted on the MoD's website) and openness to representations was something of a hallmark of the Kostov administration (1997-2001). The caution about publishing facts and figures—especially figures—is expected to recede as time goes by, not least because Sofia is leading a campaign to promote international transparency in defence budgets and budgeting among all South-East European states.<sup>1</sup>

---

<sup>1</sup> (Centre for European Security Studies, *Assessing the Aspirants for NATO Membership*, Groningen, The Netherlands, 2001, pp 112-113.)

This has been the case in the area of defence and in the security sector in general. The Constitution attributes considerable responsibilities to Parliament for formulating and overseeing security and defence policy. Certainly there is room for improvement in existing legislature. However, there are significant possibilities to improve current practice through education and training, sharing of experience, efficient use of available expertise and participation in relevant international programmes.

More efficient cooperation among parliamentary committees would facilitate the legislative oversight of the security sector. There are also opportunities to define more clearly the functions of the state authorities in regard to the security sector and to streamline the interaction of the National Assembly with other state institutions. In early July 2002 we witnessed the beginning of the broad public debate on possible amendments to the Constitution of the Republic of Bulgaria. Several proposals are shared by representatives of the ruling and opposition parties. We firmly believe that the Bulgarian Parliament is up to the task of finding the best solution in the interest of Bulgarian citizens and society, including in the area of national security and defence.

**References:**

A. Cottey, T. Edmonds and A. Forster, 'Civil-Military Relations and Defence Planning: Challenges for Central and Eastern Europe in the New Era', *Working Paper 09/00*, (Sussex, UK: Sussex European Institute, 2000).

A. Cottey, T. Edmonds and A. Forster, 'Democratic Control of Armed Forces in Central and Eastern Europe: A Framework for Understanding Civil-Military Relations in Post-Communist Europe', *Working Paper 1/99*, (Sussex, UK: Sussex European Institute, 1999).

'Constitution of the Republic of Bulgaria', Adopted by the Grand National Assembly on 12 July 1991; in force since 13 July 1991, *State Gazette*, No. 56 (1991).

D. Greenwood, 'Transparency in Defence Budgets and Budgeting', in T. Tagarev (ed.), *Transparency in Defence Policy, Military Budgeting and Procurement* (Sofia: Geneva Centre for the Democratic Control of Armed Forces and George C. Marshall – Bulgaria, 2002), pp. 27-38.

*Defence and Armed Forces of the Republic of Bulgaria: Public Debate*, (Sofia: Military Publishing House, 2000).

*Internal Rules of the Committee on Foreign Policy, Defence and Security*, (Sofia: National Assembly, 2001).

L. Ivanov and V. Shalamanov (eds.), 'Assessing Bulgaria's Readiness for NATO Membership', *Report #1, February 2002; Report # 2, May 2002*, (Sofia: The Atlantic Club of Bulgaria, 2002).

'Law on the Audit Chamber', *State Gazette*, No. 109 (2001),  
<http://www.bulnao.government.bg> (2002).

'Military Doctrine of the Republic of Bulgaria', approved by the 38th National Assembly of the Republic of Bulgaria on 8 April 1999. Amended in February 2002 to reflect more rigorously the terrorist threat, [www.md.govment.bg](http://www.md.govment.bg) (2002).

*Parliamentary Oversight and Democratic Control of the Bulgarian Armed Forces and MOD*, MoD, DMCS Study, No. 3/98, (London: Directorate of Management and Consultancy Services, UK MoD, 1998), [www.md.govment.bg/](http://www.md.govment.bg/) (2000).

P. Bonchev, 'Civil-Military Relations in the Process of Security and Defence Policy Formulation: A Case Study of Bulgaria's Participation in PfP', *Final Report, NATO Democratic Institutions Individual Fellowships Programme*, 8 October 1998, <http://www.nato.int/acad/fellow/97-99/bonchev.pdf> (2002).

P. Pantev, 'Legal Issues of Democratic Control of Armed Forces in the Process of Security Sector Reform: The Case of Postcommunist Countries in South East Europe', in B. Vankovska (ed.), *Legal Framing of the Democratic Control of Armed Forces and the Security Sector: Norms and Reality/ies*, (Belgrade: Geneva Centre for the Democratic Control of Armed Forces and the Centre for Civil-Military Relations, Belgrade, 2001), pp. 17-25.

P. Pantev, 'The Changing Nature of Civil-Military Relations in Post-Totalitarian Bulgaria', in A. Cottey, T. Edmunds and A. Forster (eds.), *Democratic Control over the Military in Postcommunist Europe: Guarding the Guards*, (Hounds mills, Basingstoke, UK: Palgrave, 2001), pp. 140-158.

P. Pantev, V. Ratchev and T. Tagarev, 'Civil-Military Relations in Bulgaria: Aspects, Factors, Problems', in P. Pantev (ed.), *Civil-Military Relations in South-East Europe: National Perspectives and PfP Standards*, (Vienna: Institut für Internationale Friedenssicherung, 2001), pp. 31-62. <http://www.pfpconsortium.marshallcenter.org> (2002)

S. Ilchev, 'Opening Presentation', DEMCON-SEE Parliamentary Workshop on *Promoting Effective Legislative Oversight of the Security Sector* (Sofia: Centre for European

Security Studies – The Netherlands and Institute for Security and International Studies – Sofia, 2-5 May 2002).

T. Edmunds, 'Security Sector Reform: Concepts and Implementation', *Working Paper Series*, No. 3 (Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2002).

T. Tagarev, 'Defence Programming – Crucial Link in Civilian Control', in *Defence Policy Modernisation and Security on the Balkans*, (Sofia: Stopanstvo Publishing House, 2001), pp. 86-96.

T. Tagarev, 'Principles of Modernisation of Armed Forces and its Planning', *Military Journal*, 109:2 (2002), pp. 83-91.

T. Tagarev (ed.), *Transparency in Defence Policy, Military Budgeting and Procurement*, (Sofia: Geneva Centre for the Democratic Control of Armed Forces and George C. Marshall – Bulgaria, 2002).

U. Seiler-Albring, 'Role of Budget Committees in Security Sector Oversight', DEMCON-SEE Parliamentary Workshop on *Promoting Effective Legislative Oversight of the Security Sector* (Sofia: Centre for European Security Studies – The Netherlands and Institute for Security and International Studies – Sofia, 2-5 May 2002).

V. Ratchev, V. Shalamanov and T. Tagarev, 'Reshaping Bulgarian Armed Forces for the 21st Century', in Ognyan Minchev, Valeri Ratchev and Marin Lessenski (eds.), *Bulgaria for NATO 2002* (Sofia: Institute for Regional and International Studies, 2002), pp. 204-278, [www.iris-bg.org/pub.html#b11](http://www.iris-bg.org/pub.html#b11)

V. Danov, 'Comparative Analysis of the Reforms in the Armies of the Czech Republic, Hungary, Poland and Bulgaria During the 1990-1998 Period', *Final Report NATO RFP Programme*, (Sofia, June 2001), [http://www.nato.int/acad/fellow/99-01/danov.prf\(2002\)](http://www.nato.int/acad/fellow/99-01/danov.prf(2002)).

V. Shalamanov and T. Tagarev, 'Reengineering Defence Planning in Bulgaria', *Research Report 9*, (Sofia: Institute for International and Security Studies, December 1998), p. 28. available at

[http://www.isn.ethz.ch/isis/Publications/Shalamanov&Tagarev %20Reengineering\\_1998-12.htm](http://www.isn.ethz.ch/isis/Publications/Shalamanov&Tagarev %20Reengineering_1998-12.htm)

## CHAPTER FOUR

---

### CIVILIANS AND THE MILITARY IN DEFENCE PLANNING

*Todor Tagarev and Dobromir Totev*

In February 1998 the Council of Ministers (the Bulgarian Cabinet) issued Decree No. 44, approving the 'Plan for Organisational Development and the Structure of the Armed Forces up to the Year 2010',<sup>1</sup> known as 'Plan-2010'. Only 20 months later, with exactly the same ministers as members of the Cabinet and no changes in the senior military leadership of the Bulgarian Armed Forces, the Government approved radically different plans for defence reform, known as 'Plan-2004'.<sup>2</sup>

This paper explains the seemingly abrupt change in Bulgarian defence policy since the spring of 1998 with the introduction of a rigorous, albeit at the time rudimentary, defence planning process, solid civilian participation and strict oversight of every stage of the process. Our main thesis is that adequate defence reform plans, and developments in defence in general, result from a defence planning process based on goal-oriented interaction between expert civilians and the military and rigorous political – that is also civilian – control over defence policy. The institutionalisation of such a defence planning process presumes relevant normative and organisational changes, as well as adequate qualification of the personnel involved. It may be further facilitated by implementation of information systems and decision support tools. Ultimately, however, the institutionalisation requires an organisational culture that not only tolerates, but encourages differences in opinion and rationality, while promoting cooperative decision-making and individual responsibility for planning and plans implementation.

---

<sup>1</sup> Governmental Decree No. 44, 'Plan for Organisational Development and the Structure of the Armed Forces up to the Year 2010', *State Gazette*, No. 22 (24 February 1998).

<sup>2</sup> Governmental Decree No. 199, 'Plan for Organisational Development and Restructuring of the Ministry of Defence of the Republic of Bulgaria up to the Year 2004', and, Governmental Decree No. 200, 'Plan for Organisational Development of the Armed Forces of the Republic of Bulgaria up to the Year 2004', *State Gazette*, No. 98 (1999).

## Defence Planning in 1990-1998: Defence Reform Plan 2010

At the beginning of the 1990s, Bulgaria introduced the main legislative requirements for implementation of the democratic principle of civilian control over the armed forces.<sup>3</sup> The first civilian defence ministers did not have much expertise in defence matters and were in office for relatively short terms. Therefore, for a number of years the General Staff of the Bulgarian Armed Forces was the primary organisation, if not the only one,<sup>4</sup> thinking about how to adapt the military establishment to post-Cold War realities. Not surprisingly, the process of conceptualisation was not transparent, while politicians and the public were hardly aware of force requirements, levels and structure. Therefore the evidence regarding Plan 2010 is mostly anecdotal.

It can be assumed that thinking on defence reform started approximately in 1991. In 1992 the Bulgarian Armed Forces made a token transition from 'army-divisional' to a 'corps-brigade' force structure. This transition on paper was presented by the then defence minister as 'NATO-style defence reform.' In the following three years the national security debate was focused on the dilemma 'West vs East' (with loud support for the exotic option of neutrality) and the accession to the Partnership for Peace Programme. In 1995 the Cabinet approved a draft 'Concept for National Security',<sup>5</sup> followed by a 'Concept for Reforming the Bulgarian Army'<sup>6</sup> up to the Year 2010'.<sup>7</sup>

If until 1995 the attention of Bulgarian politicians to defence was marginal, in 1996 – the year of the economic crisis – defence was not even on the societal agenda. Thus, for six years after the dissolution of the Warsaw Pact, the senior military leadership did not

---

<sup>3</sup> For details the reader may refer to P. Pantev, V. Ratchev and T. Tagarev, *Civil-Military Relations in Bulgaria: Aspects, Factors, Problems*, in P. Pantev (ed.), *Civil-Military Relations in South-East Europe: National Perspectives and PfP Standards*, (Vienna: Institut für Internationale Friedenssicherung, 2001), pp. 31-62; and by the same authors, *Specific Problems of the Civil-Military Relations in Bulgaria during the Transitional Political Period*, (Sofia: Institute for Security and International Studies, 1996).

<sup>4</sup> With the possible exception of the Military Cabinet of President Zh. Zhelev – President of the Republic of Bulgarian from 1990 till 1996.

<sup>5</sup> Draft, *Concept for National Security of the Republic of Bulgaria*, (Sofia: Council of Ministers, 1995). The draft was never debated in Parliament.

<sup>6</sup> The term 'Army' at that time covered the three services, military schools, the military intelligence, etc, as a subset of the 'Armed Forces' that additionally included Construction Troops, Troops of the Ministry of Transportation, Troops of the Committee of Post and Telecommunications.

<sup>7</sup> Governmental Decree No. 216, 'Concept for Reforming the Bulgarian Army up to the Year 2010', *State Gazette*, No. 103 (1995). The document was classified and thus not accessible to the public.

come up with a *plan* for how to adapt the national defence to the new strategic environment.

In February 1997, the Provisional Government appointed by President Stoyanov declared the intention of Bulgaria to join NATO. In March the same year the declaration was followed by a 'Programme for NATO Accession'. Approximately one year later the Cabinet approved a top secret plan for reforming the military establishment, known as 'Plan 2010'.

There is no evidence to suggest that civilians, including the defence minister and his deputies, played any substantial role in the preparation of Plan 2010. It is safe to assume that no planning guidance was issued, other than "to prepare the armed forces for NATO integration". The plan was limited in scope, examining the 'Bulgarian Army' per se and leaving untouched Cold War relics such as Construction Troops, Troops of the Ministry of Transportation, Troops of the Committee of Post and Telecommunications, and large defence repair factories with military personnel.

Plan 2010 called for downsizing the peacetime personnel of the Bulgarian Army to 75,000 people. However the single most influential factor for downsizing was the demographic trend that limited the number of young male Bulgarian citizens potentially available for mandatory conscript service, while the length of the conscript service had been already shortened from 24 to 18 months. Civil authorities did not assess Plan 2010 in essence. It was not constrained by anticipated resources. To the best of the authors' knowledge, there had been no attempts to cost the plan. Furthermore, it did not envision changes in the missions and tasks of the armed forces, kept the 1992 organisational structure, and called for keeping all major weapon systems within the limits set by the CFE Treaty.<sup>8</sup> For all practical purposes, the planned force structure for 2010 was a somewhat smaller version of the force structure of the Bulgarian Army of the 1980s.

Also around 1994-1996, the Ministry of Defence (MoD) developed another – accompanying – document. Referred to as the 'Programme for rearmament and modernisation of the Bulgarian Armed Forces up to 2015', it alone called for more than

---

<sup>8</sup> CFE (Conventional Forces in Europe) Treaty designed to reflect the Cold War realities in Europe.

20 billion US dollars for rearmament – several times more than any reasonable forecast accounting for fiscal realities.

Government approval of Plan 2010 only confirmed NATO concerns, expressed the previous year by a senior NATO adviser, that "there is no Central and Eastern European country that has the effective army it needs and no government that can evaluate what kind of defence it requires, nor what size, nor evaluate the proposals of its generals".<sup>9</sup> Given the explicit government programme for NATO accession, the approval of Plan 2010 further proved that the NATO message had reached neither the civilian nor the military leadership of the country.

Initial claims that Plan 2010 was adequate to NATO integration requirements were quickly countered by the impartial professional estimate of a seasoned observer of defence policies of Central and Easter European countries.<sup>10</sup> Dr Jeffrey Simon from the US Institute for National Strategic Studies concluded that Bulgarian government and military officials lacked "an understanding of how far behind they are, as well as what they need to do, to seek [NATO] integration".<sup>11</sup>

A follow-up study sponsored by the UK Ministry of Defence found that there was a lack of realism and coherence between budgets and defence plans. Furthermore, the credibility of the relation between plans and budgets was repeatedly undermined since "plans, once endorsed, are regularly found to be unaffordable within allocated budgets and ... MoD has to adopt a significantly different force posture from that agreed by Parliament in order to meet affordability constraints".<sup>12</sup> The decision-making process

---

<sup>9</sup> C. Donnelly, 'Defence Transformation in the New Democracies: A Framework for Tackling the Problem', *NATO Review*, Vol. 45, No. 1, pp. 15-19, (1997), also available at <http://www.nato.int/docu/review/1997/9701-4.htm> (14 July 2002).

<sup>10</sup> J. Simon, 'Bulgaria and NATO: 7 Lost Years', *Strategic Forum* 142 (Washington, DC: INSS, National Defence University, 1998), also available at <http://www.ndu.edu/inss/strforum/forum142.html>.

<sup>11</sup> The Government was astonished to such an extent that initial translations of Dr Simon's article were classified. Then non-governmental organisations, i.e., the Institute for International and Security Studies in Sofia, played an important role in translating and making the article available to the general public. See for example the publication in, 'Information & Security: An International Journal', Vol. 1, No. 2, (Fall/Winter 1998), Vol. 93, No. 104, also available at [http://www.isn.ethz.ch/researchpub/publihouse/infosecurity/volume\\_1\\_no2/Content\\_vol1\\_no2.htm](http://www.isn.ethz.ch/researchpub/publihouse/infosecurity/volume_1_no2/Content_vol1_no2.htm) (15 July 2002).

<sup>12</sup> Directorate of Consultancy and Management Services, UK MoD, 'Parliamentary Oversight and Democratic Control of the Bulgarian Armed Forces and MoD', *Final Report*, No. 3/98, (5 October 1998), No. 23, available at [www.md.govtment.bg/](http://www.md.govtment.bg/) (23 July 2000).

itself was found to be "highly inconsistent and unpredictable" and there was no mention of a structured and clear defence planning process.

In sum, although defence policy was subject to civilian control in principle, civilians in Parliament and government lacked sufficient expertise to establish a defence planning process or to assess principal defence planning decisions. Not surprisingly, in lacking civilian control the military acted in a very cautious, conservative manner. Also, civilians were not able to undertake their share of responsibility for difficult decisions. There was no relation between Plan 2010 and the Concept for National Security,<sup>13</sup> approved by the Bulgarian Parliament only one month earlier. The resulting Plan 2010, although a step in the right direction, did not provide reform objectives adequate to national defence and NATO integration requirements.

### **Defence Planning in 1999: Defence Reform Plan 2004**

By the autumn of 1998 the need to change defence plans had become obvious. Furthermore, there was a growing understanding that Bulgaria needed to establish a modern system for defence planning.<sup>14</sup> In November 1999, the Bulgarian government made two important decisions in that regard. First, it turned to the US government for support in the conduct of a comprehensive defence reform study. Secondly, a team of younger, Western-educated experts with a track record in areas related to defence planning<sup>15</sup> were appointed to senior civilian positions in the Ministry of Defence. Notably, Dr Velizar Shalamanov was appointed Deputy Minister of Defence for Defence Policy and Planning and placed in charge of the defence reform study.

The conduct of the study, which was equivalent to a strategic defence review, was based on two main principles:

---

<sup>13</sup> For the process of approval of the 'Concept for National Security', (April 1998), the reader may refer to the accompanying paper by Tsonko Kirov.

<sup>14</sup> V. Shalamanov and T. Tagarev, 'Re-engineering Defence Planning in Bulgaria', *Research Report 9*, (Sofia: Institute for International and Security Studies, December 1998), available at [http://www.isn.ethz.ch/isis/Publications/Shalamanov&Tagarev\\_%20Reengineering\\_1998-12.htm](http://www.isn.ethz.ch/isis/Publications/Shalamanov&Tagarev_%20Reengineering_1998-12.htm) (11 July 2002).

<sup>15</sup> At that time there were no 'defence planning experts' in Bulgaria.

- Civil-military cooperation at working level, with participation commensurate to the available expertise and specific experience;
- Clear civilian primacy over milestone decisions.

The objectives and the organisation of the study were elaborated in a government decision.<sup>16</sup> Nine Bulgarian-US teams studied all services and branches of the armed forces and made recommendations. A tenth team, comprising civilian and military Bulgarian experts and led by a senior civilian, was tasked with the overall analysis and preparation of the final recommendations from the study. This team rigorously implemented qualitative and quantitative methods for defence and force planning while searching for a model for the Bulgarian armed forces that best addressed the requirements of national security and defence.<sup>17</sup> The planning process was not threat-based, but capability-based, and searched for a model with the highest possible combat potential within the forecast resource constraints.

At the first stage, the team designed hypothetical but realistic models of the armed forces with personnel strength from 30,000 to 90,000, and with 100 percent manning (no mobilisation potential) under currently valid training requirements. The cost and the combat potential<sup>18</sup> of each model was then estimated. At this stage it was established that, given the forecast resources, the optimal model of the Bulgarian armed forces, including the formations directly subordinated to the Ministry of Defence, would have peacetime strength of between 45,000 and 55,000 people. In the second stage, the team designed twelve models with varying ratios of active duty and reserve personnel, various proportions among the services as well as among the branches within a service, and varying proportions between resources for sustainment and modernisation of the armed forces. It was established that the optimum model for performing expected missions was a force with 50,000 peacetime personnel in the Ministry of Defence, 45,000 of them in the armed forces.

---

<sup>16</sup> ‘Decision of the Council of Ministers’, *Protocol No. 2/24*, (14 January 1999).

<sup>17</sup> For details refer to D. Totev and P. Roussanov, ‘Implementing the Defence Resource Management Model (DRMM) in the Development of the New Bulgarian Military Doctrine and The Plan for Organisational Structure and Development of the MOD by the Year 2004’, *CD-ROM Proceedings, ‘Applications of Operations Analysis Techniques to Defence Issues’* (Garmish: George C. Marshall Centre for Security Studies, 14-17 March 2000).

<sup>18</sup> Indicator of combat capability accounting for manning, equipment and training levels, as well as for characteristics of major weapon systems. It was estimated using the Defence Resource Management Model (DRMM) – US model adapted to Bulgarian needs in 1995-1996.

This model was presented in early March 1999 to a meeting of the Defence Council – the senior consultative body to the Minister of Defence. The President of the Republic and the Prime Minister also participated in the meeting. During the same meeting senior military leaders presented an alternative model with 65,000 peacetime personnel of the armed forces. Military leaders reasoned that the alternative model reflected the "minimal force level that fits the strategic security environment". However, the designers of that model did not even attempt to define the resources necessary to sustain that force structure, nor did they present viable alternatives. After exhaustive debate on interests, risks, scenarios and resources, the Bulgarian state leaders decided to give their support to the 45,000 model of the armed forces.

Once the most contentious issue of peacetime personnel strength was resolved, the government approved a draft Military Doctrine and sent it to Parliament. The Bulgarian Military Doctrine is a document that, in US terms for example, is roughly equivalent to a National Security Strategy. In a comprehensive manner, the Doctrine elaborates threats, risks and challenges to national security. Taking into account risks of a non-military and non-armed nature and potential destabilising effects of conflicts in neighbouring areas, the Doctrine stipulates that the "Republic of Bulgaria does not face any immediate military threat". It defines the roles, missions and tasks of the armed forces, major parameters of the force structure, NATO and EU integration requirements, principles of the Bulgarian participation in the Partnership for Peace Programme and peace support operations. Developed by a joint team of civilian and military experts under the direct supervision of the Deputy Minister for Defence Policy and Planning, the Doctrine further emphasised the ability of the armed forces to shape the strategic environment in the absence of an immediate military threat to the country and stipulated principles for efficient and effective defence management.

The doctrine was adopted by the National Assembly on 8 April 1999.<sup>19</sup> In its article 93 the legislature requested that the government endorse a plan for comprehensive reorganisation of defence up to the year 2004. In implementation of this requirement, a

---

<sup>19</sup> 'Military Doctrine of the Republic of Bulgaria', approved by the 38th National Assembly of the Republic of Bulgaria on 8 April 1999. Amended in February 2002 to reflect more rigorously the terrorist threat, available at [www.md.govment.bg](http://www.md.govment.bg) (11 May 2002).

joint civilian-military team in the Ministry of Defence, in coordination with other ministries, designed several transition models. Major parameters of the chosen transition model, as well as the changing structure of the defence budget through 2005 are presented in Figure 1. These parameters served to draft ministerial recommendations for preparation of Plan 2004. The recommendations were authorised by the Minister of Defence in May 1999.<sup>20</sup> Notably, these recommendations included guidance on major organisations in the force structure, personnel limits and resource constraints, while leaving some flexibility to the military in devising the reform plan.

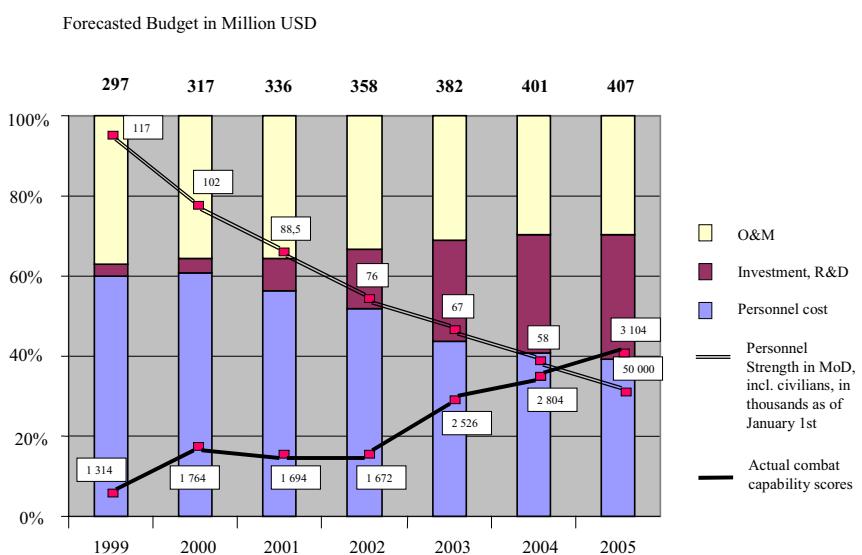


Figure 1: Aggregated capability indicator, personnel limits and budget structure in the reform dynamics

After two rounds of planning by the General Staff and review by the civilian leadership of the MoD, respectively in July and September 1999, the Council of Ministers approved the 'Plan for Organisational Development of the Armed Forces of the Republic of Bulgaria up to the Year 2004'. One week earlier, the Cabinet approved the 'Plan for Organisational Development and Restructuring of the Ministry of Defence of the Republic of Bulgaria till the Year 2004'.<sup>21</sup>

<sup>20</sup> Recommendations for the Development of the Plan for Organisational Evolvement of the Ministry of Defence and the Armed Forces up to the year 2004 (Sofia: Ministry of Defence of the Republic of Bulgaria, May 1999).

<sup>21</sup> The two plans in combination are often referred to as 'Plan 2004'. Later decision makers realised that the separation of the reform plan in two parts was counterproductive.

Plan 2004, even if far from perfect, is widely acclaimed as a very significant step towards adapting the Bulgarian defence establishment to the Post-Cold war security environment. Even more importantly, the process of elaboration and approval of Plan 2004 set a precedent for Bulgaria in which civilians and the military closely interact in defining objectives, conducting a study, assessing alternative force models, drafting recommendations and planning guidance, supervising planning and assessing the adequacy of proposed plans.

### **Elaborating the Defence Planning Process, 1999-2001**

This positive model of civil-military interaction was further strengthened and refined in the conduct of follow-on studies such as the C4 study,<sup>22</sup> a second Bulgarian-UK study,<sup>23</sup> and an air defence study,<sup>24</sup> as well as in preparing the Bulgarian Membership Action Plan, and the Annual National Programme for its implementation.<sup>25</sup> In addition, developments in the areas of defence resource management, oversight of plans' implementation and increased participation by the public proved crucial for the establishment of effective defence planning in Bulgaria.

### **Resource Planning**

With the authorisation of Plan 2004, the Cabinet requested that the MoD introduce an Integrated System for Planning, Programme Development and Budgeting within the Ministry and the armed forces. The first attempt to introduce programme-based budgeting was made at the end of 1999. The experience gained served in the elaboration of a 'Concept for a Planning, Programming, and Budgeting System within the MoD and Armed Forces' and 'Methodology for Development of Programmes within the MoD and Armed Forces'. The two documents were developed in parallel by a joint team

---

<sup>22</sup> Bulgaria C4 Study Final Report (Hanscom AFB, MA: USAF Electronic Systems Centre, January 2000); Main Recommendations for the Development of C4I Systems (Sofia: Ministry of Defence of the Republic of Bulgaria, May 2000).

<sup>23</sup> Review of the Organisation and Management Structure of the Bulgarian Ministry of Defence and General Staff, MoD, DMCS, Study No. 36/99, available at [www.md.govment.bg/](http://www.md.govment.bg/) (5 August 2000).

<sup>24</sup> Conducted jointly with NATO. Finalised in 2001.

<sup>25</sup> For details the reader may refer to *Lessons Learned and the Enhancement of the Membership Action Plan*, Proceedings of the Second International Conference (Sofia: 28-29 May 2001) and in particular the concluding chapter by V. Shalamanov, pp. 151-156.

of civilian and military experts. After several phases of meetings, consultations and discussions for coordination of the positions of main organisations with vested interests, both documents were authorised by the Minister of Defence in May 2000.

The integrated system balances long-term requirements with short-term priorities. The programming phase – the nucleus of the integrated planning system – relates available and forecast resources to the full spectrum of required capabilities, as well as long-term plans to budgets. Defence resources are tied to defence/military capabilities within a six-year programming horizon. Furthermore it attributes decision-making authority to the responsible and accountable persons and permits greater transparency in the planning process.<sup>26</sup>

This is the main planning system in the MoD. In a comprehensive way, it encompasses national defence and NATO integration requirements; people, weapon systems and infrastructure; sustainment and modernisation requirements; policy requirements and resource constraints. The Minister of Defence is in charge of its implementation. The Chief of the General Staff (GS) assists the defence minister in establishing priorities and determining how to allocate scarce resources among competing needs. The management framework and supporting processes for implementing the responsibilities of the minister and the chief of staff for defence planning and resource management is based on an effective and efficient division of labour among the key leaders of the organisation and their supporting staffs, and on management processes that facilitate integration of effort and senior leader decision-making.

The key role in the management process is allotted to the Programming Council, created in 1999. Chaired by the Deputy Minister responsible for policy and plans, the Programming Council includes the other deputy ministers, the deputies of the Chief of the GS, civilian directors from the MoD administration and flag officers in charge of GS directorates with resource-related responsibilities. The role of the Programming Council is to harmonise all programmes at the MoD level through:

---

<sup>26</sup> For details refer to D. Totev, 'Bulgarian Defence Resource Management System – Vehicle for Transparency in Defence Planning and Budgeting', in T. Tagarev (ed.), *Transparency in Defence Policy, Military Budgeting and Procurement*, (Sofia: Geneva Centre for the Democratic Control of Armed Forces and George C. Marshall - Bulgaria, 2002), pp. 71-84.

- Management of the programming process;
- Setting programme priorities;
- Reviewing the Programming Guidance (PG) and Programme Decision Memoranda (PDM);
- Recommending PG and PDM for ministerial approval;
- Coordinating MoD programmes with national programmes;
- Coordinating national defence programmes and international cooperation programmes.

On a working level, civilians and the military cooperate not only in designing the programmes, but also in a peer review process. The programme structure at the first level – the main programmes – basically reflects the current organisational structure of the armed forces, i.e. 'Land Forces', 'Air Forces', etc and the respective Chiefs' function also as 'Programme Managers'. In addition, a 'Programme Coordinator', often a civilian from a different MoD organisation, coordinates functionally similar second-level programmes. For example, the Director of the MoD Armaments Policy Directorate coordinates the development and the implementation of programmes 1.6 'Weapons Systems and Equipment for the Land Forces'; 2.6 'Weapons Systems and Equipment for the Air Force'; 3.6 'Weapons Systems and Equipment for the Navy'; 4.8 'Systems and Equipment for Logistics and Medical Support'; and 12 'C4, Intelligence, Reconnaissance and Surveillance (C4ISR) Systems'. The Programme Coordinator participates in drafting the respective section of the ministerial 'Programming Guidance'; endorses programme memoranda drafted by the programme manager's staff; participates in the programme review process; monitors programme implementation; and endorses the report for the implementation of the respective programme.

## **Implementation Oversight**

The introduction of the planning, programming, and budgeting system was crucial for re-engineering the defence planning process. In its initial version, however, there was no adequate incorporated capability to monitor the implementation process. That situation was remedied with the second version of the planning, programming and budgeting

system, introduced in the spring of 2001.<sup>27</sup> Additionally, the in-house oversight of the implementation of plans and programmes is facilitated by two independent auditing and oversight organisations – the Inspector General and the Financial Audit Directorate. The Inspector General of the MoD reports directly to the Minister of Defence and is supported by a number of military and civilian experts in specific areas. The MoD Financial Audit Directorate is staffed exclusively with civilians. It also reports directly to the Minister of Defence on results of performed compliance audits, examinations of internal payment and financial management procedures, as well as the implementation of appropriate payment methods and procedures.

A national level Audit Organisation<sup>28</sup> also focuses on ensuring that public funds and resources are spent wisely and in accordance with the intended purpose. It provides oversight of the results, efficiency and effectiveness of how funds are spent by the MoD and other organisations.

Of crucial importance was the introduction of requirements for parliamentary oversight of the implementation of reform plans. The 1998 'Concept for National Security' and 1997 amendments to the 'Law on Defence and Armed Forces' introduced requirements that each year the Prime Minister, on behalf of the Cabinet, send to Parliament a 'Report on the Status of National Security and a Report on the Status of Defence and the Armed Forces'. The open debate on these reports proves to be a valuable tool not only for parliamentary control, but also of raising societal awareness of real problems of defence.

## **Societal Awareness**

In 1999-2001 we witnessed important steps in terms of the broadest understanding of the 'civilian role' in defence planning, i.e. elaboration of a planning process that accounts for broad public interests expressed by a variety of representatives of society. Specifically the MoD put significant efforts towards involving representatives – of the media, non-governmental organisations, academia – in the discussions on the Military Doctrine and, particularly, during the development of the 'White Paper on Defence and

---

<sup>27</sup> Lessons learned from that period and consequent improvements are described in D. Totov, 'Bulgarian Defence Resource Management System' (unpublished paper).

<sup>28</sup> An organisation working for the Bulgarian Parliament. Its name may be translated from Bulgarian also as 'Audit Chamber'.

the Armed Forces'. From the very beginning this effort was organised by the MoD Defence Planning Directorate under the guidance of the Deputy Minister for Defence Policy and Planning.

In April 2000 the MoD Defence Planning Directorate organised a round-table expert discussion that led to the publication of a volume under the title 'Defence and Armed Forces of the Republic of Bulgaria – Public Debate'. The volume covered practically the full spectrum of issues related to defence and the military. Importantly, all articles in the volume were authored and often represented contradicting opinions. This publication established a solid basis for focused discussions on the main topics that took place in the year 2001 as follows:

- Synthesis of the Public Debate on Defence and National Security, 27 February 2001;
- Development of the defence aspects of the national security policy, 15 March 2001;
- Military education, research and development, 22 March 2001;
- Economic aspects of the defence policy. Impact of the national economic potential on force structure, 28 March 2001;
- Institutional interaction in the defence planning process, 11 April 2001.

The debate was fully open and widely covered by the media. Full texts of the discussions were published on the official website of the Ministry of Defence with opportunity for feedback. As a result, a second draft of the White Paper was published in July 2001. That draft was also subject to interagency coordination and assessment by society.

This practice took hold. Under a new government, the MoD organised a public debate on a third draft of the White Paper in February 2002 under the motto: 'Reforming the armed forces and building defence capabilities, adequate to the challenges, risks and threats of the 21st century'. During this debate five experts from different non-governmental organisations critically reviewed the five chapters of the White Paper. The ensuing debate assisted the MoD in the preparation of the final version of the White Paper.

## **Model of Interaction between Civilians and the Military in Defence Planning**

The model of defence planning, which is being implemented in Bulgaria since late 1998, is based on (1) goal-oriented, rather than rule-abiding, civil-military cooperation at working – expert – level, where participation is commensurate to the available expertise and specific experience of the players in the defence planning process, and (2) clear civilian control over defence policy and planning, including authorisation of all milestone decisions by the respective civilian authority. This statement is valid in regard to:

- The scope of the planning covering comprehensively personnel, organisational structures, weapon systems, infrastructure, training levels, and reserve stocks; national defence and NATO integration requirements; sustainment and modernisation requirements. For example, the programme structure of the Bulgarian MoD consists of thirteen main programmes, that in combination account for all defence activity and every single penny spent on defence whether it is in the MoD budget or from a different source, such as assistance from another government in a security cooperation programme;
- The general framework of defence planning, including the definition of national security interests and objectives, strategies to achieve the objectives, thorough definition of missions and tasks of the armed forces, definition of required capabilities, assessment of necessary resources, and assessment of risks associated with a planned force structure. This general framework (in a most simplified way) is presented in figure 2. Importantly, this process is typically accomplished repeatedly to balance required defence capabilities and available budgets;
- The elaboration of specific plans and programmes through a process of
  - Study with clearly defined objectives, e.g. strategic defence review;
  - Approval of recommendations from the study;
  - Issuing planning/programming guidance;
  - Review and assessment of a set of alternative plans/programmes;
  - Authorisation of a plan/programme;
  - Regular review of the implementation.

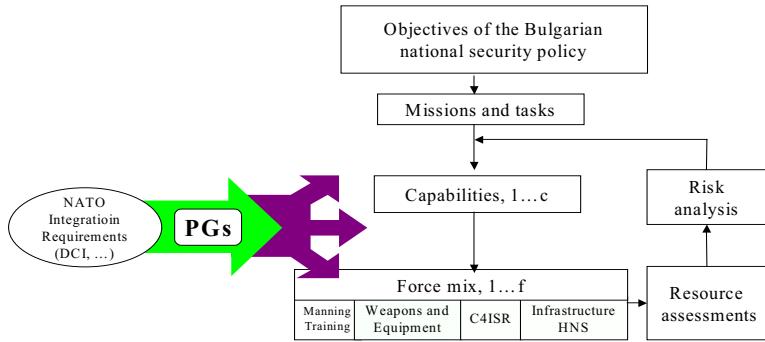


Figure 2: General defence planning framework

While Bulgarian experience exhibits a variety of interplays of organisational interests, bureaucratic behaviour and politics, it clearly points to the paramount importance of following a *rational defence planning framework* with all of the listed features. This conclusion is certainly valid for other countries in transition with limited experience in defence planning in conditions of democratic governance. However, notwithstanding developments in the normative base defining the roles of civilians and the military, longer-term developments in defence planning depend on the institutionalisation of the particular model of civil-military relations in a given country. A process of defence planning that is institutionalised, flexible, and transparent may have a crucial role in establishing democratic civil-military relations.

An institutionalised defence planning process should be based on written rules, adequate organisational structures and personnel policy (recruitment, education and training, promotions and rotation of civilians and military defence planners). Regular involvement of senior government officials and Parliament is the key for this institutionalisation. From the very beginning of the implementation of the integrated defence resource management system the Bulgarian Ministry of Defence has addressed all major requirements for institutionalisation. A new Defence Planning Directorate was created in May 1999, followed by the establishment of the Strategic Planning (J5) Directorate in the General Staff in the spring of 2000. Senior civilian and military officials conducted short-term training courses for the participants in programming and taught a 'Defence Planning' course for senior military leaders studying at the 'National Security and Defence' Department of the Rakovsky Defence and Staff College in Sofia.

The defence planning process has to be sufficiently flexible. While providing continuity of defence policy during change in government or personnel changes, it needs to provide for a quick reaction to changes in security environment, new threats and challenges, emerging technologies and changes in military affairs. The Bulgarian system of authorisation of six-year programmes, roll-on programming with yearly reviews, and regular strategic defence reviews (or reviews of force structure) provides continuity and is considered sufficiently flexible.

The defence planning process needs to be as transparent as possible. Defence planning procedures have to be established in a publicly available legislative or governmental act. Furthermore, procedures need to be as simple and clear as possible with no duplication allowed to circumvent the main planning processes. Transparent defence planning means also that decision-makers are fully aware of the stakes and risks associated with each planning decision. Finally, transparent defence planning shall allow an informed representative of the society, in other words a non-governmental think-tank, an opportunity to assess defence policies and plans on its own.

## **Remaining Challenges**

Bulgaria has a modern defence-planning process in place, and there is a growing understanding of the roles of civilians and the military in that process. There are opportunities to improve bureaucratic processes and the MoD constantly refines its procedures and practices of defence planning.<sup>29</sup> The most important current challenges in that respect are to improve civil-military interaction in planning and implementation, to improve acquisition planning, to introduce risk management and cost-benefit analyses techniques and to build a cadre of defence planners.

Currently, the civil-military interaction in defence planning decision-making is achieved mostly through the work of the Programming Council and the Defence Council (Figure 3). In particular the establishment of the Programming Council proved to be instrumental in promoting cooperative decision-making, role-sharing and distribution of

---

<sup>29</sup> The assistance of representatives of the US Institute for Defence Analyses is gratefully acknowledged.

responsibilities between civilians and the military. Civil-military interaction has been further facilitated by the culture of cooperation among experts in various directorates in the MoD and the General Staff. It is expected that the transition to a fully integrated model of the MoD, incorporating a Defence Staff, will advance efficient and effective interaction among civilian and military defence planners.

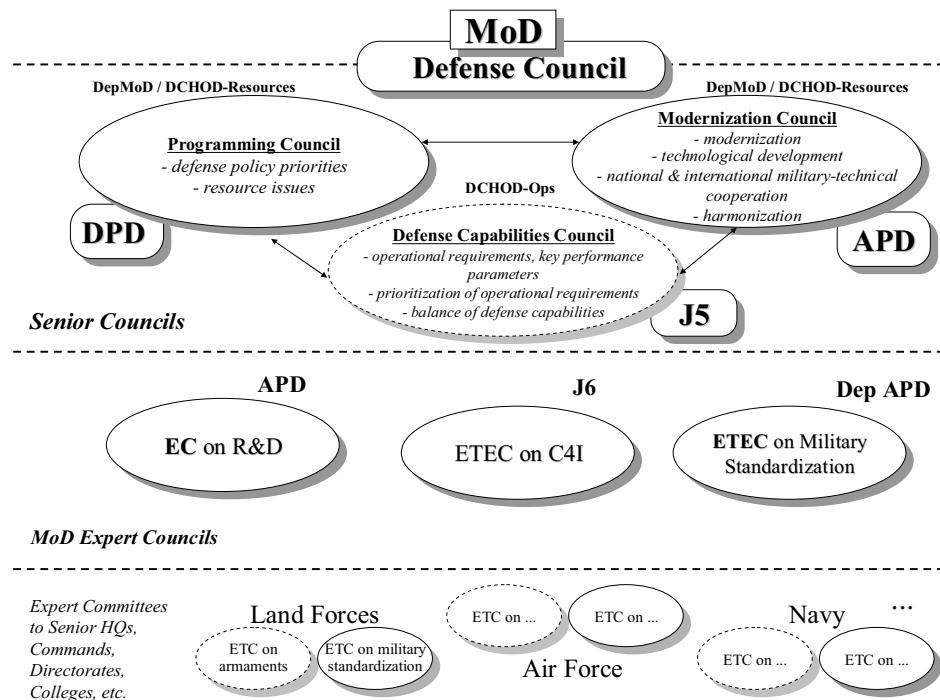


Figure 3: Senior councils in the Ministry of Defence

The second important challenge is to provide for coordinated development of organisational structures and procurement of new weapon systems and equipment. Although acquisition programmes are part of the programming structure, the MoD finds it difficult to elaborate adequate acquisition objectives and priorities, to cost procurements, especially accounting for the life-cycle cost of new weapon systems, and to schedule procurements so that there is minimal risk for the whole programme. To meet this challenge, the MoD is working on the elaboration of a new acquisition system and the implementation of a NATO-compatible system for procurement.<sup>30</sup> Key in terms of clarifying roles of civilians and military in the process was the establishment of a

<sup>30</sup> Details are available in T. Tagarev, 'Prerequisites and Approaches to Force Modernisation in a Transition Period', *Information & Security: An International Journal*, Vol. 6, pp. 30-52, (2001). [http://www.isn.ethz.ch/onlinepubli/publihouse/infosecurity/volume\\_6/f4/f4\\_index.htm](http://www.isn.ethz.ch/onlinepubli/publihouse/infosecurity/volume_6/f4/f4_index.htm) (12 March 2002).

Modernisation Council in 2001, combined with the introduction of a Defence/Operational Capabilities Council that is still pending. The main tasks of these councils are listed in Figure 3. The same figure shows a number of additional expert councils and committees, where civilians and military already work together using their specific expertise to prepare adequate acquisition decisions.

A particular challenge is related to the introduction of risk assessment methodologies, techniques and tools. Proper assessment of the risk associated with each policy option and the related force structure proved to be crucial in making every important decision in the defence-planning process. Debate should be based not only on what a defence planner feels, but rather on a structured rigorous approach to risk assessment, using the respective expertise of civilian and military planners.

Similarly, it is very important to introduce more rigorous approach towards cost benefit analysis both in the Ministry of Defence and outside organisations such as the National Audit Office or non-governmental think tanks. The capability of the Audit Office to perform 'value for money' analyses in defence, in a way similar to the UK National Audit Office and the US Government Accounting Office or Congressional Budget Office, may be improved through temporary assigning of a few experienced military personnel. Alternatively, non-governmental think tanks with proper expertise may be tasked by Parliament and/or government to provide independent assessments on specific issues, i.e. proposed defence budgets; major procurement cases; specific plans and programmes, as well as to assess reports for their implementation. Some form of competition between the MoD, other governmental or parliamentary agencies, and NGOs in assessing defence planning options may be quite healthy for the promotion of transparency, accountability and, as a result, more effective defence planning.

The final challenge in our analysis relates to the education of civilian and military defence planners. Short-term training courses proved to be useful to prepare MoD personnel to implement particular procedures and planning requirements, for example how to draft a Programme Decision Memorandum. However a more formal education is required both for the military and the civilians involved in defence planning. Key in this respect is the building of a civilian cadre of defence planners.

In conclusion, this paper presents a brief summary of the major achievements of Bulgaria in establishing a modern defence planning system adequate to the democratic political system. The focus is on the difference and the complementarity of the roles civilians and the military play in defence planning. We are not looking at the details, but instead we are taking a more detached look at the Bulgarian experience and achievements, as well as at the major challenges, in the authors' opinion, Bulgaria still faces to establish smoother professional civil-military cooperation and effective civilian control over defence planning. This is a complex process with a number of interrelated issues. There are no magic, one-step solutions. Fortunately, improvements in one of the areas positively influences the whole process and triggers developments in other defence planning areas.

Bulgaria already has a solidly-established defence planning system. Refining this process on the basis of the experience gained will further improve defence and armed forces in the interests of the people of Bulgaria and an effective Bulgarian contribution to Euro-Atlantic security.

## **CHAPTER FIVE**

---

### **DEMOCRATIC OVERSIGHT AND CONTROL OVER INTELLIGENCE AND SECURITY AGENCIES**

*Ivo Tsanev and Plamen Pantev*

#### **Introduction**

To state the obvious: there is no perfect model encompassing all secret services, their coordination and functioning. Every state, according to its tradition, political system, state of democratic development and strength of civil society builds and maintains its own approach to the role, functions and regulations of the secret services.

Fledgling democracies in Eastern Europe face significant challenges to the reform of post-communist secret services. Like most other post-communist states, Bulgaria has yet to achieve a sufficient level of democratic and civilian control over intelligence, counter-intelligence, the police and other secret services. As late in the democratic transition as 2002, the Bulgarian president Georgi Parvanov warned that the secret services, including those under his authority, functioned in a legal vacuum as no law regulated their roles and functions. The statement came even as Bulgaria was poised to receive an invitation to join NATO.

Bulgaria has made significant progress in establishing civil control over the armed forces. In the last five years the government accepted and implemented Plan 2004, a new Law on the Armed Forces, a Military Doctrine, a Defence White Paper and other policies leading to a radically new approach to security and defence policies and especially in civil-military relations.

Conversely, the Ministry of Interior has made little progress in the reform process in the last few years. Establishing the position of deputy minister and the demilitarisation of the ministry are among the most significant changes so far. The ministry is a mega-institution built up on the Soviet model of secret service management with great power and authority concentrated in the hands of the chief secretary. For example, if the

Prime Minister requests information from the National Service of Investigation, the Minister of the Interior and the ministry's chief secretary must approve the transfer of information. In the past, the office of the Prime Minister has already requested information containing damaging facts about precisely those officials.

Many of the members of the secret services, especially those in the National Service of Investigation, are former members of the communist services. Indeed, there are currently no former members of the notorious 6<sup>th</sup> Department – the department watching over political dissidents until 1989 – but many have worked in departments handling American and West European affairs. The lack of proper control of the services makes it difficult to speculate as to the current position of those former members of the services.

There is a need for a complete and thorough reform of the secret services, including their role, functions and authority. For a start, the National Service of Investigation must be taken away from the Ministry of the Interior. The Ministry must include only police services and thus become a Ministry of Police.

More importantly, there exists the need for a Law on National Security which would clearly and thoroughly define the role and functions of the secret services including the National Intelligence Service, National Investigation Service, National Security Service and Military Information Service. It must also define the role of the Council of Ministers' Security Council as the main coordinating body – and, if need be, the main overseeing body – of the work of the secret services. The same law should also state the Parliament's oversight functions including the creation of a special oversight commission, which includes members of all parliamentary parties. In this respect Germany provides a good example of parliamentary oversight of secret services.

## **The Bulgarian Background**

Six years ago a study on civil-military relations in Bulgaria by the Institute for Security and International Studies (ISIS), Sofia, drew the conclusion that "the inadequate legal basis, the virtual lack of tradition of civil control over intelligence, the sharp political contradictions in the period of transition, and the lack of knowledge of society about

these issues turns solution of the problem into an intellectual challenge with extremely important practical consequences<sup>1</sup>.

However, the challenge has been taken up by only a few keen insiders of politics and intelligence. Unfortunately, the debate about intelligence continued to dwell mostly on the files of the former secret services of totalitarian Bulgaria, mainly before 'election time'. The topic has been significant, but has been treated opportunistically and without a constructive follow-up for both the intelligence agencies and for society. The few serious pieces of writing<sup>2</sup> on the topic did not grab the media and public's attention for a substantive debate. The reasons have been both political and educational: some politicians have been tempted to use the issue for manipulating certain individuals, while society, burdened with existential concerns, remains ignorant of the specific nature of intelligence and how it can better serve public interests.

Academic students of the issue have been additionally discouraged by the fact that unlike the army, navy, air force and police, intelligence institutions were not opened for public scrutiny. Both the syndrome of secrecy and the multitude of transformation problems prevented these services from an interaction with society that would be in their mutual interests. Academic studies have been further frustrated by the fact that there is no real best practice to follow as a model. A long-time student of the history and science of intelligence, lecturer and consultant on intelligence analysis, Dr Wilhelm Agrell from the University of Lund (Sweden), wrote recently that:

since the 1970s most Western European countries have had some form of parliamentary control over intelligence and security agencies, but with little success. In Norway in the mid-1990s, the so-called Lund Commission was formed to investigate the internal intelligence and security agencies in Norway, from 1945 all the way to the mid-1990s. One of the findings was that the majority of secret intelligence operations were directed against Norwegian citizens. But the most important finding was that parliamentary control over the Norwegian

---

<sup>1</sup> T. Tagarev, 'Information Security as a Problem of the Democratic Civil Control of the Armed Forces. Leadership and Control of the Intelligence Activity', in Pl. Pantev, V. Ratchev, T. Tagarev, *Problems of Civil-Military Relations in Bulgaria: Approaches of Improving Civil Control over the Armed Forces*, Research Studies 2, (Sofia: ISIS, 1996), p. 66, (in Bulgarian).

<sup>2</sup> See, for example, T. Boyadzhiev (ed.), *Intelligence*, (Sofia: Trud Publishing House, 2000), pp. 421-430; J. Nachev, in the course of 'Military Journal' from 1998 on, etc. (both in Bulgarian).

security service had been absolutely ineffective, since it was simply a formal structure lacking insight into the actual operations. That was a bit discouraging. It's a long road from formal parliamentary control to real citizens' control. I don't think we've even started down that road<sup>3</sup>.

Considering the pressure of various transitional problems, however, and bearing in mind the natural complexities of dealing with this particular issue, it would be fair to say that the country's national security community has highlighted the issue of democratic oversight of intelligence and security institutions and has launched, though modestly, an educational effort on this issue.

Notwithstanding this relative success in the country's debate on security and the instruments of exercising democratic control, the author of this paper is sure there is a long way to go – both nationally and internationally – to reach a satisfactory level of democratic oversight of the intelligence and security agencies. This short study aims to further invigorate the national debate on this topic while a law on national intelligence is to be discussed, by presenting another non-governmental and academic view of:

- What the complexities of civil democratic oversight of the intelligence and security agencies are and how to cope with this issue;
- What fundamental questions the slowly evolving debate in Bulgaria on the tensions between intelligence and the democratic ethos should tackle and answer;
- What legal and institutional measures should be taken by Parliament to improve the democratic civil oversight of the intelligence and security agencies, and,
- How the missions of the country's intelligence and security agencies are influenced by the events of September 11 and what the issues for democratic oversight are.

---

<sup>3</sup> W. Agrell, 'On Ethics and Legal Norms for Intelligence and National Security', *National Security and the Future*, Vol. 1, No. 3-4, p. 84, (2000).

## The Changing Roles and Definitions of Intelligence and Security Agencies

The first complicating factor in changing the role and tasks of intelligence lies with overcoming the legacies of the past, that is the notion that intelligence is virtually identical with a secret police. The effective introduction of elements of democratic oversight and control is diminished by the continuing effort of coping with the remnants of the previous, totalitarian system and personnel. Unfortunately, information from clandestine sources has been used in the environment of political campaigning. The hostile reaction of society when secret information is misused during election campaigns and political racketeering is obvious. For the majority in the professional community of intelligence and security experts, these unpleasant and unacceptable activities signal a lack of ethics and professionalism in basic intelligence activity<sup>4</sup>.

A second complicating factor is the persisting presence of contradictory assumptions about democratic oversight and control over the security sector in the writings of Western specialists, and the new democracies rely on such analyses. Daniel Nelson has noted rightly that "civil-military relations have become and remain a field in which definitions are too narrow, diagnoses are too Western, legal, institutional and national, theory is too derivative and descriptive, policy/therapy is too military"<sup>5</sup>. Another student of civil-military relations, James Burk, writes that "only in the loosest sense can we claim to have overarching theories of civil-military relations that explain the widely divergent patterns of conduct that occur throughout this domain under the whole range of imaginable conditions"<sup>6</sup>.

---

<sup>4</sup> For example, the criterion of assessing the utility of Bulgarian intelligence servicemen by the parliamentary authorised commission for dealing with the files of the various intelligence services of the totalitarian regime has been the possession of the status of an 'illegal' intelligence serviceman or not: those who were not 'illegal' spies – probably most of the intelligence personnel, have been named 'people on an excursion at the expense of the state'. Apart from this professional insult to most of the people involved in intelligence activity, this statement demonstrates a total absence of understanding of how different layers of information inflow are matched and compared after various intelligence sources of information, both legal and illegal, provide them to reach the logical conclusion of what facts constitute the real situation and improve the chances for an effective decision. See: *Trud Daily*, 2 August 2001, p. 16.

<sup>5</sup> D. Nelson, 'Definition, Diagnosis, Therapy – a Civil/Military Critique', *Paper*, distributed in September 2001 at the George C. Marshall Centre, Garmisch-Partenkirchen, p. 1.

<sup>6</sup> J. Burk, 'Theories of Democratic Civil-Military Relations', *Paper prepared for the conference Taking Stock of Civil-Military Relations*, sponsored by CESS, The Netherlands, CSDS, Canada and DCAF, Switzerland, held at The Hague, The Netherlands, 9-12 May, 2001, p. 1.

At present, according to Burk<sup>7</sup>, two distinct democratic theories, liberal and civic republican, underwrite and clarify the different approaches to civil-military relations. Liberal theory argues that the first priority of the democratic state is to protect the rights and liberties of individual citizens. Civilians are supposed to dictate military security policy, but they would leave the military free to determine what military operations were required to secure the policy objectives. The effectiveness of this policy is based on the professionalism of the military who are expert in managing violence and on their loyalty to civilian authority in return for professional autonomy. The civic republican theory considers as first priority of the democratic state the engagement of the citizens in the activity of public life, including the rule and defence of the republic. The main problem with this theory is how to preserve the citizens' opportunity and enthusiasm for public service, including the military protection of the republic from defeat in war.

Neither theory of civil-military relations presents an encompassing explanatory framework for treating the area of intelligence and security agencies. A combined application of both theories, however, increases the possibilities of drawing the outlines of civil democratic oversight and control of intelligence. Another theoretical trend, witnessed by many researchers in recent years in the area of civil-military relations, that will inevitably exert some pressure on all intelligence and security agencies and needs to be considered seriously is the creation and the need to enforce international standards of civil-military relations. An international theory of civil democratic oversight will gradually reconsider many issues of civil-military relations, among them relations with intelligence and security institutions.

Moreover, a third complicating factor has been the insufficient level of discussion of this issue with NATO, EU and other Western partners. In comparison to the clear and extensive support of established democracies on the issue of the civil democratic control of the armed forces, the broader issues of security sector reform, especially in the area of intelligence, do not have the opportunity to borrow much from these countries' know-how in dealing with this issue. This has been at least the perception of the non-government and academic sector of Bulgarian society. Knowing well what a powerful tool of the democratic transition of Bulgarian society cooperation with the West has been in the last 13 years a clear contrast is appearing in the field of building-up non-

---

<sup>7</sup> Burk, 'Theories of Democratic Political Reform', *Paper*, pp. 2-9.

governmental independent information and expert analytical capability in the area of introducing civil democratic oversight of the intelligence agencies. The knowledge base for such an activity is definitely one of the deficiencies of the period and may be partly blamed on inadequate cooperation with our Western partners who have a longer experience of democratic governance. The major blame, of course, goes to the inadequate political atmosphere in the last decade that did not allow a more courageous search for a balance between democracy and intelligence in Bulgaria. Nonetheless, the 'Transatlantic institutions' have devoted remarkably little attention to the issue of intelligence operations.

Fourthly, the issues of the intelligence and security agencies' activities are definitely the most specific and complex in the realm of security issues. This complex nature is inevitably reflected in the definition of the balance and the boundaries of intelligence activity and the scope and mechanism of democratic oversight and control of the respective agencies. This particular complexity underscores the persisting need for broader education of the public on the basics of the issue to provide it with adequate instruments for understanding the problems and implementing the oversight. From the point of view of the citizen who has no influence over the activities of such an agency, unless it is effectively accountable to officials he helps elect, the threat posed by the agency corresponds closely to the dangers posed by other well-organised, well-armed rivals of a democratic government.

Fifthly, though the national and international conditions have not been suitable, no effective research effort has been demonstrated to study the issues of civil democratic oversight of the intelligence agencies and shape the 'academic body of knowledge' in that field in Bulgaria. No university or research institute has encouraged this kind of study. Neither the Parliament, nor the democratic institutions of the President, the executive or judicial branch have asked for such research. The rare civilian expertise on security and defence issues for years just touched this significant aspect of democratic control of the security sector, but never tried to go into deeper waters. The only writers on this topic have been professionals from the intelligence community who either teach the subject in the respective institutions or have already retired.

Sixthly, the subject turns even more difficult in the aftermath of the events of 9/11 and the new security needs of fighting terrorism globally. While reforming the intelligence and security agencies and their activities on a democratic basis, measures had to be taken to protect the state, the fundamentals of our civilisation and social existence, and find a new formula for balancing the rights of the citizens and of the state institutions.

## **A National Debate on Democratic Oversight over Intelligence and Security Agencies**

The popular definition of intelligence should be brought to the minds of the broader public and the understanding of the specific mechanism of democratic oversight – built on this perception. Roy Godson, Georgetown University Professor, President of the National Centre for Strategic Information and President of the US non-governmental Consortium for the Study of Intelligence, describes intelligence as "that knowledge, organisation and activity that results in (1) the collection, analysis, production, dissemination, and specialised exploitation of information relating to any other government, political group, party, military force, movement, or other association that is believed to relate to the group's or government's security; (2) the neutralisation and countering of similar activities by other groups, governments, or movements; and (3) the covert activities undertaken to affect the composition and behaviour of such groups or governments"<sup>8</sup>.

Godson describes four distinct elements of intelligence: first, clandestine collection, which is obtaining valued information through the use of special, usually secret, human and technical methods (humint and techint); second, counterintelligence, which is the identifying, neutralising and exploiting of other states' intelligence services; third, analysis and estimates – that is assessing collection and other data, and delivering to policymakers a finished product that has more clarity than may be inherent in the data alone; and fourth, covert action, which is attempting to influence politics and events in other states without revealing one's involvement. Godson underlines the symbiotic relationship, especially the operational one, between the elements<sup>9</sup>.

---

<sup>8</sup> R. Godson, 'Intelligence and National Security', in: R. Shultz, R. Godson, T. Greenwood (eds.), *Security Studies for the 1990s*, (Washington, New York, London: Brassey's (US), 1993) p. 213.

<sup>9</sup> Godson, 'Intelligence and National', pp. 213-214.

The 'right to know' in democratic societies disqualifies concerns about intelligence as the sole source of the debate on secrecy. Open government is an essential component of the democratic state's functioning. People in a democratic state have the right to know how the country's foreign policy achieves its ends as well as to what extent the country's protection from foreign intelligence services leads to intervention in individuals' rights and freedoms. The dilemma of democratic oversight of the intelligence and security agencies is that without intelligence the country's national security is put at risk, but if intelligence activities are excessive or carried out in a certain manner it may violate constitutional norms and civil liberties.

A blueprint for coping with this dilemma has not yet been invented, but in mature democracies specific issues are discussed in connection with the four elements of intelligence. An educated debate in Bulgaria on these issues may include the treatment of the following questions<sup>10</sup>:

### **On the Issue of Clandestine Information Gathering**

Do democratic values necessitate specific limits on collection techniques and are these incompatible with democratic ways of collecting data? Apart from this issue, society has an interest in knowing to what extent its own citizens and organisations are used with or without their knowledge as agents in recruiting agents both at home and abroad. It is no less interesting to know and define legally, as in the answers to the previous questions, what are the limitations for using own citizens and organisations in the technical collection of intelligence information.

### **On the issue of Counter-Intelligence**

While the issue of surveillance of the citizens of Bulgaria has been regulated legally, there always remains room for discussing the extent to which a democratic government could target or survey its own citizens or resident aliens for counterintelligence purposes. Western democracies have had much experience in providing protection against the

---

<sup>10</sup> Godson, 'Intelligence and National', pp. 222-224.

supreme dangers of intelligence-gathering – of defining what is acceptable to a democratic public. This is to consider, adopt and enforce a set of rules limiting methods of information-gathering and revelation about citizens and residents of the nation. However, even Western states have encountered transgressions in the operations of their intelligence agencies. In a new democracy, it is necessary for the improvement of the legal basis of this activity, for getting closer to a consensus on effective protection of security while entertaining full civil rights and liberties. A well-designed Bulgarian law cannot accelerate the process of maturing of democracy. Similar treatment is required for questions of the permissibility and appropriateness for democratic governments of the various counterintelligence, neutralisation and manipulation techniques against political groups with foreign connection and funding.

### **On the Issue of Analysis and Estimates**

A question that deserves the attention of society is the extent academics, the media, or research institutions should be hired for classified work. What should be the parameters of such an involvement to protect national security, on one side, and preserve the autonomy and liberty of academics and the media from the intelligence agencies, on the other? Some major Western think-tanks have been engaged by their governments to work on highly classified defence and intelligence questions. Could academic and media experts in a new democracy like Bulgaria be hired for more elementary tasks, to provide training for an improved intelligence performance? Much intelligence relies upon the expert analyst, who puts together political, economic and defence information, much of it from open, unclassified sources.

### **On the Issue of Covert Action**

What are the permissible and appropriate limits for the executive power to use its own citizens and private organisations without their knowledge to exert influence abroad? Are there levels of compatibility of democratic values with specific techniques of covert actions such as disinformation and assassination? Should officials from the legislative and/or executive branches be informed about covert action operations, and if 'yes' – to what extent, especially during the budget appropriations process? Is it permissible to recruit criminals for covert actions against another group of criminals abroad? At present

this question confronts Western intelligence agencies, notably in the case of infiltrating extremist and criminal organisations.

The 'right to know' in a democratic society, applied to the intelligence and security agencies, has also another aspect, encompassing all four elements: the right to know if the highest professional criteria for joining these services are observed and implemented. Society has the right to know if professionalism in intelligence is adequate for its security needs and interests. For example, low-level professionals cannot recruit and effectively lead and train foreign agents of high quality. Intellectual equality and compatibility requires a high level of professionalism of intelligence servicemen in this area. This is why it is more than normal for society to ask whether political appointments in the intelligence services should be at the expense of professionalism consistent with national security. How should this requirement be legally guaranteed? This particular issue becomes even more important when Bulgaria expects to work together in a cooperative manner with allied intelligence services of NATO which will be relying on Bulgarian professionalism in this field.

For a responsible oversight of the intelligence and security agencies, the democratic public has to ask itself a very significant question: are the efforts at controlling the intelligence services raising their performance or not? Are the new legislative proposals, creating institutions for implementing oversight, a non-government controlling 'eye' as it were, hampering the creativity and efficiency of the intelligence services too? This study cannot provide clear and definite answers to such difficult questions, but insists on debating the issues openly in the framework of Bulgaria's civil society and reaching rational and consensus agreements that would pay tribute to both democratic liberties and to national and international security.

## **Legal and Institutional Measures for Democratic Oversight**

It is no secret that an invariable problem of any country's intelligence services is how to prevent them turning into toys of their political masters – an effort that is traditionally hard to achieve. Furthermore, the effectiveness of the legal and institutional formulae for exercising civil democratic oversight of the intelligence agencies is largely dependent on the maturity of the respective democratic societies and states.

The Bulgarian tradition in that field in the last thirteen years shows the influences of rival efforts to preserve the political neutrality of the intelligence services and to opportunistically use them for narrow political purposes, and of a gradual though slow evolution of the democratic ethos. The reflection of these pressures on the legal and institutional aspects of the democratic oversight of the intelligence and security agencies is very curious. The democratic transition in Bulgaria was marked by an initial revision of the totalitarian constitution in March 1990. The revised text provided the head of state with the right to lead and control the national intelligence service. The acting constitution of July 1991 did not provide this competence to the president of the republic, but the tense and fluid political situation at that time did not motivate the Council of Ministers to claim and the then president of Bulgaria to provide the transfer of this activity to the Prime Minister. Since then the status of national intelligence continues to be linked with the Head of State who, according to the Bulgarian Constitution is not the chief executive. An odd situation has been created; the Prime Minister, who bears the responsibility for the country's domestic and foreign policy, is not the master of national intelligence, while the Head of State is practically on stand-by to pay for any failure in the risky activities of the intelligence service. It is a fact that in the last eleven years the presidential leadership of national intelligence has contradicted the spirit and logic of the Constitution. Bulgaria witnessed a few clashes between the President and the Prime Minister in the first half of the 1990s because of this legal inadequacy.

A draft law on national intelligence was presented to the Parliament in 2001 by one of the parliamentary factions and is on the legislative agenda. A vigorous parliamentary debate has not started yet and a public discussion is still to come too. There is an obvious need for a new public oversight of intelligence agencies and clear guarantees that the Prime Minister will not abuse his immense power granted by the Constitution in the field of leading the intelligence and security institutions. The present situation needs to be corrected – on one side the Parliament should begin its regular oversight of national intelligence, and on the other national intelligence should get more closely in touch with society and receive incentives for improvement. Executive power cannot be controlled adequately by the Parliament if intelligence is isolated from its control.

The new law on national intelligence should give clear directions in the following elements of the parliamentary mechanism of oversight and control:

First, the transfer of the national intelligence service to the domain of the Prime Minister;

Second, how planning, programming and budgeting is organised and what the procedures are for approving the annual budget. National intelligence should clearly describe in its budget proposal what its activities and their objectives are in the coming financial year.

Third, the law should regulate the organisation and a process of parliamentary investigation and assessment of the national intelligence agency's activities with the aim of judging their effectiveness. For this purpose a specialised body approved by the Parliament with the consent of the opposition (an Inspectorate or Expert Commission) should facilitate the work of the respective commission that would monitor the activity of the intelligence and security agencies.

Fourth, how the intelligence agencies will organise their activity so as to be able to propose through the government appropriate draft laws that would facilitate the functioning of the intelligence system.

The direct involvement of the country's Parliament in the democratic oversight of intelligence and security agencies will improve the chances of the non-governmental expert sector developing an independent information and analytical basis in the area of intelligence and draw the broader public into the discussion in an educated way.

### **New Missions of Bulgarian Intelligence and Security Agencies After 9/11**

In an effort to contribute to the national debate on the activity of the country's national intelligence, this section draws attention to a non-government academic view of the effects of the 11 September attacks on the missions of intelligence in the new security

environment<sup>11</sup> as well as to new issues for the democratic oversight of these agencies. The theoretical assumption that the issues of civil-military relations and the democratic oversight of security sector institutions are becoming more international in nature strongly influences these considerations.

The main targets of intelligence in the last century have been foreign states, their political organisations and the respective individual representatives. But during the last decade, the attention of the intelligence services has turned to non-state actors: terrorist organisations and individuals, firms dealing with nuclear, chemical and biological material, arms trading companies, drug traffickers, organised criminal groups, organised violators of sanctions regimes, instigators of civil wars (so called pre-state groups), groups driving the fragmentation and collapse of new states (so called post-state groups), some trans-national corporations – many of these formations were reflections of the tendency to globalisation, and intelligence services displayed an increased interest in their activity. This interest has had a special additional focus if some of them interacted with the so-called 'states of concern' (formerly 'rogue states').

The whole period of the 1990s was marked by a search for intelligence targets and the respective missions that would clearly motivate the servicemen. However, though important, service to international security and humanitarian support are hard to compare as motivating factors to intelligence activity in a wartime situation. Only in some of these cases was the full potential of intelligence to collect information used as in wartime. This ethical concern disappeared (almost entirely) after the terrorist acts of 11 September. The intelligence war on terrorism undoubtedly serves international society and has a clear UN mandate. Covert collection, including the most intrusive type, is the nucleus of this fight. The penetration of the terrorist enemy by humint and techint is absolutely legitimate and of high moral value. Bulgarian intelligence services can hardly avoid from this trend.

Another tendency that would also require a special view from the civil society and the parliament is the tendency towards globalisation of intelligence activities. The fight

---

<sup>11</sup> M. Herman, *Intelligence Services in the Information Age: Theory and Practice*, (Portland, OR: Frank Cass, 2001); *Ethics in International Relations: The Role of Intelligence Services after September 11*, (Surrey: The Conflict Studies Research Centre, RMA Sandhurst, M24, 2001).

against terrorism in particular demonstrates that the intelligence product serves as an international benefit to an enlarging group of states, not just our own one. This tendency can be traced back to the Cold War period while verifying strategic arms agreements or confidence-building measures. In the post-Cold War period the limitation of the spread of nuclear, biological and chemical weapons would have been quite impossible without an intelligence exchange. This is true also for the joint multilateral military peacekeeping and other operations, requiring a full range of wartime intelligence support. The International Criminal Tribunal for former Yugoslavia (ICTY) in The Hague as well as the new International Criminal Court require intelligence support in identifying execution and burial sites, planning and implementation of crimes, etc. The new European Rapid Reaction Force can act only if supported by intelligence. The need to defend the national and European homelands, as well as the homelands of the USA, Russia and other allies in the fight against globalised terrorism requires globalised intelligence-sharing and may pool intelligence resources to a degree not seen in history. As Michael Herman writes, these needs would require "some consensus on professional methodology, plus international assessment machinery whereby intelligence inputs can be tested and integrated"<sup>12</sup>.

However, the creation of such a powerful intelligence pool would necessitate an adequate democratic control mechanism, albeit in the framework of effectiveness in the fight against terrorism. Bulgaria is part of all these international efforts and a democratic oversight by the country's Parliament and civil society is indispensable. The mechanism for interaction with other parliaments and civil society representatives still needs to be worked out. This will guarantee a high social profile – national and international, of those who risk their lives in the fight with enemy number one – terrorism. It will also keep a public eye on what the exponents of information power are doing for the public good and with citizens' money.

## **Conclusions**

A few years ago the Bulgarian expert community and civil society started a dialogue on the role of intelligence and how the democratic public should control its activity. The

---

<sup>12</sup> Herman, *Ethics in International Relations: The Role of Intelligence Services after September 11*, pp. 5-6.

maturing of this dialogue is contingent on the national evolution of a democratic society and on the evolution of democratic oversight of the intelligence institutions in other, especially more mature democratic societies.

This study suggests an agenda for a gradual overcoming of the complexities of democratic oversight and control over intelligence and security agencies. It also points at the specific topics that require discussion – public and professional, in the effort to bring together the intelligence profession and the ripening democratic ethos of the Bulgarians. These topics should be part of the debate during the parliament's preparations to adopt a new law on national intelligence. The new law is expected to shift clearly the national intelligence service from the President to the Prime Minister and to provide a clear regulative picture of the mechanism of planning, programming and budgeting of the country's intelligence service. It should also regulate the mechanism for investigation and assessment of the intelligence service's activity, including through a specialised or expert and Parliament-approved body, supporting the parliamentary commission that would oversee the intelligence services.

Finally, both intelligence, on one side, and Parliament and civil society, on the other, should get ready for the partial shift of the policy decision-making process they serve or oversee from a national basis to an international one. This will not be an easy effort and it will require greater knowledge and maturity on the part of all players.

Disclaimer: *This Paper is based on notes made by Ivo Tsanev in his capacity as Member of Parliament, Internal Security and Social Order Commission, followed by a more formal presentation by Associate Professor Plamen Pantev, Director of ISIS, Sofia.*

## CHAPTER SIX

---

### **GOOD GOVERNANCE: REFORM OF THE CIVIL SERVICE, PARLIAMENTARY STAFF AND THE MILITARY (PART ONE)**

*Dr Plamen Pantev*

### **REFORM OF THE CIVIL SERVICE, PARLIAMENTARY STAFF AND THE MILITARY (PART TWO)**

*Rossen*

#### **Introduction (Part One)**

Bulgaria has passed the most difficult tests of the ‘first generation’ reforms and has embarked on tasks that will lead to, probably not perfect, but certainly more mature civil-military relations and democratic control over the whole security sector. The ‘second generation’ reforms in that field are connected with the effective operation of institutions and procedures, the acquisition of shared norms and values of civilians and the military, i.e. the reforms are mostly of an attitudinal character.

Both theoreticians and practitioners of civil-military relations and security sector reform in Bulgaria are of the understanding that any further dealing with these issues is no longer a matter of philosophical acceptance of the principles of democratic control over the military and the security institutions in general, but rather a question of management and effectiveness in that area<sup>1</sup>. Finding the most appropriate style and mechanism of effectively delegating the authority and responsibility needed for the implementation of policy goals and for efficient decision-making by civilians and security sector servicemen constitutes the essence of the concept of ‘good governance’ of civil-military relations and security sector reform. The experience of the last ten to thirteen years in Bulgaria has proved that tensions in the sphere of civil-military relations loomed not because of opposition by the military or the security institutions to the dominance of their political

---

<sup>1</sup> D. Betz, ‘Democratic Civil-Military Relations in Practice: Implications for Theory’, a paper presented at Centre for European Security Studies Taking Stock on Civil-Military Relations Conference, pp. 3-10 (The Hague, 9-12 May 2001).

masters, but due to the inadequate knowledge by the politicians of how to use their power in the most appropriate way. The argument that ‘the stubbornness’ or ‘old thinking’ by some servicemen has been sometimes the reason for such tensions is not a sound explanatory variable, since we know perfectly well that civilian political domination has not been contested in practice by the military or security sector servicemen.

After passing (during the last few years) the turning point of where the reform processes including those of the defence establishment and civil-military relations should go, the argument that the armed forces or the security institutions resent being guided by politicians is no longer valid. It has become most obvious to everybody that the proper management of the delegation of authority and responsibility – issues that are almost exclusively in the domain of the civilian political leaders – is the real issue that needs to be dealt with to improve the quality of the democratic control over the military and the security sector in general.

This is why the concept of ‘good governance’<sup>2</sup> of the security sector has turned, probably not to some politicians’ liking, into a crucial issue of the country’s system of democratic management. In our understanding it includes the following elements: first, the establishment of an effective national security policy decision-making and implementation process and its respective bureaucratic structures and institutions, covering defence, intelligence, counterintelligence, interior troops, border guards, police and troops for fighting organised criminality; second, parliamentary oversight of the security sector, including the armed forces and defence policy; third, the contribution to democratic governance of the security sector by civil society through its expert institutions and individuals.

In this short study the focus will be on concrete aspects of all three elements, mainly:

- 1) The removal of political control and influence in security and defence affairs;
- 2) The reform of the civil service and the military; impartial recruiting, selection and promotion systems for civilians and the military;
- 3) The issue of parliamentary staff, and,

---

<sup>2</sup> A. Cottet, T. Edmunds, and A. Forster, ‘The Second Generation Problematic: Rethinking Democracy and Civil-Military Relations in Central and Eastern Europe’, *Armed Forces and Society*, Fall 2002.

- 4) The emergence of a “security community”, including a “defence”, “intelligence”, and “counterintelligence” sub-communities.

The treatment of these problems is from a non-governmental and academic point of view and encompasses observations and perceptions of a period that covers the last ten-thirteen years. It is based on studies, documents, interviews with representatives of the security sector, coverage of parliamentary debates and interrogations and participation in public discussions on various aspects of civil-military relations and national security in this period.

### **The Elimination of Political Control and Influence in Security and Defence Affairs**

An early and much-applauded step in political reform in Bulgaria at the very beginning of the 1990s was the de-politicisation of the armed and the diplomatic services. This meant that military, intelligence and counter-intelligence servicemen and servicewomen as well as diplomats no longer had the right to participate in a political party during their careers. However this good start has been actually abused throughout the 1990s by the political masters, frustrating and diminishing the effectiveness of all these services, depressing and distressing the individual servicemen. No Bulgarian would object to the existence of “personnel brooms” (fortunately not purges!) with different political colours during the 1990s and the beginning of the new decade: “blue” – of the Union of the Democratic Forces (UDF) in 1991-1992, “red” – of the Bulgarian Socialist Party (BSP) in 1995-1996, again “blue” – of the UDF in 1997-2001, and “yellow” – of the National Movement Simeon the Second (NMSS) after 2001. Probably the last “broom”, the “yellow” one, is the most delicate, generating a feeling of a relative calm and stability.

The contest between following the principle and norm of de-politicisation and the regular abuse of the norm and principle by the actual “political masters”, however, has never remained unnoticed and uncriticised by academic and non-government students of the security sector and civil-military relations. The long and quiet domestic political Cold War in Bulgaria was negatively reflected, if not on the stability and the regional security policy of the country, at least on the effectiveness of these policies. The changes at the top and even further down the pyramids of the different national security sub-systems

became routine, as initial dismay changed to indignation and astonishment at why the Bulgarian political leadership should dilute the protection of the immune system of the state and society. With the years and the persistent participation of a gradually enlarging group of experts, the electoral-cycle-driven political changes and use of “personnel brooms” should be stopped and the security sector given a chance to concentrate on its ‘transition’ and specific professional issues.

The removal of operational political control from security and defence affairs has become an influential and respected value after years of struggle to find an acceptable balance between political power and its involvement in the professional activity of the security sector. It would be fair to add that conclusions drawn by all players in these decade-long discussions and quarrels have been strongly influenced by comparisons with NATO-member countries and other established democracies. The assumption of a really effective managerial attitude to the security and defence sector and civil-military relations became possible only after these issues began to be treated from a broader perspective of democratic management<sup>3</sup>. Any other approach – ideological, political-partisan, proved to be ineffective, rejected by society, independent experts and serious media sources.

The period 1990-2001 may be considered a learning period for the country’s new political elite, whose motivation as a whole in the last few years to work together even with opponents to join NATO has led to a more sober realisation of the limits of political intervention and influence in a sphere as specific as the security sector if Bulgaria is to be a reliable and respected North Atlantic Ally. The relations with the security and defence sector have become predominantly law- and procedure-driven, including the periodic shifts in the leadership of the respective security and defence services. The need for ‘good governance’ of civil-military relations and the security sector in the Bulgarian case really stems from the many trial-and-error situations in the past years and the culture of effective management will be the most influential one for the years to come.

---

<sup>3</sup> Andrew Cottey, Timothy Edmunds and Anthony Forster are absolutely right to underline that the democratisation of civil-military relations cannot be separated from wider processes of democratisation and political and state development. Broader democratisation and relative domestic stability are background factors for establishing democratic civilian control in many countries in Central and Eastern Europe, unlike others, in which there exist more general problems of democratic development. See: A. Cottey, T. Edmunds, A. Forster (eds.), *Democratic Control of the Military in Postcommunist Europe: Guarding the Guards*, (New York, NY: Palgrave MacMillan, 2002), p. 262.

## **Recruiting, Selecting and Promotion in Civil and Military Service**

### *The Reform of the Civil Service and the Military*

'Good' or effective governance of the defence sector in Bulgaria, including of civil-military relations, depends on good leadership and management, on full internal delegation of responsibilities, on complete intra-ministerial cooperation. This is absolutely indispensable for implementing the policy of the government.

Consulting internal and external expertise is a fundamental condition for taking solid decisions. The main source of working support for the Minister of Defence, however, remains the professional staffers – military and civilian. In routine daily work these officials are fully engaged on a technical and operational level in the working out of the administrative policy that has already been decided. Each of them – military or civilian, performs the respective duties, applying specific professional techniques and attitudes. Every civilian and military official in the defence establishment is involved in making policy at some level. Hence, one of the most significant aspects of the reform of the civil and military service in the defence area is the establishment and effective functioning of an integrated Ministry of Defence, of which the General Staff will be an integral element.

The prospects of an integrated Ministry of Defence caused a re-thinking of how education of the country's military should take place. The Rakovsky Defence College is adapting its programmes to end the monopoly of the military on military education in the preparation of senior defence planners. However, even broader changes in the education system should be introduced to end the military's monopoly on military education, considering the rising needs of national civilian experts for eventual participation in future Alliance decision-making processes<sup>4</sup>. The education of the new professional military requires capability to adapt to a new force structure, defence posture and new missions, especially peacekeeping ones. Knowledge and skills are required for serving in a democratic political system, but also at international headquarters and staff. Awareness of politics, international relations and management

---

<sup>4</sup> Graeme P. Herd (ed.), *Civil-Military Relations in Post Cold War Europe*, (Surrey: CSRC RMA Sandhurst, G102, 2001), p. 85.

are indispensable elements of the new curricula. The new officer needs to be capable in administrative issues, to be able to prepare documents, to have the capacity to participate in defence-budget development, and also to be efficient in interacting with members of parliament. Specific stress needs to be placed on knowing NATO and PfP procedures, norms, and bureaucratic interrelationships with other institutions.

The role of the integrated Ministry of Defence becomes even greater in preparing defence plans and the long-term support for their execution. This is definitely the responsibility of both civilians and military and the integrated Ministry is the right place for its realisation. The core element of their joint responsibility is balancing the resources with the force structures in relation to the expected missions. Since 1999 Bulgaria has been accumulating experience and the reform in this area is, in comparative terms, rather successful. As already remarked, a lot remains to be done in the education sphere and in fully integrating the General Staff of the country's armed forces.

A major problem that remains to be cleared up during the reform process is the role of civilians and the military relative to the institution. Which one should be the invariant element, and hence the exponent of the institutional memory, is a novel problem for the country's defence administration ethos. In different countries this problem has different solutions – either the military officers or the civilian experts within the ministry are the providers of continuity. What is certain, however, is that civilian expertise extends well beyond politics, especially in long-term economic analysis – a field of knowledge that is crucial for the defence-planning process.

#### *Impartial Recruiting, Selection and Promotion Systems for Civilians and the Military*

A significant feature of effective management of the security sector, and hence of civil-military relations, is the implementation of certain principles: of just and fair personnel control; of regular review and assessment of the effectiveness of stated objectives relative to the applied methods and the results attained; of control and assessment of professional morale in relation to bureaucratic methods; of preserving an appropriate level of publicity; and of intra-institutional cooperation (through understanding,

maintaining interest, fair criticism and oversight). ‘Good governance’ in this field means that the empowered personalities should be able to channel policy-making through the policy-implementation process towards the desired objectives. This requires an ability to delegate responsibilities and underline to the subordinates the authority of the aims followed and not of the position of the person in command (civilian or military).

Reaching these high levels of administrative interaction is directly connected with the system of recruiting, selection and promotion applied. In the Bulgarian case it would be legitimate to recall that the starting point of applying such a system in the very near past has been the rigid and inflexible mindset of the leadership of the defence establishment. Their professional mission throughout the Warsaw Pact period of the country’s armed forces has been the smooth channelling of strategic thinking and orders from Moscow Headquarters down to the respective national units. This has successfully bred an institutional culture of avoiding responsibility for decisions. Strategic thinking in the broadest meaning of the word and eagerness to take responsibility for the steps initiated is historically a new culture and the first question about recruitment, selection and promotion on security and defence issues in Bulgaria today should be about the *education* received to carry out the new job and tasks.

Before applying fixed procedures about any personnel issue – recruitment, selection and promotion – civilians and the military should be judged on the type and quality of their education and its applicability to the new circumstances. The individual’s capacity to think and adapt creatively is no less significant in the processes of selection, recruitment and promotion. Thirdly, the ability of cooperation with civilians or military in the Ministry of Defence is also of key significance.

Though many nice words have been said about the recruitment, selection and promotion system in the security and defence sector in Bulgaria, the perception of a practical meritocratic approach in dealing with these procedures has not yet been shaped. Favouritism and patronage, the search for comfortable protégés, is still the usual practice instead of meritocratic recruitment, selection and promotion. Unless this approach is changed, professional effectiveness and trust in the professional ethos will not be achieved. Disappointments in that aspect can be traced throughout the past decade and all over the security agencies. Periodic political opportunism for exploiting

this problem of civil-military relations does not make a solution of the issues any easier. Rare positive top personnel solutions have led to excessive praise for the respective personalities, even to excessive enthusiasm or mania about such persons – a clear proof that there is no working and effective recruitment, selection and promotion system in the security sector on a larger scale.

Guarantees of establishing an effective personnel selection, recruitment and promotion system can be achieved through appropriate legislation, intra-departmental normative acts, through introducing appropriate personnel assessment institutions, by involving in a more transparent way the national security and defence community in the judgement of how the system works. Publicity is not an enemy of secrecy in a democratic society, if the issues are set out properly and in a principled way. The defining details, of course, are for those who bear the direct political, criminal and administrative responsibility. However, the knowledge base outside the respective security sector institutions must be utilised for the public's good in an effective way.

### **The Issue of Parliamentary Staff**

Execution of effective parliamentary control requires more than 'opinion' and 'political rhetoric' – assets the MPs normally have in excess. Asking, ordering or hiring expert support from outside is a normal practice for parliaments worldwide. The Bulgarian one is no exception.

Expert support summoned from the Ministry of Defence, the Ministry of Interior and the Ministry of Foreign Affairs is a significant source of orientation for MPs about particularities in the security sector. They are the institutions with solid and systematic information and analytical capacity that is of utmost support for the members of parliament. This is why their support as well as the advice of other governmental agencies is regularly requested and used.

In an effort to mitigate the political influence of the three influential institutions on the country's parliamentarians, outside civilian expertise is involved on particular issues. Independent academic or other expert opinion may greatly improve the level of informing members of the parliament and helping them define their voting position on issues in the

security sector. It is another topic of discussion that this source of advice is not used in a practical and effective way and remains just a target for using funds and less of an expert opinion.

However, knowledgeable considerations of security sector policy issues require both outside advice and *in-house* expertise. The same is true about the implementation of the respective decisions the Parliament takes. That is why the hiring on a permanent basis of parliamentary staff officials is considered a strategic approach in improving the information and analytical perspective of the legislators.

There are two typical deficiencies in the functioning of the parliamentary staff system in Bulgaria. The first one can be traced in temporal terms closer to the post-election periods. It is connected with the differing organisational concepts and styles of the old and new ruling political forces. After taking the job of managing political power that they have been mandated to do so by the electorate, they apply these concepts and styles. Some of the political winners prefer to employ old staffers, others prefer the “team” principle – to work with staffers they have worked with during the campaign and whom they personally trust. Though not the best for the organisational and information memory of Parliament, the “team” approach is politically more honest in the Bulgarian environment. Those who preached the need for long-term and solid expert staff in Parliament in practice applied the political team selection approach to their staffers. Once they were ousted from power, they preferred to utilise the apparatus they had created for their own political aims inside the Parliament. Obviously, a higher level of maturity on the issues in the security and defence sector is needed to apply the solution of a stable parliamentary staff that does not change with the new political winners.

A second deficiency, very popular in the transition countries of Central and Eastern Europe, is the over-dependency of MPs on the information, emerging from the Ministry of Defence and from the Ministry of Foreign Affairs. A funny situation is created: the parliamentary control over the armed forces or the diplomatic service derives its information and knowledge for carrying out the oversight from the same armed forces and diplomatic service. In fact executive power controls executive power, while the MPs become just speakers of the executives. The role of the staffers in this situation is to prepare the material, drafted by the civil servants from the two ministries. This definite

violation of the separation of powers principle, provided by the country's Constitution, is despised by the parliamentary staff officials, but their only comfort remains the sporadic independent opinion of non-governmental expert centres in the field of security and foreign policy.

A way out of this clumsy situation, apart from the independent NGOs' input could also be the study and use of international parliamentary and expert experience and advice. Another instrument for improving this situation is the growing awareness of the national political elite on the issues of effective management of the security sector, including by stabilising the independent expertise of the Parliament and by improving the quantity and quality of the parliamentary staff on security, defence and foreign political issues. At the suggestion of independent external advisers a civil service system for parliamentary staff is already assuming shape in the present Bulgarian Parliament, concerning recruitment, selection, promotion and honours. However, our academic scepticism forewarns us that the eventual new parliamentary winners may apply this system to a completely new set of staffers without continuity.

What remains an invariant option for improving the effectiveness of the parliamentary staff is the regular participation of the staffers in short-term education courses as well as in international seminars on the topics of interest. Another option is finding the managerial will of the respective leaders of the parliamentary commissions and of the Parliament in general for strengthening the library service and the organisation of contracting research studies.

### **The Emergence of a Security Community in Defence, Intelligence and Counterintelligence**

The emergence of a 'security community' and its development took place very slowly, largely unsupported and at times even hindered by the political class. The latter preferred to acknowledge the legitimacy of their own policy-oriented or government-supported (when in power) NGOs rather than tolerating independent expert think-tanks. Many ideas and projects that were fresh and helpful for the interests of the country were killed in the last decade thanks to the lack of vision and narrowly politically- driven leaders of the Ministry of Foreign Affairs and the Ministry of Defence. The intelligence

and counter-intelligence agencies did not produce perceptions on these issues at all; probably they have been just 'quiet' consumers of what has been created by devoted, talented and highly expert NGO authors. One may freely say that the national official institutions, including the Parliament, dealing with security, defence and foreign political issues were focused on the political and internal problems of their bodies and simply observed the birth of the national 'security expert community'.

The enthusiastic interaction of Bulgarian experts in combination with the parallel birth of an international 'security community' in post-Cold War Europe and the world were the decisive factors in having a security community in Bulgaria – one of the pillars of the country's acceptance as a NATO candidate. This has been objectively recorded by an authoritative Dutch think-tank, the Centre for Security Studies (CESS), in a recent publication of 2001: "In fact there are a lot of NGOs active in the security area. To be sure, many are individuals, business cards and notepaper. A few, though, do substantial work. For example, the rationale and main features of Bulgaria's post-1998 defence reshaping were first set out in an NGO publication..."<sup>5</sup>

At present two non-government think-tanks and the Rakovsky Defence College are dealing exclusively with security, strategic, defence and foreign-political studies. At least eight more have the security aspect occasionally on their research agenda. In two Bulgarian universities within the programme of 'International Relations' an interested academic group is also accumulating experience in the security area. The National Police Academy also contributes to the academic part of the expert 'security community'. NGOs made up of retired military officers, intelligence and counterintelligence servicemen also join the intellectual debate on Bulgaria's security and defence policy.

In a few instances representatives of the academic security community have provided significant expertise to the Parliament, the Ministry of Defence and the Ministry of Foreign Affairs. While the potential for improving the quality of the decision-making on security, defence and foreign-policy issues by involving efficient think-tanks is huge, the ability of the official institutions to organise and involve this capacity remains still very low. Due to a professional manner of dealing with the topic of security and foreign policy

---

<sup>5</sup> Report by CESS Staff, *Organising National Defences for NATO Membership: The Unexamined Dimension of Aspirants' readiness for Entry*, (Groningen: CESS, 2001) p. 96.

by knowledgeable Bulgarian experts outside the official institutions, this disparity has not been projected onto the country's general performance in its international relations<sup>6</sup>.

## **Conclusion**

In conclusion, it is more than certain that the application of the broader concept of 'good democratic governance' of the security and defence sector to the area of civil-military relations and defence management is promising in several aspects. It presses the theoreticians and the practitioners of that field to go to the roots of democracy, to mind effective management as a priority criterion, to stimulate the activity and participation of civil society and provide democratic oversight in a very authentic and non-artificial way, etc. The potential of the 'good governance' concept in the area of civil-military relations is huge and further reform in Bulgaria must borrow from it as much as possible.

---

<sup>6</sup> It would be correct to recall that a legal and political support for the activity of independent research institutes addressing security and defence issues as alternative sources of information and analysis is still needed. Encouraging independent non-governmental studies of autonomous sources of security and defence information and analysis continues to be an invariant critical feature for democracy and leaders of democratic societies and states should never forget that truth.

**GOOD GOVERNANCE  
REFORM OF THE CIVIL SERVICE, PARLIAMENTARY STAFF  
AND THE MILITARY (PART TWO)**

**IMPARTIAL RECRUITING, SELECTION AND PROMOTION  
SYSTEMS FOR CIVILIANS AND THE MILITARY: REMOVAL OF  
POLITICAL CONTROL AND INFLUENCE IN SECURITY AND  
DEFENCE AFFAIRS & LEGAL REGULATION OF THE PROCESS  
OF HUMAN RESOURCE MANAGEMENT IN THE DEFENCE AND  
SECURITY SECTOR**

*Rossen Ivanov*

**Introduction (Part Two)**

Human resources management in the defence and security sector is relatively well provided for in Bulgarian legislation. There are a number of legal norms in different acts that regulate the issues of recruitment, selection, career development, dismissal and protection of the rights and lawful interests of career servicemen and civilians, engaged therein.

**Regulatory Legal Acts**

The main legal acts, which regulate this matter are the Constitution, the Law on Defence and Armed Forces of the Republic of Bulgaria, the Civil Servants Act, the Labour Code, the Military Service Regulations, the Uniform Classification of Administrative Posts and its Regulations for Implementation, the Rules of Organisation and Procedure of the National Assembly and the Financial Rules on the Budget of the National Assembly, the Ordinance on the Terms and the Procedure for Assessing State Administration Employees, the Ordinance on Assessing Career Servicemen, Rules of Procedure of the Security – Military Police and Military Counter-Intelligence Service. Some elements of these regulations can also be found in other legal acts, such as The Administration Law, the Law on Protection of Classified Information, the Law on Replacement of Military Obligations by Alternative Service.

## **The Problems**

Problems that might arise therein concern clarification and legal regulation of the following topics and procedures:

- staff recruitment for the defence and security sector;
- selection, including specific requirements for the candidates;
- appointment, promotion, reduction in rank and dismissal as well as the question of competent bodies and officials who endorse the related documents;
- changes in the legal relations;
- general functions, rights and obligations;
- career development – regulation of the process and requirements for promotion in rank;
- improvement of qualification;
- development of specific stimuli and social benefits as well as restriction of some rights;
- possibilities for protection against unlawful dismissal (administrative protection and protection in court).

## *The Administrative Institutions*

In the context of the issues discussed, it is very important to start with the administrative institutions which have direct connection with the country's defence and security. These are, above all, the Ministry of Defence and the Ministry of the Interior. These institutions employ civil servants, people working under labour contracts, career servicemen, as well as officers and NCOs employed at the Ministry of Interior. The Parliament's standing Foreign Affairs, Defence and Security Committee, which works with a team of assistants and consultants, is directly related to the specified field. The processes of human resource management in these institutions are regulated by different legal acts.

### *The Basic Requirements*

The Constitution of the Republic of Bulgaria sets the legal framework, which determines the basic requirements for holding specific positions. According to this framework, people running for Parliament must meet the following groups of requirements:

- Bulgarian citizenship;
- Age;
- Clean judicial past;
- A prohibition from holding any other state position or being engaged in activities, which do not comply with the position held.

The Law on Defence and Armed Forces of the Republic of Bulgaria, The Civil Servants Act and The Ministry of the Interior Act also use these standard requirements for appointment.

According to the Constitution, civil servants have yet another specific obligation: they must be politically neutral while on duty. According to the Law on Defence and Armed Forces of the Republic of Bulgaria and the Ministry of the Interior Act, military servants, officers and NCOs cannot be members of political parties. Career servicemen have also been deprived of the right to join trade unions or perform other similar activities. According to the Civil Servants Act, civil servants have only the right to call symbolic strikes.

The Law on Defence and the Armed Forces of the Republic of Bulgaria, the Civil Servants Act and The Ministry of Interior Act define involvement in commercial affairs and working under labour contracts as activities, which are incompatible with the position of the civil servant. However, these laws allow, in different ways, activities such as teaching or other creative jobs.

The requirements of the Civil Servants Act are significant in the designation of civil servants. No discrimination, privileges and limitations are allowed based on race, nationality, ethnicity, sex, origin, religion, membership of political, professional organisations and other public organisations or movements, personal, social and property statute. Together with the main principles for holding official positions – respect

for the law, loyalty, responsibility, stability and political neutrality – there is also the requirement that there be no discrimination.

The legislators' purpose is to create normative conditions for building a professional administration, including in the defence and security sector, that shall serve the lasting necessities of the state without the influence of private party and political interest. Requirements in the Law on Defence and the Armed Forces and the Ministry of the Interior Act have the same meaning. These are for political neutrality, non-membership in political parties and organisations with political aims, as well as a prohibition on campaigning for or against political parties and even independent candidates for elective institutions. Violation of those requirements by military servants is grounds for imposing the hardest disciplinary punishment – dismissal.

The requirements, which all civilian employees working under labour contracts should meet, are regulated mainly in the Labour Code. Some elements of these requirements are set out in the Uniform Classification of Administrative Posts and its Regulations for Implementation.

Having in mind the specific characteristics of the work and the possible access to classified information which is part of it, all people employed in the defence and security structures are subject to the special requirements of the Law on Protection of Classified Information for issuing permission for access to such information.

### *The Selection System*

The system for selection of employees' designations occupies an important place in the process of human resources management. This is done through competition for vacant positions in administration. The competition procedure is anticipated in the Civil Servants Act and in the Labour Code. In their legal essence, however, the competitive processes for filling positions in both acts are substantially different.

According to the Civil Servants Act, it is in the competency of the employer to specify the positions that will be filled after the competition. In this case, the competition result is just a method for forming the employer's opinion before designating the role of a specific

candidate. The employer is not bound by the estimations of a competition commission on the candidates offered by it.

For its part, the Labour Code provides for open competition for positions. The employer is obliged to conform to the opinion and the decision of a commission. The possibility of many candidates is anticipated. The conditions for conducting competitions and requirements for taking up positions are issued in the press. The commission estimates the professional training and the other qualities of candidates, necessary for the position. The commission's evaluation and the candidates rating is not subject to appeal.

Open competition and selection are also implemented for military servants positions. Nevertheless servicemen are designated to new positions periodically while maintaining the rotation principle, the concrete position-taking depending on the estimation of a special commission for reviewing official statutes and of a selection commission. The commission's decision is based on the results of the officers' assessment. The direct commander of the respective officers, however, prepares the assessment. This creates the conditions for non-objectiveness of valuations.

### *Appointments, Promotions, and Dismissals*

According to the above-mentioned laws, the acts for appointing, promoting, reducing in rank and dismissing civil servants and career servicemen, as well as the officers and the NCOs at the Ministry of the Interior, are issued by the competent state bodies, such as the respective minister or an official authorised by the minister.

The Constitution also regulates the prerogatives of the President of the Republic of Bulgaria to appoint senior military staff, to confer high military ranks, on the proposal of the Council of Ministers, to appoint and dismiss the heads of the diplomatic missions at international organisations, on the proposal of the Council of Ministers, as well as to issue decrees to regulate the structure and the procedure of the President's administration and to appoint the staff.

The procedures for appointing and dismissing assistants and consultants who assist the deputies in their work are scarcely mentioned in the Financial Rules on the Budget of the

National Assembly, which is an appendix to the Rules of Organisation and Procedure of the National Assembly.

### *Career Development*

Questions concerning career development are addressed in detail in the Law on Defence and the Armed Forces of the Republic of Bulgaria, the Military Service Regulations and the Ordinance on Assessing Career Servicemen. There are such regulations also in the Civil Servants Act, combined with the Uniform Classification of the Administrative Posts and its Regulations for Implementation. These regulations determine a consecutive promotion to the next rank, a determined minimum and maximum amount of time for holding a position or a rank (three and five years respectively). Promotion in rank depends on an attesting procedure, which takes into consideration the competence, the level of compatibility and the employee's ability to meet the requirements of the post, as well as the term of service and some other requirements, which have been presented in detail in the The Ordinance on the Terms and the Procedure for Assessing State Administration Servants, the Military Service Regulations and the Ordinance on Assessing Military Servants.

### *Changes in Working Relationships*

The permanence of civil service positions has been guaranteed by the Civil Servants Act, which prohibits unilateral decisions on changes in the relation. However, there are several exceptions to this regulation, including the employee's consent. In case of official necessity, the employee can be moved to another post within the same administration, but only for a period of a maximum of 45 days a year.

According to the Law on Defence and the Armed Forces of the Republic of Bulgaria, the state is obliged to ensure a post and the respective career development for career servicemen, under a contract for military service, which has a determined minimum term of validity – 10, 5 and 3 years for officers, NCOs and professional soldiers respectively.

### *Qualification through Education and Training*

All the above-mentioned legal acts regard additional training and providing civilians and the military with additional qualifications as an element of career development. Thus for example, in compliance with the Military Service Regulations, military servants shall pass qualification courses in order to be designated to a position that requires a higher rank or a position within the range of the current rank. Military servants may be educated and increase their qualification in military and civil academies and schools and in training centres on the territory of the country and in foreign countries.

The Civil Servants Act anticipates the possibility of elevation before the appointed time (i.e. before the three years period for rank continuation) when a civil servant increases his qualifications. The same act creates an obligation of the employer to secure possibilities for civil servants to increase their professional qualifications. For this purpose an institute in public administration has been created where courses in approved programmes for professional qualifications and pre-qualification of civil servants are organised.

### *Social Benefits, Rewards and Restriction of Some Rights*

In conformity with the specific job and the high level of responsibility, the Law on Defence and the Armed Forces of the Republic of Bulgaria and the Ministry of Interior Act provide career servicemen with several social benefits and stimuli, which concern for example remuneration, retirement age, special compensation in case of dismissal, and special compensation for those injured on duty. At the same time these laws determine some restrictions in the rights of the career servicemen, such as special requirements for exercising their right of free movement, restrictions in their right to establish and join associations, a prohibition (for career servicemen) and special requirements (for officers and NCOs at the Ministry of the Interior) on participating in political activities or activities organised by trade unions, prohibition on involvement in commerce among others.

State servants, career servicemen as well as officers and NCOs, working at the Ministry of Interior, are subject to dismissal only when there are reasons, strictly determined by the law, and the procedure is quite complicated. These regulations try to guarantee the

stability of official relations and to ensure special protection, especially for career servicemen, working at the Ministry of Defence, the Ministry of the Interior and in the Bulgarian Armed Forces.

### *Protection Against Unlawful Dismissal*

All employees working in the defence and security sector are entitled to protection against unlawful dismissal within the institution they work in, or in court. As in most of the cases the dismissal decrees are issued by ministers, the protection against unlawful dismissal is conducted in accordance with the Supreme Administrative Court Act.

### **Summary**

The normative provisions concerning the process of human resources management in the defence and security sector shows that there is a perceptible trend toward equitable and well-established career development. The same tendency may be seen in the creation of the legal mechanisms for initiating, changing and ending official and labour relations, as well as of those connected with cadre development regulation, based mostly on the increasing of the professional qualifications of the different categories of servants. In this connection it should be noted that although not categorically expressed, the legislation intends to tie specific positions to the availability of professional and business qualities in the candidate. This is done through the introduction of the competitive procedure.

There also may be seen the tendency to remove the possibility of political hiring and firing in a normative way. Regrettably the legal norms for guaranteeing the political neutrality of civil servants have been mainly of a declarative character that in practice affect negatively on their efficiency.

In summary, it seems important to mention that the existing legal regulations in this social field are not always clear enough; there is an imbalance in the regulations, concerning different categories of civilians and military, as well as concerning the different legal procedures; some of the mechanisms, such as career development, are

scarcely regulated, do not ensure objectivity in assessment and do not stimulate the development of internal stimuli that could lead to the better qualification and improvement of skills of the employees.

The solving of these problems and the overcoming of the existing weaknesses require a complex approach and the development of a total concept for staffing in the defence and security sector. At the same time there is a deepening of the tendencies for unification of requirements and regulatory mechanisms for process management and for securing sufficient legal guarantees for their functioning.

## CHAPTER SEVEN

---

### **TRANSPARENCY AND ACCOUNTABILITY: THE “NECESSARY EVIL” FOR BULGARIAN SECURITY SECTOR REFORM**

*Ralitza Mateeva and Petya Dimitrova*

The most eagerly awaited event for Bulgaria in 2002 was the invitation to join NATO at the Prague Summit. The serious political decisions that determined security sector reform were considered a direct result of the existing civil-military relations. Avoiding generalisations, it is important to stress that a democratic process of decision-making and legitimacy of accepted decisions can be ensured only by informed discussion within society.

While the decisions on NATO enlargement were political, it had practically been stated that NATO would be enlarged, that potentially any MAP country could be invited, and that the process of decision making was going to become increasingly based on measurable criteria reflecting the added value provided by each candidate.

Democratic changes in Bulgaria led us to a fundamental transition that started on the basis of NATO integration processes. Bulgaria launched a security sector reform which has changed the role of the security institutions within the Bulgarian national political system by developing a new type of relations based upon civil oversight and accountability to society in general.

In the meantime the possibility remains open for even more thorough development of expertise within the framework of civil society, as well as for larger scale participation of civilians who acquire an acceptable status of professional competence in the management of defence and security institutions. This aspect of further improvement of democratic civilian control over the defence and security institutions is natural for the comparatively short-term transition of society from totalitarian to democratic principles.

Transparency and accountability as inter-related processes entail various principles, mechanisms and instruments that institutionalise the interaction between society and its governors, and among its institutions.

### **The Institutionalisation of Transparency/Accountability Processes**

After the political commitment by the government of 1997, the decision to apply for NATO membership was articulated and a series of positive steps were taken to ensure the creation of an environment that allows democratic reforms. This environment ensured the creation of a hierarchy of strategic documents:

- Approval of the First National Security Concept (April 1998);
- Approval of the First Military Doctrine(April 1999); amendments in 2002;
- Approval of the First Comprehensive Plan for Defence Reform – “Plan 2004” (October 1999) and its amendments in 2002;
- Military Strategy (2002);
- Approval of the Comprehensive Membership Action Plan 1999;
- Approval of modern defence planning system, based on adapted PPBS 1999 – 2002;
- Annual Reports on National Security and Annual Reports on Defence and Armed Forces;
- White Paper on Defence and Armed Forces (June 2002).

The real security sector reform was determined by the National Security Concept, the Military Doctrine, as well as a number of defence studies, and it involved not only the government and the Parliament, but personally the Prime Minister and the President. The natural course of the reform starts with the fundamental documents and their implementation step by step. It can be successful only if the military, civilian personnel and the society as a whole support it.

The modern system of democratic control of armed forces was established, based on the premises of clear organisational and functional structures that lead to clear identification of responsibility and accountability. An important step to launch that

process was the conducting of a series of joint studies between Bulgaria and NATO partner countries that helped assess its outputs and the outcomes to thus determine the key areas of reform. In the same target list was the successful introduction of the institution of foreign military consultants.

The public debate, that has become more and more active in the context of the invitation to join NATO, fulfills the necessity of going public on issues of ‘intimate’ character for the so-called ‘defence establishment’ such as food and clothes supplies, military discipline, the new doctrines and their interoperability with NATO standards, the promotion of new flag and general officers.

There is a tendency, under the premise of ‘accountability to society’, to argue that all reforms should be conducted along the lines that “NATO wants this and this should be done in such and such a manner”. This approach of course is very successful because no one wants to argue against “what NATO wants” – neither society/the general public, nor the parliamentarians who by definition should oversee and control the processes in the security and defence sector.

Apparently the discussions running in academic and NGO circles are not connected with those conducted by the parliamentary committees on defence and security, and the community as a whole has no opportunity to join them, contribute to or evaluate them. Society may be prepared for the discussion, and would probably be able to initiate it or take part in it, but its fragmentation and the lack of focus scatter the potential for transparency on security matters. Both the media and the institutions initiating the discussion tend to overreact on minor problems that can achieve more/better publicity and society misses the point (e.g. the discussions over the amendments of the law on defence and the armed forces and the amendments of the military doctrine in 2002).

### **Transparency: Society and Institutions**

The political and military leadership is not much interested in making discussion too concrete and transparent as far as addressing particular issues and problems. The politicians are afraid of intervention in what they consider their own area (e.g. policy determination, legislation), and they do not want to compete with people ‘who-gain-

power-sharing-no-accountability'. They would rather have an expert body contributing with ideas and opinions, without direct influence on the public.

Why are both the transparency culture and practices so important? The importance of transparency is based at least on the following reasons:

- Transparency is the only way to achieve informed public debate of security sector matters and as a result of that public support;
- Transparency is not a goal itself but a tool to achieve "security and stability" of the security sector and to prove that it works for the citizens of a democratic country, who pay taxes for the budget – not for someone else;
- Transparency is the best tool against corruption and violation of the law, and for protection of the country's interests and even more citizens' interests;
- Transparency is a base for civil-military relations and a key requirement for NATO and EU integration.

Most of the efforts that have been made in the last couple of years to create both an environment and an understanding of the 'necessary evil', put transparency as a process into the list of 'must-haves'. This list changes frequently while going down the road of reforms but transparency has its permanent place there – this (especially after 1997) is not a casual supplement of the ongoing security sector reform efforts but more a direct result of the changing democratic culture of the society and the political institutions. This statement does not explain the complexity of the process that sometimes can be particularly unclear – there is still not enough evidence to prove that some of the actions taken by the decision-makers are because and in the spirit of transparency and not just a PR activity. Even the democratic press is showing an improvement in its ability to judge performances – especially in the last couple of years there has been a growing tendency of frequently asked questions that present genuine evidence of a transparency culture (e.g. during parliamentary hearings or votes in the area of security sector).

Effective evaluation of the changing transparency culture is not enough to ensure that all players submit to the same basic rules. The kind of information that is provided to society does not necessarily match the initial effort made prior to making an important decision. Illustration for this can be found in the public debate on the amendments of the

Military Doctrine (March 2002) – there was indeed a transparent approach but the there were no conditions provided for an informed debate because only a selection of issues received public attention and the rest received just a vague mention. For example – the decision that professionalisation should be finalised by 2010 was not enough explained as a process and opportunity to fundamentally change the structure, missions and tasks of the Armed Forces, but was viewed as a result of reform plans and promises already made in the context of NATO enlargement. There was no actual debate that this professionalisation would result in the participation of more women at all levels in the chain of command – a fact that deserves some new legislation and administrative efforts before the process is finalised rather than after its completion. The same problems come up in the context of ‘quality of life’ issues – professional soldiers are applicable for the same social benefits as the Officer Corps have had throughout the years, but no one mentioned that this will cost money and needs long- term planning and programming efforts to ensure that problems are avoided.

Successful arrangements between society and the political institutions in the area of transparency and accountability have become more crucial after the invitation of Bulgaria to join the NATO alliance. In some political and expert circles, discussions have been facilitated on how to ensure that the general public is really ready for what will follow after the invitation. An example is the question of when Bulgaria should make its soil available for foreign troops – in spite of the experience during SFOR, KFOR and ‘Enduring Freedom’, it is not quite clear yet how decision-makers will address society – before or after the decision. The importance of the approach is relevant for evaluation of the maturity of the system – it is one thing to be transparent ‘before’ and another thing ‘after’ the decision.

It is evident that transparency is more than having legislation and a procedural framework to ensure democratic oversight over the security sector. In the current conditions, it is more important for Bulgaria to translate the existing arrangements into experience and a culture that will make a significant impact on the wider process of democratisation.

## **The Processes of Accountability - Players and Tools**

Accountability is an element of the planning, execution and evaluation cycle that is also important for future planning and decision-making. The dynamics of social relations in Bulgaria since 1989 have advanced considerable changes in both organisational and management culture, making the leadership more sensitive and liable to accountability practices. The endeavours for larger involvement in and consensus-building on security-related issues have been contributing to reaching solutions that are politically acceptable, socially justifiable and resource compatible.

The evolution of accountability mechanisms has been providing better opportunities for communicating and understanding each other's stance. Security and defence policy issues are discussed and considered at various levels of political interaction. The national legislation of the Republic of Bulgaria assigns different defence-related powers to state institutions, taking into consideration the division of power principle. The overall leadership of defence is carried out by the National Assembly, the President of the Republic and the Council of Ministers. With a view to the specifics of accountability, only some of their specific rights and responsibilities will be considered hereafter.

The National Assembly, being the legislative body that also oversees the executive's activities, provides the general guidance to defence and Armed Forces. The National Assembly's powers comprise defence's legal framework, including a national security concept and a military doctrine upon the proposal of the Council of Ministers (the National Security Concept and the Military Doctrine were adopted in 1998 and 1999 respectively, the latter was amended in 2002); the approval of long-term programmes for the Armed Forces' development, their personnel strength and state budget funding. The consideration and adoption of the Military Doctrine in 1999 for example was accompanied by an open public discussion, initiated by the executive, and this has been embraced as a very positive and useful approach in the process of elaboration of other national security and defence-related documents, such as the White Paper on Defence, the draft of which was published online and discussed at a number of open round tables and seminars.

The National Assembly, both at plenary sessions and at meetings of the Foreign Policy, Defence and Security Committee where all parliamentary political formations are represented, is empowered to require information and exercise constant oversight over the executive's decisions and their implementation. The Committee hears the Minister of Defence, the Chief of the General Staff, the chiefs of specials services and other officials, sets up commissions and working groups that investigate specific questions. Accountability is also realised in the weekly parliamentary oversight plenary sessions when ministers answer questions, put forward by members of Parliament, including questions related to what and how resources are spent.

As a symbol of the unity of the nation and supreme commander-in-chief of the Armed Forces, the President of the Republic has proved to be an important actor in the constant dialogue among legislators and executives as national security and defence issues demand a higher degree of political and general national consent. The Consultative National Security Council to the President of the Republic is a distinctive venue for top-level coordination and consultations between the legislative and executive authorities. An expression of the President's involvement and commitment is his recent request to the government to receive regular reports on Bulgaria's progress in integration processes.

The Administration Law (art. 20, 3) stipulates that the Council of Ministers formulate, elaborate and implement the state policy in conformity with its constitutional powers and the laws of the Republic of Bulgaria. The latter law (art. 23) entitles the Prime Minister to guide the overall policy and current activity of the Council of Ministers, being responsible for them to the National Assembly. By virtue of the Law on Defence and Armed Forces (LDAF) the Council of Ministers, discharging the general leadership of the Armed Forces, directs the building, training and logistics of the Armed Forces and the maintenance of their combat and mobilisation readiness.

Among its other responsibilities, the Council of Ministers guides and implements the national military policy; it directs and coordinates the national defence planning, adopts various defence and Armed Forces plans; adopts the wartime draft budget on the proposal of the Minister of Defence, submits it for approval to the National Assembly and following its adoption, organises its execution. A recent example of the new approach

that has been established is the approval of a National Military Strategy by the Council of Ministers (June 2002) and not just the Ministry of Defence or the Council of the Chiefs of Staff and the possibility that all “civilian” ministries have a word on its contents and nature.

The Minister of Defence directs and is responsible for the implementation of state policy in the Ministry of Defence and the Bulgarian Armed Forces. The Minister heads the Ministry and exercises civilian control over the Armed Forces by managing defence planning in the Ministry and the Armed Forces, drafting the part of the state budget concerning the Ministry of Defence, distributing the Ministry’s budget and managing the financial and logistical provision of the Armed Forces, managing controls within the Ministry, the Armed Forces and structures, subordinate to the Minister.

In conformity with the Administration Law, each minister presents to the Council of Ministers an annual report on the activities of the respective ministry (art. 45, 4). The Minister of Defence submits the Annual Report on the State of Defence and Armed Forces that, following approval by the Council of Ministers, is submitted to the National Assembly by the Prime Minister on behalf of the Council (LDAF, art. 32a). The Report is debated in the Foreign Policy, Defence and Security Committee and later in a plenary session and adopted or rejected. Since 1999 when the first such report was elaborated, two reports have been approved by the National Assembly (for the years 1999 and 2001) and one report (for the year 2000) was submitted by the Prime Minister but not voted in plenary session due to the closing of the 38<sup>th</sup> National Assembly prior to the June 2001 parliamentary elections.

The annual reports are tools that illustrate the execution of policy intentions and statements and help compare what has been planned and what has been achieved. The Report contains an in-depth analysis of the military aspects of national security, the execution of the main tasks of the Ministry of Defence throughout the respective year, as well as the budget appropriations, the state of the Armed Forces and the defence of the country in general. This analysis is used in the process of planning for the next fiscal year.

The well-established system of annual reports – on national security (elaborated by the Council of Ministers' Security Council) and on defence and armed forces – that are available online (in Bulgarian and English) following their approval by the National Assembly is an element of transparency and accountability.

The budget of the Ministry of Defence has imposed a programme-based structure on the annual reports on defence and armed forces that allows for an analysis of the effectiveness of efforts and the efficiency of spending. These mechanisms help elucidate if and how plans and programmes are executed and oversee the achievement of results that are commensurate with resources invested. The clear binding of planned results with resources, executors and deadlines with a permanent oversight, assessment, control and transparency of spending is an approach that has been adopted to enhance efficiency and promote best practices.

Accountability as a philosophy and as a process has both internal and external aspects – there are well-established mechanisms that ensure accountability to the legislature and society in general as well as within the ministries. Internal and external control is also exercised by means of approving and monitoring the execution of the defence budget. Defence-related activities are financed through the yearly state budget that is proposed by the Council of Ministers and approved by the National Assembly by virtue of a special law. Thus the National Assembly determines the portion of the state budget that is allocated for defence but also oversees the programme implementation and capability building thereof.

The National Assembly can exercise preliminary control by fixing the budget of the security organisations and subsequent control by monitoring its spending. In the process of elaborating the state budget the Ministry of Defence presents a multi-page draft defence budget that is scrutinised and discussed even before its submission to the National Assembly. The draft budget is developed in a three-year period framework and is broken down by functions, programmes within functions and budget appropriations within programmes.

Having been submitted to the National Assembly, the defence budget is considered in two parliamentary committees – on the budget and on foreign policy, defence and

security – and then discussed in plenary session. Parliamentarians may alter the budget proposals and contemplate the expediency of spending and its relevance to the overall policy line.

Following the approval of the state budget by the National Assembly and the adoption of the State Budget Law, the funds allocated for defence are apportioned among the Ministry of the Defence programmes by means of the Planning, Programming and Budgeting System (PPBS). This organisation of financial management largely supports the effectiveness of the decision-making process. It establishes a rational mechanism for defence resource planning and management, facilitates civilian control on the appropriateness of the Defence Ministry's budget spending, and ensures transparency of all activities undertaken in the defence sector.

Within the executive it is the Council of Ministers and the Ministry of Finance that monitor and control the execution of the state budget. The Ministry of Defence has set up its own mechanisms for internal control that ensure an in-depth analysis of the activity and interaction among various elements of the administration, thus enhancing the identification of best practices and overall effectiveness. Preliminary and current control functions are assigned to the Budget Planning and Management Directorate. The office of the Inspectorate General within the Ministry of Defence is a module that has been focused on preventing, rather than just registering and controlling, thus assisting the Minister and the administration in performing their duties and tasks. The Inspector General reports directly to the Minister, as does the Financial Audit Directorate. The internal control extends to the overall budgetary procedure, expedient and legal spending, tender and contract procedures, budgetary revenues and expenditures on programmes and activities in conformity with set priorities, accounting operations, terms of delivery and payments, taxes and sales, approved annual accounts and budget accounts adjusted to them, and annual balancing of the books.

External control encompasses the oversight exercised by the National Assembly, the Audit Chamber and the State Internal Audit Agency. The legislature scrutinises spending and spending plans in details and the budget is examined by budget appropriations and budget accounts. In conformity with their oversight competency, parliamentarians may ask the Prime Minister, deputy Prime Minister or any minister questions on current

issues that are of a public interest and fall within their competency or on fundamental matters relevant to their activities, including budgetary and other financial issues.

The Audit Chamber is elected by the National Assembly and is independent from the executive power. It conducts regular inspections and reports to the legislature on public expenditure and defence expenditure in particular. Its experts have access to the whole documentation related to a transaction. In case of a crime the audit results are sent to the Prosecutor's office. Besides its traditional audit functions, the Audit Chamber also does "value for money" assessment. The Audit Chamber examines the efficiency and effectiveness of spending and its relevance to the initially stated objectives. The Audit Chamber is entitled to require financial funds (flows) to be canceled if there is mismanagement or waste of money.

The state internal audit includes the systems for financial management and audits of budget holders as well the internal audit and preventative oversight of the Agency that is a component of the Minister of Finance's administration. The Agency's inspections are aimed at assessing the legitimacy, effectiveness and efficiency of budget spending. It prepares audit reports that provide statements, conclusions and recommendations for each specific case. Should it verify violations, it draws up liability statements.

The principle of accountability of policy and its implementation is an eminent feature of democracy. The identification of the best accountability practices is a process that considers national specifics as well as universal values. It is more a "learn by doing" process that evolves along with the general political and social trends in a functioning democratic civil society that is well informed and responsibly elects its representatives.

A major challenge faced by the reforming security sector is the demand for an ever growing transparency of the decision-making process. In order to optimise it and provide the consensus and support needed therein, best practices should be identified and promoted in the institutionalised communication channels of power. It could be the Consultative National Security Council to the President of the Republic as a unique forum that facilitates consensus-building on crucial issues, or the National Assembly with its Foreign Policy, Defence and Security Committee that constantly oversees the executive's decisions and their implementation. There is still room for improvement of

the Government's Security Council that supports the decision-making process by preparing analyses, assessments and forecasts, or other fora.

Independent expertise (aside from qualified studies conducted by Bulgarian institutions/organisations) has not gained enough prestige or a sufficient institutional base to influence the legislative or executive levels on matters of national security. The analyses and research on processes concerning this are accidental and non-systematic. It is easy to accept international input (which does not necessarily take into account the relevant national specifics), rather than listen to the "voice" of civil society that asks concrete questions and demands concrete answers (e.g. the public debate on the integrated MoD/GS structure and the debate on military education).

This relatively general but realistic view on present problems of security and defence in Bulgaria is essential to foster a more serious debate on what kind of security and defence capabilities we need. Undoubtedly, it forms a sufficient potential source of a broader and detailed public discussion on the topic. Such a discussion could bring more variety to present decision-making and foster more qualified public debate.

The everyday problems of the Bulgarian military (lack of resources, low training, old weapons systems and equipment) are very substantial but they can be overshadowed by stories that in every country make the front pages. They are best sold to the public when you have leaders making points through the press instead of talking to each other. This whole approach makes transparency a hostage to the cynical view that political agendas can become policy once enough public attention is attracted.

Transparency and accountability are critical elements of the process of building a national security community of both government and non-government actors, professionally or otherwise involved with national security. This can only be achieved by a proper management system that is modern, transparent and efficient as it gives clear responsibilities and thus bring accountability. An efficient public oversight needs an environment that enjoys constant two-way communication with society and external actors as it is focused on concrete results In order to best facilitate and evaluate the effectiveness of the security sector and its dynamics, this oversight needs to be timely, flexible and results-oriented.

## **Bibliography:**

Shalamanov, Velizar, 'Transparency needs more IT and new Education', *Transparency in Defence Policy, Military Budgeting and Procurement*, (Sofia: George C. Marshall – Bulgaria and Geneva Centre for the Democratic Control of the Armed Forces, 2002).

*Constitution of the Republic of Bulgaria*, adopted in 1991, available online at <<http://www.parliament.bg/constitution.php?id=1>>;

'Law on the Defence and Armed Forces of the Republic of Bulgaria', *State Gazette* 112/27.12.1995, amended in 1996, 1997, 1998, 1999, 2000, 2001 and 2002, available online at <[http://www.md.government.bg/\\_bg/\\_docs/zovs\\_30\\_04\\_2002.html](http://www.md.government.bg/_bg/_docs/zovs_30_04_2002.html)>;

'Administration Law', *State Gazette* 130/5.11.1998, available online at <[http://www.md.government.bg/\\_bg/\\_docs/zakon.html](http://www.md.government.bg/_bg/_docs/zakon.html)>;

'Law on the State Internal Financial Control', *State Gazette* 92/10.11.2000, available online at <[http://www.advfc.minfin.bg/show.php?db\\_name=dvfk&table=pages&field=content&id=11](http://www.advfc.minfin.bg/show.php?db_name=dvfk&table=pages&field=content&id=11)>;

*White Paper on Defence*, (Sofia, Military Publishing House, Ltd, 2002);

Totev, D., *Bulgarian Defence Resource Management System – Vehicle for Transparency in Defence Planning and Budgeting*, Transparency in Defence Policy, Military Budgeting and Procurement, edited by Todor Tagarev, (Geneva Centre for Democratic Control of Armed Forces – Geneva, George C. Marshall – Bulgaria, Sofia, 2002).

## CHAPTER EIGHT

---

### MEDIA, CIVIL SOCIETY AND PUBLIC POLICY

*Stoyana Georgieva and Avgustina Tzvetkova*

#### THE MEDIA

##### Legal and Practical Aspects

The Bulgarian Constitution guarantees the freedom of speech. In recent years the Parliament has passed several new laws regulating the relationship between the state and its citizens in regard to access to information. These include the Law on Access to Public Information, Law on the Protection of Private Information (LPPI), and the Law on the Protection of Classified Information (LPCI). In media regulation, there exists a Law on Radio and Television, enacted in 1998 and amended in 2001 by the next government. The ruling majority intends to enact a new law, although Bulgaria has already closed the Media chapter in its negotiations with the European Commission and despite experts' warnings that frequent changes to media regulations impede stable media development.

In its last human rights report in 2001, the State Department of the United States reckoned that despite the existence of constitutional guarantees of free speech in Bulgaria, the executive branch of government illegally interfered with media freedoms.<sup>1</sup> This interference was especially evident in the state-owned media – Bulgarian National Television (BNT) and Bulgarian National Radio (BNR). Both organisations are heavily dependent on the state as they are financed by the state budget as well as from advertisement income.

---

<sup>1</sup> Department of State of the United States of America, *Human Rights Report*, 2001 (4 March 2002), also available at <http://www.usembassy.bg>

The State Department's report notes that the current government, like the previous one, uses a formally independent regulatory body, the National Council for Radio and Television (NCRT) – later transformed into the Council for Electronic Media (CEM) – to exert direct pressure over both organisations. The report refers to the Council as 'quasi-governmental' as out of its nine members the Parliament elects five and the President selects the other four. The role of non-governmental organisations is limited to proposing candidates, although the Parliament and the President are under no obligation to include them in their respective quotas.

Although the Law on Radio and Television proclaims the right of every journalist to professional freedom, the process of selecting the heads and governing bodies assures political control and interference in the work of both media. For instance, one of the first acts of the new governing party was to create a new media regulatory body and to fire Lilyana Popova, the head of BNT, who was associated with the previous governing party. Several BNT journalists, known for their criticism of the new government, were also fired. A similar crisis engulfed the same media in 2001, when the previous regulatory body attempted to appoint a new director.

In 2002, the ruling majority declared its intention to appoint a new head to the state-owned information agency, Bulgarian Telegraph Agency (BTA). As a formal motive for the change, the majority offered the Agency's daily resume of the most important topics from the Bulgarian printed press, which allegedly presented the government in unfavourable terms. Currently the Parliament is preparing a new Law on Radio and Television whose goal is to create a new media regulatory body and consequently appoint a new head of BNT, as the old one has lost the majority's confidence. Again, the official motive is that the old law is not fully adequate for the fast-changing media environment. On the positive side, there is no law on the printed media and it is highly unlikely that the Parliament would contemplate one due to the media's resistance.

In 2000 Bulgaria rescinded a law that threatened a prison term for insult and libel. However, libel still remains a criminal offence rather than a matter for the civil code and the compensatory damages can reach as high as 15,000 leva (7,500 euros). Thus journalists convicted of libel possess limited rights to appeal. The London-based organisation 'Article 19 – Global Campaign for Free Expression' recommends that libel

and insult be decriminalised and returned to civil jurisdiction.<sup>2</sup> Another impediment to free speech is the requirement that journalists as defendants must prove in court the truthfulness of what they have written or said and thus their innocence is not assumed. Again, according to Article 19, in all cases the burden of proof ought to be on the prosecution (prosecutor or plaintiff). Furthermore, journalists must not be forced to reveal their sources of information and their refusal to disclose this information must not be held against them.

Article 148 of the Criminal Code, unlike widely-shared European principles and practice, stipulates greater penalties for insult and libel of civil servants in regard to their duties and functions. Article 19 recommended that this provision be repealed. Another recommendation pointed out the lack of protection of the right to disseminate publicly relevant information. The rule that every instance of dissemination of false information must be prosecuted is extremely constraining as the public has the right to be informed and the media finds it hard to verify every bit of information before it is made available to the public.

### **Laws on Disclosure, Government Classification of Information**

In 2000 the National Assembly passed the Law on Access to Public Information (LAPI), whose main purpose was to assure public access to governmental information. The Law was a great step in the right direction as for the first time since the totalitarian era, the public gained access to information produced by state institutions. The Law was perceived as one of the important elements of the constitutional right to be informed. According to journalists and non-governmental organisations, however, there are several problems with the Law's implementation. One of the Law's main weaknesses is its vagueness and the possibility it allows for refusal to share information. Many journalists argue that the Law in fact impedes, rather than facilitates, public access to information. All the problems notwithstanding, the Law is becoming an effective tool in the hands of journalists seeking information from the executive branch of the government. A non-governmental Access to Information Programme (AIP) has received 135 requests from media outlets for assistance in obtaining information from government; and in many

---

<sup>2</sup> Article 19 – Global Campaign for Free Expression, available at <http://www.mediapool.bg>

cases has obtained the information from the executive branch in accordance with the LAPI.

The preparation of the Law on the Classified Information (LCI) commenced in 1999 during the previous government, as a part of Bulgaria's drive to obtain NATO membership. The draft Law was rewritten by the new ruling majority and passed in the National Assembly in the spring of 2002 following a heated debated between the ruling coalition and the opposition. According to Article 19, the LCI's wide scope dramatically undermines the right of free access to information as defined by LAPI. According to Aleksander Kashamov, a member of AIP, the definition of information as classified in this law is synonymous with secret. One of the reasons for the newly created problem is the existence of two separate laws although it is logical to have a single one.

According to the Law, information is classified not according to its belonging to a classified category but simply according to the decision of the official handling the specific case. Furthermore, every official authorised to sign a document has the right to classify it as well. Conversely, according to rules and procedures from 1994 and 1998, only heads of departments used to have the authorisation to classify information. In comparison, in an executive order in 1995, the President of the United States determined not only the officials authorised to classify but also their classified level. In Bulgaria, however, the right to classify information legally given to an unlimited number of officials could lead to its overuse, as most of the officials have no formal training and guidance.

According to the practice in democratic societies, classifying information requires a special order and a procedure intended for a specific document rather than a whole category of documents. Besides, this document needs to be classified only in those parts whose public availability may create a threat to national security. Thus only some information related to areas like defence and foreign affairs needs to be classified. The LCI, however, is both vague and imprecise, as it requires no special order and permits the classification of entire classes of documents rather than specific parts. The Law permits officials to classify any document deemed to fit a special list of to-be-classified information, which contains as many as seventy categories (the previous annex contained thirty-seven categories). It must be noted that in contrast to the communist

period, classification of information currently lasts a certain time and then becomes publicly available. Citizens, however, have no way of finding out what documents are in the classified registrar or after what period they will be declassified.

The executive branch of government has at its disposal not only numerous categories of classified information but is also legally permitted to extend their scope. For instance, the government classified information about budget expenses for “special goals”; all information about secret services, including in the Ministry of Defence; the location of the Civil Protection Agency’s facilities (apparently it is more important that the enemy does not know their location than to have the citizenry informed). Many of these categories of classified information are left over from the time of the Cold War. For example, there exists an entire category pertaining to the country’s “economic security.” Obviously, the existence of such a category contradicts the political goal of building a market economy and in any event is incompatible with Bulgaria’s quest to join the European Union.

### **The Issue of Rescinding the Law on the Access to Documents of the Former Secret Service**

The Law on Classified Information also rescinded the Law on the Access to Documents of the Former Secret Service. Thus the ruling majority, ignoring the practice in the rest of Eastern Europe and against the advice of many in the West, fulfilled one of its campaign promises to close down the commission responsible for regulating the access to the files of the former communist secret services. There is a reason to believe that the European Commission does not look favourably at the new law although it does not seem to fall into any of the legislative changes the government needs to make in order to join the European Union.

The government’s insistence that Bulgarian citizens and the media would gain access to the Communist secret services’ files solely through the rules and procedures provided by the Law on the Access to Public Information is hard to take at face value. In fact, the LAPI is not applicable in the case of archival information. Furthermore, according to the new law many of the documents in the archive are classified for thirty years and that period can be extended for thirty more years. In other words, if a dossier in the archive has been created in 1960, the person who had been mentioned in it (but not the media)

would be able to access it in 2020. Even then, access to the archival document is impossible, as the Law on the Access to Public Information does not create formal access rules and procedures. As if to render access impossible the new law goes so far as to state that it is not applicable to archives such as the one of the former secret services'. According to the journalist Tatyana Vaksberg:

The most outrageous fact is not the ban on the access to the history of a defunct body such as the secret police of the communist dictator Todor Zhivkov. The new Law on the Classified Information virtually puts on the same footing former and current secret services as it forbids access to information from and about both. Ironically, the new law, passed in the framework of the changes needed to meet NATO membership requirements, makes us argue that the current and the Zhivkov's secret services are one and the same body. In the past twelve years in Bulgaria there did not emerge a single fact to the contrary; secret services changed names, directors and even members, but not a single indication of their transformation became public.<sup>3</sup>

In another opinion, Aleksander Kashamov writes:

Given the ambiguous goals of the new law, the lack of rules and procedures on determining classified information, and the unclear way of defining the categories of classified information, makes the new legislation compatible with neither the NATO's requirements nor with the Constitution.<sup>4</sup>

## Bulgarian Media

There are about ten national dailies. Bulgaria has also a well-developed regional press. At present there are two state-run national electronic media – the Bulgarian National Television and the Bulgarian National Radio, which are in the process of transforming themselves into public media. There is also one private national television, a number of regional terrestrial television centres and over 350 cable operators. The number of radio

---

<sup>3</sup> Tatyana Vaksberg, Radio Free Europe Journalist, Member of the Free Speech Association.

<sup>4</sup> Kashamov, A., 'Secrets and Lies', *Dnevnik*, (15 April, 2002). Available at <http://www.dnevnik.bg>

stations in the Bulgarian capital Sofia stands at thirty-three, the majority of them having an entertainment profile.

Over the past two years several online editions with original contents have appeared. According to the State Department report, in Bulgaria various newspapers reflecting the entire political spectrum are published freely. Frequently, however, journalists write so as to meet their employers' expectations.

There are no formal limitations on radio and television programming and that enables the two media to meet public expectations. The state-run radio and television represent the views of the opposition parties, although both during the last and the current governments some members of the opposition insist that their views receive less airtime than those of the governing parties. The report also says that the Prosecutor's Office is known to harass journalists who are critical of the judicial system.

Some assessments of the state of the state-run radio and television are even more critical. According to Yasen Boyadzhiev, chair of the Bulgarian Media Coalition (the largest media NGO including eleven independent organisations):

In the course of one year in which media regulations turned the clock back, Bulgarian National Television was transformed into window-dressing for economic and political interests and a tool of the mafia.<sup>5</sup>

According to another journalist, Vesela Tabakova, a member of the Centre for Independent Journalism, the media has neglected its public duties and responsibilities.<sup>6</sup> In many cases the media are used to harass opponents and frequently journalists demonstrate closeness to politicians.

---

<sup>5</sup> Statement at the Annual Meeting of the Bulgarian Media Coalition, July, 2002. Available at <http://www.mediator.online.bg> and <http://www.mediapool.bg>

<sup>6</sup> *Ibid.*

## **Political Tabloid Monopoly**

One of the major problems that civil society in Bulgaria and in the other SEE countries faces is the existence of free, but not necessarily democratic media. This view, from the President of the US Committee on NATO, Bruce Jackson, is shared by both Bulgarian and Western analysts.

Until a couple of years ago the key question to be answered about the media in the former Communist countries was whether they were controlled by the government. As far as Bulgaria is concerned, this question has been answered by the liberalisation of the media market and the subsequent emergence of private media.

Another problem occurred parallel to the above process – the press in Bulgaria is not independent and democratic in the way the media are in the developed democracies. Being linked with business cartels (which originated from the former secret services subsequently forming mafia-like structures) the media evolved to a great extent into an instrument for strengthening the influence of specific economic and political interests and not an instrument for the protection of the public interest. In the end the most important element of civil society – the informed citizen – is still missing in Bulgaria.

At present there are a great number of newspapers, magazines, radio and TV stations with regional and national coverage in the media market in Bulgaria, and in the other countries in the region. A significant number of these are private. There is a small number of so-called “party publications”. It is worth noting the monopolistic position of one publishing group called WAZ in the press market in Bulgaria as well as the fact that most of the papers are very similar in terms of design, messages and ideology. In reality there is only one type of newspaper in Bulgaria and this is the political tabloid. Thus the monopoly of the mass circulation press<sup>7</sup>, which frequently publish manipulative materials aimed at promoting private economic and political interests, is being consolidated.

---

<sup>7</sup> Data from the National Statistics Institute revealed during a debate called ‘What Is the Problem with the Bulgarian Media’, which was organised by the Red House centre for culture and debate, showed that the sales revenues of the ten largest Bulgarian newspapers in 2000 stood at 166,780,000 levs. WAZ newspapers accounted for a total of 146,400,000 levs out of this sum, which means that Trud, 24 Chasa and 168 Chasa hold a market share of 87.78 pct.

Only private firms distribute the printed press in Bulgaria. There is a state company involved in subscription, but there are also numerous private firms. According to Ivo Prokopiev, the publisher of Kapital and Dnevnik, the distribution chain is rather complex and nontransparent. Using its monopolistic market position, WAZ pressures distributors to pay upfront for newspapers published by the company.

## **Media-Government Relations**

All state institutions in Bulgaria including the National Assembly, Council of Ministers, Presidency, ministries, state agencies, Prosecutor's Office and courts have their own press offices. According to the Law on the State Administration, the press offices are constituted as directorates in state institutions. In the last five years Bulgaria witnessed a significant progress in the relationship between government and the media. The government, ministries, Presidency and the Parliament gave out information directly or through press releases about decisions and events related to the respective institution. Many of them have websites including news, decisions, laws and documents as well as announcements, programmes and other relevant information. Thus the media and the public have direct access to relevant information and a venue for discussing draft proposals and laws. The information is available in Bulgarian and some sections are offered in English as well.

Given the nature of the security sector and the already discussed limitations imposed by existing laws, information about the activities of the Ministry of Defence, the President (in his functions as commander-in-chief) and the relevant parliamentary commissions is rather limited. Therefore, journalists tend to see the function of those institutions' press offices as aimed at concealing information rather than informing the media and the public. Given the lack of sufficient information<sup>8</sup>, journalists seek direct access to the Minister of Defence and his deputies and frequently use leaks and anonymous informed sources in the ministry.

---

<sup>8</sup> Typical cases are the crisis-level problems created due to a lack of information about the planned destruction of Bulgaria's SS-23 medium-range missiles and the secrecy surrounding the selection process of a firm to perform repairs to the aging MiG-29 aircraft fleet.

In July 2002 the government of Simeon Sakskoburgotski announced new rules regulating media access to the work of the Council of Ministers. Journalists are now allowed to only one place in the Council's building for a few minutes at the beginning of every government meeting; each media outlet can have only five accredited journalists to the building (in the past a journalist's card was sufficient).

Restrictions on access to the government became widespread in 2002 as journalists were not allowed to the Council of Ministers' building before the regular government meetings. Journalists wait for ministers in front of the building regardless of the season and weather.

### **Problems in Media Representation of Issues Related to Security and Defence**

At present the most serious issues are neither brought to prominence nor discussed. Many of the most important issues have never been brought into the public domain such as the efficiency of military spending; modernisation; the lack of public information about the money of security services; the government's delay fulfilling publicly accepted commitments such as decommissioning SS-23 missile complexes; the access given to employees of former Communist intelligence services to classified NATO information. Why do former Bulgarian senior officers act as politicians and exert pressure on the civilian defence command? All these issues are well known to Bulgaria's NATO partners; however, ordinary Bulgarians are unaware of them.

The gravest problem related to the army reform, the problem of civil control, has never been subject to a public discussion. There have been sporadic discussions of the integrated ministry, which the minister describes as integration of directorates, while newspapers describe it as a personal conflict and power-struggle between the defence minister and the chief of general staff.

The media and the public rely on career intelligence officers as legitimate commentators on the civil control of the security services and the drafting of a new act to govern these services.

Political analyst Ognyan Minchev said in a recent interview that of all the elements of civil control of the military system and the security services system, Bulgaria only has the budget element, that is the budgets for these systems are voted by the Parliament. The presence of all other elements is questionable, as none of these institutions is obliged to report its operations. In the Czech Republic, for example, the Constitution obliges all security services to publish all of their reports, excluding only information which is a state secret. No Bulgarian security service has ever made its operations public, defined its goals or informed the public on any occasion about problems related to its powers and prerogatives. The same goes of the army: army reform is a mystery for the general public and it cannot be otherwise as its problems have never been publicly discussed.

State institutions and incumbent politicians should bear the greatest responsibility for the situation. We should, however, immediately state that they are not solely responsible for this. The media, experts and analysts are also to blame as they do not exert a strong enough public pressure for the implementation of the process of interaction between public opinion and the institutions, which is guaranteed both by the Constitution and the legislation. Democratic systems, such as the one Bulgaria claims to have, should have such a dialogue, especially in the sphere of the military political system and the security services and this dialogue should be a practical realisation of civil control over these systems.

It should be noted that there are exceptions from the general trends among media, including printed media such as Capital weekly, which is extremely popular among the more influential layer of the public (being a financial newspaper), as well as the Dnevnik daily and the online edition Mediapool. These three editions provide a systematic and in-depth analysis of the issues of security and defence. They try to discuss the main issues in the sphere, to present comparative analyses and research as well as independent expert opinions.

## CIVIL SOCIETY

According to the Freedom House *Nations in Transit* Report for 2001, "After a series of false starts, and having paid a high price in human suffering, Bulgaria has transformed into a stable multiparty democracy with a functioning parliament, a high degree of transparency, and a vibrant civil society."<sup>9</sup> We shall here analyse the state of health of Bulgaria's civil society, starting with the important requirements, Constitution and laws.

The Bulgarian Constitution explicitly guarantees the Right of Association. Article 44 envisages that 'Citizens shall be free to associate' as long as they do not act to the detriment of a country's sovereignty, national integrity or unity and do not incite racial, national, ethnic or religious enmity or an encroachment on the rights and freedoms of other citizens. The provision also provides that no organisation shall establish clandestine or paramilitary structures or seek to attain its aims through violence.

The legal framework of the Right of Association comprises mainly the Non-Profit Legal Entities Act and Law on Contracts and Obligations. The first one specifies the registration procedure for non-profit legal entities, the respective rules for their termination, management and relationship with the state. Under this law two main forms of NGOs are recognised in Bulgaria: Associations that are membership-based and Foundations that are property-based. They both could be public benefit or mutual benefit organisations. Under the Non-Profit Legal Entities Act, the founders of non-profit legal entities may be Bulgarian and foreign legal entities and able-bodied natural persons.

Another type of membership-based organisation is the civic association. The Law on Contracts and Obligations provides its legal framework. The Law does not recognise it as a legal person. It is established by a contract between two or more physical persons who unite for the accomplishment of mutual economic purpose.

---

<sup>9</sup> Karatnychy A., Motyl A., Schnetzer A. (eds.), *Nations in Transit 2001: Civil Society, Democracy, and Markets in East Central Europe and the Newly Independent States*, (New Brunswick, NJ: Transaction, 2001), p. 135.

Employers` organisations and trade unions are also membership-based associations but the law does not treat them as NGOs. However their registration regime is governed by the Non-profit Legal Entities Act.

The Bulgarian Non-Profit Legal Entities Act generally does not differentiate between foreign and domestic legal and natural persons. They can establish and participate in the activities of NGOs on an equal basis. Foreign non-profit legal entities may pursue activities for public benefit through their branches in this country in compliance with this Act. The legal capacity, establishment, reorganisation and dissolution of non-profit legal entities, their management, representation and membership, shall be governed by the laws of the country of their domicile. Therefore according to the Non-Profit Legal Entities Act, the laws of the country of domicile of the branch shall govern the establishment, operation and closing down of branches of foreign non-profits. They may establish branches in this country provided their purposes are not contrary to the public order and the laws of the Republic of Bulgaria. The law does not distinguish between nationals and non-nationals for purposes of governing, membership or management of the Association and does not provide any additional requirements on the citizenship basis.

The law recognises an association or a foundation as a legal person after its registration in the respective District Court. The law requires that the act of incorporation for establishing a foundation is with signatures certified by a notary. After being registered, NGOs can act and hold property and take responsibilities in their own name as a separate legal entity.

There are no special restrictions as to the extent to which an association/foundation can act. There are exceptions regarding economic activity (NGOs can perform related economic activities only) and property distribution after liquidation. The designation for performing public benefit activities is irrevocable after court registration.

There are some restrictions as to how a non-profit legal entity pursuing activities for public benefit may gratuitously spend its property.

The law specifies only the minimum Statute content. It should consist of the name of the association; the domicile; the objectives and means for their attainment; the definition of

the type of activities (public or mutual benefit); the scope of activities; the managing bodies; the branches; the powers of the bodies of the association; rules for representation of the association; rules for origination and termination of membership, as well as procedures for settlement of property relations in the event of termination of membership; the term for which the association has been established; the procedure for setting the amount and manner of delivery of property contributions; the manner of distribution of the remaining property after satisfaction of creditors.

The document for the establishment of a foundation is called 'articles of incorporation'. There are several requisites it should have according to the law but it is sufficient for the articles of incorporation to be valid to have the non-profit purposes and the property donated.

Generally in order to be recognised as and to receive the status of legal persons, the associations/foundations should be registered by the respective District Court. According to the regulation of the Non-Profit Legal Entities Act, the procedure comprises of preparing a set of documents: mainly the Statute and the Minutes from the General Assembly in the case of an Association and deed in the case of a Foundation. The Court checks the documents for legality and observance of the rule of law. Special attention is paid to Public Benefit Organisations, which upon court registration have to be registered at the Central Register with the Ministry of Justice.

NGOs freely determine the means for achieving their purposes. Limitations to the means for achieving the purposes of the non-profit legal entities can be determined solely by law. They can engage in additional economic activities only if it is related to their main activity according to their registration, and if they use the revenue for achieving the purposes determined in the statute or the articles of incorporation. The economic activity should be determined in the statute. Its performance should obey the rules and conditions in law regulating the respective type of economic activity. Legal persons with non-profit purposes do not distribute profit.

The general principle is that the legal entities with non-profit purposes are not taxed for the activities pursuant to their statutory goals.

## **Public Policy Institutes, Academia and Independent Experts**

A considerable number of NGOs found themselves participants in the decision-making process and in the process of forming administrative practices. The leading NGOs in the different spheres cooperated with the legislature and the executive in the drafting of bills and bylaws and in working groups with international organisations and institutions. Cooperating with government bodies at various levels, Bulgarian NGOs by and large managed to preserve their independent status as representatives of civil society.

Many projects on foreign policy and security were presented by NGOs after the socialist government resigned in February 1997. Immediately after the caretaker government of Stefan Sofianski was established, full NATO membership for Bulgaria became one of the main priorities in its foreign policy.

In recent times in the sphere of security and foreign affairs some leading NGOs have prepared a series of analyses on the integration of Bulgaria into the European Union and NATO and presented them to the state institutions – the Presidency, Parliament, Ministry of Foreign Affairs, Ministry of the Interior, Ministry of Defence.

Some of these institutions have created bodies which use and work with expert opinion of NGOs specialising in the area or carry out seminars, conferences and training with them. The conclusions from those seminars are being used in the preparation of laws or are being included in a wider public debate.

An illustration of this is the President's Council on Euro-Atlantic Integration. The Council uses the expert opinion of representatives of NGOs, of policy and judicial experts, and representatives of academic areas. The main aim is to build up a strategy for work on integration processes, by using analysis and experience from different spheres of society.

An NGO Commission has been set up in the National Assembly. The Commission in turn established the Civil Society Council in order to tap the expertise of NGOs for formation of government policy and legislative intentions. A 'National Charter for the

'Cooperation between Civil Society and the Public Institutions for the Benefit of the Social Interest' is being prepared.

As a result of the improved interaction between the Parliament and the non-government sector, as well as of the process of institutionalising the relationship between them, two reports were produced on Bulgaria's readiness for NATO membership at the request of the Parliament by a consortium of NGOs. Valuable contributions to determining the various criteria came from representatives of the Atlantic Club of Bulgaria, the Centre for National Security and Defence at the Bulgarian Academy of Sciences, the George Marshall Association, The Economic Policy Institute, the Centre for Liberal Strategies, the Institute for Regional and International Studies, the Institute for Security and International Relations Studies, the NATO Defence College Alumni Association, the George C. Marshall European Centre for Security Studies Alumni Association.

A series of reports present an assessment of the readiness of Bulgaria in the political and economic spheres, in the sphere of regional cooperation and in the military sphere (military capabilities, reform process, civil-military relations and contribution to NATO's major missions). On each criterion a general assessment of Bulgaria is given, as well as an analysis of the factors leading to that assessment along with general conclusions and recommendations.

While making a summary of the participation of NGOs as advisers to decision-makers in the area of foreign affairs and national security, I should point out a few leading projects, which will give a fuller picture of the growing role of the NGOs. First, I would mention the group of NGOs formed by the Foreign Minister, which works on foreign affairs problems related to the admission of Bulgaria to NATO and has taken care of building a communications strategy on the matter.

A similar group, but with a larger scope and including Deputy Ministers, Governors, Mayors, and NGO representatives, is called the Council on Euro-Communication. Led by the Minister of Foreign Affairs and the Minister of European Issues, it has concentrated its efforts on integration matters, connected with the EU.

Regarding work with the Defence Ministry, the Open Society Foundation has organised a seminar on the preparation of the White Paper on Defence, as well as a public discussion on the topic of alternative models for an integrated civil-military administration for defence.

NGOs are working on several projects in the field of defence and foreign policy and the Ministry of Foreign Affairs funds some of them. Before the Prague Summit, Bulgarian NGOs worked diligently on problems of foreign policy and national security. National institutions not only eagerly sought their advice, but also respected the analysis and the conclusions that they received. Both sides were involved in the process of building trust. On one side, the NGOs specialised in their areas, gathered experience and found international support and recognition. On the other side, the national institutions realised the necessity of discussing problems of national value, of making them questions of public debate and using the opulent expert experience of the non-governmental sector.

### **Relations Among Institutes: Nationwide, Regional and International**

Relations among institutes – domestic or international – are useful for the work of NGOs in Bulgaria. There is a consortium of Bulgarian NGOs working on defence matters that prepared papers for the National Assembly on Bulgaria's readiness for NATO.

Several international foundations that work on foreign policy and defence are very closely involved in the work of Bulgarian NGOs. The NGOs collaborate with some US institutes and foundations, such as the Open Society Foundation, DemNet, the German Marshall Fund of USA, and The New Atlantic Initiative. Also some of the Programmes of the EU Commission relate to these matters.

Many conferences are organised by Bulgarian NGOs in the country but very frequently representatives of these NGOs represent Bulgaria abroad and work on papers together with their foreign colleagues.

Regional projects are one of the main priorities for Bulgarian NGOs and they try to find more funding and to work together with regional partners. The regional connections

should be improved but we need external US or EU partners to support our regional programmes financially.

Collaboration with foreign institutes and regional organisations is of crucial importance for the studies of Bulgarian NGOs and we continue to extend our cooperation. Working together improves not only the professional perception but makes our studies more complete. In the field of foreign policy and defence it is a priority to collaborate with our foreign partners and to prepare joint studies in this field and to present them to decision-makers and to government institutions in our countries.

## CHAPTER NINE

---

### INTERNATIONAL REQUIREMENTS AND INFLUENCE

#### STANDARDS AND REQUIREMENTS ON DEMOCRACY AND THE ECONOMY RELEVANT TO DEFENCE AND SECURITY SECTOR REFORM

*Konstantin Dimitrov and Maria Atanassova<sup>1</sup>*

The transformation of Central and Eastern European (CEE) armed forces and security services has come to be a crucial litmus test for the success of democratic transitions. The new democracies opted for a ‘dual-track’ agenda of political and economic changes, which made reforms in the communist-era defence and security establishments desirable, necessary and inevitable. As a corollary, the Western institutions started to open up to new members, thus becoming major drivers of change in CEE defence and security sector reform (DSSR).

This paper will argue that the processes of NATO and EU enlargement are the most efficient avenues for dismantling the institutional and cultural legacy of the Warsaw Pact and the Council for Mutual Economic Assistance. There exists a direct correlation between membership of major European and Euro-Atlantic institutions and democratisation. The very prospect of joining NATO and the EU endows the political, economic and defence reforms in Bulgaria with a greater sense of purpose, creativity and dynamics. The commitments made in the course of cooperating or negotiating with NATO and the EU and the expectations of Bulgaria once it becomes a full-fledged member yield a significant impact on DSSR. In the aftermath of September 11, NATO hopefuls and NATO members alike are putting a renewed emphasis on military capabilities. This time, however, it is about extending the traditional focus on civil-military relations in defence policymaking to the imperatives of security sector reform, namely the role of the Interior Ministries, intelligence services, customs, and their interaction with the defence ministries and the armed forces.

---

<sup>1</sup> The authors would like to state that the views expressed in this paper are their own.

This argument is underpinned by three major assumptions. Firstly, there is a broader understanding of security (1991 and 1999 NATO Strategic Concepts). Security is not confined to 'survival' or military terms solely, but it also denotes prosperity, sustainable development and democracy. The advance of market ideas entered the realm of DSSR, as catchphrases like 'efficiency' or 'cost, benefits and risk analyses' have become common parlance in CEE defence policymaking.

Secondly, there is a linkage between DSSR and the overall reform effort after 1989. A successful DSSR reaches out to the realm of politics (democratic oversight and control), economics (introduction of defence planning systems commensurate with a free market economy) and military strategy (changed threat perceptions, new missions, doctrines and roles).

Thirdly, a successful DSSR is dependent on a congruence between domestic and foreign policies. Reform efforts at home should be in parallel with a foreign policy commensurate with European and Euro-Atlantic values. Joint actions with NATO and the EU ensure an opportunity to identify one's very own niche capabilities and, having done that, address deficiencies and better target DSSR priority areas.

This paper is divided into four sections, each trying to delineate international requirements and standards pertinent to DSSR. Our major objective is to identify those keywords that best translate into practice the central elements of DSSR identified within the Stability Pact WT-III.<sup>2</sup> The inventory that follows is by no means exhaustive or limited to Bulgaria only (snapshots on Bulgaria are provided only as an illustration). It encompasses those fundamental issues that push forward and channel DSSR in CEE, entailing changes in perceptions, values, legislature, structures and the actual functioning of institutions.

Before starting, it is important to stress that NATO, unlike the EU, has not stipulated fixed or rigid criteria for inviting new members. Neither the 1995 Study on Enlargement

---

<sup>2</sup> Report of the Ad Hoc Working Group on Security Sector Reform to the Stability Pact Working Table III, Budapest, 27 November 2001, also available at

[http://www.stabilitypact.org/stabilitypactcgi/catalog/view\\_file.cgi?prod\\_id=5664&prop\\_type=en](http://www.stabilitypact.org/stabilitypactcgi/catalog/view_file.cgi?prod_id=5664&prop_type=en)

nor the 1999 Membership Action Plan (MAP) aims to present a formal list of accession requirements. MAP, for example, is designed as an instrument to provide advice and practical support on all aspects of NATO. Having reviewed these documents, the inventory below enlists benchmarks with a bearing on DSSR. Requirements and influences of EU-origin are identified on the basis of the 1993 Copenhagen political (democracy, rule of law, human rights, protection of minorities) and economic (functioning market economy, capacity to cope with competitive pressures and market forces within the Union) criteria and the 2001 Gothenburg Council decisions (capacity to effectively implement and enforce the *acquis*, including the development of adequate administrative and judicial structures).

## **I. Political and Economic Requirements**

### **A. Domestic Policy Level**

Steering the aspirants on the course of political and economic reforms is a crucial precondition for preserving the political effectiveness of NATO and the EU after enlargement. In transition societies DSSR requirements of political and economic relevance lay out the roadmap for security management. If mishandled, the vicious cycle of poverty, corruption and organised crime will breed instability and undermine public attachments to and confidence in the efficiency of state institutions, especially the law enforcement agencies.

#### **1. Sustained democracy**

Applying the very concept of democracy entails a profound change in values and structures. It ensures that future actors and members of the defence and security establishments will embrace the principles of democratic oversight, informed public debate on DSSR, transparency and accountability. The 2001 Regular Report of the European Commission on Bulgaria's progress towards the EU<sup>3</sup> reproduces the previous evaluations that Bulgaria continues to meet the Copenhagen political criteria.

---

<sup>3</sup> Hereafter referred to as the '2001 EU Regular Report'.

## **2. Commitment to the Rule of Law and Human Rights**

NATO's Washington Treaty and EU constituent treaties require that current and future members demonstrate their commitment to the rule of law and respect for human rights. Having provided shelter to several waves of refugees during the twentieth century and saved its Jews during the Holocaust, today's Bulgaria has achieved a social climate of interethnic and religious tolerance. There are no interethnic tensions that could develop into violence or breed policies and politicians of nationalist and extremist brand. The Movement of Rights and Freedoms – the ethnic Turks party – is a coalition partner in the present government. Under a special programme on the social integration of the Roma, experts of Roma origin work on minority issues in central and municipal administrations whilst educational and employment projects are under way. It is estimated that some 160 policemen of Roma origin are currently employed in the police.

## **3. Effective Judicial System**

A strong, independent, effective and professional judicial system has manifold ramifications. Closely linked to DSSR requirements, in the post-September 11 world it appears paramount to maintain international judicial cooperation in criminal matters and adequate administrative capacity, so that agreements for judicial cooperation, extradition and transfer of sentenced persons are speedily put into action.

Bulgaria's Constitution and legislation provide for the independence of the judiciary. Improvements in the functioning of the judiciary remain a highest priority. Following EU recommendations, in July 2002 the Parliament approved amendments to the Law on the Judicial System, providing for an independent judiciary budget, greater clarity in the division of responsibilities between the Ministry of Justice and the Supreme Judicial Council, introduction of transparent criteria and a competition-based mechanism for recruitment or promotion of judges, improved training and related activities.

## **4. Efficient Public Administration**

The existence of a well-functioning public administration warrants the implementation of laws, strategies and action plans. The introduction of a merit-based public service,

based on the premises of professionalism and expertise rather than party affiliations or corporate interests, is a crucial precondition for the success of DSSR.

Under the Laws on State Administration and the Civil Service, employees in Bulgaria's administration are gradually being granted civil servant status. As of November 2001, about 8% of the Interior Ministry staff (5,119) had been demilitarised and granted civil servant status. The career structure of the Ministry is fine-tuned to meet specific requirements in terms of education, foreign languages, and experience. It is worth mentioning that civil servants have received salary increases, which is intended to attract high quality personnel and constrain corruption. A Code of Ethics for Civil Servants is available, aiming to offer guidance on ethical standards in dealing with the public on duty and in private.

## **5. Fighting Corruption**

Though varying in scope and repercussion, corruption is a worldwide phenomenon. However, it poses greater challenges for the new democracies in CEE. Generally, corruption is best conceived as a misuse of power. Thus, countering corruption is primarily about maintaining the integrity of government. Any 'co-opting' of the law enforcement agencies or intelligence services – the very people needed to fight corruption – in illegal activities is of the greatest detriment to democratisation.

In Bulgaria a number of lawsuits against corrupt officials have been opened. Strategies and action plans have been put into place, envisaging the entry into force of the Council of Europe Criminal Law Convention on Corruption, the enactment of a law amending the Law on the Judiciary with provisions dealing with the prevention of corruption in the judicial system, the adoption of amendments to the Penal Code, criminalising various forms of corruption and introducing more severe punishments for bribery.

## **6. Fighting Money Laundering**

Money laundering abets corruption, sustains organised crime and, especially in the CEE context, might endanger the integrity of privatisation. Countering money laundering, especially in times of globalisation, the Internet, quick communications and large-scale

movement of capital, is an all-encompassing endeavour to put in place a vigorous legal, financial and law-enforcement infrastructure. This is an issue that has gained relevance in the post-September 11 world as combating money laundering denies potential terrorists, drug traffickers, organised criminals, arms traffickers, blackmailers, or credit card swindlers the means to profit from their crimes.

In Bulgaria a special Law on Measures against Money Laundering provided for the establishment of a Bureau for Financial Intelligence. Fully operational, the Bureau is currently an independent administrative agency designed to analyse suspicious transactions and, if need be, alert the responsible law enforcement authorities to open investigations. In mid-July 2002, for example, the Bureau released data that over the first six months of the year it had informed the Prosecutor's office of 116 suspicious deals and transactions worth 193 million USD. The 2001 EU Regular Report explicitly mentioned that the Bureau had achieved very good cooperation with the relevant services of the Ministry of the Interior. Given that money laundering is a cross-country endeavour, the Bureau maintains extensive international contacts with over sixty-six foreign financial intelligence units.

## **7. Fighting Organised Crime**

Despite the lack of a widely-accepted definition of 'organised crime', this problem is perceived to be of major importance to transition societies. Organised crime cuts to the very core of internal security, underpinned by the assumption that 'soft' security issues directly correlate to domestic stability and the foreign policy agenda of joining NATO and the EU.

The growing importance of 'soft' security issues is acknowledged in Bulgaria's 1998 National Security Concept. Bulgaria has also adopted the EU legal definition of 'organised crime'. In pursuance of the latest amendments to the Law on the Judicial System, the government is to establish an Integrated Information System on countering criminality. This system is designed to ensure coordination, interaction and data exchange between the judiciary and the ministries of the Interior, Justice, Defence and Finance.

## **8. Economic Transparency and Development**

Economic transparency is the nexus of efficiently combating corruption, organised crime and money laundering. The transfer of state property to private hands proves a demanding exercise as it affects the answer to the major issue of the day – the privatisation of state property.

In Bulgaria the private sector today accounts for 70-75% of GDP. From the year 1998 the Bulgarian economy has been on an upward trend. Forecast annual growth of GDP in real terms of 4-5 per cent is based on a conservative estimate. The 2001 EU Regular Report states that Bulgaria is close to being a functioning market economy that should be able to cope with competitive pressure and market forces within the Union in the medium term, provided it continues further implementing reforms.

## **9. Foreign Direct Investment (FDI)**

There is a two-way correlation between foreign investments and economic development. FDI generates economic growth whilst a robust programme of economic reform is critically conducive to attracting foreign capital. In terms of DSSR, foreign investment in the defence industry cuts across a panoply of important mutual goals, namely sustained economic growth, responsible arms transfers, defence procurement and integration of a country's industrial base in NATO and the EU.

In Bulgaria FDI and strategic partnerships in the defence industry are driven by local defence company assets of skilled, low-cost personnel, some modern and flexible industrial capabilities and significant maintenance and repair capabilities, the ability to produce a wide array of defence and non-defence goods.<sup>4</sup> One important dimension of the post-Cold War adaptation of the defence industry that might be further explored is the development of intra-regional integration of defence assets in SEE, thus saving costs and encouraging greater regional stability and security.<sup>5</sup>

---

<sup>4</sup> Curtis M. Coward, Jeffrey P. Bialos, *The Bulgarian Defence Industry, Strategic Options for Transformation, Reorientation and NATO Integration*, (Washington, DC, The Atlantic Council of the US, 2001), p. viii.

<sup>5</sup> Curtis M. Coward, Jeffrey P. Bialos, *The Bulgarian Defence Industry, Strategic Options for Transformation, Reorientation and NATO Integration*, (Washington, DC, The Atlantic Council of the US, 2001), p. xiv.

## **10. Public Support for NATO and EU Membership**

Rather than being a requirement, public support for NATO and EU membership is a crucial prerequisite for DSSR. In representative democracies, public support and consensus on foreign policy show that societies understand and accept the rights and responsibilities of being a NATO and EU member. This has a direct impact on resource allocation and DSSR budgeting.

Currently, 80 per cent of the public are in favour of Bulgaria's EU membership whilst public support for NATO stands at 64 per cent. The latter encompass primarily young people (less than 40 years old), two-thirds of university graduates and three-quarters of people with a high standard of living. Also, 77 per cent of the people who firmly support Bulgaria's EU membership are also greatly supportive of our membership of the Alliance. In comparison, in February 1996 only 54 per cent of those, favouring Bulgaria's membership in the EU, also supported Bulgaria's NATO accession. Thus the positive attitudes towards Bulgaria's prospects for NATO and EU membership are mutually reinforcing and self-sustaining.

### **B. Foreign Policy Level**

EU and NATO expectations in the realm of foreign policy exert a twofold impact. Primarily, following the EU and NATO course of action at critical moments best testifies to the credentials of a candidate country to live up to membership obligations. Secondly, it helps us build up the experience, culture of cooperation and expertise, necessary to plug in the political effectiveness of NATO and the EU upon accession.

## **11. Foreign Policy Underpinned by European and Euro-Atlantic values**

Having closed the EU Chapter 27 'Common Foreign and Security Policy', Bulgaria accepts the relevant *EU acquis*. It has aligned itself with EU statements and declarations and associated itself with the Union's joint actions and common positions, including sanctions and restrictive measures. For example, after September 11, Bulgaria joined the EU Action Plan against Terrorism and associated itself with the EC common positions 2001/930/CFSP and 2001/931/CFSP on counter-terrorist measures. Also, in its

capacity as a non-permanent member of the UN Security Council, Bulgaria acted as a part of the Euro-Atlantic community, actively supporting efforts to reach and sustain consensus on the most pressing issues, including the extension of the SFOR mandate.

## **12. Good-Neighbourly Relations**

Bulgaria's regional policy in South East Europe (SEE) is premised on active engagement, cooperation, confidence building and good-neighbourly relations. In its capacity as an EU negotiating member and NATO aspirant, Bulgaria sees regional cooperation as an essential vehicle to facilitate the accession of all and each SEE country to the European and Euro-Atlantic institutions.

As a corollary, Bulgaria is actively engaged in trilateral cooperation of variable geometry with Romania and Turkey, Romania and Greece, Greece and Turkey, Albania and the Republic of Macedonia. One recent development is the NATO-targeted '2+2' dialogue between Bulgaria and Romania, Greece and Turkey.

## **13. Peaceful Settlement of Disputes in Line with OSCE Principles**

Bulgaria does not have any disputes or standing issues with its neighbours or third parties. A founding member of the Organisation for Security and Cooperation in Europe (OSCE), today Bulgaria has a great chance to succeed as the 2004 OSCE Chair-in-office. Peaceful settlement of disputes and refraining from the use of or threat of use of force underlines Bulgaria's foreign policy and defence posture. That stance is codified in all major policy documents, including the National Security Concept and the Military Doctrine.

## **14. Participation in the Partnership for Peace (PfP) and the Euro-Atlantic Partnership Council (EAPC)**

Bulgaria has been participating in NATO's outreach programmes from their very introduction. It became a PfP participating country in February 1994 and an EAPC (that replaced the North Atlantic Cooperation Council) founding member in 1997. Following the introduction of the Membership Action Plan (MAP), the Bulgarian PfP and EAPC

national policy is increasingly aligned with MAP objectives. Acknowledging that Partnership has been codified as a new NATO mission in the 1999 Strategic Concept, Bulgaria, together with the Vilnius Group of NATO applicants, is actively engaged in the ongoing debate on the future of the Partnership after Prague. One possible option worth exploring is the extension of the PfP and the EAPC to other countries in SEE, thus providing a greater leverage towards reform.

## **15. Contributions to Security and Stability**

NATO's Reykjavik Declaration (14 May 2002) makes an explicit mention that credible applicants should have made tangible contributions to stability and security in the Euro-Atlantic space. Bulgaria already has a proven record of a major net security contributor to regional stability in SEE. Bulgaria supported the NATO-led operations in Kosovo and playing a key role in preventing a crisis with the Russian occupation of Pristina airport. To this very day, Bulgaria continues its host nation support to the transiting KFOR forces.

In a similar vein, after September 11 Bulgaria granted a blanket permit for overflights by Allied aircraft taking part in the 'Enduring Freedom' operation. Under a bilateral agreement with the US, Bulgaria hosted the first ever US Air Force base on our territory. Bulgaria put troops on the ground in Afghanistan and tripled its SFOR and KFOR contributions.

## **16. Maintenance of the Linkage between Art. V of the Modified Brussels Treaty and Art. V of the Washington Treaty**

The 1995 Study on NATO Enlargement stresses that the enlargement processes of the EU and NATO should be compatible and mutually supportive. Being a WEU Associate Partner and EU negotiating member, Bulgaria favours the development of a credible European Security and Defence Policy (ESDP) in support of the Common Foreign and Security Policy. Being also a NATO aspirant, Bulgaria makes explicitly clear that ESDP should not compromise but reinforce the Transatlantic link.

In April 2001 Bulgaria offered a possible contribution to the EU civilian crisis management capabilities. These national contributions include a mechanised battalion, an engineering battalion, a chemical detection company, two Mi-17 transport aircraft, four Mi-24 combat aircraft for search and rescue operations, a guided missile boat and two CIMIC officers. It is important to emphasise that these national assets, declared for participation in future Petersberg missions, are part of Bulgaria's national contribution to NATO's non-Art. 5 crisis response operations. Such an approach aims for the interoperability of these forces with NATO and EU member states alike.

## **17. Export Controls**

Amidst the triumph of economic liberalism, supply-side export control regimes have come to be reliable instruments for balancing the competing priorities of free trade and non-proliferation. The controlling mechanisms enforced in Bulgaria strictly follow the requirements and restrictions imposed by UN Security Council resolutions, the EU, the OSCE, the Wassenaar Arrangement and other multilateral and regional instruments.

Currently, Bulgaria participates in the Australia Group, the Nuclear Suppliers Group, the Zangger Committee and the Wassenaar Arrangement and has applied for membership of the Missile Technology Control Regime (MTCR). Enforcement of regime obligations is codified in the Law on the Control of Foreign Trade Activities in Arms and in Dual-Use Goods and Technologies. In July 2002 the law was amended to exclude possible 'loopholes' for illicit deals via third countries, including mandatory post-shipment verification, as well as a mechanism for registering and control over brokering activities to prevent the unsanctioned retransfer of shipments to embargoed or sensitive destinations.

## **18. Arms Control and Disarmament**

Bulgaria does not possess nuclear, chemical or biological weapons. It is a party to all major multilateral agreements in the field of disarmament and WMD non-proliferation, including the Conventional Forces Europe (CFE) Treaty; the Open Skies Treaty; the Non-Proliferation Treaty (NPT); the Comprehensive Test Ban Treaty (CTBT); the Biological Weapons Convention (BWC); the Chemical Weapons Convention (CWC); the

Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Landmines and on their Destruction. Bulgaria completely destroyed its APL stockpiles before the end of 2000, two years in advance of the timeframe under the Convention.

The illicit trafficking of small arms and light weapons (SALW) poses significant security challenges. Considering that SALW have been the most frequently used weapons in the recent armed conflicts in the Western Balkans, Bulgaria is particularly concerned with the security risks associated with their destabilising accumulation and – in the context of post-conflict disarmament, demobilisation and reintegration (DD&R) programmes – their destruction. One appropriate example is the speedy implementation of the Bulgarian-US agreement on the destruction of surplus SALW (about 77,000 units).

## **C. Cross-Sectoral Issues**

### **19. Effective Decision-Making**

Efficient decision-making accounts for a country's overall capacity to organise its state apparatus to honour the commitments undertaken or, as in the case of NATO, bridge multiple interests and reach consensus. Bulgaria has already demonstrated its commitment to the culture of consensus. In organisational terms, Bulgaria has also proved its capacity to ensure an effective inter-institutional link-up and coordination geared to better manage, streamline and target NATO and EU preparations in the pre-accession period. There are well-functioning inter-agency mechanisms and bodies to manage Bulgaria's preparations for NATO (Interagency Council on NATO Integration) and the EU (Council on Euro-Integration).

### **20. Border Security**

Stringent border security is increasingly perceived as the order of the day in the post-September 11 world. This holds true especially for the region of SEE, which is increasingly becoming Europe's first line of defence against non-traditional security threats. Further enhancement of border security is given prime attention in Bulgaria's preparation for EU and NATO membership. One important development is the

introduction of an automated information system for border control, connecting all border points with Bulgarian consulates abroad.

In 2000 the EU lifted its Schengen agreement visa arrangements for Bulgaria. Since November 2001 Bulgaria has been implementing a National Schengen Action Plan. Accordingly, a new Border Protection Law is to be adopted by October 2002 aiming to ensure modern forms of police cooperation and introduction of cross-border surveillance and persecution.

## **21. Transborder Trafficking in Drugs, Arms and Human Beings**

Conventional wisdom says that there is a marriage of convenience between international terrorism and trans-border crime. Responding to these trans-national threats blurs the traditional diplomatic, military, law enforcement, and intelligence roles and missions. All who live in SEE can conceive that a war on terrorism is not simply a war against terrorists. It is a war against the traffic of people, drugs and arms. Bulgaria, for example, ranks among the first European countries in terms of detected and seized quantities of heroin (1,550 kg in 2001). In 2000 the Bulgarian Customs Agency intercepted a total of 2,620 kg of narcotics. Seventy-one per cent of this was heroin originating from the Middle East. Between January 2001 and August 2001 the Bulgarian customs authorities seized a total of 1,260 kg of narcotic substances, including 948 kg of heroin.

## **22. Infrastructure**

Infrastructure is an area where there is a coincidence of interests among Bulgaria, NATO and the EU. Bulgaria has identified key projects that correspond to the EU and NATO agenda in the SEE region. These projects include the construction of a second bridge across the Danube at Vidin – Kalafat as part of Transport Corridor No 4; clearing the debris on the Danube in order to restore free navigation; projects related to Transport Corridor No 8, primarily the construction of the Sofia – Skopje railroad and the linkage of the Bulgarian energy system with that of the Republic of Macedonia. Implementation of these projects will yield a two-fold impact. Firstly, quality regional infrastructure will help crisis response and anti-terrorist missions in hotspots in and around the Euro-Atlantic space, providing NATO-relevant capacity for host nation

support, supply lines and logistics. Secondly, a robust infrastructure network will ease trade relations and boost economic cooperation, thus helping a sustained economic growth in SEE.

## **II. Defence Requirements**

Similarly to other countries, Bulgaria has made great strides in restructuring a Warsaw Pact-type army into a modern armed forces capable of dealing with today's security challenges. NATO is the primary source of DSSR requirements, aspiring to ensure that an enlarged Alliance maintains its military effectiveness for collective defence and crisis response.

### **23. Democratic and Civilian Control**

As other transition societies, Bulgaria quickly found that reforms of civil-military relations helped a successful transition. The postulates of civilian democratic control of the armed forces are widely accepted and well ingrained. The Armed Forces operate under new judicial and procedural regulations, and now are under full political and public control.<sup>6</sup> In early 2002 the government approved a white paper on Defence and the Armed Forces, aiming to enhance transparency and promote an informed public understanding of defence matters.

### **24. Contribution to Collective Defence (Art. 5)**

Integrating NATO's Defence Capabilities Initiative (DCI) into defence reform plans, Bulgaria is focusing on the creation, training and logistical sustainability of rapid reaction, deployable and mobile forces. Bulgaria has already identified and made available a number of niche capabilities that have plugged into NATO assets during the crises in the Western Balkans and continually since September 11. The issue of specialisation is increasingly gaining momentum, as declared in the recent V-10 Riga Declaration (6 July

---

<sup>6</sup> V. Ratchev, V. Shalamanov, T. Tagarev, 'Reshaping the Bulgarian Armed Forces for the 21<sup>st</sup> Century', in O. Minchev, V. Rachev, M. Lipovanski (eds), *Bulgaria for NATO 2002*, (Sofia: Institute for Regional and International Studies, 2002), p. 235.

2002). It will be dealt with throughout the fourth MAP cycle and other cooperative instruments in Ally-Partner format.

## **25. Participation in Peace Support Missions (non-Art. 5)**

From the very outset of its introduction, Bulgaria has been actively implementing the Political-Military Framework for NATO-led peace support operations (PSO) and involved in the planning of PMF operations. On the ground, the country has a proven record as a reliable participant in NATO-led operations. Currently Bulgaria is the largest contributor to SFOR (a security company of 149 servicemen to protect the SFOR HQ; a mechanised platoon of 36 servicemen within the Dutch contingent; and four CIMIC and SFOR HQ staff officers) and ranks second in KFOR (an engineer-construction platoon within the German contingent; two staff officers at the KFOR logistics group in the Republic of Macedonia; An-26 transport aircraft).

## **26. Professionalisation**

Mass armed forces, built on the model of universal conscription or the Swiss militia system, have come to be the most controversial method of manpower procurement in the West. In the post-Cold War period mass armies ceased to be justified as new security imperatives and criteria of military effectiveness questioned the primacy of 'labour-intensive' territorial defence and impelled force restructuring to acquire new military capabilities. That prompted policymakers and academics alike to revisit the 'decline of the mass armed forces' theory, advanced by military sociologists in the late 1960s – early 1970s.<sup>7</sup> In the post-Cold War security environment of 'wars of choice', professional, smaller, hi-tech, more mobile forces, skilled in low-intensity warfare and multinational peace-support missions, appear to be the order of the day. This is a lesson learned by NATO Allies and EU members alike.

For example, by the end of 2002 Bulgaria expects to satisfy one of the most important EU requirements, namely having national borders guarded by professionals only. This

---

<sup>7</sup> Van Doorn, J., 'The Decline of the Mass Army of the West – General Reflections', *Armed Forces and Society*, Vol. 1, No 2, pp. 147 – 157, (February 1975); Janowitz, M., 'The Decline of the Mass Army', *Military Review*, pp. 10 – 16 (February 1972); Haltiner, Karl W., 'The Definite End of the Mass Army in Western Europe?', *Armed Forces and Society*, Vol. 25, No 1, pp. 7 – 36, (Fall 1998).

task is being met with the implementation of the Programme of Phased-Out Transformation of Servicemen, recruited for military service in the National Border Police, into professional border officers. This task is also facilitated by a successful Phare project (worth 3 million Euros) designed to strengthen the border police through a combination of twinning assistance and investment in new equipment.

## **27. Force Structure**

Despite high social costs, over the last three years the Bulgarian armed forces have been reduced by over 32% whilst a professional NCO corps has gradually been built up. Under the PfP Planning and Review Process (PARP), in 2001 Bulgaria carried out a NATO-compatible Force Structure Review, targeting further cuts in terms of personnel (peace-time/war-time strength) and equipment (heavy arms and equipment). Major defence documents (e.g. the Military Doctrine, Plan 2004) were updated to reflect those changes. The updated Military Doctrine was approved by the Parliament in April 2002, defining the size of the peacetime (45,000) and reserve (100,000) Armed Forces.

## **28. Social Adaptation of Demobilised Personnel**

Considering the current high level of unemployment, the ongoing large-scale reduction of military personnel entails grave social costs to society and reawakens the long-standing Quality-of-Life (QoL) debate in the army. To this end, successive governments have undertaken efforts and projects related to the social adaptation of military personnel discharged in the course of reforms. Today NATO and the World Bank are conducting a number of projects in Bulgaria.<sup>8</sup> In 2000 the MoD launched its Resettlement Programme 2002 – 2004 which was elaborated with NATO advice and introduced under the auspices of the Stability Pact WT-3.

## **29. Modernisation**

Since 1998 priority in modernisation is attached to C4ISR systems and air surveillance. Activities in the area of force modernisation are focused on implementing those PARP

---

<sup>8</sup> Security Sector Reform Gaps Analysis and Inventory, conducted by York University/Canada at <http://yorklanes371-2.arts.yorku.ca/ssr/search.php> (20 July 2002).

Partnership Goals (PGs) related to the NATO Defence Capabilities Initiative. There is an ongoing project for building a strategic communications and information system and Field Integrated CIS (FICIS) for the forces, designated for participation in NATO-led PSO. Currently, the Air Sovereignty Operational Centre (ASOC) is fully operational, thus enabling the Bulgarian air defence to be increasingly aligned with the Integrated NATO Air Defence system.

### **30. Inter-Operability and Standardisation**

Achieving inter-operability and common standards of equipment, training and logistics is a crucial prerequisite for a current and future NATO to operate effectively on the ground. The 1995 Study on NATO Enlargement emphasises the need to achieve inter-operability in the field of command, control and communication (C3). Accordingly, Bulgaria has made efforts to achieve the inter-operability requirements in that area. Another priority area is English language teaching.

### **31. Multi-nationality**

'Pool of forces' and 'multi-nationality' have become buzzwords to describe the need to have forces capable of linking up to and operating in multinational contingents over an extended period of time. One outstanding example is the creation of the Multinational Peace Force South East Europe (SEEBRIG). The brigade, whose HQ is located in the Bulgarian town of Plovdiv, is available for NATO- or EU-led peace support operations with a mandate from the UN or the OSCE. In 1999 the Brigade held its first command post exercise to practice the operational 'pool of forces' in peace support contingencies. Effective 1 May 2001, SEEBRIG was declared operationally ready. Yet Bulgaria is part of the efforts to go beyond the brigade's operational status and extend its deployability.

### **32. Strategies and Doctrines**

Revising strategies and doctrines is the shortest way to translate changed threat perceptions into military roles and missions. Major strategic documents on defence policymaking were put into place after 1989. These include the Law on Defence and the Armed Forces (1996), which was amended on several occasions; the National Security

Concept (1998) which, among other things, tasks the government with preparing annual reports to Parliament on the state of national security; the Military Doctrine (1999); the Law on Alternative Military Service (1999), as well as the Plan for the Organisational Structure of the Bulgarian Armed Forces by 2004 (Plan 2004). Work on the Military Strategy is currently under way.

### **33. Military Education**

Along with revising documents, changing the very thinking on war and security is a crucial avenue for dismantling Warsaw Pact-era cultural perceptions. Thus reorganisation of military education has become a priority task. One recent development is the setting-up of a National Defence University on the basis of four previously existing military schools.

### **34. Decommissioning of Obsolete Equipment and Base Closures**

Bulgaria has made significant progress in cutting down heavy equipment and armaments, including in compliance with its CFE Treaty obligations. One significant development was the decision to decommission and destroy its SS-23 missiles by October 2002. A number of programmes on decommissioning and utilisation of armaments and munitions are in different stages of planning and/or implementation. Plans regarding base closures are under way.

### **35. Defence Spending**

Meaningful defence spending cuts across the long-standing issue of burden-sharing. The level of defence expenditure in Bulgaria as a percentage of GDP is the highest among all NATO applicants. Given the awareness of the urgent need to reform and modernise and the broad political and public support for the Armed Forces, it can be assumed that, at least in mid-term, the defence budget will stay in the order of 2.8 – 3 per cent of GDP. This is to demonstrate Bulgaria's readiness to reduce rather than widen the capability gap between North America and Europe.

## **36. Crisis Management**

After September 11 a revised Crisis Management Concept was drawn up to reflect new strategic realities. The Bulgarian Civil Defence State Agency (CDSA) is the contact point of the Euro-Atlantic Disaster Response Coordination Centre (EADRCC). Along with seconding one officer to the EADRCC in Brussels, the Agency maintains two rescue units that are fully inter-operable with NATO forces and kept in constant readiness. Within the Stability Pact the CDSA ranked first in the Disaster Preparedness and Prevention Initiative (DPPI) check-up of the preparedness of individual states in SEE. Within SEEBRIG there are plans to build an engineer-construction unit, thus ensuring a speedy and well-coordinated regional response to disasters and emergencies.

## **37. Transparency in Defence Planning**

The development of a programme-oriented budget in the Ministry of Defence follows the modern principles of the Planning, Programming and Budgeting System (PPBS). The introduction of the programme approach in the management of defence resources and the unified payment system of the MoD provides for effective civilian control on defence spending. This helps increase the transparency of the defence planning and budgeting process, and harmonises to the maximum the budget process in the Ministry of Defence with the budget procedures used by NATO member countries. One area that deserves further attention is the possibility of applying the PPBS beyond the MoD system to reach other DSSR actors, primarily the Ministry of the Interior.

## **III. Security of Information Requirements**

Preventative measures in the post-September 11 world require an extensive exchange of sensitive information and intelligence, as well as efforts to rule out possible leakages. The 1995 Study on NATO Enlargement explicitly mentions that new members will have the opportunity to participate to the fullest extent possible in the NATO intelligence processes. Living up to that opportunity requires an extensive restructuring of the security services, so that NATO-compatible security safeguards are met. The fact that aspirants would be expected upon accession to have in place sufficient procedures to

ensure the security of the most sensitive information as laid down in NATO security policy is a clear-cut MAP requirement.

### **38. Protection of Classified Information**

In April 2002 the Bulgarian Parliament approved the Law on the Protection of Classified Information. That law was elaborated in consultation with NATO authorities, so that information safeguards meet NATO standards. Building on that, further progress in the establishment of INFOSEC was to follow. A National Security Authority – State Commission for the Security of the Information – was to be set up. Work on communication systems protection continued in 2002.

### **39. Vetting Procedures**

Meeting personnel security is a major prerequisite of security sector reform as it comes to vetting procedures and clearing personnel to work with classified information. The Law on the Protection of Classified Information envisages that security clearances will be issued dependent upon the reliability of the person from the security point of view and from the point of view of the protection of classified information. NATO assessments explicitly reaffirm that Bulgaria's vetting procedures are in line with NATO standards.

### **40. Registries and Physical Security of Facilities**

The physical security of facilities and establishment of registries is another important area. A NATO Central Registry at the MoD was set up, as well as sub-registries in other institutions. The Alliance's assessments explicitly reaffirm that Bulgaria's registries protection are in line with NATO standards.

## **IV. Legal Requirements**

Incorporating values and intentions into legislation is a major avenue for their institutionalisation. Similarly to the *EU acquis*, there is a growing NATO *acquis*. The latter is constituted by the Washington Treaty, NATO/Status of Forces Agreement

(SOFA), and the PfP/SOFA (a more detailed list is provided in the MAP). Bulgaria's security and defence-related legislation is increasingly fine-tuned to establish compatibility with NATO requirements, as well as to address the new security risks of the post-September 11 environment

#### **41. Legislative Compatibility**

According to Art. 5(4) of the Bulgarian Constitution, international treaties and agreements prevail over any contradictory norm of Bulgaria's domestic legislation. Nevertheless, NATO assessments clearly point out that there are no constitutional or other legal impediments with regards to the future accession of Bulgaria to the Washington Treaty.

#### **42. Transit and Stationing of Foreign Troops**

The 1995 Study on NATO Enlargement explicitly states that the Alliance does not have a *priori* requirement for the stationing of Alliance troops on the territory of new members. In March 2001 Bulgaria and NATO concluded a generic agreement that simplifies host nation support in future NATO-led PSO. The transit through Bulgarian territory of NATO forces and personnel in the context of the 1999 'Allied Force' operation and KFOR mission has been implemented in accordance with Bulgaria-NATO agreements, approved by the Parliament. The legal base for the US Air Force base in Bourgas during the 'Enduring Freedom' operation was covered by a bilateral Bulgarian-US agreement, ratified with full unanimity by the Bulgarian Parliament in November 2001. It is worth mentioning that this agreement represents the first validation in a bilateral context of the 2001 generic NATO-Bulgaria agreement.

#### **43. Constitutional Procedures for Sending Personnel Abroad**

NATO assessments explicitly state that there are no constitutional or legal impediments that might prevent Bulgaria from undertaking collective defence or crisis response missions. The participation of the Bulgarian armed forces in PSO is stipulated in the Constitution, in the Law on Defence and the Armed Forces and in the Regulations for Military Service.

## **Conclusion**

This paper has tried to outline the wide panoply of DSSR priority items to be addressed by all NATO applicants and EU negotiating countries. It is important to conclude, however, that DSSR is a phenomenon not limited to CEE solely. The harsh realities of September 11 made NATO policy makers revisit the debate on the mismatch of military capabilities and post-Cold War missions. Today NATO members and NATO hopefults alike are busy fine-tuning their military capabilities to new strategic imperatives and revising the set of tools at hand to deal with non-traditional threats such as terrorism and proliferation. For the countries in CEE, however, this is a 'double catch-up'. Bulgaria, like other applicants, has embarked on an extensive DSSR commensurate with NATO requirements whilst NATO itself is undergoing a profound transformation. It takes great leadership, courage and strategic thinking to reshape Bulgaria's defence and security establishments, so that the country's transition trajectory concludes with a tangible return to the institutions of the European and Euro-Atlantic mainstream.

## **CHAPTER TEN**

---

### **PEACEKEEPING AND REGIONAL SECURITY**

*Col. Valeri Ratchev and Cdr. Yantislav Vanakiev Ph.D.*

#### **Strategic Background for Regional Military Cooperation**

In the last decade the Western Balkans has become a test case for the will and capability of the countries in the region and the international community to impose peace and to advance stability and security. Bulgaria is determined to project stability, reinforced by the instruments of cooperation and integration. Thus the country's accession to the European Union (EU) and North Atlantic Treaty Organisation (NATO) is a unique opportunity to support stability and security and to enhance shared democratic values in the region of South East Europe (SEE).

The strategic environment was radically changed by the September 11 tragedy and the consequent global campaign against terrorism. Subsequent developments demonstrated that new security threats could not be dealt with by using traditional models and instruments. Nor can any separate country alone address them effectively. Internal political and state failure, ethnic tensions and economic instability, organised crime and international terrorism, illegal trafficking of people, drugs and weapons, environmental pollution and attacks on information infrastructure, natural disasters and industrial accidents are non-traditional threats that are even more dangerous than traditional interstate armed conflicts. The very nature of our present security concerns calls for a new and non-traditional approach based on common assessment, deliberate decision-making and joint action that is further enhanced by shared values. A new security network of willing and capable states should be established.

Environmental, demographic, economic, and social changes and tensions in the region of SEE are likely to influence regional security, but probably not particularly deeply as far as Bulgaria is concerned. Peacekeeping, humanitarian assistance and disaster relief operations will continue to deter security challenges. While a direct conventional attack

on Bulgaria or on the organisations it aspires to join is unlikely, the possibility of conflicts emerging around the fringes of Europe must not be ruled out. Bulgaria must be prepared to give its share by deploying forces in support of NATO, EU and United Nations (UN) missions.

Because of these strategic circumstances Bulgarian security and defence policy is structured around four main cornerstones:

- Developing security forces' capabilities that are adequate to the national security goals and international realities;
- Fostering political and military cooperation in a regional and Euro-Atlantic context;
- Integration in NATO and the European Union;
- Democratisation of the national security sector through enhanced transparency and democratic control.

These goals are solidly grounded in official documents and institutions, as well as in political consensus at the level of elites and public commitment to the goals. Changes in public and private values and attitudes about the military have allowed the appropriate dedication of resources to the pursuit of these goals. Achieving these intermediate goals will help Bulgaria reach the outcomes that it ultimately desires – security, stability and democracy.

Regional military cooperation is among the most essential aspects of international efforts to enhance security in the region of South East Europe. Bulgaria contributes and will continue to contribute to these efforts. Nevertheless, regional security cooperation has both its strengths and its limits. Credible judgements on its effectiveness should consider regional cooperation as an instrument to facilitate and accelerate the accession of each and every country in SEE to the Euro-Atlantic institutions. But regional cooperation in SEE can by no means be a substitute to the integration processes and should not be regarded as such. Bulgaria's regional policy in SEE is underpinned by the assumption

that regional security and cooperative initiatives are designed in a way that provides each county with its own track to NATO and the EU<sup>1</sup>.

In the context of the security and defence policy of Bulgaria, the country's participation in NATO-led Peace Support Operations (PSOs) is a continuation of Bulgaria's international commitments for guaranteeing security and stability in the Balkans. The expected results are the following:

- First, this is a test for the readiness of Bulgarian military to serve in NATO-led multinational forces.
- Second, the lessons learned in the operations will be valuable for the implementation of programmes concerning restructuring, modernisation and interoperability of the Bulgarian Armed Forces with their NATO partners.
- Third, by participating in NATO-led PSOs, the Bulgarian military gain new experience. The traditional Bulgarian military culture changes towards the adoption of new roles and implementation of new missions in the changing security environment.

## **Bulgarian Armed Forces' Experience in Peacekeeping Operations**

Following the end of the Cold War, the Bulgarian Armed Forces (BAF) began a new mission, participating in UN peacekeeping forces. In this context, the National Concept for the participation of the Republic of Bulgaria in Peacekeeping Operations (PKOs) was elaborated in 1994.

The first PKO in which our country participated was the United Nations Transition Authority in Cambodia (UNTAC) in 1992-1993, where Bulgaria contributed one complete infantry battalion of 850 servicemen, staff officers, civilian and military policemen, and UN Military Observers (UNMOs). During the mission a rotation of the personnel was implemented. After the rotation of the contingent in the ninth month a total of 1,352

---

<sup>1</sup> Minchev O., Ratchev V., Lesenski M. (eds.), *Bulgaria for NATO 2002*, (Sofia: Institute for Regional and International Studies, 2002).

servicemen, nine staff officers, thirty-two UNMOs, three military policemen and thirty-five civilian policemen had participated in the operation.

In late 1996, the Republic of Bulgaria joined peacekeeping efforts to settle the conflict in Bosnia and Herzegovina within the UN-mandated NATO-led Stabilisation Force (SFOR). Our contribution to SFOR in the beginning included one engineer platoon within the Netherlands contingent and one transport platoon within the BELUGA (Belgium, Luxembourg, Greece and Austria) logistical support group later named Multinational Integrated Logistic Support Group (HELBA) under Greek operational command. The mission of the transport platoon was accomplished in January 2001. The Bulgarian contribution to the mission was then increased by one mechanised platoon and guard company, and staff officers for SFOR Headquarters (HQ) from January 2002. Currently Bulgaria contributes a total of 234 personnel to the SFOR mission. In addition, Bulgaria has contributed an An-26 Military Transport Aircraft since November 2001.

Regarding the Bulgarian contribution to the Kosovo Force (KFOR), the country allocated one engineers platoon of 43 servicemen from August 2000. Altogether Bulgaria has contributed nine engineers platoons, five transport platoons and one mechanised platoon to SFOR as well as three engineers platoons to KFOR. The units participating in SFOR and KFOR have achieved full interoperability with NATO forces.

Bulgaria also has experience in humanitarian operation in Macedonia in 1999, providing and equipping a refugee camp for 2,500 refugees in Radusha.<sup>2</sup>

In addition to NATO's operations in the Balkans, Bulgaria contributes forces and assets to the international anti-terrorist coalition. An air-space corridor was provided during the 'Enduring Freedom' operation. In addition, a Bulgarian Air Force Base in Bourgas was converted to accepting and refuelling NATO/US aircraft. Finally, Bulgaria allocated a logistical sanitary unit comprising thirty-two servicemen and ten vehicles to the International Assistance Force in Afghanistan (ISAF).

---

<sup>2</sup> Ananiev G., *Speech at the U.S. National Defence University*, (Washington, DC, 1999), at [http://www.md.government.bg/\\_en/\\_speech009.html](http://www.md.government.bg/_en/_speech009.html)

The number of Bulgarian military personnel currently participating in Peace Support Operations (PSOs) abroad is 309 COs, NCOs and soldiers.<sup>3</sup>

A key task of Bulgarian defence reform is to increase the operational capabilities of the BAF to accomplish all missions and tasks assigned. One of the priorities in this respect is the training of designated units and participation in NATO-led PSOs. These forces include three battalions, four companies, three Search and Rescue teams and different types of ships and aircraft. Their personnel are 100 per cent professional, well equipped and conduct regular training, gradually increasing the number of exercises, flying hours and days at sea (Table 1).

<b>Army</b>	<b>Navy</b>	<b>Air Force</b>
1 Mechanised Battalion 1 Nuclear Biological and Chemical (NBC) Battalion 1 Engineers Battalion 1 NBC Recce COY 1 SOF COY 1 LOG COY 2 Disaster relief teams 1 Mountain rescue team	1 Frigate 1 Corvette 1 Amphibious Landing Craft 2 Minesweepers 1 Auxiliary ship 2 Land-based Hellos	3 Light transport Aircraft 4 Attack Helicopters 4 Transport Helicopters 1 Airfield Reconstruction COY
<b>Total personnel - 1,650</b>		

**Table 1. Bulgarian Force Contribution to NATO-led PSOs<sup>4</sup>**

### **Bulgarian Contribution to Regional Multinational Peacekeeping Formations**

When discussing the Bulgarian contribution to regional military cooperation, one has to underline particularly the Multinational Peace Force South Eastern Europe (MPFSEE) and the Black Sea Naval Cooperation Task Group (BLACKSEAFOR).

---

<sup>3</sup> Stoykov Z., *Bulgarian Defence Reform Implementation and Preparation of the Bulgarian Armed Forces for NATO Membership* (Briefing, presented at the International Workshop, Bulgarian Accession in NATO: Challenges and Prospects for Strengthening Stability in South Eastern Europe, Tryavna 28-29 June 2002) p. 18.

<sup>4</sup> Stoykov, *Bulgarian Defence Reform*, p. 17.

For participation in MPFSEE Bulgaria contributes the following units:

- Permanent units: mechanised battalion, engineers, medical and transport platoons, national logistics element, SEEBRIG (South East Europe Brigade) staff officers and officers in Engineers Company of the Engineers Task Force.
- Additionally, in the period when Bulgaria is a host nation for the MPFSEE, the BAF provide a Headquarters and a signals company to the SEEBRIG HQs as well as an HQ company to the multinational logistics battalion. The total number of servicemen in these units, other than the ones designated for PSOs, is 1,116. In 2001 the BAF participated in 30 exercises with almost 5,000 people and 252 other assets.<sup>5</sup>

With respect to the BLACKSEAFOR, Bulgaria contributes combat ships and auxiliary ships depending on the scheduled tasks of the exercise.

The activities of the SEEBRIG are consistent with the purposes and principles of the UN Charter. The initiative is 'neither directed against any third state, nor intended to form a military alliance of any form against any country or a group of countries. It is transparent and open to the NATO and PfP nations in the region, which are able and willing to contribute constructively at any later stage. It aims at the improvement of regional cooperation within the PfP initiative, and allows for constructive cooperation within the framework of the UN, NATO, OSCE and eventually EU'.<sup>6</sup>

Political and military consultations and decision-making in MPFSEE are being carried out through meetings of the Ministers of Foreign Affairs, Ministers of Defence, Chiefs of Defence Staffs and the Politico-Military Steering Committee (PMSC).

The mission of the SEEBRIG is to serve as a stand-by force to the UN and to the Organisation for Security and Cooperation in Europe, which 'will be available for employment in conflict prevention and in other Peace Support Operations (PSOs), including peacekeeping, peace making, peace building and humanitarian operations'.<sup>7</sup>

---

<sup>5</sup> *Ibid.*

<sup>6</sup> *Agreement on the Multinational Peace Force South Eastern Europe*, Article II, p. 2.

<sup>7</sup> *Agreement on the Multinational Peace Force South Eastern Europe*, Article III, p. 2.

The SEEBCRIG will be ‘available for possible employment in UN or OSCE-mandated NATO-led operations for conflict prevention and other PSOs’. It could also take part in ‘coalition of the willing’-type international initiatives.<sup>8</sup> The countries which are Parties to the agreement on the establishment of the MPFSEE will take a joint political decision on participation in PSOs on case-by-case proposals made by the PMSC.

Participation in a particular force-package for a specific PSO is a purely national preference. Tasks to be undertaken by the SEEBCRIG and Rules of Engagement will be derived from the resolutions of the international organisation which has undertaken a given operation and shall be subject to approval of the Parties based on proposals by the PMSC.<sup>9</sup>

In NATO-led PSOs, ‘the Brigade will be subordinated to the bodies delineated in the mandate of the relevant international organisation after the Parties have agreed to undertake such operation’.<sup>10</sup>

The SEEBCRIG is the first attempt to implement a fully-integrated command and control structure at Brigade level with the participation of NATO and PfP countries. In other words, the commanding officer is chosen on rotational basis, the staff is mixed, with the key assignments distributed proportionally among the participating nations, and the working language is defined to be English on the basis of Skopje Agreement. The commanding officer is rotated on a two-year basis starting with a Turkish Brigadier-General for the first two years, followed by the representatives of Greece, Italy and Bulgaria.<sup>11</sup>

The chairmanship of the PMSC also rotates on a two-year basis. For the first eight years Greece, Romania, Turkey and Albania will provide the chairmanship of the PMSC.<sup>12</sup>

The location of the SEEBCRIG HQ rotates on a four-year basis, starting from the date of its activation, and will be hosted by four troop-contributing countries in the following

---

<sup>8</sup> *Agreement on the Multinational Peace Force South Eastern Europe*, Article III, p. 3.

<sup>9</sup> *Agreement on the Multinational Peace Force South Eastern Europe*, Article III, p. 6.

<sup>10</sup> *Agreement on the Multinational Peace Force South Eastern Europe*, Article III, p. 7.

<sup>11</sup> *Joint Press Release from the SEEDM meeting* (Athens, 11-12 January 1999).

<sup>12</sup> *Ibid.*

order: Bulgaria, Romania, Turkey, and Greece.<sup>13</sup> The key posts in the HQ also will rotate on a two-year basis.

As far as the forces are concerned, they are of assigned type. The SEEBrig is composed of ground elements only, and the basic units are battalion-size formations. Units will remain at their permanent home base locations and they will come together to form the appropriate force for exercise and training activities in accordance with jointly prepared programmes, and for contingencies should there be a political decision to that effect.

The SEEBrig is formed of three types of units:

- Units manned and supported by the Host Nation, i.e. an HQ company and a signals company.
- Multinational units, i.e. Brigade HQ, and the HQ of the combat service support battalion, and the combat service support battalion itself.
- National units, i.e. battalions, companies and platoons.

A clear example of expanding security cooperation from a purely military to more civilian aspects of crisis management is the establishment of the Engineers Task Force (ETF), as a part of the MPFSEE. This Task Force is designed to improve the capabilities for non-military crisis management and thus to fill a gap in disaster and crisis rapid reaction response. The ETF will be employed in civil assistance, humanitarian crisis and disaster relief, search and rescue operations, with the purpose of ensuring a speedy and well-coordinated response to disasters and emergencies. The engineers of each South East Europe Defence Ministerial (SEDM) country are going to be stationed on their own territory, and in case of intervention the command and control are to be implemented inside SEEBrig, parallel with or independently, at the level of each country. The ETF is expected to become a significant regional asset for mutual support in times of crises, natural disasters and for providing humanitarian aid.

---

<sup>13</sup> Additional Protocol to the Agreement on the Multinational Peace Force South East Europe (Athens, 12 January 1999).

Another example of successful cooperation in PSOs in SEE is the establishment of the BLACKSEAFOR. The mission of the Task Group is to further contribute to the strengthening of friendship, good relations and mutual confidence among the Black Sea littoral states as well as to improve peace and stability in the region through enhancement of cooperation, and interoperability among the naval forces.

The activities of the BLACKSEAFOR are neither directed against any state, nor intended to form a military alliance against any states or group of states. It is a stand-alone and at the same time transparent arrangement.

The main tasks of the BLACKSEAFOR are: search and rescue operations, humanitarian assistance operations, mine combat measures, environmental protection operations, goodwill visits to develop good-neighbourly relations among the Black Sea states and any other PSOs agreed by all the Parties.

The BLACKSEAFOR is intended to be used for PSOs in the Black Sea but if required, could be deployed outside the Black Sea should the Parties reach consensus on this. In addition, the Task Group based on consensus of the Parties may also be available for support of UN- or OSCE-mandated PSOs and other type of international activities in accordance with the aims and tasks of the BLACKSEAFOR.

The Task Group is composed of naval elements only (minimum four-six ships), without direct participation from air and army services. The main classes of warships to be assigned to the Force are: frigate/destroyer, corvette/patrol boat, minesweeper, amphibious landing craft, auxiliary ship and vessels.

Similarly to the SEEBRIG, the units allocated to the BLACKSEAFOR remain at their permanent home basis locations and will come together to form an appropriate force for exercises in accordance with jointly-prepared programmes and for contingencies should there be a decision by the Parties.

The BLACKSEAFOR will operate as an on-call Force and will be activated for exercises in the Black Sea at least once a year. During the exercises, all activities will be fully under the direction of the Black Sea Naval Commander. The Parties retain full command

and control of their ships and the ships may be withdrawn at any time for national purposes provided the Parties are informed.

As in the SEEBRIG, decisions in BLACKSEAFOR will be taken by consensus among the Parties. The presidency will be rotated following the countries' names, yearly starting with Turkey. Staff assignments are normally of a one-year duration and rotate among nations with the widest possible national representation.

There are at least two important issues that have to be emphasised when discussing the establishment of BLACKSEAFOR. First, the Task Force is the only military structure in the Post-Cold War period in which the Russian Federation takes part and cooperates with NATO naval forces and the forces of PfP countries. In this sense, it has a role to play in the context of the new stage of NATO – Russian relations.

Second, the area of operations of the BLACKSEAFOR is situated in a particularly sensitive region, which relates the SEE and the Caucasus. From this point of view, the BLACKSEAFOR can work for projection of stability from the SEE towards the Caucasus region. In addition, the BLACKSEAFOR could play a role in securing the use of harbours of littoral states and transport corridors if they are needed to bypass traditional routes from the Middle East to Western Europe, a very probable scenario in the context of the international war against terror.

### **Government Policy and Public Support for the Participation of the Bulgarian Military in Multinational Peace Support Operations**

The legal basis for the participation of Bulgarian troop contingents in PSOs is Article 84, paragraph 11 of the Constitution of the Republic of Bulgaria. In accordance with this Article, sending armed forces over the state border can be done only by permission of the National Assembly on the proposal of the Council of Ministers. This means that for each particular PSO a separate decision is necessary.

The employment of the BAF in Operations Other Than War (OOTW) (in which Peace Support Operations are included) is defined in the Bulgarian Military Doctrine adopted by the Parliament in April 1999. According to the provisions of the Doctrine, the BAF along

with their traditional function – territorial defence – are employed in OOTW and perform ‘peace support functions, humanitarian, relief, integration and social functions’<sup>14</sup>. ‘By decree of the Council of Ministers the Armed Forces form, train and maintain ready to act, contingents of troops and assets for participation in peacekeeping operations and operations other than war. Their personnel is selected on a volunteer principle and sign a special contract. They are provided with resources and equipment and are trained in a way that ensures interoperability with NATO forces and which is in compliance with the requirements of the international organisation giving the mission mandate’.<sup>15</sup>

The process of the development of the doctrinal basis for participation of the BAF in OOTW was completed by the adoption of the Doctrine for OOTW in November 2000<sup>16</sup>. The perceptions and attitudes of the citizens towards BAF participation in PSOs deserves special attention because of the importance of public support when a political decision to send troops abroad has to be taken. Referring to the data from recent public opinion polls, it can be said that the mission ‘participation in peacekeeping operations under the UN flag’ is the most acceptable one among the various PSOs. The level of approval drops when the respondents are asked to rate ‘military actions under the supreme command of the UN’ and ‘military enforcement of UN resolutions’. The analysis of survey data shows that the public is prone to support participation of Bulgarian soldiers in missions, which are associated mainly with traditional peacekeeping. At the same time, Bulgarian citizens do not support participation in missions accompanied by high risk for military personnel. This fact could produce some tensions when decisions to send troops abroad have to be taken in so much as most of the missions today are accompanied with high risk for the personnel.

With respect to the public image of the Bulgarian servicemen taking part in NATO-led PSOs, one can say that it is positive. Most often, citizens characterise them as people who ‘work to promote Bulgaria’s prestige and speed up the integration of Bulgaria into the Euro-Atlantic security structures’. The participation of Bulgarian servicemen in the SFOR operations is considered by the citizens as a way ‘to preserve peace and security in South-Eastern Europe’ and ‘to enhance Bulgaria’s national security’. There is little

---

<sup>14</sup> Military Doctrine of the Republic of Bulgaria (adopted by the Parliament in April 1999) p. 44.

<sup>15</sup> Military Doctrine, p. 91.

<sup>16</sup> Doctrine for Participation of the Bulgarian Armed Forces in Operations other than War (Publishing House of the MoD, 2000).

public support for the notions that Bulgarian servicemen taking part in PSOs ‘are people who want to divert themselves from everyday problems in the country,’ or that they are ‘adventurers who want to test themselves in a difficult situation’. <sup>17</sup>

It is important to point out that these predominantly positive assessments differ considerably from the attitudes toward the Bulgarian military contingent taking part in the UNTAC mission in Cambodia.<sup>18</sup> Along with other important lessons learned from this first Bulgarian participation in international missions, we have learned the lesson of how important is to establish good working relations with the media and to achieve public support when the political decision to send troops abroad has to be taken.

### **Some Challenges to Regional Military Cooperation in PSO**

Despite serious developments in the security and military cooperation in SEE, there are some problems that are worth analysing to help promote regional cooperation in PSOs in the future. These problems could be described briefly in a following ways.

Firstly, in spite of successful bilateral and multilateral cooperation among NATO and PfP countries in the region, there still exists a low level of interoperability in Command, Control and Communications as well as in the adoption and implementation of NATO staff procedures. Speaking about SEEBRIG, one has to acknowledge two facts:

- 1) The allocated units still have deficiencies in interoperability. This is a huge challenge for all multinational units. Increasing interoperability is essential for successful mission accomplishment in PSOs.
- 2) Lack of communication and information equipment at the brigade level is a main obstacle and an important challenge to fulfilling the mission of the Brigade.

---

<sup>17</sup> Yanakiev Y., Domozetov Ch., *Public Perceptions of Euro-Atlantic Partnership: Security and Military Issues (The Case of Bulgaria)*, at <http://www.nato.int/acad/fellow/98-00/yanakiev.pdf>

<sup>18</sup> Velichkov A., ‘Bulgarian Blue Helmets in Cambodia and the Public Reaction to their Mission’, paper presented at, *ERGOMAS Interim Meeting of the WG Public Opinion, Mass media and the Military*, (Breda, 1996).

The current lack of a completed communications and information system remains a major obstacle for deployment of SEEBRIG in a real PSO.<sup>19</sup>

We should add varying levels of engagement of different countries, different capabilities, strained resources and possibilities to allocate resources in the future, as well as problems of a political nature when decision-making is concerned.

Second, one of the most serious challenges is connected with the problem of 'human interoperability' among the military from different SEE countries. This means different national and military cultures, different traditions in civil-military relations as well as military education and training of troops, different social competence and practice in working in a multinational environment. Again, speaking of SEEBRIG, the achievement of the desired proficiency level in English, especially in the lower ranks, remains one of the important challenges to the participating countries.<sup>20</sup>

Third, relations between the military from different nationalities, participating in SEEBRIG and other multinational military formations, are mainly at staff officers' level. Personal contacts among the servicemen from different national contingents at platoon or company level are still occasional.

Fourth, there are different, and in some cases, conflicting public perceptions and attitudes of civil societies, military and political elites in SEE regarding the participation of the national contingents in operations abroad.

### **The Way Ahead: Areas of Progress for Military Cooperation in SEE**

In this paragraph we shall summarise some ideas for further development of regional cooperation in PSOs. In the first place, the emerging military cooperation could be seen as an element of structural, long-term conflict prevention, and thus as a tool for promoting stability in SEE by reducing regional tensions and diminishing wide-spread

---

<sup>19</sup> Kouselis A., 'The SEEBRIG a Practical Example of Security and Confidence Building in South Eastern Europe', (Briefing presented at the International Workshop 'Conflict Prevention and Crisis Management in South Eastern Europe: Regional Perceptions and Western Approaches', Sofia: 26-29 April 2002) p. 11.

<sup>20</sup> Kouselis, 'The SEEBRIG a Practical Example of Security and Confidence Building in South Eastern Europe', p. 12.

negative stereotypes, prejudices and mistrust among the people in SEE. In this regard, it might be wise to continue with development of such confidence- and security-building measures as the establishment of mixed bilateral and multilateral military formations and development of combined education and training for conflict prevention and other PSOs.

The establishment of the SEEBRIG, the Multinational Land Force (Italian-Slovenian-Hungarian Brigade), and the Romanian-Hungarian battalion are good examples that could serve as a basis for further development of mixed multilateral military formations, which are stationed on a rotation basis in the troop-contributing countries, comprising contingents from both NATO and PfP countries, which will serve and train together. In this way, more possibilities for communication among the military at lower levels will be established. We need to broaden interaction among the military from staff level towards unit level and even towards the individual servicemen.

It might be useful to start with establishment of mixed battalion-size formations, probably in the beginning on a bilateral basis between Bulgaria and Greece, Bulgaria and Turkey, Bulgaria and Romania, and to invite after that more countries like Macedonia and Yugoslavia to join the initiative.

In addition, it might be wise to establish a Regional Lessons Learned Database, which could be used for education and training of servicemen in these formations. Furthermore, it might be useful to utilise the experience of some West European NATO countries regarding the establishment and functioning of multinational military formations such as the German-French Corps, German-Polish-Danish Corps, and the German-Dutch Brigade.

As far as the idea of developing combined military education and training is concerned, some initiatives have been promoted in this respect using PIMS and the Advanced Distributed Learning approach. One could suggest several more ideas for consideration:

- Increase of military personnel exchange between military academies and defence colleges in SEE.

- Military and civilian personnel exchange for participation in short-term training courses in PfP training centres in SEE – Ankara (Turkey), Bucharest (Romania), Kilkis (Greece) and Karlovo (Bulgaria)).
- Establishment of regional educational and training facilities for conflict prevention and crisis management as for example a Combined Joint Balkan Defence College and Combined Joint Peacekeeping Training Centre.

The realisation of these ideas could work for several tasks. In the first place, combined military education and training will facilitate defence and security cooperation in SEE. In addition, it will help to overcome the existing ‘human interoperability’ problem. Finally, this approach will help to make efficient use of scarce defence resources in some of the countries of the region.

The second important role that emerging regional military cooperation can play is as a tool for implementation of conflict prevention and other multinational PSOs. These include humanitarian, rescue and search operations, preventative troop presence, disarmament, mine clearing, demilitarisation and demobilisation, assistance in human rights monitoring, protection and restoration. In this way military cooperation in SEE can be used as a form of regional self-help, which could enhance and facilitate the efforts of various International Organisations (IOs), the US and Russia to prevent and resolve conflicts in the region. We have to underline clearly that the multinational troops from neighbouring countries in SEE can be employed only in missions that do not include enforcement tasks.

The third important role relates to military cooperation as a facilitator of NATO and EU enlargement and development of collective security in SEE. It is worth underlining that successful sub-regional cooperation must not be seen as a substitute for accession to NATO (and the EU) of the aspirant countries from the region. On the contrary, successful cooperation could enhance their future membership in these IOs, and thus promote cooperative security in Europe.

Discussing military cooperation in SEE in the context of the future of NATO, one could argue that the enhanced security and defence cooperation in SEE could help the transformation of NATO from an institution providing collective defence to a cooperative

security institution. The expected enlargement of NATO in SEE and the change in the main role of the Alliance with respect to the global war against terrorism will also give new momentum to this process.

In this context Bulgaria as well as the other countries involved in regional military cooperation will face capability problems in preparing their armed forces for the new missions. Together with NATO, these countries have to identify and stimulate positive development of a package-approach to fill this gap. The package could incorporate a new approach towards force planning, a new mechanism and standards for military training, a new system of financing partners' participation in PSO and a modernised approach towards the future of multinational formations.

Force planning should be a result of much closer consultations and direct joint staff work. Without this the partner countries will continue to propose capabilities that they have but NATO does not need. Experiencing a new type of force planning procedures and style, the countries can identify their niches and focus national modernisation efforts in essential directions.

The importance of specialised training will continue to rise. A new set of NATO experience-based standards should be developed. Joint training for full-scale missions will be unavoidably necessary. It should be supported with a much more responsible approach towards interoperability than up to now. An integrated system for collecting and sharing lessons-learned information should be created.

The entire system for financing national participation in NATO-led PSOs does not stimulate partners' intensive involvement. A new system should provide resource support to all who are capable and decisive for contributing to the common efforts. Without this all investments in interoperability and DCI-oriented modernisation will have minimum effect.

Also a new approach towards multinational formations should be generated. NATO's experience in multinational formations is from the years of the Cold War and is visibly inadequate for the new conditions. Partner countries' experience in PfP format is most of all an expression of political goodwill and readiness for a new type of bilateral and regional relations. An eventual development could be in the context of sharing the

increasing burdens in force maintenance, training and physical participation in PSO. This will not diminish but strengthen and deeply motivate their role “as a symbol of partiality”.

## **Conclusion**

The invitations in 2002 for Bulgaria, Romania and Slovenia to join NATO will surely have a positive impact on security and military cooperation in SEE. Further enlargement of the Alliance will bring new opportunities for enhancement of cooperation in the 2 plus 2 format (Bulgaria and Romania plus Greece and Turkey). Probably, Greece and Turkey as ‘old’ NATO member countries will be the main partners of the newcomers in the establishment of bilateral and multilateral military formations for participation in PSOs as well as collective defence.

In February 2002 in Istanbul and later in Athens, meetings between Bulgaria, Romania, Greece and Turkey were held. Greece and Turkey unanimously stated that the Bulgarian and Romanian memberships in the Alliance were particularly needed for the further stabilisation of the region. The establishment of an integrated secured area from the Carpathians to the Mediterranean and Central Asia would substantially change the geographical background of overall NATO strategy and particularly in relation to the war against terrorism.

## **CHAPTER ELEVEN**

---

### **CRISIS MANAGEMENT: PART ONE**

#### **CRISIS MANAGEMENT: THE MINISTRY OF INTERIOR**

*Jivko Jivkov*

### **CRISIS MANAGEMENT: PART TWO**

#### **MANAGEMENT OF NON-MILITARY CRISES – CIVIL PROTECTION AGENCY VIEW**

*Nikola Nikolov*

#### **Introduction**

Bulgaria, other South Eastern European countries and, globally, every state can be threatened by a variety of risks that can cause a crisis. They arise from fragile economic, political, social and ethnic conditions in a country; they can come as natural or man-made disasters. Even a militarily and politically strong country like the United States can be assaulted by an unexpected terrorist attack. In South Eastern Europe, one type of crisis can suddenly be transformed into another, larger one. In Albania in 1997 an economic crisis turned into a political one. It led to massive cross-border refugee flight and, finally, to the collapse of the political structure. South Eastern Europe can be confronted with threats that arise within the country itself or in its immediate vicinity.

Each country requires a structure and a method for identifying, controlling, minimising, and eliminating a crisis situation. The formation of a national crisis management strategy for integrated activity, where many state agencies act domestically, and internationally as necessary, is required to guarantee the safety and security of the citizens, as well as to provide safeguards for regional security. The growing possibilities for the emergence of crises of a different character make it necessary for society and its regulative institutions to be ready to react adequately and continue their existence and activity in

potential crisis conditions. It will help the integration of our country into the European and NATO systems of security and defence.

The ability to govern during crises is one of the key approaches to guarantee national security and international stability. Contemporary opinion is that the management of crises should be organised with more attention paid to using the armed forces and state administration, as well as improving cooperation between them.

### **Crisis Situation and Response**

The Ministry of the Interior is interested in everything that concerns the vital interests of society and any direct or indirect threat to it, and the necessity of defending national security and social order in the country or in a particular region. Therefore a crisis can be considered a change in the regional, national or international situation, characterised by a higher intensity of the destructive and aggressive processes, in which the basic values, interests and goals of society are threatened and a higher degree of threat to the life, health and property of a big group of people is created, as well as to the abolition of existing material and natural resources and the functioning of the national economy.

A crisis situation is a development where the status of a given system is disrupted and the antagonisms in it are unbalanced. In a crisis situation the activity and the conditions for the existence of the threatened community are substantially destroyed and can be recovered only by using certain measures for a given period of time. The crisis situation is the visible part of the crisis.

A state of crisis is a special law regime, provided for in Bulgaria's Constitution and laws, which is imposed in crisis situations on the territory for the whole purpose of overcoming the crisis and its consequences.

The zone of the crisis situation is the territory on which the negative results of an emerged threat appear or where the negative results of an emerged incident have appeared and where special measures for reducing the degree of losses as well as for the overcoming their consequences are implemented.

## **Types of Crises**

A crisis is characterised by a high degree of uncertainty. As a rule, crises combine different types of events, one of which is a central and determinant element. Depending on which part of the system is affected most badly, the crisis as phenomena can be defined as natural, ecological, technological, financial, political, informational, social and military.

The specific features of the war as a social phenomenon, which changes entirely the functioning of a country, necessitates that it be regarded as a separate type of crisis, the government of which is subject to military science. In this context we can define crises of a military and non-military character.

The categorising of the crises with a non-military character is their unexpectedness and the high degree of temporal indefiniteness at the beginning. This requires a quick reaction when a crisis situation emerges in a state of stress, due to the potential for escalation of risk and a growing threat for the system.

They can be separated into local, municipal, national, regional and international categories. This criterion for categorising crises allows us to define what type of powers and means should be used in order to overcome their consequences.

A crisis can be caused by natural disasters, production damages, large-scale pollution, epidemics, ethnic-religious conflicts, protests, and civil insurrections with violence, increased activity of local and international criminal groups, terrorist organisations, mass refugee movements due to crises in other countries, upheavals or an armed uprising. A crisis can be caused also by aggressive actions by another country against our country before the potential emergence of an armed conflict.

Depending on their extent, crises can be of three types: sudden, emerging and lasting. Sudden crises happen unexpectedly where there is no time for exploration and preliminary planning. Examples are disasters, damages and catastrophes, ethnic and religious crises. This type of crisis cannot be governed, they necessitate that quick decisions, mostly modelled in advance, to be taken in order to overcome and liquidate them.

In emerging crises there is more time to study them and do some immediate planning but the crisis situation can become aggravated quickly after long periods of relative calmness. Examples are the financial-economic, political and social crises connected with discontent, protests, strikes and civil insurrection and their externality – civil war.

Lasting crises appear periodically in spite of the efforts to overcome them. Along with the objectively existing reasons for them, the crisis situations appear with the help of additional catalysts, such as lack of information or wrong information, rumours, provocations and events that change the behaviour of large social groups.

A crisis can be internal or external for a given system depending on where the crisis event appears and to what degree it affects the normal existence of the system. Often one type of crisis is caused by another which shows the reason-consequence relations in the existence of relatively independent systems and necessitates a careful exploration of all external crisis processes and a prediction of their negative consequences on the system.

As a rule, a crisis goes through several stages, which last from a few hours to a few years. A pre-crisis stage/warning identifies the risk factors for the emergence of the crisis in a relatively stable state. In sudden crises this stage can be so short that it can be ignored in practice.

The escalation of the crisis begins with the emergence of the crisis situation. This stage is characterised by high tension as a result of an incident/incidents, increase of losses and destruction. Reaching the critical point is the moment in which the crisis can be solved, blocked or can grow into a conflict with a different character, including its last phase – war.

The de-escalation of the crisis is connected with the elimination of the reasons which led to the crisis and the restoration of the stable functioning of the system. As a whole, this stage is connected with an organised social response to the crisis event, curbing of the negative phenomena and liquidating the consequences.

The de-escalation of the crisis can be reached in any stage of its development, after which a stage of solving the crisis can follow. It is possible, however, for crisis situations to appear again after the de-escalation, especially if the roots of the crisis are not removed.

Actually a crisis can begin a long time before the state institutions and society receive information about it and also end a long time after the media stop talking about it. In order to react quickly to crises, the staff should have special training; there should be a well-organised management of forces and instruments as well as firm discipline.

### **Activities of the Ministry of the Interior in Emerging Crisis Situations**

The Ministry of Interior with its organisation and forces at its disposal acts in crisis situations within the limits of the law. Depending on the type of the crisis the Ministry can execute certain tasks, the most important of which are:

- Carrying out activities aimed at identifying the reasons for crises or conditions of crisis situations;
- Organising and implementation of investigation activities for neutralising the criminal actions of local and international structures;
- Organising and implementing protection of strategic and very important objects, as well as neutralising potentially dangerous ones;
- Protection of the social order and the population in crisis situations, as well as property and objects of cultural value in the threatened regions;
- Ensuring safety on the routes of movement of the forces of government and the specialised state forces for action in crisis situations;
- Ensuring the normal functioning of passport departments on the territory of the country and on its borders, especially in the regions of evacuation;
- Protection of objects from the national economy and ones that concern the life and the health of the citizens of the country;
- Ensuring the presence of fire – emergency forces and rescue teams in the regions of crisis situations;
- Ensuring the food supply of the population as well as the supply of other products of necessity;

The tasks of the Ministry of the Interior (MIA) in crisis situations are regulated by the law on the Ministry. In crisis situations part of the forces participate directly or indirectly but all perform tasks according to the functions that they serve and taking into consideration the crises situation.

### **Institutions for Management of the Forces and the Instruments in Crises**

Government in crises is realised through constant cooperation between the forces of the state. It should match the emerging crisis situations and should ensure a constant central government and decentralised execution of tasks.

The basic principle in the government of crises is the unity of the efforts of all institutions, which are connected to the crisis, in order to achieve maximum effectiveness. The systems of government should be united in solving all crises situations.

Most of the actions taken by the governments during crises will be taken by the forces of MIA. As a rule the forces of the MIA will act in response to the decisions of the executive power on a national, municipal and regional level. The understanding for organising an effective government is connected to the necessity of spreading more and more decisions from the top downwards, i.e. the managers giving the power to make decisions to their subordinates because they have first-hand information and can react more quickly and more adequately in crisis situations.

The forces of government in crisis situations have the following structure:

At the national level a special state force for governments in crises is created by the Council of Ministers of the Republic of Bulgaria. It organises, coordinates and mobilises the available social resources for prevention, mastering and overcoming the consequences of crises aiming at saving the lives, health and property of the citizens, and natural resources and ensuring the normal functioning of the state. It governs, coordinates and controls the department and local forces for government during crises.

Implementing the orders of the Regulation for the organisation and activity for prevention and liquidation of the consequences in crises, production damage and catastrophes, adopted in Degree number 18/23.02.98 of the Council of Ministers, a Permanent Commission for defence in disasters, damages and catastrophes was created. Its members are appointed by an order from the prime minister. In the headquarters there is a national centre for government in crisis situations. Two more organisations are created at the commission – a Science Coordination Council and an Expert Council for Preventative and Science Research work.

At the moment, a project for a ‘Strategy for Governments in Crisis Situations in the Republic of Bulgaria’ is being drawn up, in which the idea is that these problems in the future should be regulated by law. The project’s goal will be the full solving of the problems concerning the building of a national system for governments in crises, which should work effectively both alone and in the collective systems of security on a regional, European and world level.

At a departmental level Permanent Department Commissions are created, helped by an operative headquarters. The chairmen of the commissions are the managers of the corresponding ministries or departments or deputy chairmen, whose obligation is to organise cooperation between the structures in the system. The members of the Permanent Commissions are appointed on the orders of the corresponding minister, and among them are the chiefs of the basic structures, carrying out functions in crisis situations. The operative work of the commission is helped by a headquarters, appointed on the orders of the chairman of the commission.

In the MIA the chairman of the Permanent Commission for government of forces and instruments in crisis situations is the Chief Secretary of the MIA and the members are the directors of the national services and those departments of the specialised and common administration, who participate directly in crisis situations.

At a regional level the districts and municipalities create Permanent Commissions, whose chairmen are the district governors and the mayors. The members of the commission are determined on the orders of the district governor or the mayor. The staff of the commission include the directors of structural parts from the respective

administration of the district, region or municipality, who execute functions in crisis situations. The operative work of the Permanent Commission is helped by a headquarters appointed on the orders of the chairman of the respective commission.

During crises the institutions of management in the MIA execute the following tasks:

- The Permanent Commission of the MIA works on the legal framework of crisis document; implements the adapted plans, decisions, tasks and anti-crisis measures; makes sure everyone is ready to act if a crisis arises; adopts and organises the implementation of programmes, plans and measures for improving the efficiency of the crisis government, directs, coordinates and controls preparation of the staff; keeps close relations with higher institutions and coordinates the activities of the MIA with the Permanent Commission at the Council of Ministers and the other ministries and departments; plans, organises and directs the support of the services and directions during crises.
- Operative Headquarters support the action plan of the ministry in crisis situations, regulates personally and technically guarantees the information service. The headquarters provides the necessary information for assessment of the current situation and for taking decisions; follows and analyses the development of the crisis, makes inquiries and other reference books, necessary for taking decisions; implements decisions and orders, controls their execution; coordinates the implementation of all anti-crisis measures and their effectiveness. If needed and if ordered by the chairman of the Permanent Commission at the MIA it directs the concentration of forces and instruments; controls the liquidation of the results of the crisis, prepares analysis for the action of the participants and plans actions for improving the efficiency of work of the organisation and the action plans.

The Headquarters on the directions of the MIA supports the action plans in crisis situations; it cooperates with other state institutions in the protection of security and public order; analyses and assesses the degree of training of the service for action in crisis situations; it helps and controls the subordinated structures; organises the flow of information towards the Permanent Commission at the MIA immediately if demanded and periodically according to the schedule; makes inquiries and provides other reference

documents necessary for the Director to take decisions. The Headquarters gives tasks to the subordinated structures and controls their execution; it plans, organises and controls the preparation of the staff; directs and controls the mobilisation and action of the task forces in crisis situations; keeps constant contact to enable the quick announcement of information and orders; supports the cooperation between the forces, participating in the liquidation of the crisis and inside the service; prepares analyses of the actions of the participants after the crisis is liquidated and plans activities for increasing the efficiency of work and action plans.

There are two basic components determining the ability of the MIA to act efficiently in overcoming crises.

- Forces that can be sent immediately into the crisis zone with the necessary equipment, transport and technical support.
- A Centre for directing crisis situations.

The task of the Centre is to plan, coordinate and direct the forces and instruments in order to achieve maximum efficiency in overcoming crises. It saves the duplication of forces and resources and facilitates the flow of information.

The Centre is composed of a Situation Centre and Group for Management. The functions of the Situation Centre are to carry out day-to-day analyses of the incoming information and to predict future crisis situations as well as to help the Group for Management in the immediate planning of operations and the support of communications and information flow. Its staff are permanent and are a very important structural part of the staff in this aspect, responsible for planning the managing of crises.

The Group for Management has a staff that is determined by the type of crisis. Its work is directed by a high official who has the right to make decisions and direct forces and instruments participating in the overcoming of crisis. The Group makes immediate planning, chooses a decision plan and gives directions and orders to the Headquarters and forces participating in overcoming crises.

The management of forces and instruments is the key activity of the Director and the Headquarters. It comprises the directing of the efforts of the staff towards their aims of successfully solving current tasks in time.

In everyday activities, the efforts of the directors of the services should be aimed at keeping the forces alert and ready for action in crisis situations and at maintaining good cooperation between the structures of the MIA and the specialised forces.

The cooperation of the structures of the MIA with the government institutions, non-government organisations and the citizens in solving crisis situations means mostly making coordinated efforts. It also includes the realisation of the various activities that tackle the diverse factors which characterise a crisis situation as a complex phenomenon. In organising this cooperation a lot of attention should be paid to the establishment and fixing of the rights and obligations of the participating sides. This cooperation is between two or more institutions whose interests are common or identical as are their actions during the execution of a given task. This cooperation is aimed at coordinating the efforts of the structures of the MIA, the government administration and public organisations for solving the crisis.

The development of the legal framework for cooperation in the system of the MIA shows a clear tendency toward increasing democracy as well as a higher role for the social government. Examples of this tendency are the regulations of chapter XX from the law of the MIA. The activity for coordination and cooperation in the structures of the MIA is directed and controlled by a Chief Secretary, deputy ministers and directors of services.

## **Management of a Crisis**

Management in crises basically includes organisation and measures aimed at appointing task forces to take control during a crisis and efficient actions during the crisis that should help for a quick and successful liquidation of the causal problem(s). The management should be informationally backed up and should have more alternatives, should be flexible and should lead positively to a successful end.

The premise of management in crisis is based on the possibility of planning and organising direction and control of the activities of a system in the specific conditions created by the crisis. These conditions necessitate changes in the government before the beginning of a crisis and comprise:

- advanced prediction and observation of the risk factors for the security of the system, analysis and early warning for possible crises;
- the creation of action plans, inquiries and reference documents;
- determining the targets of the government in a given crisis situations and the tasks that should be completed;
- gathering information and assessment of the situation, preparations for decisions during a crisis, organisation and direction of the activities and control over the results of the activities;
- preparation and providing with a post-crisis strategy for recovery of the normal condition of the system;
- analysis of the crisis and the efficiency of the measures taken and planning activities for increasing the efficiency of the system;

The prime goal of the government in a crisis is to support a state of alertness of the institutions of government, task forces and instruments for an immediate reaction or curbing the risk factors and effective government when a crisis situation arises. The organisation of the management should match the existing conditions. It is necessary that the tasks are decentralised.

The government of a crisis for a given director means:

- decision-making in extreme conditions, which can seriously affect national security, the economic situation and the preservation of public order in the country, the district or the municipality
- creation and implementation of action plans

The key goals of crisis management include:

- *Mobilisation of Efforts*: keeping a state of alertness in the system on behalf of the institutions of government, the forces and instruments for an immediate reaction to crises of a different type.
- *Neutralisation*: elimination or curbing the development of the risk factors causing the crisis.
- *Effective government*: prevention, blocking and government of existing and emerging crises.

When managing crises, certain principles should be followed:

- *Union of Efforts*: uniting the efforts of all institutions in order to achieve maximum efficiency. Combination of the departments, institutions, forces and instruments with a territorial principle for planning and managing.
- *Adaptation*: this is the ability and the will to change the structures and methods of work depending on a given situation, to act adequately.
- *Perseverance*: there should be patience and determination; the given goals should be followed closely until they are met. A careful and thorough analysis is required in order to determine the best time and place for action.
- *Legitimacy of Jurisdiction*: the rights that are given should not be abused, rather used to best fulfill the appointed goals and tasks.

## **Responsibility of the Directors**

Maximum use of the information; minimal use of violence – sometimes the best way to avoid the danger of violence is to use force by surprise. In other cases it is best to act carefully, to prolong artificially the current situation, while keeping the use of violence to the minimum. In any case, the careful use of violence is a key principle in crisis managing. The key in government is the right decision; the organisation of the activity for taking a decision should be made immediately. The outcome depends to a great extent on the correct understanding of the given task and the correct assessment of the situation.

The director takes a decision based on the conclusions from the assessment of the situation, the information and the alternative ideas that are proposed. A leading part in taking a decision is played by the representatives of those activities that are directly connected to the emerging crisis. The final decision is given in a written form as well as graphically by the headquarters, which also sends them to subordinate structures.

The preparation of the MIA for participation in overcoming crises is organised and directed by the understanding, that it is part of a whole system in the Republic of Bulgaria for action in crisis situations. The execution of tasks is made in constant cooperation between the institutions of government, local government and the local administration.

Improvement of the organisation of the work of the state institutions and organisations in crisis situations and better efficiency in regulating cooperation between the separate institutions can be achieved by improvement of the existing legal framework. A National Situation Centre should be built and should start functioning with its own communications system, integrated into the existing communication systems of the Defence Ministry, the Ministry of the Interior and other state institutions. It is advisable that a Regulation for the activities of the MIA in crisis situations be adopted, as there is a project in the ministry. Last but not least the preparation of the institutions and forces for action in crisis situations should be improved via special education, headquarters training and classes on a department, national and international level.

## **Bibliography of Relevant Laws**

Constitution of the Republic of Bulgaria- published in 1991.

Law of the Ministry of the Interior.

Regulations for application of the Law for the Ministry of the Interior.

Law of Local Government and Local Administration.

Law for Administrative-territorial organisation in the Republic of Bulgaria.

Regulations for organisation and activity for prevention and liquidation of the results of disasters, production damage and catastrophes – adopted by a decree from the Council of Ministers and published in 1998.

## PART TWO

### MANAGEMENT OF NON-MILITARY CRISES – CIVIL PROTECTION AGENCY VIEW

*Nikola Nikolov*

Regrettably, after the period of the Cold War and the abolition of the contradictions between the East and West Blocs, the world did not become a safer place. Quite the contrary – the risks of new and various crises arising have increased. Those are reflected in a number of ethnic conflicts, escalating terrorism, and the illegal traffic of drugs and people. If we have to complete the picture we should add natural disasters – earthquakes, floods, hail and landslides – more and more frequent problems with an economy that happens to be quite disordered and going through transitional changes, and last but not least traffic accidents involving vehicles transporting hazardous products.

We have witnessed all these processes in all East European countries. For these regions they are even more explicit and provoke more negative consequences for several reasons. The states are economically weak, to some extent they lack sufficiently effective state organisations and regulations to control this side of civil life, the bad heritage of the past, when military doctrine and actions following these doctrines were only strictly directed towards war preparations and never to non-military crises actions and others.

All this has been hindering the development of a system for management of crises, compliant to European and world standards, investments in civil life and health protection, the introduction of modern highly effective technologies and methods and the creation of a real and practical international cooperation. These environmental conditions have been a barrier for foreign investments and economic development.

If we take a closer look at the crises and accidents that have occurred in the region over the last decade, we come to the realisation that some of them emerge directly on local

basis, no matter of what character they are. Others flare up initially in a certain fireplace, but quickly spread, globalise and cover immense regions, sometimes even one or two countries. Moreover, one crisis – shall we say ethnic or a huge natural disaster – can in no time at all grow into a crisis of another kind, for example of a social, political, even military kind.

Here we should take a step aside and stress that in democratic societies the major guiding role in crises of all kinds belongs to the civil authorities, including the military ones. This is something completely incomprehensible for some high-ranking authority representatives, who consider each crisis as potentially provoking a military crisis, which on the other hand suggests the fundamental function of the military forces, including on occasions of a non-military character.

Each crisis can have enormous even calamitous consequences in some specific regions, social groups and society as a whole. This is why non-military crises are a part of the national security of the country. Their management through all stages of development – prognosis, prevention, gaining control over them as they emerge and eliminating the negative consequences – is to be carried out by the state authorities at all levels with political responsibility on behalf of the government and embracing the help of all state resources, the state's scientific potential, commercial organisations and citizens.

Each attempt to institutionalise the problems, to give over institutional functions to one organisation, results in removing state power and is utterly harmful for the very initiatives and actions in this sector.

If we want to be successful in controlling and eliminating crises of all kinds, we need to be perfectly organised, to have preliminary assessments, prognoses on the possible emergence and development of the crises and the foreseen consequences of them; to provide conditions for averting and preventing certain critical situations spreading into crises, and in case they do, to control them and clear up the after-effects so as to restore normal public activities. That is why the essential goals of the system for managing crises are prognosis, control and preliminary warning; they are the grounds for undertaking quick and adequate actions. Each newly-born democratic country has set

the starting point in sorting out the problems of crisis management, relying on the experience of the developed countries of course. The new democratic societies, however, have gained different achievements. Efforts have been made and work has been done in our country too, but we still do not have an integral management system to cover all problems from the averting, controlling and liquidating of the after-effects of the crises, to the necessary organisation and mobilisation of all available resources in the country, the integration and cooperation between the actions of all institutions, the precise definition of the functions of all state authorities at all levels and attracting other public units like trade organisations and the general population too.

We have not developed an integral strategy based on a scientific prognosis, based on studies on the different aspects of the development of crises of all kinds; we have not worked out the aims, the organisation of the activities, the prognosis, the preparation and the actions when managing crises in all their aspects. Article 84, paragraph 12 of the Bulgarian Constitution reads that martial law or other states of emergency are announced by the Parliament. The same text is written within the competence of the President. Nowhere in any further regulation it has been specified what "other state of emergency" stands for. This results in a random interpretation of the meaning of "crisis" and all ensuing terms and regulated actions. Our country has not adopted a law on managing crises or other regulative documents to specify this important activity. The only document that provides regulation in similar events is the 'Regulation on Preventing and Eliminating the Consequences of Disasters, Accidents and Catastrophes', adopted by a Council of Ministers Decree and concerns only events of natural disasters, technological damage and catastrophes. As to this Regulation in case of natural disasters or others of a similar kind, according to the covered territory, the state of emergency can be announced by the mayors if they cover the territory of a single municipality; the municipality officials when they cover several municipalities and the Council of Ministers when they cover several districts.

If, however, there is a prognosis that a serious situation in a smaller region could threaten the population and the national economy, a state of emergency can be declared. But this declaration is often based on the subjective judgement of the managers at the given levels or on the recommendations from specialists of supporting organisations. Scientifically supported parameters of the strength and of the

consequences of the emerging of crises have not yet been established. When a state of emergency is announced, the validity time is not specified, the participation of the population, the limitations are not assessed and reported. It is the authorities who regulate a possible prolonging of the term of the state of emergency, under what conditions and who takes the responsibility.

Practice has shown that in many occasions the decision to announce a state of emergency have been rather unmotivated, lacking advisability, insufficiently supported with reasons, and subjectivity is allowed, which is aimed rather at receiving benefits from the given authority or municipality, i.e. receiving funds for liquidating the consequences of the disaster from the state budget.

Pursuant to the 'Law on Defence and Armed Forces', these are to cooperate in the efforts to eliminate the consequences of natural disasters. Further amendments to this law do not debate matters of man-made crises.

The participation of the armed forces in these activities can prove efficient because of the high level of organisation and management they have; they sustain a level of permanent alert, they have at their disposal all sorts of technical, chemical and backup equipment. This substantiates their capability to take part in the realisation of steps towards preventing crises or the preparation of the country for action. In this respect the army's plans for sheltering refugees comprise such significant tasks as sheltering, sustaining infrastructure units, protection and so on.

The armed forces can give a very serious contribution to controlling and liquidating the after-effects of crises through rescue operation, logistical support, putting out fires, decontamination, and many others.

There are some factors, however, that could have a negative effect on the participation of the armed forces in the activities under discussion. There are insufficient regulations as to the authorisation and the procedure order. They do not have enough training with regards to activities requiring special pre-training in the conditions of natural disasters and technological accidents. They do not have specialised equipment and other means for control, reconnaissance and performing rescue operations.

However, the participation of the divisions of the Bulgarian Army and the Ministry of Internal Affairs has been regulated at state level in the 'Regulations on the Organisation and Activities for Prevention and Elimination of Consequences of Disasters, Accidents and Catastrophes', that came into force with a Decree of the Council of Ministers. This and the National Plan for Civil Protection from Disasters and Accidents are the grounds for determining the tasks of the armed forces. Army forces and methods are first appointed in the districts and municipalities, where there are garrisons, and are called immediately if required with no further authorisation needed. If additional forces and devices are needed there must be an explicit authorisation.

The Ministry of Defence and the General Staff have worked out a Concept for creating, using and development of the special operation forces. It came into force with a written order of the Heads of the General Staff and includes amendments and annexes to the tasks of the special operation forces.

All activities regarding research and rescue, reconnaissance, cooperation in anti-terrorist actions, civil-military operations, humanitarian aid and others are included.

Following a decree of the Minister of Defence, modules for cooperation in disaster and accident situations have been created in all garrisons and these are set in the municipality and district plans. They differ in contents and abilities, depending on the character of the divisions they are issued by.

Moreover, the Army Reconstruction Plan gives priority to the creation of five specialised units for participation in crisis situations and activities, but that is still far from put into practice.

During recent years, the training of Army staff for action in disaster and accident situations and other non-military activities has improved a lot. This includes high-ranking officer training as well.

The idea of creating a structure similar to the American National Guard has been recently promoted. But this should require a thorough preliminary analysis on the

possibilities as to the supply of bases, material means and technical equipment, human resources and most important financial support.

In the Republic of Bulgaria we have set the foundations for the creation of a system for management of crises of a non-military character. I have in mind the adopted 'Concept for Management of Crises', but this has gone up to the level of the Security Council at the Council of Ministers and has not gained a regulative status yet.

Some of its ideas were included in the 'Law on Management of Crises', adopted on first reading by the 38th Parliament. A new project of the 'Law on Management of Crises' is being developed, but it is still at a working group level. The 'Law on Local Management and Local Administration' and the 'Law on Administration' do to some extent regulate the organisation of civil protection in disaster and accident situations, pursuant to which the mayors and the district officials are committed to certain responsibilities and obligations.

A Standing Committee at the Council of Ministers has been created to protect the population in disaster, accident and catastrophe situations, along with a Colleague Body of the government to carry out tasks that are not within the range of its own competence. The Chairperson of the Committee is a minister and the members are deputy ministers and heads of institutions, which are directly linked to the problem.

Municipality and District Committees have been set up in the municipalities and the districts. Their chairpersons are the mayors and the members are heads of regional subdivisions of ministries and administrations. The working units of these committees are the regional directorates, the central management and the bodies of the Civil Defence State Agency. The rights, obligations and tasks of these committees are stipulated by a Regulation on Prevention and Elimination of Consequences of Natural and Man-Made Disasters. The Committees work out national and regional plans for action in disaster, accident and catastrophe situations and base on them the management of the activities of the resources and the means of all ministries, institutions, the Bulgarian Army and commercial organisations and civilians. This is how coordination between the institutions is carried out.

But it has to be stressed that this organisation concerns only disaster and accident situations. The organisation of management of man-made crises of all kinds demands a much higher level of defining the responsibilities and the functions; it demands the creation of formations and units for management, organised coordination and so on. This should be performed through a Concept, adopted by the Parliament, that should be used as a basis for the development and adoption of a thorough regulative base – laws and regulations.

The Republic of Bulgaria has succeeded in establishing its role as an important political and stability factor in South Eastern Europe due to its active participation in different forms of cooperation. The position of the established South Eastern European Civil and Military Emergency Planning Council is of a key importance.

An Agreement on establishing the Council was signed in April 2001 on behalf of Bulgaria, Croatia, Macedonia and Slovenia, and ratified into law by Bulgaria and Croatia. Readiness to sign the Agreement was demonstrated by Romania and Greece. The Agreement has had a serious contribution in founding a collective security system and has strengthened confidence in the South-Eastern region. Four Working Groups have been started within the framework of the Council: Planning and Training, Standards and Procedures, Information Technologies, Informational Management.

In accordance with the fulfilment of the activities of the South Eastern European Civil Military Emergency Planning Council, three planning conferences have been held, aiming at preparation of Civil-Military Emergency Training in Tirana, Albania. The Working groups of the Civil Military Emergency Planning Council take part in the organisation of the International Training SEESIM 02 in Greece. They prepare the schedule and other documents. The target is to acquaint the military authorities with the specific subject-matter. The Council is closely collaborating with the Disaster Prevention and Preparation Initiative (DPPI) of the Pact on Stability and is a leading participant in it.

A Project of the Civil Defence State Agency – Equipment of a Regional Average Information Net has been presented for the attention of the Initiative. The net should comply with the regulated standards and procedures of the Euro-Atlantic Coordination Centre for reaction in emergency situations at NATO Headquarters.

At a working meeting in Budapest in March, 2002, an initiative – to put the idea of collaboration between the countries of the Initiative into an official frame by signing a Memorandum of Understanding or a Declaration of Understanding – was strongly supported. The member-countries of the Initiative exposed a number of projects with regards to emergency protection and crisis management. The next meeting is due to be held in September, 2002, in Sofia, Bulgaria.

The fifth tripartite meeting of the Presidents of Bulgaria, Turkey and Romania was held in May, 2002, in Turkey. A Written Statement for Cooperation in Humanitarian Aid Operations was signed. Anxious about the devastating effect of natural disasters, the countries agreed on developing an efficient cooperation and coordination in the field of civil protection. That is why some actions for abolishing and reducing customs and administrative obstacles for humanitarian aid supplies after a natural disaster are to be undertaken. The possibility of creating a general formation for action in natural disaster situations was discussed too.

The cooperation of the Civil Defence State Agency with the North Atlantic Pact in 2002 is specified as a concrete purpose of the foreign policy of Bulgaria. In accordance with the Annual National Programme of the Action Plan for membership in NATO, the Civil Defence State Agency takes part in the work of the Senior Civil Emergency Planning Committee (SCEPC) and its bodies. The Agency participates in the plenary sessions of the NATO SCEPC, of the Civil Protection Committee (CPC) and in the regular meetings of the Group of Experts for Warning and Detecting Systems (GOEWDS).

Within the framework of the process of integration into Euro-Atlantic structures, putting into practice the Individual Programme for Partnership undertaking is of exceptional importance. Experts from the Civil Defence State Agency took part in the training courses organised in the NATO School in Oberammergau, Germany, by the Swiss Rescue Team Agency.

Following the accomplishment of the Individual Programme for Partnership, an International Training for Information and Communication INTEX 2002 was held in

March, 2002. Sixteen countries participated. The Civil Defence State Agency was the host of the work of the International General Staff of the training.

The participation of specialists from the Agency in the activities of the Euro-Atlantic Council for Partnership (EACP) has been quite energetic. Following the terrorist attacks of September 2001, the significance of the Euro-Atlantic Council for Partnership, being an instrument for establishing and supporting the international coalition against terrorism, increased a lot. In the recent period our experts took part in international seminars, debating on the struggle against terrorism – a seminar on the problems of anthrax protection of the population in Germany and a seminar on the role of the Euro-Atlantic Council for Partnership in the struggle against terrorism in Poland.

The Euro-Atlantic Disaster Reaction Co-ordination Centre (EADRCC) at NATO Headquarters has had a decisive role in the collaboration between the South-Eastern countries in the field of civil-military planning.

The Agency keeps two Civil Defence Rescue Units on permanent alert within the framework of the Euro-Atlantic Disaster Reaction Units (EADRU) for participation in humanitarian aid operations. These Units have at hand equipment and abilities thoroughly compatible with the corresponding units of the members of NATO.

A crucial part of the multipartite cooperation of the Civil Defence State Agency is setting in motion interaction with the structures of the European Council and UN on basic activities for civil defence and mutual help in crisis situations. The Civil Defence State Agency takes part in the regular meetings of the Heads of Civil Defence Agencies at the European Commission. The Eighth Meeting of the Heads of Civil Defence Agencies of the member states and candidate-countries of the European Union was held in May 2002, in Madrid, Spain. The meeting resulted in a full consensus between all participants on the establishing of an Agency for Civil Defence, aiming at the political tasks in this area.

The Agency is a party in the process of harmonising legislation on civil defence, compliant with the requirements of the General Directorate XI at the European Commission for the Environment, Nuclear Safety and Civil Defence. Experts from the

Civil Defence State Agency are included in the inter-departmental working groups for drafting a Law on Radiation Defence. It will reflect the major requirements of the European Union and the basic standards for safety of the radiation defence, civil warning, and transport of radioactive waste and will include the System of Urgent Radiation Information Exchange (ECURIE).

The Civil Defence State Agency participates in the undertakings of the International Nuclear Energy Agency, aimed at harmonising accident planning in the Central and Eastern European countries. With regards to this and the accident planning for Nuclear Power Stations, a Project RER/9/050 is being worked out.

The Civil Defence State Agency participates in the preparation of a Project of the International Nuclear Energy Agency and the European Committee for harmonising accident planning and management of crises in the areas outside Nuclear Power Stations and improving the nuclear and radiation safety of all Central and Eastern European countries – PH-PA/NSP/REG/001/96. The project is being financed by the European Union through the PHARE Programme.

The major priorities of the Civil Defence State Agency within the framework of the UN are performed through the Secretariat of the International Strategy for Disaster Reduction (ISDR). It coordinates the work between the different National Committees. An international project is being worked out for the creation of a database, for assisting the National Committees and for the improvement of the information service in this area. There has been a constant exchange of information between the International Strategy for Disaster Reduction (ISDR) and the Civil Defence State Agency. The activities of the Civil Defence State Agency in the Open Partial Agreement –EUROPA for Major Disasters at the Council of Europe are very energetic too.

Specialists from the Civil Defence State Agency participate actively in the work of the Civil Defence group at the Central European Initiative. The procedures on Bulgaria entering the Agreement on Monitoring, Prevention and Diminishing of Consequences of Natural and Man-Made Disasters are close to finalisation. A meeting of the Civil Defence Working Group was held in June, 2002, in Rome, Italy. Among the subjects discussed were the questions on our entering the Agreement.

We have done some efficient work on the implementation of the Agreements within the framework of Black Sea Economic Cooperation. That is one of the essential initiatives for putting into practice the partnership between the neighbouring countries in the Black sea region. An Agreement among the Governments of Black Sea Economic Cooperation Participating States on Collaboration in Emergency Assistance and Emergency Response to Natural and Man-Made Disasters was signed in 1998.

A meeting of Ministers and Heads of Institutions in Charge of Prevention and Elimination of the Consequences of Emergencies of the member countries was held in May 2002, in Sochi, Russia. The meeting focused on future perspectives and mechanisms for mutual interaction between the countries in the Black Sea region, which will increase and intensify effectiveness in the field of warning, elimination of emergency situations and humanitarian aid supplies.



**DEFENCE AND SECURITY SECTOR  
GOVERNANCE AND REFORM IN SOUTH EAST  
EUROPE: INSIGHTS AND PERSPECTIVES**

**CROATIA**

**A SELF ASSESSMENT STUDY**

# TABLE OF CONTENTS

## **Part One: Summary Security Sector Reform**

1. Summary of Security Sector Reform in Croatia.....3  
*Mladen Stanicic*

## **Part Two: Democracy and Defence**

2. Democratic Control of Armed Forces.....19  
*Damir Grubisa*
3. The Parliament and Security Sector.....36  
*Vlatko Cvrtila*
4. Civilians and the Military in Security Sector Reform.....53  
*Zvonimir Mahecic*
5. Democratic Oversight and Control Over Intelligence and Security Agencies.....66  
*Ozren Žunec*

## **Part Three: Government and Society**

6. Capability Building and Good Governance in Security and Defence Reform....93  
*Zvonimir Mahecic*
7. Transparency and Accountability in the Defence and Security Sectors.....112  
*Tatjana Čumpek*
8. Civil Society and the Security Sector.....126  
*Mladen Stanićić*

## **Part Four: International and Regional Influences**

9. International Requirements and Influence.....139  
*Dario Cziáky*
10. Peacekeeping and Regional Security.....163  
*Zvonimir Mahecic*
11. The New Security Strategy: International Cooperation, Crisis Management and National Defence.....175  
*Tomo Radičević*

## CHAPTER ONE

---

### SECURITY SECTOR REFORM IN CROATIA

*Mladen Stanicic*

#### Introduction

At a ministerial meeting in Reykjavik on 15 May 2002, Croatia officially became a participant of the MAP (Membership Action Plan) mechanism, which is a necessary step for admission into fully-fledged membership of NATO. As the NATO summit in Prague in November 2002 has shown, the achievement of that final strategic goal is still far away. Nevertheless, there is a common perception in Croatia that the admission into the MAP is the confirmation of Croatia's maturity in fulfilling the criteria and standards of behaviour of the Euro-Atlantic structures – NATO and the EU, which are not only military but also civil.

At the Prague summit NATO proclaimed its intention to stick to an "open door" policy for new members, which are, for the time being, left out of the ongoing enlargement process. These countries will be invited according to their ability to meet the two criteria: a. they should be "producers", i.e. providers and not only "consumers", i.e. users, of regional and global security; and b. they must be able to adjust also to the other criteria of this organisation. Besides military criteria there are also civil criteria among which the most important are: a. democratic control of armed forces; b. development of institutions of parliamentary democracy; c. market economy; d. rule of law; e. good-neighbourly relations.

Croatia is one of the "left out" countries which are faced with the necessity of meeting these criteria. By addressing these requirements in terms of the complementarities of values of Euro-Atlantic structures, one of the most important tasks is security and defence sector reform along the lines of democratisation of society in each country concerned. Accordingly, the main components of security and defence sector reform in these countries, which means in Croatia as well, are the following:

1. Democratic oversight of armed forces
2. Transparency and accountability

3. Civil-military relations
4. Assistance and conditionality.

It is widely acknowledged that Croatia is in a peculiar situation due to its recent war experience, compared with other countries which are undertaking security and defence sector reform. Taking this into account, one crucial point should always be kept in mind, at least in the initial phase of this process. Due to the legacy of the armed conflict Croatia went through, security and defence sector reform is mainly perceived as downsizing. When the armed conflicts occurred on Croatian soil, the problem of size was not on the agenda. Each soldier and each volunteer was welcomed, which at the end of the armed conflicts resulted in an over-manned security and defence sector community quite inappropriate in the current period of peacetime. Therefore the first prerequisite for successful security and defence sector reform is downsizing in the security and defence sector community, not only their military part, but also their civil segment. In Croatia's MoD there are currently approximately 4,000 employees, including civilian and military staff, which is obviously inappropriate for such a small country. There are plans to reduce this number by half, which would require a lot of effort on one side and provoke a lot of frustrations on the other, but the result would be inadequate again because 2,000 employees would still be excessive given the magnitude and the relevance of Croatia in international security relations.

On the other hand downsizing in the sector concerned has very troublesome economic implications. The economic situation in the country is not very rosy, although Croatia is better off compared with other countries in the region. Given the very rigid and persistent transition process, the unemployment rate in the country is the highest compared to almost all other transition countries (more than 20 per cent). This complicates the process of downsizing in the security and defence sector and even adds a new, political dimension to the socio-economic problems. Even the limited downsizing which has taken place so far (for example, the retirement of the 3,000 full-time personnel who were on permanent sick leave) prompted fierce opposition both from within the armed forces and from the vocal veteran's association, which believed (rightly) that it was the beginning of the end of their special and expensive privileges. In some parts of the country, especially in war-torn areas, the military is still the major economic factor. On the other hand, as far as the security sector is concerned, there is a question about whether it would be wise to

release security experts onto the local or international security market. The dilemma here is whether national security in general would be at too much risk.

It is true that the government and the MoD are always officially declaring that downsizing should be a part of security and defence sector reform and that it must be an interconnected endeavour, but none of the three most relevant strategic documents (security, defence, military) provides concrete steps or a vision of how these declarations might be turned into reality. Moreover, in all documents, declarations and discussions on this issue which are going on in Croatia, there is still a wrong or obsolete perception of security and defence. Such an approach has a lot of political implications.

The notion of defence has the meaning of defending something – i.e. territory. In the case of Croatia, given the Serbian aggression, the notion of territorial defence is what the military stands for. This understanding was purposely accentuated during the 10 years of HDZ isolation-nationalistic rule, extending an irrational awareness of a threat to Croatian sovereignty which needed to be countered at any cost. This perception requires a special type of officers who are supposed to respect the ethnic or “blood and soil” type of Croatian development, even in peacetime. This completely contradicts the vision of civil or pro-European Croatia as a part of the community of values established by Euro-Atlantic structures. Once Croatia becomes a fully-fledged member of such a community of values, the defence of territory will not be on the agenda, at least not in its current sense. Neither of the two main Euro-Atlantic structures, NATO and the EU, are full-service institutions. NATO takes care of “hard security” and the EU of “soft security”. Hard security has to do with territorial defence and soft security is mainly dedicated to the new concept of security, which gives new roles and functions to the military. These include a desire to train for and participate in peacekeeping operations; regional arms control verification activities, de-mining, cooperation with neighbours and participation in PfP and MAP exercises. The precondition of successful fulfilment of these new roles is a full acceptance of civil criteria, which transforms the security and defence community from a society with a special status into a normal component of a democratic and civil society. Consequently one can say that the real meaning and goal of security and defence sector reform, in countries like Croatia, is the transition from defence to security activities and operations.

In any concerned country, therefore also in Croatia, internal democracy is the main precondition for internal and especially external security. Democratic governments are not likely to allow their internal problems to spill over. Democracies are not likely to fight against each other, which is the main prerequisite for regional and broader security. If democracies are not likely to fight against each other, territorial defence is no longer on the agenda. In this case it becomes a problem of collective security, mainly provided by NATO in terms of hard security. Soft security, provided predominantly by the EU, has very much to do with democracy building in any given country. The criteria of the community of values are very consistent and compatible. All security issues such as combating terrorism, the illegal traffic in drugs and people, WMDs, and organised crime are in fact a very important part of democracy institution-building, or democracy capacity-building. This ties democracy and security very closely. Accordingly, when we talk about security sector reform, we are very much talking about democracy-building in a given country, and therefore in Croatia as well. The concrete steps which make this connection effective are the four main pillars of security sector reform mentioned earlier. Subsequently, in the following chapters we will discuss the influence and activities within these four pillars from the point of view of security, and especially in regard to security sector reform in Croatia.

## **1. Democratic Oversight of Armed Forces**

According to the Constitution, which prescribes a parliamentary political system, the main agents for implementing democratic oversight in Croatia are:

- a. Legislative institutions – Parliament,
  - b. Political and executive institutions – Office of the President, the government
  - c. Civil society – NGOs, the media, academic institutions
- a. Legislature*

The Croatian Parliament, being the highest body of the legislative branch of power, enjoys a range of authority in the field of national security, which, as a concept, does not differ greatly from the perception of national defence. In accordance with article 80 of the Constitution, the Croatian Parliament decides on war and peace, which is the main

component of defence, but also adopts the Strategy of National Security and the Strategy of Defence, which cover both issues. Additional authority, which is given to the Parliament in accordance with the same article, is being worked out in detail in the acts concerning national security which, as an issue, is more or less considered within the frame of defence activities. Based on such a classification, the Parliament is authorised to "supervise the work of the Government of the Republic of Croatia and other holders of public authority responsible to the Croatian Parliament, in conformity with the Constitution and Law". This illustrates that the Croatian Parliament has significant authority in the field of national security, which is more or less identical to national defence. Not diminishing the problem of the lack of distinction between the real meaning of these two terms, one should point out another problem as well, which also has a negative effect on the quality of reform: for the time being, the legislature still does not exercise its mandated authority to the fullest extent. The Committee for Interior Policy and National Security is primarily supposed to deal, within its mandate, with this issue. Given its previous experience, it deals with the issue by identifying security with defence. As this issue also has a foreign affairs aspect, the Committee for Foreign Affairs is supposed to be involved, as well as the Committee for Finance and the Budget. Here again security is associated with defence.

The main rationale for such a state of affairs is the fact that members of these committees are, at the moment, not very much aware of how to do this job. The four-year mandate is too short for mastering the problem, especially for being able to define fine lines or distinctions between security and defence or to scrutinise all segments of the transition from defence to security activities. One of the explanations is Croatia's very recent and painful legacy of defending its territory against armed aggression from the neighbouring country. That is why the defence community, and consequently MPs, are very reluctant to accept the distinction between defence and security. When Croatia was forced to defend its territory, its national interests and national security with arms, the perception of security and defence was the same. Defending territory meant fostering security. In peacetime, and especially during the process of approaching NATO membership, when NATO is likely to guarantee collective security, the notion of internal security is no longer identical with defence. But it is still the same for the military and officers arriving from and being raised during the war. For the sake of successful reform this approach should be changed, but it will take time. On the other hand, some of the military are likely to keep up with the identification of both issues, perceiving that as a sort

of guarantee to maintain their position and privileges. The same cannot be said for MPs, but they might be manipulated if they are not prepared or competent enough. In order to prepare them to master this very new and complicated area, the Parliament should use the services of staffers who are specialised in specific problems, such as in this case security and defence sector reform. They should be employed as experts in the relevant parliament committees, providing the members with expertise, and their association with MP's should not be limited to their mandates. They should be non-party experts and their work should be focused more on the expert and less on the political aspect of the problem.

*b. Executive*

The main problem of the executive is still the non-transparent allocation of powers between the Office of the President and the government, i.e. the Prime Minister. The new Law on Defence (March 2002) enumerates the duties of the Head of State, based upon his constitutional role. This Law recognises the President of the Republic as the Commander-in-Chief. However, too many of his duties were retained by this Law. Article seven lists 22 specific tasks of the President of the Republic. This list is too extensive and gives the President too many specific duties which should fall to the government, the Parliament, or within the system of defence itself. Many of these tasks are not merely ceremonial, but very operational. There is a view that these tasks impede the President from exerting efficient control and oversight of the Armed Forces.

The coalition government decided to change the system into a parliamentary democracy, with more authority and power in the security sector given to the Cabinet, at the same time enforcing the oversight authority of the Parliament. On the other side of the executive branch, the President of the Republic was not willing to give up all of his prerogatives, especially in the defence and security sector, and a long and bitter struggle for power ensued.

Rivalry between the offices of the Prime Minister and the President, as a constant fight for predominance, became evident through some important political decisions. The first post-electoral conflict emerged as a fight for control over intelligence. Authority over military issues is divided. The President has final power over the armed forces, and the government (through the institution of a civilian minister) controls military institutions – the

budget, planning and so forth. So with two separate and opposed controlling partners there is no possibility for the misuse of the military as a basis for personal or political power. At the same time that provokes difficulties because decisions have to be mutual and signed by both branches.

If this kind of confusion happened during an armed aggression, Croatia's defence capability would be weakened to such an extent that would seriously affect national security. This is additional evidence of a very close affiliation between defence and security in times of war. Nowadays as Croatia is, although informally, a part of collective security in the subregion of South Eastern Europe, security in the sense of defence of the territory is not threatened. Due to the confusion over authority, the security community, including the intelligence services, is not under effective democratic control. This fact endangers national security in broader terms, because it lessens the effectiveness of the security community in its ability to cope with new non-conventional threats such as terrorism, illegal traffic, and WMDs. The rapid solution of this problem is one of the main prerequisites of the reform.

### *c. Civil Society*

Confusion in blending defence and security is most obvious if one looks at the very modest attempts of civil society to execute democratic oversight over the armed forces. Irrespective of the fact that there is a limited tradition of NGO's and civil society in general in Croatia, citizens' civil engagement for solving both individual and community problems has not been a common practice among the vast majority of citizens in Croatia. Most citizens still consider the government/state responsible for solving their problems, including in the military area, making no distinction between defence and security. There is some kind of exclusivity or special approach in addressing this sector. That might be explained by the credibility and merit attributed to the Croatian army during the Homeland War by the vast majority of the people. In other words, the Croatian army is supposed to have a special position in Croatian society and the Croatian state, because its military activities contributed substantially to the independence of Croatian state. There are several NGO's dealing with this issue from various viewpoints, set up by some academics who, due to their expert backgrounds, are dealing with these issues at universities and in scientific institutes.

According to MoD sources, tensions between the media and the military which existed during the former government are slowly decreasing thanks to intensified cooperation between the MoD and the media. However, the problem of a lack of full professional treatment from both sides concerning the sensitive distinction between defence and security remains. There are very few journalists who are able to recognise this very distinction, which requires a lot of educational efforts in this field.

Experts working in scientific institutes dealing with this problem are more aware of the role given to the process of transition from defence to security in the reform of security and defence sectors. Better cooperation with the security community as well as with the media would contribute to the extension of awareness of that issue, not only in concerned sectors but also among the general public.

## **2. Transparency and Accountability**

The constitutional and statutory framework for policy accountability is in place in Croatia. The Constitution says that the legislature authorises the national security strategy and defence strategy. The Defence Law says that the elected representatives must give approval to the Armed Forces Development Plan. That would mean that there is a procedure under which the lawmakers establish guidelines for the development and execution of key strategic documents, and subsequently discuss and comment on the worked out text. The elaboration of the material itself, as well as the policy implementation, would be the task of all relevant offices of the executive branch.

Legislative authorities have passed two strategies – defence and security – which might be interpreted as evidence of an awareness of the conceptual distinction between the two notions. In fact this is an overlapping endeavour. In the ‘Strategy of Defence’ there are some remarks on the new concept of security and vice-versa. In the ‘Strategy of Security’ there is an explicit description of the new concept of security. What is common to both documents is the inadequacy of how they deal with the issue of democratic oversight, which substantially harms their transparency and consequently accountability, in the terms of reform of both sectors.

In the security strategy there is a paragraph on this issue placing democratic oversight in the executive area i.e. the President (Office) and the Prime Minister (government).

Having in mind the confusion still occurring in the “division of labour” between these two political components of the process, the political accountability of the process is rather fragile. As far as democratic oversight provided by civil society, media and independent experts is concerned in the National Security Strategy, a document prepared by independent experts, the relevance of the involvement of civil society organisations (CSOs) in civil-military relations has been underlined, but this version of Strategy was not discussed and accepted by the Croatian Parliament. The Parliament instead accepted the text prepared instantly, by a very small group of people without the involvement of any agencies except the Ministry of Defence, without the input of independent institutions and analysts, and without the knowledge of the media or the general public. In this document the role of CSOs is significantly reduced to the proclamation on the need for “synergic functioning of the military and civil component within the national defence doctrine”. The term civil society was not mentioned at all. Only the role of media was mentioned in the context of democratic oversight of the security and military sector, but only in very general terms.

Nevertheless, the fact that the two separate strategies have been prepared and passed in the Parliament is an encouraging sign because it can be attributed to the rising awareness of the conceptual distinction between the two areas. However, the problem of how this awareness can be put into practice still remains.

As far as financial accountability is concerned, the defence and security sector is still addressed as a common concept, because the security or intelligence budgets are still a part of the military budget. The budget must be approved by legislators and every deputy has the right to propose amendments to it. The military budget receives particular attention from the specialist security sector oversight committee (The Committee for Interior Policy and National Security) which is also authorised to control intelligence. But due to previously explained reasons, the intelligence sector is, in the view of some experts and representatives of civil society, in fact out of democratic control.

The main instrument of *ex post facto* accountability is the State Audit Office, which must report to the legislature at least once a year. It is concerned in all relevant fields – which means both defence and security – with the legality and propriety of spending. According to some analysts financial accountability is fragile as well, although there are regulations which provide instruments for more substantive democratic oversight in terms of financial

accountability. It is a general perception that not only the government, but also the elected MPs, fulfil their oversight function mostly in a pro-forma manner. Many MPs appear either unable or unwilling to subject spending bids to in-depth scrutiny. All in all, the legislature tends to give the impression of using its powers actively and decisively, but the reality is different. Further evidence of their hesitation is the fact that the legislature does not want to be too much involved in a sector which, in their understanding, still has an exclusive position in the society. Subsequently, this additionally indicates the inability or unwillingness of legislatures to recognise the importance and much broader scope of the new security concept in terms of reform and effective promotion of democratic oversight of this area.

### **3. Civil-Military Relations**

Although the issue of civil-military relations impregnates this summary as a whole and is the core element of the reform and the transition from defence to security concept, there are some aspects which should be elucidated in more depth in a separate chapter. First of all it should be clear that while talking about civil-military relations, especially in the sense of oversight, this whole study is interpreting civilian control as a democratic one. Civilian control is not necessarily democratic, as we have learned from the recent history of civil-military relations during the period of communism in some countries. Civilian communist oversight of armed forces was not democratic at all, which is a lesson that should not be repeated in the countries of liberal democracy. Consequently, while talking about civil-military relations, we are not talking about a mutual balance. Civilians should be given the right to oversee the military by sticking to the principles of liberal democracy, but the military should not be in an equal position towards civilians; they should not be given the possibility to control civilians. That is in general what the reform of security sector is about: the area of security should be a part of democratic development in every given country. It should not be given an exclusive position. The people working in the security sector – whether civilians or the military – should act as ordinary civil servants. They should not be allowed to interfere in politics and they should not be allowed to be members of any political party. On the other hand, they should be qualified to protect the values of liberal democracy, which would be their optimal contribution in exercising soft security.

As was previously mentioned, in Croatia this process is occurring under special circumstances due to the recent armed conflict experience on its territory. Nevertheless, it should not be an excuse for neglecting this process. Some problems will occur along this path and they should be overcome sensitively, paying attention to the unique state of affairs. Some delays might be tolerated, but having always in mind a clear vision of placing the area of security into the whole conglomerate of the community of values, which are in fact compatible values of the EU and NATO.

Croatia is currently a weak state with a weak coalition in power. That badly affects the reform effort on a general scale, and particularly in such a sensitive sector as security. For the first time in history Croatia must rely for its development more on its own sovereign democratic institutions than on alien constitutional entities, such as former Yugoslavia or various age-old kingdoms which controlled its territory. There are no more strong leaders, whether local or foreign, who can arbitrate when decision-making process come to a halt. By their very nature democratic institutions, acting in a coalition, are weak and are not likely to be effective enough. The confusion of authority can happen, as in the case of the intelligence oversight, and the whole process is likely to be based on a frustrating “trial and error” practice.

All this deeply affects the process of execution of the new concept of civil-military relations along the path of security sector reform. For instance, it is habitual to spread classification of documents too widely, due to the ambition of a highly-positioned military member of staff who wants to keep his position at any cost by mystifying his profession. All this provokes an inherited “secrecy psychosis” even when armed conflict has ceased and when a kind of relaxation in dealing with these issues one could have been expected.

An appreciation that “knowledge is power” clearly prevails over recognition of the people’s “right to know” about security and military “business”. On the other hand, there is no proper legislation covering the protection of state and official data and the limits of secrecy in terms of the national interest. Under the previous government, which encouraged such an approach, given the fact that the army was highly politicised and exclusively under the control of the ruling party, this was considered a kind of natural way of thinking. But when the coalition gained power there were no big changes in the mindset of politicians. There are some opinions that in the governing coalition each partner calls for more transparency only in those areas where its counterparts are in

charge. At the same time all information considered potentially useful in the party-political competition is kept secret or confidential.

This kind of situation might be attributed to the fact that the governing coalition is facing a lot of problems. A lot of sometimes unfair opposition comes from the MPs belonging to the previous government and from the civil servants and bureaucrats who remained in office even after their party lost power. They are still in a position to sabotage any steps towards the accomplishment of the new concept of civil-military relations. In some other circumstances, perhaps in some other countries which are not encumbered with such a legacy, some non-governmental interest groups – NGOs or some other institutions of civil society – can provide some mediating backing. The assistance of better-educated journalists can also be beneficial. As was illustrated beforehand, such a possibility is rather mild given the present inappropriate role of civil society in Croatia.

There are some encouraging signs but more from the part of media than from the part of civil society, especially NGOs. That refers more to the written than to electronic media. There are indications that in some newspapers, which are more or less independent, some competent experts are able to analyse these problems taking into account all their sensitivity. On the other hand there are fewer hints that some new NGOs, capable of dealing with this issues, will be promoted.

The especially remarkable problem is the economic situation. Although Croatia is very much better off, compared with other countries in the region, there are a lot of problems which badly affect the reform path in this particular sector. The most difficult problem is unemployment, which is the highest of almost all transition countries. It is very puzzling how to manage the process of downsizing in the army as a whole, including the security sector. Downsizing in the Croatian army and in the security sector community is not the main component of the reform. Yet the downsizing process should be coordinated with the reform process; it should fit into the reform's vision of transition from defence to security.

The problem of too high public and government spending has a negative affect on reform as well. The share of public and government spending in GDP is still around 55 percent, which is excessive compared with other transition countries, not to mention the developed industrial world. In most of these countries this share is less than 50 percent of

GDP, mostly around 45 percent. Part of this might be attributed to the legacy of the war, which includes post-war reconstruction, the problem of refugees, post-war reconciliation. Yet according to some experts' critical observations, there is still the possibility for reducing this kind of spending by better allocating the resources or inaugurating some more effective savings instruments. For instance, around 60 percent of the military budget still goes on the salaries of employees or officers in the Army and Defence Ministry. A very generous policy of dwelling allotment has been implemented but, on the other hand, soldiers' salaries have not been raised since 1995. That is why the discussion between civilians and the military, i.e. the security sector, about the impact of defence spending on the domestic economy and the international accounts is very shallow. If it were more specific, it would affect some privileges, but nobody dares to go that far. The civilian sector is just content with some positive signs, as for instance with the fact that the share of military budget in the state budget has in the last few years been reduced from around five to the present 2.2 per cent.

All in all the evolution of civil-military relations in concert with the reform criteria of transition from defence to security is not at present taking place in extraordinarily convenient circumstances. The same problem still exists: the legal provisions are good, the awareness of the need for essential changes exists, but the political will for execution is inadequate.

#### **4. Assistance and Conditionality**

This part of the reform might be addressed from the political aspect where conditionality has more relevance and from the technical aspect where the operational aspect of assistance is more relevant.

In the context of security sector reform, this subject should be discussed in a much broader aspect, having in mind international assistance and conditionality of all kinds of reforms Croatia is now undertaking, with the aim of becoming a fully-fledged component of the community of values, represented by Euro-Atlantic structures. Croatia's main interest in applying to NATO and the EU is to get international assistance for adjustment to the standards and criteria of liberal democracy, to become a part of a collective security scheme and to become a producer and not only a consumer of regional and global security.

The Croatian public generally considers NATO a military organisation or alliance, not being very familiar with its civilian or democratic aspects, which is the basis of the reform along the way of transition from the concept of defence to the concept of security. International assistance, including conditionality and even some kind of pressure, would facilitate the accomplishment of reforms in various sectors, including the security sector. The cooperation with ICTY is, for instance, one of the most important components of stability and security in the region, which makes it one of the components of security sector reform as well. Moreover, it is a crucial component of conceptual transition from defence to security. Therefore, although the adjustment to the standards and criteria of the community of values personified by NATO and the EU is the prerequisite for benefiting from international assistance, they should not be considered commanding conditions, but as a process which is of essential interest for Croatia. Accordingly, the virtual “self imposed quasi-membership” in Euro-Atlantic structures which will be reached by meeting these “conditions” is far more important than formal fully-fledged membership. All technical and operational assistance schemes, which will be provided for implementation of security sector reform, should be based on these assumptions.

In the field of defence programmes, Croatia is receiving international expertise and assistance through a specially-developed project within the Stability Pact. The Croatian Ministry of Defence has developed a personnel reduction plan that was presented to NATO experts and the NATO Economics Committee, where it was endorsed as a model plan. NATO's endorsement of the programme will act as a guarantee of its quality to the World Bank and the Stability Pact, both of which constitute institutions from which Croatia is expecting some form of financial support for these expensive and extensive programmes. In addition, advice from NATO experts will also have a profound influence on the planning and execution of the programme. The active participation of the Croatian Armed Forces in PfP and MAP activities and a closer bond and relationship with NATO will positively influence the reform of the security sector, particularly in areas which concern adjustments towards legislative regulations, elaboration of new standard-operating procedures, and the definition of modernisation plans.

The most important effects of international, namely NATO, programmes are on regional stability and cooperation and transparency. Croatia is exchanging information concerning its defence system, as well as structures and plans through the PfP, EAPC and MAP

forums. Croatia's experiences in PfP and MAP will also provide a positive example to its neighbours and other countries in the region. This kind of reform might also be considered an important element of the external aspect of the transition from defence to security concept.

Technical requirements so far were met with more success, but still not in full. When talking about organisational NATO requirements, they relate to the restructuring of the personnel composition and command structure in the military and the Ministry of Defence. Both are still unsatisfactory and present urgent and important reform action points. Progress toward NATO and EU memberships is therefore not without obstacles. There are numerous problems and difficulties. Fulfilment of political and economic conditions and requirements is lagging behind considerably. In the case of defence and security concept reform, even the organisational requirements are not successfully met in the planned and expected way and it is somewhat doubtful that efficient reorganisation of the Ministry of Defence and the armed forces will be carried out in the nearest future.

### **Conclusions and Recommendations**

The present stage of defence and security reform in Croatia is marked by four main features:

1. Lack of awareness and understanding of the distinction between the concept of defence and security;
2. Discrepancy between legal provisions and their implementations;
3. Lack of the competence on both sides in exercising new concept of civil-military relations;
4. Puzzled general economic situation which slows down the pace of reform.

Identification of these main problems provides some guidelines for recommendations:

- to reach a consensus in the Parliament on Croatia's full-fledged membership in NATO on the basis of a modern concept of security;
- on the basis of this consensus, to accelerate public educational campaign on the substance of this project;

- to utilise all possible and available civil and military capacities to design and execute this project;
- to coordinate all pending activities (downsizing, arms proliferation, international assistance, conditionality) with the pace of the reform;
- to establish the system of expert staffers in the legislature, which will enable MPs to understand the real and essential meaning of democratic oversight of the armed forces;
- to remove the confusion over authority in democratic oversight of intelligence;
- to prepare a cost-benefit analysis of Croatia's membership in NATO, paying attention to direct and indirect political and economic aspects;
- to foster international assistance and coordinate it with the main goal of reform;
- to fix the deadline for reaching "virtual membership" by meeting all mentioned criteria in order to be completely prepared for full accession when the time comes.

## CHAPTER TWO

---

### DEMOCRATIC CONTROL OF ARMED FORCES

*Dr. Damir Grubisa*

#### **The Fundamentals of Democratic and Civilian Control of Defence**

The fundamentals of democratic control are to be found in three areas. First, the military can have no influence in domestic politics, acting as an autonomous organisation in order to safeguard their powers and privileges. Second, they cannot exert influence over external or foreign policy. Third, they have to accept democratic control over defence policy. This means that governments propose and parliaments confirm the defence budget, force structure, procurement, and related matters. The soldiers should be “the neutral, apolitical servants of democratic, civilian leadership... their role should be limited to implementing the policy choices of that leadership.”<sup>1</sup> Constitutions and laws provide the framework for democratic civilian-military relations. Establishing democratic control has to be considered from two aspects. First, there is the aspect of legislation that will provide the essentials of democratic control. Second, there is the aspect of laws as instruments for a fundamental reform of the entire security sector.

Once a country opts for NATO membership, it must conform to the Washington Treaty of 1949 and other subsequent statements and decisions. The principal one is the Study on NATO Enlargement issued in 1995, which presented requirements for candidate nations. There also is the NATO Strategic Concept of 1999 and, in between, others like the Partnership for Peace and the Membership Action Plan. A country that hopes to join NATO has to observe definite rules of behaviour in its domestic policy and its relations with its neighbours. Democracies have civilian control of the military. A country's decision to join NATO must be backed by the economic wherewithal to reform and sustain its armed forces and there is guidance about defence preparations for membership. These

---

<sup>1</sup> Andrew Cottey, Timothy Edmunds and Anthony Forster, ‘Democratic Control of the Armed Forces in Central and Eastern Europe: A Framework for Understanding Civil Military Relations’, *TCMR Working Papers*, No. 1.1, September 1999, p. 14. See also:

[http://civil-military.dsd.kcl.ac.uk/TCMR%20Papers/Theoretical\\_Framework.htm](http://civil-military.dsd.kcl.ac.uk/TCMR%20Papers/Theoretical_Framework.htm)

documents include a contemporary and detailed definition of what democratic control means. They are directed toward the “transitional countries” or “new democracies”, like Croatia, which intend to join NATO, and they are relevant to membership of the EU as well.

Democratic control of the armed forces, as conceived in the NATO Partnership for Peace documents, was practically non-existent in Croatia until the year 2000. The military had considerable influence in domestic politics: for example, two active generals were members of the Parliament, as was a retired general. Officers were mostly members of one political party, namely the nationalist Croatian Democratic Union (HDZ), the leading Croatian party guided by President Franjo Tuđman. The Croatian army emerged from the ‘Homeland War’ of 1991-95 as a mixture of a professional army on one side, and a one-party army on the other side. As such, the concept of a “praetorian” army was dominant in military-civil relations. The military had achieved a privileged position in society; their salaries were considerably higher than those of, for example, university teachers; the military budget was not transparent, despite the fact that, constitutionally, the Parliament exerted an oversight over all public affairs; there were practically no civilians in the Ministry of Defence (which was hypertrophied, numbering some 2,500 military personnel); security policy was in the hands of the military; the army, which had grown to 100,000 men during the war, was reduced to 65,000, still too large for such a small country; procurement was not transparent and was in practice a source of corruption; and there were no publicly debated defence plans, security concepts or defence strategies.

The hypertrophy of military personnel was matched by a hypertrophy of the secret services (during Tuđman’s time six secret services were created, often in competition among themselves); the Commander-in-Chief, i.e. the President of the Republic, was given a special rank, the title of “Supreme Commander”, and full authority over military affairs. Senior officers were given privileged housing, cars (often taken from the civilian population by unlawful requisition) and special allowances, as well as privileged access to privatisation processes. Many generals were members of the boards of management of public enterprises, earning additional money from their membership in these bodies. It could be said that the Croatian army was developed to be the guardian of the regime and a privileged caste within society. It was partly an inheritance from the communist past, but mostly the result of the concept of the nation-state applied in practice. “Statehood” was

elevated to the rank of official ideology, and everything that served to the aggrandisement of the State was “politically correct”; the opposite was treated as “subversive” and harmful to “national interests”.

### **Political and Constitutional Changes**

This situation changed at the beginning of the year 2000, when a coalition of democratic forces won the elections. The basic principles of the Partnership for Peace initiative were applied, and a new law on the Armed Forces started to take shape, as well as a comprehensive reform of the military sector. However, drastic changes were not undertaken until the beginning of the year 2002, when the Parliament adopted a new Law on Defence, the Strategy of National Security of Croatia and the Strategy of Defence.

The first step had, however, already been made in 2001 as a precondition for radical and structural changes. This was the change in the Constitution that reduced the prerogatives of the Head of State, the President of the Republic.

According to the Croatian Constitution of 1990 (amended in November 2000 and revised in March 2001), a “semi-presidential system” was installed, being in practice a “very-presidential system”; the President was not accountable to anybody, and he had wide powers in peace and war. As Supreme Commander of the Army, the President of the Republic had the right to appoint the members of the Council of National Defence, a body that in some cases supplanted the government in exerting executive power. The President had the right to appoint commanders and officers and release them from duty. However, while these duties are not unusual in other democracies or semi-democracies, the right to issue decrees with the same legal validity as laws, in war and whenever the independence and integrity of Croatia was directly threatened, explains the extraordinary position of the President. He appointed ministers to the cabinet, who were accountable both to the parliament and to him personally. The result of any political election had to be acknowledged by the President; for the past ten years, for example, he refused to confirm the democratically-elected mayor of Zagreb until new elections ended with a candidate of his choice.

Former Article 101 of the Constitution gave the president the right to issue decrees with full legal validity in cases when regular bodies did not function, or “malfunctioned”,

according to his opinion. The President had also the right to appoint a Presidential Council (Art. 106), which was accountable to the President. Merging these two prerogatives, the President established a “Presidential Council of National Defence” that concentrated all powers and practically acted as the real government, in both civilian and military affairs.

The revised Constitution of November 2000 (after the elections) reduced the prerogatives of the President of the Republic. He is no more “unaccountable”, and he no longer proclaims laws by himself nor does he issue decrees with the force of law except during a state of war.

The Presidential Council of National Defence was abolished, albeit the President can, in the performance of his duties, be assisted by advisory bodies. But a provision (Art. 106) expressly forbids appointments contrary to the principle of the separation of powers.

### **The President**

According to the new Constitution that established a parliamentary political system, the President of the Republic is responsible for the defence of the independence and territorial integrity of the Republic of Croatia (Art. 93, paragraph 3). The President of the Republic is still the Commander-in-Chief of the Armed Forces of the Republic of Croatia (Art. 99), and he still appoints and relieves of duty military commanders – but this time in conformity with the law. On the basis of a decision of the Croatian Parliament, the President of the Republic may declare war and conclude peace. Obviously the Parliament has a dominant role in proclaiming war and peace, and in the case of an immediate threat to the independence, unity and existence of the State, the President of the Republic may, with the counter-signature of the Prime Minister, order the deployment of the Armed Forces even if a state of war has not been declared. The new formulation introduced here is of a “counter-signature”, which is coherently applied in other cases too, unlike the old Constitution that did not stipulate the institution of a counter-signature.

During a state of war the President of the Republic may issue decrees with the force of law, but only on the grounds and within the authority obtained from the Croatian Parliament, unlike the old Constitution in which the “authority obtained from the Parliament” was not mentioned (Article 100). If the Croatian Parliament is not in session,

the President of the Republic is authorised to regulate all issues required by the state of war by decrees with the force of law. In the case of an immediate threat to the independence, unity and existence of the State, or if the governmental bodies are prevented from performing their constitutional duties regularly, the President of the Republic shall, on the proposal of the Prime Minister and with his counter-signature, issue decrees with the force of law (Article 100, paragraph 2). The President, however, is obliged by Constitution to submit these “decrees with the force of law” for approval to the Croatian Parliament, as soon as it is in a position to convene (paragraph 3). Unlike the old Constitution, such a decree ceases to be in force if the President does not submit it for approval to the Croatian Parliament, or if the Croatian Parliament fails to approve it. Such a position of the President suggests that his powers are derived from the Parliament, despite the fact that he is elected directly, i.e. by direct elections, and that his functions are to be a guarantor of the Constitution and of the democratic process in the country, and that therefore the function of oversight and control of the political system is his primary task, while his powers are confined to emergency situations in which the regular bodies function with difficulty.

However, there is still a special power vested upon him as far as directing the operations of the security services is concerned, as well as the appointment of the heads of the security services. Yet this provision is softened by its being made conditional on the necessary cooperation with the President of the Government (Prime Minister), with whom the President is obliged to cooperate in directing the operations of the security services (Article 102), all in accordance with the Constitution and the Law. The appointment of the heads of the security services is also bound to be counter-signed by the President of the Republic and the Prime Minister, upon the prior opinion of the authorised committee of the Croatian Parliament; in this case, the Committee for Internal Affairs and National Security (Article 102, paragraph 2).

Despite all the “check and balances” imposed upon him, this provision gives him powers not pertaining to his role of guarantor of the political process, since this prerogative gives him power over a service that should be parliament-controlled and accountable solely to the government, i.e. the Parliament. The existence of this provision might create the impression that the President has special powers and controls the secret services (which in fact causes embarrassment in political systems that emerged after authoritarian

regimes), although these powers have to be coordinated with other bodies and institutions, namely the Prime Minister and the Parliamentary Commission for Internal Affairs and National Security.

Therefore we conclude that this formulation is unfortunate and that the power to nominate the heads of the security services, as well the “direction of the operations of the security services” should lie exclusively within the government, and the President should exert only a function of control of the legality of these services, that have been manipulated so much during the recent past.

### **The President as the Commander-in-Chief and the Armed Forces**

The new Law on Defence (March 2002) enumerates the duties of the Head of State, based upon his constitutional role. The President of the Republic is recognised by this Law as the Commander-in-Chief. However, too many of his duties were retained by this Law. Article 7 lists 22 specific tasks of the President of the Republic. This list is too extensive and gives the President too many specific duties that should fall to the government, Parliament or within the system of defence itself. We shall list here all the legally envisaged tasks of the President just to show how extensive they are.

1. The President submits the Proposal for establishing a situation of direct threat and of a state of war with the counter-signature of the Prime Minister;
2. The President gives his consent to the Proposal for the Strategy of Defence of the Republic of Croatia;
3. The President issues the military strategy of the Republic of Croatia;
4. The President gives his consent to the Proposal for the Plans for Defence of the Republic of Croatia;
5. The President issues the decision on the size, composition and mobilisation development of the Armed Forces;
6. The President issues the decision on the military territorialisation of the Republic of Croatia;
7. The President gives his consent to the structure of command, military units and institutions of the Armed Forces;
8. The President decides on mobilisation on the proposal of the government;

9. The President issues the plan of deployment of the Armed Forces;
10. The President orders the introduction of measures of readiness and mobilisation of the Armed Forces on the proposal of the government;
11. The President determines the basis of the system of guidance and command over the Armed Forces, upon the proposal of the Minister of Defence;
12. The President brings, upon the proposal of the Minister of Defence and in conformity with the Strategy of Defence of the Republic of Croatia, compulsory directives for the implementation of battle readiness of the Armed Forces;
13. The President commands the deployment of the Armed Forces and their parts;
14. The President represents the Armed Forces in the country and abroad;
15. The President gives his opinion during the procedure of nomination of the Minister of Defence;
16. The President appoints the Head of the General Staff on the proposal of the government and after receiving the opinion of the competent Committee of the Croatian Parliament;
17. The President relieves the Head of the General Staff of his duties upon the proposal of the government and after receiving the opinion of the competent Committee of the Croatian Parliament;
18. The President appoints and relieves of duty the officers in the armed forces at the formal level of brigadier (captain of ship), general and admiral upon the proposal of the Head of the General Staff and with the consent of the Minister of Defence;
19. The President appoints and relieves of duty military envoys on the proposal of the Minister of Defence and with prior consultation with the Minister of Foreign Affairs.
20. The President awards first officers' grades;
21. The President makes promotions to the rank of officers, generals and admirals on the proposal of the Minister of Defence;
22. The President issues general and basic codes of conduct in the Armed Forces in conformity with a special Law on the proposal of the Head of the General Staff and with the approval of the Minister of Defence.

In executing these tasks, the Supreme Commander, alias the President, issues commands, orders, directives, warrants, decisions, regulations and other acts. The

Supreme Commander may confer on the Minister of Defence certain tasks from the range of his competence, with the exception of the deployment of the Armed Forces.

As we can see, many of these tasks are not merely ceremonial, but very operational. In our opinion, these tasks impede the President from exercising efficient control and oversight over the Armed Forces. Certainly the appointment of the Head of the General Staff should lie within the prerogatives of the executive power, as well as some of the task of awarding first grades to young officers and promotions in rank for lower grades. It is our impression that the President of the Republic is in this way too much taken up with his operational duties, to be able to be an efficient “guardian of the guardians”. His appointments role should be confined to senior military ranks, and a specific role should be designed for the Head of State in relations with bodies concerned with national security. At present, only formal interaction is envisaged between the President and those bodies empowered to make appointments with prior consent, but there is no mention of oversight and how to combine presidential power with legislative power in an efficient democratic control of the armed forces. There is no specific word about the control of legality and efficient monitoring of decisions, in which the President is involved in a too operational manner.

All this suggests that this is an interim arrangement and that it may work for a transitional period, in which the whole society has to adapt and to approve internationally recognised standards in the democratic control of the armed forces. Definitive solutions, in conformity with NATO standards, should be carefully planned, discussed and approved in the legislative body.

## **The Parliament and the Government**

The Croatian Constitution does not mention democratic control in regard to the armed forces; the wording refers only to “civil control”. Article 80 of the Constitution enumerates the prerogatives of the Croatian Parliament. So the Parliament decides on war and peace, adopts the Strategy of National Security and the Strategy of Defence of the Republic of Croatia, as stated in Paragraph 1, Comma 6 of the quoted Article. The implementation of civil control over the armed forces and the security services of the Republic of Croatia is formulated in Comma 7. However, the Croatian Parliament may

form commissions of inquiry regarding any issue of public interest, besides regular working bodies. These commissions of inquiry are left to the law as far their composition, competence and powers are regarded. The interesting point is that the chairperson of the commission of inquiry shall be appointed by a majority from among the representatives of the opposition. Obviously, a more modern approach could replace the wording "civilian control" with "democratic control", taking into consideration the development of democratic theory and practice.

The power and function of Croatia's Parliament will be explored in a separate paper on the Parliament and also in one on Transparency and Accountability. When we come to the role of the Executive and their relationship to the defence forces, then the ground is laid down by the Law on Defence. There is no specific requirement for the Minister of Defence to be a civilian. This is not stated in the Law. In recent Croatian history ministers were mostly civilians; the strongman of Tudjman's regime was the Minister of Defence Gojko Šušak until his death in 1998, and he was a politician. He was replaced by Gen. Branko Miljavac, an active general, and only after the elections of the year 2000 was the defence sector treated as a branch of the government, i.e. headed by a civilian. In 2000-2002 a member of the Croatian Social-Liberal party was minister, replaced after a limited Cabinet reshuffle in 2002 by Željka Antunoviæ of the Social-Democratic party, who retained her former post of Deputy Prime Minister. This was a step back, because it created the illusion that the Minister of Defence was above his companion-ministers; yet this is only an impression, because the intention of the government was not precisely that (when interpellated in Parliament, the Prime Minister explained that this was only a coincidence, nothing else. However, it is difficult to take this for granted, especially if looked at from abroad).

It has already been said that the President of the Republic appoints the Chief of the General Staff; the government makes the proposal for the appointment, but this appointment is not specifically listed in the Minister's duties. Therefore it is to be assumed that the proposal for the appointment of the Chief of the General Staff, as well as his dismissal, as stated in Comma 22, Paragraph 1, Article 8 of the Law on Defence, is collectively vested upon the government. The removal of the Chief of Staff from his official post before the expiry of office is not regulated by the law. Since the matter lies within the competence of the President of the Republic, upon the proposal of the

government, it is to be assumed that it lies within the discretionary powers of the government to activate a proposal for the removal of the Chief of Staff. Lately, the government has omitted to activate a proposal for the retirement of the Chief of Staff upon his reaching the lawful retirement age (65 years), nor did the President act on his initiative. Obviously, this fact caused disquiet among the public and raised questions in the press about whether the “military are again above the law”.

The appointment of senior military commanders does not require parliamentary approval. The competence falls within the President of the Republic's prerogatives. However, the Minister of Defence is expected to give his approval. This provision (Article 7, Comma 18) confers on the President too much authority in military appointments, in our opinion.

In conclusion, the direct superior of the Chief of Staff is the Head of State. A well-ordered constitution should clear this line of command, and probably prevent possible complications, such as those that can be provoked by political cohabitation (President of the Republic and government of different political orientation) and conflicts and tensions between the government and the President of the Republic. Therefore, in our opinion, a more parliamentary-centred political system should transfer the appointment of the Chief of Staff to the Minister, i.e. to the government, as well as regulate the issue of the appointment of senior commanders. It is clear that in war such a situation would be even more accentuated toward the pyramidal structure, in which the Supreme Commander – the Head of State – exerts big powers.

As the Law envisages, the government has also a wide range of competences. These competences, as listed in Article 8, comprise the following:

- The Government proposes the Strategy of Defence to the Parliament, proposes the amount of money for financing Defence (the Defence Budget), and proposes a Long-Term Plan of Development of the Armed Forces;
- The Government proposes the Yearly Report on the preparedness of the Defence System, implementation of the selection of cadres (personnel) and the overall situation in the Armed Forces to the Parliament, issues the Plan of Defence of the Republic of Croatia, establishes war organisation and approves plans for Defence

issued by organs of the public administration;

- The Government proposes a general mobilisation to the President of the Republic, as well as the introduction of states of alert measures and mobilisation of the Armed Forces;
- The Government decides on legal entities especially important to the defence of the Republic of Croatia, on the products and services of special interest for defence, and issues a Decree on the criteria for the deployment of citizens and material resources for the needs of the Armed Forces and other needs of the defence;
- The Government prescribes the methodology for the formulation of Defence Plans, issues its own Defence Plan, and determines the Proposal of the Decision on Size, Composition and Mobilisation Development of the Armed Forces;
- The Government determines the Proposal of the Decision on the division of the Republic of Croatian into military sectors, and issues the Decree on the internal organisation of the Ministry of Defence;
- The Government issues the Decision on the number of Directorates for the Defence and Offices for Defence, on their locations and areas in which they operate;
- The Government issues a Decree on the organisation of the Service for Cryptological protection of secret data in the Republic of Croatia, issues a Decree on the working and material duty (obligation), and it follows and directs the development, production and traffic of armaments and military equipment in conformity with a special law; undertakes measures for the creation, use, renewal and displacement of material reserve for the needs of the Armed Forces and in a state of direct threat.

This provision determines the task of the government in peacetime, while in wartime the government ensures the implementation of measures of readiness on the territory of the Republic of Croatia, ensures the transfer of the bearers of Defence Preparations from peacetime to wartime organisation and their functioning according to Defence Plans, and undertakes measures for the implementation of international commitments in relation to the conduct with war prisoners, foreign nationals and their possessions (Article 9).

There is one special provision in the Law on Defence (Article 13) determining the oversight exerted by the Ministry of Defence in order to get direct vision in general and individual acts about the implementation of the Plan of Defence of the Republic of Croatia, the readiness of commands, units and institutions of the Armed Forces, jobs

related to military conscription, filling up and mobilisation of Armed Forces, and implementation of defence preparations. This oversight is carried out by the Inspectorate of Defence, headed by the Chief Inspector of Defence, who reports directly to the Minister of Defence.

### **The Ministry of Defence**

The Ministry of Defence of the Republic of Croatia is, according to available data, bloated and filled mostly with military personnel. The ratio is still 2:1 in favour of military personnel. Up to 2002, the number of units (employees) at the Ministry of Defence amounted to 4,000, of which two-thirds were military. The new Reform of the Armed Forces, discussed in 2002, envisaged a down-sizing of the military overall and the reduction of the Ministry of Defence to 2,000 units. However it will not be possible to reduce the military element as much as desired due to the many problems this down-sizing will cause in a society without the capacity to absorb such manpower. The government has adopted an Action Plan of Military Reform (not available to the public or even to the research community). The government, however, intends to implement a new organisational structure and a new defence posture for the Croatian Armed Forces, along with a new military-territorial division of the country which will be carried out simultaneously with the personnel downsizing and transition programme. In concert with downsizing and reorganisation, efforts are supposed to continue to further develop and enhance the area of personnel management and asset management systems as key elements of the modernisation of the military and NATO interoperability. Croatia will also introduce a new long-term planning and budgeting system by 2004. This new system should provide an effective and efficient mechanism for managing defence resources in compliance with the country's national security objectives. This long-term planning and budgeting system will be based on strategic documents such as the National Security Strategy and Defence Strategy, which reflect the main objectives of the executive and legislative branches of the government.

However, as far as democratic control of Armed Forces is concerned, there are also some other indicators that show disparate trends. Croatia has recently established a National Security Authority, which is designed to coordinate matters relating to national security. The ministries of Defence, Foreign Affairs and the Interior, as well as the Office

of the President are represented in the NSA. The NSA is intended also to serve as the central place for receiving, storing and distributing confidential documents exchanged with NATO. Furthermore the NSA is responsible for issuing security clearance for persons who have access to information and documents exchanged with NATO. Since there is no special act regulating the activity of such an Authority, it is to be assumed that it is not under democratic control.

Planning and developing key issues lies within the domain of the Ministry of Defence. According to Law, the Ministry of Defence undertakes the following tasks (Article 10 of the Law on Defence):

1. The Ministry formulates Proposal for the Strategy of the Defence of the Republic of Croatia;
2. The Ministry of Defence gives its approval to the Proposal for the military strategy of the Republic of Croatia;
3. The Ministry undertakes the jobs related to the proposal of the Plan of Defence of the Republic of Croatia and the elaboration of its own Plan of Defence;
4. The Ministry prepares the Annual Report on the preparedness of the defence system, the implementation of personnel policy and overall state of the Armed Forces;
5. The Ministry issues the organisational structure of command, units and institutions of the Armed Forces;
6. The Ministry proposes the fundamentals of the system of guidance and command of the Armed Forces;
7. The Ministry adjusts the plans of defence of the bearers of defence preparations with the Plan of Defence of the Republic of Croatia;
8. The Ministry prepares the Long-term Plan for Development of the Armed Forces;
9. The Ministry defines, harmonises, develops and implements the defence policy;
10. The Ministry undertakes measures and executes jobs connected with the creation of the defence system and the implementation of functions pertaining to defence planning, including strategic, developmental, operational and civil-military crisis planning;
11. The Ministry evaluates possible war and other dangers that threaten the sovereignty, independence and territorial integrity of the Republic of Croatia;

12. The Ministry works on the preparation of territories and territorial waters for the deployment of the Armed Forces;
13. The Ministry proposes the methodology for the preparation of defence plans;
14. The Ministry implements the alertness, filling and mobilisation of Armed Forces and executing of military and material obligations;
15. The Ministry plans, guides and controls the execution of intelligence, counter-intelligence and security activities in the defence system;
16. The Ministry plans and executes international military cooperation and all tasks that emerge from international commitments of the Republic of Croatia in the field of defence;
17. The Ministry undertakes planning and implementation of civil-military cooperation;
18. The Ministry undertakes and implements the personnel policy in the Ministry of Defence and the planning and control on the personnel management and professional development of the Armed Forces;
19. The Ministry performs tasks concerned with the educational and training system of the Armed Forces, as well as scientific and research activities;
20. The Ministry performs tasks connected with information, psychological, cultural, religious, museum, archival, sport, publishing and other activities;
21. The Ministry performs tasks connected with the establishment and implementation of cryptological protection of secret information;
22. The Ministry performs tasks connected with planning and control of communication and information systems for the need of defence;
23. The Ministry supports and controls the work of legal entities working on the production of armaments and military equipment and other activities of special interest for the Armed Forces, in conformity with a special law;
24. The Ministry plans, organises and implements material and financial jobs pertaining to the Defence;
25. The Ministry looks after material care;
26. The Ministry plans, organises and controls sanitary and veterinary protection;
27. The Ministry resolves on the rights and obligations of legal and physical persons in the field of Defence;
28. The Ministry plans and implements the control in carrying out administrative and expert tasks in the field of Defence;
29. The Ministry organises and adjusts activities with other Ministries and other bodies

of the executive branch and bodies of the local, territorial (regional) self-government in the implementation of plans and activities of Defence;

The Ministry also performs expert tasks for the Supreme Commander pertaining to his authority in the field of Defence. In performing these tasks, the Minister of Defence issues commands, orders, directives, indications and other regulations. The Minister of Defence is responsible to the Supreme Commander, according to the Law on Defence.

## **The General Staff**

The General Staff is empowered with the following prerogatives (Article 11):

it takes part in the elaboration of the Strategy of Defence of the Republic of Croatia; it elaborates the Proposal of the Military Strategy of the Republic of Croatia; it elaborates the Proposal of the plan of deployment of the Armed Forces; it elaborates the Proposal of the Decision on the military-territorial division of the Republic of Croatia; it commands the Armed Forces in conformity with the commands of the Supreme Commander and the acts issued by the Minister of Defence; it follows and proposes the advancement of the system of guidance and command of the Armed forces; it works on the part of the Plan of Defence of the Republic of Croatia related to the functioning of military defence; it elaborates the proposal and implementation of the organisation of command posts, units and institutions of the Armed Forces; it implements the personnel management and professional development in the Armed Forces and planning and implementation of the reinforcement of the Armed Forces; it works on the building, internal control and evaluation of fighting preparedness of command posts, units and institutions of the Armed Forces; it plans, organises and implements intelligence, counter-intelligence and security jobs in the Armed Forces; it prepares the proposal of development, equipment and modernisation of the Armed Forces; it plans operatively and executes operations; it plans, organises and implements the mobilisation of the Armed Forces; it plans, organises and implements the logistical support to the Armed Forces; it takes care of the maintenance of armaments and equipment; it works on the investment and basic maintenance of buildings and infrastructure of the Armed

Forces; it takes care of sanitary protection of members of the Armed Forces; it takes care of the development of military strategy and doctrine; it takes part in planning, programming and formulating the part of the budget pertaining to the Armed Forces; it plans, organises and manages the command-information and communication system of the Armed Forces; it plans, organises and implements the military training and drill of the Armed Forces; it plans, organises and implements the system of military schooling in the Armed Forces; it proposes and implements the information, cultural, sport, publishing and religious activities of the Armed Forces; it takes part in the planning, implementation and realisation of military-military cooperation of the Armed Forces with Armed Forces of other countries and international military organisations; it organises and implements cryptological protection in the Armed Forces; it elaborates general and special rules; it takes part in planning, organisation and implementation of material and financial activities in the Armed Forces; it takes part in planning and preparation of units and individuals from the Armed Forces for participation in international military operations and other international activities.

As we can see from this long list, there are many overlapping duties between the Ministry of Defence and the General Staff. Everything can function well if there is no friction in the political leadership and if there is a harmony of intention and political similarities; but in case of a difficult cohabitation, the situation can change. Moreover the minister is entitled to issue a special rule, with the prior approval of the Supreme Commander, to regulate relations between the General Staff and the “administrative part of the Ministry of Defence” (Article 12). It is obvious here that the “administrative part”, as is the wording, applies to the civilian part of the Ministry of Defence, which means that the Ministry is still conceived as a repository of military personnel.

From all previous indicators it is more or less evident that the military are still prevalent in the system of planning and developing key policy documents. However the parliamentary working bodies discuss the final versions of the basic documents – the Strategy of National Security and Strategy of Defence, and they have the final word. But civilian personnel are not much involved in the initial stages, which means that the whole system lacks this element. The General Staff is included in the Ministry of Defence decision-making process yet, as we have said, some jobs are overlapping and it is not

clear enough whose word is final, although it is supposed that the Ministry's word is final in policy matters, while professional expertise is dominant in professional tasks pertaining to the military profession. The joint General Staff is, according to the Law, allowed to initiate policy decisions, but so far this has not been a problem since almost all the Ministry personnel come from the General Staff, and vice-versa; therefore there is no antagonism at a lower level of military, although this lack of possible tension is to be ascribed to an overall negative structure, i.e. the dominance of military personnel. Reform of the Armed Forces, alongside massive downsizing, will probably alter this "harmonious situation" and will create friction in the near future, that can only be solved by strengthening the mechanism of democratic control of the Armed Forces.

## CHAPTER THREE

---

### PARLIAMENT AND THE SECURITY SECTOR

*Dr. Vlatko Cvrtila*

#### Introduction

In accordance with Article 70 of the Constitution of the Republic of Croatia ‘the Croatian Parliament is a representative body of the people and is vested with legislative power in the Republic of Croatia’.<sup>1</sup> During the first ten years, the functions of the Parliament were marked by two processes: first, exaggeration of its symbolic significance and second, marginalisation of its political role and subordinate position with respect to the executive branch of government. During that period, the Croatian Parliament was under the sway of institutional and non-institutional political actors. The present phase began in 2000, when Croatia’s Parliament began, not without difficulties, to assume its powers and put them into practice.

Nonetheless, whatever its real political power, the Parliament possessed symbolic and historic significance. Its symbolic significance stems from its historical role in the political development of Croatia as a chief institutional ‘... bearer of independent political life in Croatia. In the historical consciousness of all forms of Croatian nationalism, this particular role of the Parliament was interpreted as a guarantee of continuity of Croatian “state” (municipal) rights and thus a prerequisite for the establishment of a modern Croatian nation and a Croatian national state’.<sup>2</sup>

The political role of the Parliament in the past 150 years of history, in different state formations from monarchy to republic, was limited. The heritage of the past has had a direct impact on its role in the political system of the Republic of Croatia after independence. Specifically, the tradition of liberal and democratic parliamentarism in Croatia was quite weak. It only started to establish itself after independence had been declared. Therefore the lack of democratic experience resulted in the inefficient and, in

---

<sup>1</sup> Revisions and amendments to the Constitution of the Republic of Croatia were adopted on 23 April 2001.

<sup>2</sup> N. Zakošek, “Political System of Croatia”, *Politička misao*, 2002, p.97.

political terms, weak role of the Parliament, which was controlled in real political life by other institutions of the political system (the President of the Republic of Croatia in the first place).

It was only after the revisions of the Constitution of the Republic of Croatia in 2000 and 2001 that the preconditions were created for establishment of a strong institution that would represent an efficient and successful counterbalance to the executive branch of government. Therefore, it is in such a development of the political role of the Parliament in the past 10 years that we can find justification for certain impediments in the realisation of the role of Parliament in the political life of the Republic of Croatia and especially in terms of national security. After the revisions of the Constitution of the Republic of Croatia were made and after some crucial documents and acts in the field of national security were adopted at the beginning of 2002, the authority of the Croatian Parliament was extended. However, the Parliament has still not started to exercise them in full.

Therefore, the aim of this paper is twofold: firstly, to present the constitutional and legal powers of the Croatian Parliament in the field of national security and secondly, to explore the reasons why the Croatian Parliament exercises its authorities at a very slow pace.

These two issues will be dealt with by exploring the following topics: the history of the Croatian Parliament, constitutional authorities, legal authorities in the field of national security, access to classified information, the role of the Parliament in promotion of top-ranking officers, the procedure of summons and hearing of the members of the government (i.e. other members from the executive branch of government), the role of the Parliament in making crucial decisions in the field of defence and national security, the procedure of adoption of the key documents in the field of national security, parliamentary representation of the Members of the Parliament in the bodies of the national security system, control over the national security system (control over performance, adoption of the budget).

## **History of the Croatian Parliament**

The Croatian Parliament, as the highest representative body of the Croatian people, has a rich history. Its beginning marked the coronation of King Tomislav in 925 before the national assembly – that is the assembly of Croatian noblemen. On the occasion of an assembly of Croatian lords and district prefects in Biograd in 1102, the Hungarian King Koloman was crowned with the Croatian crown and obtained the title of the “King of Croatia and Dalmatia”. By this act Croatian territory was put under the authority of the Hungarian Crown. In assembly in Cetingrad in 1527, Croatian nobility chose Ferdinand Habsburg to become the King – provided that he ensured the defence of Croatia against the Turks and respected all the acquired privileges and acts. It was by this act that Croatian territory found itself under rule of Vienna. In 1847, the Croatian language became the official language in Croatia by decision of the Parliament. In 1868 the Parliament accepted the Croatian-Hungarian Compromise according to which Croatia was under the Hungarian Crown, but kept its own legislation and autonomous government as regards certain internal affairs. The historical evolution of Croatia's Parliament is not dissimilar from similar European institutions.

The Croatian Parliament made a decision in 1918 to dissolve centuries-old state relations with Hungary and the Austrian Empire. During World War Two, in the context of the anti-fascist struggle, ZAVNOH was founded in 1942 as the highest representative body of the anti-fascist movement in Croatia. In 1945 it became the National Assembly of Croatia. After the first free, direct and multi-party elections in the Republic of Croatia in 1990, a multi-party Parliament was established. In October 8, 1991 (October 8), the Parliament decided to dissolve state and legal relations with the other republics and autonomous provinces of the Socialist Federal Republic of Yugoslavia, an action similar to the one made in 1918. Following the Parliamentary act, the Republic of Croatia became a sovereign and independent state.

By the end of 2000, on the basis of newly adopted amendments, the semi-presidential system was replaced by a parliamentary system. The Parliament regained its historical name – the Croatian Parliament. On 28 March 2001, in accordance with amendments to the Constitution, the House of Counties was abolished. The Croatian Parliament became

a unicameral body. It is from this point that we can explore Croatia's present Parliamentary powers and practices.

## **Constitutional Authorities and Organisation of Functions**

The Constitution of the Republic of Croatia (Article 80) provides the Croatian Parliament with the following powers. It

- decides on the enactment and amendment of the Constitution;
- passes laws;
- adopts the state budget;
- decides on war and peace;
- passes documents which express the policy of the Croatian Parliament;
- adopts the Strategy of National Security and the Strategy of Defence of the Republic of Croatia;
- realises civil control over the armed force and the security service of the Republic of Croatia;
- decides on alterations of the borders of the Republic of Croatia;
- calls referenda;
- carries out elections, appoints and fires officials, in conformity with the Constitution and law;
- supervises the work of the government of the Republic of Croatia and the other holders of public authority responsible to the Croatian Parliament, in conformity with the Constitution and law;
- grants amnesty for criminal offences;
- conducts other affairs as specified by the Constitution.

The Croatian Parliament has a President and five vice-presidents, who together form the presidency of the Parliament. The President of the Parliament: has the following authorities: he (or she) calls and presides over parliamentary sessions, proposes the working agenda of the parliamentary sessions, is responsible for the procedure of enactment of laws, coordinates the work of the parliamentary boards and plena, coordinates the procedure of enactment of laws between the Parliament and the

Government, together with the President of the Republic countersigns the decision of appointment of the Prime Minister and the members of the government. One or more parties that have at least three representatives can form parliamentary groups.

The Parliament operates mainly on the basis of plenary sessions, so that the Croatian Parliament belongs to the group of “deliberative parliaments”. It has twenty-four standing committees. Some deal with Parliamentary matters, (e.g. the Committee for the Constitution, Rules of Procedure and the Political System, the Committee for Legislation, the Committee for Interparliamentary Cooperation.) Others are concerned with the activities of the government, like the Committee for Foreign Policy and the Committee for Domestic Policy and National Security. Apart from those, there are committees whose activities cover certain significant fields, such as: Committee for Human Rights and National Minority Rights, Committee for Family, Youth and Sport, Committee for Gender Equality). The committees generally have thirteen members from the Parliament.

Eleven committees also have external members, who are experts or representatives of some important interested organisations. They participate in the activities of the committee, but do not have the right to vote. It is interesting that two leading committees in the field of national security and foreign policy do not have external members, the Committee for Foreign Policy and the Committee for Domestic Policy and National Security. Moreover, the area of responsibility for the Committee for Domestic Policy and National Security is very broad.

### **Parliamentary Control over the Work of the Government**

There is a range of instruments provided by the Constitution<sup>3</sup>, laws and Rules of procedure of the Croatian Parliament on the strength of which the Parliament supervises the work of the government. At the beginning of each session, the representatives can put questions directly to the members of the government who are present in the session. There is a possibility as well to ask questions in written form, which the government is obliged to answer within thirty days. If it concerns some extremely significant issues

---

<sup>3</sup> In compliance with Article 80 of the Constitution of the Republic of Croatia, the Parliament “...supervises the work of the Government of the Republic of Croatia and other holders of public authorities responsible to the Croatian Parliament, in conformity with the Constitution and law”.

which 10 per cent of the representatives consider to be so important that they need to be discussed in parliamentary sessions, they are entitled to interpellate, i.e. they can demand that these issues be put on the agenda in the next session. The interpellation also enables the representatives to ask for a vote of confidence in the government.

Under Article 91 of the Constitution of the Republic of Croatia, the Croatian Parliament may form commissions of inquiry. Their activities are regulated by a special act.<sup>4</sup> The commissions of inquiry have access to the documents of the bodies of the executive branch of government and public administration and they are entitled to call citizens and state functionaries to testify before the commission.

Apart from the instruments of control over the work of the government of the Republic of Croatia, the Croatian Parliament disposes of a range of instruments for protection of civil rights. There is also a special committee in the Parliament that deals with complaints from citizens. The election of the People's Ombudsman is also under the authority of the Parliament. His duty is to protect the rights of citizens before the bodies of local and regional self-government. Protection of the rights of citizens in the proceedings before the Ministry of Defence, the armed forces and the security services bears a special significance in the scope of duties of the People's Ombudsman.

## **Legislative Process**

At the time when the Republic of Croatia gained its independence, by the end of 1991 and in the beginning of 1992, the Croatian Parliament was engaged in extensive legislative activities with a view to detaching Croatia from the constitutional, legal and political system of the former Socialist Federal Republic of Yugoslavia. In that period, a number of acts were rushed through the Parliament and the expert teams of the government worked on the acts and regulations. However, the quality of the enacted acts was quite low and therefore they underwent revisions and amendments in the 90s (again emergency legislation)<sup>5</sup>. It all added to the burden of work of the Parliament.

---

<sup>4</sup> Act on Commissions of Inquiry, *Narodne novine*, No. 24, 1996.

<sup>5</sup> In the period between 1995 and 1999, 517 laws were adopted out of which 54.4 per cent (282) were adopted using emergency procedure. For more details, see Ž. Sabol, *Zastupnički dom Hrvatskog državnog sabora 1995-1999*, (Zagreb, 1999).

Members of the Parliament, clubs of representatives, parliamentary committees and the government have the right to propose a law. In practice, the majority of acts are proposed by the government, through the competent ministries. In most cases, the legislative process is launched by an initiative from the competent ministry or the government, which is working on the text of a law. The bill is discussed in the government session which then approves it and passes it on for parliamentary procedure.

The relevant parliamentary committee first discusses the bill or it can be more committees if it concerns their scope of activities. All the bills that determine the financial (budget) commitments of the state must be passed for discussion to the Committee for Finance and the Budget.<sup>6</sup> Each bill must also be discussed in the Committee for Legislation which in its turn confirms the legitimacy and legal foundation of the bill. After discussions in the committees, all comments on the bill are forwarded to the relevant committee, whose representative then submits all the comments to the plenary session of the Parliament. After discussion, the relevant committee informs the government in writing about all the comments. The government then prepares the bill for the second reading. After it has amended the bill, the government then forwards it to the Parliament. Again the relevant parliamentary committees must discuss the bill and give their judgement. The final version of the law is then determined in the plenary session. Emergency legislation follows the same procedure, but only through one phase (without the second reading).

## **Parliamentary Authority in the Field of National Security**

As the highest body of the legislative branch of government in the Republic of Croatia, the Croatian Parliament enjoys a number of powers in the field of national security. It exercises its authority directly, that is via the Committee for Domestic Policy and National Security.<sup>7</sup>

---

<sup>6</sup> The Committee for Finance and the Budget must ascertain if there are enough funds in the budget to cover the commitments ensuing from the law.

<sup>7</sup> The Committee was given its name at a time when national security of the Republic of Croatia was considered exclusively as state security. In the framework of the Committee, there is another sub committee for the Armed Forces, which in the past ten years has not held a single meeting. Thus the Committee has discussed all the issues concerning the Armed Forces of the Republic of Croatia for Domestic Policy and National Security.

In accordance with Article 80 of the Constitution of the Republic of Croatia, the Croatian Parliament decides on war and peace and adopts the Strategy of National Security and the Strategy of Defence of the Republic of Croatia. Other authorities which are given to the Parliament in accordance with the same Article are worked out in detail in the acts concerning national security. For instance, under Article 80, the Croatian Parliament is authorised to ‘supervise the work of the Government of the Republic of Croatia and other holders of public authority responsible to the Croatian Parliament, in conformity with the Constitution and law’. The Parliament is enabled to do so by a number of instruments as envisaged by different acts.

We shall represent the authorities of the Croatian Parliament in the field of national security by analysing the following documents: Defence Act, Security Services Act, Act on participation of the members of the Armed Forces of the Republic of Croatia, police, civil defence and lower and senior-grade civil servants in peace operations and other activities abroad.

### **Defence Act**

Article 6 of the Defence Act determines the powers of the Croatian Parliament in the field of defence. Its powers are as follows: The Croatian Parliament realises civil control over the Armed Forces.

The Croatian Parliament:

- adopts the Strategy of Defence of the Republic of Croatia;
- decides on resources for financing defence;
- adopts the Long-term plan of development of the Armed Forces;
- defines the states of immediate threat and war; the bill can be submitted by the President the Republic of Croatia and it must be counter-signed by the Prime Minister of the Government of the Republic of Croatia;
- discusses and adopts the Annual report of the Government of the Republic of Croatia (hereafter referred to as the Government) on readiness of the defence system, implementation of personnel policy and general conditions in the Armed Forces;

- decides on activities of the Armed Forces beyond the boundaries of the Republic of Croatia, and on the entry or activities of the armed forces of other countries on the territory of the Republic of Croatia in the framework of exercises, excluding the departure or entry of the Armed Forces in the framework of international defence organisations to which Croatia belongs or to which Croatia is obliged to commit on the grounds of international treaties, and with a view to providing humanitarian assistance;
- discusses, takes position and defines the bills and other regulations in the field of defence;
- analyses the realisation of the Plan of Defence of the Republic of Croatia and implementation of defence preparations;
- supervises the functioning of the security system;
- gives its opinion on proposals for the appointment and dismissal of the Chief of Staff of the Armed Forces (hereafter referred to as Chief of Staff)<sup>8</sup>.

From the above-mentioned powers it is apparent that the Croatian Parliament can supervise the work of the government and other government institutions in the field of defence. This law stipulates as well the commitment of the Parliament to control over the functioning of security system, even though this part has been regulated by a separate law (in other words, it was completely unnecessary to mention this authority in the Defence Act).

It is furthermore interesting to note that the Croatian Parliament does not have powers in conferring ranks on military officers in the Armed Forces (the President of the Republic of Croatia and the Minister of Defence are authorised to do that), it only discusses the Annual Report on Implementation of Personnel Policy. The only authority in this field refers to giving its opinions to the government of the Republic of Croatia and the President of the Republic of Croatia on the procedure of appointment or dismissal of the Chief of Staff of the Armed Forces of the Republic of Croatia.<sup>9</sup> The Croatian Parliament is a body which defines the state of war, that is the state of immediate threat, on the

---

<sup>8</sup> Defence Act of the Republic of Croatia, *Narodne novine*, No. 32, 28 March 2002.

<sup>9</sup> In accordance with article 7 of the Defence Act, the President of the Republic of Croatia appoints and relieves of duty the Chief of Staff of the Armed Forces of the Republic of Croatia, on the basis of previous opinion of “the relevant Committee of the Croatian Parliament” (it refers to the Committee for Domestic Policy and National Security).

proposal of the Commander-in-Chief (the President of the Republic of Croatia), which is forwarded to the Parliament and counter-signed by the Prime Minister of the government of the Republic of Croatia.

## **Security Services Act**

This act regulates management and control over the work of the security services in the Republic of Croatia. The security system in the Republic of Croatia was established under specific circumstances, which in turn had a special impact on its organisation and afterwards on its efficiency as well. From the first democratic elections in 1990 until the severance of all state relations with the former Socialist Federal Republic of Yugoslavia (7 October 1991), the intelligence and security services of the Republic still functioned in formal and legal, but also functional terms as a part of the Yugoslav intelligence community. Although these ties weakened over time, in the first place due to increasing demands for these services to be under the full control of the Croatian political leadership, still this period marked to a certain extent the subsequent structure of the security services. Besides, the entire intelligence and security system in the former Yugoslavia was created unsystematically and partly non-institutionally.

The creation of legal, organisational, personnel and technical preconditions for organisation of the intelligence and security services of the Republic of Croatia began under growing political pressure from the organs of the state and in a highly unfavourable social, political and security situation. In the course of time it became evident that insufficient knowledge as well as experience was the main fault in organisation of a system appropriate for a democracy. However, some regulations and decisions from that period are still to be found in the present system.

The legal regulations adopted in 1991 mainly concerned defining the legal framework in order to separate it from the federal security system. Still, the field of activity, the methods of work and their application as well as control of the services remained to a large extent the same (without critical evaluation of whether certain regulations were adequate for a democratic society or not). Subsequent legal regulations, on the basis of which new military and civil services were established, did not pay much attention to the point at issue.

The intelligence and security system in Croatia that was established over the last ten years turned out to have many deficiencies: there were no clear legal regulations which would set out the field of activity of the services, their organisation, tasks, interrelation, and the use of measures and methods which violated human rights. This made possible various abuses of the intelligence and security services. There were a number of scandals in which some of the services were involved.

The fact that there was insufficient and inadequate standardisation compelled the services to assess by themselves their field of activity and their powers. Thus it happened quite often that certain services would interfere in the sphere of activities of other services and would take steps against certain persons that were outside their authority (this refers especially to the security and intelligence service of the Ministry of Defence).

The activities of the services and their position within the intelligence and security system stemmed to a large extent from the political power of their top officials or the relevant ministries. Consequently, such a situation had an impact on their interrelationship which often enough resulted in antagonisms, confrontations, malfunctions and lack of co-ordination in their joint activities.

After the elections of 3 January 2002, certain changes in personnel and organisation began within the intelligence and security services. However there has been only a slight shift as regards the creation of a legal framework on the basis of which the intelligence and security system would operate. After almost two years of consultations and debates over the contents of the act, by the end of March 2002 the Security Services Act was adopted. It regulates the organisation, structure, field of activity, oversight and other issues concerning the work of the intelligence and security system.

The Security Services Act regulates in a few places the powers of the Croatian Parliament: first, by the participation of the top representatives of the Parliament in the bodies for cooperation in the field of national security; second, on the strength of its powers in enactment of documents and laws in that field; third, on the strength of its powers to participate in the appointment and dismissal of the top officials of the security

services; fourth, on the strength of its powers to oversee the work of the security services.

In accordance with this act, the National Security Council was established with the aim of directing the activities of the security services.<sup>10</sup> The President of the Croatian Parliament participates in the activities of the Council and in the case of an immediate threat or war, the President of the Parliamentary Committee for Domestic Policy and National Security also takes part in the work of the Council (Article 4).<sup>11</sup> It is necessary to point to a certain lack of logic that ensued from the reduction of the powers of the Council. While debating the act, some independent experts suggested that it would be wise to extend the powers of the Council to the entire system of national security. However, the government and the Parliament after the subsequent enactment retained the previous proposal according to which a body would be established solely competent for the security services. The participation of the President of the Parliament and the President of the Parliamentary Committee for Domestic Policy and National Security (under specific circumstances) in the activities of the National Security Council would be justifiable if the body had authority over the entire system, but in this case it is questionable.

The authorities of the Croatian Parliament in adoption of strategic documents and acts are regulated by Article 80 of the Constitution of the Republic of Croatia. The appointment and dismissal of the top officials of the security services is regulated by Article 43 of the Security Services Act. The President of the Republic of Croatia and the Prime Minister start together legal proceedings for the appointment of the top officials of security services. Then they forward their proposal to the Committee for Domestic Policy and National Security which gives its opinion on the candidates. The Committee is entitled to call the proposed candidates for a hearing and to reach the decision consequently. It is not regulated in the Act whether the opinion of the Committee puts the President of the Republic of Croatia and the Prime Minister of the Republic of

---

<sup>10</sup> Members of this body are: the President of the Republic of Croatia, the Prime Minister, the member of the government responsible for national security, the Minister of Defence, the Minister of Internal Affairs, the Minister of Foreign Affairs, the Minister of Justice and the Chief of Staff of the Armed Forces of the Republic of Croatia. The President of the Parliament also takes part in the activities of the National Security Council. In the case of war and immediate threat, the President of the parliamentary Committee for National Security, the Minister of Finance and the Minister of the Economy also join in the activities of the Council.

<sup>11</sup> Security Services Act, *Narodne novine*, No. 32, 28 March 2002.

Croatia under any obligation or what happens if the Committee rejects certain candidates. However, regardless of a certain lack of clarity, the Parliament is nevertheless involved in the process of appointment and dismissal of the top officials of security services.

According to the Security Services Act, the Croatian Parliament enjoys the most extensive powers over the security services in the sphere of supervision. Under Article 78, the Croatian Parliament supervises the work of the services directly and via the competent Committee.

In order to realise this supervision, the Croatian Parliament is empowered to demand:

- from the President of the Republic of Croatia and the Prime Minister reports on the condition of national security in its entirety or in certain spheres;
- information from a security service on activities and measures taken by the relevant security service;
- information from the President of the Supreme Court of the Republic of Croatia on the measures taken in order to gather information secretly or on the measures taken in order to gather information secretly about certain persons;
- information from the security services on measures taken in order to gather information secretly or on measures taken in order to gather information secretly about certain persons;
- information on whether the national security services gather information concerning (parliamentary) representatives or any member of their family household;
- to conduct an interview with the candidate for the head of a security service. (Article 78)

Apart from that, the Committee for Domestic Policy and National Security is authorised to hold a hearing of the head and the officials of the security services on whether some measures and activities of the services at issue were illicit, discuss the legitimacy of the financial and material transactions of the security services, analyse reports of the People's Ombudsman on protection of the constitutional and legal rights of citizens in the proceedings conducted by the security services, and analyse the work of the security services with regard to the foreign policy of the Republic of Croatia.

Article 80 regulates civil oversight over the work of the security services. The Parliament assumes an obligation to establish a Council for overseeing the work of the security services.<sup>12</sup>

Under Article 81 the Council has the following tasks:

- It supervises the legality of the activities of the security services;
- observes and supervises application of the measures of secret gathering of information that could restrict constitutionally defined human rights and fundamental freedoms;
- monitors legal regulations in the field of national security in other countries;
- submits information and data gathered from the previous subsection in the form of a notification to the National Security Council, the President of the Croatian Parliament, the President of the Committee for National Security and the heads of the security services;
- propounds solutions in order to improve legal regulations as regards the legitimacy of the work of the security services;
- provides information regarding the manner in which a request is submitted from Article 81 of this Act.<sup>13</sup>

While performing its duties, the Council is entitled to have access to reports and other documents of the security services, and conduct interviews with the heads and officials of the security services when it is considered necessary in order to establish facts crucial for evaluation of the legitimacy of the performance of the services. The competent parliamentary committee is empowered to demand at any time from the government and the President of the Republic of Croatia, or a certain head of a security service, a report on the performance of the security services.

---

<sup>12</sup> The Council comprises seven members who are appointed by the Croatian Parliament to a four-year term. Only Croatian citizens can be appointed as members of the Council with at least one graduate lawyer, graduate political scientist and electronics engineer as part of the team.

<sup>13</sup> Security Services Act, *Narodne novine*, No. 32, March 28, 2002.

Consequently, the Croatian Parliament has extensive authority over the security services and they are regulated and elaborated well in the act, unlike its authority over the Armed Forces (regulated in more general terms in the Defence Act).

## **Participation in International Operations**

In March 2002, the Croatian Parliament passed an Act on the participation of the members of the Armed Forces of the Republic of Croatia, police, civil defence and lower and senior-grade civil servants in peace operations and other activities abroad. On the strength of this act, the Parliament is authorised to reach decisions concerning participation in international operations. In accordance with Article 4 of the Act, the Croatian Parliament decides upon “sending the members of the Armed Forces of the Republic of Croatia abroad, their crossing state borders and their activities abroad...” After the Parliament has reached a decision, the President of the Republic of Croatia (as the Commander-in-Chief) makes the final decision on the peace operations. When the Republic of Croatia is committed to sending members of the Armed Forces in accordance with the signed international treaties, the decision is then made solely by the President of the Republic of Croatia. In the case of immediate threat or war, or when the Croatian Parliament is prevented from convening, the President of the Republic of Croatia is authorised to reach a decision on his own.

## **Conclusion**

Under the Constitution and the acts in the field of national security, the Croatian Parliament has many powers and disposes of mechanisms that render possible its active role in passing the budget, some crucial strategic documents and acts, in supervising the work of the government and public administration, as well as in the appointment of the Chief of Staff of the Armed Forces of the Republic of Croatia and the heads of the security services.

1. The members of the Croatian Parliament are authorised to have access to classified documents, especially in the case of control over the performance of the security services and during the activities of different commissions of inquiry.

2. The Croatian Parliament gives its opinion on the appointment of the Chief of Staff of the Armed Forces of the Republic of Croatia, but it does not take part in the promotion of the officers of the Armed Forces. This falls entirely under the authority of the executive branch of government.
3. The Croatian Parliament adopts the Strategy of National Security and Strategy of Defence of the Republic of Croatia. It is entitled to request from the government a report on the activities of certain parts of the system, which is then submitted for discussion in the Parliament.
4. The President of the Croatian Parliament takes part in activities of the National Security Council (the Council is authorised to regulate the activities only of the security services, but not of the entire national security system). In time of war, the President of the Committee for Domestic Policy and National Security joins in the work of the Council.
5. The Croatian Parliament is authorised to supervise the work of the security services via the Council for oversight over the security services. However, the Parliament<sup>14</sup> still has not established this Council and consequently the Parliament is still restricted in its access to the activities of the security services.
6. In practice, the majority of powers of the Croatian Parliament are exercised by the Committee for Domestic Policy and National Security, whose work has improved significantly compared to the period before 2002. The Committee was especially involved in discussions over the Strategy of National Security, Strategy of Defence and all the other acts in the field of national security that were enacted in the first half of 2002. Creation of a team of professional experts would undoubtedly facilitate the work of the Committee. This team should be monitoring the sphere of national security and it should consult the heads and the members of the Committee.

---

<sup>14</sup> The Croatian Parliament was supposed to appoint the members of the Council for oversight over the security services 30 days after the Security Services Act came into force. The Act came into force on 1 April 2002, but seven months later the Croatian Parliament had still failed to fulfil its legal obligation.

The Croatian Parliament has significant powers in the field of national security as well, but for the time being it still does not exercise them to the full extent. Such a condition ensues in part from the role which the Parliament played in the political life of the Republic of Croatia from 1990 to 2000. In that period, the Croatian Parliament found itself under control of the institutions of the executive branch of government and it was only after the amendments to the Constitution in 2000 and 2001 that the Parliament was given an opportunity to act independently within the Croatian political system.

Analysis of the legal regulations proved that the powers of the Croatian Parliament in the field of control over the security services are rather well elaborated and regulated in detail (there is even a special body).

Crucial powers in the field of the defence system and the Armed Forces are retained by the executive branch of government and distributed between the government and the President of the Republic of Croatia. By applying a number of mechanisms at its disposal in control over the work of the government and public administration, the Croatian Parliament is empowered to monitor the implementation of defence policy and development of the Armed Forces. However, these authorities have not been exercised so far in issues concerning defence and national security. Instead of monitoring the work of the government in the field of national security and calling the attention of the government when a law is being violated or not being implemented, the Croatian Parliament is not fulfilling some of its legal obligations (e.g. appointment of members of the Council for oversight over the security services). The development of national security of the Republic of Croatia can only be guaranteed if all the institutions of the political system fulfil their legal authorities and obligations.

## CHAPTER FOUR

---

### CIVILIANS AND THE MILITARY IN SECURITY SECTOR REFORM

*Zvonimir Mahecic*

#### A State of Transition

The role of Croat civilians and the military in the defence area is in a state of change and transition. Since 2000, the roles of civilians and the military have been altered by political events, constitutional and legal changes, and key policy documents concerning security and defence. Since the elections in January 2000, the Croatian Parliament has passed two changes to the Constitution and, after protracted preparations, new security- and defence-related Laws in 2002. Among them we have a Defence Law, a Military Service Law, a Security Services Law, a Law on Deployment of Armed Forces Personnel and Units Abroad, and others. Two key security policy documents, a National Security Strategy and a Defence Strategy, were approved by the Parliament in March 2002.

Croatia's defence community, civilians and the military, at the level of the President, the Ministers, the Parliament, and the Chief of Staff, and the civilian and military staff serving these policy-makers and institutions, have to deal with major, urgent security and defence reforms. The recent National Security Strategy states that Croatia is assuming a new security posture, moving away from territorial defence toward regional collaboration. The Armed Forces have to be reduced and reorganised. Croatia will energetically seek NATO membership which requires the successful execution of a number of tasks, such as interoperability, as well as fulfilling the demanding requirements of the Membership Action Plan (MAP).

In order to attain these objectives effectively and efficiently, and in a relatively short time, the civilian-military defence community has to be well structured and functionally well articulated. This study will examine the organisation, roles, and capabilities of Croatia's civilians and military engaged in the challenges of security sector reform.

#### Planning and Political Changes

A Constitution and laws have to provide a clear hierarchy of civilian control over the military. This involves defining the authority of the Head of the State (the President), the Head of the Government (the Prime Minister), the senior civilian responsible for military affairs (the Defence Minister), and the military establishment as a whole (i.e. General Staff or similar bodies), with civilian officials of a government having guiding roles. Second, there has to be control through oversight. That is the function of the Parliament. The Defence Ministry has to respond to Parliamentary demands. The military has to acquit itself as a politically neutral body, with no attempts to exploit political parties in order to solicit support.

Since the elections of 2000, which fundamentally transformed Croatia's political nature, the country's political system has undergone a change in political power and responsibility from the President to the government and the Parliament. The changes have been accomplished by constitutional amendments, laws, and other governmental acts such as a National Security Strategy and a Defence Strategy. Still chosen in direct elections, the President is the supreme commander of the armed forces, controls the domestic security services, and has some responsibility over foreign policy. However, the President cannot initiate legislation, which right has been constitutionally granted to Presidents elected by a Parliament.

The legislation and other acts had the support of the majority of the representatives in the governing coalition-dominated Parliament. Taken as a whole, although hardly ideal (there are flaws and gaps which will be subsequently considered), the Laws represent a starting point, at least, for achieving cooperation and coordination of the security and defence structures and political institutions. The process of changing the Laws started in the second half of the year 2000 and it took almost two years for the institutions to finally pass the new Laws. It happened mostly because it took too much time to reach consensus about the security and defence-related legal framework between the institutions involved. This was the result of the different political interests of the key political players.

The responsibilities, roles and relationships between the military and the civilians were changed by the security- and defence-related laws and decisions on strategy and defence. The changes affected relations at various levels: between the Parliament, the President, and the Ministry of Defence; between the President and the Ministry of Defence; and between the President, the Minister of Defence, and the General Staff.

Moreover, the National Security Strategy, issued at the same time as the Defence Strategy in March 2002, redefined Croatia's security posture, altering the mission of the armed forces.

Step by step, the constitutional and legal changes have shifted political power from the President to the government and the Parliament. The legal and constitutional changes were intended to clarify uncertainties in the political relationship between the President, the Parliament, the Ministry of Defence, and the Chief of Staff. However in some areas of strategic and defence planning they have introduced uncertainty. Taken as a whole, they imply that the President's powers are derived from the Parliament, despite the fact that he is elected directly, i.e. by direct elections and that his function is to be a guarantor of the Constitution.

Croatia, like some of the other new political establishments of South Eastern Europe, has encountered problems in establishing constitutional and legal control. One problem area is the imprecise constitutional provisions about the civilian structure of control over the armed forces which have led to conflicting interpretations by Presidents and Prime Ministers about their political prerogatives. This has led to political contests or rivalries between the President and the government. Croatia has not avoided this. However, it should be made clear which political entity – the President, the Cabinet (i.e., the Defence Minister), and the Parliament – possesses what political powers for control. If there is ambiguity, the armed forces do not have a clear chain of command and there will be political confusion. Unfortunately, at present there is some confusion among Croatia's policy-makers and, therefore, in the civilian-military defence community as a whole, concerning roles and responsibilities.

## **The President**

The President is the Commander-in-Chief of the Armed Forces and is responsible for the defence of the independence and territorial integrity of the Republic of Croatia. During a state of war the President may issue decrees with the force of law, "within the authority obtained from the Croatian Parliament". If the Parliament is not in session, in the case of an immediate threat to the independence, unity and existence of the State, or if the government bodies are prevented from performing their constitutional duties, the President shall, on the proposal of the Prime Minister and with his counter-

signature, issue decrees with the force of law. The President, however, has to submit these “decrees with the force of law” for approval to the Croatian Parliament, as soon as it is in a position to convene. The President, as the Commander-in-Chief, appoints the Chief of the General Staff; promotes the officers and generals and gives commissions to active service officers; appoints and removes military commanders and officers to the positions equivalent to the rank of colonel and above. The President has the right to present his opinion on the Prime Minister’s proposal to the Minister of Defence; he gives his consent to the National Security Strategy and the Defence Strategy, but is responsible for issuing the Military Strategy himself.

The Constitution, after the amendments and more recent laws, continues to give extensive responsibilities for the security and defence of the Republic. Croatia had an awkward command system, under which the Presidency was linked directly to the General Staff with the Ministry of Defence not involved. The recent laws which were intended to introduce more clarity in defence affairs have introduced some confusion and, at times, make the President’s responsibilities ambiguous and awkward. He has no role in the making of the National Security Strategy and thereby has very limited influence upon defence policy. Although the President can refuse to accept defence legislation passed by the Parliament and send it to the Constitutional Court, this would be an extraordinary step.

As the Commander-in-Chief of the Armed Forces and the political institution constitutionally responsible for the defence of the country, the President is responsible for the Military Strategy but does not have any influence on the Military Budget and the content of the Armed Forces Long-Term Development Plan. Successful defence of the country depends basically on the level of military capabilities and they will be the result of investments in the military structures and development plans providing for their upgrade. The position of the President resembles the position of the Chief Executive Officer in a large company who is responsible for the operations and well-being of the company but cannot influence its finances or development plans.

There is still a special power vested in the Presidency as far as directing the operations of the security services is concerned, as well as the appointment of the heads of the security services. Yet this provision is modified by a requirement that the President is obliged to cooperate with the government (Prime Minister) in directing the operations of the security services, all in accordance with the Constitution and the Law. The appointment of the heads of the security services must also be counter-signed by the

President and the Prime Minister, given 'the prior opinion' of the Parliamentary Committee for Internal Affairs and National Security. The Ministry of Defence prepares and the government presents to the Parliament the Annual Report on Defence Readiness without any involvement of the President, who is Commander-in-Chief of the Armed Forces and bears responsibility for the territorial integrity and independence of the country.

### **The Parliament**

The Croatian Parliament ('Hrvatski Sabor') has a strong role in security and defence policy. It declares war or peace, approves the budget, the National Security Strategy and the Defence Strategy, and accepts the Armed Forces Long-Term Development Plan. It also carries out civilian oversight of the Armed Forces and Intelligence Services.

The Parliament has two Committees which deal with security and defence affairs, the Committee for Foreign Affairs and the Committee for Internal Affairs and National Security. It also has two powerful control instruments in its hands. The State Attorney is directly responsible to the Parliament. The Attorney's task is to protect the rights of the citizens in any dealings with the Defence Ministry, Armed Forces and Security Services as well as to protect the members of these institutions against any kind of ill treatment. The State Accounting (Revision) Office checks all expenditure of state institutions and organisations. In doing so, it is authorised to concentrate mainly on the legality of spending. Both organisations make an annual report to the Parliament, and the Parliament is authorised to discuss their findings and accordingly propose certain actions to be taken by the executive branch. Both of these organisations can influence the quality of democratic control and oversight of the security and defence structures – assuming that the political will to exercise it conscientiously exists.

If the Parliament's functions, in the past, were circumscribed there are clear signs it is intent on expanding them. The Parliament's present responsibilities include approval of the National Security Strategy and the Defence Strategy. This is a common practice in the transitional countries. However, these key policy documents have been prepared at short notice, by few people, with little professional or expert guidance. They were developed in the Defence Ministry, without any participation by the professional military, the General Staff, and circumvented the Commander-in-Chief, the President. These important strategic documents were considered in parliamentary committee only

perfunctorily, shortly before they were debated and accepted by the Parliament as a whole.

There was an attempt to put control of internal intelligence directly under the Parliament, and it was changed only in the last version of the Security Services Law. Undoubtedly, Parliaments needed to have oversight functions, but the initial version of the law, if accepted, would have meant that the Parliament would have part of the security apparatus at its disposal, which is beyond the accepted norms of Parliamentary oversight.

Assuming that the Ministry of Defence prepares and presents the required documents effectively and in a timely fashion, which has not always been the case, the Parliament needs expertise in defence affair to consider them adequately. Possibly a special office should be established in the Parliament that would provide representatives with the information and the relevant security and defence analysis, if required. From the existence of such an office the Parliament and especially its Committee for Internal Affairs and National Security would strongly benefit. The long-term consequences for the development and execution of the security and defence policy remain to be seen.

After the legal changes of 2002, the President has limited input on national security and defence decisions, for example, on the National Security Strategy and the Defence Strategy. In Croatia, where the popularly-elected President has a strong role in defence affairs, awkwardly developed legislation could lead to undermining the “checks and balances” authority of the President.

### **The Ministry of Defence**

The changes in defence-related laws rearranged the Ministry’s relationship with other political bodies and altered some of the responsibilities of the Ministry. They were meant to make it an intermediary between the General Staff, the President, the government, and the Parliament as the political institutions responsible for the national security and defence of the country. The enhanced position of the Ministry is evident from the fact that basically all the proposals, acts or documents of the General Staff have to have the Minister’s signature or at least consent, before being presented to the above political institutions. Formerly the Minister of Defence was out of the chain of command, which went directly from the President to the Chief of the General Staff while the Minister, not the President, was responsible for defence affairs to the

government and the Parliament although the Defence Ministry's links with the Parliament were rudimentary, at best.

During peacetime the Minister is responsible to the President for the execution of his orders and during wartime the President exercises direct command through the Chief of the General Staff. The Minister has to be informed about all the actions taken by the President. The Ministry prepares the defence budget, which the government includes in the overall budget for the Parliament, prepares the draft of the National Security Strategy and the Defence Strategy, which are subsequently approved by the Parliament. The Minister gives consent to the draft of the Military Strategy which, however, is approved by the President. The Ministry prepares the Annual Report on Readiness and the Armed Forces Long-Term Development Plan, and is responsible for the personnel management and career development of the civilians and the military.

The Defence Ministry is undergoing considerable reorganisation. Judged by the number of people working in it, it is huge, with some 3,000 staff. According to published information, should be reduced from more than 3,000 to somewhere around 2,000, which continues to be a considerable number for a country Croatia's size. It consists of eight departments, each headed by a politically-appointed Assistant Minister. Because Croatia has had coalition governments, the Assistant Ministers are chosen on political grounds, which does not encourage cooperation. There has been little lateral communication between the many departments of the Ministry, which frequently resulted in delays and lack of coordinated planning.

Before 2000, career officers held most of the key positions in the Ministry. Although the proportions of the military personnel and civilians in the Ministry have been changed in favour of civilians, there are still a significant number of soldiers, some of them still in high positions. What has been changed, although not completely, is that the majority of the key positions (deputy ministers and assistant ministers) are held by the civilians. Still, there are some leftovers from the past, for instance personnel management or equipment acquisition are still being run by military personnel.

There is a considerable difference of defence competence between the individuals in the Ministry's leadership, but most senior officials have limited experience. Coupled with the fact that there was a lack of connection between the Ministry and the General Staff, defence proposals were developed without appropriate, effective consultation with the Armed Forces. For example, a previous Defence Minister made a public

statement in the summer 2001 that he wanted to abolish the conscription system by the end of the year without asking for the opinion and advice from the Chief of the General Staff. There was no understanding in the government and the Parliament as to what this would entail and that, in practical terms, such a rapid change was not possible.

### **The Armed Forces and the General Staff**

According to the description of an outside observer, published in *NATO Review*, Croatia's military have accepted the principles and practices of democratic, civilian control:

When Croatian voters rejected the political party that had led Croatia to independence and had been in power for the past decade, despite calls from some rightwingers for a coup, the Croatian Armed Forces refused to interfere in politics, contributing to a smooth handover of power. While such behaviour is expected in Western democracies, it is not the norm in countries transitioning from authoritarian rule...Generally speaking, an accommodation with the military is one of the essential pre-conditions for a successful transition, making the Croatian military's respect for the political process even more remarkable.<sup>1</sup>

The current roles and responsibilities of the Armed Forces or the General Staff are as follows. The Chief of the General Staff is the principal military adviser to the President and the Minister of Defence. The General Staff participates in the process of preparation of the Military Budget, prepares the Military Strategy, participates in the preparation of the Defence Strategy, participates in the preparation of the Armed Forces Long-Term Development Plan, and proposes appointments of officers in the Armed Forces with the rank of Colonel and above to the President. In reality staff participation in developing the National Security Strategy and the Defence Strategy was minimal, at best.

The armed forces are large, with a force structure meant for the defence of the nation's territory. The officer corps is a mixture of former Yugoslav Armed Forces (JNA) and new officers, many of whom have had little formal military education, but intense combat experience in the Homeland War. The major issue for the General Staff will be

---

<sup>1</sup> Kristan J. Wheaton, "Cultivating Croatia's Military," *NATO Review* (Summer-Autumn 2000), p. 10. Also available at <http://www.nato.int/docu/review/2000/0002-04.htm>

a reduction of the armed forces, carried out with an overall reorganisation of this force structure, in line with the new National Security Strategy.

Due to external military assistance, Croatia has a considerable number of military, and some civilians, trained abroad and capable of carrying out defence reform and serving at NATO Headquarters. The US in 1995 organised military cooperation programmes for Croatia so designed as to promote regional stability and democratisation. US military training assistance to Croatia grew from \$65,000 in 1995 to \$500,000 in 2000. The US trained nearly 200 Croatian military and civilian personnel in the United States and several hundred more in Croatia. The US European Command sponsored a military liaison team in 1996 and has to date conducted nearly 300 events designed to present the US Armed Forces as a role model of a capable military under effective civilian control.

The Marshall Centre in Germany supported higher security and defence learning for foreign and security policy officials. Croatia has sent more than forty members of its defence ministry and general staff to the Marshall Centre for training since 1995. Germany began offering Croatian officers training in its military schools in 1999. Twenty-three officers have been educated in German military schools and 30 have completed familiarisation or orientation events. These courses are on professional military education including battalion- and company-level courses, as well as in the German Command and General Staff College.

The United Kingdom, France, Turkey, Italy and other NATO countries have provided education and training. NATO coordinated these activities during the 1995-2000 period. Croatia itself dedicated significant resources to professionalising and modernising its military:

As a critical mass of trained officers, both commissioned and non-commissioned, began to return from training abroad, NATO officers began to find common ground with an increasing number of their Croatian counterparts. By the end of 1999, every major command, every sector of the general staff, and Directorates in the Ministry of Defence had staff who had attended training abroad.<sup>2</sup>

## **Intelligence, Security and Defence**

---

<sup>2</sup> Wheaton, "Croatia's Military," p. 11.

The Security Services Law created a National Security Council as the political coordination and directing body formed by the top political leaders and led by the President for all the issues regarding the Security Services and national security as such. The members of the NSC are the President, the Prime Minister, the member of the government responsible for National Security, the Defence Minister, the Minister of Internal Affairs, the Minister of Foreign Affairs, the Minister of Justice and the Chief of the General Staff. Other politicians, security experts and professionals can be invited if necessary.

According to the provisions of the Security Services Law, the National Security Council (NSC) exercises democratic control over the security services. It is tasked to facilitate cooperation between the President and the government in directing operations of the intelligence and counter-intelligence agencies.

Among its other responsibilities it has to decide upon and pass Annual directives to the Security Services, and propose the Security Services budget to the Parliament. The same Law created the Office of the NSC as the top intelligence organisation. Its task is to prepare papers, analysis and other materials for the NSC, maintain and facilitate the NSC's uninterrupted operations. It is difficult to explain, however, why this important security body did not hold a single meeting for at least the first seven months of its existence. Is it fair to presume that such a situation suits the needs of the Prime Minister and the government because the Security Services are organised as part of the government (and Ministry of Interior) and by not having regular sessions of the NSC the government can run security and intelligence affairs without the involvement of the President.

The Security Services Law created three agencies, the Intelligence Agency, the Counter-Intelligence Agency and the Military Security Agency. The first two agencies are organised within the government and the third is an organisational part of the Ministry of Defence. The Law clearly divides the roles and tasks of the agencies, preventing them from crossing into each other's area of responsibilities. On the other hand, operational coordination will be performed by the Office for coordination of the Security Services, which is the government's coordination body.

Among its other responsibilities it has to decide upon and pass Annual directives to the Security Services, propose the Security Services budget to the Parliament, and develop analysis and other materials. In terms of security sector reform, Croatia's three

intelligence services, and other government institutions, have to cooperate and develop a risk and threat assessment, which would be considered by the National Security Council. Obviously, Croatia cannot cope with the new risks which have emerged in South Eastern Europe and which have been recognised in the National Security Strategy simply through traditional defence preparations. Therefore defence is only a part of security policy. Defence policy is directed against external military threats. Other provisions against the new risks should accompany it. A risk and threat analysis identifies them, and they are summarised and prioritised in the national security concept. Determining the probability of risks and threats is important, and a failure to do that can invalidate the purpose of a concept.

In the operations of the security and defence structures, the Judiciary has responsibilities. Its task is not only to pass decisions during the court proceedings, thus protecting the rights of the individual citizens. If the Counter-Intelligence Agency wants to apply special surveillance measures against individuals (tapping phones, looking for private data and information about individuals, taking audio and video recordings) it has to ask permission from the Supreme Court. A specially-appointed judge of the Supreme Court has the right to authorise the special measures for acquiring data and information about the citizens. In case of emergency the agency can put these measures into action before the judge authorises them, but not for longer than 24 hours. If the judge refuses to give his permission, the special surveillance measures have to be stopped and all the data and information acquired have to be destroyed.

### **The Defence Community and Society**

Relations between the military and civilians have to be seen in a broader context than in the framework of political institutions. Croatia's armed forces, although at present popular in society at large as a consequence of the Homeland War, could not expect to count on public support perpetually. Understandably, the general public is more concerned with everyday difficulties and its economic wellbeing, a considerable worry for the average Croat, to care too much about security and defence issues. Nonetheless, the civilians and the military of the defence community, in the Ministry and the General Staff, should be well aware of a future need for public support.

The media is the first transmitter of information to the public and, therefore, a link regarding the operations of the security and defence structures. Most daily newspapers have the favourite political option which is used to interpret information according to

their political affiliations. Most reporters and editors do not have the necessary analytical background to cover security and defence issues with authority and some knowledge about security and defence structures, operations, reforms, and changes in the security and defence environment. The media is largely interested in political struggles resulting from or influencing security and defence structures and functions.

Non-Governmental Organisations (NGOs), particularly those engaged in defence, security and foreign affairs, are the second area where the defence community, military and civilians, engage society. It is believed that there are around 20,000 NGOs registered in Croatia. Less than 1,000 are active, or consist of more than few people. But there is a chronic shortage of security- and defence-oriented research institutions. Some of them were established as more or less private ventures. It is still not clear whether they are going to develop as real NGOs or as small security- and defence-related enterprises. Some of the others have strong political affiliation with the political parties, especially those from a rightwing background. One of the more active that even publishes a regular security-related magazine is allegedly financed by the Roman Catholic church (the Franciscan Order).

The influence and role of NGOs as an instrument of maintaining civilian oversight and the influence of civil society on the operations of national security structures is limited. They still have to develop to the desired level and to take the position that belongs to them in pursuing democratic and civilian control and oversight of the defence and security structures.

There is also a considerable lack of security- and defence-related knowledge among the general population that prevents the establishment of any coherent views. People tend to take sides according to their political views, disregarding any information that might cast a different light and perspective on a security- and defence-related issue. The necessity for defence reform is a clear sign. Most people do not understand the complex task of reforming the armed forces. Partly this is due to lack of interest among the general public, partly to the weakness of the NGOs, and partly the result of lack of understanding and initiative in the Ministry of Defence and the Armed Forces, the political institutions responsible for security and defence operations.

There is no regular annual publication covering the security and defence affairs with the objective of informing and educating the public about the important events regarding Armed Forces operations. Somewhat paradoxically, the Defence Ministry

provides more information on defence to international organisations and other states than to the Croatian public.

In order to address this shortcoming, the Defence Ministry should establish systematic education programmes for the officials of the legislative and executive branch. These programmes should be accessible also to the members of the media and NGOs in order to raise their level of awareness of security and defence issues. In the process of preparation and execution of these programmes, different institutions like the academic community, security- and defence-oriented NGOs, and scientific institutes should be involved. The Ministry of Defence and the Armed Forces should be strongly involved in the creation and execution of these programmes, if not for any other reason than simply because they should be vitally interested in the success of the programmes like these.

## CHAPTER FIVE

---

### DEMOCRATIC OVERSIGHT AND CONTROL OVER INTELLIGENCE AND SECURITY AGENCIES

*Dr Ozren Žunec*

#### **Historical Introduction**

Unlike the majority of European countries that emerged as new democracies relatively easily from the events of the *annus mirabilis* of 1989, Croatia, together with her former ‘partners’ in ex-Yugoslavia, went through the traumatic experience of a full-scale war (1991-1995, dubbed ‘The Homeland War’) that engulfed the country almost immediately after the first free and multiparty elections in the Spring of 1990. Also unlike other countries, which enjoyed at least formal independence in the Communist era and were recognised as members of the international community, Croatia had to establish itself as a new independent country. Accordingly, Croatia had not only to go through complicated and sometimes painful processes of political, economic and social transition, but had also to build key national institutions that were earlier the prerogative of the former federal central government. In addition to that, newly-built institutions had to work under the strain imposed by ongoing war and the need to organise an efficient defence in unfavourable military and political circumstances.

The problem was that the new state was desperately lacking exactly those institutions and organisations that are usually regarded as a potential danger to democracy and that need to be subjected to rigorous control and oversight – the military and intelligence and security services. Due to the exigencies of the war, in the initial phase of institution-building in the newly-independent Croatia the priorities were understandably more on the side of efficacy than on establishing democratic rules and procedures.

#### **The Wartime Organisation**

At the time of the proclamation of independence (25 June 1990) Croatia had a fledgling Ministry of Defence with no armed forces in the proper sense (the first light infantry brigade-strength units with military capabilities were organised in 1990-91 within the Police and Ministry of the Interior), neither civil nor military intelligence services, a

modest Ministry of Foreign Affairs with no diplomatic missions abroad (the country was not recognised before January 1992 and became a UN member in May 1992), and a total lack of legislation on national security institutions and organisations.

The only exception was the State Security Service (Služba državne sigurnosti, SDS), a legacy of the Communist regime. In Yugoslavia prior to 1990, SDS was a federal institution, organised within the Ministry of Internal Affairs, and one of several intelligence and security organisations established mainly to control domestic political and social life along Communist Party lines<sup>1</sup>. The SDS had a long and infamous history of terror and repression in the country and abroad (allegedly, the SDS murdered some 200 emigres, opponents of the regime). The SDS had a federal Directorate and organisation, but there were also hierarchically-organised divisions in the republics.

The new democratically-elected government of Croatia made use of the Croatian division of the SDS. At the end of 1989, the Croatian SDS had some 850 employees, 52 per cent of them Croats and 28 per cent Serbs. But in May 1990, when the new ruling party Croatian Democratic Community (Hrvatska demokratska zajednica, HDZ) took over, the personnel of the Croatian SDS had already shrunk to some 500 employees. Freed of Communist hardliners and the majority of the Serbs, who left the service disaffected with political developments, the SDS accepted the change of government peacefully and cooperated with the new regime.

After the new government came to power, the SDS underwent some *ad hoc* organisational changes. These changes were not systematic and reflected only the needs and imperatives of the moment. Thus the Emigration Department of the SDS was disbanded, and the Internal Enemy Department reoriented to deal with the growing Serb insurgency in Croatia and with threats from federal institutions and Serbia to the new democratic Croatia. The old legal and organisational framework was retained and the SDS remained a division of the Ministry of the Interior, and had law enforcement and police powers. The law applied to its organisation and structure was the old

---

<sup>1</sup> Other intelligence and security organisations of Communist Yugoslavia included the military Intelligence Service (Second Directorate of the General Staff), the military Counter-intelligence Service (known also as the Security Directorate of Ministry of Defence) and the Ministry of Foreign Affairs' Research and Documentation Service. There was also a Commission for Yugoslav Workers Abroad, organised within the Communist Party itself with the purpose of exerting control over Yugoslav citizens working in Western European countries. These services were rivals, and their areas of responsibility usually overlapped, but all of them operated in concert, with guidelines and ideology and in the interest of the Communist Party. For detailed information see Ozren Žunec and Darko Domišljanović, *Obaveštajno-sigurnosne službe Republike Hrvatske. Stanje i načela preustroja za razdoblje konsolidacije demokracije*, (Zagreb: Naklada Jesenski i Turk, 2000):pp.33-48.

Communist Interior Affairs Act of 1989 (ZoUP) which stayed in force for the next 13 years without major alterations. The *modus operandi* and especially the use of the clandestine gathering of data were not regulated by this law, but were left to provisions of the Operation Rulebook<sup>2</sup> issued by the service itself and kept secret from the public. However, the SDS changed its name to Service for Protection of Constitutional Order (Služba za zaštitu ustavnog poretka, SZUP). The old professional personnel who remained in the service after the change of government were soon augmented by former political emigrants who came back to Croatia and who had no experience in security services. This added to voluntarism and improvisations in the service.

Because of the war, SDS/SZUP did not undergo the changes that were usual in other transition countries. There was no spring-cleaning and none of about 800 active secret informers of the Communist SDS went through any review process. Some 72,000 personal files of the SDS were kept and citizens were not allowed to see them. The provisions for oversight procedures by the Parliament were pretty vague and the legislative body of the country could not exercise its legal powers to control the service.

At the same time other intelligence and security services were established. The Ministry of Defence established the Security and Information Service (Sigurnosno-informativna služba, SIS), nominally a military counter-intelligence service. However the SIS, which was not subject even to formal oversight by the Parliament but responded only to the Minister of Defence, became a powerful tool for control of domestic political life for the benefit of the ruling party and political elite. The General Staff of the Armed Forces established the Directorate of Intelligence Affairs (Obavještajna uprava, ObU); among its tasks were also 'classic' military reconnaissance operations.

The most important systematic change in the intelligence and security system of the country during the wartime period came with the establishment of the Croatian Intelligence Service (Hrvatska izvještajna služba, HIS) in 1993. HIS was a foreign intelligence service, but also an 'umbrella' organisation that coordinated the work of the members of 'intelligence community'. The system, organised much after the American model and reflecting the double position of the CIA (being a separate agency and coordination body), also included the newly-formed National Security Office (Ured za nacionalnu sigurnost, UNS) as a supreme state body for direction, coordination and

---

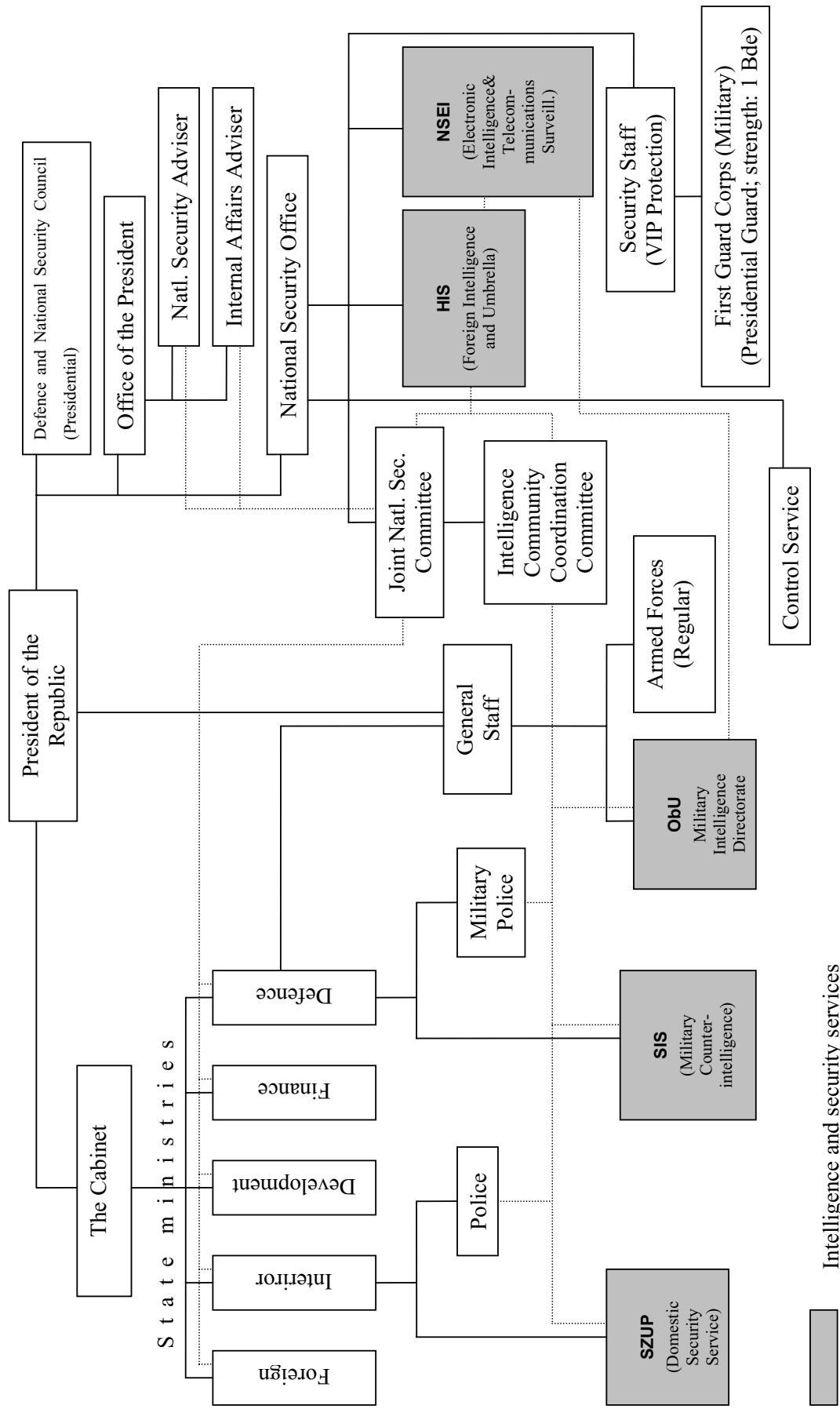
<sup>2</sup> Like the law, the Operation Rulebook underwent no changes from the Communist times.

operational oversight of all national security activities in the whole state administration; the narrower purpose of the UNS was to coordinate the activities of the ‘intelligence community’. The Director of the UNS, responding to the President of Republic only, was a chairman of the Joint National Security Committee whose members were “state ministers” (inter alia, Defence, Interior, Foreign Affairs, Finance) and the Director of HIS. In the UNS organisation there was also the Control Service (Nadzorna služba), tasked with monitoring of activities of all intelligence and security services of the country. Overall oversight over UNS itself was exercised by the President of the Republic. UNS was obliged to submit a yearly report to the Parliament; the parliamentary Internal Affairs and National Security Committee had authority to oversee the legality of the activities of the services. In 1995 the system was finally perfected<sup>3</sup> and the law passed that served as its legal basis (*Zakon o Uredju za nacionalnu sigurnost, ZoUNS*). The organisation of the national security system in that period is shown in Figure 1.

---

<sup>3</sup> For a more detailed overview of the national security system design from that period see Miroslav Tudjman, ‘The First Five Years of the Croatian Intelligence Service: 1993-1998,’ *National Security and the Future*, 1 Summer 2000, pp. 55-57.

Figure 1. The National Security System of Croatia, ca. 1993-2002



Intelligence and security services

## **Post-War ‘Identity Crisis’**

The system worked relatively well during the war, but after the war it had to adapt itself to peacetime tasks, that led to – to put it mildly – a certain identity crisis of the services and the system. Lacking the external enemy, the services turned against what the political establishment thought to be the biggest peacetime national security threat – the ‘internal enemy’, or the parts of civil society that dissented from the authoritarian single-party rule.

On the other hand, the media, the opposition in the Parliament, human rights NGOs and the few independent experts became more sensitised about the activities of the intelligence and security services. There were documented cases of numerous abuses of the services in the political interest of the ruling party, HDZ. SZUP was suspected of spying massively on journalists, opposition politicians, trade union leaders and other opponents of the regime; SIS (military security) transgressed its mission by tracking the activities of NGOs and other civil society subjects; and HIS, although being a foreign intelligence agency, coordinated these activities. There were also indications that the service, or at least some of their employees of various ranks, were actively involved in drugs- and arms-trafficking, car thefts and national and transnational organised crime. SZUP manipulated the files of the former SDS; on several instances the government-controlled media published ‘excerpts’ from the lists of clandestine informers of SDS, aimed at discrediting opposition and even some moderate HDZ politicians. The Parliament was kept in the dark and could not fully exercise its oversight functions. The majority flatly refused repeated requests by the opposition that parliamentary investigation committees on the services be established. Thus the motto and the inscription on the coat of arms of HIS – “Sapere Aude” (“Dare to Know”, after Horace) became the hallmark for frustrating the efforts of the opposition and civil society to bring the security system under control.

Eventually the abuses became a subject of heated political debates between the ruling political establishment on one side, and opposition, the media and representatives of civil society on the other. As the elections of January 2000 approached, the issue of the services became a salient issue in the opposition election campaign. The opposition politicians assured its electorate that, once they come to power, the system would be changed, the services purged, abuses rendered impossible and that the whole sector would never again serve for internal political intelligence purposes.

## **Transition Efforts: the Interim Period 2000-2002**

In the January 2000 parliamentary elections, six centre or centre-left coalition parties overwhelmingly defeated the HDZ. As President Franjo Tudjman, who was head of state and of the ruling HDZ in the whole period from 1990, died in December 1999, in the presidential elections of January 2000 the new President of the Republic, coming from one of the smallest coalition parties, was elected for a five-year term. The road to the security sector reform seemed to be wide open. But, instead of the swift and profound change in the organisation of the services and in control and oversight procedures, other issues prevailed.

### **Turf War Over Services**

During the Tudjman era, Croatia had a semi-presidential system. The President of the Republic was Commander-in-Chief of the Armed Forces and had vast authority: he, among other things, appointed state ministers and the directors of the intelligence and security services who in turn responded to him only. The new coalition government decided to change the system to parliamentary democracy, with more authority and power in the security sector going to the Cabinet, at the same time enforcing the oversight authority of the Parliament. On the other side of the executive branch, the newly-elected President of the Republic was not willing to give up all of his prerogatives, especially in the defence and security sector, and a long and bitter struggle for power ensued. In its claims for more power, the Cabinet could rely on the majority in Parliament. But since the President, coming from a tiny ruling coalition party, could not enjoy support in the Parliament either from the ruling majority or from opposition, he chose to defend his position through public statements and in the media. In this protracted public clash over the security sector, the issues of the primary authority of the democratic institutions of society, the subordination of the intelligence services to the rule of law, the compliance of the intelligence services with democratic values, the political neutrality of the intelligence services, the accountability and parliamentary oversight for the intelligence services, which represent key issues of every sincere security sector reform in democracy, were neglected, and the bitter debate focused on the question of who would appoint whom and whether the services would remain in the 'domain' of the President or answer to the Cabinet. For many months the media abounded with articles and speculation about the outcome of the clash over the security sector.

This intransigence was partly settled with amendments to the Constitution in November 2000 and March 2001. The President retained substantial control over the defence and security sector, but the newly-introduced institution of ‘co-signing’ of appointments of key officials by the President and the Prime Minister provided for augmented authority of the Cabinet. Of course, the Constitution could not give detailed provisions for operations and for control and oversight of the services.

The struggle for power had an adverse impact on reform of the sector. During the protracted stalemate the legal framework of the intelligence and security services and the national security system as a whole did not change. Thus, although the political system changed substantively, at the beginning of 2002 the law in force regulating the clandestine collection of data was still the Communist law of 1989 (ZoUP), and the law in force regulating the functioning of the system was still the law that the HDZ had passed in 1995 (ZoUNS). The institutions of the system worked as before.

Many incidents involving the security services occurred in the first three years of the new government (2000-02). They demonstrated serious flaws in the outdated system and reflected the lack of will and competence to introduce changes.

In February 2002, two days before the newly-elected President of the Republic came into office, the coalition Cabinet succeeded in appointing the director of the HIS of its choice, using the powers of the acting President of Republic and behind the back of the President-elect. However, three months later the director resigned, disappointed by the slow pace of reform and by his inability to introduce changes, while the struggle for control over the service raged on. Hesitating, the President appointed a new director, and in order to show their resolve to tackle the situation in the services, the President and the Cabinet ordered a Special Police unit to storm the HIS headquarters. The President announced that HIS was ‘practically disbanded’, and a wave of rather arbitrary personnel changes took place. But since the disagreement between the President and the Cabinet was not resolved, the whole incident amounted to a mere reshuffle. The incident had detrimental effect on professionalism in the service and showed that political issues still had the upper hand.

In October 2000, the Intelligence Community Coordination Committee, being a body of UNS which was under the President’s direct control, convened and decided, responding to widespread rumours that the SZUP was eavesdropping on certain

politicians and journalists, that the Control Service of the UNS conduct a thorough investigation into the SZUP's wiretapping facility in Zagreb. The Director of the SZUP declined to allow the Control Service to enter the facility, saying that the Control Service personnel consisted of former high-ranking security officers compromised by their role in spying on the political opposition during the HDZ era and that it was likely that they would inform their 'former employers and protectors in the HDZ', now in opposition, on SZUP activities. The head of the UNS, a close ally of the President and a person of his confidence, argued that the UNS and its Control Service were authorised by the law to conduct supervision and that it was the Constitutional responsibility of the President to exercise control and oversight of the services. Backed by the Prime Minister, the Minister of the Interior, who was responsible for SZUP (at that time SZUP was still a part of the Ministry of the Interior), strongly supported the position of the director of the SZUP, and the investigation was not conducted. The affair raised many questions, but after making headlines for weeks, it just died away. The UNS-SZUP clash demonstrated once again that security services are still the turf of top politicians. It also showed that laws regulating control and oversight are seriously flawed and that in such circumstances political will prevails over national interest.

Although the services cooperated more or less willingly, the Parliamentary Internal Affairs and National Security Committee had difficulty in bringing them to accountability. The causes were not only manoeuvres by the services to dodge control, but also the lack of knowledge and experience of Committee members. In a widely-publicised statement in June 2001, some 18 months after being appointed, the Chairman of the Committee expressed her outrage when she 'discovered' the existence of the NSEI. She wrote a letter to the Minister of Defence requesting information on 'the latest supervision carried out' over this service. In fact, the NSEI was a civilian service and an organisation within the UNS (see FIGURE 1). The case showed that the officials responsible for control and oversight were simply not competent to deal with the problems and to introduce new standards.

Many incidents showed that even when there are at least apparent good intentions, things escape control because of incompetence, lack of adequate legal framework or just because actions taken are part of political struggles. For example, the Ministry of the Interior and the SZUP refused for years to reveal the contents of files and data unlawfully collected on citizens, arguing that there was no provision in law to do so. Suddenly in November 2001, although the law had not changed in the meantime, the Ministry triumphantly announced that citizens would now be able to look at their

'dossiers'. The files opened to public would not comprise only the material from Communist times, but also from the HDZ era. The Ministry said that around 600 persons, including politicians and journalists, who were spied upon by the SZUP for political reasons during the Tudjman regime, would be able to see their dossiers which would be subsequently burnt. The public and the media objected to the destruction of the files, claiming that the idea behind this was to cover up illegal practices from the past and free the service and old cadres in its ranks from responsibility. The decision to burn the files was finally reversed. After months of heated debate and accusations, the affair finished without a resolution.

In July 2000 the Parliament, although its Internal Affairs and National Security Committee was authorised to conduct control and oversight of the services, created a makeshift Commission for Oversight on Clandestine Collection of Data by the services, and appointed three apolitical experts as its members. The services were obliged to submit the names of the persons who were under clandestine surveillance and whose communications were being tapped. The Commission had a duty to see whether the measures applied by the services were lawful and were not violating the legal rights of citizens, but had no means of checking the information received. After several meetings, the Commission simply ceased to exist.

### **The Entanglements of Making a New Law**

In March 2000, the then director of HIS initiated the making of the new laws to reform the security sector and proposed a draft National Security Act. The bill envisaged a new system of organisation of the services, the management of the system in compliance with the principles of parliamentary democracy and strict oversight procedures. The director of the SZUP also proposed a new law on his service. According to that bill, the SZUP was to become an independent agency answering to the Cabinet; it would also lose the police powers it had from Communist times. The *ad hoc* informal coordination body under the Deputy Prime Minister revised these bills, but after months of debate the projects were killed off because of the irreconcilable differences between the Cabinet and the UNS, viz. the President of Republic, on who would control what.

In September 2000, a group of experts was organised under the auspices of the UNS and with the approval of the Cabinet, with the task of writing a new bill from scratch. The work progressed well, but in spring 2001, when the bill of the expert group was

finished, the Cabinet announced that it would prepare a wholly new bill. The Deputy Prime Minister organised another group that produced at least four different versions of the bill. Although a classification of a bill of public law makes no sense, the Cabinet stamped the proposals 'State Secret' (the highest classification level), in an obvious attempt to hide its intentions from the other side, the President of Republic and the UNS. One of the versions envisaged the establishment of two mega-services, one civil and one military, with integrated intelligence and security missions. They would answer directly to the Cabinet as its agencies and would have ample missions and powers, including police and criminal investigation powers in cases of organised crime and corruption. The services seemed to be designed as the Cabinet's super-police that could serve political purposes. However, the proposals were leaked to the public and provoked another round of bitter objections from all sides and increased mistrust. The Minister of Defence, arguing that military service should have powers to deal with civilians, only added to the confusion.

In a dozen or so meetings between the Prime Minister and the President of the Republic behind closed doors, a compromise was finally reached. The Cabinet drafted the final version of the proposal of the Republic of Croatia Security Services Act (ZoSS) and in March 2002 the bill went to the Parliament. In the parliamentary debate the representatives stressed that the ZoSS was welcome and overdue. The opposition complained that the bill only reflected a shift in the balance of powers between the Cabinet and the President, who for two years competed for control over services and tried to outwit each other with the President ending on the losing side. Representatives also objected that the system was as opaque as before, that no significant change was likely to take place, that the intelligence and security system had become an arena for showdowns, with many top secret documents leaking to the press to the detriment of the reputation of the Republic of Croatia. Some even stated that during the years of neglect the system had suffered ruinous damage, that the intelligence community itself was permanently plagued by inter- and intraservice quarrels and disputes and that the near-destroyed system had become a threat to national security itself. What contribution, they asked, could Croatia make to the antiterrorist coalition with the national security system in such a bad shape?

The parliamentary majority passed the bill anyway on 21 March 2002 and the ZoSS entered into force on 1 April 2002. The legal framework for the first phase of the security sector reform was in place. Two days before, on 19 March, the Parliament had also passed the National Security Strategy (SNS), a conceptual document in which the

Parliament defined national security issues and policies. It seemed that the reform of the security sector was about to begin after two and a half years of preparation. But these expectations were not met in next six months. Up to the end of 2002 the main provisions of the ZoSS had not been implemented.

### **The Intelligence and Security Sector in 2002: Constitutional and Legal Framework**

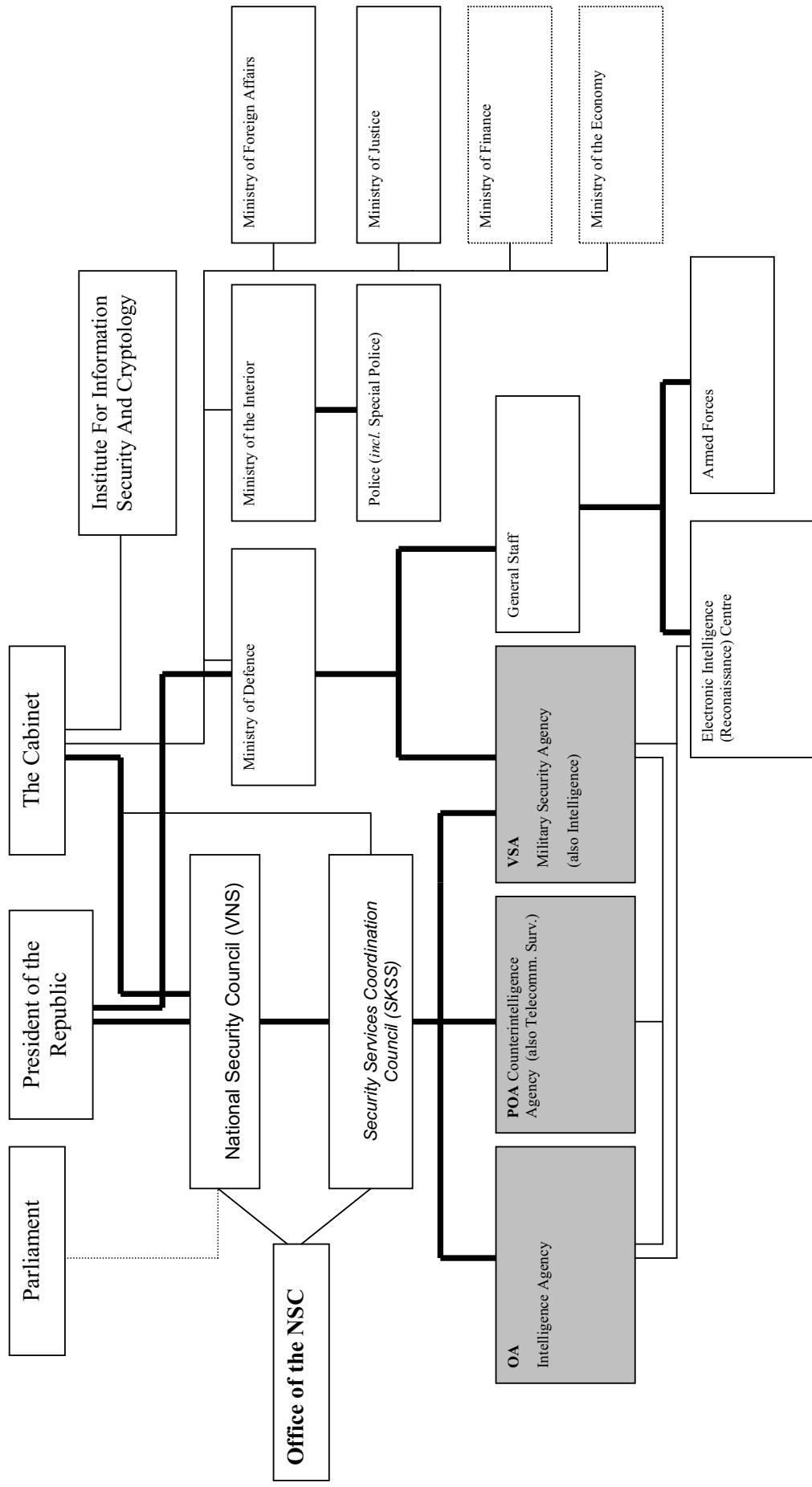
The acts of legislation that regulate the activities of intelligence and security organisation in Croatia are the Constitution of the Republic of Croatia (Constitution), the ZoSS and the SNS.

According to the Constitution, the President of Republic and Prime Minister jointly appoint ('co-sign') the directors of the services and are responsible for overall guidance and oversight of the services. The Parliament, apart from exercising control and oversight functions (to be discussed in detail later), passes also the SNS as an overall guideline for national security policies.

### **The Supreme Management of the System**

The detailed provisions of the management of the national security system of Croatia (see Figure 2) are given in the ZoSS. The ZoSS provides for a supreme joint consultation body of the executive branch, the National Security Council (Vijeće za nacionalnu sigurnost, VNS), whose full members are the President of the Republic, the Prime Minister, the Cabinet Member for National Security affairs (usually the Deputy Prime Minister), the Defence Minister, the Minister of the Interior, the Minister of Foreign Affairs, the Minister of Justice, the Head of General Staff of the Armed Forces and (without a vote) the President of the Parliament. In a state of national emergency and war the additional members (without a vote) are the Chairman of the Parliamentary National Security Committee, the Minister of Finance and the Minister of the Economy.

FIGURE 2. National security system of Croatia (April 2002)



The VNS is designed mainly to secure cooperation between the President and the Cabinet in managing the activities of the services and in controlling them. The VNS creates Yearly Guidelines for Security Services, agrees on control and oversight activities, and proposes the services' budget. In order to comply with Constitution, all VNS decisions' are to be 'co-signed' by the President of the Republic and the Prime Minister.

The ZoSS provides also for a Security Services Coordination Council (Savjet za koordinaciju sigurnosnih službi, SKSS) whose members are the Cabinet member for National Security (Chairman; also a member of the VNS), the National Security Adviser to the President of the Republic (Vice-Chairman), the directors of all three agencies and the head of the Office of the National Security Council (Ured Vijeća za nacionalnu sigurnost, UVNS). The SKSS is charged with implementation of the decisions of the President of the Republic and the Cabinet regarding security services and with operative coordination of their activities.

The UVNS is an office for administrative support of VNS and SKSS. It is tasked with preparing materials, reports, analyses and other documents that will enable the President of the Republic and the Cabinet to direct, control and oversee the services. The UVNS takes care of dissemination of the intelligence and security services' reports and information and keeps a Central Register of such documents. The UVNS is explicitly forbidden to conduct any activities that are reserved by law for the security services or to give them tasks for such activities.

It can be concluded that the new system of management, as stipulated by ZoSS, differs from the old (as in ZoUNS of 1995) in the fact that the Cabinet has more say in management of the services. All the bodies provided for in ZoSS existed before, albeit under different names, and were in the exclusive 'domain' of the President of the Republic. The substantial change is that the powers of both parts of the executive branch are now almost equally divided and balanced.

## **The Missions of the Intelligence and Security Services**

The ZoSS provides for three intelligence and security services.

The civil Intelligence Agency (Obavještajna agencija, OA) operates on foreign territory and is tasked with gathering, collection, analysis, assessment and distribution of information on foreign political, economic, security and military developments, especially those that can point to intentions, capabilities, plans and clandestine activities that can pose a threat to national security. It is also tasked with counter-intelligence protection of the Croatian citizens and institutions abroad. The OA is an independent government agency and responds to the President of the Republic and the Cabinet through the SKSS and VNS.

The civil security service, the Counter-intelligence Agency (Protuobavještajna agencija, POA) operates on Croatian territory and is tasked with gathering, analysis and evaluation of information on the activities of foreign intelligence services and of individuals and groups that can be a threat to national security. It also provides counter-intelligence protection for protected officials, objects and spaces, according to the specifications issued by the Cabinet. The POA is also charged with security clearances of individuals that are or could be in contact with classified information. The POA maintains a centre for telecommunications surveillance and is authorised to cooperate with telecommunications operators in Croatia and to control their work. It also directs the use of protection measures in information technology in government institutions. The POA cannot act independently against military personnel. As with the OA, the POA is an independent government agency and answers to the President of Republic and the Cabinet through the SKSS and VNS.

The Military Security Agency (Vojna sigurnosna agencija, VSA), is a division within the Ministry of Defence, tasked with intelligence and counter-intelligence support for the Ministry and the Armed Forces. The VSA analyses and assesses data on foreign armed forces and defence systems, on external pressures that can influence Croatian defence security and on external activities against Croatian defence capabilities.

In peacetime, VSA uses material collected by the OA. During war or in a national emergency ('imminent danger'), VSA is authorised to collect data on foreign territory.

In its counter-intelligence capacity, VSA collects, analyses, processes and assesses data on intentions, capabilities, plans and activities of individuals and groups that can pose a threat to national defence capabilities, and acts in order to detect and thwart these activities. VSA also provides for counter-intelligence protection of protected officials, objects and spaces of the Ministry and the Armed Forces. If suspicious activity is detected, VSA can conduct an investigation against military and civilian personnel of the Ministry and members of the Armed Forces. VSA is also tasked with security clearances of Armed Forces and Ministry of Defence personnel. VSA is forbidden to act against civilians outside the Ministry and Armed Forces; if civilians are connected with activities that VSA is by law authorised to investigate, VSA must cooperate with POA.

Strategic electronic reconnaissance for OA and VSA is conducted by the Electronic Reconnaissance Centre of the General Staff of the Armed Forces. Plans for these activities are decided by SKSS, as proposed by the directors of OA and VSA.

Directors of the services are nominated and appointed jointly ('co-signature') by the President of the Republic and the Prime Minister, the only exception being the director of VSA who is nominated by the Minister of Defence. Prior to appointment, the candidates for these positions must undergo a scrutiny and review process by the Internal Affairs and National Security Committee of the Parliament. Directors are appointed for a four-year term.

Directors can be removed from their posts if they resign, if they lose the ability to perform their duties, if they do not work in accordance with the guidelines issued by the President of the Republic and the Cabinet, if they violate the Constitution, laws and other regulations, if they reveal secrets and if they are found guilty of a criminal offence making them inappropriate for their duties. The President of the Republic, the Cabinet and the Parliament can initiate removal. If the Parliament initiates the removal of the director, the President of the Republic and the Prime Minister are obliged by law to remove him; if, on the other hand, the President of the Republic and the Prime Minister initiate the removal, they can, but are not obliged, to ask for a view from the Parliament.

## **Activities and Powers of the Services**

By the ZoSS, the intelligence and security services are given powers to gather and collect data from individuals and from public sources, including those already collected and registered by state administrative bodies which are obliged by law to cooperate. They are also authorised to gather and collect data using clandestine methods.

The services can conduct ‘informative interviews’ with individual citizens only with their prior consent. These interviews can be video- or audiotaped only with the formal consent of the interviewed person. If a person the service believes has information that can be important for national security declines to give consent for an interview, the service will ask the Ministry of the Interior to conduct such an interview, according to law.

Services are authorised to use clandestine informers. No one can be forcibly induced to become an informer of the service.

The ZoSS regulates in detail the clandestine data-gathering and collection (CDGC). It must be noted that the law defines the measures of clandestine data-gathering as ‘measures that temporarily suspend some constitutional rights and basic liberties’. This shows that the legislative body was fully aware of the damage that unlawful clandestine measures can inflict on the rule of law and democratic principles. The ZoSS stipulates that CDGC is only a ‘last resort’ measure, to be conducted only if there is no other way to gather information. If several options are available, the method that is the least invasive must be used.

There are differences in authority of the different agencies to conduct CDGC. POA has no limitations in scope, but VSA can conduct CDGC only against military and other Ministry of Defence personnel, as stipulated in its mission as defined by law (see above).

The CDGC measures are:

- Surveillance of telecommunications devices
- Surveillance of international transit telecommunication connections

- Mail surveillance
- Taping of spaces and objects
- Surveillance of commodities and other exchanges
- Clandestine tracking, observing and video- and audio-taping of persons in open spaces and public places <sup>1</sup>

To conduct CDGC, services must obtain in advance a written warrant issued by a judge of the Supreme Court of Justice. Only in cases when such a warrant is impossible to obtain in time, can services use CDGC measures without it, but only for 24 hours maximum and than obtain a warrant or cease to use CDGC. If the judge refuses to issue a warrant for a CDGC measure already in course, all the material obtained must be destroyed. If the judge refuses to issue a warrant, he or she will inform VNS of his reasons for doing so. The use of CDGC, as authorised by a warrant, can last four months. After that period a new warrant must be obtained from a group of three judges of the Supreme Court of Justice.

The telecommunication services providers (e.g. phone companies) are obliged to cooperate with intelligence and security services and let them directly use CDGC measures on their premises and devices.

The services have no police powers. They cannot arrest or detain suspects and are not authorised to conduct criminal investigation of any kind. If, using CDGC, they detect criminal activity, they must report it to Office of the State Attorney (state prosecution body), except in cases when such reporting is not in the interest of national security.

Services are authorised to keep files on citizens. Citizens can claim disclosure of data collected on them and ask to be informed whether any measures are being conducted against them. The service must disclose this data, except in some cases. Data collected by services can be used only in connection with missions and tasks of the service, as defined by this law. Illegally-collected data cannot be used for any purposes. The data collected, but without bearing on the task of the service, must be destroyed.

---

<sup>1</sup> Ozren Žunec and Darko Domišljanović, *Obavještajno-sigurnosne službe Republike Hrvatske. Stanje i načela preustroja za razdoblje konsolidacije demokracije*, (Zagreb: Naklada Jesenski i Turk, 2000), pp. 227-228.

The ZoSS also defines in detail security clearance procedures and other activities (e.g. protection against wiretapping). It authorises the services to use false identities (of personnel, firms, etc.) and clandestine services of other subjects.

Internal organisation and details of activities of the services, not stipulated by the ZoSS, are covered by various regulations that remain classified. The internal organisation of the services and their activities must be organised in such a way that individual responsibility can be ascertained at all times.

Services' employees must obey the orders of their superiors, even in cases when their life or health is in danger. The only exceptions are cases when an employee deems that the order is illegal; in such a situation, he or she can ask for a written order and must be given one. If he or she receives it, they are free from any prosecution for execution of the illegal order. If an employee deems that the execution of the order would constitute a criminal offence, he or she is not obliged to execute it, but must immediately inform the Chairman of the SKSS and Chairman of the Parliament Internal Affairs and National Security Committee. The employee cannot be prosecuted for acting in this manner.

### **Dissemination of Intelligence and Security Products**

The ZoSS provides that the primary users of the services' products are the President of the Republic, the President of the Parliament, the Prime Minister and the Chairman of the SKSS. The user of VSA products is, in addition, the Minister of Defence. The Head of the General Staff of the Armed Forces can use VSA products only if information is pertinent to the Armed Forces. Other ministers can also receive some products.

### **Parliamentary Control and Oversight**

In addition to the executive branch that exerts control and oversight through its top officials and supreme bodies and institutions (the President of the Republic, the Cabinet, the VNS, and the SKSS); the Parliament has rights and duties to exercise permanent control and oversight over the services.

Parliament exerts control and oversight directly and through its Internal Affairs and National Security Committee. In order to fulfil its oversight functions, Parliament is authorised to seek and receive the following types of information:

- From the President of the Republic and the Prime Minister: reports on the state of national security;
- From the services: information on activities and measures undertaken;
- From the President of the Supreme Court of Justice: information on CDGC measures undertaken in general or against individual persons;
- From the services: information on CDGC measures undertaken in general or against individual persons;
- From the services: report on information collected by the services on parliamentary representatives or members of their households.

In addition to this, the Parliament can summon a candidate for the post of a director of a service for a hearing. The Parliamentary Internal Affairs and National Security Committee is authorised to hear directors and other employees of the services, to discuss and review the legality of the activities of the services, to discuss and review the legality of the services' financial transactions and use of budgetary allocations, to discuss and review the report of the People's Ombudsman on the protection of constitutional rights and liberties and to discuss and review the activities of the services pertaining to the foreign policy of the Republic of Croatia. The representatives of the VNS and of the services must normally be present at the Committee session.

The Presidency of the Parliament can decide what information and reports will be reviewed and discussed at the plenary session of the Parliament, and information and reports will be reviewed and discussed at the session of the Parliamentary Internal Affairs and National Security Committee, which will remain closed to the public. Information given to the Parliament cannot contain data that can reveal the identity of clandestine informers or that can reveal the methods of data gathering and collection.

In order to exert its control and oversight functions, the Parliament established a Council for Oversight over the Security Services (Vijeće za nadzor sigurnosnih službi, VNSS). VNSS consists of a Chairman and six members, appointed by the Parliament for a four-

year term. Members of the VNSS must be Croatian citizens and must have university education. One of them must have a degree in Law, one in Political Sciences, and one in Electronics. The Chairman and the members of the VNSS are responsible to the Parliament. The Parliamentary Internal Affairs and National Security Committee controls the legality of their work.

The VNSS has the following rights and duties:

- To monitor the legality of the services' activities;
- To monitor the legality of the use of CDGC that suspends constitutional rights and fundamental liberties;
- To monitor foreign national security legislation;
- To send reports on foreign national security legislation to the VNS, the President of the Parliament, the Chairman of the Parliamentary Internal Affairs and National Security Committee and the directors of the services.
- To propose changes in the law, relating to the legal aspects of the services' activities;
- To report on requests for monitoring the legality of services' activities submitted to the VNSS by citizens, state bodies, businesses or service employees.

In its proceedings, when it is necessary to assess the legality of the services' activities, the VNSS can examine reports and other documents of the services and can hear the services' directors and other employees. The activities of the VNSS are to be conducted in accordance with a plan determined by the Parliamentary Internal Affairs and National Security Committee. But VNSS can also act upon the requests of citizens, state bodies and businesses when they claim or have reason to believe that some activities of the services are not legal. The employees of the services can also request the VNSS to examine certain activities of the services if they deem them to be illegal. If they submit such a request, they cannot be prosecuted for that. After reviewing and examining a request, the VNSS gives a report to the person or body that submitted the request. If illegal activity is detected, the Chairman of the VNSS will inform the President of the Republic, the President of the Parliament, the Prime Minister, and the Chief State Attorney. Regular reports of the VNSS to the President of the Parliament are due every six months.

## **Additional Control and Oversight**

Apart from the executive and legislative branch, the activities of the services are directly or indirectly controlled and overseen by a plethora of other institutions. The role of the judiciary (Supreme Court of Justice and State Attorney) has already been discussed.

The Public Ombudsman, an independent institution whose head is appointed by the Parliament, reviews cases of citizens' rights violations, including violations by the services, and can act upon them. The Constitutional Court can also review each and every decision by all state institutions and is authorised to reverse them, if found unconstitutional. The State Accounting (Revision) Office, an independent office tasked with reviewing the financial transactions of state bodies and institutions, can also act upon illegal spending in the services.

It can be concluded that the legal framework of Croatian intelligence and security services is elaborated in concordance with principles of liberal democracy and that there are sufficient means for control and oversight of these services.

## **Conclusion: The Stalemate Prolonged**

Although there are some more or less serious flaws in the ZoSS (for example, there is no provision on how it is determined who is the 'Cabinet member for national security' since such a function does not exist in the Constitution nor in the laws regulating the institution of the Cabinet), the Constitution, the ZoSS and other applicable laws provide for a balanced system of national security management, intelligence and security service activities and for control and oversight. If the laws and regulations were the only criteria for the effectiveness and accountability of the national security system, Croatia would have an almost perfect system.

But the reality is very different and the discrepancies between the legal norms and reality are enormous. The actual state of affairs suggests that the national security system of Croatia is in a rather chaotic state or even in ruins. The main reason for this is that there is no political will, knowledge and experience to make the law and regulations work.

At the moment of writing (December 2002), eight months after the ZoSS came into force (1 April 2002), almost none of its provisions have been implemented.

The VNS was never constituted and has never met, nor has the SKSS. This means that the services and the whole security system are without directions and guidelines and that services operate on their own. None of the statutes and regulations for the functioning of the VNS and SKSS was passed, although the deadline was (on average) 60 days after the ZoSS entered into force. The UVNS was never established.

The directors of the services have still not been appointed (the deadline was 30 days after the ZoSS entered into force). The old directors, appointed before the ZoSS and by other laws, are retained in service as acting directors.

Although the Parliamentary Internal Affairs and National Security Committee exists (from before), it has not resumed its duties according to the ZoSS. The VNNS has not been established, and its Chairman and members are not appointed. This, combined with the fact that other bodies and institutions tasked with control and oversight over intelligence and security services, for which the ZoSS provides, do not exist, amounts to a situation where there is no control and no oversight of any kind. This makes Croatia unique among multi-party democracies.

The biggest flaw of the ZoSS is that the services were not restructured – their names have just been changed (HIS became OA, SZUP – POA, and SIS/ObU – VSA) but their organisation, internal composition and other features remain the same. As mentioned before, the organisational chart of the whole system changed very little.

If the law is not implemented and applied, and if there are no guidelines, directions, control and oversight over the services, the system cannot function in accordance with democratic principles. The chaotic situation in the services as it existed before the passing of the ZoSS is getting worse and worse, the system is not coordinated, parallelism of activities and overlapping authorities still exist, leaving services

unaccountable. The only hope, fragile as hopes are, is that the professionalism of the services' personnel will prevent grave abuses.

One must therefore agree with a statement made in February 2002 by the Prime Minister that "the situation in Croatian security services is catastrophic". The only problem is that 10 months have passed without any action to reverse that situation and that the passing of the ZoSS seems to be nothing more than an entertainment for top-ranking officials who tried to outwit each other and grab more power for themselves.

## **Literature**

### **1. Studies**

\*\*\* (s.a.), *Recommendations with regard to Domestic Intelligence Gathering in Peru* (Cambridge: MA: Project on Justice in Times of Transition, Harvard University).

Africa, Sandy – Siyabulela Mlombile, *Transforming the Intelligence Services: Some Reflections on the South African Experience*, (Cambridge, MA: Project on Justice in Times of Transition, Harvard University, 2001).

Baleanu, V. G., *The Enemy Within: The Romanian Intelligence Service in Transition*, (Camberley, Surrey: Conflict Studies Research Centre, The Royal Military Academy Sandhurst, January 1995).

Hatzadony, John (s.a.), *The Croatian Intelligence Community*, available at: <http://www.fas.org/irp/world/croatia/index.html> (Overview and critique as of December 1999. Partly flawed).

Heymann, Philip B, *Controlling Intelligence Agencies*, (Cambridge, MA: Project on Justice in Times of Transition, Harvard University, 2001).

Heymann, Philip B., *Rules and Compliance of Intelligence Agencies*, (Cambridge, MA Project on Justice in Times of Transition, Harvard University, 2001).

Muresan, Liviu, 'Security Sector Reform: An Opportunity for the Euro-Atlantic Integration of Romania', *Geneva: Geneva Centre for the Democratic Control of Armed Forces (DCAF) Working Paper Series*, No. 11, p.12

Panner, Morris (s.a.), *Improving Intelligence Operations by Setting Law Enforcement Goals and Objectives*, (Cambridge, MA: Project on Justice in Times of Transition, Harvard University).

Rindskopf Parker, Elizabeth, *The American Experience: One Model for Intelligence Oversight in a Democracy*, (Cambridge, MA: Project on Justice in Times of Transition, Harvard University, 2001).

Tudman, Miroslav 'The First Five Years of the Croatian Intelligence Service: 1993-1998,' *National Security and the Future*, 1 summer, pp. 55-57, 2000.

Žunec, Ozren, Darko, Domišljanović, *Obavještajno-sigurnosne službe Republike Hrvatske. Stanje i načela preustroja za razdoblje konsolidacije demokracije*. (Title in English: *Intelligence and Security Service of the Republic of Croatia. Overview and Principles of Transition for the Period of Democracy Consolidation*), (Zagreb: Naklada Jesenski i Turk, 2000).

## **2. Selected Croatian Legislation**

(Unless otherwise indicated, all documents are issued by the Parliament of Croatia)

'Nacionalni program za borbu protiv korupcije s akcijskim planom za borbu protiv korupcije', *Narodne novine*, 34-2002, 3 April 2002 ('National Programme for Fight against Corruption with Action Plan for Fight against Corruption').

'Odluka o imenovanju članova državnog povjerenstva za praćenje primjene mjera tajnog prikupljanja podataka', *Narodne novine*, 72-2000, 20 July 2000 ('Decision on Appointment of Members of State Commission for following up of Application of Measures of Clandestine Data Gathering').

'Odluka o osnivanju nacionalnog povjerenstva za sigurnost / Vlada Republike Hrvatske, *Narodne novine*, 76-2002, 28 July 2000 ('Decision On Establishment Of National Commission For Security') /Issued by The Cabinet./ Abolished by ZoSS in 2002.

'Strategija nacionalne sigurnosti Republike Hrvatske', *Narodne novine*, 32-2002, 28 March 2002 ('National Security Strategy', SNS).

'Ustav Republike Hrvatske', *Narodne novine*, 41-2001, 7 May 2001 ('Constitution of Republic of Croatia, URH'). See also: 'Ispravak Ustava Republike Hrvatske', *Narodne novine*, 55-2001, 15 June 2001 (Corrections To Constitution of Republic of Croatia).

'Zakon o pučkom pravobranitelju', *Narodne novine*, 60-1992, 1 October 1992 ('Public Ombudsman Act', ZoPP).

'Zakon o sigurnosnim službama Republike Hrvatske' *Narodne novine*, 32-2002, 28 March 2002. ('Republic of Croatia Security Services Act', ZoSS). See also: 'Ispravak Zakona o sigurnosnim službama Republike Hrvatske', *Narodne novine*, 38-2002, 16 April 2002 ('Corrections to the Republic of Croatia Security Services Act'). Entered into force on 1 April 2002.

'Zakon o unutarnjim poslovima', *Narodne novine*, 55-1989, 26 December 1989 ('Internal Affairs Act', ZoUP). Changes and amendments to that law were published in *Narodne novine*, 13-1990, 18-1990, 47-1990, 19-1991, 29-1991, 73-1991, 19-1992, 33-1992, 76-1994, 161-1998, 29-2000, 53-2000. Parts of this Act pertaining to internal security service were abolished by ZoSS in 2002 as the POA became an independent agency.

'Zakon o Uredu za nacionalnu sigurnost', *Narodne novine*, 37-1995, 6 June 1995 ('National Security Office Act', ZoUNS). Abolished by ZoSS in 2002.

'Zakon o Uredu za suzbijanje korupcije i organiziranog kriminala', *Narodne novine*, 88-2001, 11 October 2001 ('Office For Suppression Of Corruption And Organised Crime Act', ZoUSKOK).

'Zakon o zaštiti tajnosti podataka', *Narodne novine*, 108-1996, 23 December 1996 (Protection Of Secret Data Act, ZoZTP).

## **CHAPTER SIX**

---

### **CAPABILITY-BUILDING AND GOOD GOVERNANCE IN SECURITY AND DEFENCE REFORM**

*Zvonimir Mahecic*

#### **Introduction**

Good governance in governmental affairs, defined most simply, means that the civil servants and professional soldiers, from the senior policy-makers to the youngest staff members, know what their tasks are and perform them well. Of course, they would work in efficiently designed governmental structures, or bureaucracies, which would not hinder their efforts. On the one hand, the structures themselves would be transparent, that is, both society at large and the elected representatives of the people could see how well, or how badly, the people's servants, the military and the civilians performed their work and, therefore, to what extent the institutions, as such, have been properly or improperly designed and structured. On the other hand, the individual civilians and the military would be rewarded, by promotions and work assignments, according to their skills and diligence, that is due to their merit. Ideally, these are the characteristics of good governance, although the ideal has not been reached in any country. However, it provides us with a measure of progress in Croatia.

In the area of security and defence reform, good governance, particularly in the political-military establishment of a country in Croatia's situation, has many difficulties and obstacles, old and new. Croatia emerged from a socialist and authoritarian state, became an independent state under an authoritarian President, fought the Homeland War, stayed relatively isolated from the international community until recently, then decided to join NATO and engage in the MAP process, decided to reduce its armed forces, and is assuming at present a new security posture aimed at regional collaboration.

Therefore, the military and the civilians need not only to acquire the skills and habits that are the characteristics of good governance, but, because of Croatia's changing security environment, those which are most necessary. For example, because Croatia decided to join NATO, military and civilian professionalism requires knowledge of international organisations, of service in multi-national headquarters, interoperability, interagency stratagems, and the procedures of multi-national civilian-military bureaucracies. The civilians (as well as the military) have to reorient themselves to regional security, crisis management, and planning armed forces that not only are smaller but have a different force structure. In principle, Croatia's professional soldiers or civil servants could have high performance standards; however, they need to be educated and trained to possess new skills that are replacing those that might have been required a few years ago, but are becoming outdated.

### **Origins of Personnel: Military and Civilians**

When Croatia became independent, there was a lack of national governmental capacity in defence affairs, a shortage of civilians with overall knowledge for defence policy formulation and planning. There was no Defence Ministry and – once established – it was staffed with inexperienced workers; many of them were the military. They had to attain a level of competence and expertise. However, defence and security were, in the first years of Croatia's existence, the Homeland War, and therefore there was a strong dominance of the military. Croatia's new Ministry of Defence expanded, most of the positions being filled by the military.

As a consequence of the war, Croatia's Armed Forces were forced to acquire all the personnel they could get. Croatians from the former Yugoslav National Army (JNA) represented one pool of personnel for the newly-established Armed Forces. They were educated through the JNA's military education system. Although oriented to produce professional soldiers, it had certain shortcomings. First, it was ideologically indoctrinated by the communist elite of the previous state. Second, it was based mostly on the former Soviet type of military doctrine. Third, all the officers from the JNA were educated in the Military Academy and had little or no sensitivity to the problems of civilians and civil society. Fourth, they were taught to consider themselves above the ordinary people and society as a whole. This was the result of the ex-JNA's position as a guarantor of the

existence of the state, its socialist values and brotherhood and fraternity of all the Yugoslav nations. Since Yugoslavia recognised their Military Academy degrees as equivalent to any other kind of University education, the newly-established Republic of Croatia continued the same approach.

Volunteers, usually very young and with very little formal education, represented the second pool of personnel for the Armed Forces at the beginning of the 1990s. They considered themselves the opposition to the group of officers from the JNA. Many of them were good soldiers and fighters but very few of them in the end proved to be good leaders, managers or visionaries. Some of them managed to finish their university education in the years that followed.

The third pool was represented by the civilians with good formal education and usually five, 10 or 15 years of experience in the economy, state management, private enterprises or small businesses. And finally, émigré Croats (from Germany, Canada, Australia and other countries), some of them with military experience (for instance in the Foreign Legion) but mostly with the rank of NCO, represented the fourth pool. Thus the number of Croats in the JNA was not enough to man all the units and to cover all the requirements, so the Armed Forces relied heavily on other sources to maintain a sufficient number of people in the Armed Forces during the War. And, because of this, most of them had poor civil and military education.

## **Military Education System**

Although the system of military education in the Armed Forces was established soon after Croatia's independence, it was hampered by many organisational, functional and personnel problems. The capacity of the military education system was not enough to enable all the officers and NCOs to be educated during the course of the last ten years. Also, for predominantly political reasons, those officers that did not have a proper civilian education were favoured. Courses lasted between three and six months and they simply could not make good the lack of a proper civilian education. Finally, for the good, knowledgeable, hard-working officer somewhere in the operational command, the General Staff or the Ministry, it was almost impossible to be sent to take part in an officers' course because his or her superiors would not want to lose qualified staff.

As a consequence, ten years after the creation of the Armed Forces, roughly two-thirds of the officers were without a proper civilian education and three-quarters without a proper military education. It is not hard to imagine what kind of problems the system faces now when it is the top priority to start the process of Armed Forces reform and downsizing of the personnel.

Apart from an NCO's course established at the Croatian Military Education Centre, the first in the line of consecutive educational programmes was the Officer's Course. It had two different levels, basic and advanced, lasting from three to six months.

Second in line was the Staff and Command School, which provided a one-year programme for about fifty to sixty students every year. This programme was supposed to prepare captains and majors for staff duties from the level of brigade all the way to the positions on the General Staff.

At the end of the 1990s the War College was established. This also provided a one-year programme for twelve to fifteen students, usually of the rank of colonel. The objective was to educate high-ranking officers earmarked for promotion to the rank of general in the field of operational and strategic arts. The aim was to provide the Armed Forces with the specific education and training for the new force structures appropriate for current security and military threats, an adaptable defence posture ready to bolster security and defence policy, and an understanding of the new types of missions the Armed Forces would have to perform in the changing world of the 21<sup>st</sup> century.

Finally, the National Security School was established at the same time as the War College. During its four years of existence it did not develop any programme of education, it did not have any staff except the commander, his deputy and their secretary, and not a single student attended any courses at this establishment.

Besides all these programmes, the Military Diplomatic School was established in the mid 1990s, with the task of educating officers earmarked to perform the duties of military attaches. The programme lasted about three and a half months and something like 200 soldiers were educated in the six-year period despite the fact that the Armed Forces had

fewer than 15 military attaches appointed to different countries around the world at any single moment.

Recently the Military Diplomatic School's activities were stopped and the National Security School ceased to exist. The latter might represent a good decision – if connected to the establishment of national security studies as a part of the civilian education structure within the auspices of a University. The Croatian Military Education Centre, the highest military establishment in the Armed Forces, responsible directly to the Chief of the General Staff, also ceased to exist and all educational activities were transferred to a newly-established Joint Education and Training Command. This could be a mistake since education and training are two different processes, with different objectives and they have to be shaped in different ways.

One of the most important failures of the security and defence education system is the lack of proper programmes for the education of soldiers for service in a democratic political system. This is coupled with the lack of education of the Executive and Parliamentary civilian staff in military affairs. Although seminars, workshops and round tables on civil-military relations and transparency of military activities are organised, very often their impact is not strong enough. These programmes are not mandatory and their greatest failure is that the group of people who should be in the forefront of these activities – the Parliamentary representatives and top-level security and military officials – usually do not attend because of other more important duties.

Croatia could consider a recent example of a modern military education facility, the Baltic Defence College in Estonia, established in 1999. The courses of instruction take into account the geographic and political conditions, defence concepts, and different administrative and legal systems of each country. It covers strategy, total and territorial defence, staff duties, and logistics. The students learn operational arts, the advantages and limitations of modern military technology, national defence plans, and how defence plans are related to a nation's economic and social resources. Instruction is based on Auftragstaktik, mission-oriented command. The graduates are prepared for service as chiefs of staff at infantry brigade level and in defence regions, for planning positions in Defence Ministries or General Staff positions, and for international duties. They are expected to have a thorough understanding of the role and function of armed forces

under civilian control and in a democratic society. It is a school for an officer who is expected to be a military commander, a military diplomat (or) a military policy maker. The College accepts civilians as well as the military, in order to create a defence community.

## Careers and Promotions

An objective method of selecting officers for promotion is a central requirement of professionalism. The Croatian establishment lacks a transparent and consistent system for officer evaluation and promotion, making career development subject to political reliability or personal preference of the senior officers. "As far as defence reform itself is concerned, the most important feature of a personnel management system is that it should deliver the right sort of an officer that the new force structure requires," writes Christopher Donnelly.<sup>1</sup> An ideal mechanism has explicit and open procedures, based on established standards of qualifications and achievement. Croatia's Defence Ministry has to introduce new methods of career management for professional soldiers, developed with the help of Western advisers. A soldier's career advances by assignments to command and staff duty tours, complemented by studies at Croatian or Western military schools. An impartial board with military and civilian representatives evaluates qualifications and makes recommendations. In the new democracies, a generational change within the officer's corps is a factor that transforms the military culture and develops and delivers "the right sort of officer that the new force requires".<sup>2</sup>

Croatia's military career structure has not been shaped according to the needs of the Armed Forces. The usual cycle (operational appointment, education, and staff position) has not been observed consistently. Operational appointments usually last too long, which is the result of the almost non-existent transfer of personnel among units in different parts of the country. Once an officer gets an appointment in a unit he stays there for a very long period of time unless he or she manages to somehow secure participation in an educational programme or staff position. Education is reserved for the very few and practice shows the officers sent to education programmes abroad cannot

---

<sup>1</sup> Christopher Donnelly, 'Reshaping European Armed Forces for the 21<sup>st</sup> Century', CND, 2000/8), September 8, 2000, p. 14. Also available at <http://www.nato.int/docu/articles/2000/a000913a.htm>

<sup>2</sup> Donnelly, "Reshaping European Armed Forces," p. 14.

be sure of getting higher ranking duties and more responsible positions after successful completion of the programmes. Staff positions represent desirable goals as very few General Staff personnel have returned to higher positions in the operational units at the end of their term.

The system of promotions is overburdened with problems. The fundamental one is that there are two types of promotions, regular and so called extraordinary promotion. In order to be promoted regularly an officer has to fulfil a set of legal requirements. They are as follows:

- An officer has to have a civilian university education (or Associated Degree for officers up to the rank of captain);
- He or she has to spend a certain amount of time, usually four years, in his or her present rank;
- For promotion to the rank of Major or above, an officer has to speak one foreign language fluently;
- He or she must not be charged with a criminal act in a civilian court;
- He or she must not be charged with misbehaviour before a Military Court;
- The officer has to be officially evaluated by his or her commander and get at least a 'Distinguished' mark.

Unfortunately, for the extraordinary promotion the officer does not have to fulfil any of these criteria. The only requirement according to the past and present Military Service Law is that he or she has committed an act of extraordinary value for the defence of the country or for the Armed Forces. Superior officers have absolute freedom to judge what is considered such an act and who is going to be proposed for the promotion. In practice the result was threefold:

- These regulations opened the gates for politics to decide who was eligible for extraordinary promotions, and in most cases politically-related reasons predominated in the promotion of a certain number of officers. Unfortunately, this practice, although drastically reduced after the elections of January 2000 by the President, did not stop completely in the Ministry of Defence and the General Staff.

- The legal possibility for extraordinary promotions was used by the Personnel Management system as an easy way for promotion for all officers who did not fulfil the legal criteria for regular promotion. Since there was no difference in the status and rights of the regularly promoted and extraordinarily promoted officers there was a growing feeling of dissatisfaction on the part of educated officers who fulfilled the criteria and wanted to see the criteria applied equally to all members of the Armed Forces.
- Finally it might be argued that during the mid-to-late 90s there was at least the same number of extraordinary promotions as regular ones. The meaning and intention of the Law was for extraordinary promotions to be confined to small numbers only when there was a real reason to use this legal provision.

Furthermore there was no provision in the Law as to what to do with those officers who stayed in the same rank much longer than legally prescribed. Also, until recently there was no legal obligation on the commanders to propose promotion if their subordinates met all the legal requirements. Even with this provision, it is still an open question today whether every specific officer is going to be promoted because a proposal for promotion has to be signed by the minister of defence before being sent to the President who has the legal authority to promote armed forces officers.

Consequently, today there are officers in the Armed Forces who have spent eight or more years in the same rank and those who ran through the scale of ten ranks in the same amount of years. The latter were lieutenants, some were even NCOs at the beginning of the War and by the late 1990s they were generals.

The new Military Service Law did not improve matters. It says (with some exceptions) that an officer has to have the grade of a civilian university and a proper military education in order to fulfil the requirements to be promoted. The law was proposed and more or less accepted by the same structure that proved incapable of organising a proper educational system but now asks the officers to fulfil the requirements, as if everything had been perfectly right for the past ten years. The net result is that today even smaller numbers of officers fulfil the criteria for promotion and there will probably again be strong pressure for extraordinary promotions.

On the other hand there are no legal requirements for appointing officers to top-level command positions. So in order to be promoted, a captain has to fulfil a set of criteria, but on the other hand in order to be appointed to a top-level position a Colonel does not have to meet any criteria except of course the favourable opinion of his commanders.

### **Developing a Defence Community: Civilians and the Military**

Legal regulations establishing civil-military relations are basic requirements. But properly constructed constitutions and well-considered legislation are not enough to establish effective civil-military relations in defence affairs. Legal definitions of democratic control do not bestow the necessary expertise on policy-makers. Without competence in the Defence Ministry, the Parliament, and other parts of the government, without a civil service that can meet the military on equal ground, there will be no functioning civil-military relations.

Western experts have directed most of their attention to the military. Civilians in the new democracies have had little experience in defence planning and management. Their lack of ability is one of the hidden shoals upon which security sector reform can founder. In countries with democratic systems and free market economies, civilians have a large role in defence affairs. Civilian competence extends beyond politics, because contemporary defence planning is complicated and involves long-term economic analyses. It also is international in nature, overlaps with foreign policy and, in Croatia's situation, has a large Balkan or regional dimension.

Moreover, the soldiers have moved across a demarcation line which once separated military and non-military responsibilities. A professional officer has to participate in administrative work, help prepare documents for the cabinet, and be involved in developing the defence budget, and could be required to appear before a parliamentary committee. The military, like civilians, require a new set of skills: political, managerial, and international. Finally, civilians in the Defence Ministry and the General Staff have to work together efficiently. Everyday working relations between civilians and the military measure the extent to which armed forces are integrated into democratic governmental functions.

The top priority mission for the educational system of the Security and Defence institutions is providing well-educated people trained to understand and adapt to the processes, changes and challenges of the new security environment. Education, training and self-education are the first steps that should help to evaluate the quality of individuals and create a basis for further upgrade of their skills. Their ability to apply and transfer the acquired knowledge should be also evaluated, because it is beneficial for the environment and the entire national security structure.

Skills and knowledge must be recognised by heads, directors or commanders and adequately praised. One of the key elements of permanent success and continuous upgrading of the management structures is the ability to assess the skills and knowledge of their subordinates and find the best way of implementation of their knowledge.

The national security-related education system is aimed at providing highly skilled staff who are going to deliver maximum effort in contributing to the national security structure. The system should provide education and training of its staff to maintain efficient operations, initiative and exchange of knowledge and ideas. One of the tasks of the national security and defence educational system should be to give a chance to all those leaving the structures to find other employment in civil organisations in which their experience, knowledge and skills will be fully recognised.

Apart from civil education the system should provide specific military education at regular intervals for its employees through workshops, training courses, upgrading seminars and others. This should improve knowledge and skills necessary for accomplishing work and tasks within the national security structures. The Republic of Croatia's national security and defence structures should be fully aware that high quality personnel are the key element in successful performing of their tasks. Top-level officials and commanders should be given all the necessary skills to be able to distinguish and properly reward the feats and accomplishments of their subordinates.

## **The Systematic Change**

An inter-university multidisciplinary National Security Studies should be established to provide education and training for the highest-ranking positions in the management and

command structure of the national security and defence institutions. The programme of the study, its structure and quality should be compatible with other Croatian university studies. In due course, a one-year education programme in national security should be mandatory for the highest military and civil functions in the national security structures.

The study should be organised to open up possibilities for acquiring scientific degrees. Additionally, courses and seminars lasting from 10-15 days to three months should be organised within the study programme. Political officials should be stimulated to attend short-term courses and acquire knowledge for successfully performing their political and other functions within the national security structures.

Courses should be open as much as possible – a minimum quota should be established – for all public workers, civil servants, journalists, politicians, military commentators and others. Through organised and systematic training they should develop skills for the efficient monitoring and understanding of security issues crucial for the entire society.

The greatest possible emphasis has to be given to the education of soldiers for positions and duties at international headquarters, including NATO and SHAPE. Although there are programmes aimed at that task and officers are more or less regularly attending courses designed for that purpose, it has to be noted that in future more officers will have to participate in these programmes because demand for such personnel will rise.

### **The Quality of Personnel as a Force Multiplier**

Personnel quality is one of the most important elements that make a difference between various defence establishments and armed forces. Regardless of their organisational and technological refinement, systems that rely on human resources – and the security and defence structures are, in their particular way, among these systems – cannot avoid difficulties in their everyday activities. High-quality professional education and training of the members of the Armed Forces and the Ministry of Defence are the main preconditions for the functioning of the whole system, both in its regular daily activities and at times of change. There should be well-qualified defence experts in the Presidential and Parliamentary offices.

Well-educated and trained staff will have a better understanding of social and political changes occurring in the world of today. They will find it easier to keep up with technical and technological advancements, and they will not represent an impediment or deterrent to the transformation of the Armed Forces and the national security system on the whole. With the adoption of appropriate standards in the Armed Forces of the Republic of Croatia, each and every member of the Armed Forces will be a force multiplier of the whole system.

The quality of civilian and military personnel is one of the key elements in attempts to reach the level of readiness the Croatian Armed Forces need in order to carry out their tasks and respond to the possible threats. During the last ten years, with obsolete and inadequate equipment and resources, personnel were the key factor of the country's defence. With the development of their military capabilities and with a comprehensive modernisation of the Armed Forces, personnel will continue to be an essential factor that must secure the necessary level of readiness of the Armed Forces for operations under circumstances of estimated risks from the security environment.

Moreover, with technical modernisation, restructuring and education, the CAF personnel will gain an ever more important role in performing their military assignments. However, the quality level will be very different. During the war for the country's liberation, individual initiative, self-denial and even self-sacrifice to the benefit of all citizens of the Republic of Croatia was expected and observed almost on a regular basis. The new approach to the system of national security and defence defines the necessity to come up with systematic solutions and organisational preconditions that will make it easier for the military staff to achieve the desired results that will be beneficial to the whole society.

In future, civilian servants – government employees and staff members – should be given a significant role in the functioning of the Ministry of Defence and the Armed Forces of the Republic of Croatia. This category of employees was systematically neglected and unappreciated in the past, but they are of major importance for the efficient functioning of the armed forces. There are many positions and duties that do not require a professional soldier, but rather a civilian with all his or her special expertise, technical, managerial or administrative abilities.

However, their role in the military does not end there. They provide an important contribution to the existence of a certain civilian perspective on military issues, the status and recognition of the Armed Forces and its activities. The degree of integration of soldiers and civilians in performing their everyday duties should be seen as one of the key indicators in the level of development of civil-military relations. The general education system, as well as education and training in the Armed Forces of the Republic of Croatia, should be adjusted to serve the need for the development of civilian personnel who will have the knowledge needed and applicable in the Armed Forces.

In considering all issues related to the personnel quality, due attention should always be given to several important facts:

- Organisational solutions, even at their best, are never sufficient in themselves. They just facilitate functional activity.
- Perfectly drawn plans are helpful in preparation and focusing of activities, but they only form the first element of operational activity that will, with the development of operations and activities, very often assume a direction essentially different from the one foreseen or planned for.
- Theories of large system management and commanding hierarchies offer support and security, but they also do not achieve anything by themselves.
- Operational activities succeed or fail because of the people who prepared and executed them. Only by selecting the best people and by developing the system's ability to make that selection can we achieve relative certainty that the activities will be logical and systematic and will result in the desired consequences.

## **Education and Training: the Professional Military**

Development of high-quality education and training programmes will create the preconditions for improved quality of personnel. In parallel, programmes that will provide for an adequate quality of life for military personnel and their families should have a positive influence on the capability of military personnel to focus on their tasks. This should enable the soldiers to perform their tasks and concentrate on upgrading their knowledge and skills without the worries and frustrations that result from separation from

their families or fear about their families' inadequate health, social and employment status.

The structure of education and training of the active members of the Armed Forces should provide a starting point for further improvement of their abilities. Nowadays, a soldier must possess knowledge that will make it possible for him to understand the environment he works in, the interactions he enters, and, in extreme cases, to survive in the battlefield. Today's officer, depending on the progress of his career, must be a capable operational officer, a precise administrative clerk and a successful manager. In that sense, the military education system should be improved in order to satisfy the need for additional, supplementary and permanent education and training of soldiers for the execution of their tasks.

The civil and military education system must be able to respond to the needs of the Armed Forces and to the tasks its members encounter during their careers. Lower-ranking officers mostly perform tactical tasks and the system must make it possible for them to acquire executive abilities. A change occurs with higher ranks, because the officers switch from tactical to operational tasks, so the system must provide them with continuous training in the field of operational and managerial skills. Organised training of lower-ranking officers in the field of managerial skills should start at the level of the rank of captain and the training should last until the officer reaches the rank of lieutenant colonel.

Generals and admirals have strategic tasks and responsibilities so they must develop their decision-making skills, which include a multi-disciplinary approach (civil and military), conceptual thinking and a certain level of visionary forecasting. Organised training for the aforementioned abilities should start with promotion to the rank of colonel – whereby predisposition for development of these qualities should be one of the most important criteria for promotion to this rank – and it lasts permanently until the end of one's military career. This does not mean that generals and high-ranking officers may neglect the executive, operational and management capabilities they acquired as young officers. However, as they rise through the ranks, officers are expected to deal with more and more complex tasks and growing abilities are necessary in order to be able to carry out their duties successfully.

In comparison to the present-day situation, characterised by a lack of meaningful and systematic activity which, to a certain extent, results in the feeling of hopelessness and frustration among many members of the Armed Forces, in future the military profession in Croatia should undergo a major change. This should be reflected in:

- an intensive education and training,
- an increased level of requirements due to new equipment and weapons,
- the emerging of activities whose aim will be a better understanding of relations between civil society and the armed forces, and
- the requirements imposed by society and civil institutions on their members, including soldiers.

The increase in the level of military competence will lead to an increased number of activities and requirements that the CAF members will be subjected to. Due consideration should be given to the fact that the increase in requirements must take place gradually and only after each individual has been trained and prepared for the new level of duties. At the same time the utmost care should be taken in relation to the living standard of the members of the armed forces and their families.

Personnel Management should ensure such a system of appointment and promotion that will encourage a professional attitude and will push forward the best and most qualified people. It should increase the authority and responsibilities of commanders and members of civilian management. It should reward achievements, recognise human potential, make sure that they are invested in, and provide them with appropriate duties. In doing so it should treat equally all members of the Armed Forces regardless of their gender, race, nationality, religion, local or social affiliation and will be free of any outside, especially political, influence and interference.

Every year the Chief of the General Staff should propose to the Minister of Defence a list of specialities that are in high demand in the Armed Forces of the Republic of Croatia. This need should not be met by an excessive workload being imposed on personnel, but rather by recruiting people who have appropriate qualifications from all available sources in accordance with the criteria and to the levels determined necessary. It should be

anticipated what the needs might be three to five years ahead in order to adjust training programmes in time and thus get personnel with appropriate qualifications when they are needed, and not with a delay of several years. Members of the Armed Forces who might face discontinuation or reorganisation of their units should be encouraged to attend a retraining programme if this is in any way feasible and cost-effective.

Training programmes for the Armed Forces should be organised in such a manner that soldiers are trained for one primary speciality and at least another secondary one. Candidates for promotion to the rank of general and for highest appointments in the Armed Forces should be encouraged to continue their civilian education. They should feel an obligation to reach at least a masters degree in certain military-related and other useful sciences, and the personnel management system should stimulate them to do so. In cases where all other mandatory criteria for promotion and appointment are met to the same degree, this should be an advantage over other candidates. These candidates should also attend regular training programmes that emphasise the joint activities of different services of the Armed Forces.

All future candidates for commissions in the Armed Forces should have a University degree. If they fulfil all other requirements and demonstrate adequate psychological and physical readiness, they should be commissioned by the Armed Forces once they graduate from the basic Officers' School. In the light of the fact that the education system established for the needs of the Armed Forces must be organised in such a way that it provides young people with the possibility to join the Armed Forces immediately upon their graduation from high school, but also later if they decide to start a military career after their university studies, it is necessary to foresee at least three different combinations of university education and Officers' School courses, which form the precondition for commissioning an officer and his first appointment in the Armed Forces.

Those who decide to join the Armed Forces after they have graduated from a university should be obliged to attend a training course at the Officers' School of the duration of at least six and possibly nine to twelve months. During this time they should acquire basic military knowledge and will complete the process of integration of their civil education with the military system.

University students who decide during the course of their studies that upon their graduation they might commence a military career in the Armed Forces should have the possibility to choose one of the military courses at the faculties that provide education for the kinds of experts demanded by the Armed Forces. These courses would be optional after the second year of their studies. Following their graduation, they should also attend a course at the Officers' College, but of a shorter duration (possibly only three months). It is expected that during the final years of their studies the military-oriented optional courses should have provided them with the knowledge regarding the seamless integration of their original profession and the military profession. After that the three months course at the Officers' School should enable them to acquire some basic military knowledge necessary for a successful beginning of their military career.

For young people who opt for a military career immediately upon their graduation from high school, the Armed Forces should provide accommodation and an appropriate scholarship and enable them to participate in certain activities of the Armed Forces so that they can acquire knowledge from the Officers' School during their studies. For the majority of their educational programmes they should attend regular civilian universities and get the same level of knowledge as their civilian student counterparts. Once they get their university degree, having attended the same curriculum as the previous group, they should be immediately commissioned in the active forces and should get their first appointment in the Armed Forces.

While they attend courses at the Staff College, War College and National Security Studies, members of the Armed Forces should not be allowed to carry out any other duties in the Armed Forces and they should devote all their energy to successful mastering of their educational programmes.

Beside the systematic education and training of members of the Armed Forces of the Republic of Croatia in the field of their professions and specialities, special care should be taken for them to obtain additional knowledge and skills. The efforts invested in this regard will be especially encouraged and rewarded. Given that the psychological and physical readiness of members of the Armed Forces is one of the key elements of their success, the list of desirable sports, skills and capabilities should be drawn up in order to encourage members of the Armed Forces to pick what they prefer.

## **Education and Training: the Civilian Experts**

The military education system should provide for the acquisition of complementary civilian and military capabilities and it should design and respect educational programmes that will be verifiable and recognised by the civilian sector as well. Therefore, in cooperation with the Ministry of Defence, higher education institutions of the Republic of Croatia should develop programmes and curricula and set up courses in the field of defence studies, defence systems and related sciences and technologies. Due consideration should be given to making the military profession and a military career an attractive choice for young generations making decisions about their future life. At the same time, the recognised excellence of the military profession and knowledge accumulated in the course of engaging in such a profession should become a stimulus for civilian organisations and institutions to offer jobs to people who have spent twenty or thirty years in the Armed Forces. At the age of 50 to 55 many former members of the Armed Forces of the Republic of Croatia will still have the strength, will, health and capacity to continue to work, at least for a while, in the civilian sector. A systematic concern for their careers and professional development in the Armed Forces should enable them to do so.

Defence Studies and National Security Studies should hold the key position in the structure of civil education for the needs of the defence and national security structure. The War College should remain the highest military education institution.

Defence Studies are organised within the structure of Zagreb University. The goal of this faculty should be to provide education in the field of defence to citizens who should be able to use that knowledge and to participate in the defence system activities in various ways as future civilian experts and civilian servants. For instance they are:

- experts needed by the active units of the Armed Forces,
- civil servants who will be employed by the Ministry of Defence or General Staff of the Armed Forces,

- civil experts for production and maintenance of arms, and military equipment experts who will work in Research and Development institutes that deal with defence or in a defence-oriented industry,
- journalists and defence correspondents,
- members of security and defence-oriented NGOs,
- advisers in state administration bodies, government institutions,
- eventual staff for the Parliamentary Committee for Internal Affairs and National Security, etc.

National Security Studies should be dissolved as a part of the structure of military education (which has happened in the meantime). Instead, an interfaculty multidisciplinary postgraduate course should be set up and provide for the possibility of obtaining scientific degrees in the field of National Security, in accordance with regulations applicable to higher education and scientific research, as mentioned above.

Besides, this postgraduate institution should organise short courses lasting between several weeks and one school year that will deal with all the issues covered by strategy and security studies. Short courses should be available to all interested staff members of civil institutions and their primary goal should be to educate members of the political elite and management structures. One-year courses should be mandatory also for promising colonels and brigadier-generals before they can be appointed to a post for a major-general.

## CHAPTER SEVEN

---

### TRANSPARENCY AND ACCOUNTABILITY IN THE DEFENCE AND SECURITY SECTORS

*Tatjana Čumpek*

#### Introduction

Transparency and accountability have been concepts in public affairs, particularly in defence decision-making, in the Western countries for many years. They have received attention in the former socialist countries for a shorter time period of time, since the collapse of the Federal Republic of Yugoslavia and the Warsaw Pact. In Croatia, we can consider the principles and practice of transparency and accountability only during the last two years. Generally, transparency and accountability are described thus:

'Transparency' is a complex concept, with both domestic and international aspects (as noted) and is applicable to both defence budgets (data on spending) and the budgeting process (how the figures are reached);

At the heart of democratic decision-making lies the notion of 'accountability': governments are accountable, through the legislature, to 'the people' – this is an executive obligation; and legislatures are expected to hold governments to account, for both their actions and their expenditures – this is the elected representatives' duty.<sup>1</sup>

The development of transparency and accountability in Croatia has to be assessed in terms of progress made during the last two years as well as the events of the last decade. The political transition in Croatia has proceeded through two phases. The first was to eliminate the communist regime; remove the strong pillar of the former regime, the Yugoslav Army; and to carry out the struggle for independence in the Homeland War. The political outcome was a semi-presidential type of government, which changed

---

<sup>1</sup> David Greenwood, 'Transparency in Defence Budgets and Budgeting', in Todor Tagarev, (ed.), *Transparency in Defence Policy, Military Budgeting and Procurement*, (Sofia: Geneva Centre for the Democratic Control of Armed Forces and George C. Marshall – Bulgaria, 2002), p. 29.

into a one-party leadership with a charismatic, authoritarian leader. In this stage in Croatia, Tudjman and his Croatian Democratic Union dominated Croatia's politics. There was little in the way of transparency and accountability during this period.

The second phase began early in 2000. The political environment in Croatia changed radically with the advent of a new leadership. The new government showed determination in its efforts to establish a fully-fledged democracy and to develop a culture of respect for the rule of law. This and the steps taken so far have ended Croatia's political and economic isolation and have led to a rapid improvement of bilateral relations between Croatia and the European Union. The new reformist government of President Stipe Mesic and Prime Minister Ivica Racan moved quickly to end Croatia's international isolation and to stabilise an economy that had been racked by corruption and mismanagement. It faced a number of immediate challenges, including high unemployment, escalating external debt, and a nationalist backlash against cooperation with international efforts to prosecute Croats accused of having committed war crimes.

Speaking at NATO in August of 2000, Croatia's Prime Minister Racan described the new security policy as 'making up for lost time'. The transition from authoritarian rule to democracy, he said:

...is fraught with danger in any country. It can be made easier, however, with international help. This is why membership of the Partnership for Peace is so important to Croatia and why my country aspires to join both NATO and the European Union.<sup>2</sup>

Since coming to power, Racan said, Croatia's government has charted a very different course from that of its predecessor. Having embarked on a wide-ranging reform programme, the years ahead will probably be difficult. In many ways Croatia was now on a similar course to that charted some twenty-five years ago by Spain and Portugal. At present both of these countries are prosperous democracies, active members of both NATO and the European Union, and an inspiration. Croatia aimed to emulate their

---

<sup>2</sup> Ivica Racan, 'Making up for Lost Time', *NATO Review* (Summer-Autumn 2000), p. 15. Also available at <http://www.nato.int/docu/review/2000/0002-03.htm>

achievements, to participate actively in the Partnership for Peace and to contribute to finding durable solutions in southeastern Europe and beyond.

## **Democratic Transition in Croatia**

Since the election in 2000 considerable achievements have been accomplished in quality of governance, institution-building, liberalisation and promoting democracy. Transition from a semi-presidential to a parliamentary system has changed the appropriate type of governance. The new government now faces two main challenges: to consolidate democracy so as to underpin long-term political and social stability; and to implement a comprehensive programme of structural reforms to achieve political and economic transition. Success will require the commitment and active participation of all parts of the public administration.

Hardliners from the HDZ have continued to obstruct reform efforts through their key positions in the judiciary, state media, and local agencies charged with reintegrating ethnic Serb refugees. But the party's fragmentation has rendered it less effective as an opposition party in parliament. The open, political opposition, clearly visible, has raised obstacles, but not derailed the democratisation process. The process of democratic transition in Croatia, as in other areas of South Eastern Europe, has to move forward in three main spheres of the nation's life which were opened and changed at the same time. It is in these areas that we must look for progress.

First, there is the area of political change, moving from undemocratic regimes to a democratic and parliamentary political system. This is a matter of constitutions, laws, administrative provisions, rules and regulations. Among other things, there had to be the required transparency and accountability from government officials and with a legal and organisational framework for carrying it out.

Second, there is economic change. Croatia has moved from a planned state economy to a market economy. The first question here is how sound the nation's economy is and whether it can support the armed forces. When Croatia entered a free market economy, it fundamentally changed the economic principles and practices of defence planning.

This requires new approaches from the military and expertise in defence economics among the staff in ministerial, presidential and parliamentary organisation

There is also the third factor of social mentality. This is more difficult to describe precisely. It is the process where society at large gradually learns how to use democratic power, to break with past habits and assumptions toward autocratic regimes and leaders, and to become open-minded, open to international communication, relying on constructive criticism and accepting processes of globalisation. Accountability includes the need for the ‘the Croat people’, through their legislature, to hold the government to account, meaning, that they have to adapt to a new social mentality.

### **Constitutional and Legal Basis for Transparency and Accountability**

The foundation for transparency and accountability is constitutional and legal. Today the Croatian government guarantees freedom of expression, especially media freedom, equality of all citizens regardless of their ethnic origin, the return of refugees, regional cooperation and good-neighbourly relations with surrounding countries and international institutions.<sup>3</sup> Legally at least there are no obstacles between society and the political, governing bodies.

In the area of security and defence, the Constitution and a number of laws also provide the essentials for democratic control of the armed forces, including the provisions for transparency and accountability. It gives a delineation of the political chain of command: ‘After the former political opposition gained control of the Presidency and the Parliament in 2000, the executive branch and the parliament began operating with far more transparency than they had during the Tudjman era.’<sup>4</sup> After changes in the Constitution in November 2000, the authority of the President was reduced from a source of autonomous activity during the previous years. However, it remained considerable, although recent legislation, particularly a Defence Law, have reduced these powers.

---

<sup>3</sup> The last one became matter of consideration after the latest bill of indictment was addressed to Croatian General Janko Bobetko.

<sup>4</sup>, ‘Croatia’ in Adrian Karatnycky, Alexander Motyl, and Amanda Schnetzer (eds.), *Nations in Transit 2001: Civil Society, Democracy and Markets in East Central Europe and the Newly Independent States . Croatia*, (Freedom House ) p. 152. Also see: <http://www.freedomhouse.org/research/nattransit.htm>

The President is still the Commander-in-Chief of the Croatian Armed Forces, and has the following authority regarding defence. He declares war and pronounces peace based on a parliamentary decision. In peacetime and in cases of an immediate threat to the independence, unity and existence of the State, the President of the Republic may, with the counter-signature of the Prime Minister, order the use of the armed forces even if a state of war has not been declared. The President of the Republic may declare war and conclude peace. The President appoints and relieves of duty military commanders, in conformity with law.<sup>5</sup>

In constitutional and legal terms, Croatia has moved away from an authoritarian political system, and there is little possibility of the government becoming totally dominated by a singular ideology – by a person or a party. Croats have not divested themselves of their former habits and assumptions in political thought and action. For example, the Constitution has made the Parliament into a powerful political body. It has no dominant party; there is a coalition government and a strong opposition. However many parliamentarians comprehend “exercising democracy” only as representing the interests of their political party rather than as representatives of “the people”. The representatives rarely act as if they represent their constituents<sup>6</sup>, as a rule they follow their party’s attitude. This leads to opportunism. Parliamentary representatives use their right of access to information as a means for obtaining materials for attacking their political opponents.

The political maturity of Croatia can be assessed in the following areas. First, there is the *rule of law*. In this field the achievements are largely formal and normative. The Constitution and laws are in place, although some areas are still unclear. However, within the normative framework there is insufficient democratic practice. A Western report noted that the Croats had coined the term “administrative silence” to describe the failure of governmental officials to respond to inquiries and requests. Administrative silence is a more common feature of local government, but it has not disappeared from the central government.<sup>7</sup> Second, there is *judicial independence*, which is formal and constitutionally guaranteed, but with weaknesses in the system and a burdened judiciary

---

<sup>5</sup> Constitution of the Republic of Croatia, article 99.

<sup>6</sup> Except in matters of strictly local interest, like building schools and restoring enterprises.

<sup>7</sup> ‘Croatia’ in *Nations in Transit 2001*, p. 152.

which in problems in law enforcement. There is the area of *democratic responsibility* where the most visible example is its exercise through parliamentary questioning and active control. Finally, there is *executive transparency and accountability*, which may be divided into political – concerning actions and decisions – and financial – the justifying and accounting for expenditures.

## The Parliament

### *The Constitutional and Organisational Provisions: the Legal Framework*

The Parliament approves the budget in a transparent process, decides on the size and structure of the armed forces, and decides on participation in international missions. The Constitution provides Croatia's Parliament with the powers to decide on war and peace, approve the National Security Strategy and the Defence Strategy of the Republic, and to approve the defence budget as proposed by the government. The President of the Republic has to sign a Law within eight days of the date when it is passed in the Parliament. If the President considers the law not in accordance with the Constitution, he may review the constitutionality of the law before the Constitutional Court of the Republic of Croatia.<sup>8</sup>

The representatives have the right to ask for documentary evidence from ministries, or ask the Minister questions and he is obligated to give an answer verbally during the parliamentary session or in written form. The basic requirements for accountability and transparency are provided by the Constitution and by the laws, particularly the recent Defence Law of 2002.

The fundamental mechanisms for control and accountability of security affairs in a liberal-democratic framework are legislative committee, parliamentary debate, public hearing, ministerial oversight, the ombudsman and media scrutiny. Two committees in the Parliament are responsible for the national security and defence. They are the Domestic Policy and National Security Committee and the Committee for Finance and Budget.

---

<sup>8</sup> Constitution of the Republic of Croatia, article 88.

The first of the two Committees has been organised into two sub-committees, one for defence and one for internal policy. The sub-committee for defence considers the funding, organisation and scope of the activities of the Ministry of Defence, the budget allocated to the work of the ministry, as well as other relevant issues. It may conduct prior consultation on proposals for the appointment of heads of department within the Ministry of Defence. The Auditing Office monitors the legality of state budget expenditures and is answerable to the Parliament.

The institutional framework for democratic civilian-military relations has been established through the Constitution and laws. The Parliament has democratic control over the armed forces and the security agencies of the Republic. If we use as a yardstick the means of accountability and transparency that are traditionally practised in Western parliaments, and examine what Croatian parliamentarians have at their disposal, the formal mechanisms have been provided. There are the appropriate Committees and other oversight agencies. The Committees can summon government officials and military officers and representatives of the security agencies to appear before them. Committee members and other parliament members can ask for relevant documents concerning defence and security affairs. The legislative instruments, executive means and judicial process, such as the Constitutional Court, are installed as they are constitutionally required.

### *The Functional Ability: Political Practice*

When a Parliament is provided with the legal framework for carrying out its function, there is still the question of the ability of the Parliament to deal with defence questions:

For example, it is no good claiming that 'We have good democratic control' if the country has an army which is in a shambles; no one in the (Parliament) really knows how many hospital beds are the equivalent of the cost of a battalion of tanks, or if the civilian government cannot identify how many tanks are required to defend the country. exercising democracy.<sup>9</sup>

---

<sup>9</sup> Christopher Donnelly, 'Defence Transformation in the New Democracies (II)', *NATO Review* (January 1997), p. 16.

Within the Parliament, internal-formal mechanisms, the proceedings of parliamentary practice (official rules, and codes of conduct) were not very well developed in two years of democratisation after almost fifty years of authoritarian regimes. Usually, representatives are given a copy of a proposed law without other explanatory or analytical documents. In some cases they can have some materials like a copy of a previous law on this matter or related amendments. The Committees do not have expert staff. In order to exercise accountability, the two Parliamentary Committees (and the Parliament as a whole) require staff expertise which, at present, does not fully exist. The Parliamentary Committees can convoke hearings and engage the expertise of public policy institutes. Some initial moves have been made to engage expert outside help, but this is only a beginning. External means (public hearings, interest groups, opinion polls and media scrutiny) are still undeveloped and rarely effective as a means of practising democracy. Public hearings have not been employed to sound out public opinion.

The Parliamentary Committees and sub-committees have not firmly assumed their authority in respect to firm oversight of defence plans and their implementation. Senior Ministry of Defence officials do not frequently report to the Committees. The Committee on Domestic Policy and National Security does not issue policy directive or guidelines. There are no extensive Committee discussions or effective Parliamentary investigations of inefficiencies or failures in the security and defence sector. One of the reasons for this is the inherited practice of the past, when it was the President's responsibility to discuss and decide upon defence issues. Although the recent constitutional changes and defence laws reduced the role of the President, there is no well-defined authority or real clarity of the responsibility of the Parliament or the Committee for Domestic Policy and National Security.<sup>10</sup>

Therefore the Committee for Domestic Policy and National Security does not have precisely determined functions. There is a lack of instruments to check whether parliamentary decisions are implemented or not. In Croatia's case there is no strict regulation, or even consideration, about what should be revealed and what is related to

---

<sup>10</sup> Tomo Radicevic, 'Developing Defence Transparency in Croatia', in Todor Tagarev, *Transparency in Defence Policy, Military Budgeting and Procurement*, (George C. Marshall Bulgaria and Geneva Centre for the Democratic Control of Armed Forces: Sofia 2002) p. 109.

the internal business of ministries. Among the inherited political habits – the psychology of the past – are those of hierarchy, discipline, and obedience to party leadership. Transparency is sometimes exercised when some ministerial wrong-doing becomes publicly known (mostly by sensationalism of a newspaper) and the matter became an issue of debate and controversy among Parliamentary deputies.

### *Transparency, Information and Accountability*

Transparency in a democratic system is a state of affairs where the Parliament, the political body ultimately responsible for approving the activities of the government, has the necessary information at its disposal to make sound policy decisions. Croatia's government, specifically the Ministry of Defence, has to provide the documentation required to the Parliament for "holding the administration to account" which is not possible if the legislature does not have access to information on at least the general directions of the administration's thinking before policy decisions are taken. The notion of transparency should not be confined to relations between the ministry and the Parliament and certainly not on the basis of "the need to know".

According to the Constitution and law, Croatia's government, the Prime Minister and the members of the Cabinet are answerable to the Parliament for their policy decisions. Hence, the administration must be answerable not only in formal or institutional terms but also in practical terms. That means that it does not suffice for a Parliament to have clear powers under the Constitution, but the elected representatives must exercise those powers with due diligence and this is accomplished by holding the administration to account for the policies and decisions they pursued and the taxpayers' money they spent.

The Ministry of Defence is obliged to answer to the Parliamentary National Security Committee and to provide information annually, or as required, if the Minister is asked for it. The ministry disseminates information on specific or important matters in print and electronically, but only on a case-to-case basis. In fact, the main electronic source of information, the Defence Ministry's web page, has not been functioning (it has been "under construction") for many months. The Ministry of Internal Affairs is not frequently questioned, because it has no regular contact with civil matters and the Ministry's

representatives are not usually present in public. Other competent authorities for carrying out audits are the internal oversight mechanisms in Ministries, the Financial Police, and the State Accounting (Revision) Office.

Calls and demands for transparency in Croatia today are primarily directed toward increased transparency of the state “coercive bodies”, that is the army, the police, the secret services – the whole apparatus of the national security system, particularly on the inner level. Until the spring of 2002 Croatia’s Ministry of Defence had not prepared a documented National Security Strategy or a Defence Strategy. There is no defence White Paper, although the need for one has been discussed among government and non-government institutions. Until the government presented a National Security Strategy and a Defence Law, there were unclear statements of national interests and goals about the formation and further development of the security and defence system, which did not provide Croatia’s Parliament with enough information about the direction of defence development. Therefore there could be little “accountability” because the Parliament could not ascertain and check the government’s activities against existing, clear plans.

In practice that means that Croatia's parliamentarians have the right to know everything there is to know about an administration's business and they have a constitutional right to ask the government of the Republic and individual ministers questions. But, again, each member of the Parliament does not act only as a representative but primarily as a member of a party. So party discipline and party interests are factors that undermine, most of the time, the representatives' ability to ask for precise answers. This is a most unpleasant heritage from the previous single party political system. Transparency has at times been used as a political weapon to bring charges against a politician from another political party, although the politician might be a member of the governing coalition and accountability is a means of political embarrassment.

Even though Croatia can declare it is making progress in the sense of moving towards political democracy after 2000, following the electoral reform adopted to avoid the possibility of the renewing of an autocrat regime, we still needed time to learn “how to” use democratic power and how to make representatives responsible – accountable to “the people”.

## **The Major Issues: Defence Reform**

A senior government official, in this case the Defence Minister, is held politically accountable for his activities, that is, whether the ministry makes sensible plans for utilising resources and whether, in fact, these plans are being carried out. Accountability also means that the Defence Ministry's officials have to provide the required documents to the Parliament. The central statement is the annual defence budget, submitted by the government as a part of the overall budget, and assessed by the relevant Parliamentary Defence Committee. Some of the essentials are now being provided by the Ministry of Defence and, presumably, the range of information will be expanded so that transparency will meet the requirements of accountability.

Defence reform and the downsizing of the armed forces will be central issues in transparency and accountability. For a country of 4.3 million people, Croatia has a fairly substantial military force. Economic reforms and the absence of the war threat have consequently led to the reduction of the defence budget and it will probably continue to go down. Downsizing the budget led to the realisation of the inadequate structure of the military budget – practically 70 per cent had been spent on wages, and very little on equipping and modernisation. The cadre structure was also inadequate – the number of those employed was too great and many had an inadequate level of education. The number of military personnel in the Ministry of Defence was also too large.

Considerable progress has been made within the Ministry of Defence and the Armed Forces. Advances in depolitisation and non-partisanship within the Ministry of Defence and the Armed Forces are the most important; they were carried out through proper respect for Article 42 of the existing Defence Law and Article 9 of the Law on Service in the Armed Forces, which fully eliminated the participation of military personnel in the bodies of civilian government. The Ministry of Defence budget has been significantly reduced and “cleansed” of articles that did not belong there.

The main effect of the economic reforms can be seen through defence budget cuts, which mainly have an effect on reduction of military expenses. In economic terms, the requirements of international integration (PfP, MAP) on armed forces reforms do not

place a higher economic burden on the military budget than at present. Thus economic factors do not hinder armed forces reforms, the latter being directed mainly towards modernisation and professionalisation of the armed forces. The important issue is whether all the plans and proposals for reforming the armed forces match the resources and whether the resources are, subsequently, actually spent for the purpose for which they were provided.

## **Horizontal and Vertical Transparency**

The effectiveness of defence transparency in Croatia could be analysed through two internal elements: the range and availability of existing documents ("vertical transparency") and the distribution of information within the government ("horizontal transparency").

Vertical transparency, in Croatia's case, would mean that the government has developed a hierarchy of policy and planning documents. In the case of defence affairs, there would be a national security concept, a defence policy, military strategy, force structure, a force development plan and other documents. According to the Constitution, the Parliament would consider and approve the ministry's submissions or, in some instances, receive information through regular ministerial reports, commonly called "White Papers". The ministry's operational planning and financial requirements would be made available, or transparent, for ascertaining that resources are used for their approved purpose.

There also is a problem with "horizontal transparency". In Croatia, documents that in Western ministries are routinely disseminated to civilian and military staff sometimes are classified or concealed. For instance, during the last 10 years it was not possible to get information from other sectors inside the Ministry of Defence. When people from one sector asked for information and data from their colleagues from another sector, they usually did not receive an answer or, when they did, the information was wrong or outdated. Today there is a very similar situation between the (Ministry of Defence) and the Croatian Army General Staff.

It should be noted that Croatia's experience is not unique. The other post-socialist countries have experienced difficulties with "horizontal" and "vertical" defence

transparency. It is the psychological residue of a governmental culture where inter-agency and inter-ministerial channels of communication were small and seldom-used, where directives flowed downward and long, obscure documentation upward, where at the uppermost level top bureaucrats procrastinated. In large measure this is a direct result of the Soviet legacy, which left behind it the imprint of a culture demanding conformity not initiative, control not delegation, compartmentalisation not cooperation, and secrecy not transparency. The habits ingrained by many years of such a regime have proved hard to shake off. The bureaucratic processes that Western governmental agencies take for granted either do not yet exist or do not function.

Croatia's situation has been aggravated by the significant problem that in the area of defence planning there has been a lack of clarity among the main institutions in the national security system – the Presidency, the government, and the Parliament. The President is the Commander-in-Chief of the armed forces and, partly due to constitutional provisions, partly due to inherited political attitudes and habits, the chain of command connected the President directly with the General Staff. This left the Defence Ministry largely isolated, and there was no effective means for the professional military to establish continuing working relations with the civilian policy makers. As a consequence, the views of the military were not taken into account in the Ministry of Defence. The recent, ambiguously formulated constitutional provisions and laws defining the security and defence roles of the President, the government, and the Ministry of Defence have not completely eliminated the problem.

## **Domestic and International Requirements**

Transparency and accountability are domestic requirements in democratic political systems. In a narrower sense, they function in the realm of relations between the government and the Parliament. The government (in the case of defence affairs, the Defence Ministry having the chief role) provides budget proposals to the Parliament, which considers and approves them and subsequently executes them.

Security policy and defence reform have required transparency in international affairs, particularly in relations between states and organisations such as the Partnership for Peace programme and the Membership Action Plan. Although NATO has not adopted

formal membership criteria, democratic control over the armed forces has become a *de facto* prerequisite for candidates for membership. NATO not only requires considerable data on defence and security. Following the requirements of international agreements, aspirant nations provide information on defence reform and defence budgets.

Recent studies comparing levels of transparency found that Croatia had developed adequate practices in achieving transparency, through a consistent implementation of accepted international obligations.<sup>11</sup> Thus the international public – strategic analysts in interested countries – acquire a sufficient amount of relevant information on Croatia's present and future defence capabilities, as well as other important defence issues. Further progress could be made through improvement of the specific mechanisms of achieving international transparency through the joint efforts of all countries that are signatories. Through development and publishing of its planning and policy documents, Croatia will in the future increase the international aspect of defence transparency.

Transparency in the international area is easier to attain, because the amount of information and documents required is much smaller than in the domestic area. For the most part, international transparency also deals with military affairs, and has less to do with domestic security and intelligence. Also, it is only very loosely linked with accountability. The major demand for defence documentation comes from NATO, in connection with the PfP and MAP programmes.

The picture is different in Croatia when it comes to the domestic area. Internal defence transparency in the Republic of Croatia is not at the level of a modern and developed democratic society. Official public and policy documents available to representatives of democratic authorities, independent experts and the broad public allow some insight into defence solutions. At the same time, mechanisms to evaluate practice and achievements of defence institutions have not yet been developed. The procedures of decision-making within the defence system are also insufficiently transparent, and the civilian institutions do not have appropriate influence on the most important decisions.

---

<sup>11</sup> Radicevic, *op. cit.*, pp. 106-110.

## CHAPTER EIGHT

---

### CIVIL SOCIETY AND THE SECURITY SECTOR

*Mladen Staničić*

#### Introduction

In Croatia, the term ‘civil society organisations’ (CSOs) refers to associations, foundations, public benefit companies with private status and labour unions. All these associations or unions are treated as “non-governmental organisations” (NGOs). There is a limited tradition of NGOs and civil society in general in Croatia – citizens’ civil engagement for solving both individual and community problems has not been a common practice among the vast majority of citizens in Croatia. Most citizens still consider the government/state responsible for solving their problems. This particularly refers to the military area where there is some kind of exclusivity or special approach to this sector.

That might be explained by the credibility and merit attributed to the Croatian army during the Homeland War by the vast majority of people. In other words, the Croatian army is supposed to have a special position in Croatian society and the Croatian state, because of the fact that its military activities contributed substantially to the independence of the Croatian state.

Nevertheless, civil society in Croatia was largely established during the Homeland War of 1991-1995, encouraged by foreign organisations and donors. NGOs, mostly associations, played a significant role in solving the civil or humanitarian part of war-related problems, assisting in overcoming crises related to refugees and displaced persons, as well as providing for war victims. At that time there was a high level of solidarity among citizens. Several research projects have found that in the mid-1990s this solidarity began to decline and citizens formerly engaged in civil organisations

began to withdraw, focusing instead on solving their personal problems<sup>1</sup>. The citizens' withdrawal and declining sense of solidarity was exacerbated by an escalating economic crisis and a focus on family problems, leading to a standstill in the development of civil society.

Both during and after the war, cooperation with foreign organisations continued, but civil society organisations (CSOs) were at that time rather incompetent in accepting and adequately distributing funds received. These foreign organisations thus initiated the establishment of a number of associations in Croatia, and provided these associations with much-needed technical support. Consequently, the development of CSOs in Croatia is partially driven by programmes designed by foreigners to be implemented in Croatia. The problem is that these people speak of civil society using foreign concepts and terms that are not necessarily applicable to Croatian citizens<sup>2</sup>. In this context only a few individuals in CSOs are able to motivate themselves for the significant role of civil society in Croatian society as a whole. The role of civil society in civil-military relations was not under consideration at all, let alone its role in providing any kind of logistical support for developing competence in national security and defence issues or in encouraging public debate on such issues.

Croatia has about 20,000 registered CSOs, of which 18,000 operate at local level.<sup>3</sup> A vast number of these organisations were established following the political shift in 1990. While these numbers exist for registered CSOs, there are currently no reliable indicators to assess how many of those are active. However experience suggests that the number of active associations should probably be estimated as significantly lower.

---

<sup>1</sup> The main information on the CSOs' activities in Croatia is put forward by CIVICUS (World Alliance for Citizen Participation), CERANEO (The Centre for Development of Non-Profit Organisations), Zagreb and SPAI (Stability Pact Anti-Corruption Initiative).

<sup>2</sup> See, for example, the publication by CERANEO, *Civil Society in Croatia: The Findings of the CIVICUS Society*, available at [http://www.ceraneo.hr/civil\\_Society/](http://www.ceraneo.hr/civil_Society/) that summarises its findings with a diagram, where Croatia's civil society is given a 53.8 point rating for "structure" but only 34.6 points for "space". It is difficult to discern what the authors imply by this.

<sup>3</sup> According to the Law on Associations (Article 15) an association active in one county is to be registered in the County Office for Public Administration, and an association that is active in two or more counties, i.e. on a national level, is to be registered at the Ministry of Justice, Administration and Local Self-Government.

Croatia has 46 registered foundations, three funds<sup>4</sup> and slightly over 150 public benefit companies with the status of non-profit organisations. In early 2001, 431 humanitarian organisations were registered with the Ministry of Labour and Social Welfare. Of these, 284 (66%) are domestic associations, 37 (8%) are foreign associations, 77 (18%) are religious communities and 33 (8%) comprise other legal persons including foundations, public benefit companies and companies.<sup>5</sup> According to an estimate by the Regional Centre for Environmental Protection, Croatia has some 290 associations active in environmental protection. In addition, Croatia has 1,752 volunteer fire stations and 529 registered labour unions with approximately 550,000 members.

## **Legal Provisions Concerning NGOs**

According to the CERANEO and SPAI reports<sup>6</sup>, Croatia had no satisfactory legal framework either for establishing CSOs or for their operations. In February 2002 the Constitutional Court abolished the 16 provisions of the Law on Associations restricting freedom of association. At the beginning of 2002 Croatia was the only former communist country in the region not allowing the public to make tax-deductible donations to CSOs, with the exception of sports and cultural CSOs. In this context it should be noted that Croatia has the lowest number of established foundations, compared to other Central European transitional countries, pointing towards a generally unfriendly tax environment for private philanthropy. The government, which came to the power in early 2000, declared its intention of creating a new legal framework concerning the establishment and functioning of CSOs. This framework is of a similar nature to those of many developed countries. This new policy resulted in the design of the *Programme of Cooperation between the Government of the Republic of Croatia and the Non-Government, Not-for-Profit Sector in the Republic of Croatia*, adopted in December 2000. Following the efforts of the Associations office, the government has developed a transparent national grant programme to be allocated from the state budget.

---

<sup>4</sup> Funds are a specific sub-category of foundations with a narrowly-defined mission and are allowed to exist for five years.

<sup>5</sup> Data available on the web site of the Ministry of Labour and Social Care, <http://www.mrss.hr>

<sup>6</sup> Stability Pact Anti-Corruption Initiative (SPAI), 'Croatia Civil Society Assessment Report' in SPAI Regional Conference on Civil Society, *Empowering Civil Society in the Fight Against Corruption in South East Europe*, available at [http://www.nobribes.org/Documents/SPAI/Croatia\\_SPAI-CSreport\\_2001.doc](http://www.nobribes.org/Documents/SPAI/Croatia_SPAI-CSreport_2001.doc)

NGOs have been brought into the process of drafting a new revision to the Law on Associations, and the draft law has been sent to 16,000 NGOs for comments. Following this wide-ranging consultation, the revised Law on Associations was adopted and entered into force on 19 October 2001. Among its positive features, the new Law provides for voluntarily registration of associations; requires at least three natural or legal persons to establish an association; places on an equal footing domestic and foreign persons as founders; streamlines the conditions for registration of foreign NGOs; and reduces the government's intrusion in issues related to the internal government of an association.

This new approach regarding involvement of CSOs in drafting the new Law is an exception, although it might be a kind of positive sign for the future. According to CERANEO and other sources of information, the local authorities and the national government have not so far invited CSO involvement in public policy formulation, and even at a local level, CSOs have rarely influenced policy. As there are no formal communication channels between the state and civil society, only a small proportion of CSOs succeed in exerting any influence on policy. The poor impact at local level could be attributed to citizens' perceptions that the government is the most important decision-maker. It especially refers to the military area, although government representatives have, slowly but surely, begun to emphasise the significance of civil society in their public appearances. In the government's *Strategy of Croatia's Development*<sup>7</sup>, the importance of civil society, the principle of subsidiarity<sup>8</sup> and partnerships with CSOs have all been recognised as important hallmarks of modernisation and civil society development in Croatia.

In a draft National Security Strategy prepared by independent experts, the relevance of the involvement of CSOs in civil-military relations was underlined, but this version of the Strategy was not discussed and accepted by the Croatian Parliament (Sabor). The Parliament instead accepted a text prepared by a very small group of people without the involvement of any agencies except the Ministry of Defence, without the input of

---

<sup>7</sup> More details are available at <http://www.vlada.hr>

<sup>8</sup> This principle originated from essays by the Roman Catholic Church with regard to public welfare issues in late 19<sup>th</sup>-century Germany. Its principles state that the smallest social unit capable of delivering the respective social service should be in charge. It thus places a premium of importance on CSOs at the local level.

independent institutions and analysts and without the knowledge of the media or the general public<sup>9</sup>. In this document the role of CSOs is significantly reduced to a proclamation on the need for “synergic functioning of the military and civil component within the national defence doctrine”. Civil society as a terminology has not been mentioned at all. Only the role of the media has been mentioned in the context of democratic oversight of the security and military sector, but in a very general way.

According to the available surveys (SPA1, CERANEO, CIVICUS), CSOs only partially succeed in representing their constituents’ interests and putting these interests on the public policy agenda. Linked to this finding, representatives of civil society are rarely invited to participate in the generation and discussion of legislation. Civil society’s participation in the generation and discussion of legislation has only been recently recognised as important by CSOs in Croatia. Generally, it can be said that CSOs have a very minor impact on government policy. There are only a few areas where the government is actively cooperating with CSOs. These include: environmental protection, social and gender issues and issues pertaining to victims of war.

As a general conclusion, most institutions dealing with the role of CSOs in Croatia make clear that they are not very successful at monitoring government commitments and policies. That requires a lot of additional effort and mutual understanding. Government representatives are not open to independent monitoring and do not see this as an important role for CSOs, yet they regularly seek the support of CSOs.

## **NGO Viability and Funding**

CSOs are not dependent on indigenous public funding only, and the above-mentioned research indicates that only seven per cent of organisations have received state subsidies. It is important to note here that in the past the system of allocating state funds at various levels was completely non-transparent, although this has improved over the past few years. The findings also indicate that few CSOs depend on indigenous private financial support, largely because there was, at the time, no favourable tax framework for donations. There is a growing consensus that CSOs depend primarily on foreign

---

<sup>9</sup> Portfolio of Country Transparency Profiles – draft paper issued by the Centre for European Security Studies, Groningen, September 2002.

funding to maintain their operations. Foreign funding programmes play such a fundamental role in financing CSOs that the development of a civil society infrastructure strongly rests upon this source of funding. The CSOs receiving foreign grants are mostly located in bigger towns or in areas affected by the war. The problem of financial sustainability is likely to remain one of the vital issues facing each organisation. To improve this situation, CSOs will have to find financial resources inside the country: donations, subventions and income generated from their own services.

According to CERANEO, the state provides only formal/symbolic support, both financially and otherwise. It seems (CERANEO) that such support exists only to meet the requests of the international community, and does not reflect a real inclination to create the social-cultural environment in Croatia receptive to the operations and development of civil society.

CSOs play only a modest role in resolving conflicts in Croatian society. This potential field of work for CSOs is not considered to lie within their area of competence, either by the public or by most of the organisations themselves. Some war veterans organisations are involved in tackling the current conflict on whether Croatian soldiers committed any war crimes or not. Human rights groups support the government in implementing legislation on this issue. However, it is difficult to analyse the concrete contributions of these groups in this matter.

This research has proved that the most critical challenge for the development of civil society in Croatia relates to the limited space in which it has to operate, as defined by the legislative, political and social-cultural framework. Civil society in Croatia needs to engage itself more with public policy issues in an attempt to establish a position for itself in the policy-making process.

The same relates to the issue of civil, or rather, democratic oversight of the security and military sector, having especially in mind security sector reform along with the NATO standards and criteria. There are only a few NGOs dealing with this issue from various aspects, which are set up by some academicians who, due to their expert backgrounds, are dealing with these issues at universities and in scientific institutes.

## **State of the Media**

The Constitution guarantees freedom of thought and expression, and the government has generally respected this right in practice, although some problems remain. Constitutional provisions specifically include freedom of the press and other media, speech, and public expression, as well as the free establishment of institutions of public communication. Since the change of government in early 2000, there has been a marked improvement in respect to the independence of the media.

In early February 2001, the Parliament adopted a Law on State TV (HTV). It modified the concept of a government-controlled broadcaster and structured HTV as a public television under the control of an independent Council composed of representatives of CSOs and confirmed by the Parliament. According to SPAI, however, the new HTV law allow more political control over state television than is typical. That is why the law on the media was to be reviewed with the aim of enhancing transparency and introducing more publicity on the identities of major media shareholders.

Freed from government control, the Constitutional Court struck down articles on defamation and libel from the Law on Public Information in February 2000. Reports of harassment, threats, surveillance, censorship, libel suits, and physical assaults on journalists abated during 2000. The government retained some control over the media. According to SPAI, it controls two of the four main daily newspapers (a third is pro-government) and HINA, Croatia's only news agency. The major private, independent periodicals are the Rijeka-based *Novi List*, a daily with a circulation of 60,000, and three weeklies, *Globus*, *Nacional*, and *Feral Tribune*. Smaller newspapers are private. Many independent newspapers are in poor financial condition.

Distribution of newspapers and magazines is controlled by Tisak, a once-profitable firm that now operates 1,700 news kiosks. Foreign newspapers and journals continue to be available in the larger urban areas throughout the country, though because of their high cost, they remain inaccessible to many.

The 1999 Law on Telecommunications allows local independent radio and television stations to jointly produce and broadcast national programming for five hours a day to

compete with state-run television. In November 1999, in accordance with the Law, several independent television producers established a new network under the auspices of the National Television Association. This network competes with state television (HRT), but HRT maintains an overwhelming advantage over independent broadcasting.

### **The Military and Civil Society**

According to MoD sources, tensions between the media and the military, which existed during the former government, are slowly decreasing through intensified cooperation between the MoD and the media. This improvement is being exercised through press conferences, although they are very provisional, and the attendance of media representatives at seminars, public discussions and round tables organised by the Ministry of Defence. Furthermore, military newspapers have been changed and a new one is being published – The Military Gazette – which deals with internal regulations, tenders and other defence information. The official attitude of the security community in Croatia is that well-meant criticism by the media is a tool for democratic control over the armed forces, and the MoD has officially proclaimed its willingness to cooperate with the media to their mutual satisfaction.

However, the problem of the lack of fully professional treatment from both sides concerning the sensitive issue of civil-military relations remains. There are still a lot of examples of a superfluous and very extensive interpretation of confidential and classified information on defence and security issues from the side of the MoD, but also of the lack of knowledge and expertise on such sensitive relations and problems, from the side of the media. Too wide-ranging an interpretation of classified documents is habitual, sometimes due to the ambition of a highly-positioned military member of staff to keep his position by any means by mystifying the profession. On the other hand there are very few journalists who are able to recognise the tiny distinction between information which should be considered confidential in the national interest, and information or problems which deserves public transparency. A lot of educational efforts in this field need to be made. This is mostly a problem of fine-tuning – journalists who are very competent at analysing military issues are not competent enough to analyse the highly sensitive civil-military relations especially in terms of the democratic oversight of the armed forces.

The MoD has an Information Office, which regularly publishes press clippings in Croatian. There are no regular meetings with journalists or press conferences. Concerning press releases, there is not much information either on civil-military relations or on democratic oversight of the armed forces. The MoD's website has long been under "major reconstruction" and one can only gain access to press clippings in Croatian. The official MoD spokesman heads the Information Office.

The Office of the President has a special defence adviser. There is also a spokesman, but there are no regular press conferences or clippings. The Office of the President has its website, but with very little information on defence topics, although the President retains significant powers in the intelligence and security sector. The President of Croatia is the Commander-in-chief of the Croatian armed forces and bears constitutional responsibility for the country's defence and its territorial integrity. The current President especially is in charge of the depolitisation of the armed forces including officers in the highest positions. He regularly discharges any officer who issues a political statement on any problem of Croatian internal and external politics or who happens to take sides in any political conflict.

The third possible source for that kind of information is the Government's Office for Public Relations, which is headed by the Government's spokeswomen. The Office regularly issues the Croatian Government Bulletin in English, but there is little information on military issues, not to mention civil-military relations at all. The journalists who specialise in this area usually have their own informal sources, and they have to dig a great deal to find out anything valuable in this area.

As to the senior government representatives and all other groups of civil servants who have any contact with this issue, there is no systematic model of informing them. These offices do not prepare and do not disseminate information on security and defence matters.

### **The Role of Public Policy Institutes, Academia and Independent Experts**

There are about 30 public institutes in Croatia and none of them is really specialised in security and military subjects, especially civil-military relations. Due to the fact that civil

and democratic criteria are gaining relevance in the process of accession to NATO, which is Croatia's strategic goal, some scholarly institutes dealing with social studies, have began analysing these questions as well. A good example is the Institute for International Relations (IMO) in Zagreb, which develops and recruits experts, from youngsters to experienced experts, who deal with security and military issues, but mainly within the field of research on various segments of international relations and the role of Croatia. The adjustment to civil and democratic criteria is also a very important issue, in the sense of compatible standards with the so-called Euro-Atlantic structures of the EU and NATO, which cannot be avoided while scrutinising the position of Croatia in international relations.

The IMO has developed very substantial cooperation with the most prominent European institutions in this field, such as the Geneva Centre for Democratic Control of Armed Forces (DCAF), the Centre for European Security Studies (CESS) in Groningen, the George Marshall Centre in Garmisch Partenkirchen, and the International Institute for Security Studies in London. That means cooperation in carrying out joint projects, organising conferences, seminars and workshops, especially in the field of civil-military relations. By doing this, all those involved in this cooperation were faced with the fact that Croatia's general public, including top politicians and MPs, were not aware of the relevance and sensitivity of this issue, which has a lot of influence on the internal political situation, not to mention the urgent demand for reform of the armed forces and the security sector in agreement with the standards and criteria of Euro-Atlantic structures.

In the Croatian parliament the Committee for Internal Affairs and National Security is primarily supposed to deal, within its mandate, with this issue. As this issue has its foreign affairs aspect, the Committee for Foreign Affairs is also supposed to be involved, as well as the Committee for Finance and the Budget. Due to the sensitivity and significance of the problem and lack of experience in dealing with it, members of both committees are, at the moment, not very aware of how to do this job. The four-year mandate is too short for mastering the problem, especially to be able to define fine lines or distinctions in all segments of civil-military relations. In order to prepare them to master this very new and complicated area, the Parliament should use the services of so-called staffers, who specialise in specific problems, such as, in this case, security and defence sector reform. They should be employed as experts in the given parliamentary

committees, providing members with expertise and their association with MPs should not be limited to the latters' mandates. They are supposed to be non-party experts and their work should be focused more on the expert and less on the political aspect of the problem.

The Centre for Strategic Studies, as an informal unit of the Institute for Applied Social Research, organises conferences on some strategic issues from time to time, mainly from the point of view of the position of Croatia and the Croatian diaspora in international relations. Such events are mostly financed only by the Croatian diaspora or the Catholic Church.

At the Faculty of Political Science there is a group of experts dealing with security issues and some of them deal with civil-military relations. They have organised some centres within the Faculty, which might be considered a component of civil society. These are the Defence Association, the Croatian Association for International Studies and the Croatian Atlantic Council. Although all these experts and professors belong to the Faculty, which is part of Zagreb University, they can be regarded as independent experts. In a broader sense, one can also say that the security aspect is analysed within some other Faculties dealing with social sciences.

The influence of the independent institutions and analysts is reflected, at the moment, more in the informal preparatory phase of the decision-making process, than in any formal ways. Although there are some positive signs, one can say that at the moment public policy institutes, academicians and independent experts are informally accepted as provisional advice-givers in security and military issues, but there is no feasible system of permanent consultations. There are no hearings in the Parliament or relevant committees, and no request for special independent reports.

The government, mostly the Ministry of Science and Technology, provides partial financial support to public institutes on a contract basis. There are regular three-year tenders, which define conditions for applications to all concerned institutes, but for independent experts as well. On the other hand, institutes are allowed to apply for projects and activities offered by businesses and foundations within the country and abroad. There is also the possibility of applying to other government bodies. There are

no restrictions on applying to foreign foundations or any other international or multilateral organisations. There are no restrictions on cooperating with them by working out joint projects or any kind of joint activities. This kind of support, especially financial, is very important and for some public institutes it might reach half of the total budget. The overall activity of some of these institutions can almost depend entirely on this kind of funding. With this kind of support these institutions are able to coorganise domestic or foreign events, such as conferences or seminars, or they can issue publications even in foreign languages.

The IMO case provides plenty of examples of the very close cooperation on a country, sub-regional and regional level. The cooperation with DCAF, CESS or the George C. Marshall Centre are examples of regional cooperation, the cooperation with the institutions in the sub-region of South Eastern Europe is an example of sub-regional cooperation with neighbouring countries, and there is a lot of cooperation with the public institutions or NGOs on a country level. All these joint activities are set up on the continuing basis.

## **Conclusions**

While talking about democratic oversight of the armed forces, security or intelligence agencies, one should take into account that this process in Croatia is being undertaken under special conditions. Croatia created its armed forces and all related services (security, intelligence, etc) during the war, which means that while organising them it was using them for very concrete armed activities. This might be called a trial and error process, a learning exercise on the ground and in combat, where each possible omission is supposed to provoke the loss of human lives. In these circumstances every possible warrior was welcomed and the question of a possible superfluity of armed forces was not on the agenda.

All this provoked an inherited “secrecy psychosis” even at times when armed conflict had ceased and when one could expect a kind of relaxation while dealing with this issue.

An appreciation that “knowledge is power” clearly prevails over recognition of the people’s “right to know” about security and military “business”. On the other hand, there

is no proper legislation covering the protection of state and official data and the limits of secrecy in terms of the national interest. Under the previous government, which encouraged such an approach given the fact that the army was highly politicised and exclusively under the control of the ruling party, this might be considered a kind of natural way of thinking. But when the coalition gained the power, big changes in the mindset of politicians did not take place. Some say that in the governing coalition each partner calls for more transparency only in those areas where his counterparts are in charge. At the same time all information seen as potentially useful in the party-political contest is kept secret or confidential.

This kind of situation might be attributed to the fact that the governing coalition is every week facing a lot of problems, a lot of sometimes unfair opposition from the MPs belonging to previous government and from the civil servants and bureaucrats, who remained in the office even after their party lost power. They are still in a position to sabotage any steps towards transparency and accountability. That is why the problem of correct auditing came up linked to the problem of the judiciary as well. The judiciary was devastated during the previous government, which replaced relevant experts with pro-party judges, whose expertise was not at an appropriate level. All this provoked a high level of general uncertainty among politicians, especially those who are in charge of dealing with such sensitive sectors as the security sector and the armed forces. In some other circumstances, perhaps in some other countries which are not encumbered with such legacy, some non-governmental interest groups – NGOs or other institutions of civil society – might provide some mediation support. The assistance of better-educated journalists would also be beneficial. As it was illustrated beforehand, such a possibility is rather slim given the present limited role of civil society in Croatia.

There are some encouraging signs but more from the media than from civil society, especially NGOs. That refers more to the written than to the electronic media. There are indications that in some newspapers, which are more or less independent, some competent experts are able to analyse these problems, taking into account all their sensitivity. On the other hand there are fewer hints that new NGOs, capable of dealing with these issues, will be promoted. In conclusion it is not very likely, at least at the moment, that civil society in Croatia will be qualified enough to be in a position to serve as a supporter or the relevant partner in addressing all these problems.

## CHAPTER NINE

---

### INTERNATIONAL REQUIREMENTS AND INFLUENCE

*Dario Cziráky*

#### Introduction

When talking about international requirements in the context of NATO/EU aspirant transitional countries, we mean both the technical/organisational steps needed to be taken in order to conform to Western standards (legislation, institutions, equipment, etc) and the political/economic requirements set by NATO/EU as pre-conditions for membership. These distinctions will prove to be rather important in the analysis of the Croatian situation.

The current international position of Croatia is marked by Croatian attempts to join the main international organisations, namely the North Atlantic Treaty Organisation (NATO) and the European Union (EU). Croatia's position towards the international community changed after the general elections in 2000 thereby enabling its active participation in European international trends, namely the EU Accession Process and NATO's Partnership for Peace (PfP) activities.

However, these processes placed a great burden on the Croatian government, forcing it to comply with rather complex and demanding international requirements, not all of which can be easily met. Though initially optimistic about meeting these requirements, the Croatian government is increasingly realising that this will be a long and difficult journey – longer and harder than originally anticipated.

The national strategy of the Croatian government marked accession to the European Union as one of the most important goals of its foreign policy. NATO membership is the second major membership-type goal. Both "clubs" impose numerous rather difficult-to-meet requirements on social and economic criteria that more or less encompass all the

goals (domestic and international) set out in the national strategy documents and papers. Good bilateral and multilateral neighbourly relations are a no less important Croatian foreign policy goal.

EU membership is surely the primary international goal and its importance was emphasised by the formation of a special ministry for European integration in February 2000 with the aim of building contractual relations with the Union along with adjustments of the Croatian legal, political and economic system to the existing structures within the EU.

As a full member of the Organisation for Security and Cooperation in Europe (OSCE) and of the Council of Europe, Croatia continues to meet the commitments deriving from its membership and concurrently endeavours to contribute as much as possible to the achievement of the goals and tasks of those organisations. Croatia has become actively involved in UN peace missions through the deployment of the military observers in Sierra Leone, and it will resolutely continue to contribute to the maintenance of international peace and security.

Nevertheless, progress toward NATO and EU memberships is far from being obstacle-free, there are numerous problems and difficulties and these problems do not weigh equally across different forms of international requirements. Specifically, fulfilment of political and economic conditions and requirements is lagging behind the technical and organisational ones considerably, and in the case of the defence reform and military issues even the organisational requirements are not being met in the planned and expected way.

## **B. International Requirements and Reform Consequences**

### *1. Government decisions on NATO and EU membership*

It is clear that the primary Croatian foreign policy goals are accession to the European Union and NATO membership. However, when stating this we implicitly refer to the goals of the *present* government; the opposition, especially the right wing, is far less supportive of the EU and NATO and it is not entirely clear to what degree foreign policy

goals would change if the next elections brought about a regime shift. Nevertheless, the international community's support has increased compared to previous years and the restraint from the European countries with respect to the development of bilateral relations with Croatia has weakened after the general elections in 2000.

Within the process of European integration, the Croatian strategic goal is to establish contractual relations with the European Union through the Stabilisation and Association Agreement (SAA)<sup>1</sup>. According to the SAA, the Croatia should become an EU associate member and this is seen as the most important step towards its full membership in the European Union. In order to achieve this goal, Croatia has intensified political and technical dialogue with the EU at all levels. However, there are still a number of conditions and criteria to be met in the economic, democratic and civil society spheres, as well as in regional stability and cooperation. The Croatian national strategy strongly emphasises the development of relations with the European Commission, the Council of Ministers and the European Parliament, as well as the development and intensification of overall bilateral relations with each individual EU member country, as important foreign policy goals.

A joint EU-Croatia Consultative Task Force was designed with the aim of creating a more stimulating framework for establishing contractual relations between Croatia and the EU. A resolution confirming that Croatia's entry into the European Union is the first national priority was passed in the Croatian Parliament and a decision concerning the formal request for Croatia's accession was to be made in early 2003.<sup>2</sup>

## *2. Policy Priorities: NATO Membership*

NATO membership is a strategic goal of the Republic of Croatia, which, it is hoped, will permanently resolve the issue of (regional) security and concurrently confirm the

---

<sup>1</sup> Government of the Republic of Croatia, *Implementation Plan for the Stabilisation and Association Agreement between the Republic of Croatia and the European Communities and their Member States*, (Republic of Croatia, Ministry for European Integration, Zagreb 2002).

<sup>2</sup> Note, however that this might be conditional on cooperation with the Hague Tribunal, though the SAA does not include a clause on such cooperation, i.e. such cooperation is not enforced by the SAA. Regardless of this, the recent decision of the United Kingdom to reject ratification of the Croatian SAA and furthermore lobby against ratifying it with other EU members, all as a proclaimed consequence of non-cooperation in the "Bobetko case" strongly indicates that cooperation with the Tribunal will play a far greater role in the EU accession of Croatia than anticipated before.

achievement of the highest criteria in democratic civil control of the armed forces. The road to NATO membership leads through the Partnership for Peace, a priority Croatian goal. According to Croatian President Stipe Mesić, Croatia's foreign policy is pursued at the regional, European and global levels.<sup>3</sup>

On 18 March 2002, the Croatian Parliament passed two key strategic documents – the "National Security Strategy of the Republic of Croatia" and the "Defence Strategy of the Republic of Croatia". These documents contain national security and defence policy objectives, which are in accordance with NATO's strategic concept. One of the primary objectives of the National Security Strategy is "to pursue membership in NATO and EU as a means of providing and contributing towards national, regional and international stability and security."<sup>4</sup>

Mesić emphasises that if Croatia "...wants to be a normal democratic European country, it cannot accept either a wartime-scale army or high-ranking officers with a secondary school background or the non-standardised equipment of its armed forces – and least of all their politicisation"<sup>5</sup>. His view of NATO membership policy is most clearly expressed in the following statement:

We must enter NATO just because we want to be a normal, democratic European country. That is, NATO will enable us to reduce our armed forces, develop a professional and professionally-trained officer corps, the standardisation of weapons and equipment, and the depoliticisation of the military. NATO will make that possible and, even more; it will force us to do it. And that is for our own benefit!<sup>6</sup>

In a recent talk, former Minister of Defence Jozo Radoš stated that "as an aspirant country, as well as a country that will begin participating in the Membership Action Plan ... Croatia is fully aware of the consequences NATO membership will have on its

---

<sup>3</sup> S. Mesić, 'Presidential Address at the IMO-NATO Conference', Dossier, *Croatian International Relations Review*, 26-27, 2002.

<sup>4</sup> Croatian Parliament, "Strategija nacionalne sigurnosti Republike Hrvatske (National Security Strategy of the Republic of Croatia)", *Official Gazette*, 32, 2002, pp. 1725-1734.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

defence system and its Armed Forces”<sup>7</sup>. Radoš further stressed that, in this regard, Croatia had made a number of moves that would enable its army to be ready for NATO membership in the near future. These steps, Radoš pointed out, will enable Croatia to:

- Adopt approaches to security as stated in the Strategic Concept of the Alliance;
- Provide forces and capabilities for collective defence and other missions of the Alliance;
- Participate in NATO’s military structure;
- Participate in NATO’s collective defence planning;
- Participate in NATO’s agencies;
- Continue to provide full support to PfP and further development of cooperative relations with Partners outside NATO;
- Work on standardisation and interoperability.<sup>8</sup>

The above steps were taken for the purpose of preparing the Croatian defence system for NATO membership. The relationship between NATO membership and defence reform can be described by noting a couple of advantages of such membership. It is likely that the experience of NATO countries in creating their defence systems will affect Croatian defence planning decisions as well as defence reform. Also, the likelihood of NATO membership will act as a stimulus for the successful implementation of the planned reforms.

The recently-passed *Law on Participation in International Operations* regulates issues concerning defence and establishes responsibility over the defence system amongst the various governmental institutions, and it also emphasises the issue of democratic control of the armed forces through a division of authorities and responsibilities with regard to key actors in the national defence system.

The Croatian armed forces, as defined in the National Security Strategy document,<sup>9</sup> will be organised, equipped and trained, in such way as to facilitate its participation in

---

<sup>7</sup> Radoš, J. (2002), Address at the IMO-NATO Conference, Zagreb, June 2002. Dossier, *Croatian International Relations Review*, 26-27.

<sup>8</sup> *Ibid.*

<sup>9</sup> Croatian Parliament (2002), “Strategija nacionalne sigurnosti Republike Hrvatske (National Security Strategy of the Republic of Croatia)”, *Official Gazette*, 32, pp. 1725-1734.

multinational forces and international peacekeeping operations as well as in humanitarian missions and disaster relief operations.

The new National Security Strategy foresees the greatest changes at the organisational level in the armed forces. The new (re)organisation includes a new military-territorial division, reduction of professional brigades and downsizing of overall military personnel. The structure of the Ministry of Defence and the General Staff will be simplified and will contain fewer organisational elements.<sup>10</sup>

The progress so far is not yet satisfactory in relation to NATO requirements for these reforms. An unusually harsh criticism was directed at Croatian Prime Minister Ivica Račan and former Defence Minister Radoš by NATO Secretary-General Lord Robertson during his June 2002 visit to Zagreb. Robertson criticised the organisational structure of the (excessively) large Ministry of Defence and the slowness of the so-far implemented organisational reforms. His main target was ineffective staffing and the excessive number of MoD employees (particularly civilians), which is in noted contrast to most Western MoDs. The later reconstruction of the Croatian government, and appointment of a new Minister of Defence was partly connected to this NATO criticism and the central (declared) task of the new Minister is a decrease in MoD staff.

### *3. Policy Priorities: EU Membership*

Croatia's formal relationship with the EU is anchored in the Stabilisation and Association Process – a proximity policy that reflects the political and strategic importance of the Balkans to the EU.

In June 2000 the Feira Council confirmed that the goal of the European Union is the fullest possible integration of the transitional countries, including Croatia, into the economic and political mainstream of Europe. On 24 November 2000, the Zagreb Summit rubber-stamped the Stabilisation and Association Process by assuring the agreement of all countries in the region to a clear set of objectives and conditions.

---

<sup>10</sup> According to the former Defence Minister, Croatia intends "...to place more of an emphasis on directing, planning and management within the Ministry of Defence, while the General Staff will retain implementation and operational functions." Radoš, J. (2002), Address at the IMO-NATO Conference, Zagreb, June 2002. Dossier, *Croatian International Relations Review*, 26-27.

Croatian negotiations for a Stabilisation and Association Agreement began in the autumn of 2000 and an agreement was initialled on 14 May 2001 and signed on 29 October 2001. In parallel, an Interim Agreement covering trade and trade-related areas was concluded to allow the early entry into force of these provisions of the SAA, since it is likely to take a certain time until all parties have ratified the SAA. Croatia has indicated that it intends to submit a formal application for EU membership "at an early stage", which specifically means the beginning of 2003. However, by the autumn of 2002 only six EU members had ratified the agreement and non-cooperation with the Hague Tribunal had caused several members to deny ratification. The most serious case is the British refusal to ratify the Croatian SAA and its subsequent lobbying among other EU members against signing the Agreement.

### **C. Participation in PfP Activities**

Croatia participates in the activities of the NATO's Partnership Work Programme, including seminars, courses, and exercises in civil-military cooperation, transparency in defence planning and budgeting, and resource management education, which enhances its role as a responsible contributor to the stability and prosperity of the wider region. Croatia was admitted to full membership of PfP and EAPC on 25 May 2002.

The Republic of Croatia participates in the Planning and Review Process (PRP) through a decision of the former Defence Minister Radoš. The basic document, which outlines general directions and cooperation mechanisms and a detailed programme for bilateral cooperation between the partner states and NATO have been adopted.

The Croatian Mission with NATO was established by decision of the Croatian President on 21 June 2000. Croatia has established a Task Force<sup>11</sup> for cooperation with NATO and the members of the Partnership for Peace, which includes experts from the political and economic, military and defence, security, legal, scientific and resource areas.

---

<sup>11</sup> This Task Force is coordinated by the Ministry of Foreign Affairs.

During 2001, Croatia participated in 150 PfP activities, such as joint exercises, training of specialised personnel and language training. Croatia also participated in the 19<sup>th</sup> "In the Spirit of PfP"-related activities and expanded its Individual Partnership Programme with NATO. This programme is aimed at educating and training Croatian units designated for participation in NATO-led PfP operations.

Croatia also participated in NATO's Southeast European Initiative, the Stability Pact for Southeast Europe, Quadrilateral cooperation, Southeast European Defence Ministerial, the Central European Initiative, the Adriatic-Ionian Initiative, etc.

Among related international activities, it is worth mentioning the international fire-fighting exercise "Taming the Dragon – Dalmatia 2002", which was hosted by Croatia in 2002 and organised in cooperation with the Euro-Atlantic Disaster Response Coordination Centre. The exercise was a Croatian contribution to the Partnership Work Programme. The exercise was positively evaluated by NATO and complimented by the NATO Secretary-General at the IMO-NATO conference in June 2002 in Zagreb.<sup>12</sup>

Croatian participation in PfP and its progress vis-à-vis required reforms are evaluated positively. According to Lord Robertson:

All this bodes well for Croatia's participation in NATO's Membership Action Plan. Because the MAP also requires seriousness and commitment, the NATO Allies are looking forward to receiving Croatia's first Annual National Programme and to reviewing Croatia's progress next spring as the first concrete steps in Croatia's move towards membership.<sup>13</sup>

There is an overall impression that Croatia is active and successful in its bilateral and multilateral programmes and cooperation coordinated by NATO. However, the implemented exercises and programmes focus mainly on technical and military cooperation and training. But while Croatia is showing progress on the level of equipment and the training of professional troops and special units, these programmes

---

<sup>12</sup> Robertson, G. (2002), Address at the IMO-NATO Conference, Zagreb, June 2002. Dossier, *Croatian International Relations Review*, 26-27

<sup>13</sup> *Ibid.*

did not affect the organisational and command structure of the military and the MoD. Thus the praising of these programmes as success stories might be slightly misleading.

#### **D. Public Opinion Towards the EU<sup>14</sup>**

Public opinion surveys on the issues of European integration and the Association Process with the EU were regularly carried out by the Ministry for European Integration over the last few years. The most recent results are from August 2002, and they aimed at investigating public opinion toward the European integration and sources of public information about EU issues.<sup>15</sup>

The survey results showed a positive overall attitude toward EU integration. The following summarises the main findings:

- Almost all the citizens of Croatia have heard of the EU (97%).
- The general opinion of a large majority of Croatian citizens on the EU is positive (78.4%).
- The share of the citizens who are “for” the EU integration of the Republic of Croatia is very high and almost unchanged (77%), while the share of those who are “against” the integration of the Republic of Croatia in the EU (13%) is increasing, at the expense of the undecided whose share is constantly decreasing (10%).

It is also found that distribution of EU support in the population is not equal. Namely, certain categories of Croatian citizens show greater tendency towards favouring European integration. Greatest support was found among those with average and higher household earnings, those with a secondary school and higher level of education, the middle-aged and younger people, and in particular, the employed.

---

<sup>14</sup> Regular public opinion surveys have not been carried out in Croatia on the topic of NATO membership, and empirical results in this respect are missing. There is a need to implement a regular public opinion survey that would cover public attitudes towards NATO and, generally, international military alliances and defence policy.

<sup>15</sup> The Ministry for European Integration commissioned the fourth semi-annual public opinion poll on the European Union in the Republic of Croatia. The poll was conducted by the GfK research agency.

A large majority of the surveyed citizens support the Stabilisation and Association Agreement: 70% in 2000 and 80% in 2001. Additional issues gained similarly high support, namely:

- common market and open borders (80% in 2000 to 85% in 2001);
- progress in science and education (77% - 80%);
- economic development and progress (79% - 77%);
- significant progress in general (from 80% in 2000 to 74% in 2001);
- higher standard of living (from 75% in 2000 to 68% in 2001).

The survey results indicated an increase of interest in all the aspects and possible consequences of the integration process.

Regarding public opinion towards NATO the situation is different. The government does not seem to be particularly keen on carrying out public opinion surveys on NATO. Similarly they are not eager to conduct detailed cost-benefit studies related to potential NATO membership. It is considered that the public largely supports NATO and such support is taken for granted and not too much investigated. The most likely reason for this is the government's view of NATO membership as an unconditional sine qua non for Croatia's journey to the West.

## **E. International and Government Programmes**

### *1. EU Programmes*

Since 1991 the EU has provided €367 million to Croatia. In the period of war and transition, 1991-1995, the EC provided €243 million to Croatia for humanitarian and relief assistance. Subsequently, in the period 1996-1999, assistance was focused on reconstruction and refugee return. Support was also given for democratisation, the independent media and de-mining. Funding during 2000 amounted to €19.754 million. €10.0 million was allocated to the continuation of support to the process of refugee return. This was based on an integrated approach: resources for reconstruction and rehabilitation of housing, infrastructure but also the provision of services, health and education and activities in the fields of job creation and income generation. In this

context, particular attention was given to encouraging the growth of small and micro-enterprises in disadvantaged regions in the sectors of tourism, agriculture, small industry and crafts (€2.34 million). In the framework of the Tempus programme, included in the 2000 allocation, the education sector was supported by activities aimed at curriculum development, university management and in more general terms, institutional support. The 2000 resources also included a substantial technical assistance programme (€3 million) aimed at building and strengthening capacities at central government level for managing and coordinating EU aid programmes.

In 2001, assistance of €60 million was committed under the new CARDS (Community Assistance for Reconstruction, Development and Stabilisation) Programme. This programmed support was planned to begin in early 2002, but it was postponed to 2003, with only several small-scale pilot projects starting in 2002. The largest single financial allocation (€23.2 million) was made to reconstruction and economic development linked to refugee return. However the bulk of the programme comprises support for Croatia focused specifically on European integration.

Other EU programmes focus on supporting Croatia's efforts in democratic stabilisation (including the return of refugees and displaced persons), economic and social development, justice and home affairs, the building of administrative capacity, environmental protection and a real commitment to regional cooperation.<sup>16</sup>

Close cooperation between the Croatian government and the EU was established in carrying out the EUPOP programme (EU Program Obnove za Povratak - EU programme for Reconstruction and Return), implemented by ASB (Arbeiter Samariter Bund), which is the largest financial assistance instrument of the international community in Croatia. This assistance has included specifically:

- rebuilding housing units, enabling the direct return of over 7,000 people, and indirectly a number that might be two or three times higher due to the effects of multiple and two-way return;

---

<sup>16</sup> The EU puts special emphasis on the importance of Croatia's active commitment to the principles and objectives of the Stability Pact.

- assistance to returnees in the administrative process and acquisition of legal documents;
- the repair of public utilities and infrastructure such as electricity, water, sewage, schools and health centres, benefiting all residents and creating the basic conditions for economic development at the local level;
- extensive mine clearance in conjunction with the Croatian Mine Action Centre and as part of the EUPOP programme;
- law, order and security. For example, EU money has built seven police stations in Eastern Slavonia;
- support for the Commission for Real Property Claims which was created under the Dayton Agreement to make legal and binding decisions on property claims in Bosnia and Herzegovina.
- 

The European Community Humanitarian Office (ECHO) implemented a number of humanitarian programmes helping over 100,000 individuals.

The EU also funds projects that target typical problems of democratic transition and the development of Croatian civil society. In 1999 a first project with the Judiciary and the Law faculties of the Universities was launched. The Tempus programme was opened to Croatia from 2000, and a provisional Tempus office has been established within the Ministry of Science and Technology. This will be continued and expanded under the 2001 programme.

The European Commission adopted at the end of 2001 a country strategy<sup>17</sup> for Croatia, which covers 2002-2006 and provides a framework for future EC assistance. This future assistance will be delivered through the CARDS<sup>18</sup> programme. The strategy paper is complementary to the actions of EU member states and other donors.

---

<sup>17</sup> European Commission, *Croatia: Country Strategy Paper 2002-2006*, (Directorate General External Relations Brussels: European Commission, 2001).

<sup>18</sup> The CARDS programme is the main channel for the EU's financial and technical assistance cooperation with the countries of south-eastern Europe.

## *2. NATO Programmes*

Croatia is a member of the PfP and EAPC, it has participated in the “Vilnius Group” (V10)<sup>19</sup> and before joining the Membership Action Plan (MAP)<sup>20</sup>, it was the only Vilnius country not formally included in the MAP. The Vilnius group was thus an important medium for informal cooperation and communication with other NATO candidate countries. It was launched in the Lithuanian capital Vilnius in May 2000, when the foreign ministers of the countries aspiring to join NATO gathered for the first time in the context of the alliance’s enlargement to express mutual support and solidarity, and signed the Vilnius Statement.<sup>21</sup> Croatia joined the Vilnius Group at the first prime ministerial meeting in Bratislava in May 2001 and has been an active member ever since.

Croatia joined MAP at the ministerial meeting of NATO in Reykjavik, Iceland, 13-16 May 2002, during the NAC & EAPC Foreign Ministers meeting. Though NATO’s Membership Action Plan started in April 1999 as a vehicle for countries aspiring to join NATO, Croatia was not admitted to it from the outset which was used as the main reason for not inviting it to full NATO membership at the November Prague NATO Summit (21-23 November 2002). So far, nine countries have participated in MAP (all the Vilnius countries except Croatia).

Croatian participation in the MAP firstly requires submission of the first Annual National Programme (ANP). Joining MAP, only two years after admission to the Partnership for Peace programme, has promoted Croatia to the status of a candidate for full NATO membership. However it is necessary for Croatia to spend at least three year-cycles implementing MAP.

Since joining the PfP programme in May 2000, military cooperation between Croatia and NATO has intensified significantly. One of the major Croatian PfP international

---

<sup>19</sup> The V10 comprises Albania, Bulgaria, Croatia, Estonia, Latvia, Lithuania, Macedonia, Romania, Slovakia and Slovenia.

<sup>20</sup> MAP is a mechanism established at NATO’s Summit in Washington in 1999 by which potential candidate-states aspiring to enter this international organisation prepare to become full members of NATO. It foresees the adjustment of political, economic, legislative, security and military standards and criteria to those of NATO member-countries.

<sup>21</sup> At that time, A “Vilnius Statement” was adopted. It is declared there that “While each country should be considered on its own merits, we believe that the integration of each democracy will be a success for us all and the integration of each democracy will be a success for Europe and NATO.”

programmes is international military exercises. Croatian military officers have participated in UN peacekeeping missions since 1999, in Sierra Leone and Ethiopia/Eritrea. In 2002, the Republic of Croatia successfully hosted a multinational PfP military exercise, called "Taming the Dragon – Dalmatia 2002".

Joint military exercises have been undertaken with the U.S. Armed Forces. A joint tactical exercise, in which the Croatian 350<sup>th</sup> Military-Intelligence Battalion and the American 10<sup>th</sup> Special Forces Group of U.S. EUCOM participated, was held in February 2002 at different locations in Croatia. The goal of the exercise was to standardise Croatian special forces' training and operative procedures in accordance with U.S. Army special forces' principles, thus supporting Croatian efforts to both participate in international military operations and integrate its Army into NATO. Besides familiarising themselves with equipment, arms and terminology, Croatian and American soldiers were also working in joint headquarters that provided an opportunity for Croatians to standardise their tactical communication systems and procedures. A joint Croatian-U.S. military exercise was also held at the Croatian military training facility "Eugen Kvaternik" during April 2001. The Croatian 1<sup>st</sup> and 2<sup>nd</sup> professional brigades and Croatian military air force participated in the exercise from the Croatian side, and the 22<sup>nd</sup> Marines Expedition Unit from the American side. The exercise included an infantry, tank and artillery demonstration, supported by American helicopters. The goal of the exercise was to exchange experiences between the two armies as well as to become familiar with planning, executing and evaluating similar exercises, which is one of the requirements for the Croatian Army to enter the NATO Pact. The Status of Forces Agreement (SOFA) was signed on 12 July 2001 in Washington D.C.

### *3. Effectiveness of International Programmes*

Croatia has made significant progress toward improving international coordination and participation in international programmes. Among other things, Croatian Foreign Affairs Minister Tonino Picula recently stressed the main achievements being the Zagreb Summit, the signing of the Stabilisation and Association Agreement with the EU, membership in the Partnership for Peace, the Euroatlantic Partnership Council (EAPC),

admission to the Vilnius Group and recent inclusion in the Membership Action Plan.<sup>22</sup> Furthermore, he emphasised that Croatia had joined the World Trade Organisation, concluded a number of free trade agreements resulting in over 80 per cent of Croatia's foreign trade taking place under a free trade regime, and its pending admission to CEFTA.<sup>23</sup>

In the field of defence programmes, Croatia is receiving international expertise and assistance through a specially-developed project within the Stability Pact. The Croatian Ministry of Defence has developed a personnel reduction plan that was presented to NATO experts and the NATO Economics Committee, where it was endorsed as a model plan. NATO's endorsement of the programme will act as a guarantee of its quality to the World Bank and the Stability Pact, both of which constitute institutions from which Croatia is expecting some form of financial support for these expensive and extensive programmes. In addition, advice from NATO experts will also have a profound influence on the planning and execution of the programme. The active participation of the Croatian Armed Forces in PfP activities, and a closer bond and relationship with NATO, will positively influence the reform of our Armed Forces, particularly in areas which concern adjustments towards legislative regulations, elaboration of new standard-operating procedures, and in the definition of modernisation plans.

The most important effects of the international, namely NATO, programmes are on regional stability and cooperation and transparency. Croatia is exchanging information concerning its defence system, as well as structures and plans through PfP and EAPC forums. Croatia's experiences in PfP will also provide a positive example to its neighbours and other countries in the region.

---

<sup>22</sup> Picula, T. (2002), Address at the IMO-NATO Conference, Zagreb, June 2002. Dossier, *Croatian International Relations Review*, 26-27.

<sup>23</sup> He also mentioned that "Constructive dialogue and cooperation with the International Criminal Tribunal in the Hague have been established, as well as numerous domestic reforms which have contributed to democratisation and strengthening of civil society, and to the civil control of armed forces." *Ibid.*

## **F. The Consequences of “Conditionality”**

### *1. EU Conditionality*

The European Union offered a possibility of accession on the basis of the Treaty on the European Union (TEU) and on the basis of the 1993 Copenhagen criteria, asking in return from the relevant countries to abide by the EU's conditionality and participate fully in the Stabilisation and Association Process. They also accepted that the Stabilisation and Association Agreements (SAAs), when signed, would be the principal means for starting preparations for the demands that the perspective of accession to the EU naturally entail. The SAAs focus on respect for democratic principles and integration of the countries of the region into the EU single market. They foresee the establishment of a free trade area with the EU and set out rights and obligations in areas such as competition and state aid rules, intellectual property and establishment, which will allow the economies of the region to begin to integrate with the EU's. The conclusion of such Agreements represents the signatories' commitment to complete over a transition period a formal association with the EU, tailored to the circumstances of each country but based on the implementation of the same core obligations. The EU's political strategy towards the region relies on a realistic expectation that the contract it enters into with individual countries will be fulfilled satisfactorily. Careful preparation with each country before the EU offers such a contract has been and remains a vital component of the Stabilisation and Association Process. The agreements contribute to EU's objectives in the following way:

- They are a tool, which provides the formal mechanisms and agreed benchmarks which allow the EU to work with each country to bring them closer to the standards which apply in the EU;
- They are a means to focus attention on respect for key democratic principles – human and minority rights, stable democratic institutions, standards of political behaviour and the independence of the media;
- They include the core elements that are at the heart of the single market. Through free trade with the EU and the associated disciplines (competition and state aid rules, intellectual property, etc) and rights (e.g. establishment), this process will allow the economies of the region to begin to integrate with the EU's.

The prerequisite for further assessment by the EU of a country's prospects of accession is the effective implementation of the Stabilisation and Association Agreements.

The Zagreb summit placed considerable emphasis on the need for regional cooperation. The SAAs include a clear commitment to regional cooperation, which is reflected both by the funding of a regional CARDS programme and by the shared objectives of national CARDS programmes. The CARDS programme underpins the objectives and mechanisms of the Stabilisation and Association Process, and as each country moves deeper into that process, assistance will focus increasingly on support for the reforms and institution-building necessary to implement the obligations in the Stabilisation and Association Agreements. A precondition for receiving assistance under CARDS is compliance with Article 5 of the CARDS Regulation<sup>24</sup> covering conditionality issues.

Currently, Croatia is lagging behind in fulfilling its tasks vis-à-vis the EU. Out of 128 due for implementation by the end of 2002, only 65 were implemented. Out of 36 new laws foreseen, 12 were not yet adopted. The primary conditions that Croatia is still failing to meet are:

- minority protection (the Constitutional law on minority rights has not yet been adopted);
- the legal administration reform has not been carried out;
- the law on the national television (HRT) has not been changed as required by the SAA;
- legal regulation of state subsidies has not been adopted;
- institutional capabilities of the state administration have not been sufficiently strengthened.

---

<sup>24</sup> Council Regulation 2666/2000 of 5 December 2000.

## *2. NATO Conditionality*

NATO defined relatively broad conditions for aspiring members: the candidates should reach the point where they could be described as a stable democratic system with a growing market economy and no major problems with neighbouring countries.

An Inter-Agency Working Group for Cooperation with NATO and Partnership for Peace countries composed of the representatives of all the relevant authorities is working on the completion of the Annual National Programme (ANP) of preparation for NATO membership. This document makes use of MAP's principle of self-differentiation, allowing the aspirant countries to choose the elements of the MAP best suited to their own national priorities and circumstances, and to define them in their ANPs.

To understand the impact and scope of "NATO requirements" (which are very broadly defined in public NATO documents) we shall go back to the definition stated at the beginning of this paper. Technical requirements have so far been met more successfully, but still not in full, then organisational and political. When talking about organisational NATO requirements we mean restructuring of the personnel composition and command structure in the military and the Ministry of Defence. Both accounts are still unsatisfactory and present urgent and important reform action points. Political requirements, on the other hand, are not well defined and cannot be easily measured. NATO will interpret these requirements using its own subjective standards and thus it is hard to measure Croatia's progress on these issues.

## **G. Conclusion**

Croatia's main foreign policy goals are joining major international organisations, primarily NATO and the EU, and integrating with them. These attempts, however, place great demands upon the Croatian government and meeting the necessary international requirements is proving to be a rather difficult task.

EU membership as a primary international goal was emphasised by the formation of a special ministry for European integration in February 2000 with the aim of building contractual relations with the EU. Croatia is currently a full member of the Organisation

for Security and Cooperation in Europe (OSCE) and of the Council of Europe and is making strong efforts to meet the commitments put forward by these memberships. Unfortunately, not all requirements can be met and recent developments most strongly indicate this problem. Though cooperation with international organisations such as the Hague Tribunal is not specified as a necessary pre-requisite in the SAA treaty, it is evident that Croatia's progress will be monitored in all international arenas. A recent example best illustrates this point. The EU warned Croatia on 11 October 2002 that it must respect its obligation to cooperate with the UN war crimes tribunal (Hague Tribunal). Failure to cooperate fully with the court would greatly affect Croatia's further movement toward the EU. At issue is an indictment and arrest warrant issued by the tribunal against retired Croatian General Janko Bobetko, which was rejected and appealed against by the Croatian government.

The progress toward NATO and EU memberships is therefore not without obstacles. There are numerous problems and difficulties. Fulfilment of political and economic conditions and requirements is lagging behind considerably. In the case of defence and military reform even the organisational requirements are not successfully met in the planned and expected way and it is somewhat doubtful that efficient re-organisation of the Ministry of Defence and the armed forces will be carried out in the near future.

## **References**

- Bulletin EU (1998), *Council conclusions on conditionality*. EU Official Document, Secretariat General of the European Commission.
- Council of Europe (2001), *Progress Report by Croatia*. Consul/ICC, 33, Strasbourg, 10 September.
- Croatian Parliament (2002), *Strategija nacionalne sigurnosti Republike Hrvatske* (National Security Strategy of the Republic of Croatia), *Official Gazette*, 32,1725-1734.
- Government of the Republic of Croatia (2002), *Implementation Plan for the Stabilisation and Association Agreement between the Republic of Croatia and the European Communities and their Member States*. Republic of Croatia, Ministry for European Integration, Zagreb.
- Koukourdinos, D. (2002), *Constitutional Law and the External Limits of the Legal Framing of DCAF: The Case of Croatia and the Federal Republic of Yugoslavia*. Geneva Centre for the Democratic Control of Armed Forces (DCAF), Working Paper Series, No. 61.
- Matek, V. (2002), Address at the IMO-NATO Conference, Zagreb, June 2002. Dossier, *Croatian International Relations Review*, 26-27.
- Mesić, S. (2002), Presidential address at the IMO-NATO Conference. Dossier, *Croatian International Relations Review*, 26-27.
- Ministarstvo za europske integracije (2002), "Rezultati 5. vala istraživanja javnog mnijenja o Europskoj uniji i procesu pridruživanja (Results of the 5th wave of public opinion survey on the European Union and the Accession Process), Ministarstvo za europske integracije, Zagreb: <http://www.mei.hr>.
- Picula, T. (2002), Address at the IMO-NATO Conference, Zagreb, June 2002. Dossier, *Croatian International Relations Review*, 26-27.
- Radoš, J. (2002), Address at the IMO-NATO Conference, Zagreb, June 2002. Dossier, *Croatian International Relations Review*, 26-27.
- Robertson, G. (2002), Address at the IMO-NATO Conference, Zagreb, June 2002. Dossier, *Croatian International Relations Review*, 26-27.

## **Appendix 1. Chronology of relations with NATO**

- January 23, 1994 – Croatian Foreign Minister Mate Granic announces that this country is interested in participating in the Partnership for Peace programme.
- November 21, 1994 – Thirty NATO aircraft attack the airport of Krajina Serbs, Udbina in Croatia; this was the first NATO attack against the positions of Croatian Serbs in the history of the conflict in Bosnia.
- January 11, 1996 – NATO Secretary-General Javier Solana, on his first official foreign journey, visits Zagreb.
- June 14, 1996 - NATO Secretary-General Javier Solana meets Croatian President Franjo Tudjman. According to Alliance sources the meeting did not proceed well as NATO representatives were surprised by the very hard stand taken by the Croatian President who said that the division of Bosnia into two parts (Croatian and Serbian) is unavoidable.
- May 9, 1997 - Croatia applies for integration into the Partnership for Peace NATO programme of military cooperation.
- April 23-25, 1999 - Top representatives from NATO member states and from seven countries neighbouring on Yugoslavia (Albania, Bosnia, Bulgaria, Croatia, Macedonia, Romania and Slovenia) meet on the sidelines of the summit in Washington, which marked the 50th anniversary of the establishment of NATO. Afterwards the Alliance approved the Balkans Stability Pact submitted by Germany. The plan aimed to promote economic development of the region strongly affected by the war in connection with the Kosovo crisis, to create preconditions for the integration of the region's states into European institutions and to ensure the stability and security of the region.
- May 9, 2000 - In conclusion of a visit by Croatian Premier Ivica Racan to NATO Headquarters in Brussels, Secretary-General George Robertson says that Croatia should become a member of the Partnership for Peace programme.

- May 25, 2000 - Croatia is admitted to the Euro-Atlantic Partnership Council (EAPC) which associates the countries of the North Atlantic Alliance and states participating in the Partnership for Peace programme.
- May 30, 2001 – NATO Secretary-General George Robertson participates in the Wilton Park conference held in Dubrovnik.
- June 24-26, 2002, NATO Secretary-General George Robertson speaks about conditions of NATO membership and Croatian progress in military reforms at the IMO-NATO conference in Zagreb.
- May 14, 2002 - Foreign ministers from the 19 NATO member states express in Reykjavik satisfaction with Croatia having joined the process of Membership Action Plans; Croatia thus officially becomes the 10th NATO membership candidate country.

## **Appendix 2. Chronology of relations with the EU**

- 1997: Regional Approach. The EU Council of Ministers establishes political and economic conditionality for the development of bilateral relations with Croatia.
- 1999: The EU proposes a new Stabilisation and Association Process (SAP) for the five countries of southeastern Europe, including Croatia.
- 2000: Parliamentary and presidential elections in January 2000 result in a change of government in Croatian politics and usher in a new political climate. These changes have offered the opportunity for rapid progress in the relationship between Croatia and the European Union. The EU has responded by:
- February: Establishment of an EU-Croatia Consultative Task Force, which has provided Croatia with expertise and technical assistance in preparation for the Stabilisation and Association Process.
- March: Upgrading the EC Office of the Special Envoy in Zagreb to a permanent delegation of the European Commission.
- 24 May: Adoption by the Commission of a positive feasibility report on the opening of negotiations for a Stabilisation and Association Agreement (SAA).
- June: Feira European Council states that all the SAP countries are "potential candidates" for EU membership.
- September: Extension of duty-free access to the EU market for products from Croatia.
- 20 November: Opening of negotiations for an SAA on the margins of the Zagreb Summit.
- 2001: First year of new CARDs programme specifically designed for the SAP countries.
- 29 October 2001: Signing of the SAA. The SAA provides for wide-ranging cooperation and will guide a gradual approach of Croatia to the EU structures. The SAA includes the establishment of a framework for political dialogue and the promotion of economic and trade relations with the perspective of establishing a

free trade area after a transitional period of six years. The agreement also provides a basis for cooperation in the field of Justice and home affairs, and identifies the "acquis communautaire" which Croatia will have to adopt in order to be able to effectively participate in the European integration process. An Interim Agreement, covering trade and trade-related measures, was concluded in parallel with the SAA, and entered into force at the beginning of March 2001.

## **CHAPTER TEN**

---

### **PEACEKEEPING AND REGIONAL SECURITY**

*Zvonimir Mahecic*

#### **Introduction**

Croatia's security environment and security policy have altered considerably during the last few years. Croatia intends to make very energetic efforts to enter NATO which means, among other things, full-scale engagement in PfP and MAP activities. Croatia recently developed a new National Security Strategy and a Defence Strategy, two documents which reorient Croatia's security toward regional cooperation. Finally, after the Prague Summit, the Presidents of Croatia, Albania and Macedonia, discussing their future effort to get into NATO, agreed to work more closely to accomplish this goal. Given these developments, Croatia will reorient its efforts toward regional security and peacekeeping.

#### **Legal Framework for Peacekeeping Operations**

There is a provision in the Constitution that says the Armed Forces can be deployed and employed across the border only after a decision has been passed by the Parliament. This is the general rule, but there are exceptions to this rule. Within the framework of international defence organisations that the Republic of Croatia joined or is in the process of joining based on international agreements, the Armed Forces can be deployed across the border without Parliament's prior decision in order to participate in exercises or humanitarian relief operations.

The special Law on the Participation of the members of the Armed Forces, Police, Civilian Protection and civil servants in peace support operations and other activities abroad describes further the authority of the state institutions and procedure of sending troops across the border. This Law says that based on a prior decision of the Parliament,

members of the Armed Forces are sent on peace support operations and other activities by the President in his role as Commander-in-Chief of the Armed Forces.

The President can also send Armed Forces members and units to participate in exercises and training activities within the framework of international defence organisations without Parliament's prior decision but he has to have a proposal from the minister of defence. In the case of participation in humanitarian relief operations the government makes the prior decision. In all cases the process starts when the appropriate minister or head of the civilian state agency sends a request to the government and/or the President and they propose to the Parliament that it pass a prior decision.

The President can make a decision to withdraw the members of the Armed Forces from a peace support operation if their lives are threatened. In the case of the change of a peace support operation's mandate, the Parliament will decide unilaterally or upon the President's or the government's request, whether our participation is going to be cancelled or not.

The length of time the personnel are going to spend participating in an international peace support mission, and the operational command and control are not covered by the provisions of the Constitution or the Laws.

### **Strategic Approach to Peace Support Operations**

The National Security Strategy (NSS) does not explicitly mention peace support operations as a part of the strategic concept. Partly it is due to the fact that there is actually no explicit strategic concept. On the other hand, security objectives do mention building a favourable international security environment but only through integration in international security organisations and cooperation with other democratic states.

In the part of the NSS devoted to security policy there is a subchapter 'Contribution to international peace and humanitarian operations'. Here we can find the intention stated that this kind of international cooperation, depending on our resources, should become an important element of our security policy. The United Nations is recognised as the

legitimate and most important organisation responsible for the protection and preservation of peace. The role of NATO and the EU is also recognised regarding the execution of peace support operations. There is a clear statement that Croatia will consider the importance of peace support operations through their influence on national security. Because of limited resources and capabilities, we will promote our contribution to peace support operations through partnership with other democratic states and through regionally-originated multinational peace support forces like MLF and CENCOOP.

One of the four areas of activity recognised by the Defence Strategy is the contribution to the development of a stable and secure environment. This is the area most directly connected with the involvement of our forces in peace support operations and directly linked to one of the two defence strategy pillars – development of a reliable partnership and alliance, and contribution to the shaping of a favourable security environment during peacetime.

According to this, the Defence Strategy states that one of the peacetime military tasks is our contribution to peace support operations through different international arrangements (UN, NATO, PfP, EU, etc.). In order to successfully participate in peace support operations, we will develop management and command structures capable of taking part in the decision-making process and education and training regarding this kind of operations.

## **The Military Strategy**

The Military Strategy repeats the statements already made in the Defence Strategy regarding a contribution to the development of a stable and secure environment as one of the four areas of activity, and a contribution to the peace support operations as one of the peacetime military tasks.

The Military Strategy also sets out the basic military capabilities that should be attained by different peacekeeping units. They are as follows:

- Support in the anti-terrorist fight as part of the global campaign to suppress terrorist activities;
- Support in any natural, technological and humanitarian emergencies and catastrophes;
- Demining and cleaning of unexploded military warheads of all kinds;
- Support in dealing with any nuclear, chemical and biological accidents;
- Search and rescue operations;
- Participation in peacekeeping and humanitarian activities.

As can be seen, there is a lot that can be said about these capabilities. Some of the elements are arguably redundant and it is an open question whether some of them belong among the duties of peacekeepers. But at least they provide some sort of framework for upgrading capabilities in order for the Armed Forces to fulfil their tasks and reach a higher level of performance.

Unfortunately none of our three strategic documents (security, defence and military) provides the basis for establishing bilateral military units of any kind with countries in the region. This includes the possibility of establishing bilateral peace support units. This is probably one of the missing elements in building mutual confidence on a bilateral and multilateral basis in the region and in Europe.

The Parliament did not have a special session devoted to our participation in peace support operations. On the other hand this issue has been discussed in part during many different sessions devoted to acceptance of the government's Programme of activities, strategic documents, relations with the international community, etc. In the eyes of the general public this was not a high priority issue and this was reflected through the Parliament's approach to discussing this topic. This is coupled with the fact that there is no specific item in the Military Budget that would cover funding of peace support operations. There are some estimates that between three and four million US dollars have been devoted to peace support operations. This amount of money does not include eventual participation in common funds. This is less than one per cent of the total Military Budget. In any case, if we are to extend our participation in international peace support operations we can expect that much more money will be needed.

## **Organisational Elements**

At present there are three different types of units designated for peace support operations. First, there is an Infantry Company within the 1st Guards Brigade. This unit should provide personnel for different kinds of peacekeeping and monitoring missions. Second, there is a Platoon of the Military Police, and third there are two Medical Teams designed to provide medical support and relief.

To support education and training of the designated peace support units and their personnel, the International Military Operations Centre (IMOC) has been established. Its task is also to take care of the units during their deployment. In that capacity it should serve as a focal point for all the activities (from education and training to logistics) with the final objective of facilitating our participation in international peace support operations. There is an open issue of command and control of the units sent to peace support operations which has still not been satisfactorily resolved. There was an attempt to create a Peace Support Operations Command but we shall have to wait to see if it is going to be successful.

## **Operational Development**

Unfortunately, there was no Croatian participation in regional peacekeeping operations. Our involvement in all such operations in the vicinity (IFOR, SFOR, KFOR and others) was restricted partly because of the political reasons. It was not a very popular idea in possible host nations for Croatian soldiers and units to be involved in such operations having in mind unfortunate events in the recent past. Also, the same idea was not very popular in the minds of politicians, especially during the years of the HDZ administration. On the other hand, there were simply too few soldiers trained and educated for peace support operations, which effectively prevented the establishment of dedicated peace support units.

On the other hand the Croatian Armed Forces regularly provide military observers for the UN peacekeeping mission in Sierra Leone (UNAMSIL). It is a one-year deployment with usually 10 officers of different ranks (normally from lieutenant to lieutenant-colonel). The first team was sent in September 1999 and by September 2002 we had already sent our

fourth team as part of the UN effort. The year 2002 also saw a team of five officers sent to Ethiopia and Eritrea (UNMEE) for the second time. Their regular deployment is also one year. Finally, in 2002 we sent for the first time two officers as military observers to the Kashmir area between India and Pakistan (UNMOGIP). There are some rumours about the possibility of participating in peacekeeping operation in Western Sahara and Democratic Republic of Congo, but there is still nothing official. On the other hand, the Platoon of the Military Police was planned to be deployed to Afghanistan as a part of the German peacekeeping unit.

The Republic of Croatia is an active participant on the political level (SEDM) in activities connected with regional crisis management (SEEBRIG), but so far there has been no clear decision about military participation in this crisis management activity.

A new NATO, enlarging eastwards, with a new out-of-area mission, with KFOR, SFOR and IFOR, with engagement of the Partner countries for peacekeeping and crisis management, has been the most visible multi-national formation. NATO's new Strategic Concept, promulgated in 1999, with its new mission and out-of-area crisis management, will provide the backdrop for any study of the military and the new multi-nationalism. New formations have also been shaped in response to NATO's political decisions about the Partnership for Peace and the Study on Enlargement, in decisions on how and when the Alliance would accept new members, announcements made at summits, a new Strategic Concept, and a Membership Action Plan. These decisions are political as well as military, and NATO's influence on multi-national formations has perhaps been as much political as military.

Multi-national formations have utilised the Partnership for Peace. NATO has provided the armed forces of partner countries with standard operating procedures, the routines of cooperation, and the habits of collaboration – in other words the foundation for interoperability, needed for effective multi-national formations. At present one of the PfP objectives is to develop a partner country's ability to operate effectively for humanitarian assistance, crisis management and peacekeeping.

Militarily, formations of this nature would be used to counter and contain the new risks in Central and Eastern Europe that are more immediate than the old threat – a large-scale war in Europe. NATO's new Strategic Concept, accepted at the Washington Summit in

April 1999, pays much attention to the new mission, crisis management beyond the periphery of the Alliance's area. NATO members and members of the Partnership have provided forces for SFOR, IFOR and, in the largest and most recent force, KFOR. BaltBat units have been provided for all three.

Formations with units from two or more nations are now common in Europe. NATO states have multi-national formations, large or small, permanent or provisional, some of them with a traditional mission, defending the Alliance's territory, or others for new 'out of area' peacekeeping missions; there is a Eurocorps and a Nordic Brigade<sup>1</sup>. NATO's new strategic concept includes provisions for a combined joint task force, multinational by definition, and NATO's integrated military structure always has been multinational. Operation Alba of the WEU was multinational, the EU plans an all European force. During the 1990's, many formations were activated by countries who were not NATO members, like the Baltic Battalion or BALTBAT, which was the first in the field. More recently, we have seen a South East European Brigade or SEEBRIG, along with a Romanian-Hungarian Battalion, a Lithuanian-Polish Battalion, and others already activated or planned. Europe's Armed Forces are marching into the new millennium with a mixed vanguard, flying flags of many colours.

## **Education and Training**

The Platoon of the Military Police has been trained under German supervision and according to the standards required by Bundeswehr peacekeeping units. At the end of the training the German authorities issued a certificate of confirmation on the Platoon's readiness. Deployment was delayed by some administrative and bureaucratic paperwork. If they are not deployed, soldiers and the unit should undertake some refresher training in order to stay proficient. Education and training were organised in a few cycles. Theoretical education took place in the period May-June 2001 and again in July-August 2001 at the Centre for International Military Operations. After that, in the autumn of 2001, practical training was conducted on the Battle Operations Training Ground at Slunj.

---

<sup>1</sup> See David Lightburn, "NATO and the challenge of multifunctional peacekeeping," *NATO Review* (March 1996) 10-14; and Alyson Bailes, "The Role of Subregional Cooperation in Post Cold-War Europe: Integration, Security, Democracy" in Andrew Cottley and Thorvald Stoltenberg, eds., *Subregional Cooperation in the New Europe* (New York: Macmillan, 1997), pp. 153-158.

The designated peace support Infantry Company went to the Military Training Ground at Korana from March to July 2002. The first part of this process involved only the Staff but later all the personnel were included. This was followed by practical training with a final exercise that covered the full scope of possible engagements on the terrain based on UN experience. This included patrols, armed patrols, negotiating with the 'locals', information and intelligence procedures, the UN administration and paperwork, communications, situational exercises, etc, all the way to the training for a worst-case scenario that involved escalation of riots and rebellions, armed conflict, active defence and evacuation. Practical training is very realistic and the instructors are mainly teams with experience from previous UN-led missions. Among all other education and preparation activities, the military observers also have to take part in two weeks of training at the Centre.

Medical teams were educated at the previously-mentioned Centre during the spring and summer of 2001. Altogether four teams are being prepared and two of them were ready to participate in the UNMEE. Deployment was again delayed because of administrative problems.

Because of the rising demands for peace support operation-trained personnel and units, the idea has been proposed of building a dedicated peace support operation training ground with all the infrastructure needed for such an activity. Realisation of this idea has been prevented by the simple lack of financial assets, but this is also at least partly the result of a lack of understanding within the military and political leadership about the importance of peace support operations today and what Croatia could gain from stepping up its participation in this type of operations.

This idea is even more important bearing in mind that Croatian representatives signed a Stand-By Arrangement with the UN and undertook an obligation to have 40 Military Observers, 20 Staff Officers, 10 civilian policemen and seven Military Specialists ready for deployment at any time. In order to fulfil this requirement, it is clear that we have to educate and train at least three or four times as many people for their roles and tasks in peace support operations.

## **International Support**

Unfortunately, the support provided by international organisations in building the Croatian Armed Forces' peace support operational capabilities is felt to be inadequate. Apart from cooperation with the German Bundeswehr, the Armed Forces were able to get advisory support for the final infantry exercise from the MPRI.

Our involvement and participation in the activities of the MLF have been hampered by our inability to get an adequate share of the positions in the command structure. So all our activities in this initiative up to now have been mainly politically-oriented.

Whatever type of peace support operations we undertake, there is always a problem of resources and support. Our long-range military transport and logistics capabilities are not secure enough to regularly supply our soldiers and units in faraway parts of the world. This leaves us highly dependent on the cooperation and good will of other stronger and more developed countries and their Armed Forces.

Another problem is the fact we don't have the capabilities and resources that we can put in motion if there is an urgent need to evacuate our soldiers from an area where the situation has deteriorated dramatically. This represents a psychological problem for our soldiers because they have to go thousands of miles from their country knowing that there is no way they can be helped.

## **Lessons Learned**

Apart from the above-mentioned logistics and eventual evacuation problems, there are some other lessons that could be used to improve our capabilities to pursue peace support operations.

Personnel management is one of them because soldiers sent to peace support missions have the feeling they do not belong to anybody. Their professional career is usually hampered because of the lack of proper evaluation of their accomplishments. As there are unfortunately different groups of soldiers in the Armed Forces with different benefits regarding their salaries and pension requirements, all these changes reflect on their

position during their participation in peace support operations. The legal framework if someone is wounded is not clear and also not very fair. Being wounded by a bullet or anti-personnel mine during peace support operations is considered to be the same as being wounded in a car accident in their home town.

The Centre for International Military Operations seems not to be properly organised and staffed for the kind of work that has to be done efficiently. The whole decision-making process in the Ministry of Defence and the General Staff regarding peace support operations involves too many departments and too many people. It is unnecessarily complicated, with many different departments interfering in the execution of the same tasks. Sometimes this leads to dual chains of control which increases the possibility that in the end nobody is responsible for certain tasks.

### **Contribution to Peace and Stability as a National Interest**

Contrary to the security and stability of the region and the European continent, the security and stability of the area outside Europe should not have an immediate and direct effect on the development of the security and stability of the Republic of Croatia. But it is to be expected that, as a member state of the UN, we might need to express our position on the development of the security environment in various areas outside Europe. In such a case it will be necessary to take into account that any untimely or inappropriate answer, position or initiative might, in some future situations, be directed against us.

The status of a cooperative member of the international community is asserted through constructive participation in the discussion on all issues and participation in the legal and legitimate actions of the international community. This means that the Republic of Croatia will increasingly encounter situations where its participation is among others expected also in peace support operations in various crises areas around the world.

In connection with the above stated issues, it will be crucial to what extent Croatia, as a small European country and a potential member of Euro-Atlantic associations, will be able to acquire certain skills, competence and professional expertise. All these elements

are necessary to attain a favourable image and perception as well as stable participation in the activities of the international organisations it has acceded to or aspires to join.

As a consequence, the Republic of Croatia should identify its contribution to the peace and stability of the region and the World as also creating conditions for enhancing its ability to promote and pursue the nation's legitimate interests abroad and thus as a national interest. This should serve as a starting point for all the activities of its national security structure forwarded through the foreign, security and defence policies.

### **Necessary Foundations of a Strategic Concept**

Furthermore the basic national security strategic concept should have three pillars, all of them very important for participation in the international peace support operations.

1. Cooperation with and integration into the international community as a means to achieve and reinforce the stability and security of the country, the region and the European continent;
2. The all-round development of all the assets, resources of the society and institutional capabilities aimed at creating a more successful society;
3. Upgrading the level of readiness for unexpected situations as an instrument for ensuring a wide range of options in crisis situations.

Such a strategic concept should establish the necessary foundation for execution of peace support operations. It should also establish the firm basis for the development of all the capabilities needed in order to effectively pursue these operations.

### **Peace Support Operations – Related Security Objectives**

As a result the Republic of Croatia should set the following national security objectives which should later be used as the basis for the development of regional security and peace support operations capabilities:

1. Improvement of bilateral and multilateral international relations;
2. Improvement of its capability to engage in the processes of crisis management and conflict resolution;
3. Improvement of its overall security and defence capabilities;
4. Increased participation in peace support operations;
5. Upgrading of all the means of military-to-military cooperation;
6. Taking part in international humanitarian relief activities;
7. Improvement of medical capabilities;
8. Development of public awareness regarding the implementation of the security and defence policy;
9. Development of the decision-making process for choosing and coordinating the necessary activities of the state institutions.

All of these objectives together, if pursued consistently and in a coordinated manner, should establish the preconditions for the improvement of our peace support operations-related capabilities, but they should also improve our overall security and defence capabilities. By doing so they should contribute to international recognition of the Republic of Croatia as a reliable contributor to the security and stability of the region and the European continent.

## CHAPTER ELEVEN

---

# THE NEW SECURITY STRATEGY INTERNATIONAL COOPERATION, CRISIS MANAGEMENT AND NATIONAL DEFENCE

*Dr Tomo Radičević*

### Introduction

On 18 March 2002 the Parliament of the Republic of Croatia adopted two fundamental documents: a National Security Strategy and a Defence Strategy. This event presents an important turning point in the political and security development of the country. For the first time in its political history, Croatia, as an independent state, defined its security posture and, consequently, the direction of its security sector reform in a parliamentary and democratic framework. The strategic decision – how it was reached and what it aims at – reflects the maturing of the Croatian political and security establishment.

When Croatia's Defence Minister Jozo Radoš visited the George C. Marshall Centre in Germany in May 2000, he said: "modern security cannot be built on the armed forces of one's home country alone. An international system of security is the only way to ensure stability. To this end, Croatia's military forces should be a well-organised, democratically-controlled institution capable of guaranteeing the security of the country and being integrated into international military alliances."<sup>1</sup>

Between the minister's comment and the adoption of a new National Security Strategy and a Defence Strategy there are two years. Croatia's slow tempo was due to a number of reasons. The country has not only gone through the process of transition from a communist to a democratic system of social relations but, unlike some other transition states, it has had a shorter experience of having a democratic political system. It is further burdened with overcoming the harsh effects of the Homeland War, which had economic, political and psychological consequences.

---

<sup>1</sup> Radio Free Europe-Radio Liberty, *RFE-RL NewsLine*, May 15, 2001 <http://www.rferl.org/newsline/>

However, some years ago an expert on defence reform in the new democracies wrote: "All the Central and East European countries... as part of their socio-economic revolutions, have been faced with the problem of reassessing their national security interests and simultaneously reducing and reorganising their armed forces drastically and rapidly in response to economic and social necessity. A moment's thought will suffice to show the illogicality of this situation. What (they) really needed was a long period of readjustment; time to think out their new national security situation; time and money to plan at a measured pace downsizing and restructuring; time to work out new training systems and procurement policies. But in the real world, everything has had to be done at once, with no clear vision of the future, and with strictly limited money."<sup>2</sup> Croatia was in a situation where some key documents had to be developed at once, certainly with limited resources in the future, but with a new, clear vision of the future.

### **Strategy and the Political Process**

Contemporary strategy defines the relationship between national objectives and capabilities. This approach assumes that the security of a nation includes defence but is not based solely on military strength. It is an attempt to achieve a balance between defence requirements, foreign policy objectives, and economic capabilities. It also recognises the need to consult the people and to take into account the attitude of neighbouring states. Moreover, Croatia's national security needed to be placed in an international framework All NATO member states and states that intend to join NATO (as Croatia intends to do) are assuming mutual security and defence obligations. Most NATO states have engaged in increasingly close economic and political relationships for decades. This complex layering of security has been a part of Western relationships for decades – but is something new to Croatia.

The National Security Strategy and the Defence Strategy were developed by the government and debated and approved by the Parliament. Both documents are known to the public and, of course, to international institutions. Thus, prior to final adoption the documents went through the parliamentary procedure, which is preceded by short expert

---

<sup>2</sup> Christopher Donnelly, 'Defence Transformation in the New Democracies', *NATO Review*, No. 6 (Nov 1996), p. 22. Also available at <http://www.nato.int/docu/review/1996/9606-5.htm>

public debates and debates in the government. In this manner the standards of democratic procedure were satisfied as well as demonstrating the national will and the orientation of all the important political players.

Croatia's new strategy states that the armed forces no longer have a fixed mission in relation to any concrete enemy, but are to respond to general security challenges of a military nature. Therefore the necessary military capabilities are defined at the general level and then under individual functional roles (defence against aggression, participation in humanitarian operations, international cooperation, assisting civilian institutions and population). With this, a clear guidance and framework for further processing of capabilities and shaping of the armed forces was established through the document "Military Strategy" which is under the jurisdiction of the President of the Republic of Croatia.

The development and the consideration and approval by the appropriate political institutions fulfil the democratic requirements of contemporary national security concepts. The National Security Strategy and the Defence Strategy were dealt with in accordance with Croatia's Constitution and laws. The National Security Strategy and the Defence Strategy are within the jurisdiction of Parliament. The Military Strategy, which is being developed, falls under the jurisdiction of the President, according to the Constitution and the Defence Law. In the context of democratic control over the Armed Forces of the Republic of Croatia, the political process observed the functions of the Presidency, the government, and the Parliament. The Parliament took onto itself the responsibility to ensure resources as well as to actively participate in the democratic control of defence institutions.

## **Changing Views on Croatia's Security Environment**

With these two security documents, Croatia has set out a new view on the status and perspectives for further development in the security environment, at the national, regional and international levels. The National Security Strategy is directed toward generally viewing security challenges, risks and threats of a political, economic, social or ecological nature, while the Defence Strategy is focused on those of a defence nature or those that require a defence response. Together, they recognise changes in the nature

of security challenges, the indivisibility of security and the need for a mutual approach or behaviour toward an insecure future.

As to the national security environment, the key point is that the Federal Republic of Yugoslavia, the main cause of regional instability over the past ten years, now has its democratically-elected government and president and no longer poses a direct security threat, rather it can be viewed as a potential partner. Like the national security concepts of the other new democracies and Western powers, Croatia no longer considers its security menaced by a permanent enemy.

As for regional security, Croatia is prepared to actively contribute to stabilisation in the region and its reshaping into an area of stability, security and peace, primarily by taking care of its own security, and then in active and all-round cooperation with all countries in the region. The commitment that countries in the region themselves must take responsibility for the processes of stabilisation, security and confidence-building in this region is strongly stressed. Acting in this manner they will prove their capability to exercise a higher degree of mutual confidence and security support, characteristic of Euro-Atlantic integrations.

EU and NATO expansion present an unquestionably positive factor for further strengthening international stability and security. For Croatia, these are the most significant international processes that offer a unique historic chance for preserving and strengthening democracy, protecting independence and economic advancement. Being a small state Croatia cannot base its own security exclusively on its own capabilities. Therefore the coming system of security in Europe – based on principles of cooperation, trust, peaceful solving of disputes, transparency and respect for international legal norms – for Croatia is completely advisable and acceptable. The status of the global security environment has been estimated as being favourable for re-evaluating and reforming defence institutions in order to respond to future security challenges and adapt to future defence alliances.

## National Security Strategy

The National Security Strategy defines national interests, the security environment, and overall policy reorientation. There is a short section “Security Concept” that presents the core philosophy of the document. This key statement says: “The security concept is based on the strategic premises that the activities in the area of national security are designed to insure the survival and development of the nation relative to other international entities.” This is a decisive statement that Croatia has no single external threat and that the role of the armed forces is no longer concerned with state building and regime protection, a role that they had until 2000.

The general security goal through which Croatia has directed its efforts is the building of conditions for the free, just and stable political, economic and social development of society, mutually coordinated and in cooperation with other democratic states. This is intended to be achieved through the following special goals, or areas of security efforts:

- The establishment, development and conduct of effective policies, measures, activities and institutions in the security area – with a consistency adequate to requirements for successfully overcoming modern and future security risks and threats; an inclusion in international security arrangements with other democratic states, as well as a mutual building of a favourable security environment at the regional and global level; and the development of a stable and economically advanced society that will be capable of building and maintaining its own effective security mechanisms and resources in the long term, as well as successfully responding to security challenges, risks and threats.
- The organisation and realisation in the area of national security are based on principles of: complexity and multi-componenty of functions and organisations, conceptual and legal order; integral management and democratic control; active inclusion and effective participation in international efforts; sound and equal partnership with other states as well as a regional focus of efforts.

Furthermore, the National Security Strategy stipulates eight fundamental areas of security policy, including instruments for its implementation: integration into NATO, integration into the EU, relations with neighbours and regional cooperation, cooperation with international organisations, arms control and confidence- and security-building measures, and contributions to international peace and humanitarian operations. New risks are present in South Eastern Europe. While military risks in the region have been greatly reduced for a period, potential sources of crisis still exist.

There have been opinions voiced that Croatia's National Security Strategy does not possess all the qualities of a national security concept. Moreover, the Defence Strategy was developed together with the National Security Strategy. In security planning, Defence Strategies follow, and are guided by, National Security Strategies. Security and defence planning have a certain developmental sequence, starting with an overall security vision, then focusing on defence needs, and moving to a military strategy, in a hierarchical sequence that leads to required force structures and force development plans. Croatia has put this sequence in motion, although considerable work remains to be done.

## **The Defence Strategy**

The Republic of Croatia chose to give the title "Defence Strategy" for various reasons. Defence encompasses all of society's resources potentially available for carrying out the defence function. This is understood to be requirements and resources for civil resistance coupled with military defence, an unavoidable option for a small state that strives to make its defence credible.

The Defence Strategy defines general and individual defence goals, the social role of military potential, the basic strategic concept of activity and strategic options for responding to security challenges, the risks and threats of a military nature, the roles and tasks of the defence system's components, as well as a long-term projection of defence capabilities that must be built. A singular message is sent through the expression "defence" – defence potential that will be realised have a defensive or peaceful and defensive orientation.

The shaping of the Defence Strategy text was preceded by an all-encompassing analysis and discussion on possible scenarios of international relations and “military” events. The final version defines three relevant scenarios on the status of the international environment: (1) relative strategic stability; (2) a threat to the security of the Republic of Croatia as a result of increasing regional instability; and (3) a threat to the security of the Republic of Croatia as a response to a disturbance of global strategic stability and armed conflicts in the world environment. Beside this, other separate scenarios relevant to the strategic planning of defence were considered: (4) a state of direct threat – as a state of the security environment of the Republic of Croatia or the state in the country; and (5) a state in the country resulting from natural, technical-technological and other disasters of greater scale.

The wider social and international role of the armed forces is described in the chapter “Toward Strategy”. Beside their traditional role as a cohesive and important component of national security, they are defined as instruments of: providing a full contribution to the development of national consciousness, pride and self-confidence; action in a wide spectrum of security needs for society in peace and crisis situations; conducting a spectrum of “defence diplomacy” activities. They are also defined as being a factor of: a stable economic and financial system; maintenance and stimulation of the development of the domestic military industry as well as the scientific and technological development of society. Finally, they should become an institution that actively contributes to international peace, stability and security. With this definition of the social role of the armed forces – much more concrete and wider than that given in the Constitution – the framework for shaping their future capabilities and characteristics is widened.

## **Defence Mission, New Risks and Crisis Management**

Croatia's new security strategy has answer the question how Croatia will, with realistically available resources, carry out the basic defence task of the armed forces – ensuring independence and territorial integrity in relation to a threat of a military nature. In peace – by building reliable partnerships and alliances as well as contributing to the shaping of a favourable security environment. Under conditions of war and attack on state territory – with decisive defence of territory with its own forces, while relying on partner and allied assistance.

However, the National Security Strategy recognises that there are new security risks – international terrorism, organised crime, refugee crises, which can, directly or indirectly, affect Croatia's national security. These developments, regardless of whether their source is in the immediate surrounding or outside, are more immediate than an invasion by the armed forces of a neighbouring state. Global terrorism poses a threat to international peace and security and thereby to Croatia. Organised crime and its effects (destabilisation of state authorities, disruption of law and order, economic crime and corruption) represent a major security risk for Croatia. This includes arms smuggling, drug trafficking, and illegal migration. Croatia's position in an area where the crime routes are passing from Asia, Africa and Eastern Europe toward Western Europe is particularly vulnerable to such security threats.

The new threats could have a highly negative impact on Croatia's government authorities and institutions at all levels, as well as on corporate entities. They might ultimately result in an overall criminalisation of social relations and aggravated forms of terrorism and organised crime (such as murders and other forms of violent crime) especially in the economic sector. These negative developments, unless met with counter-action, may lead to a very real threat to Croatia's political, legal, and economic system. They may also serve as a catalyst for the spread of racism, xenophobia and other adverse social phenomena.

The development of partner and allied relations with friendly democratic states represents a strategically important component of Croatian defence. Only with reliable partner and allied arrangements can Croatia, as a small state with limited available defence resources, ensure a full spectrum of defence capabilities. Therefore, the defence institutions of other democratic states – national and international – represent Croatia's potential "natural" allies.

Croatia's security resources must also be put into the service of preventing conflicts and crisis, along with the defence potential of other democratic states. This is a complex matter and consists of a sub-system of civil defence that includes: civilian government institutions and state administration; economic and other civilian actors that have been determined as bearers of defence preparations; institutions that perform the function of

protection and rescuing in various situations; and the organisation and preparations for management during crisis and emergency situations.

### **Croatia, NATO and Crisis Management**

Croatia intends to join NATO, is engaged in PfP activities, and is developing its Membership Action Plan (MAP). In the NATO Strategic Concept accepted at the Washington Summit in 1999, out-of-area or “non-Article V” missions, meant to manage crises, received much attention. To international security institutions, crises are out-of-area events and the means of management range from preventive diplomacy to force projection. This interpretation is included in the Strategic Concept of 1999.

Since its introduction, the Partnership for Peace has supported NATO’s overall effort towards crisis management. PfP programmes have prepared the forces of the Partner countries for joint operations with Allied forces. NATO has conducted annual crisis management workshops for Partner countries, a valuable contribution. The interoperability achieved through PfP contributed to the successful integration of Partner forces in IFOR/SFOR and subsequently in KFOR.

In addition to its focus on transparency, reform, collaboration and interoperability, the Partnership has made concrete contributions to NATO’s conflict prevention and crisis management efforts in general. Before the air campaign in Kosovo and the subsequent deployment of KFOR, PfP mechanisms were being used in Albania and Macedonia. PfP mechanisms have also been used in response to the insurgency in Macedonia.

Programmes specifically tailored to the situation in these countries have been integral elements of the Alliance’s overall approach to the crisis in former Yugoslavia. NATO assisted the efforts of the government of Macedonia to improve its crisis management, civil emergency planning, logistic and other capabilities to deal with the effects of the Kosovo crisis. Assistance programmes for Albania, put in place first after the internal crisis of 1997, helped rebuild the Albanian armed forces and deal with other consequences of that crisis, notably problems caused by the destruction and looting of explosive ordnance storage sites

The Membership Action Plan (MAP) is a demanding programme. It provides assistance in defence reform. Croatia will have to develop a specific plan to identify and describe objectives and targets relevant to membership, state which particular government agency is responsible for carrying out a specific part of the plan, indicate what steps are being taken to implement it, develop resource management that corresponds to Croatia's economic abilities, and outline security sector reforms, including sound civilian control of the military. Staff officers need to be trained in NATO procedures, so that they can serve in staff appointments within NATO, at NATO-led Headquarters, or on NATO and Partnership matters.

Croatia's MAP programme has to describe changes aimed at meeting NATO's Strategic Concept, where crisis management and "non-Article V" missions form a strong component. Croatian personnel and units need training and experience in NATO doctrine, procedures and practices so that they can participate in NATO new missions or NATO-led operations, as in Combined Joint Task Forces. They need to outline political reforms, including the settling of internal disputes and ethnic or territorial conflicts.

## **New Threats and Crisis Management**

Croatia's National Security Concept envisages a wide range of risks. No probable threat can be removed from the list of conceivable events which could threaten Croatia. Crisis management should rank higher on the agenda of security sector reform than plans for mobilising and deploying a country's armed forces against a possible external threat. The external threat, from the Federal Republic of Yugoslavia, has greatly receded.

The Balkan wars, instigated by Milosevic, have tended to overshadow smaller but more likely crises that might break out. When a huge, fraudulent financial scheme in Albania collapsed in 1997, there were political riots, attacks on police and military weapons depots, and a near collapse of the political system. The government did not know how to cope with the crisis; military commanders were at a loss what to do. Similar crises could break out in South Eastern Europe, near Croatia's borders.

To international security institutions, crises are out-of-area events and the means of management range from preventive diplomacy to force projection. This interpretation is

included in NATO's Strategic Concept of 1999. NATO has conducted annual crisis management workshops for Partner countries. Their centrepiece was a scenario, based on the Gulf War. To South East European governments, crises are situations where it faces threatening developments in the country itself or in its immediate vicinity. Security policy requires management that recognises, contains, and eliminates crises in their incipient stages. The aim is early containment.

Crisis management should rank higher on the agenda of security sector reform than plans for mobilising and deploying a country's armed forces against a possible external threat. The less a government makes adequate provision to meet these threats (by developing an effective crisis management capability and investing in the right type and quality of security forces – army, police, intelligence, etc), the more serious will be the danger that the threats themselves pose.

Examining the situation in the Baltic States, a few years ago, a group of distinguished Western experts concluded:

Deeper down, at the very heart of governance, we see a lack of effective coordination which could have serious adverse effects if the system were put under strain, either through the heightening of external risk or through major civil emergency. We see the need to construct, embed, and practise on a regular basis the mechanisms required for the efficient functioning of government in times of crisis or emergency... The study and understanding of the skills of crisis warning, prevention and management, both internally and with partners, should feature as a high priority in the early future.<sup>3</sup>

## **Developing a Crisis Management Capability**

In terms of crisis management, Croatia's security sector reform has to consider three areas, national, regional, and international. National planning should identify a place (perhaps the Cabinet, perhaps the national security council) as a management centre. On the national level, crisis management should be developed with three requirements

---

<sup>3</sup> International Defence Advisory Board for the Baltic States, *Final Report*, February 10, 1999  
<http://www.eusec.org.20010709.htm>

in mind. The first one is the capability to collect and analyse information about what risks and threats could emerge and how rapidly. The second one is how the management structure operates. Management does not require a large, permanently staffed structure. Post-socialist governments tend to make bureaucratic plans, which can hinder rather than aid rapid response. The third requirement is legal. A government might have to exercise extraordinary means. The civil rights of a society might have to be curtailed with curfews or other measures. But post-socialist officials have a tendency to view security and response to emergencies in terms of domestic, police powers. Threat and risk analysis is the basis for crisis management. The capabilities of the governments to perform it are not always adequate.

Crises in the South East European security environment are situations where it faces threatening developments in the country itself or in its immediate vicinity. Security policy requires management that recognises, contains and eliminates crises in their incipient stages. The aim is early containment. Neighbouring countries need to collaborate, and management structures and procedures in adjoining countries should be very similar, with regional interoperability. Civilians and the military of one country will have to talk to their counterparts across borders. There should be good communications between Western and Eastern crisis management centres.

Within the larger framework of security sector reform, more attention could be directed to the new risks. Their danger has been identified, but preparations to cope with them are made largely as provisions for out-of-area actions and force projection. Many of the risks require a domestic response, and civilians and the military would be involved in preparing and executing contingency plans. Much of the intricate and complex work of devising crisis management structures and methods can be done if outside expertise is matched with domestic requirements.

## **Requirements**

Croatia's new strategy is acceptable to the NATO community. However, it will require much work on further processing and practical implementation, a further re-evaluating of the adequacy of institutional solutions and practices in the functioning of the national security system. Certain areas of social efforts that are identified by the strategy as

being components of national security – policy, economy, diplomacy, science and technology, social activities, environmental protection and others – need to be conceptually shaped and directed in practice toward achieving a constructive contribution to national security.

In important areas of social and economic development, changes and advances in development must be made, so that the state may entirely adapt and prepare for future full membership in security and defence arrangements. This is a wide range of challenges from the further development of democracy (civil and human rights, especially minority rights, full implementation of the legal status and citizens' personal security) to more actively participating in solving regional matters and arranging relations with neighbouring states.

## **Conclusion**

The specified-purpose institutions of national security must undergo reforms through which they will be transformed into a state of capability and readiness to conduct set long-term strategic orientations. The armed forces are large and oriented towards traditional defence operations, to counter an external threat. Croatia's armed forces will continue to have a traditional mission, "the defence of the freedom, sovereignty, and territorial integrity within the internationally accepted arrangements."<sup>4</sup>

Reforms of the Ministry of Defence and Croatia's armed forces are necessary and must be carried out soon. They will definitely present, in the coming period, a great challenge of high political, security and social importance. Both institutions were built in a hurry and under the pressure of operational requirements during drastic war conditions. In the post-war period their development, due to the burden of numerous political, economic and social hardships, was not one of the government's priorities. Among other shortcomings, official strategic documents were not developed, until the recent National Security Strategy and Defence Strategy. There was no adequate basis for defining long-term security needs. This made future outlooks blurry and contributed to hesitation in

---

<sup>4</sup> National Security Strategy of the Republic of Croatia, Article 2.

serious reform of the existing state of affairs in the Defence Ministry and the armed forces.

The Croatian government has adopted modern strategic concepts, adequate to objective surroundings and available resources, and whose legitimacy will be able to be strongly defended on the international scene. In them the orientation to build reliable personal potential is strongly stressed, but so is their direction toward building trust, cooperation and partnerships. With this, healthy conceptual foundations were established for the building of a system of national security adequate to current and future national security needs, and that will be able to provide an adequate contribution to mutual security and defence capabilities.

The implementation of adopted orientations requires thorough re-evaluation and reform of existing solutions and practices, which will have to overcome obstacles and resistance. The success of the reform is only possible with intensive intellectual and management engagement of the security-defence establishment, also the decisive action of all civilian government institutions. Furthermore, research institutions, independent and non-government organisations, as well as the media must play a much more active part in it, as opposed to the practice to date. For the successful conduct of these efforts Croatia also requires more active support from NATO. Approaching NATO membership will act as a great incentive and catalyst, not only for Croatia, but also for other countries in its immediate neighbourhood. In this regard, the recent achievement of MAP status opens new, wider perspectives.

Therefore these institutions must be re-evaluated and reshaped into modern institutions adequate to our needs for responding to future security challenges of a military nature and future NATO membership. In the same manner, they must be adapted to the needs of further democratic development and economic capabilities of the country. This will be a demanding operation for which Croatia must and can muster up forces and resources. Reform of the armed forces that enabled the establishment of national sovereignty presents one of the greatest national challenges, in terms of planning, policy and management. This will test national governmental capacity for defence policy formulation, defence planning and crisis management.

Security sector reform in Croatia has perhaps been slower and less constant than had been hoped in 2000 when the new democratic government came to power, but there have been definite changes. First, they can be seen domestically, in civil-military relations. Second, the Croatian armed forces have taken on an international role. This includes a reorientation of the roles of the armed forces – towards preparation for peacekeeping, crisis management, reforms according to the Membership Action Plan, and interoperability with NATO. These changes have had a visible impact on Croatia's position in regional and international security relations. The new national, regional and international requirements assign Croatia's armed forces a new mission. Until recently, the role of the armed forces was state defence. Now they have an important role in Croatia's new international, integrationist policy.



**DEFENCE AND SECURITY SECTOR  
GOVERNANCE AND REFORM IN SOUTH EAST  
EUROPE: INSIGHTS AND PERSPECTIVES**

**MACEDONIA**

**A SELF ASSESSMENT STUDY**

# TABLE OF CONTENTS

## **Part One: Summary Security Sector Reform**

1. Security Sector Reform in Macedonia.....4  
*Biljana Vankovska*

## **Part Two: Democracy and Defence**

2. Democratic Control over Defence and Security: Between Principles and Reality.....26  
*Biljana Vankovska*
3. The Parliament, Defence Development and Security Sector Reform.....40  
*Radica Gareva*
4. Democracy, Security, and the Armed Forces in Macedonia.....58  
*Radica Gareva*
5. Structure, Functions and Democratic Control of the Intelligence Community....81  
*Mitko Kotovscevski*

## **Part Three: Government and Society**

6. Good Governance and Security Sector Reform.....93  
*Lidija Georgieva*
7. Transparency and Accountability.....115  
*Zoran Ivanovski*
8. Civil Society.....133  
*Radica Gareva and Lidija Georgieva*

## **Part Four: International and Regional Influences**

9. Security Sector Reform and International Influence.....150  
*Nikola Kljusev*
10. Peacekeeping and Regional Security.....168  
*Aleksandar Donec and Sasho Kuzmanovski*
11. Crisis and Crisis Management.....179  
*Aleksandar Donec*



# CHAPTER ONE

---

## SECURITY SECTOR REFORM IN MACEDONIA

*Biljana Vankovska*

### Historical Background

When the SFR Yugoslavia dissolved, Macedonia was one of the successor states and a newly independent country. The referendum on independence held on 8 September 1991 for the first time in the trouble-laden national history of Macedonia called for international recognition as a sovereign state. All Yugoslav republics (i.e. federal units) had had state functions. The loose federation introduced with the 1974 constitutional changes functioned as a *de facto* confederation, which added to the other social, economic and political forces that led toward the final outcome. In the defence sphere, the last constitutional changes in Yugoslavia granted the republics and autonomous provinces significant authority for command and decision-making over the second level of the Yugoslav Armed Forces, the Territorial Defence Units. In addition to the police forces, established at the republican level, Macedonia, like the other federal units, had had some limited experience in managing the security sector on a civilian and political level – but not in a democratic manner. Prior to the formation of the Second Yugoslavia in 1944, Macedonia had had no experience of independent statehood so even the limited practice and skills gained under communism were of some significance in 1991.

While some other republics (Slovenia, Croatia) had expressed overtly their dissatisfaction with the federation and had started the state-building process with new security structures first<sup>1</sup>, Macedonia was a passive observer of the security events. Given its obvious weaknesses (being one of the smallest, economically poorest and in

---

<sup>1</sup> Serbia and Montenegro, however, opted for transforming the existing Yugoslav People's Army and their own Territorial Defence Units into security forces of a would-be Third Yugoslavia. The YPA's leftovers in Bosnia formed the foundations of the Army of the Republika Srpska (the Serbian entity in Bosnia and Herzegovina).

security terms most dependent<sup>2</sup> republics), it had considerable anxieties about Yugoslavia's dissolution. Finally, unwillingness to support Milosevic's belligerent ethno-nationalist agenda (the project of Greater Serbia or Serboslavia, which would have swallowed Macedonia entirely) became a priority and Macedonia started cautiously preparing for independence. The state and security dualism was of a lesser degree in Macedonia than had been the case for some time in Slovenia and Croatia. In fact, the political leadership resisted all domestic calls for creation of a Macedonian Army before a compromise was reached with the Yugoslav People's Army (YPA). Conflict avoidance with a stronger armed force was the strategy of survival.<sup>3</sup> Thus Macedonia opted for establishing its political and legal order before building its security sector.

When the YPA withdrew, the newly-born state had at its disposal very few means of self-protection. There were republican police units and poorly-equipped and trained Territorial Defence Units (TDU). They were completely disarmed as the YPA took along all movable military equipment and weapons and what could not be removed was destroyed. An urgent task was undertaking border control by the combined TDU and police forces. The foundations of the defence system had been already laid, at least virtually, in the Law on Defence adopted in February 1992. At the time of the Law's adoption, Macedonia still hosted the YPA while establishing its own defence and protection capacities. It was not sovereign in security terms.

Defence restructuring had symbolic and political meaning; it underpinned the constitutional and international proclamation of independence. Fortunately, at the time of deepest military weakness, Macedonia was not threatened by any external adversary, while the intra-state conflict potential was not so strong as to destabilise the still-fragile state foundations. For some time the Macedonian Army (ARM) was a symbol of

---

<sup>2</sup> Macedonian national identity had been historically questioned by neighbouring nations and states, and prior to Yugoslavia, Macedonia had often been a cause for wars among powerful neighbours who had claims over the territory or the population, or both. Having been given a (para) state status within a mighty Yugoslav Federation, Macedonia felt secure not only in physical but also in identity terms. Not surprisingly, Macedonia was a security consumer rather than a security contributor. Thus the Macedonian leadership in 1991 was deeply aware that re-emergence of the 'Macedonian Question', associated with the unresolved 'Albanian Question', would bring immense security challenges for a weak state.

<sup>3</sup> In one occasion President Gligorov stated that at the time of the negotiations on the YPA withdrawal from Macedonia he had already prepared a videotape with an address to the nation. If the negotiations failed and he was arrested, the tape was supposed to be broadcast. The message was a call for non-violent civil resistance and an appeal to the international community. (Interview of the author with President Gligorov, Ohrid, October 1997).

statehood. The state-building process in this case was, fortunately, a peaceful one, without the use of force, but one could identify other functions of the Army, such as nation-building, regime protection, external protection – at least, a minimal capability – and a normative and diplomatic function.<sup>4</sup>

The build-up of Macedonia's security sector began with the political side, a new constitutional and democratic system, and the erection of the security structure followed. The latter was formed out of nothing, thus in terms of security sector reform (SSR) there was not much to reform or to transform. While opting for a new democratic order, the authorities' main concern was how to complete the state-building process under the threat of a spill-over effect from the Yugoslav wars as well as the opposition of a part of its own population.<sup>5</sup> Thus from the beginning of the state and security build-up, the condition of international recognition has been uncertain. The young state was challenged on various grounds. Bulgaria questioned the existence of a distinct Macedonian nation, Greece refused to accept the name "Macedonia" and insisted on the designation "FYROM" still used in NATO, and some groups in Serbia claimed the territory was known historically as 'Southern Serbia' and denied the existence of an autocephalous Macedonian church. Domestic security difficulties came from the claims of the Macedonian Albanians for their own statehood.<sup>6</sup> In regard to the security institutions, Albanians' feelings were ambiguous – they complained about under-representation in the state (and security) organisations and requested a larger share in them while, on the other hand, they organised their own para-military formations and boycotted national military service.

---

<sup>4</sup> See more about this classification in: Tim Edmunds, Anthony Forster and Andrew Cottey, 'The Armed Forces and Society in Post-Communist Europe: Legitimacy and Change', *Conference Framework Paper*, 14-17 March 2002, Lake Bled, Slovenia. Also available at

<http://civil-military.ds.kcl.ac.uk/TCMR%20Papers/TCMR%201.14.htm>

<sup>5</sup> The Albanians, who comprise over 22 per cent of the population, have developed mixed feelings and loyalty towards the newly-created Macedonian state. At the beginning of the Yugoslav dissolution, they hoped for self-determination of Albanians all over the former federation's territory i.e. for a creation of a state of their own along the other Yugoslav successor states. Thus, they boycotted the referendum for independence and later on the vote in the parliament on the occasion of adoption of the Macedonian Constitution. Given the many indications, ethnic Macedonians (65 per cent of the population) are distrustful of the Albanians' attachment to the common state.

<sup>6</sup> In 1992 Albanians held an illegal referendum which demonstrated that 90 per cent supported independence; in 1994 they declared an autonomous 'Republic Illirya' in the western part of the Republic. In early November 1993 the police arrested a group of Albanians (including a deputy minister of defence) and accused them of attempting to establish paramilitary forces. Their next steps presumably would have been to separate 'Illirya' by force, and then to unify it with Albania and an independent Kosovo.

Since the first days of its independence, Macedonia has faced two dilemmas when structuring its security sector. First, what is the real proportion of human resources on which the state could rely when planning the size of the security structures? The second question concerned the nature of the objective and perceived security threats to the state security. The issues that should have been embraced in a comprehensive national security strategy were of a nature that prevented national consensus over this document. Thus a comprehensive national security and strategy was not addressed directly.

The political system of the country was to be a parliamentary democracy, as stipulated in the Constitution. Inconsistent use of the separation of powers principle and the lack of a political culture, however, resulted in a de facto shift towards a presidential system. The other dilemma (given the inter-ethnic tensions) was a wavering between majoritarian and power-sharing systems. The political stalemate produced an unclear situation regarding the competencies over security sector oversight. Moreover, the competition over the control of security forces was motivated more ethnically and politically than democratically.

In addition to the internal difficulties in the security sector build-up, Macedonia relied on external, international assistance in preserving national security. President Kiro Gligorov's call for a UN preventive deployment in 1992 was a move that not only bolstered national security, but also provided de facto international recognition. The UNPREDEP mission became a case of preventive peacekeeping, and in regard to the unfinished security sector, it helped considerably. The UN soldiers relieved the inexperienced and poorly-equipped ARM in border patrols along the sensitive Albanian and Kosovan (i.e. Federal Republic of Yugoslavia) frontiers. This activity was important during the 1997 crisis in Albania, although later developments would soon prove it was insufficient. UNPREDEP's success and failure shed light on the interdependence of regional security. Albania's collapse destabilised the whole region. Later on, the consequences of the 1999 NATO use of force against Yugoslavia had the same effects. In sum, Macedonia had difficulties in its democratisation and security reforms, partly because of its domestic inexperience but also because of the regional spill-over effects that never let the country turn its attention and resources, limited as they were, to its underlying problems.

For a decade (1991–2001) Macedonia lived with an image of an ‘oasis of peace’ and was a relatively successful country in transition. It tried to integrate itself into the Euro-Atlantic community although an explicit interest in NATO membership was expressed relatively late. Given the regional circumstances and geopolitical interests, the government shifted between the UN, NATO/EU and the USA. In a 10-year period, Macedonia did not define its own security needs and capacities. By early 2003 the most central question still remained: is Macedonia able to provide security and stability for itself or does it need an international military presence?

### **The Actors in Macedonia’s Security Sector**

The security sector is a relatively new concept, mostly employed today by the Western policy community or democracy-promotion community. The notion of security sector reform or SSR has quickly gained common currency. Therefore, in the midst of many possible definitions, one should carefully consider the one most applicable to the case in question. The classical design of a security sector usually encompasses its political side and also its security side. For example, in the Stability Pact context, the security sector is defined as those governmental organisations which have authority to use or order the use of force, detention, and arrest, to protect the state and its citizens, as well as those civil structures that are responsible for security sector management and oversight. The definition also includes the military and paramilitary forces, intelligence services, police, border guards, customs services, judicial systems (including court support and infrastructure), penal systems; parliamentary, judicial, and administrative management and oversight bodies.<sup>7</sup> For the purposes of this paper, the analysis focuses primarily on the ‘force-bearing institutions’ of the security sector in Macedonia, the main actors, and their inter-play.

In the spring of 1992, the Army of the Republic of Macedonia (ARM) was a symbol of newly-gained statehood. But its social status and political importance were low and its armament and equipment poor. Due to the UN embargo on arms import imposed on all Yugoslav successor states (even the peaceful players like Macedonia) the only way to

---

<sup>7</sup> List from the Working Table III, ‘Security and Defence Issues: The SSR’, Regional Conference, Bucharest, 25 and 26 October 2001. Also available at [www.stabilitypact.org](http://www.stabilitypact.org)

equip the militarily ill-prepared army was through accepting gifts and/or by illicit deals with arms dealers. This had two consequences; the armed forces received outmoded and cast-off weapons and equipment from foreign donors, not suited for the Macedonian force structure or possible defence missions; and secrecy became an accepted procedure in the procurement process. The consequences of a decade of neglect and changeable political influences came to the surface with the war crisis of 2001. The military and the police forces, notably the reservists called to duty, found storehouses with few weapons, uniforms or shoes, and little ammunition. Half of the weapons and equipment available were out of order.<sup>8</sup>

For years the security sector avoided corruption scandals. Without a high funding priority, the security sector was not regarded as a lucrative source for corruption. Occasionally there were some rumours of corruption and consequent purges in the Ministry of Defence (MoD) but they never reached the level of a public scandal. The corruption scandal that emerged in the early stages of the crisis, however, indicated the seriousness of the ongoing erosion of the security sector. Allegations were made against Defence Minister Ljuben Paunovski.<sup>9</sup> The crisis, however, brought to the surface far worse and bigger troubles, so the controversial Minister was soon forgotten. Actually, the Paunovski affair showed many deficiencies in the state and security sector that had existed for a long time. It was only the tip of a corruption ‘iceberg’ and in the light of the alleged funds involved it looked rather minor. Some estimates show that the economic damage and losses from the conflict were less harmful than the profit gained from procurement deals.<sup>10</sup>

The ARM entered the 2001 crisis in a difficult situation with a diminished professional image, low social esteem and disrupted by various political influences. The Army’s units

---

<sup>8</sup> In addition, the army leadership lent one-third of its equipment to the police, as at the beginning of the crisis it was believed that it was the police’s job to handle the insurrection.

<sup>9</sup> During the military crisis the Ministry allegedly transferred a significant amount of money to the accounts of two firms run by the Minister’s in-laws. They were selected as the main suppliers of food and clothing for the Army and construction works on apartments for officers, without the requested public tender. The first news, released by the media and later on confirmed by Paunovski’s party VMRO, indicated an amount of 11-15 million DM, but at the end of the day Paunovski was charged over only 3 million DM.

<sup>10</sup> As much as 300 per cent more than the real market price was paid for arms and military equipment bought in the last couple of years. Customers and mediators in these deals have been senior VMRO party members, and the profit is believed to have ended up on the Party’s and some personal accounts. The quality and the type of the purchased equipment indicates that additional expenses will be necessary for their maintenance, use and modification. The biggest procurement affair was related to the acquisition of several Ukrainian military helicopters and “Sukhoi” jets during the military campaign.

encountered action in the unexpected form of a domestic conflict with the characteristics of an external attack.<sup>11</sup> The disagreement over the nature of the 2001 crisis had an impact on the Army's standing in more than one way. On the one hand, it attained public visibility, clear support and legitimacy (understandably, with the exception of the Albanian population) but the price was high. On the other hand, as the policy-makers never clearly defined the threat and the military task, so at the end of the day the ARM remained with a bitter feeling of being misused, manipulated and humiliated despite high popular support and a newly-gained image as a 'defender of the homeland'.

Talk about defence and military reforms intensified in the crisis period. President Boris Trajkovski had to call retired generals back to duty (one of them, General Pande Petrovski, became the new Chief of General Staff) and to promote some retired officers to generals. The peacetime ambiguity over competencies between the executive powers (President-government-Defence Ministry and the Interior Ministry), and the disagreements that followed the formation of a government of National Unity upon the insistence of the international community, resulted in a disorganised command over the security forces. There was confusion over the question of whether the crisis should have been handled only by the police or by the military forces as well. The crisis took place under unclear legal circumstances: no state of war or emergency was declared, nonetheless, the military was activated under peacetime conditions.

Ten years of transition has brought partial results for the ARM. Born out of nothing in a state that was the object of pessimistic predictions in 1991, a decade later the Army could give a good account of its achievements. Its external mission was exercised in February and March 2001, although the external 'aggressor' came in the form of an irregular, para-military force from a UN protectorate, Kosovo. Initially the conflict was triggered by incursions of UCK groups but it soon spread into Albanian-populated areas and mobilised internal supporters. The regime protection function of the ARM was

---

<sup>11</sup> What really happened and why the violence occurred in the first place is still not clear. The crisis coincided with several internal and external developments. Internally, the government was going through a crisis. Public attention was swiftly turned away from internal problems towards the more serious national security crisis. At the same time, Macedonia had just signed an agreement with the Yugoslav government on recognition of the mutual border, which was strongly opposed by the Kosovo and Macedonian Albanians. Furthermore, some believe that the Kosovo Albanians needed to turn the attention of the international community to the somewhat marginalised issue of Kosovo's final status; destabilisation of the region looked like a good opportunity to put pressure on the international community to hurry up with a regional solution for the Albanian Question.

exercised on a few occasions. The ARM, as an institution, was an object of the attention of politicians in their internal disputes and political conflicts. This was particularly true during the rule of the VMRO-led government, from 1998 to 2002. Since the government decided on NATO membership as the country's main foreign policy goal, the ARM was given certain normative and diplomatic functions. However, these were limited in comparison to the situation in the other candidate countries and their armies.

The Macedonian Army could not fully undertake that mission (promoting the country's admission to the Alliance and its contribution to peace support operations abroad) for two main reasons. First, it comprehended its inadequate standing in professional terms. Second, it has been frustrated by the role of the international conflict managers since the crises of 1999 and particularly 2001. The ARM played a relatively important role, although not through direct involvement and use of force as was the case with the other Yugoslav-successor states' armies. But its nation-building role remained uncertain. The ARM has always been defined as an armed force of all citizens of Macedonia, but in practice there have been a troublesome ethnic-military and police relationship. The conflicting views on the state between Macedonians and Albanians were reflected in the army. The Macedonians insisted on a unitary state and an army based on a citizenship concept, and recruitment on the basis of professionalism rather than a 'nationality key'. The Albanians in Macedonia, however, wavered between their wish for a full state and military self-determination (thus, creating para-military structures, or supporting their ethnic kin's fight in the neighbouring Kosovo) and an insistence on getting an expanded share in the state structures.

### **Police Forces of the Republic of Macedonia**

While the ARM had more symbolical significance for the building of the Macedonian state, the police had been there before 1991. In former Yugoslavia the federal units had wide powers in regard to establishing and preserving order and protection of property and human rights. Thus Macedonia's independence did not inflict great changes on the police institution. At the beginning it took over a part of the responsibility for state border protection but military tasks had never been its priority mission until the 2001 crisis.

In the public eye, the police were more exposed than the army was. Its image, however, ambiguous: it could be praised for the low corruption rate but also committed some violation of human rights. From the point of view of state policy, the main problem was in terms of society rather than in police professionalism. Prior to 2001, the police had been engaged in actions against Albanian unrest or protests. Given the existing tensions in society, the fight against crime could be and was ethnicised and politicised. For example, the police raid on a place known as “The Smugglers’ Mecca” (a mostly Albanian-populated area of Skopje) was interpreted as one directed against Albanians and provoked vociferous protests by citizens and political parties. In several cases the police were in fact used in suppressing actions of the Albanian groups that were against laws and policies.<sup>12</sup> Understandably, the Albanian citizens and particularly their political leaders emphasised the ‘Macedonian-ness’ of the police, as only some four per cent of policemen were Albanians.

Prioritising internal security concerns unavoidably reflected on the position of the police within the security sector. In periods of internal crises, the police were better off than the army, and the two institutions became rivals in competing over the scarce state budget. The most obvious uncertainty, however, centred on their institutional missions and society’s expectations, which was of great importance during the 2001 crisis. Any time the foreign policy-makers would emphasise NATO membership as a priority goal, it would announce good news on the improvement of the Army’s status. But in terms of protecting the existing political system, the police have proved to be a more appropriate tool, even when some violations of human rights have occurred.

A major scandal shook the country in early 2001, when the then opposition leader, the present Prime Minister, revealed proof of phone-tapping on a wide range of public persons, mostly from the opposition but also senior officials. The affair disclosed three facts: first, there had been a misuse of intelligence techniques (phone-tapping) not necessarily for national security purposes; second, there was no valid information on the

---

<sup>12</sup> Police intervened and used force against armed protesters on the occasion of the opening of the illicit Albanian university in Tetovo in 1995. The second even more serious intervention was related to the crisis over the use of the Albanian state flag in the municipalities of Gostivar and Tetovo in summer 1997. The Constitutional Court proclaimed as unconstitutional the use of other states’ flags as symbols in Macedonia and police were authorised to remove the Albanian flags. The Albanian resistance was armed and in the serious clashes there were fatalities and many arrests. Later reports indicated severe misuse of force by some policemen.

equipment situated in the state institutions (who has what and who could carry out clandestine surveillance and on whom), and third, the politicisation process had been going both ways (between the two major political parties, SDSM and VMRO). Hence, a ‘mole’ helped important proof leak out of the Interior Ministry. The corruption and organised crime had been deeply embedded in the society and state structures for quite some time but the viability of state was seriously endangered in the four-year rule of VMRO-DPA government (1998-2002). The coalition of the two hard-nationalist parties seemed an ‘accommodation of interests’ that worked for four years. Understandably, this required a politically complaisant police and custom services.

The crisis helped push aside unfavourable images associated with the police in peacetime, at least, with ethnic Macedonians. In this paradoxical situation (neither state of war nor peacetime), the special police units (along with the army ones) took on a heroic aura for the public. It was marked, among other things, by the rise of the Minister of Interior, the controversial Ljube Boskovski, to become the most popular politician of the time.

The Ministry of the Interior (MI) has been going through a constant process of reforms, restructuring and reorganising without any major progress. Actually, the ‘reform process’ has resembled a vicious circle given the continuous re-politicisation, depending on the change of governments. To make matters worse, on the eve of the 2001 crisis the ministry and the police forces were beheaded: the experienced policemen and security experts were replaced with obedient VMRO/DPA party soldiers. The deep politicisation associated with the security crisis led directly to the privatisation of security. Boskovski introduced special police units (“Lions”). Their formation and legal status have never been clarified but the message from Brussels clearly indicated their para-legal status and the urgent need for them to be disbanded.<sup>13</sup> In addition, the VMRO-led government mobilised an unknown number of volunteers and distributed armaments among them according to party affiliation.

---

<sup>13</sup> Boskovski established special police units ‘Lions’, which were thoroughly under his personal command, were recruited among young, ‘ethnically pure’ Macedonians with criminal dossiers, and were, finally, blessed by an archbishop of the Orthodox Church.

In sum, Macedonia was going down the road of police state in the 1998-2002 period, while the professional and institutional status of the police suffered a complete decay. After the change of government from 15 September 2002, an unusual new minister came to office. Hari Kostov has been one of the most successful bankers and is now expected to bring to an end the heavy corruption and organised crime, which pushed the country into a military crisis in 2001. However, very few believe that he will be up to the task of reforming the police and calming a security situation that is still heavily burdened and fragile. The inexperienced minister already made a public blunder in late December, 2002; hearing about a bomb explosion in front of the secondary school in Kumanovo, Kostov defined it as an act of an insane and cowardly person, while the Minister of Defence spoke of urban terrorism. Many wonder if this indicates dissonant voices in the government over security issues. Another possibility is that the more experienced Defence Minister may take the upper hand in the security sector.

### **The Intelligence Services**

Intelligence and counter-intelligence is a matter about which Macedonia possessed least experience. It appeared as a completely new function in 1991, so it began from scratch with the reorganisation of the MI, the MoD and the formation of a new body (Intelligence Agency, IA). Resources and expertise were scarce, so there was a lot of improvisation and quick fixes. Public awareness was even poorer, which enabled an atmosphere of secretiveness and non-transparent behaviour.

The IA was formed as late as 1995 with a special Law, but its effective work began only in 1997 when the first director was appointed. It was designed as an institution to gather, systematise and analyse all relevant security information, which would help the other state institutions carry out their functions more efficiently. However, it is only concerned with information coming from abroad and which is relevant for preserving external security. The way it is positioned raises the question of whether this unique agency collects too much centralised information and thus concentrates huge power, difficult to control. It is understood more as an institution at the service of the other state bodies rather than a body executing certain tasks. It provides up-to-date and relevant information, while state security is guaranteed by the other bodies. The quality of information is a

precondition for successful crisis/conflict prevention and eventually protection/defence of the country and its values.

Experts agree that there is a legal lacuna in regard to coordination among the services and bodies concerned with information on internal security and the country's defence assessments.<sup>14</sup> The weak point is clearly the lack of more consistent and permanent channels of communication and cooperation between the Agency, the respective ministries (interior, defence and foreign affairs), the government, the President of the Republic, and the Parliament.

The 2001 war crisis showed up all weaknesses and deficiencies of the security and intelligence services. It has usually been believed that the President had an upper hand over the work of these bodies (particularly the Agency), but scandals disclosed by the media showed that he was marginalised and the information reaching him was not always up-to-date or sufficiently relevant. On the other hand, the VMRO-led government turned a deaf ear to some alarming information coming from the field and even ignored the fact that the police had not been allowed or dared to get into some villages in the western part of the country. It seems that some state institutions neglected or could not get the necessary intelligence information.

## **Irregular Forces**

There also are security organisations which are only partly under government control or not under its control at all. Unlike many other examples on the territory of former Yugoslavia, initially it seemed as if Macedonia could avoid this misfortune. Despite the difficulties and building from virtually nothing, the security sector had visible contours and actors. In terms of implementation of democratic control and oversight over security structures, it was relatively easy to identify who is supposed to control whom. A smouldering ethno-nationalist conflict, however, provided the grounds for ethnic mobilisation and security self-organisation. The first attempts at establishing para-statal security structures can be found both with Macedonians and Albanians. During the Macedonian leadership's negotiation with the YPA, the then opposition and nationalist

---

<sup>14</sup> Aleks Stamenkovski, *Osnovi na razuznavanje* (Basics of Intelligence), (Skopje: Gjurgja, 1999), p. 233.

Macedonian party VMRO formed a “Macedonian National Guard” in early 1992. It was supposed to organise armed resistance in case the Yugoslav Army refused to withdraw from the Republic. The establishment of the official armed forces (ARM) deprived such groups of their rationale to exist.

During the 2001 conflict, a new security force appeared in Macedonia, special para-military units. Forces of this type have emerged in conflict situations in other parts of South Eastern Europe. The military, the police, and the Interior Ministry activated special units, boldly named “Wolves”, “Tigers”, “Lions” and the like. Supposedly they were to be engaged as special reaction forces, as the army had the “Tigers”. The best known, if disreputable unit was the “Lions”, activated in mid-2001 by Interior Minister Boskovski. Purportedly a rapid-reaction force, the Lions was established with support from hard-liners close to Prime Minister Ljubco Georgievski. The Lions actually had few encounters with armed Albanian extremists and mostly provided security for Macedonian villages. Members of the unit, neither a part of the regular police forces or the armed forces, were employed only part time, and soon gained an alarming reputation. After the Ohrid Agreement, NATO, the EU and OSCE recommended that the Lions should be disbanded, and the new Prime Minister Branko Crvenkovski stated that he would do so in September.

The Army-police relationship has always been uneasy and always somewhat centred on definition of their mandates in case serious security threats affect national security. The 2001 crisis for the first time imposed the necessity of their close cooperation and coordination but the lack of experience and willingness to face the challenges was evident. Initially, it was over the organisational mandate. Later, competition revolved around the issue of which institution was more effective in action. The contest was divided between the two organisations territorially. The ARM operated mostly on the Kumanovo front while the police units centred on Tetovo vicinity. Hopefully, the new government, with Ministers from the same party, will reach a solution in the foreseeable future. Nonetheless the importance of the new border guards may be a point of rivalry.

In general, the special police special units have been better off than the Army’s ones ('Wolves' and 'Scorpions'). There has been a shift of military special forces into police units. It is estimated that over 15 per cent of 'Wolves' left the ARM in a two-year period.

The intra-police tensions have been inspired by the competition between the two branches of special units ‘Tigers’ and ‘Lions’. Competition over professionalism and bravery has been directed to the claims of legitimacy and legality. The ‘Lions’ were Minister Boskovski’s favourites (not to mention the VMRO influence<sup>15</sup>). However, despite loyalty to the Minister, his behaviour at the expense of the specials (or rather exposing them to unnecessary risks) provoked severe conflicts in relations between the Minister and the ‘Tigers’ special units.<sup>16</sup> Despite the change of government, the troublesome relationships continue.

## **The International Organisations**

For a decade, Macedonia has hosted a number of international missions with different mandates for peace building and democracy promotion. They have all had an impact on SSR and security conditions in the country. Probably the best known was the UN mission (UNPROFOR/UNPREDEP), which operated in Macedonia between 1993 and 1999. Its presence in a critical period helped the country in many ways, one of them being monitoring the borders. At a time when Macedonia was almost disarmed and the neighbourhood unstable given the collapse of the Albanian state in 1997 and the ongoing Kosovo conflict, the presence of UN monitors was of considerable importance in terms of border control and prevention of arms smuggling, for which Macedonia was a transit route, although the results in this respect were modest.

The UN mission was terminated on the eve of the NATO ‘out-of-area’ action in Yugoslavia in early 1999, and Macedonia hosted the NATO-led ‘extraction mission’ with a mandate out of the host’s territory. It was aimed at protection of OSCE Kosovo Verification Mission members but, in fact, imposed requirements on the Macedonian security forces. During the Kosovo war, the number of NATO troops awaiting orders to enter Kosovo rose to 40,000 – or four times as many as the ARM. In order to accommodate NATO forces, in many cases Macedonian conscripts were temporarily

---

<sup>15</sup> The lion is the party logo of the VMRO, while the members of the ‘Lions’ had the symbols on their uniforms as well.

<sup>16</sup> The media reported on a ‘mutiny among Tigers’ in late May 2001. Allegedly they disobeyed an order of Minister Boskovski because in their estimation an erroneous order given by an incompetent and careless Minister could have unnecessarily endangered their lives. The unit commanders recalled their troops to barracks. The Minister himself came to fire the commanders but was met by shooting in the air from their comrades.

sent home. The increased security needs put a huge financial burden on the Macedonian state, while the ARM lived with survival budgets. In the aftermath of the Kosovo war, Macedonia continued to be a transit route and a base for the KFOR troops deployed in Kosovo. There was practically no parliamentary or public debate over the issue of inviting or hosting international troops. The decision was made in inner governmental circles (usually in the President's office or the government). The international forces have been actors in the theatre and inevitably have been in constant touch with elements of the security sector.

The post-conflict international presence has begun with an indefinite period of hosting various missions with mandates more focused on SSR. A series of NATO-led missions began with "Essential Harvest", then "Amber Fox" and "Allied Harmony" on 15 December 2002, with the possibility that it could be replaced by EU forces by the spring of 2003. Post-conflict Macedonia requires international security assistance which obviously influences SSR. In the light of the expectations the Macedonian government cherishes in terms of international assistance, that should support the country's admission to NATO in 2006.

Macedonia has not managed to build a consensus on national interests and national security strategy. In the opinion of some international observers, Macedonia has become an overcrowded place: international organisations arrive with different and often contradictory advice concerning bilateral, multilateral or international arrangements.<sup>17</sup> Macedonians have not developed a clear policy in regard to these often confusing proposals. The lack of coordination of international actors in the theatre creates confusing situations and is hardly favourable for pursuing consistent SSR.

Albanians had different security perceptions. The illegal recruitment of Albanian youth from Macedonia intensified with the rise of UCK in Kosovo and particularly during the 1999 war. War-comradeship built up in 1998-99 has reappeared with full strength during the 2001 crisis in Macedonia. It would be misleading to describe it only as ethnic insecurity and distrust in the state security institutions among Albanians. It has also not been a national phenomenon being closely bound with developments in Albania – the

---

<sup>17</sup> Author's interview with members of OSCE mission in Macedonia, December 2002.

1997 state collapse and escalation of the Kosovo conflict. There is also the ambiguous character of the UCK, fluctuating between criminal and patriotic motives and actions.

The escalation to overt violence in the spring of 2001 had an immediate reaction in the reappearance of ethnic Macedonian paramilitary organisations.<sup>18</sup> The motivation was a mixture of patriotic, ethnic, political and criminal factors. Relatively well-functioning state structures turned into semi-state organisations. There was also the presence of mercenaries with combat experience gained on other fronts in former Yugoslavia. The semi-privatisation was a consequence of the low living standard of military and police officers who had to earn extra income and also of a general disregard for the rule of law by state officials. The media reported on some police stations advertising their services for financial compensation to individuals and firms. Unfortunately, Macedonian society had been infused with a ‘culture of violence’; terrorism takes an urban form, while the number of incidents involving use of guns in schools is constantly rising.

### **Divergence and Confusion: A Crowded Security Sector**

The basic question about security sector reform is: what is the desired aim and where does the reform start? In a crowded and confused security sector, as Macedonia has, the dilemma is simultaneous. The first priority is differentiation of the ‘official’ from the ‘shadowy’ part of the security sector, but it is still unclear how to deal with the latter. Should it be eliminated/disempowered or somehow integrated into the official part? The second question refers to the external actors who want to be and sometimes are the facilitators of reform but can be an unintentional obstruction due to their contradictory advice and lack of coordination. Finally, there is the issue of the political and security parts of the security sector.

The constitutional arrangement of the separation of powers principle has been not clearly defined but during the crisis it was even endangered in its essence. Since 1991 Macedonia has been wavering between its constitutional concept of parliamentary democracy and strong elements of a presidential system. Hence, some experts have

---

<sup>18</sup> During the crisis there were indications of the appearance of several ethnically Macedonian para-military groups, such as “Macedonian Dawn”, “Todor Aleksandrov”. There were various groups of volunteers under loose police command. The Prilep-based patriotic group “Poskok” (Snake) performed racketeer actions, extracting large amounts of money from local businessmen ‘for patriotic reasons’.

been arguing that the system profile would be better described as semi-parliamentary democracy with a strong Presidential role. However the crisis altered the residuum of power significantly.

The reasons were not to be found only in the demands arising from the objectively extraordinary situation (i.e. calls for concentration of decision-making mechanisms and efforts for overcoming the crisis). One should also take into consideration the weakness or even paralysis of the other relevant institutions, first of all the Parliament, the government and the respective ministries. Given the opposite perceptions of the character of the crisis, in other words its inter-ethnic components, the MPs could not reach consensus in the Parliament, so the adopted resolutions used vague terms of 'condemning extremism and violence' without being able to identify and name the groups fighting against the state security forces.

The international community demanded a government of National Unity in the midst of the crisis, which embraced the four major political parties – the ruling ones (VMRO and DPA) and the opposition ones (SDSM and PDP). Instead of building a political bloc comprising the two biggest ethnic Macedonian parties (VMRO and SDSM) and the two Albanian ones (DPA and PDP), the government ended with highly antagonised partners. They were unable to bridge their disagreements in the name of the national interest. President Trajkovski's position was strengthened by overt international support. In short, the international community put more hope in the President, who seemed to be a 'dove' against the obviously 'hawkish' Prime Minister Georgievski and his Minister of the Interior Boskovski. Within his competencies the President initiated a public and expert debate (Process 2000) over the adoption of the National Security Strategy.

The simultaneous political and security crisis introduced new forms of political consultation and decision-making. The new practices were endorsed by the international community, which seemed to care more about peace efforts than the rule of law principle. Summits (of party leaders) at the President's became a regular practice although constitutionally moot. Actually, after signing Ohrid Framework Agreement, these gatherings have become forums for the signatories to decide on the document's implementation. As in its essence the Ohrid Agreement concerns SSR, this is obviously a new form of decision-making.

In regard to the executive (governmental) function, a new intra-governmental body was introduced i.e. a Crisis Management Centre under the auspices of the government of National Unity. The work of this body provided clear evidence of the whole weight of national (or better political) disunity in handling the crisis.

The apparent end of the military crisis and later the election of the new post-conflict government (which embraced former combatants) were supposed to eliminate all disagreements over the division of competencies between the state political institutions in regard to national security and its democratic management. However, the first months of the new government's rule provided evidence that there is a long way to go. As the executive power was particularly stressed during the crisis, the frequent clashes between the President and the Prime Minister were anything but helpful. The most surprising matter is, however, the ignorance or public manipulation of the powers each of the power-holders is entitled to. For example, Georgievski disputed as unconstitutional and harmful the President's order to Army's units to retreat from certain conflict areas in October 2002. Politically, it was obvious that the departing Prime Minister wanted to put the blame on the President still in office. However, for the wider public it was not so clear who was right and who was wrong.

Another area of dispute could have been noticed in the relationship between the President and the Minister of Defence. When the incidents occurred in late February 2001, the first dilemma was who was in charge of handling the crisis: the Army or the police? The President was stunned for a while and it took a month and a half to get the National Security Council together. An overt clash between the President and the then Defence Minister Vlado Buckovski occurred over a tragic incident in August 2001, when several soldiers were killed on the road Tetovo-Jazinice. The incident provided evidence of clear confusion over the question of who commands the Army and what the role of the Minister in the chain of command between the President and the Chief of General Staff is. Allegedly the President gave verbal orders directly to the Chief of GS, bypassing the Minister, who was not informed.

The Army did not take any measures for protection of the road in question (which was in the content of the President's order). The media disclosed the President's secret order

so that the Minister read about it in the newspapers. The scandal also raised the question of whether there was someone in the National Security Council who reported to the media about a serious clash between the President and the Minister. The Minister was allegedly accused of disobedience but also of exposing the police units to more burdensome duties at the expense of the protected army units. The General Staff's position was that it did not disobey the order but respected the fact that the zone of action had been declared a demilitarised zone in the recent cease-fire agreement. A few days later (on 8 August) another severe incident happened on the road Tetovo-Skopje, when 10 soldiers died during an assault. The Chief of GS was dismissed by a presidential decree.

The new Law on Defence adopted during the crisis was expected to eliminate the ambiguities in the relationship President-Government-Minister of Defence-General Staff. It did not help overcome the problems in practice and soon the respective legal provisions were disputed before the Constitutional Court.

Problems emerged in the relationship between the MoD and the Ministry of the Interior. In addition to the initial dilemma of who was in charge of what (which was obviously a consequence of political impotence in defining the character of the security threats); later on there was a clash over the issue of forming joint anti-terrorist units. It was originally the President's idea but the shape and especially the command issue were never clarified. As late as February 2002 it was still unclear who should command the units – an army or police general? The President opted for an army general, while the Prime Minister and the Minister of Interior opposed this view.

Albanian demands for better ethnic representation in the security structures have been on the agenda for a long time, and even endorsed in the provisions of the new Law on Defence. However, the crisis was used to put pressure on the political leadership.<sup>19</sup> Some officers and cadets of Albanian origin left the ARM while others insisted on immediate promotion.

---

<sup>19</sup> See: 'Oficeri-Albanci ke si odat od ARM ako ne gi unapredi BUCKovski!' (Albanian-officers are going to leave the ARM if not promoted by BUCKovski!?), *Dnevnik*, 15 November, 2001; 'Oficerite-Albanci sakaat da izvlecat korist od krizata' (Albanian-officers want to profit out of the crisis), *Dnevnik*, 16 November, 2001.

## **The Way Ahead**

SSR arrived on the reform agenda in the aftermath of the 2001 crisis. Nevertheless, it seems the endeavour has gained particular momentum in the post-Prague period. Domestic actors claim progress and stability, especially in the light of the NATO admission question. Macedonian policy-makers are concerned about the decisions of the Prague summit as well as determined to catch up by 2006 (the next round of NATO enlargement). However, the problems in the security sector are large and more complicated than was the situation just two years ago. Violence makes any reform more difficult. The government is far from completion of the security sector build-up in accordance with democratic standards, but it often has to put this task aside in order to shift the focus to deal with some security threat. As some analysts say, Macedonia could implement all necessary reforms of its security sector (mainly thinking of the army) if one could declare a moratorium on security threats.

As the state security structures could not achieve the necessary coordination and harmonisation of the security sector, it is very hard for the international missions to facilitate the peace and reform process. NATO forces had problems with the 'Lions' and it was no easier for OSCE police reform efforts. Again the security structures' non-cooperativeness was more a reflection of the lack of political will than a simple indication of their being out of any political control. The change of government in September 2002 raised hopes for overcoming many of the accumulated problems because evidently there is a political determination and international support.

However, paramilitary units, which have political support but are not under firm, well-defined government authority, are difficult to disband. Some, but not all of their members, could be absorbed into military and police formations. Moreover, according to the Ohrid Agreement, Macedonia has agreed to accept Albanians into the ranks of the military and the police, some of them members of the insurgent NLA. Deactivating some Macedonian units, while more Albanians are moved into the military and the police, is a politically volatile issue. From November 2002, according to official Macedonian reports, the Lions have been involved in a number of assaults upon civilians, brawls, weapons offences and serious criminal acts.

Downsizing of army/police forces is rarely a painless process, thus reintegration and re-socialisation for civilian life appears as a sine qua non. It will be particularly delicate to dismiss people of one ethnicity in order to hire more of another ethnicity. In sum, it appears that post-conflict reconstruction is a costly endeavour. As already said, there is no precise estimate of how much implementation of the Ohrid Agreement will cost.

The Army has announced planned changes in terms of re-equipment, higher and swifter professionalisation and the shortening of universal conscription to six months. The measures will be difficult for the army members as it is already announced that 700 military officers will be dismissed over the next few years. For a small army this figure represents one-third of its officer corps. Modernisation of the armed forces at a time of deep recession and uneasy societal atmosphere raises a controversy over what Macedonia needs more: development or Euro-Atlantic integration.

As the Macedonian case indicates, democratic control of the security sector grows in the light of post-conflict recovery and peace-building. Democratic oversight presupposes workable democratic institutions. Conflict-driven societies have a proclivity for imitation or even misuse of democratic principles. Traumatised and belligerent societies do not have a critical mass for democratic oversight of the political decision-making process. They easily and wholeheartedly support militant politics.

The security sector in still fragile post-conflict societies is comprised of a range of state, para-state, international actors. Nevertheless, the priority task seems to be a strengthening of the capacity and viability of the state. Almost all Yugoslav successor states have been caught in the dilemma of how to strengthen the state's authority and capacity and to avoid state terror in the name of 'our' nation and 'our justice'. At the same time, it does not help much when a considerable part of the population looks over the borders and calls for a change of borders. The concept of SSR is a matter of priority for the Macedonian state and government. It is of even greater importance to create a national consensus over the desired goals to be achieved with SSR, should it be peace-building, or economic development, or democratisation or professionalisation? The country also needs to identify who is who in this field because the arena seems overcrowded with international, governmental and non-governmental institutions offering help, but not always with enough knowledge of the national needs of the recipient state.

Both sides, the Macedonians and the international organisations, need each other and can help each other only through cooperation. If this is not achieved, it is likely that SSR in Macedonia will be pursuing an uncertain course.

## CHAPTER TWO

---

### DEMOCRATIC CONTROL OVER DEFENCE AND SECURITY: BETWEEN PRINCIPLES AND REALITY

*Biljana Vankovska*

#### Introduction

The dissolution of former Yugoslavia was accompanied by the simultaneous dissolution of the federal security sector and the build-up of the republics' security sectors. As the federal state was losing the monopoly of armed forces and security institutions, they were assumed as a new function of the emerging states (republics). Macedonia and Bosnia and Herzegovina were hesitant actors in the process of security emancipation from the central authorities in Belgrade, trying to come up with a compromise formula to preserve Yugoslavia's unity. This had less to do with alleged Yugoslavism or allegiance to Milosevic's policy but more with the awareness of the republics' leaderships that both republic run high risk of internal (ethnic) conflict if dissolution take place. Finally, when the compromise attempts failed, however, Macedonia was fortunate to avoid an overt conflict with the Yugoslav People's Army as well as postponing an internal ethnic conflict (at least, until 2001).

Macedonia appeared on the international scene with an unexpected image: what had historically been known as 'a Balkan powder keg' re-emerged as an apparent 'oasis of peace'. In mid-1991 when the Yugoslav wars occurred, the viability of independent Macedonia was questionable, but in a course of a decade it surprised many observers with its steady progress and ability to preserve peace in a war-torn region. However, given the circumstances, the policy priorities were pursued in state- and nation-building terms rather than in democracy-building terms. As was the case with other democratic practices, Macedonia started its learning process about democratic management of the security sector only in 1991. Given the unexpected circumstances of its gaining

independence, the republic which had no defence establishment had first to build up security structures and only later directed attention to their democratic oversight.

Following the referendum on independence from 8 September and the new Constitution of 17 November 1991, the first organic law to be adopted in the Assembly was the Defence Law in February 1992. Actually, de facto and de jure, the new Macedonian defence system in this period co-existed with the old federal one. Avoidance of hostilities was of the utmost importance for the new state, even at high political and material costs. During its withdrawal up to March 1992, the YPA took along all movable armaments and equipment (and what was not possible to remove was destroyed). Macedonia was left militarily helpless. The price was paid in material terms, but the reward was peace. However, it was soon apparent that the young state possessed an internal conflict potential and lacked the democratic structures and habits for conflict resolution.

### **Normative Perspective**

The revival of pre-communist military traditions and symbols in the other Yugoslav successor states had begun before the dissolution took place. Macedonia does not fit into that pattern since ‘the national emancipation in the military sphere’ came somewhat unexpectedly. When state independence became an option, creation of the legal foundations of the state was the priority. Adoption of the new Constitution (17 November 1991) and several organic laws (including the Defence Law) were sine qua non as sovereignty and membership in the international community. The whole proceeding was done with little time for a wider public debate on the state (and defence) policy. The uneasy balance of the actors on the political scene (of which none had enough power to determine the basic directions) mirrored the many compromise solutions included in the legal system.

The political system was meant to be created in accordance with the basic premises of parliamentary democracy, but it was achieved hurriedly with some ambiguities. The democratic deficit was to be compensated by replication of the institutions and principles from Western democracies. The legal system was designed to provide democratic legitimisation with a special emphasis on fundamental human rights and freedoms. There was not much in Macedonian society to constitutionalise in autumn 1991, so the

Constitution was more a list of intentions than a consequence of social reality. More importantly, the Macedonian leadership neglected a circumstance that would destabilise the country ten years later. The representatives of the Albanian parties boycotted both the referendum on independence and the vote for adoption of the new Constitution. That should have been an early warning signal but instead it was ignored by both domestic as well as international actors.

Lacking any pre-communist (and certainly democratic) traditions, Macedonian constitutionalists had to draft a political system 'out of nothing'. The situation that could be described as 'tabula rasa' allowed them to choose from among the available models, although the political systems of other nations were established in a long process and in accordance with each one's national conditions. The situation regarding the model of democratic control of the defence sector was unique. Experience and expertise was lacking, and the issue was not given much attention. The existing model was more a by-product of the accepted democratic pattern of the political system rather than a result of some idea about the necessity of democratic control of the military. After all, in 1991 Macedonia did not have its own armed forces and one could not anticipate when these would be created. The normative model of democratic control preceded the establishment of what should have been controlled. The whole issue was virtually terra ignoranta. Even nine years afterwards, the issue was still a kind of novelty both for the academic community and the public. At the same time, the problems are growing, while the gap between the normative and the real is getting deeper.

The Assembly, that is the Parliament, which is supposed to be the focal political institution in a parliamentary democracy, has played a secondary role in the overall political process. From a constitutional point of view, it not only holds the important competencies typical of a legislative branch, but its position is strengthened even beyond what is usual. No other branch of government can dissolve the parliament and call for new elections. Constitutionally, only the parliament itself is authorised to do that, which is highly unlikely to happen. In reality, however, the parliament has been on the margins of political developments. Under the clear supremacy of the executive power (government and/or the President) most often it has been in the role of a voting machine for decisions made elsewhere. The structure of the Assembly so far has been in favour of one party or a ruling coalition with a weak and often non-constructive opposition. This

situation has created disdain towards the proposals and criticisms coming from the other side of the political spectrum. Thus the politically very important oversight function towards the executive branch has been neglected. The activities of the parliamentary commission for internal policy and defence have been more focused on giving support to the government's proposals than towards making a critique of them.

An unusual feature of the Macedonian parliamentary system is in the structure and position of the executive branch. It is two-headed and consists of government and the President of the Republic. The legislative-executive power relationship as well as the relationships within the executive domain have been dependent more on the current power-holders than on the constitutional model. The inconsistency of the constitutional model consists of two basic premises. First, there is the inability of the government to dissolve the Parliament under any circumstances. Secondly, the President is elected directly from the citizens and is thus not responsible to Parliament. An additional problem arises from the lack of a legally-defined relationship between the government and the President, especially in the realm of security and defence policy. The constitution defined the boundaries of the institutions' competencies in a vague way, relinquishing to the Defence Law the task of developing a network of institutional relations. However, the 1992 Law on Defence failed to eliminate the ambiguity in terms of powers and responsibilities along several lines, such as: the President of the Republic (as designated Supreme Commander of the Armed Forces) and the government; the government – Ministry of Defence; and the President of the Republic – Ministry of the Defence – General Staff. Hence there was a lot of hope in the new Law that was adopted in spring 2001 but there are grounds for believing that the ambiguities remain.

### **The Role of the President of the Republic in the Defence Sphere**

The institution President of the Republic was, understandably for a newly-born state, a constitutional novelty in 1991. The constitutional position as well as its performance in the political life so far indicates quite a significant political subject, which has enough weight to even shift slightly parliamentarianism into a semi-parliamentarianism (or even semi-presidentialism). This circumstance is backed by all indications (such as its functions or the character of the relationships it has with the other institutions of the

political system) that point out a rather unusual position of the President of the Republic. His/her mandate is five years.

From the point of view of the President's functions it can be concluded that it is not merely titular or ceremonial but has substantial political competencies. This is shown by the following points:

- The Presidency derives its political legitimacy directly from the general electorate in the state, like no other institution in the system (except for the Parliament as a collective body);
- The President holds his/her competencies independently of the other institutions that are in no position to have any impact or oversight powers over his/her work. In other words, the President has fundamental competencies defined and limited only by the Constitution;
- An independent body, the Constitutional Court, decides about the President's objective (legal and not political) accountability;
- In regard to the legislative branch the President has an important asset –a veto on the adoption of laws;
- The President has important competencies in the realm of foreign policy;
- He or she holds an important electoral function;
- His/her position becomes quite remarkable in a state of war or emergency;
- Finally, a series of presidential powers derive from his/her position as Supreme Commander of the armed forces.

Given the President's general place in the political system it is not surprising to identify this institution as an important actor in the defence sphere. It would not be correct to simplify or equate the President's position to that only of Supreme Commander of the armed forces. A valid analysis should start from a broader context. First, given his/her important powers in foreign policy, he or she is objectively in a position to influence the country's international standing and its relationships with other states in economic, political and security terms. Activities of such a kind have a direct impact on the country's external security and they de facto represent a rational basis for the national security strategy.

Another important fact is that the President of the Republic is one of the actors authorised to propose state of war (in addition to a group of at least 30 parliamentarians and the government). If the Parliament is unable to gather and decide on ‘peace or war’, the President declares a state of war or a state of emergency (the only difference being that a state of emergency can be declared only for a limited period of time, i.e. 30 days). Unlike in the former Yugoslav system, the President does not have the authority to issue decrees with the force of law, which now belongs to the government. The idea behind the Constitution is to ‘separate’ the Parliament’s powers into two branches of the executive power. Hence, the government is entitled to a substitute ‘legislative’ power, while the President would get ‘political control’ and ‘electoral’ functions. Namely, in a state of war or emergency, he or she may appoint or discharge the government as well as appoint or dismiss officials whose election is within the sphere of competence of the Parliament. In actual fact, the President gets extra powers beyond those that the Parliament holds in peacetime. While practising its oversight function, the Parliament’s decision is bound to the will of the majority and it has to be reached through a fixed procedure. However, the Constitution is very vague and unclear about the criteria upon which the President makes his decision on dismissing or appointing a new government.

Hence some dilemmas remain:

- first, can the President ‘punish’ the current government for its allegedly irresponsible or incompetent behaviour, or dismiss it because of the death or permanent inability of the prime minister or a majority of the ministers to perform their duties;
- second, will the President be obliged to respect the political will of the electorate (expressed in the latest peacetime parliamentary elections) or will his or her decision be unrestricted;
- third, is there an obligation to submit this decision to the Parliament for confirmation as soon as it can gather?

The Constitution is explicit when it comes to the functions of the President as a nominal titular of supreme command over the Army but remains very unclear when it comes to its actual realisation. That issue is left for the Law on Defence to resolve, that is to specify the President’s legal competencies in the defence sphere. The President’s main

competence is command over the Army. However, having in mind the complexity of his/her constitutional competencies on the one hand, and on the other the complexity of the command function, it is not difficult to conclude that he or she will be unable to directly perform these functions. A significant part of his or her duties is performed through issuing decrees and other legal acts. However, when it comes to making them operational, this is usually done through the Ministry of Defence, and in final instance through the General Staff. That is why a clear relationship among these bodies and a precise way of implementing their competencies is of the utmost importance in the light of democratic control of the defence sector.

The legal parameters only implicitly point out that the function of supreme command over the Army is carried out by the President both in peace and in wartime, and that in their realisation he or she relies on the existing civilian and military structures (MoD and General Staff). The President appoints and dismisses generals, and more importantly the same applies to the Chief of Staff of the Macedonian Army.

### **The Role of the Government and the Ministry of Defence in Defence Matters**

The Constitution does not contain any specific provisions that refer to the government's special authority in regard to democratic control of the armed forces. Thus one can conclude that its general position in the overall political system applies appropriately in the defence sphere. In sum, the government holds functions typical for such an institution in a parliamentary system, such as: political, implementation of the laws and other acts adopted by the Parliament, a normative function, a foreign policy function, electoral and control functions. Far more importantly, there is a lack of clear provisions about the relationship between the government and the President of the Republic, i.e. between the two components of the executive branch.

It is left for the Defence Law to clarify many of these details. However, even at first sight it is obvious that the President of the Republic holds the upper hand in the defence sphere, although in many respects they have to work together or coordinate their activities. For example, the government gives a non-obligatory opinion about the defence strategy issued by the President. It also defines a defence plan but it is the President who issues it. The most tricky issue is the accountability (and even broader,

the very position) of the General Staff and the Chief of Staff. As said before, it is the President of the Republic who appoints or dismisses the Chief of Staff, without prior or posterior approval from the Parliament, but the Law stipulates that the Chief of Staff is accountable both to the President and the Minister of Defence. There is no solution whatsoever about a possible situation in which the two institutions hold different opinions.

The 2001 Law on Defence introduced new provisions by sanctioning the position and the powers of the General Staff, which had been a contested political issue for years. The generals were overtly sending signals about their preference for being closely attached to the President, while some of the first steps undertaken by the new civilian ministers of defence were in the opposite direction (transforming the General Staff into a body of and within the Ministry). Finally, the legal framework was adopted but the situation remains unclear and may cause deep political frictions with implications for the state's security. It remains unclear who would be the final arbiter if there is cohabitation (i.e. the President and defence minister come from different sides of the political spectrum, as was the case during the previous government and President Kiro Gligorov). It also remains unclear on what grounds the Chief of Staff can be removed from his post before the expiration of his term of office.

The Constitution is more precise when it comes to management of the Ministry of Defence (and the Interior) by stipulating that the minister is a civilian who has been in that capacity for the last three years at least. It seems to show a very clear intention to secure democratic and civilian oversight of the defence and police forces. The situation is not so clear, however, when it comes to the general position of the Ministry of Defence (and the minister) in its relationship with the government and the President of the Republic. Except for the civilian minister, the constitution does not emphasise anything special about the Ministry. In other words, it is treated as all the other ministries and bodies of state administration. The governing principles of its work are: autonomy in performance of its duty, work within the framework of the Constitution and laws, and accountability before the government.

In accordance with the constitutional provisions, the Defence Ministry (i.e. the minister on behalf of the Ministry) is accountable only to the government, which is in the final

instance accountable to the Parliament. However, this Ministry is provided with specific competencies and maintains particular relationships with the President of the Republic, who exercises his or her command functions through the Ministry and the General Staff. This analysis shows that the Defence Ministry is in a system of dual accountability – to the government and to the President. However, the missing link is the underdeveloped relationship between the government and the President in the defence sphere.

In conclusion, one may point out that the principle of democratic control of the armed forces is embedded in the political and legal system but still suffers from some deficiencies arising from an inconsistently implemented parliamentary democracy, not to mention the lack of democratic political experience. Some problems can be easily identified and even fixed through legal reforms, and some others need to be learned through time and experience. However, the Macedonian case is far more complex given its potential for internal conflict and the regional setting, which tend to emphasise no ‘ordinary’ transitional pains. According to many analyses, what matters in Macedonia more than political-military relations are the society-military relations. Furthermore, civil-military relations have more weight and relevance if translated as ethnic-military relations in the light of the underlying division in the Republic. However, both the ‘locals’ and ‘internationals’ tend to focus on the ‘democratisation thesis’ and preserve the aura of ‘virtual reality’ of an allegedly ‘normal’ country while society is burdened with potential for heavy and explosive conflict.

## **Principles and Practice**

As already pointed out, many political analysts agree that Macedonia does not have a pure model of parliamentary democracy because of the strong elements of presidentialism. The debate usually runs around the legal aspects while neglecting the more substantial dimension. Presidentialism in Macedonia is particularly linked with personalities and their public legitimacy rather than with the constitutional arrangements.

This was seen even in the case of the first president Gligorov (1991–99), whose strong position and impact on developments existed more in practice than in the constitution. The second President (Boris Trajkovski) presented a contrast to his predecessor. Unlike his counterparts in Croatia and Yugoslavia, Gligorov has been remembered as a wise

and reasonable politician and a ‘father’ of the ‘oasis of peace’. However, the methods used in domestic affairs, although rather ‘soft’, showed an astute politician. He used his influence in an informal way, which is indirectly proved by the fact that there are few acts with his signature applied to them (except in the case of promulgation declaring laws). He saw himself as a president of all citizens, but the opposition saw him as a number one member of the ruling Social-Democratic Union of Macedonia (SDUM).<sup>20</sup> In regard to the Army, Gligorov had unquestionable authority and often even bypassed regular channels of communication.<sup>21</sup> For the opposition it was a clear sign of an alliance between the pro-Serb President and the former YPA officers, all called the ‘old guard’. According to foreign analysts, civilian control of the military and the national security system was ‘personalistic’ i.e. it depended more on Gligorov’s role than on constitutional mechanisms.<sup>22</sup> The change in office from 1999 showed that the function of the President was heavily dependent on who is in office. Gligorov’s successor lacked his experience and charisma, but also knowledge in defence matters.<sup>23</sup>

It is believed that the invisible coalition between Gligorov and the government of Branko Crvenkovski (SDSM) was an alliance in which Gligorov dominated the inexperienced Prime Minister. The situation changed a bit after the assassination attempt on Gligorov in 1995, when gradually his influence in political developments was partly marginalised by the ‘gamins from our own ranks’, i.e. the young ambitious SDSM élite.

---

<sup>20</sup> Many of these allegations appeared to be true during the presidential and parliamentary elections in 1994 when Gligorov’s campaign was conducted together with the SDSM and the other two parties united in the coalition ‘alliance for Macedonia’.

<sup>21</sup> For example, President Gligorov promoted the former defence minister, retired Col. Risto Damjanovski, to general in an unprecedented way. Damjanovski had been removed from office because of his loyalty to YPA orders during the period of gaining independence. It was believed that he had been responsible for withdrawal of the draft Defence Law in 1991 with the explanation that ‘we already have a federal defence law that is still valid’. His promotion was made exclusively by Gligorov who skipped the regular procedure of taking proposals from the General Staff of the Army. The other peculiarity was that Damjanovski had been retired for three years, when he was promoted to general. Obviously Gligorov introduced a practice valid in the former Yugoslavia, although retired officers are usually promoted only in exceptional situations like wartime when it is necessary. ‘Gligorov napravi general od ministerot Damjanovski smenet poradi projugoslovenstvo’ (Gligorov promoted into a general the minister Damjanovski, who was replaced because of pro-Yugoslavness), *Dnevnik*, 1 September 1997.

<sup>22</sup> Zlatko Isakovic and Constantine P. Danopoulos, ‘In Search of Identity: Civil-Military Relations and Nationhood in the Former Yugoslav Republic of Macedonia (FYROM)’ in Constantine P. Danopoulos and Daniel Zirker (eds), *Civil-Military Relations in the Soviet and Yugoslav Successor States*, (Boulder CO: Westview Press, 1996), p. 279.

<sup>23</sup> President Trajkovski is also a minister in the Methodist church (which is one of the minor churches in predominantly Orthodox Macedonia).

After the 1998 parliamentary elections for the first time the government and the President belonged to opposite political positions. The problem was named ‘cohabitation’ and was explained as a normal political phenomenon in any democracy, but serious collisions occurred at several very important points with a clear significance for the foreign and security policy of the country. The election of Trajkovski promised a far better understanding between the President and the government but it soon appeared that the Prime Minister, as a leader of the ruling VMRO, was by far the most dominant political figure. The situation changed only during the 2001 crisis when the President made up for the lack of internal legitimacy with the overt support of the ‘international community’, which obviously preferred the more complaisant Trajkovski to hawkish Prime Minister Ljubco Georgievski.

The return of the SDSM-led government at the elections in September 2002 raised some questions about the relationship between the government, whose leader Branko Crvenkovski once said Trajkovski would be Citizen Trajkovski and not recognised as President Trajkovski because of the questionable practices and violence associated with the presidential elections. In the first months of the newly-established cohabitation, the relationship appeared uncomplicated but some friction is now evident.

The 1991 Constitution introduced a new institution in the national security system – the Security Council of the Republic of Macedonia. It gathers together the leading political figures, such as the President of the Republic (who acts as its chair), the Prime Minister, the president of the Assembly, the ministers of foreign affairs, the interior and defence and three members appointed by the President of the Republic. Although it is not established as a body attached to the President’s office, so far it has been under its decisive influence. Formally it is supposed to consider matters of significance for the national security system and to give advice and recommendations to the Assembly. In practice, it has been a rather ‘shadowy institution’ functioning ad hoc and in a highly non-transparent manner. Actually the public has perceived the sessions of the Council as an alarming signal. The feeling of confusion and insecurity usually increased, especially after contradictory statements on the security situation given to the media by different members.

At the beginning of the 1999 NATO intervention in Yugoslavia after the meeting of the Security Council, President Gligorov said to the news media that he had proposed the introduction of a state of emergency, but he had been outvoted. However, the government's representative stated that the situation was under control and that Gligorov only wanted to prolong his mandate and postpone the presidential elections. The weakest point in the public dispute was that according to the constitution a state of emergency can be declared only 'when major natural disasters or epidemics take place' and not because of a refugee influx, no matter how big it was. A similar situation happened in spring 1999 after several serious armed incidents on the border with Kosovo, when the President proclaimed it a serious situation and ordered combat readiness on the part of the army and deployment of twice as many soldiers in the border area, while Prime Minister Georgievski calmed down the public by saying that the situation was perfectly stable and secure. His coalition partner Arben Xhaferi, the leader of the Albanian party (PDPA, Party of Democratic Prosperity of Albanians) backed his statement saying that Macedonia had never been more secure.<sup>24</sup>

The government's competencies in defence matters in practice mostly depend on the current relationship between the President and the Prime Minister, although every day more operational activities are left to the Defence Ministry. The lack of legal clarity regarding the position and responsibility of the Defence Minister in practice produces many divergences. The most important issue is whether the Minister is responsible to the government or to the President of the Republic. The Defence Law's inconsistencies imply a closer relation with the President, but it is not necessarily always the case. During Gligorov's term, it was believed that his consent regarding the choice of the defence minister was, although informal, decisive. However, President Trajkovski is usually not consulted about most issues of national security, which puts him in a rather uncertain situation as far as the public is concerned.<sup>25</sup>

The 1991 Constitution requires that only a civilian can be appointed defence minister, the idea being to strengthen civilian control of the military. However, from the very

---

<sup>24</sup> Quoted by Iso Rusi, 'Incidents on the Macedonian-Kosovo Border', *AIM Press-Skopje*, <http://www.aimpress.org>, 23 June 2000.

<sup>25</sup> For example, in spring 2000 a public scandal occurred when the media revealed a report of the head of the Military Security Service on activities of Albanian paramilitary units in Macedonia. It appeared that the report had been submitted to the Prime Minister, while the President had not been informed at all.

beginning the ambiguity of the relationships between the President, the government and the Defence Ministry was noticed by the General Staff. The then Chief of Staff, General Mitre Arsovski and a group of high-ranking officers came up with a proposal for tighter linking of the General Staff with the Commander-in-Chief (the President). Moreover, in their view the appointment of a civilian defence minister was a sign of politicisation of the Defence Ministry and the ARM. Soon after this letter General Arsovski was dismissed from office and retired early. However, he reappeared as an under-secretary in the Defence Ministry in the VMRO government.

The act of appointing a civilian at the top of the Defence Ministry can be an insufficient provision in terms of civilian control. It cannot guarantee civilian surveillance in defence matters in the long run, unless other competent civil experts surround the minister. Regardless of who has been in office, the general pattern in the Macedonian defence Ministry is that the ministers do not call for external civilian expertise. As for the internal one available in the administration, the civilianisation process is being implemented in a bizarre way. The élite comprehends civilianisation as an open opportunity for endless purges and nepotism. Purges among civil servants and experts are made on strange political criterion, which is centred on the ‘question of loyalty’. On the surface this loyalty is attached to the SDSM or VMRO (the two dominant political parties), but in the background there is the old division between Serbomane and Bulgaromane.

During the previous SDSM rule two under-secretary offices were left vacant for quite some time after the spectacular removal of civilian officials with the assistance of the military police. Under the current government the positions have been occupied by people who were in office for an extremely short term and then replaced. For some time, for example, the under-secretary for defence policy was a military officer (afterwards appointed assistant to the Chief of Staff of ARM) as well as the under-secretary for procurement and legal affairs. Asked at a press conference about this solution, the Minister Nicola Kljusev replied that General Janev (the under-secretary for defence policy) had been wearing a civilian suit during working hours and had been very obedient, so there was no danger of violation of the principle of civilian control.

The classical difficult “Big Triangle” (President of the Republic – Prime Minister – Minister of Defence) became troublesome during the 2001 crisis. Contradictory orders

were coming from all sides. To make things worse, there was competition between the ministries of defence and interior, which directly reflected on the members of the two security structures. At one point the international community pushed for a so-called ‘Government of National Salvation’, but also supported a non-constitutional form of political consultations and decision-making i.e. party leaders’ summits at the President’s auspices. Also the role of the National Security Council grew to an unprecedented level and beyond the constitutional shape of this body. These two ‘newly introduced’ forms of political consultations on security matters were still present in early 2003, and even blessed by the external factors. It seems that there has been a decisive shift of power towards the NSC, particularly as shown by the strong push by the Albanian coalition partner (former rebel Ali Ahmeti’s party, DUI) to be represented in accordance with the Albanians’ share of the population.

At present, it seems that the story of democratic control of the defence sector in Macedonia is not finished and unwritten chapters lie ahead. Before any model is determined, Macedonia and the international community will have to find a way to preserve peace without sacrificing democratic principles and procedures (particularly rule of law), and vice versa – pursuing democratisation without misusing democratic principles in the inter-ethnic mobilisation and division of the state.

## **CHAPTER THREE**

---

### **THE PARLIAMENT, DEFENCE DEVELOPMENT AND SECURITY SECTOR REFORM**

*Radica Gareva*

#### **Introduction**

The Parliamentary system in The Republic of Macedonia was established after the independence of the Republic and adoption of the Constitution, in 1991. The adoption of the Constitution established a new political and economic system in the country. The Constitution has defined the Republic of Macedonia as a sovereign, independent and democratic state. These changes were the basis of the new parliamentary democracy.

In accordance with the Constitution, the Parliament has great political and legislative power. The Parliament can be dissolved only through its own decision and otherwise serves a full term, and the Constitution does not provide for the recall of individual Members. The Parliament makes the most important political decisions. It has considerable power, in principle, toward the President and the government. For example, the Parliament can impeach the President for non-compliance with the Constitution.

#### **Laws Defining Parliamentary Powers in Defence Affairs**

The political responsibilities and powers of the Parliament in the area of defence and security, which are summarised in the Constitution, are defined in subsequent laws and acts. The Defence Strategy, Defence Law, Military Service Law and Defence Plan regulate defence and the armed forces.

Article 17 of the Defence Law states that the Parliament accomplishes the following: it performs supervision and realisation of the authority of the government in defence

affairs; adopts National Security and Defence Strategies; examines the presence of military threats; declares war and peace; decides on the budget necessary for defence; approves the wartime budget of the Republic; decides on joining or resigning from collective security and defence systems; ratifies international agreements which pertain to the entering, transit or presence of armed forces of foreign states on the territory of the Republic for exercises or training activities; and participation in peacekeeping and humanitarian activities as well as the participation of the Armed Forces of the Republic of Macedonia in similar activities abroad, and, in general “Adopts conclusions and resolutions about the defence system, defence development plans, preparedness and equipment of the Army.”

### **The Role of the President and the Security Council**

The Security Council chaired by the President reviews all important issues related to security and defence and submits proposals to the government and Parliament.

The President of the Republic of Macedonia is the supreme commander of the Army of the Republic of Macedonia. In connection with his position, he adopts the Defence Strategy of the Republic; adopts the Defence Plan of the Republic; declares measures of preparedness and commands their realisation; adopts documents for use of the Army; and adopts documents for further development of the Army in correspondence with NATO standards.

The Security Council is under the authority of the President of the Republic. The members of the Security Council are the President of the State, the President of the Parliament, the Prime Minister, and the Ministries of Defence, the Interior and Foreign Affairs and three other members named by the President. It includes representatives of the state, executive, and legislative authorities. The Security Council oversees questions about security and defence and adopts decisions which are presented to the government and the Parliament. This Council has an important role in the creation of the defence and security policy.

## **Legal Framework and Relations among the Branches of the Government**

The Defence Strategy, Defence Law, Military Service Law and Defence Plan regulate defence and the armed forces. The Security Council chaired by the President reviews all important issues related to security and defence and submits proposals to the government and Parliament. (Macedonia is currently developing supplementary legal acts that will contribute towards enhanced implementation of the existing law and the achievement of better cooperation).

In the area of political relationships of the Parliament, the President and the government, The Presidency of the Republic of Macedonia is an executive power authority, independent in its decisions in accordance with the Constitution. The President informs the Parliament about the questions connected with the defence posture, integrity and security of the state at least once per year. The Parliament has Constitutional rights to ask for reports and opinions from the President. In this fashion, a practical mechanism for common relations between the President and Parliament is established.

Relations between the Parliament and the government are also established on the basis of a clear division of powers and responsibilities. One of the most important influences of the legislative over the executive is that the members of the government are directly responsible before Parliament. The strongest instrument for political control by the Parliament is the vote of confidence, questions to the government and individual members of the government, and the role and function of the Committees.

The government proposes the military budget to the Parliament; oversees the Strategy of Defence and presents it to the Parliament for adoption; decides about civil protection forces; commands the use of police forces as a complement to the Army; adopts the Military Defence Plan, and is responsible for other issues.

## **The Work of the Parliament**

Macedonia's Parliament conducts its deliberations openly. The Constitution requires that the public can attend the sessions of the Parliament. The Parliament, however, can decide to work in a closed session, by a two-thirds majority vote of the total number of

Representatives. All draft legislation must be made publicly known through the official publication *Sluben Vesnik (Parliamentary Gazette)*.

The government is politically responsible to the Parliament, collectively and individually. In the instance of collective responsibility, the Parliament can have a vote of no confidence in the government. Individual responsibility is provided by the power of the Parliament to remove individual Ministers under conditions specified in the Constitution. The government and individual Ministers have to answer interpellations, questions from Members, and provide documents and information, as provided by law.

In defence and security affairs, the Parliament adopts the national security and defence strategies. The Defence Ministry, according to the Defence Law, has to provide the key documents to the Parliament: a plan for funds required for defence, showing the required funding by programmes, sub-programmes, purpose, tasks, and implementation for carrying out the missions of units, commands, and institutions of the Armed Forces, Civil Protection Forces, and other Activities of the Defence Ministry.

Members of the Cabinet and other representatives of the governing executive are obliged to attend the committees meetings, if requested. Members of the Parliament may direct interpellations (ask questions) from individual Ministers or the Cabinet as a whole.

The basic work of the Parliament of Macedonia in defence and security affairs is conducted in the Commissions (that is, Committees) and in Parliamentary debate. Parliament establishes permanent and temporary working bodies, as provided by Article 76 of the Constitution. It may set up oversight Committees for any domain or any matter of public interest. A proposal to establish such a Committee can be submitted by a minimum of 20 Representatives. The Parliament has a permanent oversight Committee for the protection of the rights and freedoms of citizens. The oversight Committees can initiate proceedings to determine the responsibility of public office-holders.

## **The Committee System**

The Parliament has two kinds of committees. There are inquiry or special committees, which are established from time to time and are instruments for political control over all areas of the public policy. Their surveys and reports can be a basis for opening legal proceedings against those who have abused their professional position. Several inquiry committees were organised in this last session of the Parliament and their reports were part of the agenda of the Parliamentary meetings, but the conclusions were not well implemented.

There are standing Committees with a direct, or indirect, interest in the area of defence and security. Among them are the Committee on Internal Policy and Defence, recently renamed the Defence and Security Committee; a Committee for Supervising the Work of the Security and Counter-Intelligence Directorate and the Intelligence Agency, a Finance and Budget Committee, a Foreign Policy Committee, a Committee on Euro-Atlantic Integration, and a recently-established Committee on Relations between Ethnic Communities.

The Defence and Security Committee is responsible for all defence and military issues. This committee is composed of twelve members and their deputies chaired by its President. The working area of the Defence and Security Committee in general is Macedonia's Security policy; Defence Policy; and Defence Plans. The Finance and Budget Committee is composed of eight members and their deputies chaired by its president. The area of interest of this committee is to review the defence budget. The Committee for Supervising the Work of the Security and Counter-Intelligence Directorate and the Intelligence Agency is an oversight Committee, which considers whether the human rights of citizens that are guaranteed by the Constitution and the Intelligence Security Law are observed by the security agencies and authorities. The Committee on Euro-Atlantic Integration considers the relevance of defence and security planning to Macedonia's preparations to enter NATO and the EU and plans such as the annual Membership Action Plan for NATO. The Committee on Relations between Ethnic Communities has 19 members, seven ethnic Macedonian and ethnic Albanian deputies. The Serbian, Vlach, Turk, Romany and Bosnian minorities will each have one member.

Committee hearings on security and defence issues are part of the practice of Macedonia's Parliament. There are standard Rules of Procedure which regulate their procedures. Although the Constitution provides considerable powers to the Committees, and laws on defence and security require that the government and the Defence Ministry provide information to the Parliament on defence and security, it cannot be said that the Committee system is now strong. Unfortunately, efficiency is not at a high level because of the different opinions of the members of different political parties. The work of the Committees is not always effective and does not provide systematic control over defence and security issues.

The 'White Paper on Defence', prepared by Macedonia's Defence Ministry and published in 1998, noted that the position, the role and the responsibilities of the bodies of the state authorities has been precisely determined, and it has been precisely elaborated in the Defence Law. Up to now, through practice and everyday work, the Parliament of the Republic of Macedonia with its Commissions, the President of the Republic of Macedonia, who is also the Supreme Commander, the government of the Republic of Macedonia and the Minister of Defence have moved towards carrying out of their functions in defence in a better and more successful manner. However, there was a need for further activities of development and enhancement of the situation in this sphere directed towards many areas. There should be an "improvement of the position and the role of the Parliament" in defence planning and acceptance of the defence budget.

## **Security Policy**

The Republic of Macedonia accepts the comprehensive approach towards security, outlined in the Alliance's strategic concept wherein, along with the traditional military and political components of security, their economic, environmental and social dimensions are equally important. Special emphasis is attached to the vision of the new security risks, primarily, the fight against terrorism and maximum involvement of the Republic of Macedonia in the anti-terrorist campaign.

The security policy of the Republic of Macedonia is focused on the protection of its citizens, guarantees of the independence and territorial integrity of the country, support

of the political and economic institutions as well as full participation in the European, Euro-Atlantic and global integration and cooperation processes, maintaining internal peace, stability and basic freedoms. Full implementation of the Framework Agreement, implementation of the rule of law on the entire territory of the Republic of Macedonia, democratisation and full reintegration of the former crisis regions, as well as adoption of a realistic and transparent national security strategy are essential elements for meeting this goal and challenge.

There is an ongoing process for development of an updated threat assessment regarding the national interests of the Republic of Macedonia and this will be an unclassified document. The document will provide the basis for development of a national security strategy.

Regaining internal stability, developing a national security strategy, updating the defence strategy of the Republic of Macedonia and development of a National Military Strategy will be a step forward towards the accomplishment of the national security goals of the Republic of Macedonia.

The development of the new National Security Strategy incorporates an inter-ministerial approach and includes non-governmental civilian experts, which is a positive step in the strategic planning evolution in the Republic of Macedonia. The government has already formed an inter-ministerial expert team for this purpose (defence, foreign affairs, police, finance, justice etc.). The legal framework and initial basis for the strategy is provided by Article 17, Para 8 of the Defence Law, wherein the Assembly of the Republic of Macedonia is responsible for adoption of a national defence and security concept.

The Republic of Macedonia aims to assure its security interests through participation in collective defence as a NATO member country and through maintaining good neighbourly relations with its neighbours. The Republic of Macedonia considers that it could contribute to the security and stability within the region and in Europe by an active participation in the PfP programme, and especially in PARP. For this purpose, the Republic of Macedonia has enhanced its mission to NATO. In addition, it is considered that its admittance in NATO would represent a positive expression of stability in the region and in Europe as a whole.

Macedonia's strategic goal, in line with NATO membership, is also EU membership. The Republic of Macedonia has been intensifying its security and defence relations with the US and intends to follow the adapted CFE agreement as soon as the admittance conditions for new members to the agreement are established.

Security policy places a special emphasis on the promotion of peace, stability, prosperity and regional cooperation in South Eastern Europe, which is being accomplished by active participation in the SEE Stability Pact (especially the third working table activities), the NATO Initiative for SEE, the cooperation process in SEE, SEE Initiative for cooperation, CEI, the SEDM process and the Black Sea countries' economic cooperation.

## **Defence Policy**

The Defence policy of the Republic of Macedonia is focused on deterrence of aggression and maintenance of adequate armed forces as well as dealing with any possible threat. The primary tasks of the armed forces are defence of the territorial integrity and independence of the Republic. This results in a determination to engage the armed forces for response to an aggression and to enable the functioning of the state institutions in line with requests for solidarity, assistance and support by the collective security and defence organisations via political and diplomatic channels. Due to the 2001 crisis, the fight against terrorism has become one of the basic responsibilities of the armed forces, while the border security responsibility is due to be transferred to a new border service by 2005 in accordance with the integrated border management strategy.

The Republic of Macedonia initiated military reforms in order to enhance its security and candidacy for NATO, although the 2001 crisis represented a step backwards in such efforts. The implementation of the Army transformation plan, the Defence Law, the Military Service Law, based upon the Defence White Paper, the 1998 Defence strategy of RM and the Annual National Programme for NATO membership provide guidelines for the Republic of Macedonia to achieve its national goal – enhanced national security and full integration in the trans-Atlantic security institutions.

The updated Defence Strategy, which validates the new terrorism-related risks, proliferation, organised crime and extremism, is going through its final development phase.

In August 2002, the Republic of Macedonia sent its first officers on the peacekeeping mission in Afghanistan, thus symbolically showing that it could also be a provider and not only a consumer of security. Efforts are being invested for further involvement of our officers in the Bulgarian contingent in Afghanistan and the Hungarian one in Cyprus. In the coming period, we are prepared to increase our participation in peace support NATO-led operations.

Recent adoption of the Army (ARM) Military Service Law, passed on 18 July 2002 has had a positive impact on implementation of the ARM reform plans, especially in personnel-related issues (engagement of personnel, salaries, accommodation and other issues related to the quality of living).

The Republic of Macedonia continues to stick to the strategic priorities that are important for the post-Prague period and these serve as guidance for all plans, programmes, activities, development, modernisation and equipment in the defence area which are supposed to assure our full NATO membership.

These priorities are as follows:

- Protection of the territorial integrity, independence and sovereignty of the Republic of Macedonia;
- Increasing the preparedness and efficiency of defence and the armed forces through human resources development, promotion of the organisation and enhancement of the modernisation of the overall defence system with a special emphasis on dealing with terrorism;
- Improving interoperability with NATO and increasing the contribution to the collective defence agreements, with full NATO membership as a clear final goal;
- Adoption of multi-year defence planning and budgeting;

- Development of a personnel management system, that will provide transformation of the internal personnel structure according to the NATO member countries' standards in the short to medium term;
- Improving the presence of the communities' representatives within the ARM structures;
- Development and implementation of a training programme for civilian experts in the defence field.

### **Defence Plans on the Agenda of the Defence and Security Committee**

Reforms that have been initiated in defence will affect many aspects of the defence structure. For these reasons, the Ministry of Defence, together with the ARM General Staff, have developed a phased Dynamic Restructuring plan, as well as basic reform plans for the required personnel in the Ministry and the Army according to the number and internal structure and in accordance with the new organisational and formation structure of the Army as well as the required personnel for the MoD that will meet all the functions and competencies of the ministry.

There are ongoing coordinated activities for identification of realistic defence-related costs.

In general terms, the restructuring plans come from the defence-related national priorities that will provide efficient civilian and democratic control over the armed forces, military capabilities for the defence of the country and full interoperability with NATO.

Furthermore, active forces will enhance capabilities for participation in the comprehensive anti-terrorist campaign and fight against terrorism in peacetime and transition towards bigger wartime structure by mobilisation of the reserves. Only a limited number of the active forces would be capable of deployment for out-of country operations.

In accordance with the integrated border security strategy, the security of the state border will become the competency of the police.

As soon as these activities are performed, the Republic of Macedonia will have 12,858 personnel as an active component and around 48,000 as a reserve component.

Beside that, the ARM will also need to have a comprehensive and consistent weapon and equipment modernisation plan adopted by 2007, which would finalise the main components of the reforms. The Minister of Defence has already given the initial directions for the preparations.

The reformed ARM will be a modern military force, capable of protecting and defending the territorial sovereignty and integrity of the Republic of Macedonia, functioning alongside the armies of NATO member countries and contributing to regional stability and security.

### **Oversight of Defence Appropriations and Resource Issues:**

The Budget of the Republic of Macedonia has from 2001, incorporated both income and expenditure plans and is divided into two overall entities:

- A budget estimate that incorporates the income and expenditure plan compared to previous budgets and;
- A budget of so-called own incomes and expenditures, funded by these incomes.

Own incomes and the expenditures funded by these incomes were executed by the budget holders, but they were not represented within the overall Budget and the Balance Sheet.

The following sheet shows the share of the military budget in GDP and in the budget of the republic:

<b>Year</b>	<b>The share of the military budget in the GDP (%)</b>	<b>The share of the military budget in the republic budget (%)</b>
1992	1.88	13.43
1993	2.44	12.81
1994	2.71	8.40
1995	2.69	9.96
1996	2.67	10.32

The share of the military budget in national production in the period 1997-2001 was:

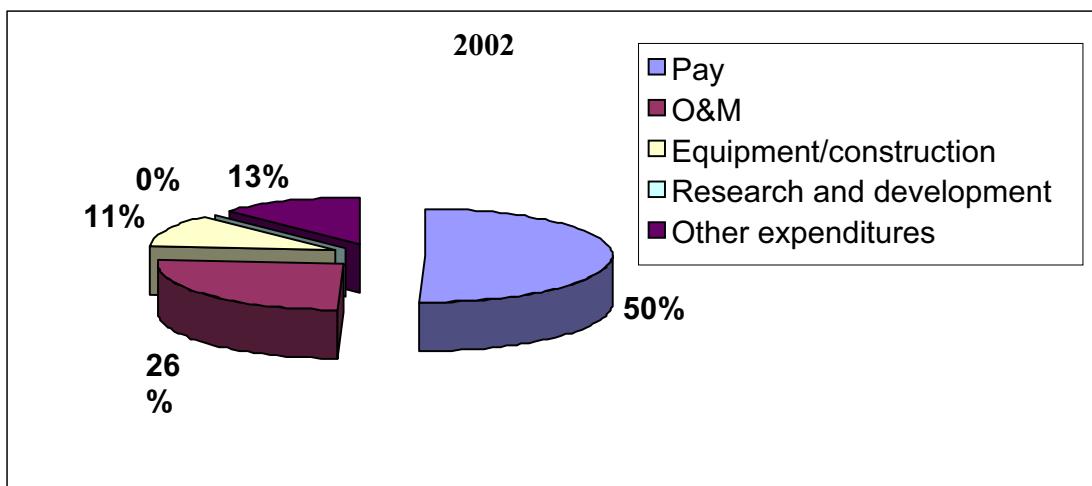
<b>Year</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
Participation of the military budget in the GDP (%)	2.57	2.45	2.32	2.21	2.12

The new budgeting approach has specific legal requirements for transparent and realistic representation of all public incomes and expenditures, provision of relevant information for non-essential activities of the state that can be eliminated (this does not mean making workers redundant, but a drive towards greater efficiency and commercial standards), as well as increased transparency on the uptake and use of foreign loans and donations.

The Defence Budget for 2002 was Denary 6,873 million or 11.4% of the Macedonian Budget and equivalent to 2.73% of GDP. This was slightly reduced following a budget rebalance in June this year to Denary 6,827 million. The Budget increase for 2002 compared to previous years (excluding the 2001 crisis year) resulted from the need to maintain combat readiness, meet increased expenditure for equipment maintenance, as well as to continue the professional modernisation of the Army by increasing the numbers of full-time career soldiers.

### Financial Expenditures of the Ministry of Defence for the Year 2002 (in US Dollars)

	2002
Salaries	56,721,864
Operations and Maintenance	29,226,231
Equipping and Construction	12,345,249
Research and Development	40,883
Other expenditures	14,074,031
<b>TOTAL</b>	<b>112,440,998</b>



From this graphical representation of expenditure it can be seen that most of the assets are planned for personnel salaries, and reflects the increased number of professional soldiers. The second highest category is Operations and Maintenance.

The main determinant for the state Budget projection, which includes the defence Budget, is macro-economic policy. The macro-economic indicators have been developed upon the assessment that the intensive economic growth that is predicted to begin in the second half of 2002 will continue in 2003 and the negative financial consequences of the security situation in 2001 will be overcome. The current indicators are for a projected GDP increase of 3.5%.

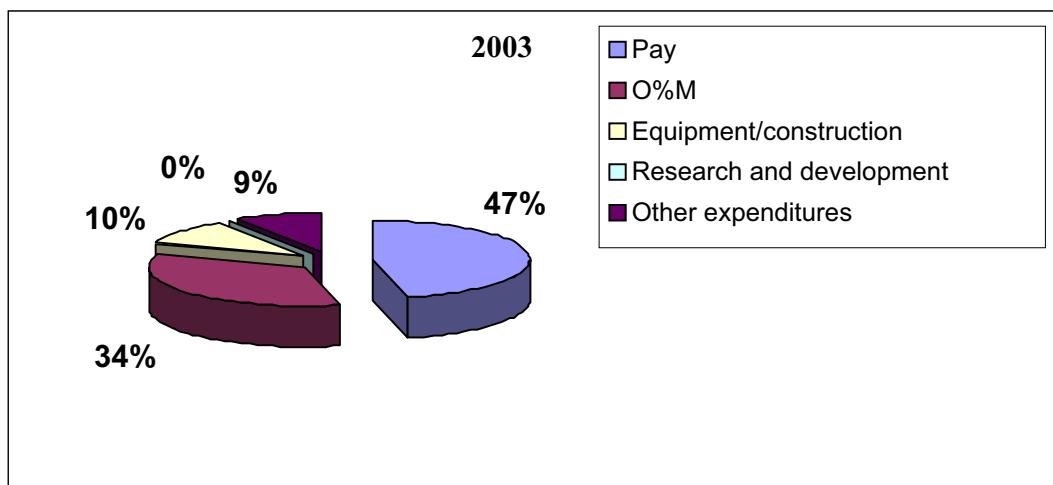
The main guidelines for the 2003 Budget are the 2002 Defence Budget, excluding the expenditure on the crisis and displaced persons. The projection for the 2003 Budget includes the necessary assets for realisation of the reform plans and the global priorities

of the government and the promotion of the process for NATO membership and meeting standards for interoperability.

The procedure for development of the draft 2003 Budget is ongoing. As this ANP is released, the projected financial requirements for defence are known. Following the completion of the budgetary procedure for the year 2003 (31 December 2002), the precise financial parameters for defence will be produced in accordance with NATO methodology. However, no major changes are expected to occur to current projections.

#### **Financial Expenditure of the Ministry of Defence for the Year 2003 (in US Dollars)**

	<b>2003</b>
Salaries	53,961,930
Operations and Maintenance	39,273,524
Equipping and Construction	12,171,251
Research and Development	181,521
Other expenditures	10,519,706
<b>TOTAL</b>	<b>116,107,931</b>



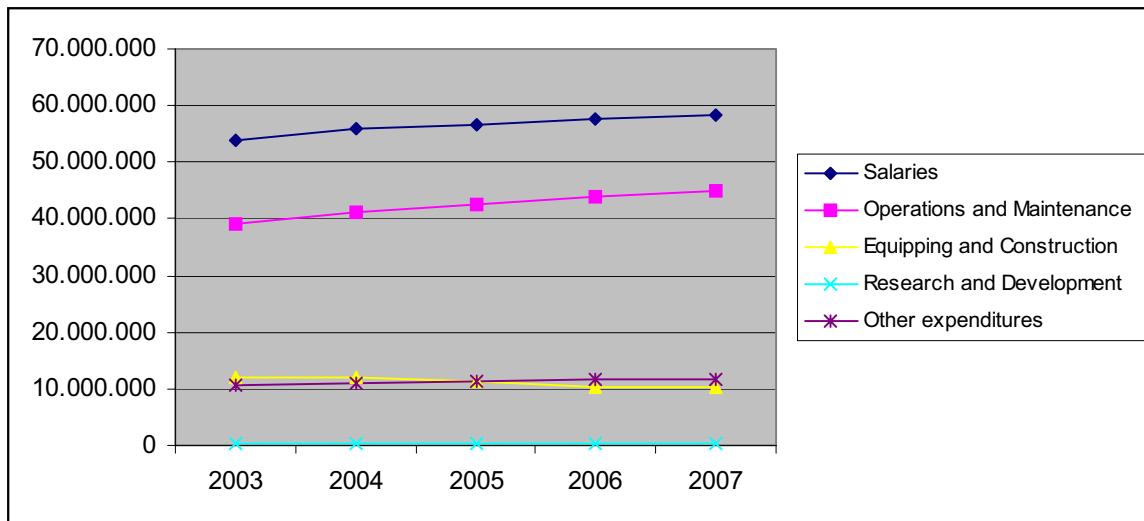
This indicates that most of the assets are still planned for personnel salaries (47%), and for Operations and Maintenance (34%) reflecting the increase in the number of professional soldiers and the level of equipment maintenance required for ARM combat readiness and training over the course of the next year.

#### **Budget Projection 2003-2007**

In order to check the affordability of planned reforms and restructuring within the Ministry of Defence and ARM against estimated rates of economic growth, we present the budget projection 2003-2007 which articulates the vision and direction of our reform plans. This, of course, is a general projection and the detailed budget development will follow. However, it is our estimate that for the personnel reforms we will require additional financial assets from domestic and foreign sources in accordance with a specific financial plan.

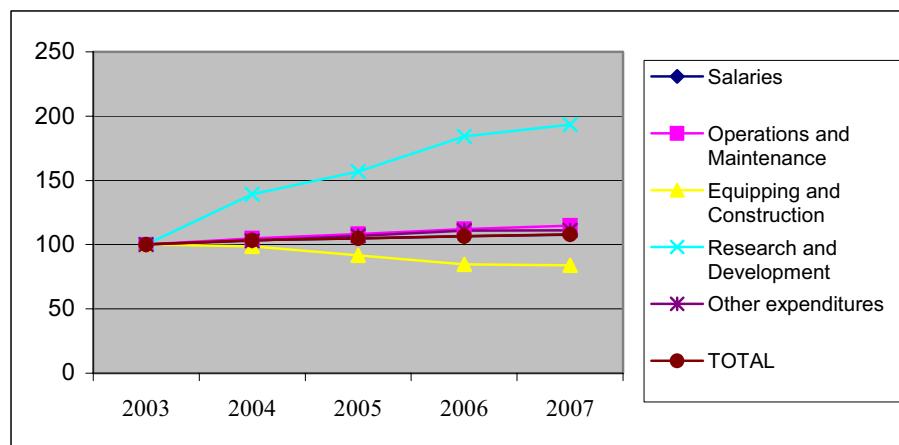
**Financial Expenditure of the Ministry of Defence for the Period 2003-2007  
(in US Dollars)**

	2003	2004	2005	2006	2007
Salaries	53.961.930	55.850.613	56.668.275	57.485.936	58.205.483
Operations and Maintenance	39.273.524	41.204.121	42.585.936	44.050.253	45.075.498
Equipment and Construction	12.171.251	12.001.881	11.165.020	10.302.404	10.223.418
Research and Development	181.521	252.935	284.873	334.244	350.956
Other expenditures	10.519.706	10.837.449	11.247.212	11.668.618	11.691.955
<b>TOTAL</b>	<b>116.107.931</b>	<b>120.146.999</b>	<b>121.951.316</b>	<b>123.841.455</b>	<b>125.547.310</b>



Relative Correlation of the Financial Expenditures of the Ministry of Defence for the Period 2003-2007 Compared to the Year 2003

	2003	2004	2005	2006	2007
Salaries	100	104	105	107	108
Operations and Maintenance	100	105	108	112	115
Equipping and Construction	100	99	92	85	84
Research and Development	100	139	157	184	193
Other expenditures	100	103	107	111	111
TOTAL	100	103	105	107	108



These illustrations represent the expected trend of movement of assets. Greater increases of expenditure (but not in a significant absolute amount) can be seen in Research and Development. This increase is due to the need for development of logistic equipment and the capacities for maintenance of weapons and equipment within our own resources, as well as to examine the potential for the production of ammunition and light anti-armour weapons.

The total amount of assets necessary for salaries will increase largely because of the costs of incorporation of new professional soldiers. The maintenance and operations assets will be mainly used to raise training standards towards NATO standards, as well as for collective training up to battalion level. However, a large part of these assets will be also used for maintenance of the existing equipment.

The equipping and construction have slightly increased (except for the year 2004 when there is a planned increase in the Research and Development) due to the modernisation

of weapons and equipment and building of capital facilities, primarily government apartments for ARM personnel.

The government of the Republic of Macedonia underlines its financial support for the primacy of those defence priorities necessary for the NATO membership programme and which will be approved, if necessary, outside the parameters of the budget plan. This will allow implementation of projects and activities towards meeting the required level of interoperability specified in NATO standards. In recognition of our limited resources, the main criterion will be prioritisation and if necessary rationalisation of our reform plans.

The priority goal is to generate a process of multiyear planning, programming and budgeting, and we will undertake organisational change within the MoD and recruit appropriate personnel to prepare and implement this system. The MoD and the General Staff will adopt a new departmental system for the implementation of the system of multiyear planning, programming and budgeting, which is also an obligation under the existing Defence Law (article 42). Currently we are using the help of NATO member countries. Under a fully implemented system of this kind, adjustments may occur in some of the planned programmes within the existing budget, and we anticipate greater transparency, efficiency and realism in the use of resources for the ARM.

### **Conclusion: Macedonia's Parliament, Defence, and Security Sector Reform**

The Constitution and laws, such as the Defence Law, give Macedonia's Parliament considerable political power and oversight of the security sector, in parliamentary debates, Committee hearings, special inquiry Committees, and questions to members of the government and to the Defence Minister. The everyday work of the Ministry encompasses defence plans and budgeting, training and force structure. However, Macedonia does not have many Members of Parliament who have sufficient knowledge to deal with defence affairs on their own. For effective work, they need a staff, and the parliamentary staff in Macedonia is very small. The nature of Macedonia's defence planning is becoming more complicated.

Macedonia's newly-elected government in late 2002, after the Prague Summit, emphasised the need for continuing security sector reform and regional cooperation, aimed at NATO membership. Defence Minister Vlado Buckovski placed these efforts in the framework of an improved engagement in relations between the government and the Parliament. Buckovski stated that he and other members of Macedonia's delegation at the Prague NATO Summit had been encouraged by NATO views toward Macedonia's future membership. He believed Macedonia would receive an invitation in 2006 to begin accession talks.

Macedonia's security sector reform would be carried out in order to foster regional stability and future NATO membership. Regionally, Macedonia's security sector reform would be openly developed, known to and in collaboration with other NATO candidates. A difficult part of the defence and security reform would be that it involved considerable expenditure, which was a primary consideration for the Parliament.

The Defence Ministry stated that Macedonian society was not well informed about the requirements for joining NATO, particularly the Membership Action Plan (MAP). Therefore, the Defence Ministry would present the Annual Membership Programme to the Parliament, and the content of the Annual Programme would also be available to the public. Security sector reform undertakings, initiated by the government, had thorough consideration and acceptance by the Parliament.

## CHAPTER FOUR

---

### DEMOCRACY, SECURITY, AND THE ARMED FORCES IN MACEDONIA

*Radica Gareva*

#### **Introduction**

Macedonia is a young state that declared its independence from the Federal Republic of Yugoslavia in 1991 and thereupon began to create new democratic institutions. The Army of the Republic of Macedonia (ARM) was established in 1992, when the Yugoslav People's Army withdrew its units, weapons, and equipment from Macedonian territory and destroyed what it could not remove. Among the post-socialist states which emerged from the former Federal Republic of Yugoslavia, Macedonia has been compared to, and measured against, Slovenia. Both are said to be countries that had to build democratic political institutions and armed forces from the ground up.<sup>26</sup>

There are also differences in the situation of the two countries, which illustrate some of the problems that Macedonia has had to confront. Macedonia's security environment is entirely different.

Macedonia, being a country which intends to create peace in the SEE region, made an extraordinarily great contribution during the Kosovo crisis and because of that took on an exceptionally difficult burden. First, as a contribution to the efforts of the international community, the Republic of Macedonia accepted the stationing on its territory of the NATO Extraction Forces for verification personnel in Kosovo, and gave approval for the utilisation of its air space. After Resolution 1244 was endorsed, the state provided transit

---

<sup>26</sup> Centre for European Security Studies, 'Assessing the Aspirants for NATO Membership', *Final Report of a Study on the Membership Action Plan (MAP) States and Second Wave NATO Enlargement*, July 2001, (for the Ministry of Foreign Affairs of the Netherlands).

for all the military KFOR contingents headed to Kosovo with complete logistic support from our territory.

Slovenia's surroundings, on the other hand, have been relatively peaceful and calm. Macedonia for 10 years managed to avoid the conflicts that broke out in Croatia, Bosnia and Kosovo. However disruptive clashes and political and military actions of various states and international organisations came closer and closer to the country's borders. Economically, Macedonia was the least developed area of the FRY, Slovenia the most advanced. Macedonia's unstable security environment has had devastating economic consequences. Slovenia was able to build its military force on the foundations of a Republican Territorial Defence which Macedonia did not use. Macedonia is multi-ethnic, with a considerable Albanian minority. By 2001 the reverberations of regional conflict crossed its borders. According to a report to the US Congress, it came as an incursion of "disparate ethnic Albanian militant groups operating in Kosovo, Serbia and Macedonia, many of whom are linked to organised crime and regional smuggling rings."

Against this background of an externally unstable regional environment, domestic economic disruption and, finally, military conflict flaring up at and then breaking across Macedonia's borders, we must describe the emergence of Macedonia's democratic political institutions, defence forces and civil-military relations. According to a report to the United States Congress, "The international community gave high priority to preventing the spread of ethnic conflict to Macedonia, since it was feared that war in Macedonia could quickly involve some or all of Macedonia's neighbouring countries and lead to a broader Balkan war".

In 1999, Macedonia was held up as a model of inter-ethnic relations, albeit an imperfect one, coexistence and democratic rule, with the active participation of the Albanian community in political institutions, despite discord in inter-ethnic relations.

## **Democracy and Defence Affairs**

### **Civilians and the Military**

Macedonia established its new political structure after a long period of communist rule and without any historical experience of sovereignty or past traditions of democratic political institutions. Without political experience, Macedonia established a democratic political system looking to Western political structures as examples. It has a unicameral Parliament, the 120-seat National Assembly, and a popularly-elected President.

Defence responsibilities and civilian supremacy over the military are established by the Constitution of the Republic of Macedonia of 1991, and the Defence Law of February 1992, which was subsequently replaced by the Defence Law of May 2001. The latter defined more clearly the authority of the Defence Ministry, the mission of the Armed Forces and the role of the General Staff. These two documents regulate the relations between the Parliament, President of the Republic, government and Minister of Defence, in the area of security and defence issues during the peace, crisis and war.

The Constitution made the Parliament a powerful political body, in principle. Only the Parliament can decide to dissolve itself and call for new elections, a state of war or a state of emergency can be declared by a two-thirds majority vote. In the defence area, it supervises the activities of the government, approves national security and defence concepts, decides on the extent of the funds necessary for defence, and approves the wartime budget of the Republic. The Parliament decides on membership in collective security and defence systems, like NATO.

In practice, the new Parliament had inexperienced parliamentarians and has encountered the problems that the other new democracies have had to surmount, with greater or lesser success. In Macedonia, as in other transitional countries, there was a lack of national governmental capacity, of people with overall competence for defence policy formulation and planning. Defence expertise had to be developed in the Parliament, in the Defence Ministry and other Ministries, and in Presidential offices. For defence affairs, it has a Committee on Internal Policy and Defence with nine members

from the Assembly and three members who are experts on defence affairs. Usually, two ethnic Albanians are the Committee's members.

Macedonia's President is the Supreme Commander of the Armed Forces and approves the Defence Strategy of the Republic; approves the Defence Plan of the Republic; determines the organisation and formation of the Armed Forces; and orders their deployment. The President also promotes and relieves from duty officers of the rank of general.

The government submits a report on defence planning and budgeting to the Parliament. It proposes a peacetime and wartime defence budget, the Defence Strategy and the Defence Plan, it decides on the status of forces of foreign armed forces, and on the deployment of Macedonian forces in foreign countries for participation in humanitarian and exercise activities. For example, during the Kosovo crisis the government decided to make its own contribution to the efforts of the international community and has accepted the deployment on its territory of NATO Extraction Forces for verification personnel in Kosovo, and has given approval to the utilisation of its air space. After UN Resolution 1244 was endorsed, the state has provided transit for all military KFOR contingents heading to Kosovo with complete logistic support from our territory. Along with this, the contingents were provided with intensive use of the military infrastructure, traffic network – roads and railway, as well as the airports in Skopje and Ohrid.

The Ministry of Defence and threat assessment, organises and prepares the Defence system, organises develops a Defence Strategy of the Republic, a Defence Plan, prepares a risk and carries defence plans, develops financial plans and programmes for the needs of the defence, allocates funds for the defence in accordance with the Budget, controls the expenditure of funds allocated for the needs of the defence, and proposes the organisation and the formation of the Armed Forces. In wartime, the Ministry of Defence carries out command and other activities for the needs of the President of the Republic.

The President is the Chairman of the Security Council. Other members are the President of the Assembly (Speaker of Parliament), the Prime Minister, the Ministers heading the bodies of state administration in the fields of security, defence and foreign affairs and

three members appointed by the President of the Republic. The Council considers issues relating to the security and defence of the Republic and makes policy proposals to Parliament and the Cabinet. Although the Council is advisory body, its role is very important in creation of the security and defence policy of the state.

## **Experience and Adjustment**

It took time for Macedonia to pass the necessary legislation relevant to defence affair, but by the end of the decade the essential elements of civilian control were in place. In Macedonia, as in other new democracies, some laws were ambiguous, imprecise, and revisions were needed. The Defence Law of February 1992, as already noted, was replaced by a Defence Law of May 2001 that defined more clearly the authority of the Defence Ministry, the mission of the Armed Forces, and the role of the General Staff. There has been some maneuvering by the military directed toward policy makers, but what has taken place can broadly be located within the limits of accepted democratic practice. The professional soldiers have accepted the essential principle of civilian control. State officials in charge of defence affairs and the police are to be civilians for at least three years before their election to their offices. Minister of Defence: is approved or dismissed by Parliament on the proposal of the Prime Minister.

Macedonia's authorities have recognised that civilian control of defence requires improvement. The Strategy of the Defence of the Republic of Macedonia of September 1998 paid considerable attention to the political aspects of strategy. It pointed out that an improvement of the position and the role of the Parliament in the defence, besides its constitutional and legal responsibilities, should be directed towards a more active participation in creating the defence concept, passing the defence budget balanced with the other needs of the state, as well as the permanent awareness about the situation and the tendencies in the defence development.

The new Strategy also noted that the executive authorities, the Government, the Ministry of Defence and the other organs of the state administration, besides the defence responsibilities determined by the Constitution and the law, should pay special attention to: building the instruments for implementation of the defence policy that has been determined by the Parliament and the President, and prioritise expenditure in the

defence budget, as well as build more effective and efficient instruments for management and commanding in the defence.

There also was a need to improve information provided to society about the situation and the tendencies in the development of Macedonian defence. It has an important position in achieving democratic control of the armed forces and the whole defence. It should be achieved especially by regular and annual publication of a White Paper on the defence of the Republic of Macedonia, availability of electronically disseminated information, as well as regular contacts of the Minister of Defence and the defence public relations services with the domestic and the foreign media.

## **Geostrategy, Resources and International Organisations**

Three factors influence Macedonia's security situation and shape the structure of its armed forces: its geostrategic location, its economy, and the activities and policies of the powerful international organisations, particularly NATO and the European Union. Regionally, Macedonia is placed in a strategically troubling part of South Eastern Europe.

The Republic of Macedonia is a small country with a small economy, and a narrow demographic basis from which it can draw for its armed forces. The policies of international organisations like NATO, while on the one hand establishing possible security in the future have, on the other hand, disrupted Macedonia's economic development, as the consequences of Kosovo clearly demonstrate.

## **The Security Environment**

The first strategic determinant is Macedonia's dramatically and rapidly altering security environment. At the outset, although national strategy was not defined in official government documents, the basic assumption was that Macedonia was encircled by four states: Greece, Albania, the Federal Republic of Yugoslavia and Bulgaria. Singly or in combination, these states could pursue external policies that could harm Macedonian national sovereignty, an assumption that in the early years of the 1990s was not without foundation. However, in the following years, Macedonia's security environment altered.

There was an expanding war to the north of Macedonia and in the West a virtual collapse of Albania in 1997. Macedonia's strategic thinking reoriented, toward regional security and support from organisations like NATO and the EU.

From the very first day of its independence, Macedonia has taken two main positions in its foreign and security policy – readiness to cooperate with all its neighbours and integration into the systems of collective security and defence, with emphasised and clear steps towards NATO membership and enhancement of friendship and relations with the United States of America. It also saw its future in the framework of the European Union. In accordance with the geostrategic situation, the year 1999 meant a serious challenge. Initiated in the Slovenian Alps, conflict spread through Croatia and the Bosnian turmoil, reached the "field of combat" in Kosovo, stopping at the northern borders of the Republic of Macedonia.

Macedonia believes that without regional cooperation and good-neighbourly relations it is almost impossible to talk about security in South Eastern Europe. In that sense, every country has to make its contribution to the building of good-neighbourly relations, mutual confidence and the reinforcement and the deepening of cooperation, especially in defence, as pre-conditions for strengthening European security.

## **Economy**

For a small country like Macedonia, economy and defence are more closely related than other areas of governmental operations. Defence plans have to be closely linked to the economic and demographic resources that a society has available. In Macedonia, as in every South East European country, there has been a severe shortage of resources, in terms of personnel or materiel, for defence. Its economy is small and so is its population.

The country's greatest economic difficulties, hindering development, have come as results of external crises and from the policies of other states and international institutions. Macedonia's economy was dealt a severe blow by the United Nations sanctions against the Federal Republic of Yugoslavia from 1992 to 1996, by a unilateral trade embargo imposed by Greece from 1994 to 1995, by reverberations of the war in Kosovo in 1999.

Economically, the Kosovo conflict had devastating consequences. Commerce with Yugoslavia, ground to a halt. Former transportation routes through Serbia were no longer available. Agricultural products for export could not be easily switched to travel through Albania or Bulgaria because this route was too long and therefore too costly, making the goods uncompetitive. Unemployment rose to 40 per cent. Macedonia spent far more for the construction and maintenance of its nine refugee camps than it received from the donor community. (\*) The state has suffered huge damage to its economy. According to the indicators from the relevant international institutions, the total estimated cost to Macedonia of the Kosovo conflict has risen to 1.5 billion dollars. This is a heavy burden for a small country.

### **International Organisations and Regional Security**

Since gaining independence, Macedonia has sought to integrate into a wide range of European and other international organisations. Macedonia became a member of the OSCE and the Council of Europe. It joined NATO's Partnership for Peace programme in early 1994. Macedonia is also a member of the EAPC in NATO. Unlike most other central European countries, it does not yet have Associate Partner status with the Western European Union. It has requested membership in the WTO, where it is currently an observer. In 1999, the European Union agreed to negotiate a Stabilisation and Association Agreement with Macedonia in order to enhance economic relations and expand Macedonia's trade with EU countries.

From 1993 to February 1999, a small UN force of about 1,000 troops (including a US contingent) was deployed in Macedonia on a conflict prevention mission. In late 1998, NATO deployed a European-led extraction force of about 2,000 troops to offer protection for unarmed international observers in Kosovo. NATO deployed several thousand more troops in Macedonia in 1999 in preparation for the deployment of the 50,000-strong Kosovo Force (KFOR) into Kosovo. Macedonia became the primary launching point for the deployment of troops to KFOR and continues to host NATO support forces.

In the period of preparations, the ARM General Staff together with the HQs, the units and the representatives of KFOR successfully accomplished all that was necessary.

Also, there was an effort to provide logistic support to KFOR by directing the domestic suppliers. Some KFOR units were engaged in building reception and refugee camps.

In this period of extreme crisis, along with the KFOR units stationed in this area, a constructive cooperation was established between the Macedonian Crisis Staff and NATO HQ in Brussels and other international organisations – OSCE, UN, OCHA, UNDP, UNHCR, the Red Cross and other humanitarian organisations.

Given the cooperative way in which Macedonia did its best to assist NATO, the assistance it received in return has been modest, at best. As conflict broke out in 1999 and refugees from Kosovo poured across its borders, the Macedonian government called for the country's acceptance into NATO. This request, although ignored by NATO, does illustrate the Macedonian belief that NATO does owe Macedonia security protection and assistance. Foreign Minister Aleksandar Dimitrov argued that NATO membership could provide the security guarantees that are needed to bolster democracy.

Macedonia's foreign policy emphasises that it considers NATO the only guarantee for the stability and security of Europe. Macedonia believes that apart from NATO there is no other structure that is so well organised and efficient and capable of securing stability, preventing conflicts, participating in peacekeeping and peace-building in Europe and being a guarantee for the maintenance of peace and stability in Europe in a very efficient and rapid manner.

## **Developing the Armed Forces**

### **Origins of the ARM: Mission and Strategy: 1992**

The Army of the Republic of Macedonia (ARM) was created in 1992; the year after Macedonia declared its independence. The Yugoslav People's Army was withdrawing its units, supplies and equipment from Macedonia. Macedonia was in a similar situation as the Baltic States or Slovenia, which had to build their armed forces from the ground up. Although Macedonia had units of Territorial Defence, they did not become the core of the new armed forces. Macedonian officers who had served in the Yugoslav People's

Army were returning and, together with ones from the Territorial Defence, established the base of the new ARM.

Macedonia, having become an independent state, assumed that the major threat was external and might come from neighbouring states. Therefore the initial aim was to build up armed forces gradually against an external threat. As stated in the Constitution, the mission of the armed forces was to protect the territorial integrity and independence of the country. The armed forces had no domestic security concerns. The ARM would not have any domestic missions. However, it could assist in overcoming the consequences of natural disasters.

Resource constraints however, limited what Macedonia could do in the area of force modernisation. As already noted, the Macedonian armed forces had to be built from the ground up. During the 1990s, resources available for defence declined everywhere. In Macedonia, the shortage has been particularly acute. The armed forces lived with "survival budgets" that sufficed only to keep the defence establishment on an even keel. The rate at which Macedonia can reform the armed forces depends in large part upon the level of spending, measured as a percentage of the GDP, as well as the overall rate of economic growth.

One of their problems has been the acquisition of weapons with few or no funds. Moreover, the United Nations imposed an embargo on the import of weapons over all the territories that had been part of Yugoslavia and Macedonia was the only former constituent Republic of Yugoslavia that respected the provisions of the embargo. The young, small armed forces had insufficient weapons, equipment and supplies. As a result, the inventory comprises items of different age, military purpose and country of origin.

### **Defence Strategy and Defence White Paper, 1998**

The changing security environment in South Eastern Europe required a revision of strategy, mission, and the force structure of the ARM. In 1998, the Macedonian Defence Ministry prepared a Defence Strategy and a White Paper on the strategic aims and tasks of the armed forces. The Defence Strategy identified NATO as the only guarantor of the

stability and security of Europe and expressed Macedonia's wish for full NATO membership.

At that time, the active forces comprised about 16,000 personnel, including 8,000 conscripts. The army had three corps and one border guard brigade. The Army of the Republic of Macedonia continues to undergo major structural changes. Special paramilitary police constitute a key part of the armed forces, numbering about 7,500. Mandatory military service in Macedonia is for a nine-month term. It was planned to restructure the armed forces and move toward a professional army over a 10-year period.

In late 1999, Macedonia presented to NATO its first Membership Action Plan. Macedonia's defence reforms aim to restructure the armed forces into a small, mobile, well-trained, and well-equipped force. According to Defence Minister Nicola Kljusev, the plan calls for reducing the active duty armed forces from the projected strength of 22,000 to 16,000 and for cutting the size of the reserves in half to reach 60,000. Rapid reaction forces, support forces, and strategic forces are to be formed. The plan called for reducing three army corps to two.

ARM needs weapons, equipment, and supplies and a considerable amount has been donated by various countries. As is often the case with donations of this kind, the donor nation no longer had much use for the weapons, equipment, and supplies it gave away and it was obsolescent when it was given. Macedonia, to some extent, became a storage area for outmoded armament, a situation that other Central and East European states have encountered. Among the donor countries there are Greece, Germany, Italy and the United Kingdom. The United States and several European countries increased their military aid in 1999. Bulgaria, for example, gave 150 T-55 tanks. However, only two thirds of them did not require substantial repair and maintenance. The major difficulty the ARM had with outside assistance was not that it received outdated materiel, but that it did not match the requirements of ARM's changing force structure. In effect, rather than providing for unit needs, ARM units would be developed around donated equipment.

## **Security in South East Europe: 1999-2002**

At the Ministerial Session of the Euro-Atlantic Partnership Council in June 2002, Macedonia's Defence Minister Popovski summed up the situation in the Balkans, as Macedonia saw it. The security challenges in the Balkans were rapidly changing their nature and goals. On the one hand traditional threats, armed aggression against any country in this region by any other country from the same region, have been reduced to a minimum. On the other hand, however, the asymmetrical threats had strong potential.

In the Balkans they were related to crime, ethnic and religious extremism, terrorism, proliferation and the presence of huge amounts of small and light weapons. Macedonia and other democratic governments of the Balkan countries, in cooperation with and through the support of the international community, were making efforts to enhance the national capabilities and regional mechanisms in response to the real threats. Nonetheless, the capacities of the regional mechanisms for cooperation were limited.

The presence of NATO forces in the region contributed to the relaxation of the sources of threat. However, these sources still had a strong potential. SFOR and KFOR played the role of deterring open armed conflicts and cross-border attacks, but they have limited military and police capacities for dealing with asymmetrical threats (terrorism, crime, smuggling, weapons proliferation.) In Bosnia and Kosovo the international community have so far failed to establish effective police and judicial mechanisms for dealing with the linked threats of ethnic and religious extremism, political extremism and organised crime.

### Continuing Reforms in 2002

The security policy of the Republic of Macedonia is focused on the protection of its citizens, guarantees of the independence and territorial integrity of the country, support for the political and economic institutions as well as full participation in the European, Euro-Atlantic and global integration and cooperation processes, maintaining internal peace, stability and basic freedoms. Full implementation of the Framework Agreement, implementation of the rule of law on the entire territory of the Republic of Macedonia, democratisation and full reintegration of the former crisis regions, as well as adoption of

a realistic and transparent national security strategy are essential elements for meeting this goal and challenge.

There is an ongoing process for development of an updated threat assessment regarding the national interests of the Republic of Macedonia and this will be an unclassified document. The document will provide the basis for development of a national security strategy.

Regaining internal stability, developing a national security strategy, updating the defence strategy of the Republic of Macedonia and development of a National Military Strategy will be a step forward towards the accomplishment of the national security goals of the Republic of Macedonia.

The development of the new National Security Strategy incorporates an inter-ministerial approach and includes non-governmental civilian experts, which is a positive step in the evolution of strategic planning in the Republic of Macedonia. The government has already formed an inter-ministerial expert team for this purpose (defence, foreign affairs, police, finance, justice, etc). The legal framework and initial basis for the strategy is provided by Article 17, Para 8 of the Defence Law, wherein the Assembly of the Republic of Macedonia is responsible for adoption of a national defence and security concept.

The Republic of Macedonia aims towards assurance of its security interests through participation in collective defence as a NATO member country and through maintaining good neighbourly relations with its neighbours. The Republic of Macedonia considers that it could contribute to security and stability within the region and in Europe by active participation in the PfP programme, and especially in PARP. For this purpose, the Republic of Macedonia has enhanced its mission to NATO. In addition, it is considered that its admittance in NATO would represent a positive expression of stability in the region and in Europe as a whole.

The defence policy of the Republic of Macedonia is focused on deterrence of aggression and maintenance of adequate armed forces as well as dealing with any possible threat. The primary tasks of the armed forces are defence of the territorial integrity and

independence of the Republic. This results in a determination to engage the armed forces for response to an aggression and to enable the functioning of the state institutions in line with requests for solidarity, assistance and support by the collective security and defence organisations via political and diplomatic channels. Due to the 2001 crisis, the fight against terrorism has become one of the basic responsibilities of the armed forces, while the border security responsibility is due to be transferred to a new border service by 2005 in accordance with the integrated border management strategy.

The Republic of Macedonia initiated military reforms in order to enhance its security and candidacy for NATO, although the 2001 crisis represented a step backwards in such efforts. The implementation of the Army transformation plan, the Defence Law, the Military Service Law, based upon the Defence White Paper, the 1998 Defence strategy of RM and the Annual National Programme for NATO membership provide guidelines for the Republic of Macedonia to achieve its national goal – enhanced national security and full integration in the trans-Atlantic security institutions.

The updated Defence Strategy, which validates the new terrorism-related risks, proliferation, organised crime and extremism, is going through its final development phase.

In August 2002, the Republic of Macedonia sent its first officers on the peacekeeping mission to Afghanistan, thus symbolically showing that it could also be a provider and not only a consumer of security. Efforts are being invested for further involvement of our officers in the Bulgarian contingent in Afghanistan and the Hungarian one in Cyprus. In the coming period, we are prepared to increase our participation in peace support NATO-led operations.

Recent adoption of the Army (ARM) Military Service Law, passed on 18 July 2002 has had a positive impact on implementation of the ARM reform plans, especially in personnel-related issues (engagement of personnel, salaries, accommodation and other issues related to the quality of living).

The Republic of Macedonia continues to stick to the strategic priorities that are important for the post-Prague period and these serve as guidance for all plans, programmes, activities, development, modernisation and equipment in the defence area which are supposed to assure our full NATO membership.

These priorities are as follows:

- Protection of the territorial integrity, independence and sovereignty of the Republic of Macedonia;
- Increasing the preparedness and efficiency of defence and the armed forces through human resources development, promotion of the organisation and enhancement of the modernisation of the overall defence system with a special emphasis on dealing with terrorism;
- Improving interoperability with NATO and increasing the contribution to the collective defence agreements, with full NATO membership as a clear final goal;
- Adoption of multi-year defence planning and budgeting;
- Development of a personnel management system, that will provide transformation of the internal personnel structure according to the NATO member countries' standards;
- Improving the presence of the communities' representatives within the ARM structures;
- Development and implementation of a training programme for civilian experts in the defence field.

Reforms that have been initiated in defence will affect many aspects of the defence structure. For these reasons, the Ministry of Defence, together with the ARM General Staff, have developed a phased Dynamic Restructuring plan, as well as basic reform plans for the required personnel in the Ministry and the Army according to the number and internal structure and in accordance with the new organisational and formation structure of the Army as well as the required personnel for the MoD that will meet all the functions and competencies of the ministry.

There are ongoing coordinated activities for identification of realistic defence-related costs.

In general terms, the restructuring plans come from the defence-related national priorities that will provide efficient civilian and democratic control over the armed forces, military capabilities for the defence of the country and full interoperability with NATO.

Furthermore, active forces will enhance capabilities for participation in the comprehensive anti-terrorist campaign and fight against terrorism in peacetime and transition towards bigger wartime structure by mobilisation of the reserves. Only a limited number of the active forces would be capable of deployment for out-of country operations.

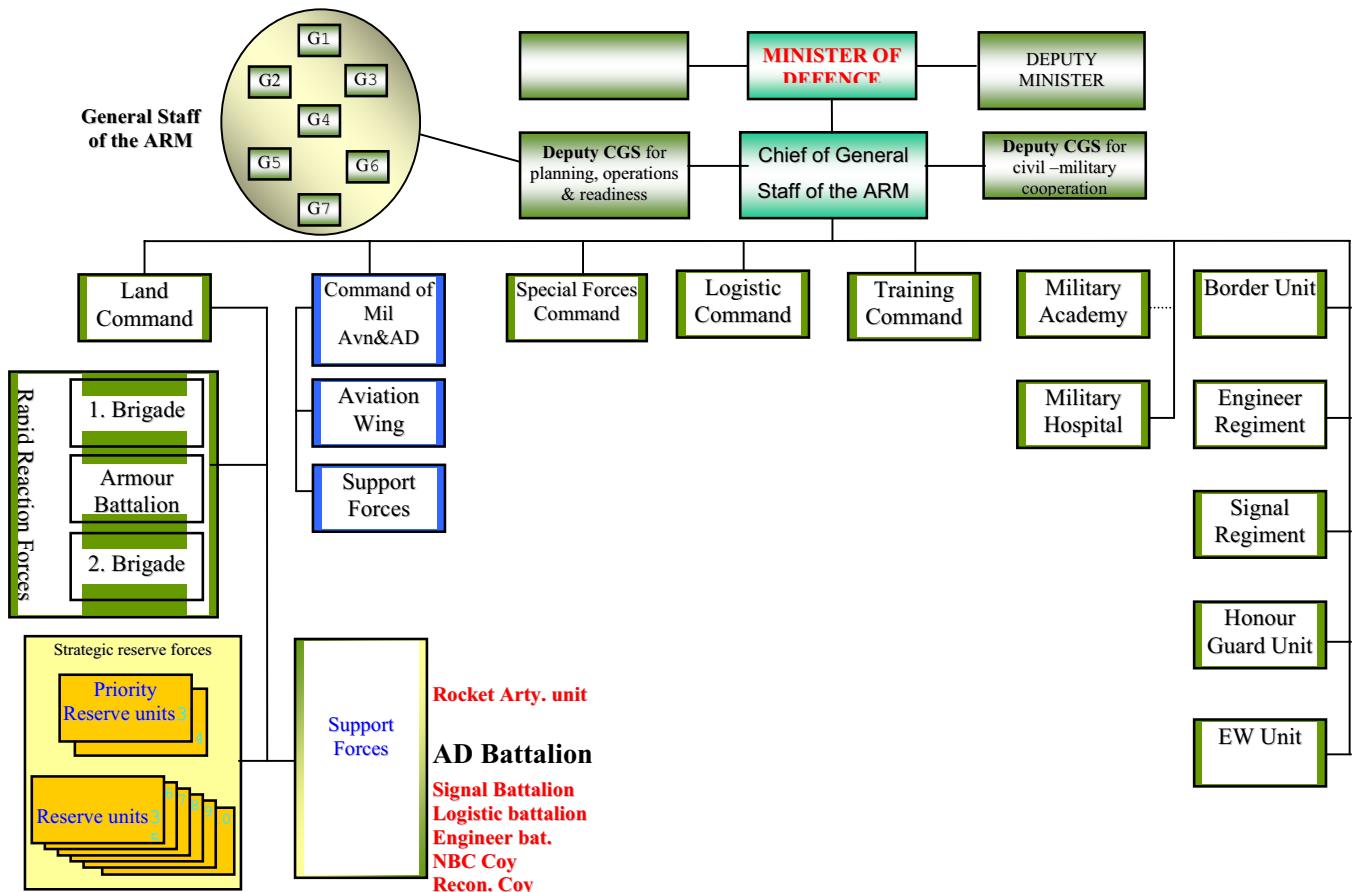
In accordance with the integrated border security strategy, the security of the state border will become the competency of the police.

As soon as these activities are performed, the Republic of Macedonia will have 12,858 personnel as an active component and around 48,000 as a reserve component.

Beside that, the ARM will also need to have a comprehensive and consistent weapon and equipment modernisation plan adopted by 2007, which would finalise the main components of the reforms. The Minister of Defence has already given the initial directions for the preparations.

The reformed ARM will be a modern military force, capable of protecting and defending the territorial sovereignty and integrity of the Republic of Macedonia, functioning alongside the armies of NATO member countries and contributing to regional stability and security.

## MACEDONIAN ARMY STRUCTURE

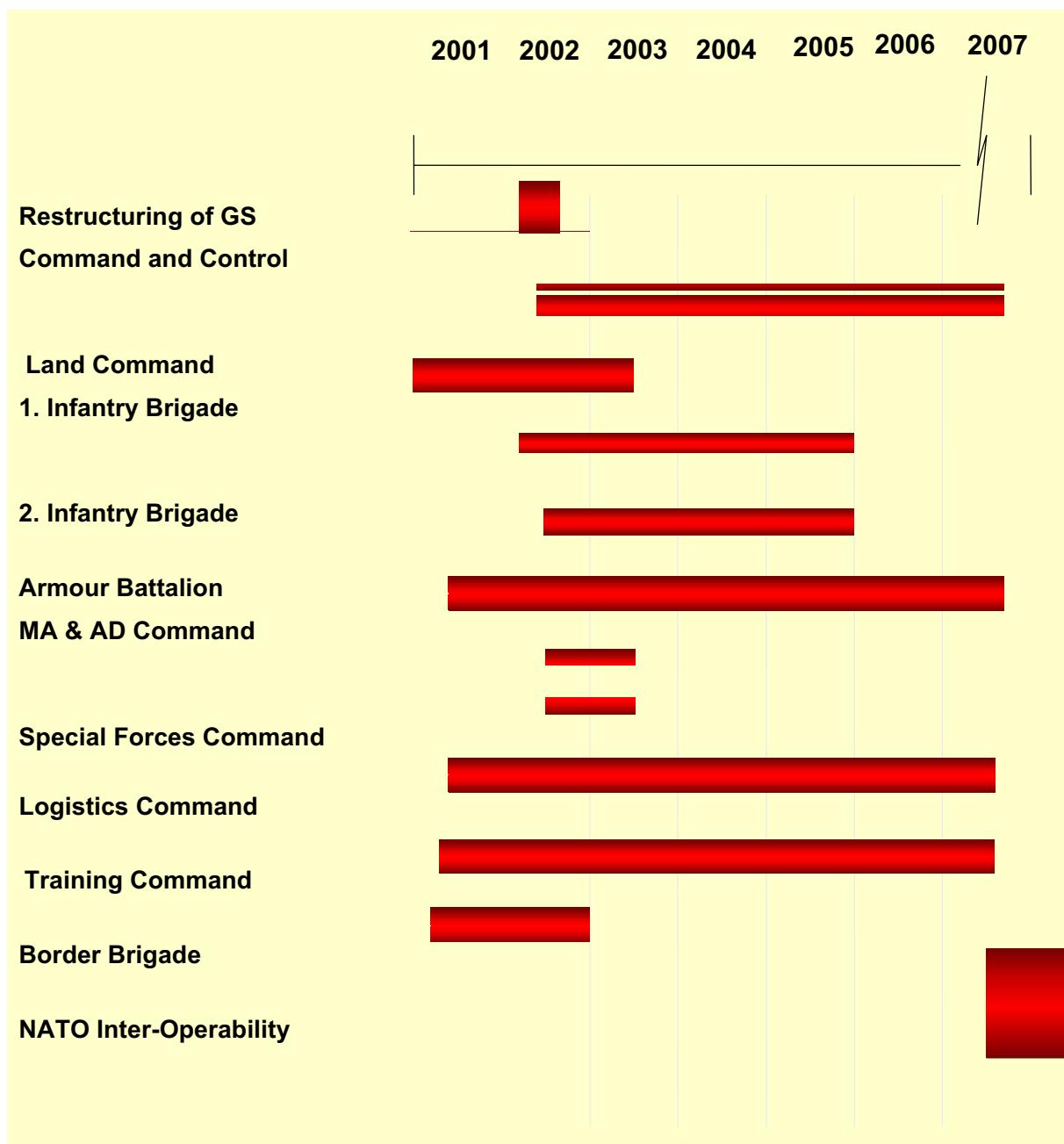


Readiness level "A": 100% personnel- and equipment-wise according to the approved formation.

Readiness level "B": Unit command and one company of the active battalion, rest of the units of the bat. are from the reserved component, 100% equipped by technical and material resources.

Readiness level "C": parts of the command are active while all of the subordinate units are from the reserve, 100% equipped with technical and material resources.

**MACEDONIAN ARMY**  
**FORCE STRUCTURE**  
**Plans and Achievements**



According to the new organisation and formation structure, the following independent units will be under direct command of the ARM General Staff: communication regiment ("B" classification), engineering regiment ("B" classification), military hospital, honour unit ("A" classification), electronic intelligence centre.

This command and control model provides a unified chain of command and control, more efficient and simpler leadership, reduction in numbers of high-ranking officers and an increase in the number of NCOs.

The border brigade was due to become fully operational by June 2001, but the deadline has been extended due to the security situation in the Republic of Macedonia. The Ministry of the Interior will take over responsibility for border security in accordance with the Integrated border security strategy no later than 2005 and at this time, the border brigade's function will cease.

The land forces structure is composed of: rapid reaction forces, strategic reserved forces and support forces. The transformation plan for the land forces includes a significant reduction by the end of 2010. HQ Land Command is located in Kumanovo. Initial operational readiness was achieved in May 2002, and full operational readiness is planned to be achieved by the end of 2010.

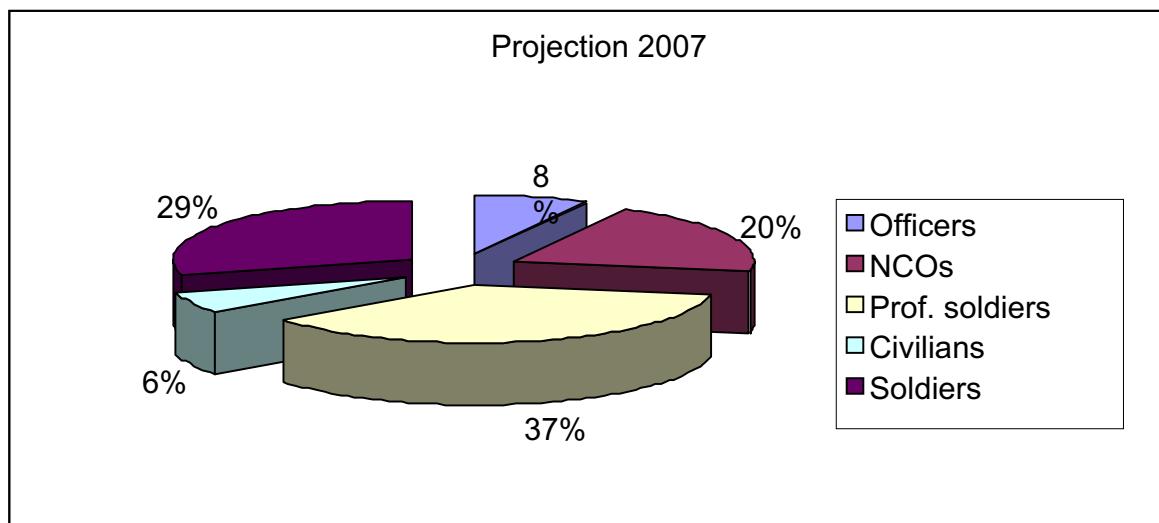
### **Projected ARM Strength**

The challenges that ARM faces in regard to its strength, and especially to its internal structure by 2007, are difficult, both for the ARM and the Republic of Macedonia. The restructuring plans are focused on increasing the number of professional soldiers and NCOs and reducing the number of officers, conscripts and civilians in ARM. The proposed projection is based on the authorised peacetime strength of the ARM and the required personnel structured according to the contemporary standards for the armed forces, and especially to NATO standards. The personnel management that will be established in the Ministry of Defence with the assistance of NATO countries in the period up to 2007 is to provide the real strength figures and qualified military and civilian personnel structure according to all standards. According to the projection, the modern

ARM will be based on a realistic number of professional officers, qualified, dedicated and expert NCOs and highly-trained soldiers. The following are proposals presented in tables and charts.

### **CURRENT AND PROJECTED ARM STRENGTH FIGURES FOR THE PERIOD 2002-2007**

ARM	Planned 2002	Actual 2002	Projected 2007
Officers	1,967	1,686	986
NCOs	3,132	1,695	2,614
Professional soldiers	4,246	3,021	4,730
Civilians	1,652	1,703	753
Soldiers	5,010	4,938	3,775
<b>TOTAL</b>	<b>16,007</b>	<b>13,043</b>	<b>12,858</b>



Rate between		
1	Officers/NCOs	1:2.65
2	NCOs/Professional soldiers +soldiers	1:3.25
3	Officers/NCOs + soldiers	1:8.62
4	Officers/NCOs + professional soldiers +soldiers	1:11.2

The table shows that the current overall personnel strength is not very different from the projected one. However, the major problem is the inappropriate personnel structure. The proposal for 2007 shows a drastically different outline of the internal peacetime personnel strength structure.

By 2007 the number of officers is to be reduced (mostly high-ranking officers) by 700, the number of ARM civilians by 950 and the number of conscripts by 1,163. Hence, the ARM authorised peacetime strength, totalling 12,858, will have 7.7% officers, or one officer per 11.2 ARM members, 20.3% NCOs, or 2.65 NCOs per officer, 36.7% professional soldiers, 30% conscripts and 5.8% civilians. According to this outline, the number of NCOs will account for one NCO per 3.25 soldiers.

Since Macedonia expects that this will signify a difficult and complex problem both for the defence establishment and the country, the Ministry of Defence will establish a working group for developing a study and a restructuring plan containing the appropriate measures, activities and timelines, required financial assets and the documents that need to be verified by the government of the Republic of Macedonia. We expect to require NATO expert and financial assistance. We will share our vision with our NATO Partners in order to acquire the necessary suggestions, opinions and assistance immediately after we develop the first draft of the study and personnel transformation plan.

### **Reforms in the Ministry of Defence**

The transformation and reform of the Ministry of Defence is necessary for the goal of monitoring and supporting the reform process in the public administration as new governmental policy, as well as in function of supporting the restructuring process of ARM.

Our vision is to enable the Ministry of Defence to perform efficiently and successfully its legal responsibilities in the area of defence, defence policy creation, defence planning and organising the overall support to the function of ARM (including civil and democratic control, resource acquisition, and personnel management). It will provide a highly expert

professional administration educated in military issues, capable, thus, of creating defence policy and understanding the needs of the military.

### **CURRENT AND PROJECTED PERSONNEL FIGURES FOR THE MINISTRY OF DEFENCE OF THE REPUBLIC OF MACEDONIA**

<b>MoD</b>	<b>Higher education</b>	<b>Secondary education</b>	<b>Primary education</b>	<b>Military officers</b>	<b>TOTAL</b>
Systematisation projections	594	598	66	23	1,281
Manning status	494	571	41	72	1,178
Projection for 2007	270	105	41	80	496

The table shows that, according to the structure, the Ministry of Defence needs to reduce the number of its overall personnel with the exception of its military officers (80 persons that within the total ARM strength and that on the principle of rotation between MoD and ARM will perform duties in the Ministry of Defence at some stage of their careers).

The current number of civilians is to be reduced by 690 by 2007, or according to the structure, 224 civilians with higher education and 466 with secondary education, whereas the number of civilians with primary education remains the same. The tendency is that, after completing the restructuring process, the Ministry of Defence has more highly educated personnel compared to other government organisations.

For this purpose, the Ministry of Defence will establish a working group for developing a Study and a Restructuring Plan that needs to be verified by the government. We expect to require NATO expert and financial assistance. After we develop these documents, we will share them with NATO.

Macedonia's Defence Ministry had to have effective use of defence funds. It had to build instruments for management and command in defence. The restructuring of the armed forces required professionalisation and training of the Army called for redesigning the military education system based on the knowledge in NATO and the size and the needs of the regular and reserve component of the Army

Beginning in April, 2002, a series of public discussions on Macedonia's future national security strategy began, called "Process 2002 – Security of the Republic of Macedonia." They were initiated by President Boris Trajkovski. The President's office stated that the "objective of Process 2002 is to bring together the relevant national and international governmental and non-governmental authorities to discuss security issues of strategic importance to the Republic of Macedonia that will serve as a basis for the work of the president of the Republic of Macedonia.... We offer this as a basis for a neutral, high-level forum for policy-oriented exchange between experts and practitioners from various backgrounds."

President Trajkovski underscored the need for public discussions. "After last year's grave and tragic developments, I believe we all agree that there is a need for a national security strategy and that the time has come to open this process."

## **CHAPTER FIVE**

---

### **STRUCTURE, FUNCTIONS AND DEMOCRATIC CONTROL OF THE INTELLIGENCE COMMUNITY**

*Mitko Kotovscevski*

#### **Introduction**

“Governing the state and nation through the unpredictable waves of history is as dangerous as paddling through unknown waters”. This statement is particularly relevant to the Republic of Macedonia, with its uncertain and unstable regional security environment and the security policies of international institutions, individual states, and other organisations. The leaders of states with no opportunity to understand global problems, risks and threats at the right time are not in a position to protect and develop the vital interests of their own nation and state. The basic functions of Macedonia’s intelligence community – that is all organisations that are by law designated as intelligence agencies with the specific duties, functions, and legal rights provided to such agencies – is to provide an overall, analytic view to the policy-makers on the status of Macedonia’s security environment and domestic conditions.

After the dramatic disintegration of the former SFR of Yugoslavia, Macedonia became a new and independent state, with no armed forces, no Defence Ministry, no national security concept, and no intelligence capability. The new state had to erect a democratic political structure, the necessary defence establishment, and an intelligence capability, very quickly and almost simultaneously. In such conditions, political and organisational misalignments are difficult to avoid. As in the case of the other post-socialist states, Macedonia has had to organise, review and reorganise its intelligence structures.

The basic functions of intelligence and security organisations are to identify risks and threats, external and domestic, provide analysis and information about them to the

government institutions and, as required, counter the risks and threats. A consideration of Macedonia's security situation since the independence of the Republic can show the complexity and the rapidly changing nature of risks and threats. During the first years of independence, the predominant risk was external, the unfriendly stance of neighbouring countries toward the new state. In 1997 a neighbouring state, Albania, collapsed as a result of political and criminal groups destroying its military and political structure, and it had to be restructured by Western states and institutions. In 1999 NATO launched a war in Kosovo, which sent immense crowds of refugees across Macedonia's border and did great damage to Macedonia's economy. In 2001 armed bands from Kosovo incited violence and ethnic conflict in Macedonia. Like no other country in South Eastern Europe, Macedonia has been subjected to sudden, externally-generated threats.

In these circumstances, there have been difficulties and sometimes a lack of coordination among the intelligence and security services and bodies concerned about information on internal security and the country's security environment. There is a need for better channels of communication and cooperation between the Intelligence Agency, which is the central body for intelligence collection and assessment, the respective ministries (Interior, Defence and Foreign Affairs), the government, the President of the Republic, and the Parliament. The 2001 crisis showed up many difficulties of the security and intelligence services. However, Macedonia's intelligence and security agencies have been restructured, over the years, to meet newly-emerging risks and threats and are currently in the process of further reorganisation.

## **Constitutional and Legal Provisions**

The Constitution of the Republic of Macedonia in Article 86 indicates the general principles of democratic guidance over intelligence and security agencies. The Constitution states that the President of the Republic is President of the Security Council of the Republic of Macedonia. The Security Council of the Republic is composed of the President of the Republic, the President of the Assembly, the Prime Minister, the Ministers heading the bodies of state administration in the fields of security, defence and foreign affairs and three members appointed by the President of the Republic. The Council considers issues relating to the security and defence of the Republic and makes policy proposals to the Assembly and the Government.

The Constitution, however, very clearly specifies the civil rights which are guaranteed, and these provisions restrict the area of operations of intelligence and security agencies. The freedom of personal conviction, conscience, thought and public expression of thought is guaranteed. The freedom of speech, public address, public information and the establishment of institutions for public information is guaranteed. Free access to information and the freedom of reception and transmission of information are guaranteed. Moreover, the right of reply via the mass media, the right to a correction in the mass media, and the right to protect a source of information in the mass media are guaranteed. Censorship is prohibited.

The Constitution also guarantees the freedom and confidentiality of correspondence and other forms of communication. Only a court decision may authorise non-application of the principle of the inviolability of the confidentiality of correspondence and other forms of communication, in cases where it is indispensable to a criminal investigation or required in the interests of the defence of the Republic. The security and confidentiality of personal information are guaranteed. Citizens are guaranteed protection from any violation of their personal integrity deriving from the registration of personal information through data-processing.

Detailed legal provisions concerning the functioning of intelligence and security agencies, however, are provided by the Law on Defence and other normative acts that establish the legal basis for operation of the Department for Intelligence and Counterintelligence Coordination and Classified Documents Control in the Ministry of Defence, passed in May 2001. This Law provides that in its duties the Ministry of Defence: organises and conducts intelligence and counterintelligence for defence needs; organises and conducts prevention and detection of criminal acts in military units and facilities, where military units camp or exercise activities of the Army as well as facilities and zones designated by the government; and monitors protection of classified information of importance for defence.

## **Parliamentary Control**

The Parliament of the Republic of Macedonia supervises the activities and executive tasks of the Agency, through the appropriate Parliamentary Committee. The Parliamentary Committee prepares a report on its work annually and presents it to the Parliament. Before presenting the report to Parliament, the Parliamentary Committee presents the report to the Director of the Agency. The Director of the Agency is responsible for permitting inspection and giving all data to the Parliamentary Committee. The data and reports presented to the government and Parliament are classified, including documents that are top secret. The conclusions adopted in accordance with the report of the Parliamentary Committee, are sent to the government and the President of the state.

The Parliament of the Republic of Macedonia supervises the activities and executive tasks of the Management for Security and Intelligence, through the appropriate Parliamentary Committee. The Parliamentary Committee prepares a report on its work annually and presents it to the Parliament. The Director of Management for Security and Intelligence is responsible for permitting and giving all data to the Parliamentary Committee. The data and reports presented to the government and Parliament are given security classifications, including top secret documents. The conclusions adopted in accordance with the report of the Parliamentary Committee, are sent to the government by the Parliament.

## **Structure of the Intelligence Community**

For Macedonia, security and intelligence and counter-intelligence are a state matter about which the new government had little experience. It appeared as a completely new function in 1991. The basic elements were put in place as the new institutions of the state were established. The Ministry of the Interior developed sections for security and counterintelligence, the Ministry of Defence had intelligence and counterintelligence capabilities, and so did the General Staff, for military purposes. The resources and expertise were scarce, so there was considerable improvisation.

The intelligence community is composed of the Intelligence Agency, which is managed by the President of the State; the Directorate for Security and Counterintelligence, in the Ministry of the Interior; the G-2, in the General Staff of the Army of the Republic of Macedonia (ARM); the Centre for Electronic Surveillance in the Ministry of Defence; and the Central Registry of the National Security Authority of the Republic of Macedonia in a NATO context, subordinated to the government of the Republic of Macedonia.

The Intelligence Agency was formed as late as 1995 with a special Law, but its work began only in 1997 when the first director was appointed. It was designed as an institution to gather, systematise and analyse all relevant security information, which would help the other state institutions carry out their functions more efficiently. Largely, its work concerns information coming from abroad which is relevant for preserving external security. It is comprehended more as an institution at the service of the other state bodies rather than a body executing certain tasks. It provides timely and relevant information, while state security is to be guaranteed by the other bodies.

### **The Intelligence Agency**

The Intelligence Agency is responsible for collecting data and information connected with the security and defence of the Republic of Macedonia, economic, political and other interests of the state. The Intelligence Agency analyses and researches the data and information and informs the President and the Parliament.

The Intelligence Agency is managed by a Director appointed by the President, with a mandate of four years. The Director informs the President about the Agency's activities. For the proper functioning of the Intelligence Agency departments are established and appropriate organisational acts are adopted by the Director, in agreement with the government. The Intelligence Agency collaborates with all governmental institutions on common issues, to exchange data and information.

In accordance with the duties of the employees, they have the right to collect data, reports and information connected with their research area. Citizens, institutions and other organisations and authorities are obligated to provide information to help them complete their tasks successfully.

The Head of the Department for Intelligence Coordination and Classified Documents Control, who manages the Department, is responsible for the work of the department. The intelligence coordination branch: continually plans, organises and carries out measures, procedures and activities for intelligence collection for the needs of the armed forces about a potential aggressor, an area of the possible fighting activities, and the environment (weather, terrain) of possible combat activities.

The department is also responsible for: timely detection of indicators of a possible security threat to the Republic of Macedonia; early detection of the intentions of a potential aggressor, the time, location and method of launching an aggression and the structure of the engaged forces; creating pre-conditions for its own armed forces for mobilisation and operational development, prevention of operational and strategic surprise; and intelligence support to the General Staff and Ministry of Defence when planning, organising and carrying out combat activities.

The Analysis Branch is responsible for collection, classification, analysis, synthesis of intelligence and counterintelligence data; preparation of information and analytical documents for the needs of the Ministers of Defence and the Interior, the Chief of General Staff; the classification, assessment and study of operational information and documents obtained from the counterintelligence, Ministry of the Interior and Intelligence Agency, and other relevant duties.

The Counterintelligence Coordination branch is responsible for detection, monitoring and prevention of intelligence-gathering and other activities of foreign military intelligence and intelligence services; detection, monitoring and prevention of organisation and acts of terrorist groups; participates in planning and coordination measures and activities for counterintelligence protection of tasks, documents, material and technical assets, areas, zones and high importance facilities for defence, and other relevant duties.

The Branch for Classified Documents Control and Staff Support prepares operational assessments for the possible source of threats against classified documents, physical and personnel security in the Ministry of Defence and defence branches in the municipalities, INFOSEC and performs operational analysis for the level of their

protection; is responsible for the protection of classified documents and information according to the regulations; physical and personnel security, INFOSEC, protection of classified documents and staff support in ARM; monitoring of the military security situation and investigating the personnel background of persons to be employed in defence affairs.

### **The Ministry of Defence**

Operations for intelligence and counterintelligence are carried out by authorised official persons in the Ministry of Defence designated by the Minister of Defence. In performing intelligence and counterintelligence they have the right to collect data, reports and information from there area of work. Operations for prevention and detection of criminal acts are executed by authorised official persons of the Ministry of Defence designated by the Minister of Defence and Military Police, designated by the Minister of Defence. These persons have the authorisation needed for successful implementation of subordinate legislation for the successful detection of criminal acts and bringing charges against the perpetrators to the authorised Public Prosecutor.

The protection of classified data, information and documents in the defence field that is of importance for the Army is also stipulated by the Law on Defence (art.138 and 139). Citizens, business associations, public enterprises, institutions and services of special importance for defence, units of local self-government and organs of state authority have a duty to keep secret and protect classified information in the field of defence and to conduct stipulated measures for protection of classified information.

Criteria and measures for protection of data important for defence are regulated by Decree of the Government ('Official Gazette of RM' n36/94 and 30/01). Also, Army personnel have a duty to keep secret and protect classified information of importance for the Army and to conduct stipulated measures for their protection. Criteria for information classification of importance to the Army that must be kept secret and their protection are regulated by a *Rulebook of the Minister of Defence* ('Official Gazette of RM' n.43/96).

In addition to the Law on Defence, the legal basis for performing operations in this Department is other subordinated legislation: *Rules for Operation of Security Organs of*

*the Ministry of Defence ("Official Gazette of RM-Special official gazette" n.10/93); Rules for Operation of Intelligence Organs in the Military-Intelligence Service ('Official Gazette of RM-Special official Gazette' n. 6/94); Rules of Service of the Military Police (internal n. 02-038/1 from 08.01.1997); Guidebook for Procedure and the Application of Operational and Technical Devices and Methods for Security Organs (secret n.04-51/7 from 24.09.1993); and Rulebook for Documentation and Evidence of Ministry of Defence Security Organs (secret n.2316/5 from 09.12.1994)*

With the enactment of a new Law on Defence, the above-mentioned subordinate legislation was to be brought into line with the provisions of the new Law on Defence, that is to be amended or new rules and instructions for the operation of unauthorised official persons to be passed. This activity was being carried out in the Ministry of Defence.

### **The Armed Forces: Intelligence and Counterintelligence**

Intelligence in defence encompasses measures, activities and procedures undertaken for collecting, recording and analysing intelligence data of importance for the defence of the Republic. Activities are accomplished by authorised persons in the Ministry of Defence appointed by the Minister of Defence. The authorised persons have the same rights and responsibilities as persons employed in the Intelligence Agency.

Counterintelligence in the Armed Forces encompasses measures, activities and procedures undertaken for: detecting and preventing an intelligence or other type of subversive activity of foreign military intelligence and intelligence agencies being done inside or outside the country, directed against the defence of the republic; detecting and preventing all forms of terrorist activities directed against the defence of the Republic; taking counter-intelligence protection measures of the tasks and the plans, documents, materiel and technical assets, regions, areas and facilities of importance for the defence of the Republic.

Activities, as provided by the relevant Law are accomplished by authorised persons in the Ministry of Defence appointed by the Minister of Defence. The authorised persons

have the same rights and responsibilities as persons employed in the Ministry of the Interior.

## **The Military Police**

Protection of the forces in military units and institutions, military camp sites and areas where exercises are held as well as areas and facilities determined by the government encompasses measures, activities and procedures undertaken for: maintaining military order and discipline; providing security for personnel, commands and facilities designated by the Minister of Defence; regulation and control of Military traffic; participating in combat against diversionary, terrorist or other armed groups. The activities are accomplished by the Military Police. Detailed regulations on the activities of the Military Police are approved by the Minister of Defence.

Prevention and detection of criminal activities in military units and institutions, military camp sites and areas where exercises are held as well as areas and facilities determined by the government, encompasses measures, activities and procedures undertaken to prevent criminal activities as well as the detection and apprehension of criminals and their handing over to authorised organs. Activities are accomplished by official persons in the Ministry of Defence appointed by the Minister of Defence. Authorised persons of the Military Police determined by the Minister of Defence also take part in accomplishing these actions.

The authorised persons have the following rights and responsibilities in accomplishing activities according to the Law: to establish the identity of persons by asking them to show their identity card; to block the approach and to prevent departure from a certain area until necessary activities are accomplished; to check and search vehicles, persons and belongings; to remove a person by force from a certain area as well as a person who does not act in accordance with an order from an authorised official person; to use weapons if no other means are available to protect lives; to repulse an immediate attack threatening his/her life, to repulse an attack against a person or facility being secured or to prevent escape of a person caught in the act of committing a crime for which imprisonment of at least five years may be pronounced. The authorised persons have

Identification Cards. The form and the manner of issuing the identification cards are decided by the Minister of Defence.

## **The Ministry of the Interior: Directorate for Security and Counterintelligence**

For performing of the security and intelligence tasks, the Directorate for Security and Counterintelligence is established, as a part of the Ministry of the Interior.

Security and Intelligence are tasks which are connected with protection from espionage, terrorism or other activities aimed at destroying the democratic institutions established by the Constitution of the Republic of Macedonia, as well as protection from well-organised criminal groups.

The Directorate for Security and Counterintelligence is managed by a Director who is appointed by the government on the proposal of the Minister for the Interior. The Director is independent in his decisions and is responsible in front to the Minister for the Interior and the government. On the proposal of the Director of the Management for Security and Intelligence the Minister of the Interior adopts acts for organisation and systematisation of the Management for Security and Intelligence and proposes them on adoption to the government.

In accordance with their duties, the employees have the right to collect data, reports and information connected with their research area. Citizens, institutions and other organisations and authorities are obligated to provide them with information enabling them to finish their tasks successfully.

## **Protection of Classified Documents**

Protection of secret data encompasses measures, activities and procedures undertaken for protection of the secrecy of data, information and documents from the area of defence. Citizens, commercial companies, public institutions and services of special importance for defence, units of local self-management and agencies of the government responsible for keeping and protecting secret defence data and performing measures

determined for protection of secret data. Criteria and measures for protection of the secrecy of data of importance for defence are issued by a government regulation.

The members of the Armed Forces are obliged to keep and protect secret data of importance to the Armed Forces and carry out the measures determined for their protection. Criteria for determining the secret data for the Armed Forces which have to be kept secret and measures for their protection are regulated by a List of Regulations issued by the Minister of Defence.

For the purpose of protecting the security of the Republic in areas which are established for the requirements of defence according to the Defence Plan or their arrangement is planned, movement and residence may be restricted. A decision on determination of these areas is made by the government.

Air photography and other types of research for making cartographic publications may be done only by legal bodies who receive a letter of approval from the government. Physical persons and legal bodies may not perform photography, scientific and other types of research in facilities or zones of importance for defence, as well as in the zones in which movement and residence is restricted without the approval of the Minister of Defence.

### **Conclusion: Intelligence Restructuring**

After ten years of constructing and revising its intelligence organisations, the Republic of Macedonia is continuing this process. Reorganisation is required for structural reasons. The Ministry of Defence is currently realigning the organisation and operations within the Department of Intelligence and Counterintelligence Coordination and Classified Document Control, as well as the Military Police, because some existing provisions regarding their work are ambiguous and have created parallel, inefficient structures. There is also a review under way of the Directorate for Security and Counterintelligence in the Ministry of the Interior.

Moreover, given Macedonia's past experience, particularly the deep crisis of 2001, as well as its future security policy, regional cooperation and entering international security

organisations like NATO, the structure, function, and interoperability of the intelligence community is an important task. Macedonia in future years intends to pursue an active security policy of regional cooperation, first of all with Albania and Croatia. The work of intelligence services is of primary importance in countering new threats like cross-border criminality and regional crisis management. Furthermore, Macedonia has to enhance its intelligence capability in order to help attain the security policy objective of NATO membership.

## CHAPTER SIX

---

### GOOD GOVERNANCE AND SECURITY SECTOR REFORM

*Lidija Georgieva*

#### **Introduction**

The Republic of Macedonia is going through a serious and specific post-conflict peace building consolidation. The enrolment of experts is a necessary component, also because of the previously outlined joint political decision to bring the Macedonian security sector closer to the standards, norms and requirements for integration into Euro-Atlantic security institutions. One of the challenges within this process would be to identify and classify priorities in SSR according to assessment of previous achievements and to dispose of a framework of activities that will match a set of governmental democracy consolidation programmes and activities according to the Framework Agreement.

While it seemed that the Republic of Macedonia since the crisis of 2001 had gone through a specific (peaceful) process of transition, it was questionable whether the process of reform had gone deeper and was of substantial significance. In this regard, reforms within security sector institutions were considered slow and challenging. These characteristics were almost imposed by public opinion and some of the critical analyses as a consequence of inappropriate and uncoordinated action of military-security forces during the crisis in Macedonia. The image of partially-reformed and adapted institutions, dependent on international security mechanisms, was strengthened by the constant “security recipient” position of the country.

Alongside the benefits from the status of partner country and improved relations with NATO through the Membership Action Plan, it can be considered that there are still open issues for reform in the security sector. However, the atmosphere of the post-conflict environment and ongoing processes of political and democracy consolidation typical for

peace-building in war-torn societies will not be eradicated by simply advertising the Framework Agreement and/or Constitutional provisions. The complexity of the post-conflict environment in addition will make the process of SSR more obscure although up to now it was by no means insufficient and unsubstantial.

The success of the process of reforms will depend not only on domestic political will and decisions or international appraisals but also on the availability and capacity of expert training to support and pull on the process. Aside from the anticipated political will for modification of the security sector according to international and professional standards and principles, it should be noted that such reforms should also contain support for genuine identified needs for reform. The best practices can facilitate the process of solutions but universal acceptance cannot be provided.

Assessment of the requirements of a specific expert formation structure in support of national security strategy and policy includes excellence of academic and non-academic education and training programmes, continuous education and training of the experts and experts' profile. The introductory criticism on the assessment of needs is also directed at the issue of appropriate methodology and strategy because in the worst case it does not exist while on the other hand it is fractional, inconsistent, short-term or based on particular political and individual interests. There are a limited number of experts capable of professional engagement in specific segments of the security sector and that limited number of experts is incompletely and inefficiently engaged.

The specific questions addressed are:

First: how well are Security Sector institutions (executive) equipped with civilian and military experts and how does this situation influence the activities of the institutions? Second: the quality of preparedness of specific experts for their task assignments and if there is a need for additional education or training, programme coordination or assistance.

The analysis of security sector expert training has not resulted in serious actions to initiate complex and coordinated strategy for reforms. It resulted in an emerging trend with large publicity for the acknowledgement that future, more serious reforms are

necessary, aimed at improving the democratisation of civil-military relations and the efficiency of the security sector. Debate about this issue is not encompassed in all-inclusive and complex viewing of SSR in general. The ongoing reforms within the security sector have not resulted in a generally employed national strategy but are perceived as composed of different reform activities.

Different actors within the security sector initiated and conducted their own reforms without support from analytical or expert research. The improvement of civil-military relations together with reforms in the security sector were promoted and dealt with more as required for NATO accession than as a Macedonian necessity. The decision was made by the Macedonian Parliament to achieve NATO membership. Reforms for restructuring the military, its size, force structure, weapons and equipment, and the question of the professionalisation of the Army overshadowed other, non-military aspects of reforms.

The questions about democratisation of civil-military relations and SSR that are prioritised within the post-conflict peace-building in Macedonia are not perceived by the larger part of the security expert community as a necessary part of post-crisis consolidation and reforms. They rather look at the SSR as a continued process that should address the new security environment and challenges that followed the crisis in Macedonia and to integrate the lessons that were learned. This process should be understood as crucial for democratic security within the country, in effect, the “first generation” SSR, and avoiding previous mistakes.

## **Security Sector Reform and the Parliament**

The Parliament should have a key position in oversight over the security sector. According to the present laws, the Parliament has key legislative and oversight functions. Its competence includes: declaring a state of war or a state of immediate danger of war; monitoring the executive on defence issues; deciding on the defence budget; international activities related to defence issues as well as deciding on the concept of national security. Within the framework of its competence parliamentary oversight of the security sector should be emphasised but this issue has not been sufficiently actualised within Parliament's activities. This role of the Parliament is

attributed to the general estimation that the Parliament, being the central political institution in a parliamentary democracy, had a secondary role in the political process during the years that followed the independence of Macedonia.

According to the established competence of the Parliament, different Committees (Commissions) were founded in order to support its functions<sup>1</sup>. For issues related to defence and security the Committee on Defence and Security and the Committee on Euro-Atlantic Integrations were set up<sup>2</sup>. Given the divided responsibilities of the Committees, defence and security issues are addressed through two aspects. One covers the sphere of defence and security of the state and its legal dimensions while the other covers the international aspect through Euro-Atlantic integration.

The Committee on defence and security reviews the documents and legal acts proposed by the executive. Depending on the level of discussions, the Committee can present its comments through reports. This is the main domain of activity of the Committee, which means that there is no adequate monitoring function or influence on the procedure. This is partly a consequence of the range of responsibilities of the Committee which include issues related to the census, legal proceedings, bankruptcy proceedings, and other matters.

Some experts have considered the constitutional position of this Committee to be weak.<sup>27</sup> The work of the Committee has been substantially dependent on whether Representatives attend the meetings. Discussions have been perfunctory and most often formal. Instead of assessing and critically viewing the proposals under discussion, the work of the committee has often been aimed at supporting them. In addition, the work of the Committee has been burdened with internal political struggle and permanent efforts for getting a quorum. The work was significantly influenced by its composition, the

---

<sup>1</sup> With Rules of Procedures on the Parliament adopted in 2002, the number of Parliamentary Commissions was reduced from 23 to 17. While the former Rules of Procedures anticipated external members, the new one does not, but under article 119 the participation of external experts without the right to vote is permitted. The number of members of the commission was also increased from nine to 13.

<sup>2</sup> With the decision of the Parliament taken on 12 November 2002, the Commission on internal policy and defence was renamed the Commission on defence and security.

<sup>3</sup> Up to the present, this Commission has discussed the Law on Service in the Army, the Law on Defence, and the Law on Internal Affairs as the only acts related to defence and security.

professional orientation and interest of the members and the role of the Chairman of the Committee.

In this context, the capacity and preparedness of the members of the Committee for the issues related to Parliamentary oversight over security sector or democratic control is especially important. Nevertheless, having in mind that the members of the Committee are parliamentarians recommended by their Parliamentary group (very often following the principle of personal preference) no special level of expertise is to be expected. Even when two former Defence Ministers participated in the Committee, its activity has not been successful. In order to improve the work of the Committees, the Parliament introduced a new act on the Rules of Procedure, which defined the responsibilities of the Committees more clearly.

According to the new Rules of Procedure, the Committee on Defence and Security considers issues related to protection of the order established by the Constitution, supervision in the area of defence and security, issues related to civil defence; protection of life, personal safety and property of the citizens as guaranteed by the Constitution; the production, trade, purchase and possession of weapons; the maintenance of public peace and order, public gatherings, identification and resolution of border incidents. In this case the domain of the Committee is more clearly defined as a monitoring function over the executive. Although this is still a reactive function, it could improve the previously ineffective position of the Committee.

The Committee on Defence and Security in its work is directed towards the Committee on European and Euro-Atlantic integrations.<sup>4</sup> The responsibilities of this Committee are issues regarding the European and Euro-Atlantic integrations, adjustment of views related to Parliamentary activities on key issues related to the process of integration; the evaluation and initiation of new activities of particular interest to the Parliament; activities on harmonisation of Macedonian legislation with the EU and the documents of the international organisations. The Committee also initiates reviews of issues by Parliamentary Committees, and other activities on coordination of Parliamentary

---

<sup>4</sup> This commission is under the direct competence of the Chairman of the Parliament. Members of the Commission are Vice-chairpersons of the Parliament, coordinators of the Parliamentary groups, chiefs, delegations and chairpersons of Parliamentary groups of the Parliament in the Parliamentary Assemblies of the European and Euro-Atlantic organisations.

activities related to the process of integration. This Committee is in a position to bring to the attention of the Committee on Defence and Security different aspects concerning EU or NATO integration of the country. In this respect, there are complex requirements for improving the role of the Parliament in oversight of the security sector while strengthening its monitoring, legislative and representative functions. In this case there is also a specific need for civilian expertise that will support the activity of the Committee.

### **Good Governance and the Parliament**

For the purpose of expert and administrative support, the Parliament has a service. In the domain of defence and security, an important role belongs to the Sector for international cooperation, the Sector for research and analysis and the Sector for legislation. The Sector for international cooperation, active since 1995 (since Macedonia's inclusion into various international institutions), is responsible for the multilateral and bilateral cooperation of the Parliament. With the new Rules of Procedure of the Parliament, six delegations were established among which is the Parliamentary Delegation in the Parliamentary Assembly of NATO. In general, it could be noted that the parliamentary representatives have more interest in participating in the parliamentary delegations than in the parliamentary committees. There is no cooperation, coordination or exchange of expert opinion among the Committee on Defence and Security and the Sector for international cooperation or the Parliamentary Delegation to NATO regarding common issues associated with defence and security.

The sector for research and analysis should provide the parliamentarians and staff with information relevant to issues of defence and security and parliamentary oversight over the security sector. But this is not a regular parliamentary practice. There have been individual requests referred to this sector but not much research has been carried out. Associating this Sector with academic and research institutions and international governmental and non-governmental organisations working on the problems of democratic control over the security sector would benefit the Parliament's role.

The Parliament and its bodies, due to insufficient expert formation, failed to accomplish most of its functions, with reference to defence and security issues i.e. monitoring, legislative and representative functions. The evaluation of the expert formation and

preparedness of the experts for their assignments indicates an unsatisfactory situation in the structure of the Parliament. There is no single civilian expert on defence and security issues among the Parliamentary staff. A survey of the new composition of the Parliament and its agencies would be necessary for identifying the needs for additional education or training through formal or informal methods. Although different levels of requirements could be identified, this process should include the members of the Parliament, members of Parliamentary Delegations, members of Committees and Parliamentary staff.

Another important issue is that the Committee on Defence and Security should be supported with appropriate expertise on parliamentary oversight over the security sector. For instance, from September 2001 a programme on Democratic Control has been under way: an educational programme for the parliaments and parliamentary staff in SEE. This programme consists of a series of meetings on various topics such as: the bases of legislative control, the Parliaments in SEE and reform priorities for the security sector, promotion of successful parliamentary control of the security sector, co-organised by CESS and ISPPI. There were no other activities on training and education of the deputies or staff on similar topics.

It should be emphasised that short study and working visits to relevant institutions or conference and/or seminar participation is the most appropriate form for attracting the interest of the parliamentarians. In the case of parliamentary staff, specialisation and training is an appropriate model alongside the possibility for post-graduate studies. Such an opportunity is offered by the Institute for Defence and Peace Studies in Skopje.

### **Expert Training in the Ministry of Defence**

The Ministry of Defence is a part of the executive authority. Under laws governing the role of the Ministry, that is, according to the Law on Defence, its competence has been regulated in detail.<sup>5</sup> The wide range of responsibilities of this Ministry and its successful,

---

<sup>5</sup> The Ministry of Defence's role is significant in the domain of creation of defence policy; preparation of the defence system; planning, programming and budgeting; education and training for defence as well as other activities. The Defence Law adapted in 2001 in Article 20 defines an almost similar set of responsibilities for the Ministry of Defence. The duties of the Ministry in the area of defence are posted on the official site of the Ministry at

efficient and professional functioning is based on a number of prerequisites, such as a clearly-defined sphere of responsibilities, clearly-established civil-military relations, and expert formation. In this regard, evaluating the expert formation within the Ministry of Defence, the following aspects should be taken into account. First, this evaluation should be based on the adequacy of legislation that regulates personnel structure and the status of the administration within the Ministry, in other words it should project the effects of the inclusion of experts of various sectors and especially inclusion of civil experts from the area of civil-military relations. Second, evaluation should be made of the extent of the appropriate engagement of experts in accordance with the existing organisational scheme. These two aspects should be followed by, third, the level of preparedness of different experts for their tasks and assignments.<sup>6</sup>

Alongside the legal aspects of these issues, there are problems related to the political nature of appointments of personnel to managerial positions in the administration of the Ministry, and problems related to internal coordination and functioning of the structure of the Ministry, as well as coordination of the Ministry's activities with other governmental institutions, particularly those covering the security sector.

The next aspect contributing to the complexity of the issue is the efficiency of the educational programme offered at national level for developing experts who could perform similar tasks with the Partner States. This aspect of the issue could be dealt with through bilateral and multilateral programmes on cooperation and education. However, a part of the needs of the executive authorities is specific personnel, civil experts in the defence area related to the sphere of democratic and civil control of civil-military relations.

For example, the Framework Agreement (the 'Ohrid Agreement') requires proportional representation of the communities within the structure of the security sector in general and the Ministry of Defence in particular. Appropriate representation of the communities has been planned and conducted since the independence of Macedonia. Due to many

---

<http://www.morm.gov.mk/zakon/eng/chapter03e.htm>

<sup>6</sup> More detailed analysis on civil-military relations and current challenges are detached in Biljana Vankovska and Hakan Wiberg, 'Civil-Military Relations in Macedonia', *COPRI Working Papers 16*, 2000; Blagoj Handziski and V. Goreski, 'Democratic Civil Control of the Armed Forces in the Republic of Macedonia', *Paper Presented at the Seminar 'Legal Framing of Democratic Control of Armed Forces and Security Sector: Norms and Reality/ies"*, DCAF, 4-5 May, 2001.

reasons it failed to result in a complete and efficient inclusion of the communities, except at the higher officer level, even in this case, with inconsistency. As such, this process did not result in confidence-building with society, the military structure and ethnic communities. Positive effects in that direction are necessary for the stability and security of the state and therefore this process needs to be planned carefully and completed by avoiding the difficulties that delayed and impeded the overall process of expert training.

One of the problems that has been pointed out, affecting the continuity and efficiency of administration and managing personnel in the Ministry is the frequent changes governing the status of the administration. Frequently, each new Minister introduces new job descriptions. This generates personnel problems that reflect on the efficient operation because qualified personnel cannot fill in certain specific positions. One of the repeated explanations is that such personnel are not available or another possible reason is that although there are certain experts they are not properly assigned.

The Act on Systematisation enacted by the Minister of Defence, following prior approval of the government, apart from describing the need for experts, also determines the criteria for specific posts and positions. Most usual comments at interviews made with personnel in this sector were that for certain professional positions, education in the area of social sciences was required. Moreover, for the positions where a civil-military expert is essential, education that does not provide such qualifications is required.

### **Civilian and Military Experts**

This happens despite the fact that within the framework of the system of higher education in Macedonia there is a permanent education of civil experts for defence. The most substantial problem could be located at several points. One refers to the quality of education of these personnel in relation to the previously mentioned need for them to have a similar educational profile to that of experts from that area in the Partner States. This is a necessary criterion for improving the credibility of the experts engaged in establishing an efficient defence system. In addition, these experts, in the absence of appropriate evaluation of their expertise were marginalised during the process of establishing the defence system after the independence of Macedonia. Even the political system institutions related to defence issues forgot that such personnel were available to

them. In brief, the priority of the reforms in the society was set in a manner that imposed reform of the military sector by force and the strong influence of the military aspects of security. In such an environment, specific relations and the ratio of civil and military experts have disturbed the meaning of expert formation in the Ministry of Defence. This ratio was constantly violated but one of the obvious examples happened during 2000/1, when military officers were proposed and appointed to posts which in developed democracies are traditionally filled by civilians, as was the case with the positions of under-secretaries and assistants to the Minister.

The implementation of democratic and civil control over the army is a constant challenge to the Ministry of Defence. There is a lack of educated personnel, civilian and military professionals, within the Ministry. Habitual confrontation between military and civilian experts continues to burden cooperation. To the military, the civilian political officials in the Ministry of Defence do not possess the required expertise, possessed by the staff in the General Headquarter; according to civilians, the General Headquarter does not have personnel of civilian professionals who could assist in its work. As a result, the Ministry of Defence has not complied with the western standards of democracy and civil control over the military.

As a result of a lack of experienced, qualified civilian professionals in the Ministry, the military has enlarged its role in an area that traditionally has been considered the area of activity of the civilians. While developing certain programmes in the absence of civilian personnel, military solutions prevail. On the other hand, the majority of the military personnel feel insufficiently integrated into the Ministry of Defence. The civilian defence officials react with reserve towards the advisers and critics who are military officers and according to some opinions are trying to extend civilian control and influence to the traditional military zone of action. But in the majority of cases, both the civilian and military officials are forced to accept or support the objectives and philosophy of certain political parties. The final result is that the Ministry does not perform the role of policy creator, which is the case with majority of defence systems in developed democracies.

The problem of expert formation has contributed to the political influence in the process that erodes the capacity of the Ministry. There were examples when some personal decisions within the Ministry, starting with the Minister himself and the State Secretary,

deputies and advisers, positions with key influence over the efficiency of operations in the Ministry, have had their qualification and professionalism questioned. The factors that raised suspicions over their qualifications are the application of the principles of nepotism and/or party membership during the process of personnel selection. In such cases it is obvious that the principle of political non-interference has been violated i.e. that policy involvement is a part of the problem that erodes expert support in the Ministry.

Another activity that influenced the process of expert training in the Ministry is the continuous changes of a large part of managerial functions within the Ministry. Deep cuts are made in the administrative and expert formation of the Ministry as a result of the policy of political changes introduced with every new appointment of the government or Minister. Staff who had developed expertise in the positions they were working on were transferred. This creates confusion in expert opinion about the meaning and consequences from this process. For instance, there is a divided opinion on the function of State Secretary. Some of the interviewed experts consider that this function is not to be subject of changes in order to maintain the continuity and expertise and reduce the policy involvement and its influence over the Ministry's efficiency. Others have the opposite opinions, that this function is to be a subject of change but it should be followed by additional preparations (education and training) for performing the anticipated tasks.

One more segment of the Ministry where it is important to observe the principle of expert formation is the Office of the Minister. According to the summarised comments from the interviews, the office of the Minister plays an exclusively important role in the successful functioning and coordination of activities. But, up-to-date experience with the functioning of the Ministry shows that in general it has been a bottleneck due to the inappropriate structure or lack of a sense of organisational priorities. According to the development of this cabinet in the period 1992-3, there was no expert executive; since 1993-5 an individual executive covers the activities. This issue influences the activities of the Ministry's structure and its efficiency to a definite extent. It affects the coordination of activities between different sectors and departments of the Ministry where a meeting of its highest-level officials is the main body for coordination. In this regard there are a lot of comments concerning the need for a serious approach to the structure in this segment for overcoming of vested interests.

## **Organisation and Efficiency**

In addition, there is the problem of efficient organisational structure, relations and coordination of the various independent sectors in the Ministry. According to some observations they are not equally structured and supported by experts, that is, some of them have a more emphasised role, as was indicated in the case of the Sector on policy, planning and international cooperation, compared to the structure of the rest of the six sectors. In this case inappropriate expert formation and burdened ratio of civil-military experts influenced the efficiency of the sectors and its cooperation. For that reason definition of the sphere of activities and responsibilities is necessary.

Probably due to the oversized activities of this Sector in the past, in order to create the defence system closer to the NATO standards, there is an impression that its function is considered identical to that of the Ministry in general. Some of the suggestions were that this Sector should have an organisational and not overlapping executive function in the domain of defence policy, planning and international cooperation. Accordingly, it can be concluded that besides the fact that this Sector is estimated to be important and influential, it also faces problems of consistency in operation and expertise. The managing of this sector along with the sector on civil defence and crisis management is carried out by the State Adviser. In this case it could also be indicated that the expert level of the appointed person would influence the efficiency of action. This refers also to the state advisers who manage the other five sectors.<sup>7</sup>

The efficiency of the Ministry could be troubled as a consequence of incomplete sub-legal acts and internal regulations arising from the Law on Defence. The sphere of normative-legal aspects and its influence on the efficiency of the Ministry is already recognised. Even in this field there are informal expert proposals for Constitutional changes and amendments of the Law on Defence in favour of detailed and more appropriate regulation of civil-military relations. Experts who should support this process according to previous experience are exclusively from the domain of constitutional and

---

<sup>7</sup> The organisational structure of the Ministry can be found on the official site of the Ministry of Defence at [www.morm.gov.mk](http://www.morm.gov.mk)

legal experts. The inclusion of civil-military experts is not often practised in this procedure.

A problem that would encompass the previous ones is the lack of an appropriate planning process, programming and budgeting for all domains of functioning of the Ministry and consequently the lack of transparency in the Ministry's work. It could be concluded that the expert and sub-expert formation in different areas of the Ministry's scope of work is present but they are not appropriately positioned or/and engaged. The expert formation is a good starting point but not sufficient to support necessary and long-term reforms due to previously-mentioned problems and challenges.

### **Education and Training in the Ministry of Defence**

The need for expert education has been recognised since the independence of Macedonia itself. The Ministry of Defence is responsible for assessment of the needs and conducting the plans and programmes for education and training. It enacts the regulations related to expert qualification and advancement of the administration used in the Ministry, regulations on education, professional qualification and improvement of persons in service of the Army, organising scientific-research studies for the needs of the defence and scientific-technical cooperation with appropriate institutions. Since Macedonia became a PfP member, educational and training needs are planned within an Annual National Programme. The Planning and Review Process and Individual Partnership Programme further define in detail the requirements and priorities and methods of accomplishment. According to the understanding of the majority of interviewed experts, the process of anticipating and planning of the needs for education and training is the easier part of the problem. In fact, the most difficult part is implementation of the programmes. Although specific bilateral or multilateral programmes were agreed upon, inappropriate education or preparedness narrowed the selection of suitable candidates. In some cases appropriate candidates could not be found. Some dissatisfaction was expressed from the potential candidates that the process of selection is also disturbed by political or personal reasons.

Based on experience it could be concluded that international cooperation on education and training has not been placed on a broad basis. The Ministry, due to a number of

objective and subjective reasons, did not use efficiently and entirely the offered educational programmes. Security sector expert formation suffered significant variations because they did not rely on long-term planning and support in programme implementation. Not only the Ministry of Defence, but also other security sector actors neglected specific needs for a joint educational expert strategy. This is seen in the non-existence of a national-security strategy, inappropriately defined responsibilities of the security actors, insufficient institutional support and clear definition of the role of the security system in the complex security environment.

Within the framework of the educational system of the Republic of Macedonia, the education and training of civilian and military experts is performed through two educational institutions. The Military Academy "Gen. Mihajlo Apostolski" provides military education for all branches of the military.<sup>29</sup> The cadets educated in the Academy are to be more prepared to meet the demands and requirements for a military officer/expert according to national or NATO standards.<sup>30</sup> One of the problems representing the immediate concern of the Academy officials is unsystematic and uncoordinated enrolment, carried out on an ad hoc basis. The recent decision for a three-year pause in enrolment of new cadets according to some military experts is not based on systematic planning of the needs for supporting SSR as a long-term process. This implies that due to insufficient military education management, planning and budgeting as well as due to the lack of developmental and support policy within the Ministry of Defence, military education experienced significant difficulties.

Although the Academy is organised according to NATO standards, it is questionable how many of the programmes for education could be conducted in appropriate manner. There are political, financial, organisational, personal and other reasons contributing to this. The academy staff is comprised of military and civilian professionals but because of insufficient financial and other stimulation, the posts are not attractive for the experts from the other branches. There is insufficient professional development support for lecturers with programmes for exchange of military experts and their future professional development in similar international academic institutions. The Academy developed

---

<sup>29</sup> The aspects of the development of the military education in Macedonia is presented in Stoje Deskovski, 'Cvrsta Osnova za Odbrana' (The Strong Defence Basis), *Odbrana*, No. 74, p. 6 (2002).

<sup>30</sup> The Programme of the Military Academy 'Gen. Mihajlo Apostolski' is presented at <http://www.va.edu.mk>

significant research programmes but there is a need for broader engagement of experts and academics that will strengthen cooperation in civil-military research and education. Furthermore, the Academy has no evidence of the additional education of officers after they complete their military education. There is no transfer of education after specialisation or training has been completed.

The need for civil experts in the area of national security or defence was anticipated and supported in most academic circles. But the situation that followed independence have recognised as a first point the need for placing the Army as the foundation of the country's sovereignty and only later the necessity for a civilian Defence Minister. Civilian experts on defence were not considered of great importance for creating the defence system. As a result civilian experts were constantly educated and promoted within the civilian system of higher education but their expertise has not been recognised as necessary for transformation of the defence system, for improving civil-military relations and for the process of democratisation. The Institute for Defence and Peace Studies as a single academic institution related to defence issues has gone through several modifications and adjustments of the programme and curricula.

According to the newly-initiated programme, the Institute intends to educate civilian experts on defence and peace issues. The main objective of the programme is to prepare experts for different tasks related to civilian expertise on political, social, economic, humanitarian and other aspects of national security. The institute organises postgraduate specialist, MA and PhD studies in peace and defence. Specific topics are to be covered in groups of subjects, such as: Democratic Control of the Security Sector; the Law on Armed Conflict; Political Systems and Political Institutions; the National Security System and National Security Policy; Conflict Management and Crisis Management; European Security; European Integration and Peace and Defence Issues. The Institute is currently preparing a programme for assistance and training on civil-military issues for military officials and parliamentarians as well as for other experts interested in defence and security issues. The programme is intended to develop cooperation and training for NGOs interested in civil-military and security sector reform issues.

## **Expert Formation in the Ministry of the Interior**

After independence and especially during the period of last year's crisis, the Ministry of the Interior, like the Ministry of Defence, was an object of a public attention and criticism. It can be said that in a large part of the public opinion there is a lack of confidence. However, despite criticism concerning the work of this Ministry, the impression is that the situation (as in the other security sectors) changes slowly except for the part that requires urgent qualification and acting of police forces in a multi-ethnic environment.

On the one hand, it can be underlined that the estimation of expert preparedness is not recognised as a priority activity. On the contrary, it is considered that the personnel educated according to the curricula of the Secondary Police School and the Faculty of Security Affairs are acceptable and ready to adjust to the new requirements and challenges. On the other hand, it can be concluded that not enough attention is paid to the profile of the type of personnel that would be appropriate for the new requirements except, as mentioned above, for acting in multi-ethnic surroundings. Therefore, it can be concluded that (as in the other segments of the security sector in Macedonia), the issue of expert's assignment and preparedness within the Ministry of Interior is an important and complex matter.

One aspect of this issue is the professionalism and education and training, while another aspect is the ethnic representation and acting in a multi-ethnic environment and a third is the organisational and efficient restructuring of the Ministry of Interior. These different but not separate aspects are going on through parallel processes with the continuous attention of the domestic public and the representatives of the international community. Most of the attention is paid to the proportional engagement of people of Albanian ethnic origin in various segments of this sector, their education, training and inclusion in the professional multi-ethnic police patrols. The impression is that for part of the communities the precondition for efficient police will be achieved through meeting the criteria for proportional engagement of the ethnic communities in the composition of police forces and the confidence could be raised.

However, according to observations, one of the serious problems affecting the structure of the profile of an efficient and professional police is the selection of persons for this

profession that is mainly carried out on unprofessional grounds as in the other security sectors through a highly politicised process. As a result, there are serious consequences arising later in the process of education and training of cadets.

This problem is partially caused by the distinct changes in the process of education and preparation of regular and leading personnel for the needs of the Ministry. Three years ago, after a number of serious critical analyses, government officials closed the secondary school for education of police officers in the basic needs of the police. This only completed the elimination of the process of traditional education and promotion of police personnel, which had started previously with the closure of the Faculty of Security Studies in 1995, which educated personnel for leading positions at the Ministry. This Faculty still educates the remaining 65 students. The suspended process of education of experts for the needs of the Ministry of the Interior is not perceived as recovered on time nor was the transformation of the education system carried out without any distress and consequences. Moreover, the problems arising in the other two segments, such as: professionalisation and organisational restructuring of the sector for internal affairs, has made the situation more complex and has set up other priorities.

As a result of the accumulated and recognised problems in the functioning of the sector, in June 2001 a working group was established, composed of representatives of the Ministry of the Interior and the Ministry of Justice, in order to deal with reforms in the police. This process has been supported by the relevant committees of the EU Agency for Reconstruction. The joint working group should detect two aspects: to make an estimation of the situation and to determine the needs of the police. One of the located problems is the organisational restructuring of the Ministry of the Interior.<sup>31</sup> According to its characteristics, it is a huge and inefficient organisation and needs to be decentralised, which will establish a less costly and more efficient service.<sup>32</sup>

---

<sup>31</sup> According to the annual statistics, the Ministry of the Interior in 1992 had about 6,700 employees, in 1998 about 8,000 and in 2002 about 10,000 employees.

<sup>32</sup> Pursuant to the Framework Agreement, further consideration needs to be given to the representation of ethnic Albanians in the police and out of the current 6.6%, about 1,000 new employees of Albanian ethnic origin need to be employed by 2003. The expert service in the sector for legal and personnel affairs should make an estimate about the additional number. With this tendency, the number of employees will gradually increase, but the number of persons that retire will be smaller.

## **Support from International Organisations**

One of the international organisations deeply involved in the process of education and training is OSCE. The police officials appreciate the cooperation with OSCE instructors as most successful. The cooperation is necessary in the process of selection of potential candidates for police officers, where problems usually arise. There are cases when, despite completing a three-month training course and field-training lasting six months, a part of the candidates cannot pass the final examination. This process of education produces basic personnel for the police but according to some experts in that field, irrespective of the intensive lectures and training, it proves insufficient. The framework of the courses for education provides for various topics, but the accent refers to education on human rights, policing in a democracy, political and administrative system, constitutional framework, policing in a multi-ethnic society and other academic and tactical courses. The experts included in the realisation of the contents of the courses emphasise the extraordinary cooperation and professional engagement of the OSCE experts and certain countries involved in this process. On the other hand, a special problem is the preparation of curricula for maintaining these courses at a different level of education. This part needs the establishment of cooperation with domestic and international academic and other institutions that can offer qualitative police education.

In the context of overcoming the problems that arise in the process of education of experts for the needs of the Ministry, there is a proposal for establishment of a Police Academy that will prepare basic police personnel. The government should make an estimation and decide about the extent of the needs. According to the proposal, the education (instead of the current three-month course) should last for two semesters (nine months) followed by six months of traineeship and a state exam. Prior to the state exam, the cadets should stay an additional two weeks at an Education Centre. According to certain considerations and statements, there is a sufficient number of instructors for realising this programme.

The Law on the Police Academy, apart from the basic police course, will provide for special courses for key personnel in the police. The expert potential will be educated through courses organised for higher education with a duration of two years, with four

years specialisation in certain spheres and post-graduate studies. One of the envisaged courses is a management course for key personnel. This part requires cooperation from various academic institutions and centres for education of police personnel from different aspects. The priority would be cooperation in designing the curriculum, elaboration of methodology of education, exchange and training of teaching and expert personnel. The broadening of cooperation with other relevant institutions is also necessary for obtaining comparative experience, best practice, coordination and cooperation. For one of the possible forms of cooperation, the further qualification and education of instructors and lecturers is proposed, through exchange and cooperation with international centres. As a specific case the meaning of cooperation and coordination with the judiciary has been mentioned and in that sense the functioning and the role of the investigating magistrate. Certain experts in security matters underline that the programmes for education at the Police Academy should provide for completion of the education of these cadres.

The reforms in the organisation, education programmes and supplying of the police structure should be completed by 2006. This process should also complete the professionalisation of the police, which will also include responsibilities that have not been completely in the sphere of this sector until now. This concerns the competencies of border police, which means that the process of expert profiling should certainly be understood as complex and serious.

## **Conclusion**

From the point of this introductory analysis on expert formation it could be anticipated that enhancing democratic civil-military relations and the success of the process of SSR in Macedonia will depend on groups of factors, among them the availability and capacity of expert formation to support and draw on the process. Alongside the expressed political will for modification of the security sector according to international and professional standards and principles, it should be noted that within the process genuine identified needs for reforms should be supported. The best practices experience can really facilitate the process of detecting possible solutions and avoiding the usual spots but a universal recipe for successful reforms could not be provided.

The main objective of the introductory analysis is to bring into the view of the relevant political and academic institutions and broader public in Macedonia an issue of democratic and civilian control over the Security Sector and the need for appropriate expert formation. The analysis gives an outline of the general situation with expert fulfilment in the segments of executive and legislative branch, dealing with the security sector and overview of the role and the possibilities of the civil society to influence the processes relevant to civil-military relations and SSR, in particular the role of NGOs.

In general, the main conclusion is that there are a limited number of experts capable of professional engagement in specific segments of the security sector and that a limited number of experts is incompletely and inaccurately engaged. The main criticism is posed on the issue of assessment of the need for specific expert formation in support of a national security strategy and policy, excellence of academic and non-academic educational and training programmes, the continuous education and training of civilian and military experts on defence and security issues and experts profile.

Initial analysis of the activities of the Parliament and its Committees and Sectors concerning the issues related to defence and security shows that they are treated in an insufficient and inappropriate manner. The Parliament and its bodies, due to inappropriate and insufficient expert formation, failed to accomplish most of their functions, with reference to defence and security issues i.e. monitoring, legislative and representative functions. The evaluation of the expert formation and the preparedness of the experts for their assignments indicates an alarming situation in the structure of the Parliament. Actually, there is no single civilian expert on defence and security issues among the Parliamentary staff. Based on recognition of this, a deeper, systematic and unified analysis of expert formation and expert requirements is necessary. Further on, a survey of the new composition of the Parliament and its agencies would be necessary for identifying the needs for additional education or training through formal or informal methods. Although different level of requirements could be identified, this process should include the members of the Parliament, members of Parliamentary Delegations, members of Committees and Parliamentary staff.

It should be emphasised that short study and working visits to relevant institutions or conference and/or seminar participation is the most appropriate way to attract the

interest of the parliamentarians. In the case of parliamentary staff, specialisation and training is an appropriate model alongside the possibility for post-graduate studies. The Institute for Defence and Peace Studies in Skopje offers such possibility.

The need for civil experts in the area of national security or defence was anticipated and supported as having great importance in most academic circles. But the complex situation that followed the act of the independence has recognised as a first point the need for placing the Army as the foundation of the country's sovereignty. Civilian experts on defence were not considered of great importance for creating the defence system in Macedonia. This attitude influenced the interest and planning of the needs for civilian experts in the security sector in general and the Ministry of Defence in particular. As a result civilian experts on defence issues were constantly educated and promoted within the civilian system for higher education but they have had serious employment problems.

The problem of experts' assignment at the Ministry of the Interior can be recognised by following two elements which could refer to the possible directions for analysis. On the one hand, it was underlined that the estimation for expert preparedness is not recognised as a priority activity. On the other hand, it can be concluded that not enough attention is paid to the profile of the type of personnel that would be appropriate for the new requirements except for acting in multi-ethnic surroundings. Therefore, the issue of experts' assignment and preparedness within the Ministry of the Interior is considered extremely important and at the same time a complex matter.

One aspect of this complex matter is professionalism, education and training, another aspect is the ethnic representation and acting in a multi-ethnic environment and a third is the organisational and efficient restructuring and decentralisation of the Ministry of the Interior. The reforms in the organisation, education programmes and completing the police structure should be attained by 2006. This process should also complete the professionalisation of the police, which will also include responsibilities that have not been completely in the sphere of this sector up to now. This concerns the competencies of the border police, which means that the process of expert profiling should certainly be understood as complex and serious.

The issue of civil-military relations or security sector reform have not infiltrated successfully into the programmes of various NGOs in Macedonia. Having in mind the characteristics and immaturity of civil society in Macedonia it is doubtful that some programmes to initiate the issue of its impact on defence and security affairs will be promoted. Because of the high or in some cases full reliance on and dependence of the civil society actors on donation support, it can be expected that some international agendas it would be supported by local NGOs. International assistance would play a key role in establishment and capacity building of civil society groups for influencing defence and security affairs. Support should be given to the grassroots and not to conference management NGOs. Even more important is to support local partners in promoting the topic as well as to support the awareness that such topics will enlarge and strengthen the influence of civil society groups over the broader spectrum of society.

## **CHAPTER SEVEN**

---

### **TRANSPARENCY AND ACCOUNTABILITY**

*Zoran Ivanovski*

#### **Introduction**

The security sector generally remains the least democratically controlled and fiscally responsible policy area in many countries. The levels of security sector accountability differ widely among countries. We must emphasise that countries from the region of South East Europe have started reforms in the security sector, and issues of transparency and accountability are very current there. All countries from the region are striving to achieve a higher level of transparency and accountability as important and necessary elements for the proper functioning of their security sectors.

Access to information is a fundamental precondition for strengthening the institutions of accountability. Information needs to be available on a timely basis to relevant stakeholders within the executive, the legislature and civil society for the institutions of accountability to function effectively. Information about the security sector is among the most tightly held information in all societies, but often much of what is secret can be revealed without negative consequence for state or personal security.

Decision-making on the security sectors is dominated by elites, particularly military elites, because of unequal power and knowledge relations. In strengthening the institutions of accountability it is important to give high priority to strengthening the capacity of civilians to manage and monitor the security sector, especially parliamentary committees. A higher level of transparency in and broader knowledge of security matters are key elements for improving the procedures for making crucial decisions over the size and structure of security sectors.

In many of the new democracies, political power gravitates to the executive. This means that legislatures frequently do not receive the information they need to participate fully in decision-making on security issues. However, information does not necessarily flow freely throughout the executive. Decision on security policy and resourcing are frequently taken by a very few individuals, and key stakeholders in the ministry of finance, the office of the auditor general and even the Defence or Interior ministries may not participate in the decision-making process, or may find that decisions they make are circumvented. Civil society is routinely kept in the dark about security matters. However, knowledgeable members of civil society can provide important input into the policy-making process, and decisions that involve adequate consultation will produce a better understanding of security policies and greater clarity on the rationale for the level of resources devoted to them among the population as a whole.

## **Constitutional and Legal Provisions**

The political responsibilities of Macedonia's Parliament, government, and President concerning security and defence are established by the Constitution and set out in detail by the Defence Law. Constitutionally, the Parliament (the Assembly) of the Republic of Macedonia is the main rule-making body. In addition to its legislative function, it can amend the Constitution and it elects the government. The President, who is chosen through direct elections, is the Head of State and indirectly involved in rule-making procedures. The basis of transparency and accountability is provided by the Constitution.

According to Article 75 of the Constitution, laws are made valid by promulgation. The President of the Republic and the President (Chair) of the Parliament sign the promulgation. The President of the Republic may decide not to sign the promulgation declaring a law, but he is obliged to do so if the law has been adopted by a two-thirds majority vote of the total number of representatives.

Article 72 gives the right of interpellation to the Members of the Parliament. An interpellation may be made concerning the work of any public office-holder, the government, and any of its members individually, as well as on matters concerning the performance of state bodies. Interpellations may be made by a minimum of five

Members. All Members have the right to ask Ministers questions. The procedure for submitting and debating an interpellation and Representatives' questions are regulated by Rules of Procedure.

Article 72 states that the Parliament elects the Public Attorney. The Public Attorney protects the constitutional and legal rights of the citizens if they are violated by bodies of state administration or by other bodies and organisations with public mandates. The Public Attorney is elected for a term of eight years, with the right to reelection once. The law regulates the conditions for the election and dismissal, the sphere of competence and the mode of work of the Public Attorney. There is also an Audit Office, which deals with the accurate accounting of government expenditure.

The main objects of accountability are the Defence Ministry and the Interior Ministry, but the focus of accountability must also be on other Ministries and government agencies (Intelligence, Customs, etc).

The implementation of democratic administration in former communist countries has changed the composition of agents to whom highly-positioned administrators should be accountable. The citizens are gradually transformed into the main actors, as they are in well-established civil society, because they as taxpayers should receive appropriate social services. The Western liberal democracies traditionally practice certain mechanisms for the implementation of transparency and accountability of the security sector like:

- Internal formal mechanisms, including legislative instruments (legislative commissions and parliamentary questions), executive instruments (governmental control of public agencies) and juridical instruments and process;
- External informal means, like public debates, questioners etc.;
- Internal informal mechanisms, including official rules, codices and procedures, etc;
- Internal informal means like organisational culture, professional ethics, and other issues.

## **The Executive Power**

Macedonia's Defence Law establishes the specific responsibilities of the President, the government, and the Defence Ministry in regard to the Parliament and also in the area of transparency and accountability. In Chapter III of the Law, "Authorities of Agencies of State Power", Article 16 states that the management of defence is accomplished in accordance with the Constitution of the Republic of Macedonia and other laws. It is the responsibility of the Parliament of the Republic of Macedonia, the President of the Republic, and the Minister of Defence.

All of these decisions, directly or indirectly, have a bearing on defence expenditure and therefore on transparency and accountability. The government submits reports on defence documents at the request of the Parliament on a two-year basis. In order to familiarise themselves with the activities of the Armed Forces, Members of the Parliament may request visits to the units, command posts, and headquarters under the authority of the Defence Ministry.

The President of the Republic of Macedonia is the Supreme Commander of the Armed Forces and, according to Article 18 of the Law on Defence, in exercising the powers of his office, approves the Defence Strategy of the Republic; approves documents for developing the armed forces; and, for the purpose of assuring the proper functioning in the area of defence, approves supplementary legal documents.

Articles 84 and 86 establish the Security Council of the Republic of Macedonia. The President presides over the Security Council. Its other members are the Chair of the Parliament (the President of the Assembly), the Prime Minister, the ministers heading the respective bodies in the government in the fields of security, defence, and foreign affairs, and three members appointed by the President of the Republic. The Council considers matters in the areas of security and defence of the Republic of Macedonia and presents policy proposals to the Cabinet and the Parliament.

The Defence Ministry, according to Article 20 of the Defence Law, plans the needs of defence and creates financial plans and programmes for defence needs, allocates funds in accordance with the approved budget, performs control over the expenditure of funds

allocated for defence services; plans international cooperation in defence matters; and organises the visits of Parliamentary Members to facilities under the authority of the Defence Ministry and the Armed forces. In a state of war, the Defence Ministry carries out command and other activities for the President of the Republic.

The Defence Law states in Article 145 that funds for the agencies for defence needs are provided from the state budget. Funds may be provided from other sources in accordance with existing laws. Commercial companies, public institutions, and services of special importance for defence can provide funds for defence needs from their own sources as well as the funds of the Republic.

The Parliament of the Republic, according to Article 147, decides on the size of the defence budget. The Defence Ministry allocates the approved funds in programmes and sub-programmes and controls their expenditure. The Defence Ministry informs the government and the Parliament on the manner of expenditure of the funds.

### **The Parliament: Guidance and Accountability**

The Parliament of the Republic of Macedonia has been given considerable powers by the Constitution. The Parliament can be dissolved only through its own decision and otherwise serves a full term, and the Constitution does not provide for the recall of individual Members. The Parliament adopts the most important political decisions and in theory has considerable powers in the sphere of accountability. For example, the Parliament can impeach the President for non-compliance with the Constitution.

Article 17 of the Defence Law states that the Parliament accomplishes the following: it performs supervision and realisation of the authorities of the government in defence affairs; decides on the extent of funds necessary for defence; approves the wartime budget of the Republic; decides on joining or resigning from collective security and defence systems; ratifies international agreements which pertain to the entering, transit or presence of armed forces of foreign states on the territory of the Republic for exercises or training activities; and participation in peacekeeping and humanitarian activities as well as participation of the Armed Forces of the Republic of Macedonia in similar activities abroad.

From an administrative point of view, transparency is a basic means for civil control and accountability of public sectors. The basic responsibility of governments in countries with liberal democracies is to protect the interests of society, and to inform their own citizens about their decisions. The government must be transparent in defence spending, or in defence economics policy, which means that all relevant documents and other information held by the government, the Defence Ministry and other agencies, should be available for their own citizens, which in fact represents one type of public control of governments.

That is in fact, the main task of reform of the public administration in democratic societies to improve the accountability of administration. On the other side, we can define the level of accountability as real criteria for evaluation of the development of civil society in each country. This is a measurement of reality or illusion of transformation into a civil society. Transparency is one important indicator of accountability. Another element is government sensitivity to public criticism and readiness to make corrections in current policy. Limited means of transparency indicates that the government has no interest or readiness to take into consideration the public attitude and to give up centralised decision-making. This is a typical authoritarian policy, and is different from demagogic, which informs and has a dialogue with the public but does not accept the necessary corrections.

There are three important indicators of accountability in the context of transparency:

- Standards of accountability and transparency;
- Agents of accountability and transparency;
- Means of accountability and transparency.

All of these indicators have a relevant influence on transparency and accountability in the security sector.

The basic mechanisms of accountability are parliamentary debates and questions, as well as regularly published publications with information about the government's decisions. Parliaments are the central element of systems that impose civil control over

security forces, make decisions about the size, structure, roles and missions, and budgets of these forces, and process the laws that regulate security force behaviour.

For legislative bodies to perform these functions effectively, they require first and foremost that a wide range of information on the conduct and behaviour of the security forces be at their disposal. Subsidiary bodies, such as committees on defence, intelligence and the police, need to receive information on a regular basis from the security forces. In some cases it makes sense to form special committees with specific rights and obligations, for instance to investigate specific matters, such as troubled procurement decisions, or for the oversight of particularly secretive parts of the security sector, such as the intelligence services.

Macedonia's Constitution specifies that meetings of the Parliament are open to the public. The Parliament may decide to work in a closed session, by a total of a two-thirds majority vote of the total number of Representatives. Despite the Constitutional provision that the Parliament should conduct its deliberations openly, there is not much public interest in its proceedings. Legal provisions also make the work of the Parliament open to the media. Transparency in the area of parliamentary procedure has not been an important concern to Macedonia's society, because, as in other transitional countries, citizens do not express opinions on how government institutions conduct their deliberations but pay attention to the results.

Macedonia's law requires that all draft legislation be made publicly known through the official publication *Sluben Vesnik (Parliamentary Gazette)*. Through this provision, the media, non-governmental organisations, and society at large are given advance notice of pending legislation.

The Defence Ministry, according to the Defence Law, has to provide a plan for funds required for defence needs. The financial plan has to show the necessary funding by programmes, sub-programmes, purposes, tasks, and implementation for carrying out the missions of units, commands, and institutions of the Armed Forces, Civil Protection Forces, and other Activities of the Defence Ministry. The manner and procedures for developing the plan are determined by a List of Regulations approved by the Minister of Defence.

In fact one of the crucial documents that can improve the implementation of transparency and accountability in the security sector is the White Book on defence, published by the Defence Ministry. Development of such a practice has crucial importance for accountability and civil control of defence. More than 40 governments in the world have published white books or white papers on defence, or similar documents outlining longer-term objectives, strategies and planning for the armed forces, over the last five years. It is useful from a security point of view to publish such a documents on a regular basis.

The Defence Ministry made public the Defence Strategy, the Defence White Paper, and documents concerning the development of the armed forces and policy and programmes concerning NATO. The Defence White Paper was published in 1998 and gave information on defence policy, planning, the organisation and mission of the armed forces, and budget and finances. However, no other White Papers have been published since 1998.

The government is politically accountable before the Parliament, both collectively and individually. Collective accountability is exercised by a means of a vote of no confidence in the government. Individual accountability is given by the power of the Parliament to remove individual Ministers under conditions specified in the Constitution. The government and individual Ministers have to answer interpellations, questions from Members, and provide documents and information, as provided by law.

The Parliament establishes permanent and temporary working bodies, as provided by Article 76 of the Constitution. The Parliament may set up oversight Commissions for any domain or any matter of public interest. A proposal to establish such a Commission can be submitted by a minimum of 20 Representatives. The Parliament has a permanent Oversight Commission for the protection of the rights and freedoms of citizens. The findings of Oversight Commissions form the basis for initiating proceedings to ascertain the responsibility of public office-holders.

For defence and security affairs, the Parliament has the Internal Policy and Defence Commission, recently renamed the Defence and Security Commission. The Defence

and Security Commission has nine members and it also has three expert members to support it in its work. For issues related to integration in international organisations, the Euro-Atlantic Integration Commission was established. Given the divided responsibilities of the Commissions, defence and security issues are addressed through two aspects. One covers the sphere of defence and security of the state and its legal dimensions while the other covers international aspects through Euro-Atlantic integration. The Budget Commission also deals with security and defence matters.

It was expected that the Parliamentary Commissions (Committees) would develop a capability for analysis and present their findings, as substantive results, to the Parliament for its deliberations. However, there is a lack of experience in Macedonia's Parliament and the time allotted for the Committee process is short. The parliamentary staff is small and it has limited experience. Western support, however, has been provided for information technology to help the development of Parliamentary information and staff work.

Macedonia's political parties in the Parliament are still in the process of developing organisational structures and democratic decision-making processes. The Foreign Relations Committee in the second Parliament demonstrated an understanding of the function of a Committee. It requested the strengthening of authority in foreign policy decision-making. The Committee acted on the assumption that, as a working body of the Parliament, its purpose was not to approve the government's policy, but to participate in the making of policy, based upon its knowledge and abilities. However, the view shown by the Foreign Relations Committee, although an important one, was only an exception to a general rule of party majorities in Committees approving government policy.

## **Budget and Expenditure**

All expenditures on the different security forces, their personnel, operations and equipment should be included in their budgets. These budgets should also show how these expenditures are financed, particularly how much public money is allocated to meet security-related expenditure. Secrecy and lack of transparency of security budgets, particularly the military and intelligence budgets, are often justified on the basis of national security. Governments may not want to reveal the exact size of their armed

forces, which military technologies they are funding and what types of weapons they are buying. But, in today's world of international communication flows, much is already known about the military forces of all nations, including their numbers and weaponry. Transparency of defence expenditure is useful not only for the domestic public but also from the standpoint of regional confidence-building measures.

Macedonia's Defence Law provides for a system of planning, programming, and budgeting for defence. The system is meant to provide a systematic and rational development of the defence needs of the Republic. The Defence Ministry is responsible for organising and implementing the system for planning, programming, and budgeting for defence. Planning is accomplished in time frames of development planning, operational planning and current planning. It is a continuous process, long-term, medium-term and short-term. Planning produces basic and special plans, programmes, sub-programmes, activities, and necessary resources for their realisation. The number, type, content, designation, and the method of developing and implementing plans are determined by the Defence Minister.

### **Transparency: Information Provided to Society and the Media**

We should also underline the role of the media as a very important segment of civil society. The media often play an important role in communication between government and civil society, and should encourage public debate. The media are often in a better position to expose the undemocratic practice of government structures than others, and they can give a strong impulse to the development of civil society.

Although NGOs, the media and other institutions play an important role in civil society, transition countries have limited numbers of individuals and organisations informed and capable of performing monitoring functions. This is the result of the communist legacy or the legacy of poverty. But, even when countries have a relatively developed civil society and an active media, expertise on security sector issues is almost always inadequate. That means that journalists and other types of "security experts" need some training and education in order to be able to follow security processes and developments.

The growth of regional and international networks of NGOs during the 1990s has helped to strengthen the capacity of NGOs in developing and transition countries. With quality knowledge of security issues, civil society can monitor the security sector and influence the choices and decisions made by governments. Civil society can also make proposals for the better functioning of the security sector and act as a resource for security in a number of ways. Most fundamentally, it can provide a pool of knowledgeable individuals to fill government positions in the relevant agencies. It can provide specialised skills, which are particularly important in enhancing the level of accountability in the security sector

The *Word of the Army* is the newspaper of the Army of the Republic of Macedonia. It is published as a monthly supplement to the newspaper *Večer*, which is the newspaper with the largest circulation in Macedonia. Through a correspondent network, it presents news, analysis and reports. The *Word of the Army* informs the public about defence, with special attention to recent developments, international cooperation, combat training, military education, health care, culture, and sport. *Defence* is an illustrated monthly magazine, which publishes articles and photos about the armed forces. The authors of the articles are well-known Macedonian specialists and writers on defence affairs.

One positive step towards transparency is the creation of government web-sites, where citizens can have access to all relevant information. In fact, one solution for improvement of transparency and accountability is the development of a national information system, as a strategic resource for communication between government and citizens. Such a communication could help government to become more competitive, safer, faster, more economical, precise and adaptable and to provide better services to its citizens. But such a system needs new leadership, based on better organisation of strategic information resources, available for all potential users. A national information system should be developed permanently in order to increase its capacity, to create a sense of obligation for information security between ministries and state agencies, to develop leadership and accountability as well as responsibility, which finally has an impact on the political and economic stability of the country.

The Defence Ministry has a website, which disseminates information electronically, in Macedonian and in English. In the section for the Defence Ministry, it provides

information about the structure and work of the Ministry, NATO and PfP activities, basic fact sheets, and the full texts of important documents and publications, such as the Defence Law, the Defence White Paper and Macedonia's Defence Strategy.

There is also a section for the Army of the Republic of Macedonia, with information and activities of the Chief of Staff, the Armed Forces, NATO and PfP, and related issues. The website has an updated section, in Macedonian and English, on news, events, speeches, publications and press articles. Among other items, it presents interviews given by the Defence Minister and the Chief of Staff on defence policy and problems given to various Macedonian and foreign publications.

### **International and Regional Transparency**

It is important to emphasise the position and role of the international environment in the process of development of transparency and accountability of the security sector. The international community can influence accountability in the security sector of other countries in two ways. First, it can work with local stakeholders in both the public sector and civil society to strengthen the institutions of accountability in these countries. Second, they can conduct their own affairs in a manner that strengthens accountability in other countries, either by providing a model or by avoiding actions that undermine accountability elsewhere.

There are a great number of international documents and agreements about transparency and accountability in the security sphere, which contain standards and criteria that governments should meet in order to be accountable before their citizens. We can emphasise UN Resolutions (Register of Conventional Weapons), the OSCE document of 1999 – Measures for Confidence in Security Matters (transparency of a wide framework of information including armed forces, basic weapons and systems, defence planning, etc), NATO standards and publications, Initiatives of the Stability Pact for transparency of planning and budgeting in SEE, etc.

The international community has funded different training programmes in their own countries and abroad that strengthen the capacity of civilians to oversee the security sector and to implement transparency and accountability in the security sector. In fact,

transparency, civil oversight and enforcement are important elements to improve accountability in security sectors. Civilian oversight needs to be exercised on a variety of levels, including budgets, longer term planning, top personnel of the security forces as well their concrete actions and behaviour. Oversight needs to be instituted and practised. Enforcement needs to be strong enough to uphold both norms and institutions of accountability.

Accountability in the security sector requires a commitment on the part of a country's leadership. Willingness for accountability is willingness for a democratic state. Leadership in the reform of the security sectors is the best test of willingness for overall accountability.

The quality of leadership is one of the most critical factors for transparency and accountability of security sector and it is important at several levels. Corruption is now widely recognised as a major problem and there are numerous examples of countries where the head of state or government has been deeply involved in corruption activities. The leadership of less senior politicians and bureaucrats is also necessary for the creation of effective institutions and a security sector in accordance with democratic principles. All countries from the region should in both the development and the security arenas undertake appropriate activities in support of the principles of accountability. As already mentioned, fiscal responsibility is a crucial question. Strengthening civil society and the ability and capacity of civilians to oversee the security sector is key element.

Policy-makers in the region need to have a broad understanding of security sector governance. There should be a permanent communication between security actors from different countries. Their actions should be transparent, and they should make efforts to coordinate their policies and programmes in order to achieve regional stability.

The Partnership for Peace (PfP) provides with its organisation and working bodies an inclusive system of confidence-building, increased mutual understanding, consultation, communications, and information exchange. It functions to provide transparency in security and defence affairs. Macedonia provides information on its defence and security to PfP, for PARP and IPP. The information is also used to prepare joint tasks and peace

support missions. The PfP and EAPC are significant security bodies, which provide transparency in security and defence, gathering and disseminating information.

Macedonia participates in the NATO Membership Action Plan (MAP) and submits Annual National defence development plans that cover the full range of activities for NATO membership. Typically, these plans include not only military measures designed to create force improvements, but defence resource management and economic policy. In addition, Macedonia's Plan outlines the political steps taken, ranging from civilian control of the military to the settling of border disputes and ethnic or territorial conflicts.

Meetings between the Alliance and Macedonia are held to make assessments of defence reforms and modernisation efforts and to provide Macedonia with direct and candid feedback as well as political and technical guidance. NATO provides defence planning tools to improve interoperability with NATO forces. The Alliance also provides security assistance and exchange of information.

## **Security Sector Reform and Civil Society**

Civil society in Macedonia is crucial for transparency and accountability. Civil society has three critical roles to play in increasing the accountability of the security sector: demanding change, monitoring functions and providing technical input. In its monitoring functions, civil society actors can engage the government on topics such as defence policy, defence expenditure, acquisitions, doctrine, etc. Independent analyses made by civil society (NGOs, institutes, etc) are not only a challenge for the government, but should represent the base for public debate about the most important security questions and provide useful input into the decision-making process. The civil sector can fulfill these functions at all levels (local, regional, national and international).

Important information can be kept out of the public domain, especially in countries like Macedonia where civil society is not well established. The security sector has a strong need for secrecy, because some part of military planning and activity can be compromised if it becomes publicly available, which justifies a certain degree of confidentiality in some areas. In such a situation, civil society cannot make its contribution to democratic control of security sector and its proper functioning. However,

civil society organisations are playing a major role in shaping the reform of the security sector.

Macedonia's Defence Ministry provides information to NATO, to the Parliament, and to society. Because of international institutions, details on defence planning and development are also available to society. The issue of transparency and accountability is an important matter for Defence Minister Vlado Buckovski. Defence Ministry experts are working on a continuing reform of Macedonia's Armed Forces and the Annual National Plan for the NATO Membership Action Plan. The MAP includes much information on the Armed Forces. Defence Minister Buckovski has emphasised that all of this planning should be made widely known to Macedonia's society.

"Process 2002" on security in Macedonia was inaugurated early in the year by President Boris Trajkovski, to discuss the security situation of the Republic before the Prague Summit. The objective of "Process 2002" was to bring together the relevant national and international governmental and non-governmental authorities, to discuss security reform issues, and to publicly assess the goals of Macedonia's security efforts. "Process 2002" would address the reform of the armed forces, organisation of police, border protection, crisis management, organised crime and cross-border smuggling, the defence capabilities of the state, and integration into Euro-Atlantic security structures.

It was particularly important to engage government and non-government experts in "Process 2002" in the discussions on Macedonia's security. The Process provided a neutral, high-level forum for policy-oriented exchanges between experts and practitioners from varied backgrounds. Among them were the President, representatives from the resident's Cabinet, the government, the Parliament, the Armed Forces, political parties, local governments, religious organisations, business representatives, the Macedonian Academy of Arts and Sciences, Universities, the press, radio and television.

Also invited were representatives of international organisations, governments and Parliaments of foreign countries, diplomatic missions at Skopje, and international research organisations and think-tanks. The open and informal character of the Process enabled a broader participation of the society as a whole in the discussions and an exchange of ideas.

## **Transparency, NATO Membership, and Regional Stability**

After the Prague Summit, Macedonia's newly-elected government emphasised the need for continuing security sector reform and regional cooperation, aimed at NATO membership. Defence Minister Buckovski placed these efforts in a framework of transparency and an enhanced engagement of society as a whole in relations between the government and the Parliament. Defence Minister Buckovski stated that he and other members of Macedonia's delegation at the Prague Summit had been encouraged by NATO views toward Macedonia's future membership. He believed Macedonia would receive an invitation in 2006 to begin accession talks.

Two Macedonian proposals were presented at the Prague Summit. Both dealt with Macedonia's security sector reform, its regional requirements, and involved transparency. The first was an initiative by President Trajkovski on collaboration among Macedonia, Albania and Croatia on a range of security sector reform issues, which was presented as a joint statement of the Presidents of the three countries. The second initiative was made by Defence Minister Buckovski, requesting the assistance of Greece and Turkey, to assist Macedonia's progress toward NATO, as these two countries had helped Bulgaria and Romania.

Macedonia's security sector reform would be carried out in order to foster regional stability and future NATO membership. Macedonia's Defence Ministry thought that society was not informed sufficiently about the Membership Action Plan. Therefore, the Defence Ministry would present the Annual Membership Programme to the Parliament, and the content of the Annual Programme would be available to the public. Security sector reform undertakings, initiated by the government, had to receive support from the public.

Regionally, Macedonia's security sector reform would be openly developed, known to and in collaboration with other NATO candidates, like Albania and Croatia. A difficult part of the defence and security reform would be that it involved considerable expenditure. In order to carry out reform successfully, Macedonia's policy-makers needed public support.

The Macedonian media could discuss the experiences of other countries that had been invited to begin accession talks with NATO concerning their defence and security sector reform. It had not been an easy task; Bulgaria, for example, had reduced the size of its armed forces from 100,000 to 50,000, and similar reform and reduction would take place in Macedonia.

## **Conclusion**

We can conclude that there is no unique standard, rule or model of control, accountability and transparency of defence planning and budgeting. Every country, Macedonia included, is free to develop its own approach and way of governing and control of that process. Their practical application depends on the level of democratisation of the country as well as on the political objectives of the current government. Differences between countries can be explained as a result of different ways of distribution of authorisation between legislative, judicial and executive government. When government is not well balanced, it results in limited democratic control, a low level of accountability and transparency. A non-transparent and unaccountable security sector is particularly vulnerable to corruption. Corruption frequently runs down from the highest decision-making level to the individual soldier or policeman who augments his meagre salary by accepting bribes. Transparency and accountability are prime measures against corruption, accompanied by better pay and more income security. Widespread corruption and excessive bureaucracy in fact means limited and unstable democracy.

Transparency depends on the level of transformation from traditional nation state to modern civil society. Transparency enables proper accountability and democratisation of society. We can say that if accountability of defence resource management is the “heart” of democratic control of the security sector, transparency is its “pulse”. A clear and non-contradictory distribution of roles and responsibilities between parliament, government, the juridical system and citizens in the decision-making process and control of defence spending, budget planning, etc are typical characteristics of stable mature democracies.

Good symptoms of transparency and accountability are parliamentary approval of large acquisitions and logistics' programmes, budget composition and long-term strategic defence planning. Another step should be harmonisation of national legislation with EU and NATO members countries' legislation, in order to become part of the family of developed democratic countries as well as to get responsible and accountable government which will exchange information with its own citizens.

## **CHAPTER EIGHT**

---

### **CIVIL SOCIETY**

*Radica Gareva and Lidija Georgieva*

#### **Introduction**

The notion of “civil society” is a characteristic of contemporary Western democratic societies, which is taking root in the former socialist countries, Macedonia among them. The first requirement for a democratic society is the existence of non-governmental organisations, which are not under government control or surveillance, and which can bring issues important to society to public attention, encourage public discussion, and have society’s concerns recognised by policy-makers in the government and the Parliament in order to influence decision-making. Non-governmental organisations, or NGOs, sometimes also called civil society organisations or CSOs, are effective mechanisms through which citizens identify their interests, negotiate conflicts, and influence policy-making. The emergence, spread, and depth of civil society can be discerned, and to some extent measured, by a proliferation of non-governmental organisations.

The second and equally important requirement for a functioning civil society is a free and responsible media. The general measures used by Western observers of media freedom in transitional countries like Macedonia are the constitutional and legal protection for the media; the condition that all (or a considerable part) of the media have been privatised and are no longer under state control or influence; that there is no censorship, legally or quasi-legally implemented; that the distribution of periodicals and newspapers is no longer in the hands of a government agency; that there are no restrictive laws on the disclosure of government documents or excessive classification of secret and confidential documents; and that there are no other restrictions, open or covert, on media freedom, such as penalties for vaguely-defined “irresponsible journalism”. The representatives of the print and electronic media have to observe the standards of

professional journalism, of accuracy in reporting, and ethics in editorial comment in performing their duties. They also have to devote time and space in their broadcasts and publications to “issues important to society”, for example, pertinent to defence, national security, and security sector reform.

## **Constitution and Law**

In Macedonia, as in the other new democracies, the governments have had to provide the requisite conditions for the emergence of a civil society and safeguarding of the freedom of the media through constitutional provisions and appropriate, adequate laws. In Western countries, civil society emerged over the course of many years, and the Constitutional and legal framework was established and adjusted over many decades. Macedonia has had to make the change from an authoritarian system to a democratic political system which recognises a civil society in a very short time. The adjustment of the government to an organised non-governmental sector is still under way, and the non-governmental sector is in its first stages.

Article 20 of the Constitution states that Macedonia's citizens are guaranteed freedom of association to exercise and protect their political, economic, social, cultural and other rights and convictions; they may freely establish associations of citizens and political parties, join them or resign from them. The programmes and activities of political parties and other associations of citizens may not be directed at the violent overthrow of the constitutional political system established by the Constitution, or at encouragement or incitement to military aggression or ethnic, racial or religious hatred or intolerance. Article 21 states that citizens have the right to assemble peacefully and to express public protest without prior announcement or specific permission. The exercise of these rights may be restricted only during a state of emergency or war.

There is also a Law on Associations of Citizens and Foundations, on the specifics of their activities, and legislation on taxation, which affects the work of the NGOs. By law, they are required to report income and expenses. They have not been granted preferential treatment or exemptions under the existing legislation, although they have been granted some limited concessions. However, according to Western observers,

Macedonia's government has respected the rights of freedom of association and assembly in practice.

### **The Emergence of NGOs in Macedonia**

The exact number of all varieties of non-governmental organisations in Macedonia is not known precisely and there are various estimates. The Basic Court, which registers and keeps records on NGOs, has reported that there are 2,600 of these organisations, other sources indicate that there are more than 3,000. However there could be as few as some 300 effective, viable, well-established organisations in the country, and others are short-lived or ephemeral. In the NGO community, the number and size of organisation changes with the availability of resources, and a considerable share of resources is provided by foreign institutions, some of them large, international NGOs.

Although a number of Macedonian NGOs have a paid staff, they are usually engaged to carry out a specific project. Thus the number of persons working in a NGO can increase or decrease. Many NGOs depend on the energy and engagement of a given individual, and an organisation's activities can expand, constrict, or terminate according to the presence or absence of this individual. Nonetheless, Western observers say that NGOs can be found in all of Macedonia, mostly in the form of small establishments that are addressing community needs.

Advocacy and lobbying activities, the characteristic aims of many Western NGOs, are still somewhat novel to Macedonia's society. However, the emerging NGO sector is beginning to build a constituency for NGO activities. NGOs do not have well-developed strategic planning, management, staffing and technical resources. To attain progress in these areas, they require experience and funds, and there is a shortage of both. Due to an inappropriate organisational base and shortcomings in organisational and programme development, the effectiveness of the NGOs is undermined. According to some observations, most of the efforts are directed towards advertising the programmes and sponsoring donors, rather than to education and training. The favorites among the selected topics are human rights and conflict resolution.

The economic viability of Macedonian NGOs is not promising. In Western societies, non-governmental organisations depend for their resources, in terms of money and support, from healthy economies, affluent societies and governments. Macedonia's society is impoverished and its economy has been dangerously undermined by eternal crises. In 1999, the Kosovo war caused a loss to the economy of some 1.5 billion dollars, perhaps more. In an impoverished society, where there are few if any wealthy donors, NGOs can be established with difficulty and their growth is delayed. In Western societies, many NGOs which are engaged in foreign, defence and security policies get most of their income from the governments, although they function autonomously. This situation does not exist in the transitional countries, or is limited. At present, the inability of Macedonia's economy and society to afford and provide for NGOs is a major difficulty. According to the Freedom House *Nations in Transit* Report for 2001, without international support many Macedonian NGOs might have to terminate their operations.

An important feature in Macedonia's society is the development of non-governmental or civil society organisations and the media along ethnic lines. Fundamentally, this division does not arise from ethnic hostility or conflict, although in crisis situations, ethnic hostility can become a factor in the relations between various ethnic groups. Albanians are the largest minority with some 22 per cent of the population, and there is also a Turkish minority of some four per cent, Roma of three per cent; and Serb of two per cent. The Albanians are set apart not only by their number, but religion and language. There is also the fact that there is an independent Albania west of Macedonia, and Kosovo, largely inhabited by Albanians, a territory with an uncertain political future, temporarily under the military control of NATO forces.

Such a situation can, and to a certain extent has, divided society, and thereby an emerging civil society, along ethnic lines. Differences caused by ethnic and religious identities, coupled with the proximity of a state inhabited and governed by an ethnic group, are complex and challenging. A salient example has been the case of Northern Ireland, the United Kingdom, and the Irish, a situation of many decades of violence, which has not been entirely resolved. Although there are some similarities found in Macedonia, and ethnic and religious differentiation will not be overcome easily, nonetheless, Macedonia's society seems to be moving away from violence and the use of force.

## **Public Policy Institutes and Security Sector Reform**

There are many issues in which Macedonia's NGOs are engaged, minority rights, women's rights, community concerns and ecology. Some of these matters are relevant to security, others are more distant although, taken together, they indicate the extent to which NGOs can register their presence as far as policy-makers are concerned. In the case of security sector reform in Macedonia, there is one particular kind of an organisation, the public policy institute, which is of primary interest. The organisation of this type is concerned with foreign, defence, security, political and economic affairs. The public policy institute, a specialised non-governmental organisation, is another Western development, which has been prominent in security affairs. Policy-makers and politicians often rely on the work of these organisations. Governments do not control them, although governments sometimes subsidise them, or commission special research projects. Nonetheless, these organisations maintain their autonomy.

Some public policy institutes, with defence and security experts, work in Macedonia. They are small but they provide nuclei of expertise, a small core of autonomous organisations, partly supported with governmental resources. The University of St Cyril and Methodius has specialised institutes. Among them are the Institute for Defence and Peace Studies and an Institute for Sociological, Political and Juridical Studies. There is a Centre for Strategic Research at Macedonia's Academy of Arts and Sciences. There is a National Democratic Forum, supported by the US National Democratic Institute and an Institute for Democracy, Solidarity, and Civil Society. There is an Institute for Defence at the Military Academy, a Foundation for Strategic Researches "Kiro Gligorov" and an Education and Training Centre "Dr Joseph Kruzel", for personnel who will be engaged in Macedonia's economic and political development. The government defence institutes participate in the international Partnership for Peace Consortium of Defence Academies and Strategic Studies Institutes, which has non-governmental and governmental organisations as partners and participants.

The public policy and governmental research institutions have developed working relations with similar institutions in the West. Their members are invited to workshops, seminars and conferences. They publish papers and sometimes work at Western

research institutes and study centres. For this reason, the small Macedonian community of public policy institutes is known to Western organisations, and is engaged by them for organising and implementing various projects. They participate in, and help organise, Western-sponsored studies and meetings on security sector reform issues, where Macedonia's policy-makers also participate. They are establishing working relations with similar organisations in neighbouring countries and they form local clusters of competence.

### **International Organisations in Macedonia**

A large number of international organisations and international non-governmental organisations are present in Macedonia. Some of them transferred their operations to Skopje when they fled or were driven out of Kosovo in 1999 and sought refuge. Others entered and began their activities during the 2001 crisis. According to the US State Department *Country Reports on Human Rights Practices in 2001*, in the case of Macedonia, the international organisations have been able to pursue their activities without any interference or restriction upon their activities from the Macedonian government. The Kosovo War enlarged their presence because, as the international organisations transferred their activities, they expanded or replaced their staff which could not be relocated to Macedonia.

In fact, the role and influence of various international organisations and developing agencies concerned with civil society was a considerable one during the 1990s. The World Bank established a Macedonian Non-Governmental Organisation and Civil Society Organisation Programme in 1995, interested in outreach to the NGO community and establishing partnerships with it. In areas where there were no Macedonian NGOs, the World Bank attempted to facilitate their emergence. The Soros Foundation and the Macedonian Centre for International Cooperation have established NGO resource centres, which are concerned with legal and regulatory issues. The Soros Open Society Institute – Macedonia (FOSIM) has a project promoting the institutional development of NGOs, which also is supported by the Swiss Agency for Development and Cooperation.

The United States Agency for International Development (USAID) has two major objectives in Macedonia in its "democratic transition sector". One aims at civil

participation in political and economic decision-making and the other at strengthening the ability of local governments to be more effective, responsible and accountable. USAID also supports the development of democratic institutions through which citizens can participate in decision-making, such as the Parliament, political parties and civil society organisations.

(Building representative organisations through which the interests of different ethnic groups can be discussed in an open and constructive manner and through which conflicts can be negotiated is critical to forging the basis for positive interethnic relations and cooperation among its citizens.)

For developing the work of the Parliament, the American National Democratic Institute for International Affairs (NDI), which carries out projects commissioned by USAID, has worked to increase the capacity of Macedonia's Members of Parliament to play a more substantive role in their legislative and oversight functions and to reach out to the electorate. NDI initiated an internship programme, engaging a politically and ethnically diverse group of some 50 students to serve as legislative assistants to Members of the Parliament. NDI has provided information technology to support the Parliament to upgrade research facilities through computerisation.

### **The Impact of International Organisations**

The situation in Macedonia is that the considerable influence of international organisations has fostered an expansion of the number of NGOs and people employed in them, but it has not necessarily assisted in consolidating a civil society. In Macedonia, as in other new democracies, international governmental agencies and NGOs have attempted, according to *Nations in Transit*, to jump-start democratisation, acting as donors and supporters, giving assistance and distributing funds in order to establish local NGOs. However, in Macedonia the fledgling NGO sector receives assistance which provides employment opportunities for individuals who have, or can develop skills, which the donors need to utilise. Rather than promoting social cohesion around common causes, the NGOs establish a relationship with powerful external supporters who have small local clients.

If we compare this situation with the role of the international NGOs in Macedonia the international NGOs are deeply involved in the process donation provider-recipient and have a patronising attitude towards local NGOs. They do not provide a monitoring or reactive role within its programmes as well. The relationship between local and international NGOs besides the donor-recipient relationship is burdened with divergent views and aims. If the former consider themselves as local experts with an appropriate understanding of local specifics the latter consider themselves as having sufficient international experience to overcome or solve the problem. During the 2001 crisis, NGOs with programmes for conflict resolution were transferred into humanitarian assistance programmes and later on into reconstruction programmes.

The NGO community in Macedonia has grown up as a result of international programmes. Some of them perceived Macedonian society as a good market for advertising different humanitarian and training programmes, a number of them many times implemented in other countries. As a result, over 3,300 NGOs were registered. Over 200 NGOs presented their programmes at the Second NGOs Market, held in 2002.

The number of the NGOs that participated in the Market deserves recognition. It is a good indicator for serious analysis but it will not improve civil society. Only one realistic overview of the NGO Market would be enough to confirm the previously critical analysis. Namely, for the larger part of the visitors and the public it remained unclear what was to be sold on the informal/marketing part. For the smaller part of the visitors who were interested in authentic programmes based on the specific requirements of Macedonian society there was nothing innovative. Consequently the formal part of the NGO Market was ignored by the public but not by the media. The local NGOs failed to promote the interests of civil society that were overshadowed by the search for donations. The failure to define and address the specific interests and needs of the Macedonian society has created NGOs which are largely oriented towards humanitarian issues, because that is the present agenda of many international organisations in Macedonia.

## **The Media**

There are Western institutions which study the various aspects of the democratisation process in the former socialist states and pay attention to the emergence of the free

media. The Freedom House *Nations in Transit* provides an annual, detailed review, which includes a description of the situation in Macedonia. The principal measures used by Western observers are legal – the shift from state control of the media to legal protection of media freedom and freedom of speech; and economic – the change from government-owned and -operated media outlets and structures to private ownership. Governments have to provide legal safeguards and provisions to establish conditions where the media can function without interference or restraint.

## **Constitutional and Legal Provisions**

Macedonia's Constitution guarantees freedom of the press and freedom of speech. The basic provisions are given in Article 16, which guarantees the freedoms of personal conviction, conscience, thought and public expression; the freedoms of speech, public address, public information, and the establishment of institutions for public information; free access to information and the freedom of reception and transmission of information; the right to reply in the mass media; the right to correction in the public media; protection for sources of information to the mass media; and the Constitution prohibits censorship. There are legal penalties for libel, slander, and the spread of misinformation. In terms of editorial freedom, Macedonia's electronic and print media are outside governmental control. The fundamentals of press freedom have been established. The issue no longer is chiefly about freedom, although the authorities have, at times, trespassed upon it, but the role of the media in the framework of a civil society.

## **Government-Controlled and Private Media**

Macedonia has two national media distribution networks. The larger one is operated by the government news agency *NIP Nova Makedonija*, in which the state has one-third of the shares, and primarily distributes publications which favour government policies. The other distribution network *Tutun* is privately-owned and also has nationwide distribution. *NIP Nova Makedonija* publishes newspapers and periodicals. It has the dailies *Nova Makedonija* and *Vecer* in Macedonian, an Albanian daily *Flaka*, a Turkish-language newspaper *Birlik*, published three times a week, and a Macedonian-language weekly magazine *Puls*.

Before 1991 there were, of course, only state-controlled media, but at present private print and electronic media abound. Newspapers and magazines are published in Macedonian, Albanian, Turkish and Serbian. There also are some 120 television and radio stations, including some that broadcast full-time in languages other than Macedonian. There are more broadcast stations, television and radio, per capita in Macedonia than in any other South East European country.

The government operates state television and radio broadcasts, MRTV. The broadcasts are in Macedonian and in the minority languages. Otherwise, only one independent television station "A1" and one radio station "Kanal 77" have a national audience. In 2001, Skopje had eight Macedonian television stations, two Albanian stations, two Roma stations, and one Serbian broadcaster. The government provides some funding support to independent broadcasters from taxation on television and radio owners, although there have been claims that the fund distribution has not been impartial.

### **The Print Media**

There are three major privately-owned Macedonian-language publications, *Makedonija Denes*, *Utrinski Vesnik*, and *Vest*, which began publication in 1999 and 2000. An Albanian-language daily *Fakti* also appeared. There is a recently-established weekly magazine *Kapital*, which concentrates on economic issues. There are two publications dealing with political issues, *Makedonsko Sonce* and *Delo*, which have a limited reading public.

As for economic viability, daily publications, which have a press run of 50,000 copies, are economically profitable and large enough to exert influence upon the reading public. Of the state-supported publications, the daily *Vecer* has this circulation. The daily *Nova Makedonija* has a distribution of some 20,000 copies. Of the privately-owned newspapers, *Dnevnik* and *Utrinski Vesnik*, the number of copies is approximately 50,000.

Generally, independent or privately-owned publications have problems with getting sufficient income from circulation or advertising revenue. Smaller publications are supported by individuals or political groups, as outlets for their political views. The state

agency *NIP Nova Makedonija* provides subsidies to Albanian and Turkish publications, which otherwise would have difficulty getting sufficient income.

Foreign newspapers must have permits from the Interior Ministry to be distributed in the country. There have been no cases where permission has been denied. Foreign newspapers, particularly from the neighbouring countries, are freely available throughout Macedonia. External broadcasts, particularly Albanian-language broadcasts from Tirana, have a many local listeners.

### **Electronic Media**

As already noted, Macedonia has a very large number of radio and television stations; for a population of 2.2 million there are some ten television and radio stations. The large number is a result of the uncontrolled and spontaneous emergence of private broadcasting shortly after independence, when new media legislation had not been developed and effectively implemented and the former legislation was not observed. Of the many electronic outlets, it is estimated that only a small number, perhaps only a fifth, are officially licensed. In 1998, the State Broadcasting Council, an institution with representatives selected by the Parliament, approved almost every application for a television or radio broadcasting licence. The officially registered electronic media complain that unlicensed, illegal broadcasts continue and endanger the economic viability of the registered and licensed media.

Another electronic source of information is the Internet. Access to Internet is not restricted and there are commercial, competitive providers. For Macedonians, the high cost of personal computers limits the number of private owners. There are many commercial Internet outlets, or "Internet cafes" in Macedonia. The faculty and staff at the University of St. Cyril and Methodius have free access and the Soros Foundation provides a server with free access to the Internet for NGOs.

As in the case of the press, the privately-owned broadcast media are owned by influential political personalities and groups. Generally, economically viable broadcasting is subsidised. Some of the locally-owned television and radio stations are profitable, commercially managed and operated enterprises, but many of the small local stations

disseminate localised information for a limited audience and downloaded satellite signals.

## **The Media, Government and Society**

During the Kosovo war, the government claimed that two Skopje television stations, "A1" and "Sitel" were "engaged in irresponsible journalism" but no legal action was taken against them. Opposition print and broadcast media were free to criticise the government intensely during election campaigns. In one instance, the government used an extra-legal manoeuvre against the newspaper *Makedonija Denes* citing a "failure to pay taxes" and closed the newspaper, but after public protest *Makedonija Denes* resumed publication.

During the elections of 2000, there were complaints that political pressure was directed toward the media. According to Western reports, Macedonian broadcasters and publications could, in general, operate with relative freedom, but during the year there were repeated complaints about political interference and pressure. During the crisis of 2001, there was little objectivity in reporting and broadcasts. To a definite extent, this was a case of unlicensed broadcasting to local ethnic audiences. The press did not differentiate between reporting and comment, and sensational, unverified information was disseminated. The Albanian-language media was generally considered to be under the control of the Albanian NPA party.

The Macedonians pointed out instances where Western broadcasting was biased and sensationalistic, with a definite tendency to favour Albanian claims as, previously, the Western media had supported the Albanians in Kosovo during the war of 1999 and continued to do so in Macedonia in 2001.

The Freedom Foundation *Nations in Transit* acknowledges that Macedonia recognises minorities and their rights and, particularly in the area of the media, has been the most tolerant of Balkan societies. Although some ethnic communities claim that they have been dissatisfied with the implementation of these rights, and on occasions the claims have had some substance, the electronic and print media have not restricted minority views. The state owned MRTV broadcasts in Macedonian minority languages. The state

agency *NIP Nova Makedonija* subsidises Albanian and Turkish publications, which, otherwise, might not survive.

## **Security Sector Reform, Civil Society and NGOs**

There have been steps taken by the government in security sector reform which enhance the importance of civil society and NGOs. "Process 2002", an initiative where the public at large can participate in discussions about national security concerns, was initiated by President Boris Trajkovski, prior to the Prague Summit. The objective of "Process 2002" was to bring together the relevant national and international organisations, governmental and non-governmental. In this case international participation could play a key promoting role in the establishment and capacity building of civil society groups for influencing defence and security affairs. It is important that the objects of support should be grassroots NGOs and not conference managers. Even more important is support for local partners in promoting the topic as well as supporting the awareness that such a topic will increase the influence of civil society groups over a broader spectrum of the society.

Civil society in Macedonia is crucial for transparency and accountability. Civil society has three critical roles to play in increasing the accountability of the security sector: demanding change, monitoring functions and providing technical input. In their monitoring function, civil society actors can engage the government on topics such as defence policy, defence expenditure, acquisitions, doctrine etc. Independent analyses made by civil society (NGOs, institutes, etc) are not only a challenge for the government, but should represent a base for public debate about the most important security questions and provide useful input into the decision-making process. The civil sector can fulfil these functions at all levels (local, regional, national and international).

Macedonia's Defence Ministry provides information to NATO, to the Parliament, and to society. Because of international institutions, details on defence planning and development are also available to society. The issue of transparency and accountability is an important matter to Defence Minister Vlado Buckovski. Defence Ministry experts are working on the continuing reform of Macedonia's Armed Forces and the Annual National Plan for the NATO membership Action Plan. The MAP includes much

information on the Armed Forces. Defence Minister Buckovski has emphasised that all of this planning should be made widely known to Macedonia's society.

"Process 2002" on security in Macedonia was inaugurated early in the year by President Boris Trajkovski, to discuss the security situation of the Republic before the Prague Summit. The objective of "Process 2002" was to bring together the relevant national and international governmental and non-governmental authorities, to discuss security reform issues, and public assess the goals of Macedonia's security efforts. "Process 2002" would address the reform of the armed forces, organisation of police, border protection, crisis management, organised crime and cross-border smuggling, defence capabilities of the state, and integration in Euro-Atlantic security structures.

It was particularly important to engage government and non-government experts in "Process 2002" in the discussions on Macedonia's security. The Process provided a neutral, high-level forum for policy-oriented exchanges between experts and practitioners from varied backgrounds. Among them were the President, representatives from the resident's Cabinet, the government, the Parliament, the Armed Forces, political parties, local governments, religious organisations, business representatives, the Macedonian Academy of Arts and Sciences, and Universities, the press, radio and television. Also invited were representatives of international organisations, governments and Parliaments of foreign countries, diplomatic missions at Skopje, and international research organisations and think-tanks. The open and informal character of the Process enabled a broader participation of the society as a whole in the discussions and an exchange of ideas.

### **Transparency, NATO Membership, and Regional Stability**

After the Prague Summit, Macedonia's newly-elected government emphasised the need for continuing security sector reform and regional cooperation, aimed at NATO membership. Defence Minister Buckovski placed these efforts in a framework of transparency and an enhanced engagement of society as a whole in relations between the government and the Parliament. Buckovski stated that he and other members of Macedonia's delegation at the Prague NATO Summit had been encouraged by NATO

views toward Macedonia's future membership. He believed Macedonia would receive an invitation in 2006 to begin accession talks.

Two Macedonian proposals at the Summit dealt with Macedonia's security sector reform and involved transparency. An initiative by President Trajkovski outlined cooperation among Albania, Croatia and Macedonia on a range of security sector reform issues, which was presented as a joint statement of the Presidents of the three countries. The second initiative by Defence Minister Buckovski, requested the assistance of Greece and Turkey, to assist Macedonia's progress toward NATO. Thus, Macedonia's security sector reform would be carried out in order to foster regional stability and future NATO membership. Regionally, Macedonia's security sector reform would be openly developed, known to and in collaboration with other NATO candidates, like Albania and Croatia. A difficult part of the defence and security reform would be that it involved considerable expenditure.

The Defence Ministry stated that Macedonian society was not well informed about the requirements for joining NATO, particularly the Membership Action Plan (MAP). Therefore, the Defence Ministry would present the Annual Membership Programme to the Parliament, and the content of the Annual Programme would be available to the public. Security sector reform undertakings, initiated by the government, had to receive support from the public. Macedonia's media could discuss the experiences of other countries that had been invited to begin accession talks at NATO concerning their defence and security sector reform.

## **Conclusion**

The development of civil society in most of the post-communist or transition countries looks like Macedonia's as it enters this process. The estimates of direct participants within this process are that civil societies in post-communist or transition countries are a mirror of the circumstances in other spheres of society. According to the practitioners involved it could not be evaluated with higher or lower marks, even if some analyses are more positive.

The analysis of the civilian sector in Macedonia can be seen from different points. The issues of civil-military relations or security sector reform have not filtered successfully into the programmes of various NGOs in Macedonia. The 2001 crisis, apart from humanitarian issues, has opened other challenges for civil society concerning security. Therefore some of the NGOs have been provoked to exchange public dialogue and protest over the process of disarmament and amnesty. Media reports have covered civil society dissatisfaction from the symbolic disarmament of the armed paramilitary groups and dissatisfaction with the non-transparent process of the amnesty law. Later, other issues related to the individual security of the people in the crisis region, the position of internally-displaced people, dissolution of the paramilitary forces, occupied the attention of civil society. It can be said that most of the NGOs were dealing with the humanitarian aspect of the problems. Questions related to the role of civil society actors on security and defence affairs were not raised

However, the development of civil society in Macedonia follows the uncertain development of the other parts of society. The turbulence that characterised the period after independence significantly marked the political process in Macedonia. The 2001 crisis contributed additionally to a deeper ethnic and political fragmentation. Civil society could not escape the influences and it suffered the consequences. It could be said that the civil society in Macedonia is divided and influenced with specific relations of dependence from the donor community and the ignorant attitude of governments. In both cases the relationship is inappropriate. While the donor community constantly maintains a relationship of financial dependence, the relations among civil society and with the government are still unsteady. This situation could be averted if the new government followed the Programme adopted at the very beginning of the mandate, which includes initiating cooperation with the civil sector.

The central problem in Macedonia, both politically for building a multi-ethnic and multi-cultural society, and practically for establishing an open media, is the lack of a common public. The Macedonian and Albanian communities, as well as the Turkish and others, are largely exclusive, primarily organised on the basis of ethnicity and language. External assistance, directed toward local issues, communities, and minorities does foster the growth of NGOs on the one hand, but there is a tendency to build some of them for local, that is ethnic, concerns, which does not necessarily contribute to the

growth of an inclusive, multi-cultural civil society. Civil society is a novel concept in the formerly authoritarian, socialistic states. In the case of Macedonia and other newly-emerging democracies, international agencies frequently fail to recognise the discrepancy between an ideal Western civil society and the political, economic, and social conditions in the target country.

In developed democracies, civil society organisations are playing major role in shaping the reform of the security sector. As we have seen, the effectiveness of civil society in Macedonia is not well-developed. Programmes that will impact on defence and security affairs have to be promoted. Because of the higher or in some cases full reliance on and dependence of the civil society actors from donation support, it can be expected that if such issues turn up as a priority on some international institutions' agendas it would be supported by local NGOs. That is, international institutions could help bring together the small community of Macedonian NGOs, the public policy institutes, with the government and engage in security sector reform.

## **CHAPTER NINE**

---

### **SECURITY SECTOR REFORM AND INTERNATIONAL INFLUENCE**

*Nikola Kljusev*

#### **Introduction**

Macedonia's security policy has six strategic objectives. First, there is political and economic integration in the EU. Second, there is political and military integration in the collective security and defence systems of the UN, NATO, OSCE and WEU. The third is the protection of the democratic institutions of the political system. The fourth is the development of a socio-economic system based on the principles of a market economy. The fifth is maintaining good-neighbourly relations with all of Macedonia's neighbours. Sixth, Macedonia has to organise its defence capability in order to protect and defend the territorial integrity and sovereignty of the state. The Republic of Macedonia's policy objectives, since it voted for independence in 1991, has been to integrate into European and international organisations, to keep out of regional Balkan violence and ethnic conflicts, and to maintain domestic economic and political progress and stability in society.

The Republic of Macedonia separated from the former Socialist Federated Republic of Yugoslavia in 1991 and was the only republic to achieve this at that time without war or violence. Macedonia became a member of the OSCE and the Council of Europe, was among the first countries to join NATO's Partnership for Peace Programme and subsequently the Euro-Atlantic Partnership Council, and the Membership Action Plan (MAP). In 1999, the European Union agreed to negotiate a Stabilisation and Association Agreement with Macedonia, a basic provision that is designed to improve economic relations and expand trade with member countries of the EU. Macedonia intends to join the WEU, but has not yet been granted Associate Partner status. It has requested membership in WTO, where at present it has the status of an observer country.

Macedonia's security environment has been unstable, with much violence, and Macedonia's security sector reform has had to readjust to this instability. The most visible example of instability is the war in Kosovo, which damaged Macedonia's economy disastrously, but the engagement of international institutions has not brought a peaceful settlement to Kosovo or to the region as a whole. Another case of instability was the collapse of Albania's political system in 1997. It caused the illegal import of large quantities of weapons from Albania into Macedonia, which weapons were used later in 2000 and 2001 in terrorist attacks against Macedonia. International institutions, like NATO, have formulated new and different security strategies and approaches like the PfP, NATO's Strategic Concept of 1999, the MAP, the EU Stability Pact and others. Macedonia has had to review and readjust its defence and security sector reform, in order to meet new requirements.

### **Security Policy after Independence**

In 1991, when the Republic of Macedonia became independent, it had no established armed forces. It had to construct its defence establishment from the ground up. When the Yugoslav Army (YPA) withdrew, it removed weapons, equipment and supplies. Macedonia's armed forces had to be constructed, essentially, from what was available and they had to reach a certain size, to have a defence capability and present a credible deterrent. The Army of the Republic of Macedonia was officially constituted on 17 April 1992.

In Macedonia's first years of independence, the international environment was not secure and the policies of the neighbouring states were not always friendly. In 1994, Greece unilaterally imposed a trade embargo on Macedonia, claiming many reasons for this action, but the basic one was its refusal to accept the Constitutional name of the new state, "The Republic of Macedonia". Greece ended the trade embargo one year later. Relations between Bulgaria and Macedonia were better, but some necessary bilateral agreements were delayed because Bulgaria did not accept that the Macedonian language was a separate, distinct language. Relations with Albania were uneasy because some Albanian political groups aimed at a "Greater Albania" that had territorial claims, or pretensions to political privileges, concerning ethnic Albanians beyond the

country's borders. From 1993 to 1999, a UN force was deployed in Macedonia to help prevent the spread southward of the conflict in the former Socialist Federated Republic of Yugoslavia. In 2001 Macedonia faced the greatest instability as a result of the attacks which were organised by the NLA with the participation of many members of the Kosovo Special Defence Corps, regarded by many Macedonians as terrorist organisations.

### **Changing International Environment and Security Sector Reform**

A major reorientation in Macedonia's defence and security policy took place when NATO decided to move eastward. The Parliament of the Republic of Macedonia passed a decision on full NATO membership on November 1993, welcomed the PfP initiative of January 1994, and in November 1995 became a full member in PfP and developed an Individual Partnership Programme, accepted by NATO in March 1996. The dialogue between Macedonia and NATO on the NATO Enlargement Study was begun in May 1996 and in January of 1997 Macedonia was fully engaged in the Planning and Review Process and in 1999 the Membership Action Plan, MAP.

Militarily, each country that intends to join NATO has to have armed forces organised according to the security requirements of the country, with an appropriate contribution, to the Alliance's requirements. Therefore, reformed armed forces also have to develop interoperability with NATO. Macedonia's decision to join NATO must be backed by the economic wherewithal to reform and sustain its armed forces and there is guidance about defence preparations for membership. A NATO candidate has to observe rules of behaviour in its domestic policy and in the relations with its neighbours, conform to the Washington Treaty of 1949 and other subsequent statements and decisions. The principal one is *Study on NATO Enlargement* issued in 1995. NATO has altered its structure and mission. The major changes are *ad hoc* coalitions established among NATO and non-NATO members to handle out-of-area conflicts, a new Strategic Concept with new non-Article V missions of crisis management through force projection, and the Membership Action Plan. These changes have required substantial planning efforts and revisions from Macedonia's defence officials.

Macedonia's security policy was reoriented in order to meet the military and political requirements of NATO membership. It engaged in PfP activities with military units from

Albania, Bulgaria and Greece. Macedonia proposed to establish a permanent peacekeeping centre in Macedonia, to be used for training of NATO and EAPC member countries for peacekeeping and humanitarian operations. A unit composed of professional soldiers at battalion level was trained to NATO standards and compatible equipment, and achieved a high level of interoperability. The Partnership for Peace was seen as a major assistance platform, designed to bring Macedonia closer to the Alliance. NATO readiness includes interoperability at both the highest political-military levels of decision-making and at military operational and tactical levels. Macedonia viewed all initiatives for regional cooperation within Southeastern Europe as a promising approach, but they had to be operationalised as an integral part of the building process of a new European security architecture. The annual Ministerial of the Defence Ministers of Southeast European countries contributed to this process.

### **Regional Instability and the International Response**

When a huge, fraudulent financial scheme in Albania collapsed in 1997, there were political riots, attacks on police and military weapons depots. Organised gangs, claiming to act for patriotic Albanian motives, but more criminal than political in purpose, seized a number of government facilities. The Albanian government did not know how to cope with the crisis; the armed forces disintegrated, "Committees of Public Salvation" seized government offices, the political system collapsed, and there were huge flights of refugees, many trying to get to Italy.

In March 1997 the European Union decided to send a military mission to Tirana. In April, a multi-national force under Italian leadership, called Operation Alba, went to Albania and remained there until August. In retrospect, however, the Western European Union, which had the overall responsibility for Operation Alba, concluded, "The Albanian crisis, although evident since January 1997, did not generate an effective preventative action. The slow and hesitant response by the international community and the Euro-Atlantic institutions proved unable to prevent a crisis." (Assembly of the Western European Union, *Reply to the Annual Report of the Council*, 19 May, 1999).

Subsequently, NATO developed a special PfP programme for Albania. Under the guidance of The Netherlands, there was an international assistance programme to re-

establish the Albanian police and domestic security, the MAPE programme. From 1997 to 1998, special NATO assistance teams rebuilt Albania's defence, militarily and politically. NATO guided the development of a national security concept, the first ever for Albania, its national defence concept, military doctrine, constitutional issues, legal framework for the armed forces, democratic control of forces and civil-military relations. It helped organise the Defence Ministry, General Staff and senior command structures of the armed forces, restructuring of its armed services, which had collapsed in 1997, down to the lowest echelon. Military units were re-established and there was a repair and reconstitution of support facilities. NATO, however, realised that although progress has been made in rebuilding Albania, critical problems still remained which would take several years to resolve. An additional complication appeared in 1998, when the Kosovo crisis erupted. NATO feared that if it was not settled peacefully, it could have grave consequences for the whole region.

### **Security Sector Reform: A New Defence Strategy and a White Paper**

In 1998, Macedonia's Defence Ministry developed a Defence Strategy and issued a White Paper on the missions and tasks of the armed forces. The Defence Strategy recognised NATO as the basic institution responsible for security in Europe. It emphasised Macedonia's intention to join NATO. The force structure of the armed forces was redesigned. Macedonia's armed forces would develop smaller, mobile, well-trained and well-equipped forces over a period of 10 years, become a professional army.

The Defence Minister Nikola Kljusev outlined the plan, calling for a reduction in the active duty force strength from the original target of 20,000 to 16,000 and downsizing the envisaged reserve strength to 60,000. The plan would reduce the three army corps to two and would also provide new training for border guards. The units should be concentrated in a smaller number of garrisons and be trained for a wider range of tasks, for rapid and practical action and with far fewer financial resources at hand. In this way, the financial means that will be saved should be redirected towards an improvement of the equipment and a faster professionalisation of the Army. Rapid reaction forces, support forces, and a strategic reserve would be established. The defence system, especially the Army, has readapted its structure and has appropriately estimated the degree of engagement of the personnel, according to NATO norms and standards.

Macedonia's security aims had extended beyond the initial emphasis on territorial defence and recognised additional requirements in the context of regional security. The Defence Plan and the White Paper recognised that in the nature of modern conflicts there remained threats that had to be met by means of armed forces. Macedonia's armed forces would be developed for a greater interoperability with NATO.

## **Regional Security and Crisis Management**

In Macedonia's security environment, the neighbouring states, like Albania, were unstable and could produce crises. In most cases, it was impossible to predict in what manner and direction the crisis and the conflicts would develop and often it was not even possible to predict all their consequences. New sources of threats to national and global peace and security had emerged: the expansion of militant nationalism, resurrection of the ideas for creating the so-called great ethnically-cleansed states, ethnic and religious conflicts, religious fundamentalism, the uncontrolled spread and use of the means of mass destruction, transnational terrorism, arms trafficking, drug smuggling, money laundering ecological degradation, and other dangerous developments. For that reason, the dangers that emerge from these new sources of threat have made the missions for securing national and global peace and security complicated.

Civil defence, especially the civil protection forces, would be a part of Macedonia's overall reformed security structure. Macedonia treated civil defence as part of the defence system with its appropriate position, role, organisation and mission. Having determined the necessity for further restructuring of the whole defence system, especially the armed forces, the issue of redefining and reforming civil defence was a central concern. In this area, the lack of common norms and standards of NATO for the organisation of civil defence may represent a serious difficulty. But the general rules about the position, the role, the missions and the organisation of the civil defence of part of the member countries and the committees and the bodies of NATO, should provide knowledge for correctly directing the reform towards this part of the defence system. Apart from the reform endeavours in the other parts of civil defence, a review should be carried out on the number of the forces engaged in civil defence, especially the part about civil protection. In accordance with the changes, a new system of training for those engaged in the civil defence needed to be built.

The redefinition of the role and mission of civil defence has to be seen from the aspect of its position in relation to military defence (the armed forces) in order to increase their mutual efficiency and coordination. The changes in all the areas of defence should be followed by a modern and efficiently organised administrative structure. This meant that at the same time, with the reformation processes there was also a need for a reform of the organisation and the functioning of the Ministry of Defence.

### **Defence Reform and Democratic Control**

The political aspect, civilian and democratic control of the armed forces, was an important aspect and the Defence Strategy and the White Paper gave considerable attention to this issue. Implementing the Constitution and the legal functions of the legislative and the executive authorities would guide the management of defence in peace and wartime. Both in peace and war, the legal authorities implemented their functions as defined in the Constitution. Command in the Army would be based on unity of command when using forces and equipment, a chain of command and the duty to carry out the decisions and the orders of the superior officer, starting from the soldier up to the Minister of Defence and the Supreme Commander. Having achieved this, there will be no special difficulties in fitting together national and international (NATO) standards and procedures for command and control.

Intelligence activities needed to be directed to provide Macedonia with a timely warning about threats to its security. In that sense there was a necessity for taking steps to enable the Intelligence Agency to have timely warning about strategic threats to the security of the Republic, early warning about potential crises and by that to make the work of preventative diplomacy easier, to contribute to the improvement of counter-intelligence activities, to provide timely strategic and other intelligence support when planning and during military operations, as well as to reinforce the intelligence relations and the exchange of data with foreign intelligence services, which were important for defence, especially in the areas where Macedonia's intelligence capabilities were still limited.

## **The Kosovo War: Security Consequences**

Up to 1999, Macedonia had managed to deal with crises and security risks in its vicinity without domestic disturbances or political conflicts. Unlike some other former Republics of the Socialist Federated Republic of Yugoslavia Republics, like Croatia and Serbia, Macedonia recognised national minorities and their rights. The Freedom House report *Nations in Transit* for 2001, concluded, “Macedonia is the most tolerant Balkan society. This has been particularly evident in the growth of the media since 1991... Newspapers and magazines are published in Macedonian, Albanian, Turkish, and Serbian.” The Kosovo War from March to June 1999, a huge, external crisis, caused long-term difficulties, which eventually rolled over across Macedonia's borders, threatening its the stability and security.

Macedonia cooperated to the best of its abilities with international organisations and virtually placed itself at the disposal of NATO. Approximately 15,000 NATO troops were placed in Macedonia during the conflict and the country became a NATO staging base. As Western strategists envisaged security in South Eastern Europe, Macedonia would remain a valuable logistics support area, providing lines of supplies and communications for KFOR and other NATO forces in the Balkans for many years to come. The OSCE monitors, who had been expelled from Kosovo, were headquartered there, as was the related NATO “extraction force” that was to guarantee the safety of the monitors. Despite difficult and disruptive circumstances, Macedonia's government opened up the facilities of the country to the Western community, the Macedonian government called for the nation's immediate acceptance into NATO. This request, although not accepted by NATO, showed Macedonia's belief that in return for its support the Alliance now did owe Macedonia security protection and assistance. Macedonia's government argued that membership of NATO would provide the security guarantees that are needed to bolster democracy.

In the spring of 1999 there were some 380,000 Albanian Kosovars in Macedonia, of whom 60 per cent were housed with host families in Macedonia rather than in refugee camps. The concern in Skopje was that if most of these refugees stayed in the country, Albanians, with their high birth rate, would become the majority ethnic group and would support a “Greater Albania”. The return of almost all of the refugees to Kosovo has

reduced this concern, but it remains a long-term factor in the thinking of Macedonians of all ethnic groups.

Economically, the Kosovo conflict had very damaging consequences. Commerce with Yugoslavia, traditionally the largest trading partner, ground to a halt. Former transportation routes through Serbia were no longer available. Agricultural products for export could not be easily redirected through Albania or Bulgaria because this was too costly, making the goods uncompetitive. Unemployment rose to 40 per cent. Macedonia spent far more for the construction and maintenance of its nine refugee camps than it received from the donor community. The total estimated cost to Macedonia of the Kosovo conflict has risen to \$1.5 billion. This was a heavy burden for a country with an annual per capita GDP of barely \$1,835 in 2001.

A *Special Report* by the United States Institute for Peace, making a prognosis of Macedonia's security after the war in Kosovo ended, said: "Macedonia may be a fragile state given its size, location, history and ethnic composition, but it has survived remarkably well to date. The ethnically-based political parties seek compromise with each other, rather than deadlock, and inter-ethnic relations are relatively calm at this time. Parliamentary institutions work. The media is open, and the press is free. Relations with Bulgaria have been greatly improved, although Macedonia is still at odds with Greece over, among other things, the latter's acceptance of the name of the country. Now Macedonia, like Bulgaria and Romania, seeks entry into the European Union and NATO".

This will require a long time, but meanwhile Western nations should be supportive of this still fragile new state. Its consolidation is a prerequisite for stability in the southern Balkans, a region in which NATO has a strong interest through Greek and Turkish membership. It is regrettable that the assistance it is receiving has been modest and slow in coming. [Macedonia] has pursued a policy of economic reform and Western orientation. The great fear during the Kosovo conflict was that the manifold and severe pressures created by the crisis would undermine the coalition government and destabilise this fragile country of only 2.1 million people. Such a destabilisation was a real possibility and could still occur in the future, although under different circumstances. It would come about if the ethnic Albanians of Macedonia joined forces with the Albanian

Kosovars, the Albanians in Montenegro, and Albania itself to create a ‘Greater Albania’, thereby bringing an end to a viable, multi-ethnic Macedonia”. The eventual creation of a ‘Greater Albania’ would cause a series of new wars in the broader Balkan region.

### **Security Policy and Reform after Kosovo**

After Kosovo, Macedonia's security sector reform was reviewed in order to align it with the new security environment. The main location of dangers to security was Kosovo, and while its status, borders and domestic conditions remained unsettled, Macedonians' future security was unpredictable. NATO and other institutions were uncertain how to deal with the Kosovo problem. There were some revisions in the force structure of the armed forces, toward engagement with NATO in the framework of PfP and in the MAP announced at the Washington Summit, and in terms of regional security.

Macedonia's armed forces had been built from the ground up, and after 1991 the main purpose was to constitute a credible deterrent. With NATO expansion and NATO's new Strategic Concept of 1999, Macedonia's armed forces required a new force structure and defence posture. In 1998, new plans were developed for the period from 1999 to 2007. In a reorganisation plan, developed in 2000, the force structure of Macedonia's armed forces would consist of a Rapid Reaction Force, a Strategic Reserve, and Support Forces, all capable of interoperability with the armed forces of NATO member states. Half of the personnel of the armed forces would be professionals and half conscripts. The peacetime force strength of the defence establishment would number between 14,000 and 16,000, but the mobilisation or wartime strength would be 60,000. Units of the Rapid Reaction Force and a new Border Brigade would be built up first.

Macedonia participated in the South East European Brigade (SEEBRIG) of the Multi-National Peace Force South-Eastern Europe (MPFSE). Defence Ministers from Macedonia, Albania, Bulgaria, Greece, Italy, Romania and Turkey established it with an agreement signed at Skopje in September 1998. Composed of ground elements, the national units would remain stationed in their own countries, coming together for training and exercises. The Brigade's Headquarters are at Plovdiv, Bulgaria, and subsequently it was to move, every four years, to the other nations. Command is rotated, starting with a Turkish Commander and a Bulgarian Chief of Staff. A Political-Military Steering

Committee (PMSC) makes decision over the contingencies where SEEBRIG might carry out a mission. SEEBRIG could be deployed in the Balkans or the Black Sea area, as situations warrant. It could be made available for conflict prevention and peace support operations mandated by the UN or OSCE and carried out under NATO command.

## **Security Sector Reform and International Requirements**

In 2001, the crisis that Macedonia had managed to avoid for 10 years exploded across its borders from Kosovo. According to the US Department of State report, “In February armed ethnic-Albanian extremists launched a violent insurgency near the Kosovo border. A group of Kosovar and Macedonian ethnic Albanians, calling themselves the ‘National Liberation Army’ (NLA), purporting to fight for greater civil rights for ethnic Albanians in Macedonia, seized territory and launched attacks against government forces. Many observers ascribed other motives to the NLA, including support for criminality and the assertion of political control over affected areas. The insurgency spread through northern and western Macedonia”. To many Macedonians behind the claim for ethnic rights, there were hidden territorial aspirations for partition of Macedonia.

In July, with international facilitation, the government and the extremists negotiated a ceasefire, and in August, the Macedonian and ethnic-Albanian party leaders signed a Framework Agreement, the “Ohrid Agreement”, which laid the groundwork for the preservation of a peaceful, unitary, multi-ethnic state with improved civil rights for minority groups. In September, under the terms of the agreement, the extremists surrendered their weapon to NATO troops and announced the disbandment of the NLA. The Framework Agreement was ratified by Parliament and in a final vote in November the Parliament amended the country's Constitution, as required by the Ohrid Agreement.

After the settlement, the US government said that the crisis had exhibited the moderation of the Macedonian government and this political moderation had been a major factor in keeping tensions in check and preventing the conflict from expanding. President Boris Trajkovski said that Macedonia had gone through the most difficult period in its history in 2001 where the democratic political system had been threatened by people who used violence to undermine the pillars of Macedonia's security and stability, interethnic relations between people with different ethnicity and religious beliefs.

Macedonia, because it was necessary, demonstrated political resource and rational behaviour. The result was that the conflict was resolved by political means within the democratic system of the country.

In the whole process, international institutions and organisations, the EU, NATO, and OSCE played political roles. These organisations put insistent pressure on Macedonia's President, government and Parliament to accept the "Ohrid Agreement", provided some force deployment and promised economic support, but only after the Agreement was signed. NATO's role in the Macedonian conflict was limited by its members' unwillingness to maintain a long-term security presence in the country. The 4,500-strong NATO force deployed in Macedonia throughout September completed its limited, month-long mission to collect about 4,000 weapons handed over by the NLA. Doubts remained, however, as to whether the NLA had surrendered all its weaponry. NATO agreed by the end of September to maintain a contingent of 700 to 1,000 troops in the country to protect EU and OSCE security monitors. The second NATO force was to operate in Macedonia for three months, with the option of extending the mission with the consent of the Macedonian government.

In April 2001, the EU and Macedonia signed an Association and Stabilisation Agreement that set the stage for Macedonia's progressive integration into the EU within 10 years. In October the EU pledged to finance a 10.3 million euro programme aimed at supporting the implementation of the peace agreement. The programme was part of a 24.7 million euro emergency support package, and in addition to 42.5 million euros of regular support for 2001. It was made conditional upon the ratification of all constitutional amendments envisaged by the Ohrid Agreement. The EU maintained that improving the status of the country's ethnic minorities was a requirement of the association process.

The OSCE committed itself, under the peace agreement, to providing a number of monitors to report on security incidents, the return of refugees and trafficking in human beings. OSCE-seconded police experts were tasked with assisting in the implementation of police reforms. During the conflict, the OSCE Spillover Monitor Mission to Skopje condemned human rights abuses committed by the Albanian extremist forces.

The US supported the political and constitutional reforms agreed upon by the Macedonian and ethnic Albanian parties. The US special envoy and the EU representative involved themselves in the negotiation of the peace agreement. The US contributed no troops to the two NATO missions, but provided logistical support. The US administration pledged also to support Macedonian police reform, the training of ethnic Albanian police officers, the return of refugees and the new Southeast Europe University, set up to provide higher education in the Albanian language.

### **Macedonia's Security Sector Reform in 2002**

Macedonia's essential security policy remained essentially on the same course. Without stability in Macedonia, the stability of the Balkans would become vulnerable. Despite all the difficulties that Macedonia had confronted, its continuing aim was integration into NATO and the EU. NATO was a powerful military and political Alliance, and working toward NATO membership would enhance stability and security. In that respect, Macedonia would have to carry out broad reforms, where the reform of the security sector had a central role. The reform process had slowed down in 2001, and had to be continued with more intensity than before, so that Macedonia would catch up with the other candidates fulfilling the criteria and conditions necessary for NATO membership.

"Process 2002" on the security of the Republic of Macedonia was launched under the auspices of President Trajkovski, to discuss the national security aspects of the Republic of Macedonia. The objective of the 2002 Process was to bring together relevant national and international governmental and non-governmental authorities, to discuss security issues of strategic importance to the Republic.

Organisation of such a process was crucial for better understanding of the security problems, risks and challenges that the country faced and to further discussion on the possible solutions of the problems that appear ahead of Macedonia from the security perspective. It was particularly important to join hands with the national and international governmental and non-governmental authorities for efficient and effective work on discussing the security of Macedonia. The Process was a basis, a neutral, high-level forum for policy-oriented exchange between experts and practitioners from various backgrounds. It was implemented as an open process of bringing different opinions to

the discussion and finding compromise on the issue. The aim was to think about the security of the Republic, treating the issue from the multi-disciplinary perspective, understanding the concept of security in a wide sense, as 'soft' and 'hard' security.

Among the issues to be addressed in Process 2002 were organisation of the armed forces and police, the defence capabilities of the state, border protection, crisis management, and the broader issue of security sector reform. The overall objective was international and domestic, integration into Euro-Atlantic security structures, Macedonia's capability to participate in bilateral and multilateral exercises, and human and social security.

The process brought together a select group of personalities from Macedonia and abroad, including, the President of Macedonia, the government, the armed forces, the Macedonian Academy of Sciences and Arts and Universities, international organisations, and diplomatic missions in Skopje, governments and Parliaments of other countries, international research institutions and think-tanks, businesses, the media, parties and local government representatives, and religious organisations. The informal and open character of the process would enable further participation of the public in the discussions and in the exchange of opinions.

### **Reform, Stability and NATO Membership**

At the Prague Summit, Macedonia's government emphasised the need for continuing security sector reform and regional security cooperation, aimed at NATO membership. Defence Minister Vlado Buckovski placed these efforts in the framework of transparency, in terms of developing enhanced transparency and accountability in relations between the government and the Parliament and between the government and society as a whole. Defence Minister Buckovski stated that he as well as the other members of the Macedonian delegation present in Prague were encouraged by the message that we would not be forgotten, and that everything which happened is not the end, but is the beginning of our aspirations for full NATO membership. The position of Macedonia's delegation is that what was decided in Prague is an additional stimulus for us, and not a disappointment in any way. He assumed that Macedonia would receive an invitation to begin accession talks in 2006.

Two Macedonian presentations were made at the Prague Summit. The first one was initiated by President Trajkovski concerning collaboration among Macedonia, Albania and Croatia on a range of security sector reform issues and it was accepted as a statement by the Presidents of Albania, Croatia and Macedonia. The second initiative, made by Defence Minister Buckovski, was based on what Turkey and Greece had done to Romania and Bulgaria for full NATO membership. Learning from that experience, Macedonia requested from the Defence Minister of Greece that the same assistance should be applied for promotion of the other two neighbours, Albania and Macedonia. The Greek Defence Minister consented and requested support from the Turkish Defence Minister, and conveyed that Greece was prepared to support regional cooperation. There was a meeting with the Romanian Defence Minister, who conveyed his country's experience with Greece and Turkey, which contributed much to Romania's invitation for NATO membership.

Macedonia could get support and would promote one of the areas that are especially appreciated in NATO, contributing in regional stability through offering cooperation on a regional level. The new government was persuaded to take a different approach to the tasks before it if it was to become a full NATO member. It meant that Macedonia was prepared for conducting reforms in the defence and security system, and part of the reform has already been presented to the public. Reform would not be only the assignment of the government, but also the President, the Parliament, and it should get support from the society as a whole.

The Defence Ministry would produce and present the Annual Membership Programme before the Parliament. The government would ask for a Parliamentary session through which all the points noted in the Annual Programme would be available to the Macedonian public, with the steps defined, as well as the financial resources needed for this reform. The new government has the political capacity, and the support that we have among the public would be backing for conducting security sector reform.

Macedonia's security sector reform would be developed openly, collaborating with other NATO candidates, Albania and Macedonia, with support from neighbouring states like Greece, Romania, and Turkey and by working with NATO. The most difficult part of the

effort was to provide financial resources. Therefore, in the talks with the IMF and the World Bank, the government had indicated that it would need special resources for restructuring the Army. Macedonia had already announced future visits to Brussels, where starting from January, its representatives would discuss using part of NATO funds for restructuring the Army.

In all the reforms, Macedonia's politicians were the ones who should have a vision of Macedonia's future security and win the public's support, Defence Minister Buckovski stated. There has not been sufficient support for this before and certain activities carried out in the Defence Ministry have not been publicly known. There were decisions to be made concerning the force structure of the armed forces, which involved armour and some types of aircraft. The previous Defence Minister had the same views, which had now been included in the Annual Programme for the MAP. However, the proposed decisions should be known to society at large. There was sufficient time by the end of 2004 when decisions on force structure had to be effectively implemented to resolve the problem, enough time to evaluate all the possibilities. The current government had the assignment to intensify the reform and do what needed be done. The government had committed itself until 2007, meaning that a future government should finalise the reform when, probably, Macedonia would have a NATO membership invitation. Long-range security reform required broad public support.

## **Conclusion**

The Republic of Macedonia, from 1991 onwards, has been committed to democracy and a market economy, regional security, the fight against corruption and criminality, and intensive integration into NATO and EU. The progress achieved so far in consolidating democracy and the state of law emphasises that the Republic of Macedonia promotes the democratic principles and values shared by all NATO member states; Macedonia was one of the first to join the PfP and declare its readiness to join NATO.

The objectives of security sector reform have remained the same, but the means to attain them have been reviewed and revised. The major reason for revisions has been external events. NATO and the EU intend to expand in South Eastern Europe. In the future, their policy could provide stability. But events such as the collapse of Albania in

1997, and the Kosovo War, which had very negative economic, political and security consequences upon Macedonia, have not provided stability and security. The Stability Pact of the EU is still a large promise with small concrete results.

For Macedonia, the success of democratic elections, as shown by the general elections of September 2002, represents another proof of the maturity of the political establishment of the country, Macedonia's integration into NATO could be an asset for European stability and security, since democratic security is a long-term investment for stability in the region, in Europe, and for the Transatlantic Alliance. The building up of a secure and stable Europe can be achieved only with the involvement of all states that belong to the continent and share democratic and free market values; Macedonia is part of this process and can further contribute to its success.

The new security risks calls for a common approach and a united endeavour by the states, which have the necessary capabilities and political will to approach them. Macedonia proved its involvement in this process through its contribution to the Allied Force Operation in 1999 and to the KFOR mission in Kosovo. Macedonia cannot afford to waste another decade without a Western anchor, as Europe will not be "whole and free" without the integration of Macedonia within the Euro-Atlantic community. Macedonia has the capability and the availability to promote NATO interests and values in the Euro-Atlantic area and beyond.

The overall aim of Macedonia's security sector reform is that integration into NATO will give an opportunity to promote better relations with neighbouring countries and to promote regional cooperation for enhancing the capabilities of the countries in the region to contribute to security and stability. Taking into account its regional importance, due to the geographic location, territory, and size of population, political and military potential, Macedonia will enhance the Alliance's capability to prevent and manage crises in the region and beyond.

For successful achievement of the statements and goals mentioned above there are certain assumptions whose realisation should be supported not only by the Macedonian side but by the international community as well. They are as follows: to provide better security on the northern border with Serbia, the part with Kosovo, and to enable the

marking of the border line as soon as possible; to respect the spirit and the content of UN Resolution 1244; to undertake radical action for collecting and taking away all illegal weapons on the whole territory of Macedonia; to provide free communication and security for the population in the inner part of Western Macedonia; to combat all kinds of terrorism and criminality; and to put an end to all extreme terrorist groups following the spirit of the agreement with Macedonian ethnic Albanians who are participating in the present government of the Republic of Macedonia.

## CHAPTER TEN

---

### PEACEKEEPING AND REGIONAL SECURITY

*Aleksandar Donecev and Sasho Kuzmanovski*

#### Introduction

There is no doubt that growing hostilities and violent conflicts have emphasised the need for tools and structures for protection and reconciliation. Structures for mutual collective defence between countries has been developed, various treaties and agreements for disarmament have been signed, and lots of conferences, reports and programmes, methods and tools for reducing war and conflict and for conflict resolution have been established.<sup>33</sup> It could even be said that regional security as much as peacekeeping are the most responsible and the best tools for worldwide security.

Is peacekeeping one of the most efficient tools in conducting regional security? We do not know, but we can say it might be unavoidable in meeting global security challenges.

The question that should be answered here is not how much regional security is diminishing overall threats and security risks, but how much peacekeeping and regional security fit together and how influential peacekeeping is for regional security.

Experiences, which the Balkans and especially the Republic of Macedonia went through, as victim or witness, could be brought in correlation with regional security and peacekeeping. However, results of missions within the regions are not in favour of peacekeeping and there are still gaps in a comprehensive regional connectivity in a security space. At least the region called and renamed an “apple of discord” and “powderkeg” with good reason, could be treated as a case study of regional security and

---

<sup>33</sup> Timothy M. Shaw and Sandra J. MacLean, *The Emergence of Regional Civil Society: Contribution to a New Human Security Agenda*, in Ho-Won Jeong, *The New Agenda for Peace Research*, (Brookfield: Ashgate Publishing Ltd, 1999), p. 293.

peacekeeping, no matter whether it was efficient or beneficial. Looking at other examples even more facts could be brought, reassessed and presented for discussion of regional security and peacekeeping. It is happening, because regional security is neither stacked within regional initiatives, conflict prevention and resolution, nor within global security challenges interfering everywhere in a context of regional and sub-regional issues.

Addressing peacekeeping and regional security as a form of peace management within the framework of appropriate significance of cases for and consequences from conflicts and crises, the question about adequateness of regional initiatives and intentions in security environment is reemphasised. Some could even say that regional security is determined by civilian expertise and acceptance of opportunism and conformism of Eastern and Western types of democracies. Others would say that regional security and peacekeeping depend on who provides initiatives or, if you like, from which interests and politics initiatives are coming.

Finally, whatsoever regional security and peacekeeping is consisting of, some general frames of contagions or factors of social, economic, political, cultural and historical nature should be considered.

Furthermore linkages between regional security and peacekeeping should be reassessed and basic definitions about regional security should be taken into account. Are we talking about peacekeeping before the 1990s or after, as a complexity of conflict prevention, peace enforcement, peacekeeping and peace-building<sup>34</sup>? However, whatever we say about preconditions for peace can be accomplished by basic integration of the states within regions and their security.

## **Regions and Security**

The ultimate multipurpose form of cooperation and confidence-building measures that could help countries and regions to address challenges imposed by political changes, are based in a direction to promote economic development and rule of law, to overcome

---

<sup>34</sup> Boutros Boutros Ghali, *An Agenda for Peace*, (Washington DC: UN Publishers, 1995), p. 159.

conflicts and integrate them into regional and global prospects. All of them could be speculated on as 'regional areas of security'. Southeastern Europe and Macedonia are a vivid example of the necessity of regional cooperation and confidence-building. Another issue is how to bring all these things together. Is regional security self-sufficient and self-confident for all the countries within one particular region, or set of countries, or must it be seen as a regional manifestation of global needs and recommendations? It seems that global security is driving regional order and regional security. The geo-political "cause of conflict" or "consequence ends" derive from the system and its changes.

It plunges countries and regions into political and socio-economic anarchies, civil wars and elusive humanity (rights and freedoms), but it can be a reason for regional cooperative security too.

The world seen as conglomerate of countries and regions will always have tangled knots. Resolving and detangling of one of them in the sense of conflict resolution, while beneficial for the region, could bring the impetus of an example of managing conflicts in other regions. On the other hand, disengagement from some regions could be presumed as a way of reconciliation.

Unfortunately, disengagement of international intervention and assistance is very often driven by global international policy. Simply put, if the conflict is no longer interesting for the interveners, they reduce their presence and the money attached to that particular region. On the other hand UN peacekeepers are usually stuck within long-lasting missions and no one could even think about efficiency of engagement. The organisations designed to implement a peace plan for a "period of transition" have remained ineffective too. It happened for some countries, some regions, that the international community was be busy elsewhere in the face of other impinging issues. It raises the intriguing conceptual question pertaining to the international system and changing international order.

However, UN supporters look at peacekeeping missions as of expanding security. It is true that extended notions of peace as a need and concern for economic growth invite an agenda for expanding security. But is this done only for protecting states and already established relations or for the preservation of peace, especially when only one

superpower remains in the world?<sup>35</sup> The international community may not find an interest in undertaking preventative missions and deploying preventive forces at 30 or more hot spots in the world, but a tremendous increase of preventative measures and humanitarian actions are articulated and conducted for a shorter time than ever before.<sup>36</sup>

Nevertheless, as P. Stobdan said, the absence of a bipolar system has not necessarily led to the rise of regionalism managing regional security issues<sup>37</sup>, although regional actors still look to UN and the other world bodies for conflict management.

From the other side within the regions with weak states, the absence of powerful central government makes peripheral ethnic/tribal animosities emerge stronger. Maybe that is the reason why the international, regional and domestic contexts very often come together in regional security and it could be summarised as a necessity for forthcoming regional security action.

### **Regional Security Action**

The foremost known international organisation that anticipated the involvement in regional security and maintenance of world peace is the organisation of the UN. There should be a common agreement that Chapter VIII of the UN Charter relates most directly to regional security action. The fundamental concept of Chapter VIII urges that member states strive "to achieve pacific settlement of local disputes through such regional arrangements by agencies referring to the Security Council". During the Cold War era regional organisations were severely limited and regional security action was determined within antagonisms caused by supporters of opposing superpowers so the Security Council was often able to play a significant role in persuading loyal warring parties to reach some form of agreement in order to avoid direct confrontation. Otherwise peacekeeping was a most implicated tool.

The post-Cold War era changed affiliations and capabilities for general directions in peacekeeping and regional action. The overstretch of UN resources as a result of a

---

<sup>35</sup> Walter Mills and James Real, *The Abolition of War*, (New York, NY: The Macmillan Co., 1963), p. 36.

<sup>36</sup> One positive example is UNPREDEP mission in Republic of Macedonia.

<sup>37</sup> Punchok Stobdan, 'The Afghan Conflict and Regional Security', *Monthly Journal of the IDSA*, Vol. 23, No. 5, also available at [www.ciaonet.org/olj/sa/sa\\_99stp02.html](http://www.ciaonet.org/olj/sa/sa_99stp02.html)

massive expansion in peacekeeping activities in the 1990s warranted some devolution of the UN's security responsibilities. In the later 1990s the UN became increasingly reluctant to deploy peacekeeping missions, making regional bodies a viable alternative to the UN's shortcomings. But, are they reliable enough and how much do they need support from other security agencies and organisations? Since searching for security becomes equally important as a reliable alliance, everyone recognised NATO as the most common choice. Actually, security was of equal importance inside and outside the borders of the alliances. From the other side, as Heinz Garthner said, "if small states are analysed in terms of security, they become by definition weak states. Therefore, states would realise that the cost of non-cooperation, (and we should add the absence of enhancement of regional security connections) is higher than the cost of compliance".<sup>38</sup> Therefore the distinction between regional security and peacekeeping has become more evident. While regional security is becoming more a preventative issue, peacekeeping is remaining a cure after distortion.

Regional security became apparent in most of the international interventions and the UN's position as a supreme global security provider weakened demands for the assistance of regional security organisations and suggests a UN presence over regional bodies. Despite certain positive and negative consequences implied by UN collaboration with regional bodies, it provides meeting regional security interests, undermining supremacy and UN responsibilities for global security. However, it is often suggested that regional organisations have a greater understanding of the issues involved in a conflict within their own areas.

## National Identity and Regional Security

As James A. Paul said, "The UN is composed of 'member states' but the organisation itself is called United Nations"<sup>39</sup>

---

<sup>38</sup> Heinz Garthner, 'Small States and Concept of European Security', *European Security*, Vol. 2, No. 2.

<sup>39</sup> See: James A. Paul, 'Nations and States', July 1996 available at <http://www.globalpolicy.org/nations/natstats.htm>

Today, a state's right to be different is determined by the vanishing of concrete threats.<sup>40</sup> Even within NATO, different assumptions lead to different visions about 'means to ends.' Despite a nation's right to be different, global interests internationalise the need for protection. In that posture, the organisation of the United Nations (UN) integrates national efforts to make the world a better place to live. All states seek national security through cooperative forms. After the introduction of 'An Agenda for Peace' in 1995 by Boutros Boutros Ghali, Secretary-General of the UN, national security and national identity were given one more chance for internationalisation of security issues.

However, experience in later cases in peacekeeping and peace-enforcement missions shows something different. First of all, there was a lack of will to achieve a broader contribution from the national contingents, or they acted according to national interests, which assumed the leading role in some particular cases. In the combined international forces, there was a lack of coordination, dual (national and international) chain of command and division of responsibilities, lack of standardisation and incompatibility of equipment and logistic standards, and a retained national right of veto.<sup>41</sup> There was a lack of operational planning, variations in quality, basic doctrine, ethos, ability to communicate and ability to determine rules of engagement and sustainability in the operations. The headquarters tended to reflect the culture and working practice of the leading nations. Additionally, inefficient financial support brought the dilemma of who pays NATO, who pays the UN and what does NATO pay the UN.

All those considerations make international UN forces less effective. Therefore, the re-emerged debate about stand-by or on-call UN forces lost credibility and hence NATO remains the only available organisation to be called for engagement in peacemaking operations.

This kind of attitude of the nation-states again emphasises the importance of national identity for the armed services. But there are some exceptions. The characteristic

---

<sup>40</sup> See Mats R. Berdal, 'Whither UN Peacekeeping?', *Adelphi Papers*, No. 281, Oct. 1993, Published by IISS/Brassey's; Tomas C. Schelling, 'Strategy: A World Force in Operation', in Lincoln P. Bloomfield, *International Military Forces*, (Boston, MA: Little, 1964), pp. 212-235; and Henry V. Dicks, 'The International Soldier – A Psychiatrist's View', in Lincoln P. Bloomfield, *International Military Forces*, (Boston, MA: Little, 1964), pp. 236-256.

<sup>41</sup> See William J. Doll & Steven Metz, *The Army and Multinational Peace Operations: Problems and Solutions*, (Carlisle, PA: Strategic Studies Institute / US Army War College, 1993).

examples are small states which are most concerned about their national security but aware of their deficiencies, and therefore willing to join collective systems of defence and security, going beyond their national identity. Macedonia, like some of the other new democracies, is a multi-ethnic and multi-cultural society.

Uncertainty and modern threats do not respect national or state borders and they are not strictly bound to states. Although in history each state recognises insecurity because of the existence of the others, interdependence has brought the states together around collective defence and security agendas.<sup>42</sup> But when security analysts start to talk about global and modern threats, regional connections become more emphasised and peacekeeping missions start to lose their functions. In that sense, especially after September 11, co-existence and broadened interdependence have become unavoidable. Former adversaries step on the same side in the fight against terrorism. National armed services are simply pushed to work together. Not only people but also states become interdependent in term of what other people and states do.<sup>43</sup> Paraphrasing the necessities of modern society, this means that people act more or less collectively. For example, most of the new risks that confront Macedonia can be overcome by regional collaboration.

At the same time, defence allocations and optimum capability with scarce resources are hard to achieve for any single state, particularly for Macedonia, with a weak economy and a small population. It is possible basically in two ways: through cooperativeness and integration of defence and security matters among states, or through internationalisation and giving up of at least some defence and security particularities. Increasing interdependence takes away national autonomy but it is less costly when interdependence stays within the region. Whatever form of security is projected it will oppose national identity or at least security priorities.<sup>44</sup> Generally, both forms of cooperativeness derive from ideas of collective defence and collective security.<sup>45</sup> Taking

---

<sup>42</sup> Barry Buzan, *People, States and Fear – An Agenda for International Security Studies in the Post Cold-War Era*, (Hertfordshire: Harvester Wheatsheaf, 1991), p. 1.

<sup>43</sup> Antti Eskola, *Human Consciousness and Violence*, in Raymo Vayrynen, *The Quest for Peace*, (London: Sage Publication, 1987), p. 21.

<sup>44</sup> Barry Buzan, *People*, p. 13.

<sup>45</sup> Douglas T. Stuart, *The Future of the European Alliance: Problems and Opportunities for Coalition Strategies*, in Gary L. Guertner ed., *Collective Security in Europe and Asia*, (Carlisle, PA: Strategic Studies Institute / U.S. Army War College, 1992).

into account that loyalty to the nation, as Finer says, is the ‘transcendent duty of the armed services’<sup>46</sup>, it is hard to find a balance between the priorities of protecting the national interest and of fulfilling international requirements and necessities. Nevertheless, because of mutual danger and the need for protection, states very often decide less painfully to join their strength into alliances or various forms of cooperativeness in order to meet the challenges of uncertain threats.

## **Regional Security**

The output of this the whole process is multilateral. Small countries like Macedonia broke psychological and economic barriers, starting with the exchange of security information, trained their forces together and ‘forgot about traditional unreasonable disputes’. At the upper stages we can say that active and indirect security were brought together to form interactive security. If the South East European Brigade (SEEBRIG) is taken as an example, it can be defined that SEEBRIG is an interesting example in which regional countries with formerly really big disputes and disparities come together and work on the strengthening of regional security.<sup>47</sup>

Although active or indirect security has not influenced exceptions, they provide tangled security circles around them and fasten their future integration in a common security agenda. When they find out that they cannot build security on historical traditions they turn to optional and alternative security for regional safety.

From the other side it seems that optional or alternative security is something that in modern terms is characteristic of the cooperative security. It is security that is not embarking on defence and security in an empirical context and probably that is the real frame for developing regional security. That is security that is providing a framework for coexistence. Although Geoffrey Lee Williams say that ‘on the whole, security risks are not military but political and economic’<sup>48</sup>, Owen Greene claims that ‘it is widely accepted,

---

<sup>46</sup> S. E. Finer, *The Man on Horseback*, (Norwich: Pall Mall Press, 1962), p. 189.

<sup>47</sup> Greece and Turkey have disputes about territorial waters in the Aegean Sea and about Cyprus; Greece and Macedonia have disputes about the name and flag; Macedonia and Bulgaria have disputes about language; Macedonia and Albania, Greece and Bulgaria have disputes about national minorities, etc.

<sup>48</sup> Geoffrey L. Williams & Barked J. Jones, *NATO and the Transatlantic Alliance in the 21<sup>st</sup> Century – The Twenty-Years Crises*, (New York, NY: Palgrave, 2001), p. 93.

that tackling non-military problems, such as economic and environmental crises or the promotion of social justice, human rights and democracy, might be of greater immediate significance to the military security and societal security.<sup>49</sup> Regional security can make non-security issues of prime importance to reducing military power.

## **Regional Security toward Cooperative Security**

According to the rising interest and engagement in the integrative processes, cooperative security is definitely a hope and perspective especially for the small countries. But cooperative security should not be perceived as an invention of the EU and ESDP. It is a process that is emerging from all systems of defence and security together. Cooperative stability is neither a Kantian federation of free states<sup>50</sup> nor OSCE terminology. It is not simply a spreading of democracy. It is security of the community enjoyable by all their participants so it can be a framework for regional security.

As Cohen says: Cooperative security embraces four concentric and mutually reinforcing 'rings of security'.<sup>51</sup> These are: individual security, collective security, collective defence and promoting stability.<sup>52</sup>

Individual security as a centre of cooperative security is based on human security and human rights. While cooperative defence and security emphasise the alliance's characteristics 'all for one', promoting security means an active approach towards surrounding countries. In other words it means to be able and prepared to increase security and cooperate with the states inside the system or non-member countries.

Therefore, cooperative security must look after incorporating collective defence and security and active promotion and projection of stability. Therefore, active, indirect and

---

<sup>49</sup> Owen Green, *Transnational Processes and European Security*, in Michael C. Pugh, *European Security Toward – 2002*, (Manchester: Manchester University Press, 1992), p. 141.

<sup>50</sup> Immanuel Kant first introduces the term of cooperative security in 'Perpetual Peace – Second Defined Article' as a federation of free states. It is interesting that the same idea and vocabulary has been used recently in a context of ESDP.

<sup>51</sup> Richard Cohen and Michael Mihalka, 'Cooperative Security: New Horizons for International Order', *Marshall Centre Paper*, No. 3, p. 1, Garmisch-Partenkirchen (2001).

<sup>52</sup> See figure of concentric rings in attachment 2.

alternative security, or whatever we call it, must be included in cooperative security or at least in a fourth ring of promoting security.

Many organisations can be seen as promoters of cooperative security. Some of them are founded on the basis of cooperative defence or security and as a necessary tool for meeting a visible mutual threat and they have more or less the model of cooperative security inherited in themselves. Although Cohen likes to say that only NATO can claim to have implemented effectively a cooperative security model, it can be speculated that, actually, all cooperative institutions such as the United Nations (UN), NATO, ESDP, EU, WEU, OSCE, the Association of Asian States (ASEAN), and others which have defence and security issues on their agendas are making cooperative security together. Regions can be in the best position to develop reliable regional cooperative security. Many authors prove this statement. For example, Yost emphasises cooperative security through NATO transformation and cooperation with former adversaries<sup>53</sup>. He especially elaborates dilemmas and risks about how to combine collective security and collective defence together.

It is hard to believe that the extending and overlapping of the institutions of collective defence (especially NATO and ESDP as a separable pillar) is without impact on the two enlargement processes and mutual cooperative intentions.<sup>54</sup> NATO by itself explains cooperative security through the New Strategic Concept and the wilder constitutional framework for security<sup>55</sup>, and Cohen uses the idea of security cooperation of all the countries in the northern hemisphere or if you like 'from Vancouver to Vladivostok'. However, all of them have cooperation as something in common but first of all cooperation of a group of states or regions.

---

<sup>53</sup> David S. Yost, *NATO Transformed – The Alliance's New Roles in International Security*, (Washington, DC: USIP Press, 1998), pp. 91-187. One really interesting extract, which I will not take as granted, is the statement of Francois Leotard minister of defence of France. As he is paraphrased in 1994, 'to knock at NATO's door is to knock at America's door and ask for the American guarantee' Yost, *NATO*, p.113) It is interesting that Leotard in 2001 was appointed as a mediator in the Macedonian conflict which is probably another output of cooperative security.

<sup>54</sup> Martin A. Smith and Graham Timmins, 'The EU and NATO – Enlargement Debates in Comparative Perspectives: A Case of Incremental Linkage?', *West European Politics*, Vol. 22, No. 3, pp. 22-40.

<sup>55</sup> Mentioned in the *NATO 50<sup>th</sup> Anniversary Handbook*, (Brussels: NATO Office of Information and Press, 1999), ch. 14.

Finally, as Emil Kirchner says "Sustained cooperation between states within an issue area or across a linked set of issue areas, contributes to a greater empathy for the interests and constraints facing each state individually".<sup>56</sup>

## Conclusion

Leading to the conclusion today we can more easily say that peacekeeping and regional security are less and less bound together. However, despite the present conclusion nobody knows what the global future will bring. The clash of civilisations and constraint of resources could reemphasise the importance of peacekeeping but it will not be satisfactory if conflict management or 'peace enforcement' is dictated by a lone leading nation, leaving the rest to be satisfied by humanitarian actions.

On the other hand, states are pushed to work together on security issues. Regions that will be more advanced in cooperativeness will get a better share not only in regional security but in socio-economic welfare.

Cooperative regions will be more influential in global decision-making. It should be expected that states will transfer their own responsibilities and capacities to the regional directorates. They will conduct the policy of meeting global challenges; they could be more efficient in the future fight against global and regional threats.

Finally, nobody knows whether future regional federations are fiction or reality. Forthcoming necessities will confirm the truth. And while peacekeeping is losing its actuality, regional security is promoting its importance.

---

<sup>56</sup> Emil Kirchner and James Sperling, 'Will Form Lead to Function? Institutional Enlargement and the Creation of a European ESDI', *Contemporary Security Policy*, Vol. 21. No. 1, pp. 23-45.

## CHAPTER ELEVEN

---

### CRISIS AND CRISIS MANAGEMENT

*Aleksander Donecev*

#### Introduction

*The Strategy of Defence of the Republic of Macedonia*, developed in 1998, recognises that there are new threats to the security of Macedonia, South East Europe, and in the world. The Strategy states “Lately new sources of threats to national and global peace and security have emerged: expansion of militant nationalism, resurrection of the ideas for creating the so called great ethnically clean states, ethnic and religious conflicts, religious fundamentalism, uncontrolled spread and use of the means for massive destruction, transnational terrorism, arms trafficking, drug smuggling, money laundering, ecological degradation, etc. The technological progress, the international economy and ecological threats have surpassed the framework of the countries and the continents. That is why the dangers that emerge from these new sources of threat have made the missions for securing national and global peace and security complicated.”

Moreover, “At the end of this century we have been faced with a massive and better organised evil, such as terrorism that does not choose its victims and where innocent people suffer. This phenomenon surpasses national borders and the capabilities of a country, for which a broad and a coordinated action of the international community is necessary in order to exterminate it. The Republic of Macedonia on its territory, and as a member of the international community, will consistently respect and assist the implementation of all international conventions and agreements for fighting terrorism and will use all its capabilities against it.”

Macedonia’s security predicament is that it has been encircled by threats, instability, and violent crises in the region since it gained independence in 1991. Throughout a dangerous decade, Macedonia managed to maintain domestic calm. Indeed, it was a

major, although indirect, participant in NATO crisis management, the first execution of a “non-Article V” Alliance mission, in Kosovo. Finally, an attack across Macedonia’s border in 2001 caused a crisis that threatened the country’s social peace, economic recovery, and its progress toward integration into the Euro-Atlantic community. As a consequence, Macedonia’s government is assessing its crisis management structure and capability in the overall context of security sector reform and a national security strategy.

### **Macedonia, Crises in South-east Europe and Western Crisis Management**

Since 1991 Macedonian security policy has been directed at membership in European and other institutions. In 1996 Macedonia signed the PfP programme with NATO, became a member of the EPC, and declared that it intended to joint the Alliance. The Freedom House Report on *Nations in Transit* of 2001 concluded that Macedonia had weathered its crises with little violence or threat of collapse, but some events had tested its stability. Unlike Croatia and Serbia, Macedonia recognised national minorities and their rights. *Nations in Transit* judged that “Even though some communities are dissatisfied with the implementation of rights, Macedonia is the most tolerant Balkan society.”

From 1993 to February 1999, a small UN force of about 1,000 troops was deployed in Macedonia to help prevent the spread of the conflict in Bosnia. The first severe crisis to erupt in Macedonia’s immediate vicinity broke out in Albania. In early 1997, the collapse of investment schemes brought Albania to a nearly total breakdown. Anti-government demonstrations against investment losses turned violent and grew into an armed insurrection in the south of the country. Weapons depots were raided and the country became awash in small arms, some of which flowed into neighbouring Kosovo. A Multinational Protection Force, Operation Alba, led by Italy, delivered humanitarian assistance and hoped to restore civil order. It withdrew in August and could not be considered very successful. The first major Western attempt at crisis management at Macedonia’s borders was not encouraging.

Some PfP exercises were held in Macedonia, which were soon influenced by an emerging crisis in Kosovo. In May 1998, NATO approved a Macedonian PfP programme with exercises aimed at strengthening security during the expanding crisis in Kosovo. In

June, aircraft from NATO countries conducted air manoeuvres over Macedonian territory to warn the Yugoslav government against a possible military action in Kosovo. OSCE monitors, who had been ejected from Kosovo, relocated to Macedonia and NATO deployed an extraction force of about 2,000 troops to offer them protection. Early in 1999 NATO deployed several thousand troops in Macedonia in preparation for the deployment of the 50,000-strong KFOR. Macedonia hosted NATO support forces, approximately 15,000 and became the primary launching point for the deployment of troops to KFOR.

Macedonia was a major supporter of crisis management in Kosovo. Macedonia opened its border to refugees from Kosovo and helped build camps for 100,000 of them. NATO assumed that Macedonia might remain a valuable logistics support area for KFOR and other NATO forces in South-eastern Europe for many years to come. Macedonia was a staging ground for NATO operations. As the security situation deteriorated, Macedonia urgently requested Alliance membership, in March 1999, but received a negative response. At the Washington Summit meeting, however, the Alliance approved the Balkans Stability Pact. The Pact hoped to promote economic development of the region strongly affected by conflict in connection with the Kosovo crisis, to create preconditions for the integration of the region's states into European institutions, and to ensure the region's stability and security.

The Kosovo conflict had devastating consequences upon Macedonia's economy. Macedonia's commerce with Yugoslavia, the largest trading partner, ended, as transport through Serbia was blocked. Export of goods could not be routed through Albania or Bulgaria because this was too expensive. Unemployment rose to 40 per cent. Macedonia spent far more for the construction and maintenance of the refugee camps than it received from the Western community. The total cost to Macedonia of the Kosovo conflict has been estimated at 1.5 billion US dollars.

### **Domestic Crisis: Attack on Macedonia, 2001**

When the conflict in Kosovo ended, the United States Institute of Peace described Macedonia's situation in a *Special Report*. "Not surprisingly, the Kosovo War fostered a tangible national anxiety and a tense social environment between Slavic and Albanian Macedonians. There were fears that Milosevic would spread the war to Macedonia and

that the presence of NATO forces would place the country at risk... Multi-ethnic communities in Macedonia witnessed a polarisation that frequently led to a breakdown of past ties. There was a concern that this could at some point lead to a major political crisis." However, the *Special Report* pointed out, "Macedonia may be a fragile state given its size, location, history, and ethnic composition, but it has survived remarkably well to date. The ethnically-based political parties seek compromise with each other, rather than deadlock, and inter-ethnic relations are relatively calm at this time. Parliamentary institutions work. The media is open, and the press is free."

The prospects for hard security in the Balkans appeared to have improved with NATO's intervention in Kosovo and the overthrow of the Milosevic regime in Serbia. NATO had imposed a Balkan security framework over Kosovo, Bosnia and, with its strong political and military presence, over Albania. The security framework, although it would not be present permanently, did preclude possible hostile moves against Macedonia by neighbouring states. Interstate violence was no longer a major threat to Macedonia. A new threat would emerge as a challenge posed by ethnic Albanian armed terrorist groups.

Late in 2000 and early in 2001, ethnic Albanian rebels calling themselves the National Liberation Army (NLA) attacked Macedonian security forces. The NLA had ties to the Kosovo Liberation Army (KLA) and rebel Albanian forces operating in southern Serbia. Members of the KLA, who were supposed to have disbanded and given up their weapons to the NATO KFOR by mid-1999, reportedly regrouped in the demilitarised buffer zone around Kosovo and transferred arms to Macedonia. Several reasons may have accounted for the attacks. The primary one appears to have been the increasing radicalism of disparate ethnic Albanian militant groups operating in Kosovo, Serbia and Macedonia. Many of them were linked to organised crime and regional smuggling rings. Another reason was the February 2001 border agreement between Macedonia and the Federal Republic of Yugoslavia, which tightened border controls and led to intense conflict between Macedonian border police and ethnic Albanian smugglers.

The military attack caused a political confrontation. The Kosovo conflict had strained ethnic relations. Some 250,000 Kosovar Albanian refugees flooded across the border and sought refuge in 1999. Albanians demanded the recognition of their language as an

official one, greater representation in the government, armed forces and police. Macedonia's government replied that the Albanian minority possessed rights comparable to, or better than, minority communities in other European countries. The government also suspected that Albanian autonomy claims could lead to secession and the Albanian-inhabited part of Macedonia would unify with Kosovo or Albania. Western states condemned the violent actions of the Albanian extremists and expressed support for the sovereignty and territorial integrity of Macedonia, while urging restraint on the part of the Macedonian forces.

The Macedonian government's strategy was to master the crisis through military and political means and with international assistance. In March the government started a counter-insurgency campaign, while at the same time inaugurating talks on reforms with elected Albanian representatives. In June President Boris Trajkovski presented to the Parliament a strategy that called first for a consolidated government effort to quell the rebel forces, the offer of a partial amnesty for the NLA, and plans to facilitate the disarmament of the rebel forces and the reconstruction of homes. When the plan was accepted, the President requested NATO's assistance in disarming the rebel forces if a political agreement was reached. NATO agreed to launch a limited operation to disarm the extremist forces, but forces would not be deployed until Macedonian and Albanian political representatives reached a political agreement and designed a framework for its implementation.

Macedonian talks with the Albanians were fraught with great difficulties but, under strong coercion of international organisations, both sides signed the Ohrid Agreement in August, although some of its provisions were disliked by the Macedonians. (Subsequently the Ohrid Agreement was accepted by the Parliament, after considerable debate.) NATO deployed some 4,500 troops for Operation Essential Harvest to collect rebel weapons. NATO's peacekeeping force in Kosovo (KFOR) patrolled the Kosovo border, attempting to cut off Albanian rebel supply routes, without much success. In September, the Macedonian government requested that NATO provide a light presence to protect international monitors in Macedonia after the completion of Operation Essential Harvest. NATO approved a follow-up mission, Amber Fox, on September 26. Its mandate was to provide security for international monitors overseeing implementation of the peace plan.

## The Crisis of 2001: Lessons Learned

From the start of NATO engagement, Western security experts doubted that the Macedonian government could master the crisis. They expressed concerns about a potential security vacuum that would result after the planned departure of NATO forces. By signing an agreement it had avoided what could have been a very brutal civil war. The settlement remained extremely fragile, with extremists unconvinced that a political solution offered a better way to achieve their goals than outright warfare. Therefore it would be up to the international community which helped design the Ohrid Agreement, especially NATO troops, to make sure that violence ended and a political settlement was not overturned. If Macedonia was to avoid repeating the scenes of an ever-escalating ethnic slaughter that have become so familiar in the Balkans, NATO should deploy a large body of troops to Macedonia, leave it there for some time to come, and put down any violence, whatever its source. However NATO made it clear that the Essential Harvest operation would adhere to a strict timetable. NATO had no plans to deploy an extended peacekeeping operation in a Macedonian MFOR similar to the SFOR or KFOR operations in Bosnia and Kosovo, although Western public opinion feared the resumption of violent conflict between the rebel and government forces, and pointed to the need for security for international monitors on the ground.<sup>57</sup>

The Macedonian government assumed that significant progress had been made in preserving peace and stability. It did, in fact, surmount the difficult situation, an assumption that turned out to be justified. However, the government recognised that threats still remained and the situation was fragile. The threats are manifested in different forms such as corruption, organised criminality, armed extremism and terrorism, problems that occur in the development of democracy, growth of the economy, reforms of the security sector, problems from the area of social cohesion, and efforts for maintaining a healthy environment.

In October 2001, at an international PfP meeting on Defence Policy and Strategy in Geneva, Switzerland, the State Secretary of Macedonia's Ministry of Defence, Vladimir

---

<sup>57</sup> Ivo Daalder, *NRC Handelsblad*, August 20, 2001.

Goreski, reviewed Macedonia's crisis along the lines of lessons learned from it and how, in the future, PfP and NATO could contribute to crisis prevention and management in South Eastern Europe.

Macedonia's President had developed a Plan and Programme for overcoming the crisis. It was determined to solve the crisis peacefully, using political and diplomatic means while isolating and disarming the armed terrorist groups with the assistance of the international community. The overall plan consisted of five operational Plans: a Plan for development of confidence-building measures; a Media Campaign Plan; a Plan for the deployment of the Security Forces; a Plan for disarmament and establishment of peace and security; and a Plan for coordination with the international organisations. Macedonia had requested military assistance from the Alliance, particularly for the implementation of the third and fourth parts of the Plan and Programme.

Looking back at NATO activities in the light of mutual cooperation with Macedonia, there were positive experiences. Among these was the effective role of the NATO Liaison Office in Skopje, which since the beginning of the crisis had been enhanced by a Senior Representative and the constant presence of the Special Envoy of the NATO Secretary-General. There was the role of the Special NATO Contact team that participated in the mutual preparations and development of the Plans already mentioned. In this phase the representatives of all the relevant Ministers of Macedonia worked together with the representatives of the OSCE and EUMM missions and the NGOs (USAID). There was the establishment of coordination mechanisms, the NATO Coordination Cooperation Centre (NCCC), including Clearing House activities and exchange of classified information.

Implementing the mutually agreed decisions was enabled through close cooperation and coordination of the activities between the political and the military part at operational level. The Task Force Harvest (TFH) was directly linked to the policy makers, with the President and the government of the Republic of Macedonia on one side and the NATO Secretary-General on the other. The establishment of the Liaison Officers by the Alliance (TFH) with the Security Forces of the Republic of Macedonia enhanced the process of mutual confidence-building. Appropriate legal arrangements were made by NATO/KFOR, concerning the status of the HQ, personnel and the forces, as well as the

Temporary Operating Procedures for Border Security between Macedonia and the Kosovo region of the Federal Republic of Yugoslavia.

However, there were negative experiences as well. Macedonia was not involved in the development of the NATO Operational Plans during the initial phase, although that was solved later on. There were too frequent changes of the personnel of the NATO Coordination Cooperation Centre (NCCC) – every three months. There were no agreed procedures and mechanisms for quick acceptance and implementation of the necessary operational alterations. There was no active participation of the Police Forces, which are key actors in crisis management. Macedonia had no access to NATO classified documents and information that were important in the crisis management. There was inadequate implementation of the existing security procedures and the established mechanisms for classified information exchange. Appropriate Macedonian government institutions were not involved in providing security clearances to locally-employed personnel taken on in the role of interpreters, since there was a real danger of employing personnel with a criminal record.

This lack of coordination hindered the implementation of the Presidential Plan and Programme for gaining a positive public opinion and increasing public support concerning relations with NATO as well as the Media Campaign Plan. There was also inadequate and insufficient information for the Members of Parliament and the key personnel of the political parties represented in the Parliament.

Based on an analysis of the negative aspects, and in order to increase the capability of the PfP community in crisis management, Macedonia's representative Goreski proposed that in addition to the existing PCC, which exclusively deals with the military aspects, there should a Political Military Cell. It would deal with the education of personnel not provided with training. Among them there would be the Members of the Parliament, key persons of the political parties in the Parliament, and the institutions responsible for media activities.

Within the Partnership Work Programme (PWP) there needed to be more activities for Early Warning and Conflict Prevention and more attention to Civil-Military Cooperation (CIMIC). In the area of planning, funding and resource management, more attention

could be directed toward these aspects in crisis situations. There also should be more activities both for the members of the Police Forces and the institutions responsible for media activities.

For the Operational Capabilities Concept for NATO-led Operations (OCC), a database of qualified local population could be established, especially for engagement as interpreters and who have acquired a security clearance for handling classified data, information and documents. Within the Political Military Framework (PMF) there could be an assessment of the participation of the partner countries during the initial phases; the inclusion of the Host Nation as a “contributor nation”, and practical mechanisms for classified information exchanges that are of crucial importance for the conducting of the operation. The Republic of Macedonia is to be the leading nation in the development of the documents within the SEEGROUP for the Political Military and other Early Warning Conflict Prevention and Crisis Management.

### **Enhancing Crisis Management in South Eastern Europe**

Given the unpredictability of crises, Macedonia realised that obviously, there was no precise formula, nor a specific predetermined solution, available in advance for crisis management. A general solution is through dialogue and mutual consultations. Once the solution has been found it is necessary to develop the procedures and mechanisms for quick acceptance and implementation.

The working bodies, and the mechanisms for PfP provided a general system of confidence-building, increased mutual understanding, communication, consultation, exchange of information, views, experiences, accepting of mutual unified standards in the communication, and coordination – that is, increasing understanding for executing joint tasks and peace support missions. The redefining of the role of the international and regional organisations and integration has already begun and they have adapted themselves to the new strategic environment by their involvement in conflict prevention and crisis management.

The key factors for stability in Southeast Europe included the regional mechanisms for security cooperation such as the NATO Southeast Europe Initiative (SEEGROUP,

SEECAP), as well SEECP, SEDM and Stability Pact. To these, one could add the EAPS and PfP mechanisms: the Political Security consultations on regional issues, AHG for SEE, and activities in the spirit of PfP, PSE, the regional PfP Training Centres, and exchange of personnel within SEE, the ideas of a Regional Defence College and comparative study of National Security Strategies.

All these processes were, primarily, measures for confidence-building, and, second, measures for increased mutual understanding and transparency of defence policies, correlation of the national and regional interest and priorities up to a joint carrying out of projects of mutual and regional interests. Here, all the established mechanisms should be able to additionally divide the domain of activities, in order to avoid duplication, and to improve focus on the operations. The PfP system had acquired results that enabled a general information exchange for conflict prevention and crisis management.

But for real problem-solving, PfP still has not acquired enough instruments to deal directly with crisis prevention and management. There was a need for tools and instruments that were more practical, faster and more efficient than the exchange of views and opinions on conferences, seminars, exercises, and courses on a general level. Although work within PfP would remain one of the key frameworks for the improvement of security in Europe, the origins and the specific character of crises in regions like South Eastern Europe should be recognised. Crisis management structures and methods needed to be developed primarily with the aim of solving current and possible future conflicts.

In 2001, the Republic of Macedonia had experienced a major crisis. Given its experience, and the aspects of international involvement in Macedonia – both the positive and negative aspects – the general approach developed in the PfP framework and cooperation, could be combined with the needs for a regional approach. Implementation Early Warning, Conflict Prevention and Crisis Management could help only if the practical instruments were developed.

The Republic of Macedonia was well suited to having a leading role in the follow-up activities connected to Early Warning, Conflict Prevention and Crisis Management. For this reason, the Republic of Macedonia assumed that as a member of PfP it can

responsibly and firmly take the lead over initiatives, propose and organise tools, measures and activities in this field. Macedonia considers that the fastest way for assuming practical measures is to establish an organisational forum – a Centre, Permanent Group, Commission, Body, as well as other subordinate elements, located and developed in the Republic of Macedonia, Goreski proposed.

### **Reviewing and Revising the National Security Strategy**

The proposals on establishing a crisis management capability, and a crisis management organisation, in Macedonia, had to be incorporated into a broader framework of overall security sector reform. Macedonia had developed a national security strategy in 1998 and the Ministry of Defence had developed a defence policy. Major strategies and plans of this nature cannot be altered rapidly. Macedonia's security thinking rested on two essentials, a defence capability with armed forces developed to protect state sovereignty, and preparation for NATO membership. The essential points of Macedonia's national security strategy, which was in effect early in 2001 when the crisis was imported into Macedonia, need to be recapitulated, to provide the necessary background for the extent of change in Macedonia's security sector after 2001.

According to *The Strategy of Defence of the Republic of Macedonia*:

At the moment, defence faces the challenge of a deep transformation, incited by necessary restructuring according to NATO norms and standards. Even though there is a rule that measures should be taken step by step, in a balanced manner and based on social acceptability, still the process comes down to making great efforts because of the depth of the changes."

The Republic of Macedonia should build up its defence as a system, which will provide optimum security and protection of its sovereignty and integrity. The defence system is based on building up an armed forces, capable of carrying out armed combat, as well as civil defence, built in the best correlation, which will provide continuity in the functioning of the state and its political and economic system, which will support ... the armed forces and will take complex measures for the protection of its inhabitants.

The defence system, especially the Army, has readapted its structure and has appropriately estimated the degree of engagement of personnel, according to NATO norms and standards. The units should be concentrated in a smaller number of garrisons and be trained for a wider range of tasks, for rapid and practical action and with much fewer financial resources at hand. In this way, the financial means that will be saved should be redirected for an improvement of the equipment and a faster professionalisation of the Army. Regarding planning, organisation and human efforts, all these should represent a challenge that has never been felt before in the defence of the Republic of Macedonia.”

Intelligence activities, as unique and complementary ones, should provide the Republic of Macedonia with a timely warning about threats to its security. In that sense there is a need to undertake faster steps for enabling the Intelligence Agency in order to have a timely warning about strategic threats to the security of the Republic of Macedonia, early warning about potential crisis and by that to make the job of preventative diplomacy easier, to contribute to the improvement of counter-intelligence activities, to provide timely strategic and other intelligence support when planning and during military operations, as well as to reinforce the intelligence relations and the exchange of data with foreign intelligence services.

### **Process 2002: Revising Macedonia’s National Security Sector**

In April 2002, Macedonia’s security sector reform came under review, with the methods for crisis management an important objective. Initiated by President Trajkovski, “Process 2002 – Security of the Republic of Macedonia” brought together “the relevant national and international government and non-government authorities to discuss security issues of strategic importance to the Republic of Macedonia that will serve as a basis for the work of the president of the Republic of Macedonia.... a high-level forum for policy-oriented exchange between experts and practitioners from various backgrounds.”

The President said that such a process in Macedonia was crucial for a better understanding of the security problems, risks and challenges that the country faced and for further discussion on the possible solutions of the problems that appear ahead from

the security perspective. The process would build upon the previous work done by the national authorities and its aim was not duplication, but furthering efforts in tackling the security problems of the country. It would bring different opinions to the discussion and finding compromise on the issues.

The aim was to anticipate the future security problems and requirements of Macedonia, treating the issue from a multi-disciplinary perspective, understanding the concept of national security in a broader framework, which accommodated 'soft' and 'hard' security. "After last year's grave and tragic developments," Trajkovski said, "I believe we all agree that there is a need for a national security strategy and that the time has come to open this process."

Participants addressed a number of issues, such as Macedonia's hoped-for NATO membership. Macedonia recognised that the official policy and opinion of NATO in Brussels was that there was no shortlist of countries that would definitely be admitted to NATO. Macedonia's chances were not very good and we were somewhere at the end of the list, mainly because of the crisis of 2001. Therefore, as in other Balkan countries applying for NATO membership such as Romania and Bulgaria, Macedonia's security situation and security policy could be decisive.

In view of both past and present problems in the security forces, Grozdan Cvetkovski, the Head of the Intelligence Agency, proposed a national security law. Cvetkovski stated that the crisis of 2001 showed that the security structures were not prepared to deal with it. "Only [by introducing a national security law] can these shortcomings be overcome". The place, role and duty of every segment of the security and intelligence system had to be defined," Cvetkovski thought. The president's security adviser, Stevo Pendarovski, said: "In the coming years Macedonia may face new challenges, and its existence and future may depend on how it deals with them. The country cannot survive another Ohrid agreement."

For Macedonia, identifying new risks and developing structures and methods for national and regional crisis management should be high on the agenda of security reform. The less a government makes adequate provision to meet the new risks, by developing an effective crisis management capability and investing in the right type and quality of

security forces – intelligence, border guards, police and army – the more serious will be the danger that the risks could pose. Risk assessment should be carried out largely (though not exclusively) by a country's intelligence services, its first line of defence. In the altering security circumstances, a government has to redefine the intelligence area of interest, orienting it toward the new security risks.

Crisis management is the means of countering a sudden build-up of a dangerous situation in a country or its immediate vicinity. Therefore, security reform requires management that recognises, controls and eliminates crises in their incipient stages. The aim is early containment. In this sense, Macedonia's definition of crisis management differs from that of the Western institutions like NATO, which deal with crises through force projection, that is, after they have been raging for a considerable time.

The concept of crisis management has only recently been introduced in the new democracies. Methods for dealing with new risks are still being developed. A government might have to decide on emergency measures, declare curfews, use the military for emergency tasks, and even prepare for mobilisation. The media, as Macedonia's experience of 2001 demonstrated, is a critical element in a crisis. Crisis management must provide for the safety of all branches of government and their ability to continue functioning; it must ensure secure communications and be able to provide information to the population and foreign governments.



**DEFENCE AND SECURITY SECTOR  
GOVERNANCE AND REFORM IN SOUTH EAST  
EUROPE: INSIGHTS AND PERSPECTIVES**

**MOLDOVA**

**A SELF ASSESSMENT STUDY**

# TABLE OF CONTENTS

## MOLDOVA

### Part One: Summary of Security Sector Reform

1. Security Sector Reform in Moldova.....3  
*Nicolae Chirtoaca*

### Part Two: Democracy and Defence

2. Democratic Oversight and Control over Defence.....22  
*Gheorghe Cojocaru*
3. Parliament.....36  
*Ion Clueac*
4. Civilians and Military in Defence Planning.....52  
*Oleg Gaur*
5. State and Social Control over Intelligence and Security Agencies.....71  
*Serghei Fevrailiov*

### Part Three: Government and Society

6. Good Governance: Civilians and the Military.....85  
*Arcadie Barbarosi, Oleg Graur and Viorel Cibotaru*
7. Transparency and Accountability.....100  
*Viorel Cibotaru*
8. Civil Society and Non-Governmental Organizations.....115  
*Sergiu Botan*

### Part Four: International and Regional Influences

9. International Requirements and Influence.....134  
*Oazu Nantoi*
10. The Participation of the Republic of Moldova in Peacekeeping Operations.....154  
*Stefan Gordă*
11. Crisis Management.....163  
*Sergiu Gutu*

## **CHAPTER ONE**

---

### **SECURITY SECTOR REFORM IN MOLDOVA**

*Nicolae Chirtoaca, Euro-Atlantic Centre of Moldova*

#### **Introduction**

The transformation of civil-military relations is perceived as one of many challenges the Republic of Moldova is facing on the painful and contradictory path towards democracy and modernisation of the country. In the context of the broader post-totalitarian transition, this kind of new relations between the democratically-elected legislative and executive branches of power and the armed forces has received much less attention than larger issues of democratisation, economic and social reform. However, the military remains one of the most important players in the post-communist environment, and issues relating to democratic, civilian control of the armed part of the society may have significant implications for the prospects of democratic reformation and for the sustainable development of the newly-independent states. Especially the extent of civilian control over the military has an important bearing on prospects for integration with Europe in general and for a more efficient relationship with NATO in particular.

At the beginning of 1990s when the creation of the armed forces in Moldova started from scratch, the main objective of the newly-created state was the reorganisation of the political-military sphere into an efficient system of ensuring military security, correlated to international legal norms, a modern framework and the economical potential of the state. The concept of military construction aimed at the creation of a relatively small, mobile, well-equipped and professional army, capable of defending the country and neutralising different military threats and dangers. This doctrine derived also from the principle of state neutrality and non-accession to military blocs, and on the political control of the elected power structures over the military institutions and units.

Unfortunately new governments and parliaments lacked adequate military expertise and had no adequate civilian mechanisms to work out a new military policy, to direct the course of military affairs and the development of their armed forces according to democratic principals. Internal power struggles inevitably involved the armed forces, which have been moved from one branch of executive power to another, from the government to the president, the parliament playing the secondary role in these manoeuvres. The involvement of the armed forces in politics finally reduced the efficiency of real political control over the military. In these circumstances the military leadership made efforts to protect and preserve the military system, relying mostly on old experience and the temptation to restore the former infrastructure and methods of military organisation. These trends have been reinforced by the limited democratic experience of the military as well as by the lack of competence and expertise of new civilian governments.

Over the years of Moldova's existence as an independent country a legal division of authority between the state institutions responsible for national security has been gradually established according to generally-recognised democratic norms and principles. In terms of civil-military relations, the principle of democratic (civilian) control over the armed forces and the security sector as a whole has been recognised as a rule of the democratic game and partly institutionalised. Over the years of independence, Moldovan society has gained some experience in democratising the military. Some efforts to ensure "transparency" and raise public awareness concerning national defence planning and military budget approval have been made. Within society there is already an understanding of the necessity of ensuring the accountability of the military, security services and law enforcers to the elected public authorities. The specific conditions of the ongoing transition from the totalitarian past to a democratic and open society directly affect controls and management over the armed forces. The lack of democratic traditions from one side and the creation of a national army from scratch, on the basis of an officer corps and personnel inherited from the Red Army are still real challenges for a newly-independent state. However, the real test for civilian control is still to come, with the practical implementation of a delayed and painful restructuring and adjustment of the armed forces to the real threats and to the dynamic of cooperation with the emerging collective (cooperative) security system in Europe.

From one point of view, the institutional and law-making issues such as the drafting and approval of new normative acts and re-definition of the lines of responsibility of the power structures have been successfully accomplished. Moldova, like the majority of the newly-independent states that appeared on the political map of Europe after the collapse of the former authoritarian and multinational states, has recognisable democratic structures in place. However, in comparison with the formal aspects, the “behavioural” set of issues is emerging as being one of the main elements of the adjustment of the existing post-totalitarian to the ongoing modernisation process. Whilst new public power structures and institutions have emerged rather rapidly, created by the decisions of the law-makers, attitudinal change appears to be taking place over a longer time period than institutional or legal change. The effective operation of institutions and procedures in the field of national security can be ensured together with an important attitudinal change, the acquisition of shared norms and values by civilians and military aware of the existing and verified norms of countries with a long democratic experience.

Moldova like many other Eastern European countries found it exceptionally difficult to evaluate a successful model of civil-military relations within the framework of the ongoing reformation of the national security system. Of no less importance is to work out relevant elements for the development of armed forces able to meet the challenges of a dynamically changing world and of new risks and dangers. Therefore the objective analysis of the current state of the democratisation of the national army in general and of civil-military relations in particular is so important for Moldova, especially taking into consideration the willingness of the political elite as well as of the government to reintegrate the country into Europe and to finalise in the nearest future the process of transition towards the democracy of the market economy.

### **Legal and Normative Basis of National Security**

For Moldova’s parliament the most important role in the field of national security and defence can be considered the establishment at the beginning of 1990s of the constitutional and legal framework, including civilian control of an armed forces created from scratch, which is still functioning up to now. The parliament has done its job in approving the long-term principles and priorities of Moldova’s foreign and security policy, mainly through adoption of a Military Doctrine and a National Security Concept. The

other major constitutional role of the legislature, controlling and correcting the national security policy and strategy and the budgeting process, has been exercised with modest success. The regular activity of the standing parliamentary committees on defence and national security as well as on foreign policy is not marked by big achievements from the strategic point of view. In any case, the regular hearings and discussions within the respective committees have contributed to raising the degree of transparency in the decision-making process in this field of state responsibility.

There is a clear division of powers and responsibilities between different branches of central state powers. According the Moldovan Constitution, the head of state is the Commander-in-chief of the Armed Forces. The president is personally responsible for the defence of the country, for national security as well as for the foreign policy of the country. He is assisted in his duties by the Supreme Council for Security, which functions as a consultative body with its activity regulated by presidential decree. The government ensures the implementation of state policies in the field of defence and national security by managing the security and defence area through the Ministry of Defence, Ministry of the Interior, Information and Security Service and the Department of Border Guards, and other structures subordinated to the executive power, whose roles are stipulated by respective laws.

The Ministry of Defence is the central public administration institution and authority directly responsible for strategic planning and use of the Armed Forces aimed at ensuring an adequate level of national defence capability. The national military and defence system consists also of local power structures empowered and responsible for conceiving, planning, organising, coordinating measures and actions aimed at national defence during peace, state of emergency, martial law and in the case of war at their respective levels.

## **National Security Concept**

In some cases the Armed Forces can be used in peacetime, in order to ensure the military security of the state. In accordance with the National Security Concept recently approved by the Parliament, the main tasks of military security include, along with the defence of the state against external aggression, the restricting of armed conflicts and

the neutralisation of illegal military activity in the immediate vicinity of the country's borders, support given to state bodies and units during the implementation of missions aimed at the re-establishment of national security.

At the same time, the military doctrine of the country stipulates that different institutions and units of the National Army can be used to assist the frontier guard and the interior troops in the protection of the population against armed violence, in the localisation and blockage of potential conflict areas, in the prevention of armed clashes, the armed protection of important objects and civil units, in the liquidation of the consequences of natural disasters, damages and catastrophes, in accordance with the legislation.

The concept of military reform, approved by the Parliament in 2002, specifies the reasons for the use of the Armed Forces in the above-mentioned situations. It stipulates that, during crises, the Armed Forces can participate in accordance with the law, and in cooperation with other states, in the following actions: the prevention of destabilising actions, the neutralisation of terrorist elements and other illegal armed groupings, the prevention of proliferation of conventional and mass-destruction arms, intervention in crisis situations in order to protect citizens and the basic infrastructure of the state. The armed forces may be used in cases of natural disaster, damage and catastrophe at the solicitation of the government, in accordance with the existing laws.

The main restriction related to this chapter is stated in the Law on Armed Forces and gives the Parliament the special right to limit the use of armed forces in the situation that are not directly related directly to state defence and protection. In cases of states of emergency, the decree of the President of the Republic of Moldova is required in such cases. There is still a certain misunderstanding concerning the similarity of the legal provisions that determine "exceptional situation" and the constitutional notion "state of emergency". Therefore there is an evident need for further improvement and clarification of these notions that both comprise a set of political, juridical, economic, administrative-organisational and other measures as well as the mode of introducing special forms of governing in certain territories of the country.

## **Military Doctrine and Military Reform**

The main official document that contains the main principles and directions of state power activities in the field of national security and defence is the Military Doctrine of the Republic of Moldova adopted by the parliament of the country on 6 June 1995. The Doctrine has not been changed since its approval by the supreme legislature and mentions democratic control over the defence sphere as one of the main principles of the new kind of civil-military relations, asserts the supremacy of political control of the elected bodies of the public authorities over the military institutions and structures of the state and the Armed Forces as a whole.

According to the Doctrine, the potential existing sources of military dangers to the sovereignty, independence and territorial integrity are considered the following:

- Territorial claims or pretensions of other countries;
- Attempts to interfere in the internal affairs, to destabilise the internal domestic situation in the country;
- The presence of foreign troops on the territory of the state against the will of the people;
- The subversive activity of separatist organisations, attempts oriented towards the armed violation of the territorial integrity of the country;
- The creation of illegal military forces on national territory.

Another document that contains the definition of political priorities concerning national security is the Foreign Policy Concept of the Republic of Moldova. It was adopted by the Parliament on 8 February 1995. In the chapter Regional and Sub-regional Cooperation, gradual integration into the European Union is declared as a major long-term objective of the country's foreign policy. European integration is seen as the main opportunity of the country to finalise democratic and market reforms in order to be included in the collective security arrangements that can raise the degree of stability of the Republic of Moldova. More than seven years after the Concept entered into force, it has become obvious that many of its provisions turned out to be formulated too vaguely and dynamic reality requires more pragmatic and explicitly-formulated priorities and goals of foreign policy. The Moldovan state did not succeed in resolving the main problems concerning national

security, territorial integrity and the stabilisation of the internal situation in cooperation with international organisations and institutions.

The new version of the Concept of Foreign Affairs worked out by the Ministry of Foreign Affairs clearly states the necessity for a return to the European way of development in order to ensure the real perspectives for national development and modernisation of the country. The new concept draft declares the leading European communities as a model of democracy, economic welfare, an indisputable source of political and economic power and stability.

On 26 July 2002 the Parliament of the Republic of Moldova approved the Concept of Military Reform. The necessity for this document was explained by officials by a need to solve a range of problems that confronted the Armed Forces in the recent past. The establishment of a new efficient and flexible system of military security able to guarantee the defence of territory, sovereignty, independence, territorial unity and integrity of the state is considered the main objective of the reform. The need to reform the army is explained by the following factors:

- a) the inadequacy of the present system of the military security of the state;
- b) the declared permanent neutrality status of the country and the necessity of adjusting foreign policy to this principle;
- c) the present geopolitical situation and the new realities, risks and missions generated by changes in the international arena;
- d) the insufficiency of financial resources and the need to correlate the military security system of the state with the present possibilities and the perspectives of economic development of the country;
- e) the relatively low defence potential of the Armed Forces and reduced military capacities of the country.

In the Concept it is highlighted that the Republic of Moldova does not have enemies and therefore the probability of a major threat to the military security of the state is minimal for the time being. The main sources of threats are considered regional instability and the emergence of a large variety of non-military risks. For the first time transnational

risks are considered organised crime, illegal drugs, weapons- and strategic material-smuggling and trafficking.

The Concept of the Military Reform contains the following hierarchy of the main regional risks: the strategic imbalances of military potential in the region; the existence of a certain degree of military tension and conflicts that might spread; territorial separatism and the internal political, social and economic conditions that might have a negative impact on the military potential capable of diminishing the power and authority of the public administration; the appearance of dysfunction in the financial, information, energy, communications and telecommunications systems of the states; politico-military rivalries between newly-formed states.

Since the Concept of Military Reform was approved by the Parliament, the legal and normative basis was created for the implementation of the Defence Planning, Programming, and Budgeting System. Defence planning has a chance to become the current practice for a better-balanced armed forces adjusted to existing military threats and to the country's potential that depends directly on the economic, financial and social situation. This system presumes much more precisely-designed objectives for the armed forces and the respective development programmes.

Despite the fact that it encompass political, economic, and foreign policy considerations, as well as the rationale for democratically-designed security strategies, the Concept does not stipulate explicitly the new role and functions of the civilian and military components of the security arrangements in order to raise the efficiency in further modernisation of the national security system in Moldova.

## **Current State of Civil-Military Relations**

Since the last parliamentary elections in February 2001, the work of the current Parliament is dominated by a communist majority that has 71 out of 101 seats and is characterised by the old-style “unanimous” approach to major national security issues that unfortunately does not improve the quality of the decisions adopted and of the controlling functions of the legislature. On the contrary, the limited capacity of the opposition to intervene in the decision-making process concerning the key issues of

parliamentary competence reduces considerably the quality and content of political debate. The lack of new knowledge and experience, the old stereotypes and views shared by the parliamentarians and their supporting experts and staff members, as all as the inertia of the old times create a vicious circle that generates incoherent policies.

After the last legislature elections, Moldova's political system was radically modified from a half-presidential to a parliamentary one, as a result of a 90 per cent vote by the members of the Legislature. The President's prerogatives were formally substantially reduced and the head of state is now elected by the Parliament. This looks like a democratic change, a move in a direction totally different from other countries of the former Soviet Union, but in reality the situation is totally different. The fact is that the president of the country, Vladimir Voronin, who is at the same time the secretary-general of the Communist Party, de facto has more power and influence than his allegedly democratic predecessors, although they were elected by general vote. This support to the head of state comes also from the carefully recreated vertical structure of power and through the appointment in key posts of persons personally and politically devoted to the president. This very special situation puts an even higher responsibility on President Voronin who is commander-in-chief of the armed forces and is in charge of the foreign policy of the state.

Over the past years democratic control has been reduced to the appointment of a civilian minister of defence and to larger involvement of the parliament in military budget policy development. However in reality the powers and the functions of the parliament in the defence and security sector reform remain rather limited as compared to the responsibilities of the President and of the government. Although the Ministry of Defence has been under the control of civilian ministers during the last five years, it remains predominately a military institution. The frequent changes of government and the subsequent removal of senior MoD officials, in the majority of cases political appointees, have prevented the creation of a stable civilian core and the accumulation and improvement of civilian expert knowledge. Shortcomings in the training of civilian officials and the absence of career opportunities have meant a further deterioration in the situation.

From the moment of the creation of a communist majority government it was clear that the new power would govern with disregard for the essentials of civilian control and would proceed with re-militarisation of a number of positions at higher and lower level, paralleled with general lack of respect for the expertise of civilian officials. The Moldovan Army and its General Staff will still be integrated into the structure of the Defence Ministry and will obstruct the establishment of an improved division of responsibilities between the General Staff and the civilian minister. The executive has returned to the old system in appointing a career officer as the minister of defence.

For the time being the Parliament as a whole and the Standing Security Committee in particular do not have a special staff on defence and national security issues. This lack of experience and of the special knowledge of the deputies is partly compensated by the military background of some of the parliamentarians who are familiar in general terms with this kind of problems. Unfortunately their approach to these problems is profoundly marked by the old experience from the Soviet army that does not fit in with the new principles of organisation and functioning of the army. Seminars periodically organised by the MoD give the decision-makers some extra knowledge and update their understanding of the current problems the army is confronted with. In the decision-making process parliamentarians in the majority of cases are assisted by experts from ministries involved in defence and security matters – the MoD, Ministry of Internal Affairs, Ministry of Finance, Ministry of Foreign Affairs, Ministry of the Economy, Department of Border Guards and the Security and Information Service. In special cases the opinion of independent experts from different non-governmental organisations is solicited. In this way a different kind of expertise is used in the decision-making process regarding defence and national security issues.

The government now submits to the Parliament a more detailed draft of the state budget that includes its military component. This, undoubtedly, is an important step forward, allowing an increase in the efficiency of parliamentary efforts with respect to the control over the Armed Forces. The problem of estimating the reliability of information and the justification of the Ministry of Defence budget application and the government's application still exists. Finally, the Parliament has no possibility of checking the execution of the military budget, of estimating to what degree the allocated funds are being distributed in accordance with the approved budget items. This, however, only partially

explains the weakness of the Parliament as an instrument of civilian control over military structures. The reason for it is that the parliamentary structures often act as a kind of lobby for the military circles who insist on the maximum allocations for defence. This is back-breaking for the country and contradicts the interests of society at large, since it results in non-payment of wages and salaries in the budget sectors, cuts in expenditure for the social sphere and the like.

The experience of the efforts made during the past decade to build a representative democracy in Moldova reveals an apparent trend toward a factional and narrow corporate approach in the activities of political parties and organisations represented in the higher legislative body. Partisan preoccupations and short-term political goals are in flagrant contradiction with the need of society for responsible and competent governance able to formulate and implement the major national strategies of development. The multiparty system functioning in Moldova is marked by the low quality of the political organisations and by the populist approach of their leadership to the main problems that still confront society. The chronic alienation of the political formations from the public, the lack of responsibility during the period the parties or their associates govern, weaken the state and have a negative impact on democratisation as a process and on the quality of civil-military relations in particular.

These "behavioural" aspects of party political activity in Moldova also explain the ease with which the first two democratically-elected national legislatures have declared Moldova a demilitarised zone and neutral country in obvious disregard of the simple fact that neutrality, as a notion and the principle of relations with the outside world, is related to a state of war, whether "hot" or "cold". Demilitarisation, for its part, does not signify full-scale disarmament and the destruction of all military stockpiles. None of the Parliamentary caucuses has, as a rule, bothered to provide any serious substantiation for this stand, or arguments to defend vigorously the pacifist attitudes taken to military and army issues.

Another important aspect that has a direct impact on the activities of the governing circles is the structure of interests and values important to the electorate. Economic and social crises, the uncertainties of the transition period, have changed the perception of the ordinary people regarding the state, its role and the priorities of its policy. According

to reliable and nationwide representative polls, the army remains one of the state institutions whose positive potential is believed in by the majority of respondents. At the same time military issues, as well as defence and national security problems and settlement of the Trans-Dniestr conflict, do not represent a priority for most of them. Being aware of these tendencies and perception of the issues, the leading political parties and organisations prefer to pay more attention to social and economic problems, military and national security issues remaining in the shadow.

The posture of an MP depends not so much on the political programme of his party or movement as on the current political situation, short-term considerations related mostly to the hierarchy of power itself. The professional level, knowledge and competence of the particular legislator, member of a specific standing parliamentary commission or committee is not the main factor that can influence his appointment and further activity during the mandate period. It occurs very rarely that such an activist takes the risk of overcoming factional and corporative barriers when approaching problems of interest and significance for the entire nation. Issues related to the activities of the Armed Forces, defence provisions, and national security arrangements require competence and expertise that are often in contradiction with the amateur level of the law-makers and the lack of will to assume risks for decisions the MP is not competent on. A competent approach to security/defence problems remains the exception rather than the rule.

### **The Impact of International Cooperation on Security Reform**

A frequently neglected aspect of democratic control over the armed forces is the issue of whether the government is actually competent to decide on and implement a defence policy and direct the course of military reform. More exactly it is a problem of the weak state that is not yet able to develop the body of civilian expertise in defence issues, which is needed to ensure balance and to provide competent and adequate advice. The rapid turnover of governments in Moldova as in most of Eastern Europe has compounded this lack of expertise. When governments are reliant on the military for advice on defence issues, it is the armed forces, and not the government, which effectively decide policy. This state of affairs still persists in Moldova, despite the existence on paper and in law of what pretend otherwise to be adequate mechanisms for democratic control. External influence and the existence of an outside “agency of

change" could be a realistic solution for countries with limited internal potential for democratic change. From that point of view international cooperation of the country in transition with international organisations and on a bilateral basis can contribute substantially to the advancement of reforms. External expertise turns out to be a key element for these societies that are in urgent need of assistance and help in gradually adjusting the existing security and defence systems to democratic rules and requirements.

The involvement of the officer contingent of the National Army in international cooperation is one of the main factors that contribute to the change of mentality and to the formation of the new skills the military needs for efficient activity in the new democratic environment. Due to new obligations that derive from the country's involvement in international organisations' activities, first of all within the framework of the Partnership for Peace Programme, it became obvious that the Armed Forces needed military personnel ready to accomplish missions during exercises and, what is more important, in future peacekeeping international and multilateral missions.

From the point of view of real democratisation of civil-military relations, great importance lies with the involvement of the country in the activities of the multilateral international organisations based on democratic principles and values. The Republic of Moldova joined the "Partnership for Peace" Programme on 16 March 1994. According to this document, the country supports NATO's efforts oriented towards the extension of mutually advantageous cooperation in Europe, it assumes all responsibilities, considering the "Partnership for Peace" Programme a real step toward the consolidation of security and stability on the continent and it assumes that participation in the Programme will create conditions for an increase of the defence capability of the country. Moldova will make efforts to establish closer collaboration with the political and military bodies of NATO within the framework of the Programme. The country will have the opportunity to participate in all the events within the Euro-Atlantic Partnership (meetings of the Foreign and Defence Ministers, chiefs of General Staff, seminars, symposiums, visits of military experts, military delegations, etc).

Special attention within the Partnership is paid to military preparation and to the study of foreign languages, first of all English and French, to military budget planning,

establishment of the legal ground for the functioning of the Military Forces, carrying on research activities, the conversion of military industry and environmental protection, the problem of modernising information systems, means of communication, the organisation of civil protection and liquidation of the consequences of natural disasters, and the rendering of humanitarian aid. The Republic of Moldova assumed obligations to support the efforts of UN, OSCE, NATO, CEAP (Council of Euro-Atlantic Partnership) in settling crisis situations, in preventing them according to the norms of International Law, and also to participating in common manoeuvres and in applications to the General Staff. In order to carry out peace-making and peace-keeping operations, Moldova assumed the responsibility of making available for a military campaign a training-ground for tactical exercises and for operations at "campaign-battalion" level, a military airfield for peace-keeping and humanitarian operations, a military transport plane class AN-72, two transport helicopters class MI-8, as well as skilled military doctors.

Multilateral cooperation within the Partnership for Peace Programme allows Moldova's soldiers, sergeants and officers to learn more about the experience of military activities in the democratic partner-countries, to be actively involved in staff training, officers' linguistic education, to have access to information and military statistics. The totally new domain for Moldova's military is the planning and implementation of peace-keeping and humanitarian operations that involve the servicemen and general staff. The positive evaluation of Moldovan participation in the PfP programmes is due also to the financial support ensured by NATO and especially by the government of the USA by means of the Warsaw Initiative.

The participation of Moldova in sub-regional arrangements plays a positive role not only in its capacity for security-enhancing instruments but also as an experience-sharing mechanism important for the new state and for the assertion of modern civil-military relations. From that point of view the involvement of the country in the Stability Pact for Southeast Europe contains great potential for the real democratisation of the relationship between society and the armed forces. Through Working Table III (Security, Internal Affairs and Justice), Moldova could profit from the assistance for diminishing the "soft-security" risk as well as adjusting civil-military relations to European standards.

The pragmatic issues on which these sub-regional arrangements usually focus have implicit confidence-building and stabilising outcomes. At the same time these sub-regional frameworks are well-suited to address "new threats" such as terrorism, organised crime, illegal migration, drugs and arms trafficking, or security challenges such as humanitarian aid, cooperative frontier management and conventional arms control measures, chiefly in the area of transparency. The importance of these sub-regional cooperative schemes lies also in complementing the efforts of international organisations in dealing with transnational threats and risks.

The outside impact on these processes has been of fundamental importance. Moldova's international cooperation in the field of security and stability at regional and continental levels like the Partnership for Peace has enhanced the national potential and capacity for reform. A country that hopes to join the European Union has to observe definite rules of behaviour in its domestic policy and in its relations with its neighbours. Democratic civilian control of the military represents one of the main preconditions for a successful transition to an efficient democracy.

## **Conclusions and Perspectives**

One of the main reasons for the limited efficiency of parliamentary control over the military in Moldova is the lack of a clear understanding of the nature of the new relationship between the army and the rest of society within the framework of democratic changes. The governing circles of Moldova misunderstand the complex nature of civil-military relations within the democratic state. The extent to which democratic control of the armed forces has become a guiding set of principles is not explicitly formulated. In many case the rhetoric of democratic control is promoted by the states, but the governments have not established the full range of features required of modern democratically accountable armed forces.

The Moldovan Parliament's operating experience over the past years has testified to the prevalence of corporate interests and approach to the law-making process and to the regulation of activities in the military sphere. The majority of Moldovan MPs do not have any clear interest in the Armed Forces, in military and national security reform, and in the real conditions in which the army has to operate. Such political behaviour of the

members of the supreme legislative body can be explained not only by the lack of competence and by the political risk that involvement in debates regarding defence and national security as a whole implies, but mostly by the structure of priorities that govern power. While the limited financial resources allocated to national security and defence reduce the magnitude of this problem, parliamentary scrutiny of the defence budget and expenditure is ensured practically only by the governing party without the involvement of other political players.

One of the main tasks for ensuring good governance in the area of national security and defence consists in training civilians and the military in order to form the skills for joint efforts and allow them to work successfully together in dealing with the respective problems, especially at the strategic level. What is really important for good governance is that both civilians and military work more closely together and in the spirit of a team on defence problems, avoiding counter-productive rivalry.

Over the past few years within the framework of the overall democratic transformations in the Republic of Moldova, real premises for new civil-military relations in the defence and national security area have been created. In spite of the limited competence of the civil staff and the lack of experience of the military in treating civilians as equal partners, and the limited competence in military and defence arrangements of the democratic society, the decision-making process is continuing in a correct direction, mostly due to the willingness to cope with European and general democratic principals that are accepted by the political class and the establishment in Moldova.

The Army has well-trained and educated officers ready to implement their knowledge and experience in building the state's defences in accordance with modern requirements. Unfortunately the personnel management system is not a perfect one and promotion of officers is often made not according to their experience, knowledge and professional qualities but more according to their personal devotion to the commander and in function of their personal relationship with the representatives of the high command.

Within the context of the current stage of the democratisation processes in Moldova, it is important to adopt a more analytical and systemic approach to the analysis of the real

content and vectors of civil-military relations. From that point of view there is a range of factors which shape the current situation of democratic control of the armed forces in the Republic of Moldova and can help identify the vectors of their further development. Democratic control of the military revolves around three distinct but inter-related issues:

- the military's role in the development of defence policy in particular and of the national security concept and strategy as a whole in terms of force structure, defence spending, procurement and military strategy;
- the non-involvement of the armed forces and of the power structures in domestic politics, especially in the struggle for power as well as in the settlement of the internal political crisis;
- the clearly stipulated military role and impact on the formulation of foreign policy priorities, especially decisions on the external use of military force.

The general assumption of political and democratic control of the military in Moldova is that the armed forces should be the neutral, apolitical servant of a democratic, civilian leadership and that their role should be limited to implementing the policy choices of that leadership, rather than engaging in domestic politics or playing a central role in determining the direction of foreign or defence policy.

What has been ignored up to now by the Moldovan political establishment and by the decision-makers is that defence policy and decisions regarding the use of military force involve complex military-strategic and military-technical issues, requiring military expertise which civilian leaders are unlikely to have. Such military expertise and advice may have an important impact on the decision-making process, on the broader political consequences, especially if it is followed by the use of the armed forces.

The development of foreign policy relating to military power and its impact on political and diplomatic relations with the outside world raise difficult issues as to the appropriate balance in decision-making between democratic, civilian control and acceptance of military advice and expertise. In Moldova the decision-making initiative is concentrated currently in the hands of the president of the state who according to the Constitution of the country is the Supreme Commander of the armed forces and is personally responsible for the defence, security and foreign policy of the state. The Parliament and

the government are perceived as executing decisions and orders, agencies that willingly accept the president's governance. This kind of interdependence of the power branches does not allow the introduction of a balanced decision-making process involving military expertise and civilian control of the use of armed forces.

There are many categories of factors that are capable of shaping the further development and nature of civil-military relations in Moldova:

- the legacies of the past: the impact of authoritarian patterns and traditions of civil-military relations, isolation of the military from society, dominance of a corporate approach of the military towards power and the community, lack of professional civil and military expertise based on democratic norms and principals, etc.
- the internal context: the extent of democratisation, the impact of the weakness of the state, of inefficient governance, the degree of economic stability and financial support to the armed forces, the impact of internal political and social stability as well as of unresolved conflicts;
- the institutional and normative factors: constitutional, governmental and administrative arrangements relating to the control of the armed forces and the development of defence policy;
- the international context: the extent and impact of the European integration of the country and of the acceptance of democratic civil-military relations standards and norms, the degree of the involvement of the country in the security and defence arrangements at the sub-regional and regional levels, influenced directly by the Western security community;
- the extent of professionalisation of the military according to new standards and norms: issues relating to the new 'military culture', the education of the military and civil experts according to new norms and values, etc.

The impact and the interaction between the above-mentioned factors may help to explain differing patterns of civil-military relations in Moldova as well as across the Southeastern region of Europe. Some of them, like background and environmental factors that are rooted in the very nature of each respective nation, may have a major bearing on the prospects for democratic control of the armed forces. An internally weak state facing serious obstacles to overcoming the social and economic crisis, to

concluding the democratisation process by creation of durable democratic institutions is unlikely to provide a strong basis for the development of effective democratic control of the armed forces. At the same time, factors relating more directly to civil-military relations, such as institutional arrangements for the control of armed forces and professionalisation of the military and civilians, may have a significant positive impact on the prospects for democratic control of the armed forces and may be more amenable to change via deliberate policy actions. The challenge for the future of democratisation of civil-military relations in Moldova is to better understand the interaction between these different factors and to develop policies focused on those most central areas.

## CHAPTER TWO

---

### DEMOCRATIC OVERSIGHT AND CONTROL OVER DEFENCE

*Gheorghe Cojocaru*

#### Introduction

Over the years of independence, Moldovan society has gained a degree of experience in democratising the military. Some efforts have been made to ensure ‘transparency’ and to raise public awareness concerning national defence planning and the approval of the military budget. Within society there is an understanding of the necessity of ensuring the accountability of the military, security services and law-enforcers to elected public authorities. The specific conditions of the continuing but not particularly smooth transition from the totalitarian past to a democratic and open society directly affect control and management over the armed forces. The lack of democratic traditions and the creation of a national army from scratch – on the basis of the officer corps and personnel inherited from the Soviet Army – are still real challenges for the newly-independent state.

In the late 1980s and in the early 1990s, in the wake of the national liberation movement in Moldova, the armed forces were regarded as one of the main attributes of the new and emerging statehood. The major participants in political developments at that time had no doubt about the need for Moldova to build its own armed forces. At the beginning of the 1990s the pro-democracy governing circles launched the concept of permanent neutrality for Moldova, which has been followed by ideas for a full demilitarisation of the country. The question of the necessity of a National Armed Forces periodically emerged on the surface of political life of Moldova – leading finally to its reduction in size and to the selling of the so-called ‘surpluses’ of armaments and munitions.

The special place and role of the military within the context of general democratic changes require more attention from Moldovan society. According to the results of reliable sociological polls, the problems concerning the functioning of the army and

transparency in civil-military relations are not considered to be the priorities of the society during a difficult period of transition to democracy and a market economy. Because of the poverty of the majority of the population and social difficulties, and the country's political instability, the majority of the population is still mostly concerned with the quality of life and the negative consequences of the crises.

The armed forces of Moldova are no longer seen by society as a 'state within a state', with special privileges and functions, as during the Soviet regime. Moreover, some political forces in the country as well as representatives of the mass media are openly questioning the necessity of the armed forces in the new international order wherein small states have very limited possibilities and capabilities to ensure their security and defence. The problem of the army's existence and military duties is an issue of government expense not from the point of view of national missions or security functions. The biggest cultural shift concerning the military as a whole happened in the perception of the role that the state itself could play in ensuring society's secure development.

### **The Legal Framework and Political Changes**

Over the years of Moldova's independence a legal division of authority between the state institutions responsible for national security has been gradually established. In terms of civil-military relations, the principle of democratic (civilian) control over the armed forces has been partly institutionalised. However, the real test for civilian control is still to come: with the practical implementation of a delayed and painful restructuring and adjustment of the armed forces to the real threats and dynamics of the creation of a collective security system in Europe.

With the Communist party back in power, authoritarian tendencies hamper the democratic reform of the army and the genuine accountability of the army to society. The most distinct evidence that democratic changes since independence do not have an irrevocable character and that reform of civil-military relations should be continued, is the appointment of a career officer as Minister of Defence after the communist party won a majority in parliament. In spite of discussions within society regarding the democratic transformation of the military and of the power structures, very little is done to provide

genuine democratic reform of the armed forces in accordance with European norms and principles. The army is able consider itself a special corporation within the state, having specific duties and rights to some privileges.

Therefore, an analysis of democratic oversight over the armed forces in Moldova has to consider the constitutional and legal provisions, which have been promulgated, and political practice, which has, at times, shaken the foundations of civilian control over the armed forces. Moreover, we have to differentiate between civilian control and democratic control in Moldova for the two have not coalesced.

### **The Laws and Constitution**

In March 1992, the parliament adopted a package of laws directly related to the military, namely: ‘On the Armed Forces’, ‘On Defence’, ‘On the Military Duty and Military Service of Citizens of the Republic of Moldova’, and ‘On Social and Legal Protection for Military Servicemen and Their Family Members, as Well as for Individuals Undergoing Military Training’.

The 1994 Constitution and the special legislation concerning national security and defence have provided a general democratic legal and constitutional framework for the formulation of Moldova’s security and defence policy. The Constitution does not contain any detailed list of rights and powers held by legislative and executive authorities in national security and defence policy and decision-making, in the formulation and implementation of a military doctrine, and in defence budgeting. Article 108 of the Constitution is worded as follows: “(1) The Armed Forces shall be subordinate exclusively to the people’s will in order to ensure sovereignty, independence, unity, territorial integrity, and constitutional democracy. (2) The national defence system structure shall be determined by an organic law.” The Constitution also includes several more detailed provisions related to the military field, whereby legislative authorities may only declare war, martial law and mobilisation.

The parliament’s powers of controlling the Armed Forces are defined most explicitly. The Law ‘On Armed Forces’ stipulates that the highest-level leadership over the armed forces is exercised by parliament, by the President who is simultaneously the

Commander-in-Chief of the armed forces, and by the government within their respective limits of authority as determined by legislation. The Law ‘On Defence’ sets forth more detailed provisions regarding these powers and the role of the legislature in defence policy-making, and in the military sphere in general. Article 4 of this Law says, for example: “that the parliament shall be liable for ensuring national defence, shall work out military policy guidelines, and shall carry out legislative regulation in the fields of armed forces development and defence. The parliament shall approve: a Military Doctrine and Concept for Armed Forces Development; the principal structure of the armed forces; the military budget appropriated to defence needs; guidelines for Moldova’s military cooperation with other countries; and those decrees issued by the President of the Republic of Moldova which concern mobilisation, demobilisation, and the declaration of war. The parliament shall decide: to declare martial law in the event of outside military aggression and make peace after the end of hostilities; to declare and end war; to use the Armed Forces where necessary to perform obligations arising under international commitments to maintain peace and security; to declare mobilisation and demobilisation, both partial and general; and to award military ranks to the Commander-in-Chief of the Armed Forces.” The same Law gives extensive powers and rights to the chief executive who is personally liable for the nation’s defence capabilities, and for the combat readiness of its Armed Forces.

The existing legislation also explains the ease demonstrated by the first two democratically elected national legislatures in declaring Moldova to be a demilitarised zone and neutral country, oblivious of or consciously disregarding the simple fact that neutrality, as a notion and the entirety of relations with the outside world, is related to a state of war, whether ‘hot’ or ‘cold’. Demilitarisation, for its part, does not signify across-the-board disarmament and the destruction of all military stockpiles. None of the parliament’s caucuses has, as a rule, bothered to provide any serious substantiation to this stand, or arguments to defend vigorously pacifist attitudes taken to military and army issues. Pro-NATO or pro-CIS arguments or sympathies of these or other political parties and groups are not particularly relevant in this context, as the matter at issue is of a purely domestic nature. Neither is the creation of an armed forces in a newly-independent state, on the basis of an objective assessment of existing and potential threats that the particular society can counter with its own defence potential, at the centre of attention of the legislators.

## **Oversight Bodies and Provisions**

Bodies set up by legislative authorities with a view to supervising executive authorities' actions in the military sphere include, in the first place, the standing Parliamentary Commission for National Security. Its responsibilities and authority include powers to monitor and oversee national security and defence policies, defence budgeting, and the procurement and sales of armaments and military hardware. From time to time other standing parliamentary commissions, in particular the legal commission, are also involved in related activities, if need be. In the event of a crisis, the legislature may form special commissions to deal with military issues.

A fairly effective tool for continuous control over the activities of the army and its management structures is 'Government Hour'. These hearings are held by parliament every Thursday before its full-scale sessions and cabinet members are questioned. Top officials from the 'power ministries' are also invited periodically or where necessary or interesting. The Defence Minister and other ranking members of the MoD have been heard out by the legislature on: peace-making operations by National Army units in the security zone on the Dniester; in connection with the adoption of measures to ensure the military's non-interference in political processes ahead of the presidential election in 1996; in order to elucidate the circumstances of the sell-off of a large consignment of arms and military equipment abroad (including 21 MIG-29 fighters purchased by the US government); and as part of a probe into illegal practices by the Defence Ministry's commercial firm, as a result of which the ministry has lost its monopoly right to export surplus military hardware and armaments and to purchase military property exclusively through its own entities. Official queries and appropriate follow-up actions represent yet another common means used by law-makers to obtain required information and exert direct influence on processes under way in the military sphere.

## **The President**

The role of the President in the decision-making process is determined by his constitutional status. In his capacity as Supreme Commander-in-Chief of the Armed Forces, he is the most legitimate institutional player in the formulation of the foreign and

security policy of the country. Since April 2001, when the leader of the Communist Party Vladimir Voronin was elected by the parliament as the President of Moldova, the impact of the democratic opposition on the security and defence policy has been negligible. A closer relationship with Russia and other CIS countries is the main trend of the communist government in Moldova. The president can contribute to the establishment of a stable positive relationship with the high military command, which has a major input in the smooth development of civilian control over the armed forces and normal civil-military relations in Moldova. The appointment of a career officer, Colonel Victor Gaiciuc, as Minister of Defence instead of a civilian was a first sign that the communists were not inclined to respect the principles of democratic control over the military. These normative acts and respective regulations with insignificant amendments continue to function to the present day.

The principle of separation of powers among the authorities in the military sphere is also reflected in the right granted to the head of state to submit fundamental documents dealing with military doctrine, guidelines for armed forces development, and defence budgeting to parliament for consideration. Lawmakers have the final say on these documents. The presidential powers to declare war or martial law take effect only after the corresponding edicts have been approved by Parliament. In the event of a military intrusion from outside, the chief executive has to take all necessary measures to repulse the act of aggression, keeping the legislature promptly informed of such steps as they are taken. The Defence Minister is appointed and dismissed by the President upon a motion from the Prime Minister. Without the latter's consent, the Commander-in-Chief may not reshuffle the country's military-administrative leadership. This distribution of functions and powers between legislative authorities and the head of state should preempt the monopoly right of the President or Parliament to make decisions and control the army, especially at times of what are seen from the military standpoint as crises.

## **The Supreme Security Council**

The Law 'On Defence' also provides for the establishment and operation of the Supreme Security Council (SSC), an advisory agency under the President, which acts in accordance with the relevant Regulations as approved by the head of state. The primary mission of the SSC is to provide assistance in ensuring national security as well as in the

development and practical realisation of guidelines for armed forces development. Not having any real executive powers and ways to exercise direct influence on the army, nor the other force structures of the state like the Interior Ministry or the Security and Information Service, the SSC secretariat through monitoring and verifying the state of affairs in the given field on behalf of the head of state has a direct impact on the decision-making process at the highest level. The Council also prepares various reports and recommendations for the President, including promotion of high-ranking officers and MoD personnel. Altogether these Council prerogatives and competencies have a direct impact on the nature and the content of decisions in the security and military spheres, and often directly influence the functioning of the ‘power ministries’ and armed units subordinated to them.

### **The Executive (Government)**

The main responsibility for the direction and the implementation of foreign, security and defence policy lies with the government. With its information resources, technical and expert back-up, the government is the real protagonist in the decision-making process. The current government, formed by the communist majority on the basis of non-political technocrats, is largely controlled by the legislature especially in the area of national security and defence. Theoretically, the government has to discuss and decide on security issues. In practice it usually routinely approves policies examined and formulated at the level of the political leadership ensured by the ruling communist party.

The government has clearly stipulated responsibilities and obligations in the field of national security and defence. The main instruments the government uses to monitor and manage these issues are the consolidated budget that passes obligatorily through the executive structure of state power before being approved by the parliament, amendments to the concepts of military construction and plans of modernisation, and the periodic hearings of the heads of ministries and state departments at the weekly government sessions. Of course there is a strong feeling of corporate interest developed inside the different security institutions of the state and often they compete for assistance from and a bigger role in the security arrangements of the state. The government of the country is from time to time placed in the position of closely supervising the general situation and not allowing imbalances.

Under existing legislation, the government is competent to decide, for the most part, issues pertaining to logistical support for the Armed Forces, and to the provision of conditions for the normal functioning of the army and armed units, for the accumulation of mobilisation resources, and for the preparation of reserves. Executive authorities are involved in the elaboration of proposals concerning military budget estimates for specific time periods, in the manufacture and procurement of military equipment and armaments, in the training of professionals and specialists for army needs, in the drawing up of contingency plans to shunt the national economy onto wartime production tracks, and in the provision of social safety nets for military servicemen, their family members, and individuals undergoing military training and retraining. The government is also responsible for the discharge of obligations emanating from Moldova's international treaties and agreements on collective security and joint defence.

Although the Ministry of Defence had been under the control of civilian ministers during the previous five years, it remained largely a military institution. The frequent change of government and the subsequent removal of senior MoD officials, predominantly political appointees, prevented the creation of a stable civilian core and the accumulation and improvement of civilian expert knowledge. Shortcomings in the training of civilian officials and the absence of career opportunities have further worsened the situation. There is no doubt that the communists will govern with disregard for the essentials of civilian control and will proceed with re-militarisation of a number of positions at the higher and lower level, paralleled with a general disrespect for the expertise of civilian officials. The Moldovan Army and its General Staff still need to be integrated into the structure of the Defence Ministry, since the current situation hampers the establishment of an improved division of responsibilities between the General Staff and a civilian Minister.

There are no clearly stipulated obligations of the executive bodies to inform or to consult the elected representatives of state power in the course of the policy-making or planning process. The executive power at the level of government and the Presidency has to report the results of their analysis and the drafts of the legislative acts that the executive branch considers necessary to ask the legislature to adopt in the form of law or special decision of the parliament. The respective parliamentary commissions and committees have the right to interfere in the process of planning and policy-making. However due to

the lack of qualified professionals in the field of security and defence, these legislative bodies usually reduce their activities to monitoring. There are no long-term plans for military construction in Moldova or concrete strategies for military building in the country based on a specific timetable. Since independence there have been several attempts to revise the concept of National Security and of the strategy of military construction. The respective concepts were finally adopted by the parliament after they had passed through the parliamentary commissions according to the existing procedure.

The government has to present to the parliament the draft of the annual consolidated budget that includes all expenditure related to national security. Usually this draft is prepared on the basis of budget proposals of ministries and state departments that have legal rights to take an equal part in the drafting of the state budget. Because the majority of the ministries and departments usually exaggerate their financial needs, one of the main functions of the Ministry of Finance, the main authority in the field of budget drafting, is to take care that the balance is respected and that state interests prevail above the corporate interests of the ministries.

### **Political Practice**

Despite the fact that security encompasses political, economic and foreign policy considerations and presents to the public the rationale for democratically-directed security strategies, current policy does not explicitly stipulate the new role and functions of civilian and military components within the security sector. The process of developing new concepts should stipulate how civilians and the military have appropriately arranged their new positions of responsibility, and how effectively their relationship works with regard to the practical aspects of security reform in Moldova.

The experience of the past few years of efforts to build a representative democracy in Moldova, just as in other former Soviet Union countries, reveals an apparent trend where factional and narrow corporate interests have a great influence on the activities of political parties and organisations represented in higher legislative agencies which, as a rule, are apt to sacrifice common interests to biased partisan preoccupations.

The approval of the country's military doctrine by the incumbent parliament in June 1995 was consistent with this attitude to the army, and consolidated the defensive thrust of its development and the enhancement of the nation's military potential. The adopted doctrine lists the principal military threats, which is what the Moldovan Armed Forces must be competent and required to repel, including: territorial claims by other countries; attempts at interfering in domestic affairs and destabilising the internal political situation in the country; the deployment of foreign military units on Moldovan territory; subversive activities by splinter organisations aiming to partition the nation; and the formation of illegal armed units.

The main problem is still the low quality of expertise and the lack of qualified personnel able to deal with the current problems and the inadequate professional level of the majority of the decision-makers. The government has no legal right to 'engage elected representatives' in its activities, especially after Moldova became a parliamentary republic with special prerogatives of the legislature and a subordinated role for the government. There are opportunities and established mechanisms that ensure efficient cooperation between the parliamentary commission and the respective ministry, state department or government itself.

When the executive is not willing to share much information with the legislative branch, usually the need to guard state secrets is invoked. In the majority of such cases only two institutions are involved – the presidency and the government, the parliament being usually informed later. At the same time it is necessary to underline that the Constitution of the country does not contain special articles regarding the financial accountability of the government to the parliament. The budgeting process as well as the procedure of its adoption by the supreme legislature is stipulated in the organic laws and regulations. There are only clearly stipulated obligations of the executive to reveal, explain and justify its expenditures for defence purposes when the legislature requires it.

Formally both the previous and the current government observe their obligations regarding defence issues. The problem is that for an executive that observes and acknowledges its formal obligations, the government very rarely discusses issues related to national security and defence. In the majority of cases the initiative to discuss such issues comes from the Ministry of Defence or the Presidency. The Presidential

office relies mostly on the expertise of the Supreme Security Council, which has a consultative role within the presidential structure.

The government and its structures are subordinated to the Parliament and it is not supposed to engage elected representatives in their work, in particular on military budget problems. The initiative in such cooperation usually comes from the parliamentary commissions and is focused on concrete questions.

Usually the executive obeys the decisions of the parliament. But there were some exceptions from this usual behaviour. For example in 1996 the Minister of Defence Pavel Creanga decided to disobey the orders of the President and to support the Prime Minister – at that time leaders of rival political parties. He was dismissed by the commander-in-chief of the Armed Forces, but the Constitutional Court decided that this was in violation of existing laws, and restored him to his post. Another tendency that has an even bigger negative impact on the army is ‘purges’ among senior officers together with the appointment of a new minister who promotes his people to key functions in the MoD and the army.

## **Defence, Security and Society**

Moldova does not have an independent institute of defence and strategic studies, nor does it have a departmental analytical centre dealing with military and defence policy issues to help the government and the parliament in the decision-making process. Individual researchers from the academic community periodically published articles on this subject, but their research did not have a systematic nature and their periodical was closed for financial reasons two years ago. The Moldovan mass media does not, as a rule, show any keen interest in military, defence and army subjects.

The range of issues connected with the defence and military area that present a certain interest to the press, as well as to the radio and television, are not related to the main concerns of military and national security reform. The press is mostly limited to the coverage of reshuffles in the leadership of ‘power ministries’ and subordinate armed units, visits by foreign official military delegations to Moldova, and foreign trips by Moldovan military commanders, commentary on purchases and sales of major batches

of armaments and military hardware, on-site reports from military exercises with Moldovan participation as part of the Partnership for Peace programme, and features on peacemakers' service in the security zone on the Dniester. Despite the above-mentioned deficiencies in the perception of the military role of a small state like Moldova in the changing world, the population still considers the army an important state institution that directly contributes to the education of a young generation in the spirit of patriotism and the need to defend the country in the case of external danger.

The press, as well as the electronic media, offer virtually no comments and reviews on basic aspects of defence policy, the national military doctrine, military budget-making, and the use of funds made available to meet defence needs. The almost complete lack of information about the progress of work on a new concept for military reform, which has lasted for nearly one year now, is a vivid example of the existing level of public openness about those military issues which are potentially of high interest to the public at large. Reports about the sale of 21 MIG-29 fighters to the US government only surfaced in the press after the aircraft had already left Moldova. This theme has been repeatedly raised in the Moldovan press over recent years and public interest in the commercial transaction has remained at a fairly high level. Paradoxically enough, lawmakers also learnt about the final sale of the fighters from the mass media rather than from Defence Ministry officials.

The new legislation on security and defence has obviously not solved all the legal problems that arise in the complex decision-making process. In the legislative framework, concerning defence in particular, there are still important gaps created mostly by the limited competence of MPs and their teams of experts. Moreover, many of the unresolved problems are not constitutional but rather political. Their eventual solution can be ensured with the establishment of appropriate procedures and the accumulation of a democratic political culture. Another negative development was the separation of political legitimacy from expert knowledge. In this context, each of the state institutions and law-enforcing structures has striven to take advantage of the existing legal ambiguities to increase its powers.

Unfortunately all these main components of the democratisation strategy are subject to distortions and deficiencies. The current political elite are still deeply under the influence

of the Soviet mentality and are focused almost entirely on the struggle and maintenance of power. The historical heritage that influences the behaviour of the political society, the psychological stereotypes formed inside the totalitarian regime, the perception of the state by the people (as an enemy and the main authority at the same time), have a direct impact on the formation and functioning of the executive and legislative structures. Civil society is still powerless (despite big changes since the Soviet period) and needs for its sustainable development help and contributions from outside. But even in Moldova, where communists came to the power through legal mechanisms, the democratic and market-oriented reforms have already had an irreversible character and even the most conservative communists will not be able to change that.

The outside impact on these processes has been of fundamental importance. Moldova's international cooperation in the field of security and stability at the regional and continental levels, such as the Partnership for Peace, has enhanced the national potential and capacity for reform. A country that hopes to join the European Union has to observe definite rules of behaviour in its domestic policy and in its relations with its neighbours. Democratic civilian control of the military represents one of the main preconditions for a successful transition to an efficient democracy.

## **Conclusion**

As with the majority of the former Soviet republics, Moldova inherited from its Soviet past a highly-militarised economy, corruption, consolidated political power combined with an almost total lack of the political culture necessary for the normal functioning of a pluralistic society. One of the major transitional problems Moldova is still facing is how not to copy the Western model in its entirety and in civil-military relations in particular, but to implement the essentials of political guidance and accountability of the military to the democratically-elected governments.

There is an understanding in Moldova that models and practices of oversight over the military sphere turn, of course, on national specifics, the actual separation of different arms of government, and the constitutional powers of Parliament, the cabinet, and the presidential staff. The problem consists in the lack of political will and of the knowledge of how to implement in the concrete environment and political conditions the principals of

democratic control over the armed forces. Regardless of the mechanisms and extent of participation by legislative authorities in the military sphere, the effectiveness of political control definitely hinges on the extent to which legislators are informed and competent. While agreeing to the politicians' leading role, the Moldovan military do not even think that they can require that those civilians who are involved in decision-making in the military sphere should take a responsible approach to performing their duties. There is only theoretical understanding that constructive relations between the three principal components of democratic political control – the military, civilians and MPs – depend primarily on their competence, professionalism, and ability to subordinate corporate interests to national interests.

There is no doubt that such control over armed forces should not consist simply of "making legislation" in the military sphere and issuing regulations governing the activities of military entities and armed forces development. It is a process in which lawmakers have, owing to the very nature of democratic reform, to play the leading role in shaping defence policies and ensuring truly democratic political control.

Finally, one of the basic conditions of effective democratic oversight over the army is cooperation between legislative and executive authorities, between Parliament and the government, between the respective parliamentary commissions or committees and the Defence Ministry. These relations between different branches of government and agencies representing the object of parliamentary control may, given the sides' competent attitudes, become a source of creative and responsible approaches to the task that is one of the priorities in the context of democratic changes.

In Moldova, just as in most of the Republics of the former Soviet Union with their limited democratic experience, which are building their national armed forces from scratch, it is yet too early to speak of any full-scale democratic control over the military. Until a fully developed and efficient civil society is restored and there appears a truly responsible and free press in Moldova, it will be premature to speak of any civilian control over the army. Efforts should rather be concentrated on ensuring effective political control on the part of democratically-elected legislative authorities over the military sphere, with the gradual expansion of the role played by institutions and organisations of civil society in this field. Proceeding from these considerations, the powers and functions of lawmakers

in the exercise of supervision over armed forces, and the enhancement of their role in this process are of considerable significance.

## CHAPTER THREE

---

### PARLIAMENT

*Ion Culeac*

#### **Introduction**

More than a decade ago in Moldova, as in the majority of Central and Eastern European countries, the democratically-elected governments could claim political supremacy over their armed forces without even thinking about the establishment of new civil-military relations. At that time neither civilians, politicians and decision-makers, nor the military intended to change the working relations, having only an approximate knowledge regarding the armed forces' functioning in the new democratic conditions. Establishing the fundamental rules for civilian-military relations became a priority later, when the new political class understood the potential threat of the old relationship with the military in the new context of the radical reformation of society. It was done through the adoption of a new constitution, through laws and other normative acts that were introduced later, and finally through raising the understanding of the new rules of the game. However, legislation has been ambiguous, some important elements from the old system that hampered the decision-making process remained intact and finally had a negative impact on the military functioning as a system within the state.

During communist rule, political control over the military in the former Soviet Union and other countries of the socialist camp did exist and was ensured by the dominant role of the communist party, and by the identification of the communist party with the army, which was deemed its 'armed wing'. On the other hand, the military enjoyed exclusive rights and authority in the field of military policy and armed forces development, including defence budgeting, an arrangement which fully ruled out any public influence over the state of affairs in the army in particular and over national security policy in general. The army's monopoly on power and information, as well as the complete exclusion of society from participating in the shaping and practical implementation of

defence policy in any form, resulted in a situation where the armed forces turned into a *state within a state*. This seclusion of the military spelled out not only the absence of guarantees of security and of non-interference by the army in the internal affairs of society, but has also created real prerequisites for a military coup like the abortive take-over in August 1991, which led to the final break-up of the former USSR.

The creation of their own armed forces from scratch by the newly-independent countries sharpened the problem of the assessment and maintenance of efficient control over military activities. The political class quickly understood that under the conditions of internal instability and ongoing economic and social crises, the military could play a stabilising role or could become an element of risk if it did not overcome its isolation from society. Therefore, the accountability of the armed forces to the democratically-elected legislature and the government represented a decisive prerequisite for the nation's steady progress as an open society and democracy.

Over the years of independence, Moldovan society gained some experience in democratising the military. This was most notable in the efforts to ensure 'transparency' and public openness about national defence planning and military budget-making, and through the continuous oversight over the activities of the military, security services and law enforcers by the democratically-elected authorities. The specific conditions of the ongoing transition from a totalitarian past to a democratic and open society directly affected control and management over the armed forces. The need for democratic traditions, and the fostering of a new army, out of necessity, from those structures and personnel inherited from the communist past, highlighted the challenging nature of related problems and the special place held by military reform in the context of general democratic changes initiated in Moldovan society.

From the very beginning of the creation of the armed forces in Moldova, one of the main priorities has been the establishment of the legal basis, the introduction of legal regulations and arrangements to monitor the activities of the armed forces as well as to rule out any use of the armed forces in the country's internal affairs. Without sufficient experience in constructing a democratic society and a new statehood, the complex issue of exercising democratic control over the armed forces has often been reduced to ensuring political monitoring over the military (mainly through manipulation with human

resources and the appointment of representatives of ruling political parties into key positions in the army and other power structures of the state).

The new wave of politicians, not to mention representatives of the old national *nomenklatura* and experienced *apparatchiks* who managed to keep afloat and even get into leading positions in politics, realised fairly quickly the need to bring the armed forces under political control. The permanent instability and the economic and social crisis prompted ruling groupings to treat the reform processes under way in the army, security services and law enforcement agencies with special attention, and to control them by appointing tried-and-tested career military officers or civilians to fill key positions. Quite frequently, such qualities as personal devotion and dependability were preferred over professionalism, organisational abilities, and other personal qualities and skills of other candidates during appointments to high offices in these structures.

The political decision concerning the creation of the armed forces was followed by the legal confirmation of the independence of the Ministry of the Interior, the Ministry of National Security, as well as of the newly created MoD and of the armed units under their subordination. Another urgent political need has been the de-politicisation of military structures, of security services and law enforcers in conformity with democratic principles. These objectives supposed the tackling of the following tasks:

- the drafting and adoption of new legislation regulating the activities of the power ministries and respective force structures, as well as of the public authorities responsible for national defence, internal stability and national security;
- the establishment of broader political control over the armed forces of the state through the direct involvement of legislators in drafting the budgets and the appointments of high-ranking officers in power structures and subordinated units;
- the prohibition of any kind of political activities in military units as well as the involvement of military servicemen in politics;
- the reform of the armed forces according to the new military doctrine and the principle of defence ‘sufficiency’, alternative service arrangements, and clear social guarantees for military servicemen.

The very first draft of the Concept for the Creation of the Armed Forces of the Republic of Moldova, developed by the nation's first Defence Ministry and submitted to parliament for consideration in the spring of 1991, provided for "the practical realisation of the principle of supremacy of the political leadership over the Republic's armed forces, and the exercise of efficient control by the state and society over the Defence Ministry's activities with the simultaneous recognition of the need to rid the armed forces of any political parties." Organisationally, the higher military command structure consisted of three distinctive parts – political, administrative, and military – with the respective limits of authority and responsibilities defined for each of them, according to the principle of separation of functions and cooperation in implementing the common tasks.

Under this Concept, the President was to be the Commander-in-Chief in charge of the armed forces. As such he would be empowered, should there arise a real danger of war, to alert the armed forces, order reservists to be mobilised, and enlist troops under the Interior Ministry and the National Security Ministry in defensive activities. The President was to exercise general governance over the armed forces through the Defence Ministry and with the assistance of the Supreme Security Council and the Supreme Military Council. Military-administrative guidance over the armed forces was, in accordance with the Concept, a prerogative for the Defence Ministry whose responsibilities would include organising, directing, and coordinating all activities aimed at ensuring national defence. Military leadership over the armed forces was within the competence of the main headquarters of the armed forces and their Chief of Staff, directly accountable to the Defence Minister.

The specific role of the parliament in civil-military relations is central when issues of democratic control are considered, since the parliament should provide scrutiny not only of the military, but also of the executive and of defence policy as a whole. Thus, the constitutional and legal role of parliament in civil-military relations needs to be looked at closely. Such an examination needs to ask what institutional arrangements (such as committees, hearings, parliamentary debates, formal approval of defence budgets, etc) exist to implement parliamentary powers. Similarly, how far does the parliament actually perform its constitutional and legal role in practice? What factors, such as lack of resources, limited civilian expertise, or access to information, constrain parliamentary oversight?

Even at the initial stage of state-building, the awareness of the need for democratically-elected representatives to monitor the activities of executive authorities in the military sphere contributed to the issuing of appropriate legislative acts and the establishment of corresponding structures and mechanisms. In March 1992, the parliament adopted a package of laws directly related to the military, namely: 'On the Armed Forces', 'On Defence', 'On the Military Duty and Military Service of Citizens of the Republic of Moldova', and 'On Social and Legal Protection for Military Servicemen and Their Family Members, as well as for Individuals Undergoing Military Training'.

These statutes, as insignificantly amended, have continued in effect to this day. Parliament's powers in controlling the Armed Forces are defined most explicitly. Article 4 of the Law 'On the Armed Forces' says: "The highest-level leadership over the Armed Forces shall be exercised by Parliament, by the President of the Republic of Moldova who shall simultaneously be the Commander-in-Chief of its Armed Forces, and by the Government within their respective limits of authority as determined by legislation."

The Law 'On Defence' sets out more detailed provisions regarding these powers and the role of the national legislature in defence policy-making and in the military sphere in general. Article 4 of this Law says, for example: "that the parliament shall be liable for ensuring national defence, shall work out military policy guidelines, and shall carry out legislative regulation in the fields of armed forces development and defence. The parliament shall approve: a Military Doctrine and Concept for Armed Forces Development; the principal structure of the Armed Forces; the amount of government budget appropriations for defence needs; guidelines for Moldova's military cooperation with other countries; and those decrees issued by the President of the Republic of Moldova which concern mobilisation, demobilisation, and the declaration of war. The parliament shall decide: to declare martial law in the event of outside military aggression and make peace after the end of hostilities; to declare and end war; to use the Armed Forces where necessary to perform obligations arising under international commitments to maintain peace and security; to declare mobilisation and demobilisation, both partial and general; and to award military ranks to the Commander-in-Chief of the Armed Forces." The parliament is also in charge of the adoption of the general organisational chart, the personnel strength of the armed forces, and identification of the functions

thereof; approval of decisions on providing military aid to other states, sending armed forces units to other countries or admitting units of other countries' armed forces onto the territory of Moldova.

The same Law gives extensive powers and rights to the chief executive, the head of state, who is personally liable for the nation's defence capabilities, and for the combat readiness of its armed forces. The principle of dividing powers among authorities in the military sphere has also found reflection in the right granted to the president to submit fundamental documents dealing with military doctrine, guidelines for armed forces development, and defence budgeting to Parliament for consideration. Lawmakers have a final say on these documents. The presidential powers to declare war or martial law take effect only after the corresponding edicts have been approved by Parliament. In the event of a military intrusion from outside, the chief executive is to take all necessary measures to repulse the act of aggression, keeping the legislature promptly informed of such steps as they are taken. The Defence Minister is appointed and dismissed by the President upon a motion from the Prime Minister. Without the latter's consent, the Commander-in-Chief may not reshuffle the country's military-administrative leadership. This distribution of functions and powers between legislative authorities and the head of state should pre-empt the monopoly right of the President or Parliament to make decisions and control the army, especially at times of what are seen from the military standpoint as crises.

The Constitution, passed by the incumbent parliament in July 1994, does not contain any detailed list of rights and powers held by legislative and executive authorities in national security and defence policy and decision-making, in the formulation and implementation of a military doctrine, and in defence budgeting. Article 108 of the Constitution is worded as follows: "(1) The Armed Forces shall be subordinate exclusively to the people's will in order to ensure sovereignty, independence, unity, territorial integrity, and constitutional democracy. (2) The national defence system structure shall be determined by an organic law." The Constitution also includes several more detailed provisions related to the military field, whereby war, martial law, and mobilisation may only be declared by legislative authorities.

The most important role of the parliament in the field of national security and defence has consisted of the establishment of the constitutional and legal framework, including civilian control of the armed forces. The parliament has also been effective in approving the long-term principles and priorities of Moldova's foreign and security policy, mainly through the adoption of the Military Doctrine and of the National Security Concept. The other major constitutional role of the legislature – controlling and correcting the national security policy and strategy and the budgeting process – has been exercised so far with modest success. The increasing activity of the permanent committees on defence and national security and on foreign policy should be acknowledged. Regular hearings and discussions have contributed to raising the degree of transparency in the decision-making process in this area of state responsibilities.

The government now submits to the Parliament a more detailed draft of the state budget that includes its military component. This is undoubtedly an important step forward, increasing the efficiency of parliamentary efforts with respect to control over the armed forces. However, the problem of reliability of information and the justification of the Ministry of Defence budget application and the government's subsequent allocation still exists. Finally, the Parliament has no possibility to check the execution of the military budget, to estimate to what degree the allocated funds are being distributed in accordance with the approved budget items. This, however, only partially explains the weakness of the Parliament as an instrument of civilian control over military structures. The reason for it is that the parliamentary structures often act as a kind of lobby for military circles who insist on the maximum allocations for defence. This is back-breaking for the country and contradicts the interests of society at large, since it results in non-payments of wages and salaries in the budget sectors, cuts in expenditure for the social sphere and the like.

The role of the President and his relations with the parliament in the decision-making process are marked by a controversy about his constitutional status. Since Moldova declared itself a parliamentary republic, the head of state has been elected by the parliament for a four-year term and at the same time has large prerogatives, especially in the field of national security, defence and foreign policy. Despite the declared leading role of the legislative body, and as a consequence of the stable pro-presidential majority in the parliament, the head of state remains one of the most powerful institutional players

in the formulation of the foreign and security policy of the country. The prerogative to appoint the ministers of defence, the interior and the head of the secret service, and the consequent control over the armed forces are the President's real sources of power in the day-to-day decision-making process. However, political instability and the constant change of government, as well as the lack of a national consensus on major policy issues, have encouraged him to undertake a pro-active role in policy formulation.

Bodies set up by legislative authorities with a view to supervising executive authorities' actions in the military sphere include, in the first place, the standing Parliamentary Commission for Military Issues and State Security. Its responsibilities and authority include powers to monitor and oversee national security and defence policies, defence budgeting, and the procurement and sales of armaments and military hardware. From time to time, other standing parliamentary commissions, in particular the legal commission, are also involved in related activities, if need be. In the event of a crisis, the national legislature may form special commissions to deal with military issues.

A fairly effective tool for continuous control over the activities of the army and its management structures is 'Government Hour'. These hearings are held by parliament every Thursday before its full-scale sessions and cabinet members are questioned. Top officials from the 'power ministries' are also invited periodically or where necessary or interesting. The Defence Minister and other ranking members of the MoD have been heard out by the legislature on: peace-making operations by National Army units in the security zone on the Dniester; in connection with the adoption of measures to ensure the military's non-interference in political processes ahead of the presidential election in 1996; in order to elucidate the circumstances of the sell-off of a large consignment of arms and military equipment abroad (including 21 MIG-29 fighters purchased by the US government); and as part of a probe into illegal practices by the Defence Ministry's commercial firm, as a result of which the ministry has lost its monopoly right to export surplus military hardware and armaments and to purchase military property exclusively through its own entities. Official queries and appropriate follow-up actions represent yet another common means used by law-makers to obtain required information and exert direct influence on processes under way in the military sphere.

It is not a standard practice in Moldova for the President, head of government, or ‘power ministers’ to regularly report back to legislative authorities on military and defence issues or on specific aspects of ensuring national security. In 1990-92, during the armed conflict with separatists from the so-called Dniester Moldovan Republic, such reporting by ministries and agencies to members of Parliament was routine, making it possible to keep legislators continuously posted on current developments and to issue corresponding decisions and resolutions. After the conflict had passed its climax, however, such status reports began to be delivered only when a substantial pretext presented itself for this kind of accounting.

The above system and arrangements for parliamentary control, however, have their limitations owing to the peculiarities of the initial stage in the formation of the multiparty political system. The experience of the past few years of efforts to build a representative democracy in Moldova, just as in other FSU countries, for that matter, reveals an apparent trend where factional and narrow corporate interests are reflected in the activities of political parties and organisations represented on higher legislative agencies which, as a rule, are apt to sacrifice common interests to biased partisan preoccupations. The posture of an MP depends not so much on the political programme of his party or movement as on the current political situation, short-term considerations, and the professional training qualifications and competence of the particular legislator, or member of a specific standing parliamentary commission or committee. An activist stand taken up by an MP in everyday life and politics, and his ability to surmount factional and corporate barriers when approaching problems of interest and significance to the entire nation, which comprise the activities of the armed forces, defence provisions, and national security arrangements, can have a positive impact on the making of these or other decisions. This kind of approach to the above problems, alas, remains the exception rather than the rule.

The parliament’s operating experience over the past few years has testified to the prevalence of a different, and not very constructive, approach to law-making and to the regulation of activities by society, its individual members and the State, in the military sphere. Even if legislators’ aides and support staff of specific parliamentary commissions include competent experts and military professionals of the new mould, which per se is a rarity nowadays, it is the MPs who have the final say. This is one reason why MPs do

not have any clear interest in the armed forces, military reform, and the real conditions in which the army has to operate.

This also explains the ease demonstrated by the first two democratically-elected national legislatures in declaring Moldova to be a demilitarised zone and neutral country oblivious of or consciously disregarding the simple fact that neutrality, as a notion and the entirety of relations with the outside world, is related to a state of war, whether ‘hot’ or ‘cold.’ Demilitarisation, for its part, does not signify across-the-board disarmament and the destruction of all military stockpiles. None of the parliament’s caucuses has, as a rule, bothered to provide any serious substantiation for this stand, or arguments to defend vigorously pacifist attitudes taken to military and army issues.

The complex nature of civil-military relations within a democratic state is misunderstood by the governing circles of Moldova. In the majority of cases it is reduced to the appointment of a civilian as Minister of Defence. But it was only in 1997 that the President of Moldova and the Commander-in-Chief of the armed forces issued one of his first decrees to appoint a civilian, former Moldovan ambassador to Moscow Valeriu Pasat, to be Defence Minister. The follow-up statement by the head of state regarding the need to reform the army ushered in preparations for military reform. According to the declarations made by the president for the press, tighter democratic control over the Armed Forces by society should be a primary goal of this aspect of State activities. Another aspect of military reform consisted in the reduction of numbers of military personnel and of military equipment and armament. However in reality the powers and the functions of the parliament in military reform have been rather limited as compared to the responsibilities of the President and of the government. Since the communist party won the last parliamentary elections in February 2001 and formed the government, the governing majority returned to the old system in appointing a career officer as Minister of Defence.

Parliamentary control over the military is still rather weak in Moldova. One of the main reasons is the lack of experience and expertise among parliamentarians, as well as of expert support staff and information resources. While the limited financial resources allocated to national security and defence currently diminish the magnitude of this problem, parliamentary scrutiny of the defence budget and expenditure should be

significantly upgraded in the future. In the work of the current National Assembly there are positive signs of growing inter-party agreement on major national security issues, which is reinforcing the consensus-building capacity of the parliament.

The quality of the political organisations and the level of their responsibility during the period they govern plays an important role in the appreciation of the level and quality of civil-military relations. Another important aspect that has a direct impact on the activities of the governing circles is the interests and values that are relevant for the electorate. The economic and social crisis and the general uncertainties of the transition period change the perception of ordinary people vis-à-vis the state, its role and priorities of its policy. According to reliable and nation-wide representative opinion polls, the army remains one of the state institutions, which is valued positively by the majority of respondents. At the same time military issues, as well as defence and national security problems and the settlement of the Trans-Dniestr conflict do not represent a priority for most of them. Being aware of these tendencies, the majority of the leading political organisations active on the local political scene prefer to pay more attention to social and economic problems, whilst military issues remain in the shadows.

Such an attitude towards the military is deeply rooted in the character of the emerging new political class. Political parties and organisations participating in general elections are forced to adjust their standpoints from the pattern of values and expectations of the electorate. This is why both during the election campaigns and during the polling itself, military issues are not an important subject in political discussions. These matters are only touched upon in the context of the possible axing of the army or government budget allocations for military needs, with populist parties promising to use the funds thus released to satisfy social needs and develop science and education. As the financial requirements of the army and the Defence Ministry over the recent years have been supplied only partially, the obligations assumed by pacifist-minded political groups have been involuntarily performed, thus blunting the sharpness of the problem.

For example Moldova's Popular Front, the umbrella organisation and mass movement in opposition to the ruling communist regime at the end of the 1980s and the beginning of the 1990s that played a decisive role in the struggle for freedom and democracy in Moldova, came forward with the idea of transforming the country into a demilitarised

zone and neutral state. This status made it possible to demand the withdrawal of Russian troops from Moldovan territory within the shortest period of time, and explain why it is not necessary for the country to make big efforts to build up its own military capacities. As the correlation of forces in Moldova's political arena changed, especially with the coming to power in February 1994 of the Agrarian Democratic Party, the policy pursued in the military field also underwent changes.

After proclaiming the Republic of Moldova to be neutral and institutionalising this provision in the national Constitution, the ruling agrarian-socialist coalition spoke out to preserve the armed forces as an objectively required attribute of Moldovan statehood. The approval of the country's military doctrine by the incumbent parliament in June 1995 was consistent with this attitude to the army, and consolidated the defensive thrust of its development and the enhancement of the nation's military potential. The adopted doctrine lists the principal military threats the Moldovan armed forces must be competent to repel, including: territorial claims by other countries; attempts at interfering in domestic affairs and destabilising the internal political situation in the country; the deployment of foreign military units on Moldovan territory; subversive activities by splinter organisations aiming to partition the nation; and the formation of illegal armed units.

Matters related to ensuring national security, including the use of armed forces, are covered in policy-making documents of most leading Moldovan political parties. In terms of their attitude to military issues, these parties and grassroots political organisations can be divided into the following three categories. The first comprises those desiring to consolidate Moldovan statehood, and view the army not only as its indispensable attribute, but also as a real force capable of fending off existing and potential military threats and ensuring domestic stability in the country. This position is held by the ruling communist party, pro-presidential parties and organisations, and the United Social Democratic Party. The second category groups those political organisations regarding the army as nothing more than a means of gradual integration into the common European security system, while rejecting the possibility of Moldova carrying out military tasks by making use of its own armed forces. This posture is shared by right-wing parties. The third category is represented by those parties, organisations, and movements that reject the need to maintain Moldova's own armed forces out of hand by reason of populist slogans (the use of defence budget resources to meet social needs).

From the very start of its participation in the Commonwealth of Independent States and also following the parliament's ratification of the agreement on the country's membership in the CIS in 1994, Moldova has refrained from signing any documents related to military cooperation and the creation of common security structures as part of the Commonwealth. This notwithstanding, and in accordance with understandings on data exchanges between member countries, Moldova has sent a package of documents concerning its legislation, as well as information regarding its military doctrine and defence policy concept to the Military Cooperation Headquarters. Moldovan MPs have regularly participated in the CIS Inter-Parliamentary Assembly. If the fact that the number and contents of laws governing the military sphere have not undergone any perceptible changes over the past seven years is any indication, model regulations and other forms of joint work within the framework of this inter-parliamentary structure do not have a direct impact on Moldovan law-making in the given field.

Moldova has participated in international exchanges of information through OSCE channels, and has been visited in accordance with the agreement on conventional armaments and armed forces in Europe by international inspection teams which found that Moldova honours its relevant obligations. After signing the framework document of the Partnership for Peace programme in 1995, Moldova has been closely involved in activities undertaken by participating nations jointly with NATO. Information officially provided by Moldova via international channels is accessible to legislators only if they require access to such data. But the general public is told virtually nothing about the contents of such information.

In Moldova, a newly-independent state that is still in full systemic crisis of the abandonment of the totalitarian past and adjustment to European standards and norms, it is too early to speak of any efficient democratic or even parliamentary control over the armed forces. The extent to which democratic control of the armed forces has become a guiding set of principles is not yet clear. In many cases the rhetoric of democratic control is promoted by Moldovan authorities, but the government has not established the full range of features required of a modern democratically-accountable armed forces.

On the one hand, the first steps such as the drafting and approval of new constitutional and legislative norms and structures, the allocation of clear lines of responsibilities, have been introduced in a very short period of time and can be considered successful. Moldova like most states in CEE has recognisable democratic structures in place and even the return of the communists to government did not alter this process. However, a 'second' generation of issues is emerging as being central to the on-going reform process. These are concerned with the effective operation of institutions and procedures, and the acquisition of shared norms and values of civilians and military. Whilst institutional structures have changed rather rapidly, the attitudinal change appears to be taking place over a longer time and is followed by uncertainty.

A significant degree of consensus has emerged amongst political elites and political parties concerning the democratisation of the armed forces. However, parliamentary debates often focus on headline goals and less on the content and details of policy. Parliamentary accountability therefore requires the constant and active interest of the parliamentarians toward the military problems and activities, even vigilance to ensure that accountability becomes a fact in civil-military relations. A positive role can be played by non-parliamentary interest and pressure groups, who are able to ensure that the government pays proper attention to public scrutiny and accountability.

Until a new democratic order based on a multiparty system, rule of law and efficient civil society is built up and is supported by competent and responsible people, it is premature to speak of a new relationship between the civilians and the military. Attention should rather be concentrated on ensuring effective parliamentary and political control over the military sphere, with the gradual introduction of democratic mechanisms, including institutions and organisations of the associative sector and media. The most pragmatic way of addressing this problem is the gradual enforcement of the powers and functions of law-makers in supervision over the armed forces, the enhancement of the elected public authorities' role in this process of consolidating transparency and accountability of the military.

The exercise of effective democratic control by society over the armed forces is accepted by the Moldovan political elite as one of the main principles whose observance can enable newly-independent nations to use their armies, security services and law

enforcement agencies in strict accordance with the latter's constitutionally-designated purposes, and to forestall their arbitrary interference in the internal affairs of the particular countries. The deployment of armed forces and the use of force exclusively in keeping with applicable legislation and under the direction of democratically-elected leaders and lawfully-appointed commanders, are only possible subject to unfailing compliance with this principle. Models and practices of oversight over the military sphere depend without doubt on the national traditions and specifics that Moldova is just re-inventing, on the degree of separation of powers in the state, on the constitutional functions and powers of Parliament and the executive branch of power, including the presidential administration. It becomes clear that the effectiveness of democratic control over the armed forces definitely hinges on the extent to which legislators are informed and competent and the state is efficient and responsible. The constructive partnership between the military, civilians and MPs, their competence, professionalism and ability to subordinate corporate interests to the national interests of Moldova have a decisive impact on the real accountability of the military to the democratically-elected institutions of representative power.

## CHAPTER FOUR

---

### CIVILIANS AND MILITARY IN DEFENCE PLANNING

*Oleg Gaur*

#### **Introduction**

Careful long- and medium-term planning in national security and defence is required for a number of factors: the changing strategic environment; many sources of potential crises, such as political instability; economic instability; terrorism or terrorist activities; narcotics production, shipment and use; organised criminal activity and corruption; ethnic unrest; proliferation of weapons of mass destruction. That planning is all the more significant because of the scarcity resources, which can be allocated for the maintenance of the Armed Forces and the defence of the state. The shortage of budgetary funds designated for the country's defence has a vital impact on the Armed Forces and could lead to severe consequences for the existence of the state.

National security or national defence planning must overcome the uncertainties of the changing security environment and the "unexpected" nature of many potential crises using various techniques for dealing with those uncertainties. Assumption Based Planning is a common technique used in this case. That method presumes the steps such as: looking far enough into the future to provide sufficient response time; considering a number of possible future worlds, articulating how the political, economic, and security environments of those future worlds might affect key national interests; identifying several alternative courses of action for each potential situation, to determine the opportunities that should be exploited and problems that should be avoided. Civilians must take that step in defence planning. The state and government authorities have to take decisions for the first step in planning, and some political party, non-governmental organisation in the role of experts should make an important contribution to that issue. Civilians determine the national security strategy. They define foreign policy, the resources allocated for defence, and the defence policy. Civilians participate in other

planning stages up to approving the defence plan, the programmes and the budget for these programmes.

That is why civilians are so important in the state's defence planning. Civilians give the money, they approve the state budget, they distribute funds for different items of the state budget. And the expression "he who pays, chooses the tune" is perfectly suitable here. The overall objective of this work is an assessment of the existing relations between civilians and military in defence planning.

## **Documents Determining the National Security Concept and Defence Policy**

The documents that determine the national security concept and establish the defence policy can be considered next:

**1. The Constitution of the Republic of Moldova**, adopted on 29 July 1994, determines the general task facing the Armed Forces with the purpose of maintaining the country's military security. In the Constitution it is stated, that the Armed Forces of the Republic of Moldova are created with the purpose of maintaining national security. The Constitution also determines spheres of the responsibility of the top officials concerned with national security. Thus:

- a) The President of the country in the field of defence, according to article 87, is the Supreme Commander-in-Chief of the Armed Forces and can announce a partial or complete mobilisation, though the action should be approved by the Parliament. In case of military aggression, he (or she) takes all the necessary measures for repelling aggression, announces a state of war and informs the Parliament about the actions undertaken. The President has the right to undertake other measures to maintain the country's security and public order within the limits of his power and according to the Law.
- b) The Parliament, according to article 66, approves the military doctrine of the state, announces partial or complete mobilisation, and announces a state of war, military or emergency situation in the country.
- c) The government provides the Armed Forces with all the necessary resources, designated for defence.

**2. The Law on Defence** (of 17 March 1992) is the second most important document and determines ways and methods for maintaining the military security of the country as a component of national security. The Law determines that the maintenance of the country's defensive capability is the most important function of the state. The law states that the military potential of the Republic of Moldova, the numerical strength, structure, maintenance, combat training of the Armed Forces, are determined by the character of the external military threat and are organised according to the military doctrine of the state. This official status is the first element in defence planning and construction of the armed forces, due to the fact that it determines the general task of the Armed Forces and is actually the basis for the first step in the planning process.

The Law on Defence determines the organisational aspect of defence and distinguishes the following elements :

- Elaboration of defence policy, military doctrine and development of military science;
- Coordination of efforts in the political and military area with the purpose of preventing any military aggression and reducing the possibility of the occurrence of a military threat from the outside;
- Personnel training and provision of the Armed Forces according to its required overall strength, maintenance of a high degree of combat and mobilisation readiness;
- Supply of the Armed Forces with armaments, ammunition and military equipment, provision with foodstuffs and different kinds of required resources;
- Mobilisation of the human resources designated for strengthening the Armed Forces in case of war;
- Training of the national economic and political leadership for transition to a mode of operations in state of war, preparation of the population and territories of the state for possible military action.

The Law on a Defence differentiates the responsibilities of the state governing bodies in the field of defence and determines that:

*a) The Parliament* is responsible for maintenance of the defensive capability of the country, for development of the main elements of military policy, and for implementation of the development of the laws in the area of military construction and maintenance of the country's defensive potential. The parliament approves:

- The military doctrine and concept of military construction;
- The numerical strength and general structure of the Armed Forces;
- The volume of financial assets designated to meet defence requirements;
- The basic orientation of policy in the Republic's cooperation with other countries in the military area
- Presidential decrees on mobilisation, demobilisation, declaration of war.

The parliament takes decisions:

- On the declaration of war in case of armed aggression and on conclusion of a treaty of peace after the termination of military action;
- On the establishment of martial law and its cancellation;
- On utilisation of the Armed Forces in case of a need for deployment to meet international agreements for peace and security;
- On confirmation in the post of the minister of defence, on the recommendation of the President of the Republic of Moldova .

*b) The President of the Republic of Moldova* is the Supreme Commander-in-Chief of the Armed Forces and has personal responsibility for the defensive capability of the country and combat readiness of the Armed Forces. The President:

- Coordinates the activity of the state governing bodies and state administration in defence issues;
- Submits the project of military doctrine, the concept of military construction, the request for budgetary funds intended for a defence, including funds for financing some military programmes, for Parliament's consideration.

- Approves the plan of construction of the Armed Forces for the appropriate period, the Armed Forces' mobilisation plan, and the plan for their implementation.
- Takes decisions on a partial or complete mobilisation, demobilisation, introduction of a state of war, with a subsequent statement to Parliament, call to military service and transfers to the reserve.
- Proposes the candidate for minister of defence;
- Gives the order for conducting military actions;
- Negotiates and signs international agreements on cooperation in the military arena;
- Appoints the superior commanders of the Armed Forces.

c). *The Supreme Security Council*, an advisory body to the President of the Republic of Moldova, develops measures for elaborating the general directions in organisation and maintenance of the country's defensive capability and military construction. However, in the Supreme Security Council there is no executive body to develop such measures and consequently the Council cannot carry out its directions. All required documents, which determine general directions in military construction, measures for maintenance of the country's defensive capabilities, are developed within the framework of the Ministry of Defence, and only by the military. That, for example, is how the Military Doctrine and Concept of the Military Reform were developed.

d) *The Government of the Republic of Moldova*, as the central body of the executive authority, is responsible for the defensive capability of the country within the limits of the powers given to government according to the current legislation. The government:

- Conducts supervision over actions of the state public authorities in the field of maintenance of the defensive capabilities of the country, the provision and supply to the Armed Forces of armament, ammunitions, military equipment and different kinds of material resources;
- Carries out general supervision of the mobilisation of resources, takes decisions on the call-up of reservists and on the sequence of demobilisation;
- Establishes the volume of budget allocations and material and technical resources intended for defence and the maintenance of the Armed Forces;

- Approves the plans for accumulation of material resources and mobilisation reserves, supervises over preparations for the mobilisation of the national economy;
- Provides implementation of international agreements on collective defence and so on;

e) *The Ministry of Defence*, as the central body that controls the Armed Forces, has full-scale responsibility for their establishment, development and preparation for conducting battle actions for the defence of the state. The Ministry of Defence:

- Studies and estimates military-political conditions, determines the degree of military threat and the sufficiency of the country's existing defense capability;
- Participates in the development of the military doctrine, the basic directions of military policy, the formation of the military budget. At present, the development of the military doctrine and general directions for construction of the Armed Forces are carried out exclusively within the framework of the Ministry of Defence, that has an effect for their quality and completeness of comprehension of the problems in the documents developed.
- Develops and submits for Presidential approval the draft plan for the Armed Forces' establishment, the draft plan for mobilisation of the Armed Forces, the plan for provision of the troops with armaments, ammunition and military equipment, and its improvement, gives requirements for financing defence;
- Establishes the numerical strength of all the branches of the Armed Forces and their reserves, carries out preparation and distribution of military personnel – officers and NCOs – within the limits of its competence
- Implements a consecutive military-technical policy.
- Develops the Armed Forces' mobilisation plan, participates in organisation of preparations for mobilisation of the national economy.
- Plans and carries out training and replacement of military reserves, appeals for military service, and transfers to the reserve.
- Supervises scientific research in the field of military construction.
- Provides advancement of a uniform and consecutive policy, cooperates with the armed forces of other countries.

**3. The Military Doctrine of the Republic of Moldova** is the third document and was adopted by the Parliament on 6 June 1995. This document states that the military doctrine is determined by the external and internal policy of the state and by the status of neutrality of the country and has an extremely defensive character. Alongside other provisions that are characteristic features for any military doctrine, there are also statements about planning. The Military Doctrine determines the sources and kinds of potential military threats as follows:

- Territorial claims from other countries.
- Attempts at intervention in the internal affairs of the country and destabilisation of the political situation within the State.
- The presence of foreign armed troops on the territory of the Republic of Moldova.
- Illegal activity of separatist organisations directed at infringement of the territorial integrity of the country by armed force.
- The existence of illegal military formations.

Having knowledge about potential threats and risk, it is possible to set the task or mission for the armed forces of eliminating those threats or of preparation for repulsing probable aggressive actions.

Thus there is a basis for development of the first element of the planning procedure for the establishment of the Armed Forces and, specifically, the general missions for the Armed Forces have been set. However, such a statement about missions is too generalised and is not suitable for direct application to the planning process. A statement of more concrete tasks is necessary, which should be formulated not within the framework of the Ministry of Defence but, at least, by the Supreme Commander-in-Chief or the Supreme Security Council or, better still, by Parliament. Thus in the absence of concrete tasks the planning mechanism, which is accepted in Western countries, does not work in the conditions of the Republic of Moldova; or did not work until recently, up to the moment of the acceptance of the Concept of Military Reform. Planning in the Ministry of Defence was carried out according to the old Soviet system, and at the maximum of division level. To be precise, the army's (division's) establishment planning was this: a plan for purchasing and technical maintenance of armaments, ammunition and military

equipment – for five years as well as for the year ahead, and a plan for combat training for one year. The army's establishment plan was divorced from reality and consequently was initially unrealisable.

So, for example, in 1993-1998 the purchase of the main battle tanks for tank battalions was planned. But in 1996 the leaders of the Ministry of Defence turned down that plan, probably due to the economic difficulties in the country. The economic potential of the country only permits an Army of the existing numerical structure, which was in 1998-2000 able to carry out some elements of combat training.

At the same time there are no financial resources for the overhaul, preventive maintenance or full renovation of armaments and military equipment, realisation of all elements of combat training, purchasing modern models of arms and military equipment and replacing out-of-date ones. Due to the fact that in planning the Armed Forces establishment neither the government, nor the office of the President, nor the President, nor the Parliament took part, such planning was initially doomed to failure, because no budgetary funds were allocated under the plan.

**4. The Concept of the External Policy of the Republic of Moldova (From 8 February 1995)** is the document which determines the directions of external policy, including the external activities of the country in the area of national security. Here alongside other regulations are determined as a priority the following elements, concerning the national security:

- Strengthening the independence and sovereignty of the state.
- Maintenance of the territorial integrity.
- The country's consolidation as a factor of stability at regional level.

The Concept determines the principles of external policy that ensure the security of the country. They are:

- Non-use of force, or threat of force
- Settlement of international contradictions in a peaceful way.
- Non-interference in the internal affairs of other countries.

- The international cooperation.
- The territorial integrity of countries.

Most important for the military in that Concept is that alongside the other main directions of external policy is considered the participation and even escalation of the activities of the Republic of Moldova in structures of the UN, designated for the maintenance of peace around the World, and activities within the framework of the Partnership for Peace Programme.

So a uniform document, which would determine the concept of national security or strategy of national security, would unify the directions of state activities in the field of external policy, military policy and economic resources of the state up to 2002, did not exist. There were a number of isolated documents, which in some way had determined the strategy of the national security. Those documents are those mentioned above:

- The Law on Defence and the Military Doctrine, which actually apply to military problems and questions.
- The Concept of the External Policy of the state.

## **The Defence Planning Process**

The existing situation in the area of national security allowed too free an approach for the leadership of the state to the problems related to military security of the state. In spite of the fact that the duties and sphere of responsibilities were distributed among state and government officials, there was no document which precisely determined the directions for guaranteeing national security, the financing of the needs of defence, or the concrete missions for the Armed Forces. An incorrect attitude toward the problems of national security remained, based on the principle of unreasonably cutting the military budget of the country. So all branches of the Armed Forces were, and still are, allocated two to two-and-a-half times less money than is required for maintenance of the existing Armed Forces. The existence of a document which would determine the objectives, missions, structure and numerical strength of the Armed Forces intended for these missions, their financing, and directions for the development of the Armed Forces would solve this problem.

With the purpose of changing the current approach to defence planning, putting the structure and training of the Armed Forces in order according to modern requirements, the Concept of Military Reform was developed, pertinent to all the Armed Forces. However, in spite of the fact that the Concept was debated by the parliamentary commission for state security and accepted by Parliament – it took two years from the time the Concept was finalised in the Ministry of Defence to its adoption by Parliament – it was developed very much within the framework of the Ministry of Defence, and consequently has a relatively departmental character, it was not exposed for wide-ranging discussion among the public, and has a number of imperfections. So, for example, concerning the problem of defence planning, the Concept did not clearly and decisively define the planning procedure, the degree of participation of civilian bodies and state officials in defence planning; it did not distribute the spheres of responsibility in the given issue.

In all other respects the Concept of Military Reform possesses all the characteristics of a national security concept accepted in the Western world, because it represents a complex of ideas, purposes, directions, missions, force structures, budgeting and mechanisms directed at perfecting the military security of the state. In the document the efforts of external policy, economic and financial resources and requirements in the field of defence are determined and balanced. To be more specific, the Concept determines the requirements directed at maintenance of national security and establishes that the country will create a military establishment of a size sufficient for maintenance of military security.

The Concept gives an assessment of the existing geopolitical situation and an analysis of the risks and threats which have an influence on national security, and defines the factors that determine this influence. Among these factors are the geographical situation of the country, the continued partition between NATO and CIS (Commonwealth of Independent States) spheres of influence, the accommodation on the territory of the country of foreign armed formations and presence of separatist forces and unconstitutional armed formations. The existing risks are:

- The strategic imbalance of military potential in the region.

- The existence of tensions and military conflicts, which might expand.
- Separatism and the internal socio-economic and political situation, which has a direct influence on military potential.
- Failures in financial, information, power and other spheres of the states.
- Military-political rivalry between the newly-arisen states.
- The risks connected with the expansion of international terrorism networks, the uncontrolled distribution of nuclear materials and technologies, the means of mass destruction, weapons and other unconventional means of destruction.
- The risks, appeared recently, connected to separatism, extremism, organised crime, drugs traffic, etc.

The Concept establishes, that for confronting these risks by force, the state should have sufficient forces and means, and that this is the main task for maintenance of national security. The Concept states next the objectives for the Armed Forces:

- Obtaining the combat capacity necessary for guaranteeing by means of armed force, as an extreme measure, the sovereignty, independence, unity, territorial integrity of the country and constitutional democracy.
- Participation in international peacekeeping operations conducted under UN and OSCE aegis.

With the purpose of achieving these objectives, the Concept sets the tasks:

- The preparation for suppression of possible aggression by maintaining the combat capability of the troops, development of the existed troops' control system, preparation of the population and national economy for mobilisation, and also operational arrangement of the country's territory for a defence.
- The escalation of efforts to prepare, by 2004, a peacekeeping battalion for participation in peacekeeping operations.

In crisis situations:

- Participation in activities for prevention of destabilising actions inside the country, protection of the citizens and infrastructure.

- Neutralisation of diversionary-terrorist elements and other illegal armed formations.
- Protection of the important lines of communication.
- The prevention of the proliferation of weapons of mass destruction and conventional use.

With the purpose of solving this main task the following problems should be dealt with, through programmes be developed by the Ministry of Defence, Department of Border Guards, Gendarmerie and the government and approved by the Parliament. Those programmes are:

- *The scientific maintenance of national defence*, which will allow a military-political situation to be predicted, to carry out the correct establishment of the Armed Forces based on precise estimates, and also scientifically to test the tactics and strategy of the armed forces;
- *The development and perfection of the legal basis of the national security system*, which legally will fix the principles: of the Armed Forces construction; of the controlling the national defence system, of democratic control above the Armed Forces, of mobilisation preparation of the national economy etc.
- *The perfection of the defence control system*, which assumes the introduction of a new control body, which will control the Armed Forces, both in peace and in war time. This new control body is the High Command of the Armed Forces led by the President of the Republic of Moldova – the Supreme Commander-in-Chief of the Armed Forces. The executive body of the High Command will be the General Staff of the Armed Forces. The General Staff of the Armed Forces carries out coordination in the establishment and application of Armed Forces planning, their mobilisation and operational training, and also in the preparation of the country's territory for defence actions. And it looks as if the General Staff is going to be responsible for defence planning. According to the Concept, the planning has to have three stages: long-term planning for 10-15 years, medium-term planning for four-five years, and short-term planning for one-two years. The medium-term planning is a rolling planning, which will be corrected

every year or two years –when the short-term plan is met. The functions and tasks of the other state and government bodies remain according to the current legislation.

With the purpose of improving democratic control over the Armed Forces, the Concept states that next steps will improve the situation:

- The delimitation of the attribution of public authority in the national defence sphere.
- Legislative regulation in the area of functioning and organisation of Armed Forces activity.
- Juridical assistance rendered to the public authority during inspection of the Armed Forces.

## **Armed Forces Reform**

This has the purpose of optimising and improving the Armed Forces' defence potential. Thus the general tasks of the Armed Forces – the prevention, deterring and repelling of a possible aggression against the country, and contributing to the maintenance of stability in the region – are specified. Also the structure of the Armed Forces is underlined – so the Armed Forces consist of the National Army, Border Guards and Gendarmerie. For each of these branches of the Armed Forces the tasks for peace and war have been determined. The order of the formation for each branch of the Armed Forces from the tactical point of view is also underlined, namely that the Armed Forces consist of active armed forces, reserve troops, and self-defence territorial troops. Basically, here we have initial data for planning the establishment of the Armed Forces (there are tasks, there is a structure). At the same time, this programme presumes the modernisation of some of the army's armaments and military equipment, and the replacement of obsolete military equipment with modern versions. This is the most expensive part of the programme and of the military reform. Implementation of this part of reform is highly questionable, and this is why this part of the programme has been put as the last step, and should be implemented at the last stage of reform, in 2010-2014.

## **Perfection of the Mobilisation System**

The purpose of perfecting the system is to improve the existing capability of the national economy to work during wartime, the capability of the Armed Forces to put themselves on a war footing. Here the programme anticipates:

- a) Making the mobilisation mission comply with defence requirements and the possibilities of the state economy's state economy.
- b) Reconsideration of the public authorities activity in planning and coordination in the field of mobilisation training.
- c) Creation and perfection of the state's military infrastructure.

## **The Financial and Material Maintenance of the Armed Forces**

In common understanding this is not a programme due to the fact that these provisions of the Military Concept do not assume development of the methods for the solution of a problem. However the Concept coordinates the country's economic resources with the Armed Forces' financing and determines the order of financing. This aspect is extraordinarily important for the activity of the armed forces and the process of planning, because it determines the rules of the game, above all for the government, the ministry of finance, and other civil state bodies – now participating in the formation of the armed force ministries' budgets – in the field of financing national defence. However, the Concept on this question is again imprecise, due to a too free interpretation of the financing algorithm. The Concept determines that financing will be increased in steps from 0.7 per cent of Gross Domestic Product in 2002 up to 2.5 per cent in 2014. This statement in the Concept allows for increased financing that can bring in an element of discrepancy to the planning process.

## **The Programme of International Cooperation in the Military Sphere**

Taking into consideration the existing geopolitical situation, the Republic of Moldova will develop international military collaboration based on a status of permanent neutrality. The permanent neutrality status means the country will abstain from joining blocs or military alliances. Simultaneously, it is known that each state (both small and large)

carries certain responsibilities concerning stability and security both for itself and the wider – international, regional, etc – community. Nevertheless, taking into consideration the fact that the army is a basic element of the stability and security maintenance process, the responsibility of neutral countries for maintaining their own armies with the purpose of supporting the country's neutral status becomes more and more significant.

For instance Switzerland, being a neutral country, holds the first place in the world on military expenses per capita (about USD 700 annually). Finland, having a population of 5.1 million, maintains a military of 33,000 personnel. Sweden, with a population up to 8.8 million, maintains a military of 63,000 personnel. All these armies that belong to the traditionally neutral states are organised, equipped, prepared and receive special attention from the population and authorities of these countries. So to reduce the pressure on resources over the country's defensive capability, it is recognised that international military cooperation is vital for national security.

It is supposed that the cooperation will be in the following directions: democratic control of the Armed Forces by civilian society, preparation of the officers, scientific research in the field of security and defence, participation in peacekeeping operations, interoperability with partners in the field of troop control, communications, training and supply. The Concept determines the principle of the Moldavian peacekeeping battalion's participation in peacekeeping operations.

So, the Concept of Military Reform has all the attributes typical for a concept of national security because it determines the nation's posture in areas of national security and coordinates the state's efforts directed for maintenance of national security, both in the field of external policy and the military area, and connects those policies to the financial and economic resources of the country. The Concept determines national requirements on defence, establishes objectives of military policy, generalises tasks for the Armed Forces, and specifies what structure the Armed Forces should have, to meet these tasks.

According to the decision of the Parliament No. 975 from 26 July 2002, the government was to develop and approve the plan of performance of the concept within three months.

Then comes the second stage – direct planning of measures for performance of the main tasks.

Up to the approval of the Concept, there was no plan for the establishment of the Armed Forces. Each branch of the Armed Forces planned their activity in this area independently. As was specified earlier, as for an example based on the National Army case, these plans were not coordinated with the economic opportunities of the country, the threats and the risks, and with foreign policy. Therefore such plans from the very beginning were doomed to fail.

Now, to develop the plan for establishing the Armed Forces, planning will be carried out under the guidance of the government – probably on behalf of a department which is engaged in the Armed Forces' problems and consists, basically, of civilians – drawing in experts from the Ministry of Defence, Ministry of Internal Affairs, the Department of Border Guards and the Ministry of Foreign Affairs. The Supreme Security Council, in spite of the fact that it should develop proposals and recommendations concerning national security, will, in the absence of its own executive body, develop nothing and will, most probably, consider the plan as an intermediate body. The plan will then be transferred to the President – the Supreme Commander-in-Chief – who will in turn present the plan for approval to the Parliament.

## **Conclusions**

It is possible to affirm that the Defence Planning, Programming and Budgeting System (PPBS), now that the Concept of Military Reform has been approved, is under implementation.

It is recognised that defence planning is a basis for constructing balanced armed forces for any country. In the world there is no country, except perhaps Third World countries, where national defence, the establishment of the armed forces, would not have the precise purposes, objectives and, most importantly, ways and methods of building an army.

It is possible to assert precisely and to prove easily that in the Moldovan Armed Forces such a planning, programming and budgeting system did not exist up until very recently.

That situation created a number of negative consequences, but there was also one “positive” feature, which made possible the current situation that actually existed up to now. That is the “possibility” for the state to finance the army by the remaining principle i.e. what remains in the budget after other allocations and as a result the “possibility” to allocate large financial assets for solving social and other problems. For leaders of the Ministry of Defence the existing situation is also profitable. Having such an approach to the country’s defence financing, a significant part of the responsibility is removed from the Ministry of Defence regarding the following: the inability to maintain a National Army and the state’s defensive capability in proper shape within the framework of the approved numerical and combat structure, low battle readiness, and extremely low material stocks.

Thus the planning, programming and budgeting system (PPBS) presumes the precisely designated objectives that the armed forces are facing, developing programmes for these objectives to be implemented. The Concept gives the main directions for the Armed Forces building programmes that can really be implemented, and also appropriate financing which is very important for those who carry out these programmes.

Once again, it is necessary to note that the Concept gives the *system's planning part* which contains the following elements at various levels:

The national development strategy that has the following elements:

- a) The geopolitical situation, possible sources of potential crises, external risks and threats;
- b) Sources of internal instability and risks;
- c) The designated armed forces for problem-solving regarding stability in Europe; possible participation in blocs, alliances; possible armed forces participation in peacekeeping operations, etc;

- d) The economic situation of the country and the economical opportunities for the maintenance of the armed forces; also determined financial resources, which the country can allocate to address military issues;
- e) And, in conclusion, the general objectives, both internal and external, which the armed forces has to face are designated.

According to existing legislation and the Concept, the elements of these systems should be developed and issued by the President of the Republic of Moldova, as the head of state and Supreme Commander-in-Chief, together with the support of the government of the Republic of Moldova. Probably the national strategy should be issued as a presidential message to the Parliament of the Republic of Moldova, with a certain regularity. The regularity can be determined by the term of the president, parliamentary elections, or dependent on changes in both external and internal factors. The term should become a subject of a separate research; however, in any case, it should be precisely determined in the legislation. But that stage in planning is not yet developed. That of the PPB system is going to be developed by civilians, that is the first step, which determines all aspects of the National security.

It is logical to expect that on the basis of objectives set by the President, a new Military Doctrine will be developed, which will describe the optimum ways and methods for solving the objectives facing the Armed Forces. It looks like the Ministry of Defence with the Main Headquarters of the National Army, with the support of the headquarters of the Gendarmerie and Border Guards, will develop that new doctrine.

Hopefully, on the basis of the Concept of Military Reform and a new military doctrine in each of the Armed Forces branches, the planning document (for example, the National Army establishment plan) will be developed. Those documents will determine concrete objectives and purposes to provide general ways for their solution, the forces' structure and means intended for achieving these objectives, and financial resources. In this way, the planning part of the planning, programming and budgeting system comes to an end.

*The programme part of the PPB system assumes the appropriate development of programmes for establishing the various branches of troops, departing from the force structure and means determined by the AFRM (or the National Army) building plan.*

Such programmes – in addition to those mentioned in the Concept of Military Reform – can be the antitank systems equipping programme, the combat training programme, the material stocks replenishing programme, the communications re-equipment programme, the human reserve training programme, etc.

Any programme should contain the objectives and tasks, all the necessary calculations proving its cost-effectiveness, distribution of financial resources for every year of the programme's implementation. The appropriate ministries and departments – civilians – should participate in developing the concrete programmes.

*The financial part of the PPB system* presumes endorsement of the calculations of the appropriate governmental departments, the state budget possibilities and the Armed Forces current needs adjustment for the coming years, and acceptance of the coordinated programmes by the government of the Republic of Moldova. As a final document there should be the budgets for the Ministry of Defence, Ministry of Internal Affairs and Department of Border Guards for one year.

During the programme coordination in the government of the Republic of Moldova, the absence of necessary financing will require reconsideration for the Armed Forces establishment plan and objectives set for the Armed Forces. It in turn can cause reconsideration of the entire national strategy, both in defence and other areas.

The process comes to an end when the National Strategy of the defence sphere is matched with state financial possibilities. Putting it another way, the state can demand from the Armed Forces as much output as it is willing to pay for.

So in the government, in various civilian ministries and departments, in the Armed Forces we have employees who know how to deal with the national security issue and defence planning, but how the real process will look will be shown in the near future. The future will demonstrate the effectiveness of their cooperation.

## **CHAPTER FIVE**

---

### **STATE AND SOCIAL CONTROL OVER INTELLIGENCE AND SECURITY AGENCIES**

*Serghei Fevraliov*

#### **The Intelligence Community and its Mission**

In the Republic of Moldova, there are three state structures of executive authority specialising in the sphere of state security maintenance: the Information and Security Service, the State Protection Service and the Border Guards Department. According to the legislation, they form the system of the agencies of state security of the Republic of Moldova in which the leading part is taken by the Information and Security Service.

The State Protection Service has the responsibility to protect public establishments and the persons who have this right according to the law. The Border Guards Department guards land boundaries and territorial waters, and represents the interests of the Republic of Moldova on the state frontiers. The creation of other departments of state security is not permitted by law. The tasks of the agencies of state security are:

1. To protect the independence and territorial integrity of the Republic of Moldova, ensure the guarding of its frontiers, the protection of its constitutional structure, the rights, freedom and legitimate interests of its people from illegal encroachments;
2. To carry out intelligence activities in order to ensure state security;
3. To carry out counterintelligence activities in order to identify, prevent and eliminate the intelligence actions of secret services and the organisations of other countries, ensuring the protection of state secrets;
4. To provide the Parliament, the President of the Republic of Moldova and the government with the information necessary for solving problems, connected to ensuring state security (in the sphere of foreign policy and foreign trade

- activities, the internal affairs of the country), social and economic development, scientific and technical progress;
5. To ensure within the limits of their powers the protection of the economy from criminal encroachments; to prevent emergencies in transport, in communications and in major objects of social support;
  6. To fight terrorism, organised crime, corruption, which affect the interests of state security, and also to identify, prevent and eliminate other crimes;
  7. To protect, according to the legislation on state protection, the high officials of the republic and foreign and public figures during their stay in the Republic of Moldova;
  8. To participate within the limits of their competence and interaction with border troops in ensuring border security.

By law, the competence of the supreme bodies of public authority in the field of state security is distributed in the following order.

### **Political and Democratic Control**

The Parliament carries out legislative regulation in the sphere of state security; approves the concept of national Security; creates legal bases for the formation and activity of the bodies providing state security; establishes the boundaries of the country; approves the volume of budgetary funds for ensuring the maintenance of state security; ratifies and denounces the international contracts connected to ensuring state security.

The President of the Republic of Moldova carries out general management of activities to ensure state security and bears responsibility for the condition of state security within the limits of the powers established by legislation; takes the necessary measures to ensure state security; provides interaction of the bodies of public authority in the sphere of state security; creates advisory bodies on questions of ensuring state security and directs them; issues decrees of a normative character in the field of ensuring state security; negotiates and concludes international contracts on behalf of the Republic of Moldova connected with ensuring state security.

The government executes the laws and decisions of the Parliament, decrees of the President of the Republic of Moldova, directed at ensuring state security; supervises the activity of bodies of public management in this sphere; issues decisions and orders on questions of ensuring state security, supervises their execution by the ministries, departments and other subordinated bodies; creates the departments of state security, determines their structure, functions, the amount of budgetary funds for their maintenance; makes decisions on questions of pensions, the provision of social and legal protection for employees of the departments of state security and of the persons dismissed from military service, members of their families, and also members of families of the citizens who have died defending state security; carries out external and internal policy in view of the interests of ensuring state security;

The Supreme Security Council which is presided over by the President of the Republic of Moldova, is the advisory body analysing the activity of the ministries and departments in the field of ensuring state security and developing appropriate recommendations for the President of the Republic of Moldova on questions of external and internal policy. The structure and staffing of the Supreme Security Council and its procedures are decided by the President. The members of the Supreme Security Council are not empowered with additional official powers and have no right to issue orders, if it is not their prerogative as defined by law.

The Information and Security Service is headed by a Director appointed by Parliament on the proposal of the President of the Republic Moldova for a period of five years. Approval of the Director of Service is carried out by Parliament on the nomination of the President or deputies of the Parliament. The Director of the Service has assistants who are appointed by the President of the Republic of Moldova on the proposal of the Director of the Service. To fulfill the functions assigned to the Service, a Board, which consists of the Director (Chairman), his assistants, and also other executives of Service, is appointed by the President of the Republic at the suggestion of the Director of the Service.

The Service of State Protection is headed by a chief who is appointed and dismissed by the President of the Republic of Moldova at the suggestion of the Prime Minister. the

Deputy Chief of the Service of State Protection is appointed and dismissed by the government at the suggestion of the chief of Service.

## **Development and New Missions**

After the break-up of the Soviet Union and declaration of independence of the Republic of Moldova the Committee of State Security of the MSSR was transformed into the Ministry of National Security of the Republic of Moldova. Its activity was transformed in view of the new political priorities connected to the change in the constitutional structure of the country, of the necessity to protect the sovereignty and territorial integrity of the state and the democratisation of society. During the process of establishing and further developing the foundations of the democratic state, the Parliament of the Republic of Moldova elaborated and adopted legislation on ensuring the state security of the country in which for the first time the principles of the activity of state security bodies were determined and laws were elaborated on observing the rights and freedoms of individuals. Thus, the main principles are: legality; equality of all before the law; observance of the rights and freedom of individuals; the division of powers of the bodies providing state security; a combination of open and clandestine methods of work; the maintenance of state security without damaging the security of other states and general security; and political neutrality. Moldova's laws definitely state that the activities of state security organisations cannot restrict or limit legitimate rights and personal freedoms.

The law does not allow intervention in the family and private life or infringement of the right to private property. The state has to provide confidentiality of written correspondence, telegrams and other items of mail, telephone conversations and other kinds of communication. Any action affecting the honor and dignity of the person, if he or she is not guilty of committing any offence that threatened state security, is not permitted. No one can be prosecuted for free expression, political or religious beliefs. Restriction of the rights and freedom of the person is carried out in strict conformity with legislation. If a person considers that his or her legitimate rights and freedom are restrained, the procedures are unreasonably limited or infringed, he or she has the right to address the supreme body of state security, the Office of Public Prosecutor or a court.

Citizens have the right to be informed about the activity of the departments of state security and on the questions concerning their personal interests. The disclosure of the data constituting state, military, service and trade secret is not allowed, and also confidential information whose disclosure could damage state security, the honour and dignity of the person or infringe the person's rights and freedom.

According to recent legislation, a system of the departments of state security was created, and the Ministry of National Security was reorganised into the Information and Security Service and the Border Guards Department as an independent organisational structure. Employees of MNS were considered as performing military service within the Service of Information and Security without legal provisions for a military status.

The Service of Information and Security regularly informs the leadership of the Parliament, the President of the Republic of Moldova and the Prime Minister on the basic directions in the activity of the Service, and also on separate questions and the problems of interest to the taking of political decisions and being up to date. If necessary, the heads of bodies of public authority, ministries and departments are directly informed about questions of ensuring state security in their work, on questions of maintaining state security within the area of their responsibility.

According to the current legislation, the Service of Information and Security carries out instructions from the President of the Republic of Moldova, who serves as the chairman of the Supreme Security Council, concerning state security, in view of the changing situation in the Republic and abroad.

During the performance of the functions of the Service of Information and Security on planning and carrying out measures for identifying, preventing and eliminating activities presenting a threat to the security of the state, professionally trained employees of the Service gather and process intelligence information for the leadership of the Republic on priority problems, directly participate in developing a risk and threat assessment which serves to review the National Security Concept. The Service carries out instructions from the political leadership to localise and minimise crisis situations.

The contribution of the Service of Information and Security could be more substantial if in the structure of working groups of the supreme bodies of public authority, the Parliament, and the Supreme Security Council, there were experts from the Service or former employees of special services to assist in development of projects and recommendations for the President of the Republic of Moldova.

## **The Service of Information and Security: Mission and Tasks**

According to legislation, a threat to state security is understood as a set of actions, conditions and factors presenting a danger to the state, society and the person. The basic threats to state security are:

- Actions directed at overthrowing, by violence, Moldova's constitutional and political structure, or undermining or destroying the sovereignty and territorial integrity of the country;
- Activities, directly or indirectly promoting operations against the country or causing civil war;
- Armed or other violent actions undermining state foundations;
- Espionage, transfer of data containing state secrets to other states, the illegal reception or storage of data classified as state secrets, with the purpose of transferring it to other states or anti-constitutional structures;
- Treasonous activities in order to assist another state or states to carry out hostile activities against the Republic of Moldova;
- Actions with the purpose of infringing constitutional laws and freedoms of the citizens, causing a threat to state security;
- The preparation and commission of acts of terrorism, and also endangering the life, health and inviolability of senior officials of Republic and public figures of foreign states during their stay in the Republic;
- Actions that contribute to undermining the functioning of transport, communications, essential support systems and the economy;
- The plunder and smuggling of weapons, ammunition, combat material, explosives, radioactive materials, poisons, narcotics, toxic and other substances, their illegal manufacture, use, transportation and storage if the interests of state security are affected;

- The creation of illegal organisations or groups representing a threat to state security, or participation in their activity.

Legislation permits the departments of state security of the Republic of Moldova to establish official connections with similar security agencies from other countries with the purpose of ensuring the security of the Republic of Moldova and the performance of its obligations under the international agreements.

## **Regional Security Concerns**

The interaction of the Service of Information and Security with special services and organisations, law enforcement bodies and other organisations of foreign states is carried out on the basis of international treaties. In particular, SIS takes part in joint meetings of the security services of the Commonwealth of Independent States, supports bilateral relations with individual countries, including with the nearest neighbours – Romania and Ukraine. Basic attention is thus given to the questions of cooperation and interaction, the exchange of information in the field of the fight against international terrorism, the traffic of arms, the drugs business and organised crime. By law, the Service of the Information and Security is authorised to have official representatives in special services and law enforcement bodies of foreign states with the aim of increasing the efficiency of the fight against international crime. The departments of state security of the Republic of Moldova execute their right to professional training in special educational institutions of other countries, in particular in the Russian Federation and Ukraine.

The services of state security are authorised to exchange operational information within the limits of their competence with security services and special services of foreign states and to conduct with them negotiations on conditions and procedures ensuring the security of persons having the right to state protection.

On 19 September 2002 in Chisinau the 13th meeting of the Heads of Security Services and Special Services of the CIS countries took place. The participants at the summit examined the execution of the Agreement on Cooperation and Interaction of the departments of state security and special services of the CIS, the question of interstate

cooperation within the framework of the Council of Heads of Special Services, the problems of the fight against terrorism and the drugs business.

At the meeting the activity of the Anti-Terrorist Centre of the CIS which began its work two years ago was considered, a session of the Coordination Council On Cooperation in Scientific and Technical Areas between special services was held, and the traditional military sports competition between employees of the countries of the CIS took place.

## **Cooperation Among Security Services**

According to the legislation of the Republic of Moldova, the activities of the intelligence service and security services of the state (agencies of state security) are regulated and controlled by the Law on State Security, the Law on the Agencies of State Security, the Law on the Information and Security Service (ISS), the Law on the State Protection Service (SPS), and the Law on Frontiers. They define the mission, legal basis, principles, activities and means of the ISS, SPS and the Department of Border Guards, and also the procedures for their control and supervision.

The Service of Information and Security of the Republic of Moldova is a specialised state body in the field of state security maintenance and gathering intelligence information. The functions of the Service are:

1. To inform the Parliament, the President of the Republic of Moldova, the government and other bodies of public authority about questions concerning the interests of state security;
2. To collect intelligence information in the interests of the security of the Republic of Moldova in order to increase its economic, scientific, technical and defence potential, and to aid its external and internal policy;
3. To reveal, warn and prevent subversive activities of special services and the organisations of other states and individuals directed against the security of the Republic of Moldova;
4. To carry out counterintelligence measures, assisting the Ministry of Defence, the Ministry of Internal Affairs, the border guards, other lawful military formations, and also control and customs bodies;

5. To provide government ministries, departments and other bodies of public authority, including missions abroad, with ciphered, secret and other communications according to provisions established by the government; to organise and provide safe operation of these kinds of communications;
6. To provide within the limits of its powers for the security of the objects of the defensive complex, the finance-banking system, energy, transport, communications and essential support systems, information systems and scientific development facilities;
7. To carry out the control of data security over state secrets; to participate in the development and realisation of measures of protection of data constituting state secrets in bodies of public authority, military formations, at enterprises, in establishments and organisations irrespective of their form of ownership; in the established procedures for carrying out measures connected to the access of citizens to data constituting state secrets;
8. On the basis of requests from bodies of public authority, to carry out background investigations, according to the procedures determined by the legislature, of the candidates for posts in bodies of public authority and to present information concerning them;
9. To perform, together with other bodies of public authority, activities for ensuring the security of establishments of the Republic Moldova located on territory of other states, and the citizens of the Republic of Moldova who are abroad;
10. To participate within the framework of its prerogatives and together with border guards in ensuring protection of the frontiers of the Republic of Moldova;
11. To help other law enforcement bodies with available forces and means, including technical, in the struggle against crime;
12. To detect broadcasts whose content represents a threat to state security;
13. To participate, as provided by legislation, in issues concerning the granting of citizenship of the Republic of Moldova and removing it, concerning the entrance to the country of citizens of the republic, of foreign citizens and persons without citizenship and their departure, and also the regime of staying in the country of foreign citizens and persons without citizenship;
14. To support the mobilisation readiness of the Service, to keep account of the staff in reserve.

## **Legal Definition of the Activities of Intelligence and Security**

The responsibilities and limits of authority of information organisations and security services are given in the legislation of the Republic of Moldova. In particular, staff and employees of the agencies of state security carry the criminal liability established by legislation for disclosure of data concerning state, military, service and trade secrets, including data on citizens rendering assistance to the agencies of state security on a private basis. The Service of Information and Security has the right:

1. To carry out investigations;
2. To carry out actions aimed at crime prevention, which are in the competence of the Service by law;
3. To carry out preliminary investigation of criminal cases concerning the conducting of the Service; to have a prison for preliminary detention;
4. To engage on a public and private basis (including as part-time employees) certain persons with their consent for assistance in the performance of the functions assigned to the Service;
5. Within the limits of necessity for the realisation of investigative actions, to use under contract or verbal agreement the offices and other property of state enterprises, establishments and organisations, military formations, and also premises and other property of citizens;
6. In cases of special necessity, to use for service purposes communication facilities belonging to enterprises, establishments and organisations irrespective of the kind of ownership, and also belonging to public associations and citizens, with their consent;
7. To use in emergency cases vehicles belonging to enterprises, organisations and establishments irrespective of the kind of ownership, and also belonging to public organisations and citizens, except for those which belong to foreign establishments and persons having diplomatic immunity. On the demand of the owners of vehicles the Service refunds the damage caused according to procedures established by legislation;
8. To carry out administrative detention of persons who have committed offences, connected with attempted penetrations and penetrations into specially protected territories, objects under special regime and other protected objects,

- to check the documents certifying their identity, to receive from them explanations, to carry out personal inspections of them, examination and withdrawal of their personal possessions and documents; to make reports on administrative offences;
9. To introduce into bodies of public authority, administrations of enterprises, establishments and organisations irrespective of their kind of ownership, and also in public associations, obligatory representations on elimination of the reasons and the conditions which promote the realisation of threats to state security and crimes, preliminary investigation of which are by legislation referred to the Service;
  10. To receive gratis from bodies of public authority, enterprises, establishments and organisations irrespective of their type of ownership the information necessary for performance of functions assigned to the Service;
  11. To develop state codes and means of enciphering, to carry out enciphering works in the Service, to monitor observance of the secrecy regime during work with enciphered information in enciphering divisions of bodies of public authority, enterprises, establishments and organisations irrespective of their type of ownership;
  12. To create according to the law the enterprises, establishments, organisations and divisions necessary for performing the functions assigned to the Service and maintenance of its activity;
  13. To utilise, as agreed with the Ministry of Internal Affairs, its means of force for the realisation of actions for ensuring state security;
  14. To create public and private special purpose divisions aimed at performing the functions assigned to the Service;
  15. To carry out criminal and other investigations and research concerning the prerogatives of the Service;
  16. According to the procedure determined by the government, to attach military men of the Service to bodies of public authority, state enterprises, establishments, organisations and also, with the consent of their heads, to private enterprises, establishments and organisations, while preserving their military position;

17. To establish and carry out external relations with special services and law enforcement bodies of other states; to conclude international treaties within the limits of its prerogatives;
18. To have official representatives of the Service in other states according to agreements with special services or with law enforcement bodies of these states with the purpose of increasing the efficiency of the struggle against international crimes;
19. To take measures to ensure its own security;
20. With a view to secrecy, to use documents which encipher the identity of the officials, divisions, organisations, premises and vehicles of the bodies which carry out investigation activities, and also the persons cooperating with these bodies on a private basis;
21. To carry out scientific research on problems of state security;
22. To create working groups consisting of military persons of the Service and experts invited from other departments to conduct research on the major problems of ensuring state security;
23. To train and retrain service personnel, including in locations abroad, and the staff of special services of other states on a compensation or gratis basis;

Service personnel have the right to carry, store and use weapons. In all cases of using a weapon, the involved persons are obliged to inform the public prosecutor within 24 hours. It is forbidden to use weapons against women and juveniles, or elderly persons, except in cases of armed group attack or armed resistance, which endangers lives.

The Service carries out its activities together with the public authority bodies of the Republic of Moldova. The procedure and conditions of interaction of the service with other institutions of public authority are established on the basis of agreements between them or by statutory acts. The Service can use the resources of other bodies, which are included in the system of the agencies of state security of the Republic of Moldova, according to the procedure established by the legislation. Bodies of public authority and organisations are obliged to inform the Service on all data and information received during their service activity and concerning the maintenance of state security.

Citizens, enterprises, establishments and organisations, which offer services of mail, communications, telecommunications of all kinds, including telecode systems, satellite communications, global, regional and departmental information networks, are obliged according to the legislation to create the conditions necessary for investigative actions carried out by the Service. Interaction of the Service with special services and organisations, with law enforcement bodies and other organisations of foreign states are carried out on the basis of international treaties.

Since the independence of the Republic of Moldova and formation of the agencies of state security, no official charges of illegal activities against the special services of the Republic have been made. At the same time, some leaders of political parties have claimed that the special service agencies have been used to put pressure upon opposition parties or influence the internal political situation. As a rule, such declarations are made before election campaigns or when the leadership of the country has to take important political decisions. Accusations addressed to special services, however, have not been substantiated.

By law, the control and supervision of the activity of state security agencies are carried out by various state and judicial structures within the framework of their competence. Thus the Parliament supervises the activity of the agencies of state security in the form of parliamentary hearings and investigations, reports of the heads of special services during open and closed sessions, and the participation of the chairman of the Parliamentary Commission on State Security and Maintenance of Social Order or his assistant in the work of the board of Information and Security Service of the Republic.

## **Control and Oversight**

A constant control of activity of the agencies of state security is carried out by the Parliamentary Commission on State Security and Maintenance of Social Order. The special services annually present a report on their activity to the President of the Republic, Parliament and the government; according to the procedure established by legislation, and answer the inquiries of the standing and select committees of Parliament, and also of the deputies of the Parliament.

The heads of the agencies of state security bear personal responsibility for the promptness, objectivity and completeness of the information presented. Deputies of Parliament, who on the basis of inquiries receive the information from the agencies of state security, bear responsibility by law for disclosure of the information containing state secrets.

The President of the Republic of Moldova and the government receive reports from the heads of special services on the results of their activities, on the condition of state security, observance of the people's individual rights and freedoms, and on other questions. The President together with the government approves the programmes of activity of the agencies of state security and determines the type of information given by these bodies, and the procedure of its presentation.

Judicial control of the observance of the rights and freedoms of the personnel of the special services can be carried out in court trials and investigations of the services. Control is also observed through legal proceeding on charges of crimes or offences committed by employees of the state security agencies, and lawsuits against the actions of special services or their officials. Prosecution is carried out by the General Public Prosecutor and the public prosecutors subordinated to him.

## CHAPTER SIX

---

### GOOD GOVERNANCE: CIVILIANS AND THE MILITARY

*Dr. Arcadie Barbarosie, Col. Oleg Graur, Dr. Viorel Cibotaru*

#### Introduction

With the purpose of having more efficient governance in the sphere of human development, alongside other key factors it is necessary to involve, transparency, accountability and participation in the decision-making process of the population are the most important. When a society, like that of the Republic of Moldova, has chosen democracy as a governing system, the political, social, economic priorities along with economic transition, institutional reforms and human resources development become contradictory aspects for dialogue, discussion and consensus between various social groups.

Due to the fact that the vagueness of transition generates different values for different layers of society, the most important feature of the governing process becomes its openness, meaning that governance should be associated with offering to the vulnerable social layers of society equal possibilities to express their wishes and desires, so that they can be sure their problems will be heard by the decision-makers, and material and financial recourses for reconstruction and development would be allocated more efficiently and for their benefit also. So the comprehensiveness of good government arises from joining all of those above-mentioned factors, which are the compound part of the democratic process of human resources development.

Concerning “good governance” in the area of defence and state security, it is extremely important that civilians and military have the required knowledge about security and defence matters at the strategic level, and can work successfully together. But that is only a necessary attribute, and is not sufficient for good governance. What is really important for good governance is that both civilians and military work closely over state defence problems.

In this paper, the present situation in education and training, of both civilian and military personnel, the status of the recruitment and promotion system, and the forms of cooperation between the security ministries and Parliament and parliamentary staff will be described.

## **Military Education and Training**

Unlike most of the former Soviet republics, which had efficient military units on their territory transformed into national armed forces, in most cases the Republic of Moldova has accepted under its jurisdiction military units whose officers and petty officers have refused to make a pledge to Moldova and to serve in the National Army. For instance, in the air force regiment there were only 18 technical officers and no pilots; in the artillery regiment there were only seven officers.

In spite of the fact that by the end of 1992 most of the highly qualified officers of Moldovan origin had returned to the country and actively joined the process of creating the National Army, the shortage of staff was nevertheless extremely acute. A large part of the officers, for example, faced language problems, due to insufficient knowledge of the military and technical terminology in Romanian. The majority of the officers continued to have a Soviet military mentality, skills, and attitude to the service, which were incompatible with the new reality. However, in most cases, officers made efforts to meet the requirements imposed by the new situation.

Moreover, those military units remaining from the former Soviet Army were absolutely unsuitable for our country from the point of view of applicability, personnel structure, organisational structure and their location. That situation required not only a reform of the army, just as in other CIS (Commonwealth of Independent States) countries, but also the creation of a National Army from scratch, by using only the material and technical capacities of the former military units.

According to the Law on the Armed Forces, the military body's goal is to protect the state in case of military aggression, to ensure the inviolability of the country's frontiers and airspace.

The Armed Forces were organised based on the following principles:

- keeping the Armed Forces corps strengthened by conscripts and enlisted personnel;
- preparation of a military reserve based on compulsory military service performed by the country's citizens;
- a unified and centralised management;
- welfare and legal protection assured by the state to the military personnel;
- education of the personnel in the spirit of patriotism, compliance with the law and democratic ideas.

So one of the principles of the National Army establishment is education and training with the purpose of meeting high professional skills with the spirit of patriotism. To evaluate the existing situation in this area, a session of the Military Council (in Moldova we call it Military College) of the Ministry of Defence was conducted in December 1995, with the participation of the President of the Republic of Moldova, as Supreme Commander of the Armed Forces. That was a significant session from different points of view. During it an annual report on military education and training was presented, and the total period of establishing the state defence system was scrupulously analysed and strategic problems concerning the future development of the state's military body were discussed.

In his speech the President of the Republic of Moldova, Mircea Snegur, declared: "The Army is making its contribution ... to building Moldova as a state by way of establishing cooperative relations with armies of different states. I appreciate that positive participation of the National Army in the framework of the PfP (Partnership for Peace) programme, that includes, first of all, granting the necessary assistance for education and training of personnel, consulting, exchange of experience for conducting peacekeeping operations". At the same time the President mentioned: "... that does not mean that Moldova has any intention of joining the NATO military bloc, as the secessionist leaders from the so-called Trans-Dniestr Republic of Moldova accuse us in a speculative manner." In this regard, Snegur emphasised one more time: "... that according to the Constitution, the Republic of Moldova is a neutral state, it does not

allow the accommodation on its territory of foreign military troops or military bases and so it cannot join any military alliances.”

The important conclusion made by the Military College was related to the fact that the Ministry of Defence had produced the basic principles of a national military culture that corresponded to the real military-political situation in the region, to the state's economic status and to the military policy promoted by the state leadership. To achieve this a number of scientific conferences, seminars, workshops and other activities concerning to that topic were conducted.

Since then the training process at the level of platoon and company has improved significantly, a number of military applications in the field and on maps have been conducted that made contributions to improving the commanders' and headquarters' ability to plan combat actions and to conduct military actions at the company level.

## **1. The Structure and Curriculum for Education of the Professional Military Personnel**

A robust educational structure has a vital impact upon the army's capability to defend the country, because only well-educated and trained military personnel have the possibility to conduct a successful military mission. So, in the National Army an educational and training system was developed. From the very beginning that system was pretty similar to the former Soviet system, but now it has some deviations as schematised in Figure 1.

### **Tactical Level**

At the tactical level there were and there still are the following institutions that prepare military personnel:

- at the squad level – squad leaders for technical maintenance units were prepared in the army-training centre. Squad leaders for infantry units were trained in every brigade. For this purpose every infantry-motorised brigade has its own training centre. The duration of training was three to five months (depending on the specialty). Squad leaders were taken from among the

- conscripts and their term of service was one-and-a-half years. Now that term have been reduced to one year
- platoon and company leaders were trained up to 2002 in the "Alexandru cel Bun" Military College, the only military educational institution in Moldova. The first graduation was in 1995 when 72 lieutenants successfully graduated.

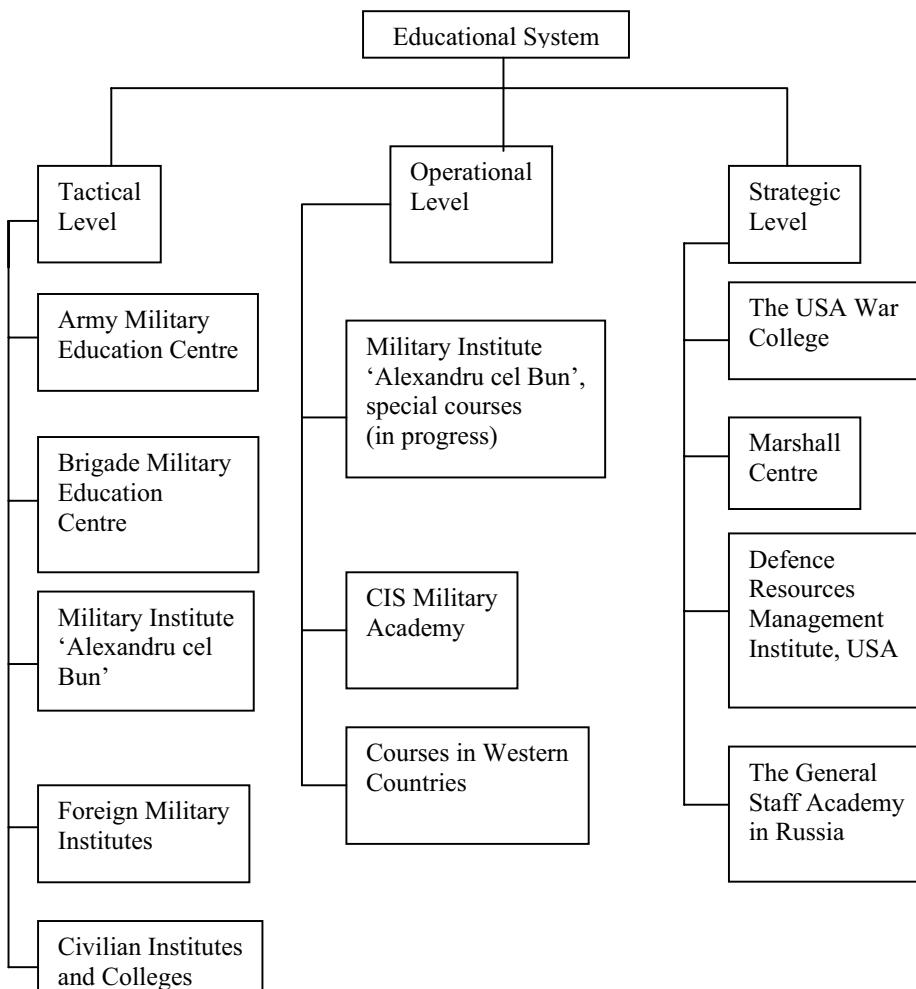


Figure 1: The Structure and Curriculum for Education of the Professional Military Personnel

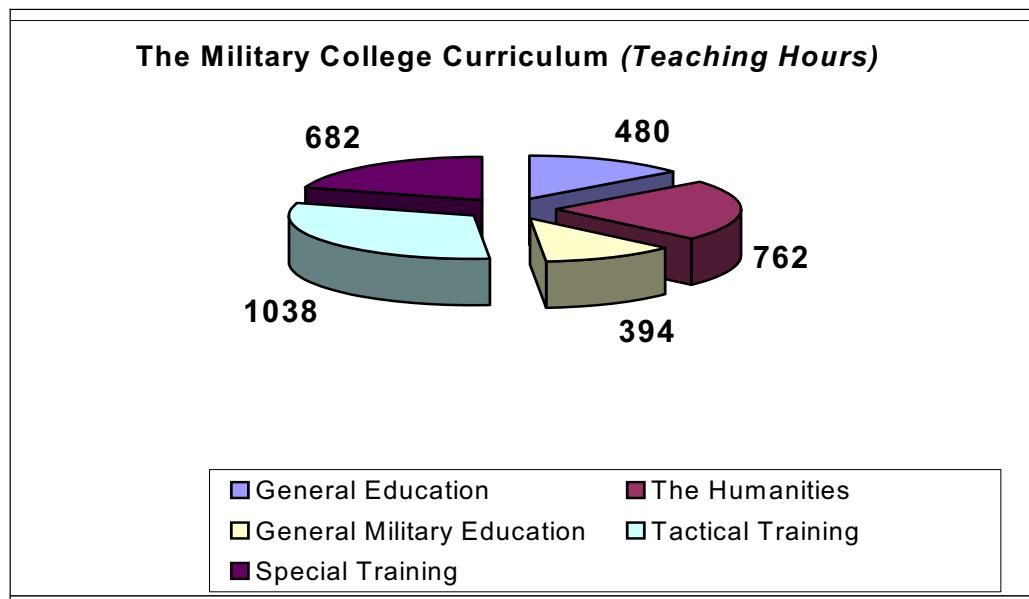
Up to 2001 the Military College had faculties that prepared officers for infantry units, artillery units and communications units. Due to the unattractiveness of the military service (low payment, the "foggy" future prospects for both the Army and officers, the shortage of houses, and better opportunities to make a career in civilian businesses) the

National Army is in real danger of remaining without lower and middle-level officers if such a tendency is maintained. As statistics show, after graduation no more than 50 per cent of graduates remain in military units after one or two years of service.

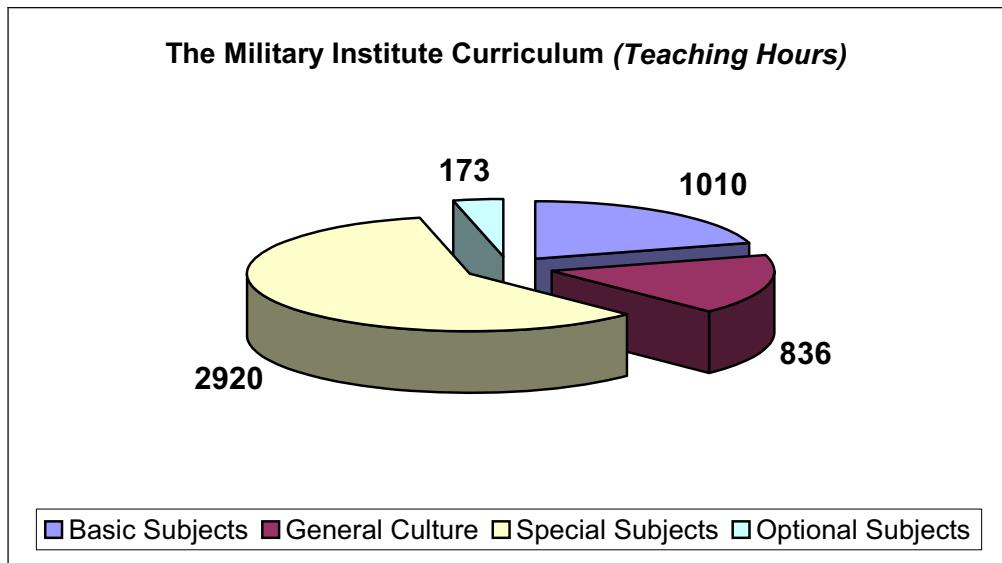
In September 2002 that educational facility became the "Alexandru cel Bun" Military Institute. Its objective is to prepare the junior officers for the National Army, Ministry of Internal Affairs troops, the Gendarmerie and the Border Guards. Another source of platoon and company leaders is the officer corps coming from civilian colleges and universities, which supplies the Army with up to 20-30 individuals per year. But their quality is a little bit lower, and they serve basically in logistics and technical maintenance units.

- the National Army receives some extra company leaders or their equivalent from noncommissioned officers, when they have acquired the necessary tactical knowledge on special courses at the Military College (henceforth the Military Institute). But that source is insufficient – approximately up to 10 persons per year.
- the existing commanders for battalions and regiments were educated in Soviet times. The new generation of that level of command will be prepared at special courses at the "Alexandru cel Bun" Military Institute. The duration of these courses will be from six to eight months.

The "Alexandru cel Bun" Military College curriculum had the following distribution



The “Alexandru cel Bun” Military Institute will have the following curriculum:



In any case the subjects that give a special education designed for future military service take the biggest proportion of academic hours. But in the Military Institute the proportion of the hours for fundamental subjects and general culture becomes a little bit larger than in college and that allows for the preparation of more educated future officers.

So far the existing system of education and curriculum in the Military College has produced fairly good officers. According to the reports of brigade and battalion commanders during tactical exercises conducted in the MoD with young officers, Military College graduates showed better professional qualities than lieutenants from military schools, colleges from Romania and CIS states.

At the same time the Military Institute faces problems concerning the insufficient facilities and improving the technical and scientific research basis to meet modern requirements.

Concerning the civilian institutes that prepare officers in most cases for technical maintenance units and subunits, they have military facilities that provide the necessary knowledge for becoming an engineer-officer. But the ratio of hours in those institutes devoted to military subjects is only five to seven per cent of all academic hours. That is not sufficient to prepare a good officer.

### **Operational Level**

The operational level (the level between tactical and strategic level), the level of brigade commanders and chiefs of department in the MoD and General Staff of the National Army. The operational level of the chain of command supposes conducting military operations in large formations such as brigade plus reinforcement units and higher.

So far that level has been filled with officers trained in Soviet times. Almost all commanders of brigades and chiefs of departments in the MoD and General Staff graduated from different kinds of military academy in the former Soviet Union (the equivalent of post-graduate schools or similar courses in the USA and other Western states.) Unfortunately nothing is forever and they are getting older and need to be replaced. This is why officers for the operational level of the chain of command were and still are trained with the assistance of Western states, Russia and Ukraine. On average seven to 10 persons per year are trained in different countries. The curriculum in that case depends on the educational facility.

At the same time in the MoD the idea of organising special courses for that level of the chain of command is being discussed, but that is a problem for the near future.

## **Strategic Level**

The National Army had only one person who had graduated from the General Staff Military Academy, the sole educational facility that trained at the strategic level of the chain of command in the former Soviet Union. The National Army needed that level because the General Staff of the National Army is responsible for conducting the military operations of the Armed Forces of the Republic of Moldova and during peacetime is responsible for its preparedness. Those responsibilities are already on a strategic level. One has to know what kind of armed forces to build, their structure, the way of conducting operations and so on and so forth.

So the only possibility for educating high-ranking or flag officers was and is education overseas. On average one or two persons per year are trained. Those facilities are the War College or a postgraduate school in the USA or the General Staff Military Academy in Russia, as well as some courses at the Marshall Centre.

High-ranking officers at the strategic level actually communicate with civilians – ministerial staff, the cabinet, parliamentary staff and parliamentarians, presidential staff and the President. The MoD does have that level of officers, and continues to educate officers abroad.

Between 1992 and 1997 a total of 32 officers were educated at military academies in the USA, France, Britain and Germany. At present 89 military persons are studying overseas, including all levels of education.

## **2. Career Structure and Promotion System**

The career structure in the military is very simple and pretty similar to those in other countries:

First level	Minister of Defence (civilian or military) (Three star general)
Second level	Deputy MoD (Two star general)
Third level	Brigade commander, Chief of department in the MoD and General Staff of the National Army (MSNA) (One star general, colonel)
Fourth level	Regimental commander, chiefs of sections in the MoD and MSNA. (Colonel)
Fifth level	Separate battalion and battalion commander, chief of section in department and equivalent. (Lt. Colonel)
Sixth level	Deputy battalion commander and equivalent (Major)
Seventh level	Company commander and equivalent (Captain)
Eighth level	Platoon commander and equivalent (First and second lieutenant)

It is supposed that the promotion system should be as simple as that. The Regulation on military service by soldiers, sergeants and officers of the Armed Forces adopted on December 1994 by the government of the Republic of Moldova clearly sets out the promotion policy employed in Moldova. Concerning military ranks, the Regulation states terms for every rank: Lieutenant – two years, First Lieutenant – three years, captain - three, Major – four, and Lieutenant-Colonel – five years. For full colonels and generals

the term is not established. Unfortunately the Regulation allows exceptions in promotion, and that allows some officers to be promoted in advance of their terms, sometimes because of their personal loyalty to the decision-makers, and that actually brings significant damage to the morale of the officer corps.

A more difficult situation is in the area of promotion in a post. In spite of the fact that the Regulation determines clearly the sequence of promotion, this is very often violated. And again the existing situation allows the promotion of officers loyal to high-ranking officers, and sometimes not according to their professional qualities.

### **3. Education and Training for New Missions and Force Structures**

Due to new obligations of the Republic of Moldova and its participation in military activities in the framework of the Partnership for Peace (PfP) it has become obvious that the National Army has to have military personnel ready to accomplish missions during exercises and, most important, in future peacekeeping missions under UN aegis.

As was mentioned earlier, staff officers for participation in peacekeeping operations have been trained overseas in different Western countries. That process started in 1993 when the first group of officers studied Western military science, NATO military procedures, staff standards, and rules of engagement and so on.

In 1997 the process of meeting the need for a peacekeeping battalion started, and in 1998 that battalion was formed. The commanding officer and the biggest part of the battalion's officers were and some of them still are being educated in the USA.

From 1997 the MoD has actively participated in international military exercises where officers from different branches of the National Army and General Staff develop and improve their ability to implement missions in the framework of the peacekeeping battalion in a multinational peacekeeping brigade. At the same time, some of the officers participated in exercises as officers in international headquarters. And it is known they performed duties in international headquarters fairly well. So Moldova does have a trained officers' staff ready to carry out duties at a high level, both in the peacekeeping battalion and at international headquarters.

## **Education and Training for Civilians in the Defence and Security Sector**

### **1. Training and Education of Civilian Staff, Attendance at Military Schools and Courses.**

According to the “Law on preparation of the citizens of the Republic of Moldova for the defence of the state”, adopted by the Parliament on July 2002, the military education of the civilian population for defence purposes should be conducted on a volunteer basis. This system of preliminary education can be divided into two parts. The first part is the preparation of technical specialists for the Army, and is for the level of private and sergeants. The second one is for the level of junior officers. This level is educated in institutes and universities that have a special military faculty. So far in Moldova there are two universities that already educate people in defence issues. Those are: the Medical University, which prepares military medical staff and the Pedagogical University that prepares junior officers for the infantry. In 2003-2004 two more educational facilities, the Polytechnic University and the Transmissions Academy were to be ready to prepare junior technical officers.

But all those facilities prepare only at the tactical level of the chain of command. When civilians become decision-makers, take over the cabinet, become ministers – for instance, finance minister – in the best cases their knowledge of defence issues remains at the tactical level, in the worst case at zero level. Of course we cannot exclude self-education, but this is not enough.

So to bring the understanding of military problems of the civilians in charge up to date, seminars have been organised once a year with the assistance of the US government where issues concerning the management of defence resources and questions related to that subject were discussed. Some parliamentarians, chiefs of departments in civilian ministries and their staff attended those seminars. The seminars provided a significant opportunity to establish a common understanding in the area of defence establishment and distribution of resources.

In addition to the seminars and workshops, some foreign educational facilities provide an opportunity for educating civilians in defence issues. Every year, along with military officers, civilians from the Ministry of External Affairs, the Ministry of the Economy and so on are educated on special courses at the Marshall Centre, where they acquire the necessary knowledge concerning the management of state resources, foreign affairs, defence issues and so on. The Marshall Centre periodically organises seminars concerning defence planning, economic analyses and so on, where civilian and military officers from Moldova participate. So the only educational opportunities for high-level civilian and military officers are Western educational facilities.

## **2. Civil Service System: Recruiting, Selection, Promotion and Dismissal**

The civil service system has a similar structure for every ministry or separate department.

First level	Minister, Separate Department head and equivalent (State counsellor of the RM first class – equivalent to three star general)
Second level	Deputy Minister and equivalent (State counsellor of the RM second class – equivalent to two star general)
Third level	Head of department in ministry and equivalent (State counsellor of the RM third class – equivalent to one star general)
Fourth level	Chiefs of section in Ministry and equivalent (State counsellor first – equivalent to colonel)
Fifth level	Main specialist and equivalent (State counsellor second – equivalent to lt. colonel)

Sixth level	Leading specialist and equivalent (State counsellor third class – equivalent to major)
Seventh level	Specialist and equivalent (Counsellor first class –equivalent to captain)
Eighth level	Junior specialist and equivalent (Counsellor second and third class – equivalent to first and second lieutenant)

The promotion system is similar to the system existing in the MoD, when work experience, education, robustness and so on are taken into consideration for promotion. Unfortunately the civilians' promotion system does allow people to be promoted not according to their professional qualities but according to their personal loyalty to their superiors. That situation is on a more significant scale than in the Army. But the same posts in the civilian sector are the subjects for substitution on a competition basis. And those protect, for instance, educational facilities from sudden changes in leadership. But legally established and open criteria for advancement and promotion, universal for all public bodies in Moldova are not yet established and are subject for further development.

## **Parliament and Parliamentary Expertise**

Because a final decision on the state budget belongs to the Parliament, and that means the resource allocation for state defence, it is of vital importance that parliamentarians understand the importance of building the correct defence infrastructure. Of course not every parliamentarian needs to have full knowledge about state defence and security matter, but every one of them should have the possibility of getting the necessary information from experts.

Parliament and the Security Committee do not have a special staff on state defence and security issues. But some parliamentarians do have a military background and are familiar with the problem. In addition, as was said above, seminars that have been held

in the framework of the MoD gave extra knowledge and updated their experience. In the decision-making process, parliamentarians use the assistance of experts from ministries involved in defence and security matters – the MoD, Ministry of Finance, Ministry of Foreign Affairs, Ministry of the Economy, Ministry of Internal Affairs, Department of Border Guards and so on. In addition, sometimes the opinion of experts from different non-governmental organisations is used. So in this way more people are involved in the decision-making process.

At the same time the possibility of using external expertise in defence problems is not excluded, but so far Moldova has not used that option.

## **Conclusions**

1. In the Republic of Moldova there are the foundations for fairly effective civil-military relations in defence and security affairs to be established. In spite of the fact that civilians (civil ministerial and parliamentary staff) do not have full competence in military matters, the decision-making process is continuing in a correct direction by way of using different kinds of expertise. This is the cheapest way of decision-making, and is explained by the backward economy, insufficient resources and lack of educational facilities for high-ranking civil and military officers.
2. The army does have trained officers ready to implement their knowledge and experience in building the state's defence, and for peacekeeping missions.
3. The personnel management system is still far from perfect, but it does allow the promotion of officers according to their experience, knowledge and professional qualities. A clearly-determined criterion for promotion in organic law should eliminate some imperfections.

## CHAPTER SEVEN

---

### TRANSPARENCY AND ACCOUNTABILITY

*Viorel Cibotaru, Ph.D.*

#### Introduction

Transparency, as understood in Western democratic systems, is the condition that government document its work (apart from activities which, by necessity, are carried out in a clandestine fashion) and, consequently, is held accountable for doing its work properly and legally. In the traditional sense, in defence affairs this means that the government presents documents on its defence plans, starting with the budget but accompanied by other relevant documents, to the Parliament in an open manner and that the Parliament approves and subsequently examines whether the government did what it said it would do and whether the money approved by the Parliament was spent on what it was supposed to be spent.

Transparency and accountability have expanded, in principle and in practice. Society needs to know what the government intends to do and what it has accomplished. A democratic, healthy society needs debates on matters of major social importance; free access to information constitutes a fundamental premise for active participation of the citizens in the decision-making process. The activity of any public institution must be transparent. Information solicitation by any person has not only a cognitive function, but first it constitutes a control modality over power by society.

Moldova has moved from its authoritarian past toward democracy in an uncertain fashion. The objective of this study is to examine how access to information from sensitive domains such as security and national defence is (or is not) ensured for ordinary citizens, civil servants, representatives of central and local administration and civil societies. Furthermore, the research focuses on the extent to which the process of examination, discussion and adoption of decisions from the military sphere is transparent and what the level of accountability for the policies promoted is.

## **Constitution and Law**

The Constitution of the Republic of Moldova establishes a general constitutional framework:

### Article 34. The Right of Access to Information

- (1) Having access to any information of public interest is everybody's right, which may not be curtailed.
- (2) In accordance with their established level of competence, public authorities shall ensure that citizens are correctly informed both on public affairs and on matters of personal interest.
- (3) The right of access to information may not prejudice either the measures taken to protect the citizens or national security.
- (4) The State and private media are obliged to ensure that correct information reaches public opinion.
- (5) The public media shall not be submitted to censorship.

### **Article 54 Restricting the Exercise of Certain Rights or Freedoms**

- (1) The exercise of certain rights or freedoms may be restricted only under the law and only as required in cases like: the defence of national security, of public order, health or morals, of citizens' rights and freedoms, the carrying out of investigations into criminal cases, preventing the consequences of a natural calamity or of a technological disaster.
- (2) The restrictions enforced must be in proportion to the situation that caused it, and may not affect the existence of that right or liberty.

## **Law on Access to Information of the Republic of Moldova**

Determines explicitly as holders and suppliers of official information the following institutions of the state:

- a) central and local public authorities, state administrative authorities stipulated in the Constitution of the Republic of Moldova, the government, public administration, judicial authority;
- b) central and local public institutions - organisations founded by the state in the person of public authorities and financed by the state budget, and having the purpose to perform administrative, socio-cultural and other non-commercial functions;
- c) Physical and juridical persons who by law or contract with the public authority or public institution are empowered to manage public services and gather, select, possess, own and have official information including personal information.

In Article 7 of this law, official information with limited access is identified:

- (1) The exercise of the right to access to information can be regulated by the organic law and correspond to the necessities:
  - a) of protecting the rights and reputation of another person;
  - b) of protecting national security, public order, the health or morals of society;
- (2) According to paragraph (1) of the present article access to official information cannot be allowed, except:
  - a) Information that constitutes state secrets, regulated by organic law and qualified as information protected by the state in such areas as military, economic, technical-scientific, of foreign policy, of intelligence, of counter-intelligence and investigation operations, whose spreading, loss, divulgence or defalcation could endanger state security;

- b) Information that deals with investigations of the competent institutions, but only in cases when divulgence of the information might be detrimental to this information, interfere in an action of law, deprive a person of a fair and impartial trial of his or her case, or might put at risk the life and physical security of a person – aspects regulated by legislation.
- (3) Nobody can be punished for making public a certain piece of information with limited access, if the revealing of the information does not encroach or cannot encroach on a legal interest with respect to national security or if the public interest in knowing it exceeds the divulgence limit of the item of information.

### **The Law on State Secrets of the Republic of Moldova**

The Law defines in Article 2 the notion of the state secret. A state secret constitutes a piece of information protected by the state in the following domains of its activity: military, economic and technical-scientific, foreign policy, counter-intelligence, intelligence, investigations, whose spreading, loss, divulgence or defalcation (henceforth - spreading) could endanger the security of the Republic of Moldova.

In Chapter II of this law, the information attributed to state secrets is determined. Thus the following information can be described as state secrets:

- 1) from the military domain concerning:
  - a) The content of strategic and operational plans for ensuring the security of the Republic of Moldova.
  - b) Directions on developing and elaborating new weapons and military techniques, their types, stocks and storage place.
  - c) Tactical-technical characteristics and the potential for combat use of weapons and military technology; the properties, recipes or technology for producing explosive substances for conflict.
  - d) The display, destination, defence level of objects with a special regime or significance, their projection and construction.
  - e) The stationing, organisational structure, weapons and troop strength of the Armed Forces.

- 2) from the economic, scientific and technical domains, regarding:
  - a) The content of the plans of the Republic of Moldova for possible military actions, the mobilisation potential of industry for producing arms and military techniques, delivery volumes and stocks of raw material and strategic materials, the location and volume of reserves of state materials;
  - b) The volume and plans for production (in value and natural terms) of weapons, military technology and defence products, the existing production capacities and their increase, the relationship of industrial units, the authors and producers of arms, military technology and other defence products;
  - c) Scientific research, experimental construction and projection works, technologies of great importance for state defence or the economy which are crucial to ensuring its security;
  - d) Forces and means of civil defence: the placement, function and defence level of administrative objects; the ensuring of the population's security;
- 3) In the domain of foreign policy, the external economic (commercial, credit and currency) relations of the Republic of Moldova, whose premature spreading can jeopardise state interests.
- 4) From the domain of intelligence, counter-intelligence and investigation activities regarding:
  - a) Forces, means, sources, methods, plans and results of the activities of intelligence, counter-intelligence and investigations, as well as financial data on these activities;
  - b) Persons who collaborate or collaborated confidentially with the organs who carry out the intelligence, counter-intelligence and investigation activity;
  - c) Government communications systems and other types of special communication, state codes, methods and means of analysing them;
  - d) Methods and means of protecting secret information; State programmes and actions in the domain of the protection of state secrets.

According to Article 7 of this law, there are three degrees of information secrecy that constitute a state secret. Besides, the article establishes the necessary specification

referring to secrecy for information holders depending on “special importance”, “strictly secret” and “secret”.

## **Transparency and Accountability in the Parliament**

In principle, Moldova’s Constitution and legislation provide the essentials for transparency and accountability. The legal provisions appeared gradually and do not as yet provide for sufficient access to information in the public interest. After the promulgation of the laws, the Republic of Moldova set out to establish a process of democratic control over the security sector. There is a distinct tradition from the Soviet totalitarian past that restricts access not only to information but also to the entire process of taking important policy decisions. Presumably in the future there could be transparency and accountability, as indicated by law. Moldova’s present achievements have been modest.

According to the Parliament’s Regulations, within 10 days after it assembles, it forms the Standing Committees, the working bodies of the Parliament. They prepare its work agenda and exercise the legislative and control functions. The number of committees, their names, structures, and the deputies represented in them is determined by the Parliament, at the suggestion of the Permanent Bureau. The Parliament of the XV<sup>th</sup> legislature formed 10 standing committees, among which there is the Committee for National Security. The domain of this committee consists of problems of state security, defence, ensuring public order, and crime control.

According to the Law on Government, the government is responsible before the Parliament for its activities and at least once a year it reports, as a whole, on its activities in the Parliament. The members of the government are obliged to answer questions formulated by the Members of Parliament with regard to the activity of the government and the institutions subordinated to it. The government analyses the decisions made by the parliamentary Committees concerning the activity of the government and of the institutions subordinated to it, presents to the Committees the results of the examination of the decisions or the measures taken. At the invitation of parliamentary Committees or factions, the Minister or persons who hold positions of responsibility authorised by the

Ministers participate in the meetings of the Committees or factions and answer the questions of the Members of Parliament.

From February 2001, when the present Parliament assembled, the Committee for National Security developed and introduced in the Parliament 71 bills, 20 of which deal with the ratification of international agreements. The Committee periodically assesses (without a fixed, specific agenda) the plans and work of the Defence Ministry, the Ministry of Internal Affairs, the Intelligence and Security Service, the Gendarmerie, the Border Guards, the Department of Emergency Situations or it hears the representatives of these government agencies on security issues.

The required documents are submitted for discussion and political decisions of the Parliament. As a rule, within these special hearings the representatives of these agencies are asked to present information and documents concerning the discharge of their obligations, stipulated by legislation and of the state budget. Sometimes the Members of the Parliament require some explanation of a problem or special situation. In some other cases the representatives of the Ministries require discussions and decisions on problems they consider very important.

The government presents to the Parliament an annual budget that has been agreed upon by the respective Ministries and defence requirements are incorporated in the overall budget. Presumably, the Committee for National Security could examine and report on defence requirements. But since the majority of the Committee members come from the Communist party, they accept the directives of the Party's leader, who is also the President. The Parliament routinely approves the overall budget after perfunctory discussion. The defence part of the budget is only a short summary in the overall budget document. In practice, the Ministry of Defence and other security sector Ministries are exposed to too little transparency and virtually no accountability, because they do not provide much information on expenditure.

According to the Parliament Regulations, the Permanent Bureau of the Parliament "decides, *ex officio* or on request, to publish in the mass media (including the electronic one) some bills, records of the open sessions of the Parliament and of other documents concerning legislative activity depending on their importance to society". Depending on

the situation, the Permanent Bureau establishes the modality of public debates on the bills, on examination and presentation of the proposals referring to these. Since debate in the Parliament is superficial, the media does not acquire much information.

## **The President**

The President of the Republic of Moldova as the Supreme Commander of the Armed Forces has an important role in the process of taking decisions in the national security and defence areas. In this activity he is seconded by the supreme Council of Security, a consultative body which analyses the activity of the ministries and departments in the sphere of ensuring national security and presents to the President of the Republic of Moldova recommendations in problems of external and internal policy of the state. The Supreme Council of Security examines a) draft decisions for modifying and completing the Concept of the National Security Doctrine, the Military Doctrine and Concept of Foreign Policy; b) problems with respect to the elaboration and realisation of the Concept of Armed Forces Reform; c) the plan of establishing the Armed Forces; d) the plans concerning equipping the Armed Forces with arms and military technology; f) the plan of mobilising the Armed Forces; g) the plan of mobilising the economy in case of war; h) the plans of interaction among the Defence Ministry, the Ministry of Internal Affairs, the Ministry of National Security and Department of Civil Protection and Emergency Situations with respect to supporting the Armed Forces during peace and war; attenuation and elimination of the effects of natural disasters and catastrophes; the maintenance and restoration of legal order; and guard of the strategic units; i) the main direction of the Republic of Moldova for collaboration with other states in the politico-military domain; j) drafts of international agreements in the politico-military domain; k) reports presented by heads of public administrations with attributes in the national security domain;

The President presents proposals concerning the stationing and re-location of military units during peacetime on national territory as well as their participation in international peacekeeping actions; analyses the situations which require a) a declaration of an emergency situation; b) a declaration of a state of war; c) a declaration of partial and total mobilisation and demobilisation; d) conclusion of peace after the end of military actions; analyses the activity of the Ministry of Defence, the Ministry of Foreign Affairs,

the Ministry of Internal Affairs, the Intelligence and Security Service (former Ministry of National Security), the Department of Civil Protection and Emergency Situations, and of other ministries and departments from the national security domain.

The powers of the Presidency are considerable, particularly because he plans the formation of the armed forces and “analyses the activity” of the Ministries of Defence, Foreign Affairs, and Internal Affairs, and the Intelligence and Security Service. Since Vladimir Voronin, the leader of the Communist Party was elected President, and some 70 per cent of the Parliamentary deputies are Communist Party members, there is a Presidential and Party domination over the functions of the Parliament which further constricts the minimal transparency and accountability over security affairs.

### **Transparency, Accountability and the Military**

Defence and security planning should be known to and approved by the Parliament. If a Parliament knows little about what the armed forces intend to do in the long run, the parliamentarians can do little beyond approving the annual budget. The development of the armed forces in Moldova moved forward more rapidly than the development of Moldova’s political structures.

The first basic military laws, five of them, were adopted almost altogether, during one month in the autumn of 1991. These laws were prepared in the Military Department before the formal adoption of the Declaration of Independence on 27 August 1991 and before the Constitution. The laws forming the basis of the military structure of the state were discussed in the press and were adopted in emergency regime without any significant discussion or evaluation by the Parliament afterwards.

During the initial period of the establishment of the military of Moldova, one of the principal objectives of the military leadership consisted of organising units, providing them with weapons and equipment, creating the necessary living conditions, a system of medical and financial assistance, and all other necessities of a military organisation. Furthermore, it was important to elaborate quickly a complete set of orders and directives of the Minister and of the chief of the General Staff; rules and norms, inventory records and personnel records. Although by the end of 1992 a majority of former Soviet

Army officers born in Moldova had engaged in the process of forming the National Army, there was an acute lack of qualified personnel with special training corresponding precisely to the new requirements. Many officers had language problems, as they did not know the Romanian military and technical terminology. There was also a strong remnant of the Soviet military mentality, habits and attitudes that did not correspond to the new conditions.

At the same time, both in society and the Parliament there were discussions and disagreement concerning the accepting of neutrality by the state and inadmissibility of having foreign troops stationed on the territory of the country. After signing the Peace Agreement on 21 July 1992 concerning the principles of peacefully settling the military conflict in the Transdniestrian region, a new stage of developing military institutions came, dictated by reality. The military system had to be optimised through modernising the structure, through continuous improvement of battle training through equipping with necessary means. The objectives that resulted from the present situation and from accession to the general European system of collective security. During the further construction of the Armed Forces it was necessary to take into consideration the economic situation of Moldova and its material resources. On a practical level, the problem of equipping the army with weapons, military technology and materials was one of the important concerns of the leadership of the Ministry of Defence and the General Staff. All this took place while there was the military conflict on the left bank of the Dniester and the evolution of the international situation in that period and especially due to the consequences of the dissolution of the Warsaw Pact, the break-up of the Soviet Union and the war in Yugoslavia.

The creation of the Armed Forces and of the national defence system unfolded without a well-defined concept of national security and of long-term politico-military strategies, which would have been based on systemised, grounded and multilateral analysis, connected inalienably to the other fundamental interests of the Moldovan state, with the possibility of their evaluation in future. Therefore, the decisions on military structure have been elaborated from the beginning and practically up to now within the framework of the Ministry of Defence, on the bases of those concepts formulated by this Ministry without much reference to Parliamentary processes.

In 1997, for example, by the order of the Supreme Commander of the Armed Forces, Petru Lucinschi, elected at the end of 1996 as the President of the Republic of Moldova, all the military structures elaborated their visions and positions on the new concept of reform; they were discussed afterwards at several meetings of the Supreme Security Council. Except for the Ministry of Defence, all the projects were based on an idea: to reduce substantially and even to eliminate the National Army of the Republic of Moldova.

The project of the Ministry of Defence contained an analysis of the requirements of international and national security, definitions of the national interests and of the existing and possible dangers for these; it sketched out the objectives and directions of the Military Reform of the State in general. This determined its unanimous acceptance by the Supreme Council of Security as the basic one. The Reform, according to the official declarations made in 1997, was to be carried out stage by stage over two years.

The causes of this condition are not particular to Moldova. They have appeared in more or less acute form in other transitional states of Central and Eastern Europe. However, Moldova's weak and malfunctioning parliamentary and democratic system made them more acute. Only in the autumn of 2000 was the Concept of Military Reform officially approved by the government of Dumitru Braghish and presented and voted on by the Parliament, dominated by communists. It came into effect on 15 August 2002, after it was published in the "*Monitorul Official*" (Official Monitor). The objective of the reform was set as "the reorganisation of the political-military system of the state into an efficient and flexible system of ensuring military security, correlated to international legal norms, a modern framework and geopolitical, socio-political and economic perspectives of the state." The National Army was to become a "small, mobile, well-equipped one with high professionalism of the officer corps, capable of carrying out its constitutional tasks" and which would not be a burden for its people. This security policy was founded on the principle of state neutrality and non-accession to military blocs.

## **Society and the Armed Forces**

The armed forces established specialised bodies dealing with public relations, starting with the Public Relations Department Press Centre at Ministry of Defence level to large military units, which are represented by a deputy commander for educational work. The

function of these structures is to manage the relations of the military establishment with the mass media and civil society. Still, it is too soon to affirm that the state military sphere in the Republic of Moldova has become transparent in the last decade of transition and is under the control of a developing democratic society. The governments of this period failed to pass the examination in good governance. Looking through the agenda of developments of the last few years, it becomes clear that good governance has become a common objective. It was considered the missing link in development and a precondition for obtaining the long-expected impact of durable human development. Recently, the World Bank and the European Union admitted during some events connected with the Stability pact for South Eastern Europe, that countries in transition such as Moldova need stronger institutions and better governance.

These reticent attitudes of most governments towards the current and strategic problems of the state military institutions contrast amazingly with the perception of army by the public. In spite of the resounding scandals, served up regularly by the press, connected with corruption in the armed forces or cases of non-statutory treatment of soldiers, the respondents of many public opinion polls attribute to the army the same objectives they set in other institutions of the state.

According to the “*Nations in Transit 2001*” report published by *Freedom House*, Moldova achieved in the 1990s some success in carrying out economic reforms, including the introduction of a national currency, the liberalisation of prices and finalisation of land privatisation<sup>1</sup>. These achievements (as well as failures) of the government that took place in the Republic of Moldova, partially constituted the outcome of attempts to organise the governing process on the reformist principles observed in the governing programmes of the years 1994-2002<sup>2</sup>. All these programmes consist of general objectives and directions which are more or less similar and that follow some “classified”

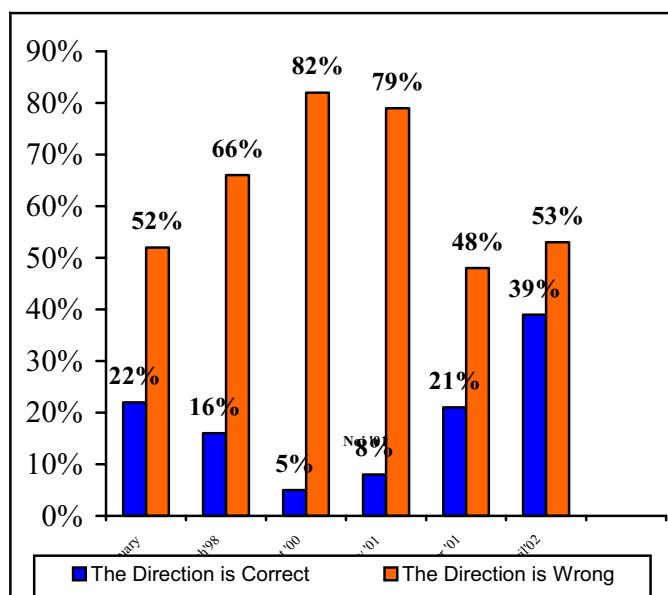
---

<sup>1</sup> Adrian Karatnycky, Alexander Motyl and Amanda Schnetzer, *Nations in Transit 2001-2002, Civil Society, Democracy and Markets in East Central Europe and the Newly Independent States*, (Somerset, NJ: Transaction Pub., 2002), p. 271.

<sup>2</sup> See: “The Activity Programme of the Government of the Republic of Moldova for 1994-1997”, June 1994; “The Activity Programme of the Government of the Republic of Moldova for 1997-1998”, February 1997; “The Activity Programme of the Government of the Republic of Moldova for 1998-2001”, May 1998; “The Activity Programme of the Government of the Republic of Moldova for 1999-2002. SUPREMATIA LEGII, REVITALISARE ECONOMICĂ, INTEGRARE EUROPEANĂ”, March 1999; “The Activity Programme of the Government of the Republic of Moldova for “Legalitate, Consolidare și Reforme – întru Bunăstarea Națiunii”, December 1999.

aims. In the economic domain, for instance, all the governments unanimously confirmed an attachment to the market economy, setting more objectives for reforming the economic system, but they mostly concentrated on actions “directed at overcoming the grave economic crises<sup>3</sup>, to re-configuration of the social sphere, viewed in close connection with the social, economic process”<sup>4</sup> and to “avoiding default”<sup>5</sup>. On thorough examination of the governing programmes one can observe the contradictory tendencies to combine the need to build a new society based on the principles of the market economy with the desire to maintain some elements of the social system of the Soviet kind and to obtain an “increase in the welfare of the population” using this method.

The results of the polls within the programme "The Barometer of Public opinion" confirm it. To the question “Do you think that in our country things have taken the correct direction or the wrong direction?” asked during 1998-2001, the respondents answered: the wrong direction – in 1998 – 66%, 2000 – 82%, February 2001 – 79%, November 2001 – 48% and March 2002 – 53%.



Source: The Barometer of Public Opinion in Moldova, Institute of Public Policies, 1998-2002.

<sup>3</sup> “The Activity Programme of the Government of the Republic of Moldova for 1994-1997”, June 1994, p. 4.

<sup>4</sup> “The Activity Programme of the Government of the Republic of Moldova for 1999-2002. SUPREMAȚIA LEGII, REVITALISARE ECONOMICĂ, INTEGRARE EUROPEANĂ”, Martie 1999, p. 4-5.

<sup>5</sup> “The Activity Programme of the Government of the Republic of Moldova for 1994-1997”, June 1994, p. 23.

The topic of the budget and financial allocations necessary for defence was always an extremely difficult one in the first years of the National Army. During the period of budget adoption, debates took place on this problem at all the levels of state leadership. For several years, the thoughts connected with the budget were mostly acrimonious. This is explained by the fact that year after year the military budget became smaller and smaller in comparison to the real necessities. In the years 1993-2001, the share of the military expenses in Gross National Product of Moldova varied from year to year, being in continuous decrease, by 0.4-0.7 per cent a year. But for the military, in reality these sums covered only about 40-60 per cent of needs. Even after these years in the Republic of Moldova, a number of politicians, regardless of their political views, consider that because Moldova intends to be a neutral state, it does not need an army.

Up to the independence of the Republic of Moldova, after the Soviet Union broke up, the public had little access to information from the military environment. As a result today we have a considerable increase in the appetite for information which reflects military institutions. The disappearance of censorship (in its former form) facilitated access to military information, creating an important social segment, a real “phobia” about “camouflaged” information, this kind of information being as popular as that from such domains as the secret services and the fight against crime.

The complexity of the objectives, that the National Army has in accordance with the new needs of European security (peacekeeping missions, multinational applications, activities within Partnership for Peace, rescue operations, humanitarian operations, specific activities aimed at combat training, etc), is the cause of the fact that many times the “extraordinary, exceptional” (sensational) information comes from the social sphere. In addition, those who belong to the domain of mass communications, and those who “hand-make” and broadcast material themselves to the public become increasingly attractive. Furthermore, there has been no decrease in the interest of both journalists and the public in “traditional” topics that reflect the multi-dimensional nature of military life in Moldova, that refer to the specific aspects of the Trans-Dniestr conflict settlement, the stages and various aspects of practical management of the military body.

## **The Media**

As a result of the evident interest that the written press manifests towards the present Moldovan military reform, it can be seen that almost all the newspapers have on their staff some journalists already specialised in military area. These journalists participate in exercises, artillery demonstrations, actions within Partnership for Peace, they even go abroad together with the official military delegations, they are never absent from the press conferences and briefings organised by the President, Parliament, the government, Ministry of Defence and what is more important they can make private investigations on subjects that were considered "taboo" yesterday.

The ability of the citizens to obtain information on government initiatives and policy and to analyse the impact of these programmes, government policy and decisions on them represents a fundamental element of good governance. The same importance has the ability of the citizens to question the actions of the government and to have a word in the process of elaborating policy, laws and regulations not only through indirect pressure and elected representatives. These rights are very important not only for human development but also for building trust between the state and civil society, for legitimisation of the institutional system of the country. An essential conclusion made from the experience of Moldova during the last decade is that the national and political institutions do not always keep pace with the challenges of the transition and reform stage. An integral part of the consolidation process of good governance in the next few years in Moldova is the building of the foundations for better governing, so that democracy, human development and the extension of opportunity can be promoted. The institutions of good governance represent the cornerstone of the improved public responsibility. By doing it, the predictability and objectivity of the process of decision-making will improve in the public sphere, including those areas that deal with security and defence.

## CHAPTER EIGHT

---

### CIVIL SOCIETY AND NON-GOVERNMENTAL ORGANISATIONS

*Sergiu Botan*

#### Constitutional and Legal Framework

The right of association is not specifically provided in the Constitution of the Republic of Moldova – there is only a reference to political parties and trade unions (Clause 41 and 42) – but since Moldova ratified both the UN Human Rights Declaration and the Council of Europe Convention on Human Rights, these documents have become a part of national legislation.

The legal framework regulating the third sector in Moldova includes: a Law on Public Associations (1996), a Law on Foundations (1999), and a Law on Philanthropy and Sponsorship (1995).

After the adoption in September 1992 of the Regulation on public association, non-governmental organisations had known a considerable increase in number. According to the statistics of the Political Parties and Non-Governmental Organisations Registration Department of the Ministry of Justice, as of 1 September 2002 there were 1,900 organisations registered with the Ministry of Justice, whereas the total number of non-governmental organisations in the country reached 2,800 (including local ones registered by local and county councils). Most NGOs are located in the capital, Chisinau, and most national organisations concentrate their activities within Chisinau municipality. However, in the provinces there are growing centres of NGO activity: in Baltsi (North), Soroca (North-East), Comrat (South-East), Cahul (South).

## **Basic Provisions**

Regardless of whether they are called NGOs, not-for-profit, civil society, or the third sector, there is a single perception of all these organisations. A definition of public associations is provided in Article 1, Paragraph (1) of the Law on Public Associations:

A public association is a voluntary, independent, self-governing formation, arising as a result of the free and conscious will of citizens, joined together on the basis of common professional and other interests of their members for mutual realisation of economic, social and cultural rights; it is not intended to produce financial gain.

The definition of foundations is provided in Article 1 of the Law on Foundations:

A foundation is a non-commercial organisation which has no membership and is established on the basis of constituting documents by one or by several physical and/or juridical persons possessing property, which is isolated and separated from the property of the founders, and which is designed for accomplishing non-commercial objectives prescribed by Statute.

Minimum number of founders (association only):

In compliance with Article 14 (2) 'Public associations are founded on the initiative of at least three people and one or several juridical entities – public associations.'

Main types of association:

Under Article 5 (1) of the Law on Public Associations, associations can be founded in one of the following organisational-legal forms:

- Public movement (association of natural and/or legal persons (public associations only) that do not have a fixed membership);
- A public association can have as its property any assets (buildings, structures, dwellings, transport, equipment, sports and health property) necessary for

material provision of the activity, specified by the Statute of the public association excluding structures, which according to the legislation in force or in accordance with international agreement can only be the property of the state. A public association can have as its property enterprises, publishing houses, organisations, and institutions, charitable institutions founded and acquired from public association funds according to the goals specified in the Statute.

### **Nationality Requirements for Membership**

Foreign citizens and persons without citizenship, living permanently on the territory of the Republic of Moldova can found and be members of public associations with equal rights with the citizens of the Republic of Moldova, if otherwise it is not specified by the legislation of the Republic of Moldova about separate types of public associations. However, they may not be chairpersons of public associations, or members of control and auditing bodies. No fewer than half the members of a foundation council must be citizens of Moldova.

### **Legal Personality, and How Acquired**

The legal competence of a public association as a legal entity arises from the moment of registration of the Statute of the given association by the authorised state body. The public association that does not register its Statute does not have the legal capacity of a legal entity and represents an informal association of individuals.

From the moment of its registration a foundation acquires the status of juridical entity.

### **Legal Capacity**

A public association can have as its property any assets (buildings, structures, dwellings, transport, equipment, sports and health property) necessary for material provision of activity, specified by the Statute of the public association excluding structures, which according to the legislation in force or in accordance with international agreements can be only the property of the state. A public association can have as its property enterprises, publishing houses, organisations, and institutions, charitable institutions

founded and acquired from the public association's funds according to its goals specified in the Statute.

## **Statutes**

The statute shall provide for the following:

- organisational and legal form of the association;
- name of the association;
- legal address of the association and territory, within the limits of which it executes its activity;
- goals and objectives of the associations, methods of achieving them; a period, for which the public association is to be established;
- terms and procedures of enrolment into membership of the association and of leaving it (upon fixed membership);
- rights and duties of the public association members (if there is a fixed membership);
- structure of the public association, a procedure for its founding; exact names, structures, competence and terms of powers of governing, executive and control/auditing bodies of the association, their place of location;
- procedure of statute approval and making amendments;
- sources, procedure of formation and use of property and other assets; membership fees amount (if there is a fixed membership); a body, competent to make decisions on procurement, distribution and disposal of property;
- procedure and terms of convocations of general meetings, conferences, congresses;
- forms of participation of the public association in affairs of society and state;
- procedure of formation, status, structure and methods of activity of primary organisations of the public association;
- main parameters of its financial report and form of publication;
- procedure of reorganisation and termination of activity of the public association.

A statute of a public association may contain a description of the association's symbols and other provisions relating to the association's activity, which do not run counter to the law.

However, most NGOs do not have clear mission statements and do not develop formal strategic plans. According to the legislation, all registered NGOs have a management structure, but in practice the structures do not support a clear division of responsibilities between the board and the staff.

## **Registration Requirements**

National and international public associations, as well as foundations, are registered with the Ministry of Justice, whereas local public associations are registered by the local public administration bodies. In order to get registered, a public association shall submit its Statute to a registering agency. In order to register a statute of a public association, within one month of the day of the statute's approval, the following documents, a list of which may not be enlarged, shall be submitted to an appropriate government body:

- an application, signed by all members of a managing body together with their place of residence;
- two copies of the statute;
- two copies of a protocol of a founding convention (conference) or general meeting, which approved a statute of a public association. A protocol shall contain information on establishing a public association, on approval of its statute, on election of directing and control/auditing bodies;
- information about the founders of a public association: for natural entities – family name, first name, year of birth, place of residence, citizenship (to be attested by their signatures); for a public association – a copy of a certificate of state registration of a statute of this association, an extract from a protocol of a meeting of an authorised directing body of a public association with a decision to establish a new public association, and a copy of a founding agreement in case of establishing a public institution or a union (association) of public associations;
- a statement of a citizen or, in case of his death, a statement of his relatives on his agreement to use his personal name in the name of a public association;

- a decision of a supreme body of a public association on vesting a directing or executive body with the right to represent the association in a process of registration;
- a document, confirming the location of the public association;
- a bank document, confirming payment of a registration fee.

Changes and additions to the Statute of the public association are to be registered in the same order and at the same time the Statute of the public association was registered. When registering changes and additions to the Statute, no fee is paid if changes are caused by changes of the legislation in force.

Registration of the Charter of the local department or branch of a public association is implemented by the local public administration body on the basis of the presented papers of the local department or branch of the public association, mentioned in part five of the present article, certified by the central governing body of the public association, as well as copies of the certificate of state registration of the Charter of the mentioned public association.

The capacity of the foundation, as a legal entity, starts from the moment its Statutes are registered with the authorised state body. The Statutes of the republic, local and international foundations, of their subsidiaries and representatives, are registered by the Ministry of Justice of the Republic of Moldova.

In order to have the Statutes of the foundation registered, within one month of the date a registration application is submitted, the following documents need to be presented, and the list cannot be extended:

- an application for registration, that contains information on the foundation's goals, estimates of the assets needed to achieve its goals as well as a procedure for creating the assets. The application shall be signed by all members of the foundation council with an indication of a place of residence of each member;
- two copies of a foundation statute;
- two copies of an act of establishing a foundation;
- a bank document, confirming payment of a registration fee.

- documents confirming a transfer of property to a foundation;
- a written agreement from relatives of a natural person if using the name of a person in the name of a foundation;
- a document confirming the location of a foundation;
- a document, attesting that a foundation's name is correct;
- a registration paper giving to the foundation a unified identification code for organisations.

Upon registration of representatives, subsidiaries and structural subdivisions of the international foundations, the decision is made on the basis of the foundation Board's application to register the subsidiary or representative, by indicating the person representing the foundation in the Republic of Moldova, and the foundation's statute translated into Moldovan, as well as the documents listed above.

### **Commercial Activity**

A public association can carry out its productive-economic and other entrepreneurial activity exclusively for the realisation of the objectives and goals specified in its Statute.

A public association has the right to found enterprises and economic organisations, having the right of a legal person, as well as to acquire property complexes, intended for the carrying out of scientific, technical, pedagogical, cultural, sports, business and other activity allowed by the legislation. Public associations of invalids have the right to establish specialised enterprises in order to employ the labour force of invalids in accordance with the Law on social protection of invalids.

Enterprises of the public association function according to the Law "On Entrepreneurial Activity and Enterprises" and in accordance with the Statutes of the public association.

The income obtained from productive-economic and other entrepreneurial activity of public associations cannot be redistributed between the members (participants) of these associations and is used exclusively for implementation of the goals and objectives specified by the Statute of the public association. It is allowed to use income for charitable goals, even if it is not mentioned in the Statute of the public association.

Enterprises and other economic organisations of public associations make payments to the budget in the order and amount specified by the legislation in force.

Public associations and their juridical representatives for productive-economic and other entrepreneur activities are obliged to obtain licenses for certain kinds of activities that require one. Foundations have the right to carry out economic activity directly connected with the achievement of their statutory purposes. Any other economic activity of a foundation shall be carried out through its own enterprises which have the status of a corporate body. The enterprises established by a foundation shall carry out their activities in conformity with the Law on Entrepreneurship and Enterprises, the Law on Foundations and the Articles of a Foundation.

The enterprises established by a foundation shall transfer payments to the budget in accordance with the procedure determined by legislation. The enterprises set up by a foundation shall register in accordance with the established procedure. Foundation and enterprises set up by it must obtain licenses for activities which need to be licensed.

There are a few examples of local contributions to local organisations. A large number of NGOs would be unable to operate without the assistance of international donors. There are very few Moldovan NGOs that are able to recover even a small portion of the cost of their services by charging fees.

### **Disposal of Assets on Liquidation**

Termination of the activity of a public association can be implemented by means of: reorganisation (affiliation, division, separation, transformation); or liquidation. The order of termination of the activity of a public association is specified by the founder (founders) and is defined in the Statute of the public association.

Upon voluntary liquidation of the organisation, property remaining as a result of the liquidation of the public association, after satisfying the demands of creditors, is directed to objectives, specified in the Statute of the public association, in the absence of the corresponding parts in the Statute of a public association – it is directed to goals, specified by the decision of the convention (conference) or general meeting about the

legislation of the public association, or by the decision of a court. If an issue on how to use remaining assets is not solved in the decision on liquidation issued by the congress or general assembly of the public association, these assets, after creditor requirements are satisfied, are directed by the public association's governing body to implement the statute's goals. A decision on utilisation of remaining assets is published in the press.

Upon dissolution of a public association based on a court ruling, property of the liquidated public association can become, without return, the property of the state after satisfying the demands of creditors.

The remained property after liquidation of a Foundation and repayment of debts shall be used in compliance with the Foundation's Statute; in the event that the Statute does not include corresponding provisions, the property shall be used for the implementation of statutory objectives of the Foundation. The said property shall be used by means of its transfer to a similar organisation in terms of the statutory objectives of the foundation in accordance with the decision on liquidation. The decision concerning the use of the remained property shall be made public.

However, only NGOs with substantial financial support from international donors are able to maintain offices and modern equipment.

### **Indirect tax - Specific Exemptions or Privileged Rates**

Neither public associations nor foundations are entitled to VAT privileges. Exceptions are cases subject to intergovernmental agreements on technical assistance, in which case the decision to levy VAT is made by the Ministry of Finance. Other possibilities are ruled out. As for customs duties, public associations are exempted from customs duties and other taxes while carrying out export-import operations, provided the shipped goods come through intergovernmental agreements on technical assistance (this specifically refers to the World Bank, TACIS and USAID). Local public administration bodies decide on local taxes (e.g. rent fees for premises in municipal property), however, individual privileges are not allowed. Tax for the premises arrangement is binding for non-commercial organisations and is equal to 10 per cent of the minimum salary for each employee.

## **Direct Tax - General Position**

Only public benefit associations and foundations are entitled to exemptions from income tax. The decision is taken by the Ministry of Finance based on the list of public benefit organisations issued by the Certification Commission under the Ministry of Justice. Real estate tax is regulated in Title VI of the Fiscal Code and stipulates exemptions from Real Estate Tax for some non-commercial organisations, such as societies of the blind, deaf and handicapped persons, as well as institutions founded by them to pursue the goals of these societies. There are no exemptions from other taxes for public associations.

## **Recognition of Associations/Foundations for Tax Purposes**

The Ministry of Finance recognises as being eligible for income tax exemptions only public benefit associations and foundations. The certification Commission of the Ministry of Justice is the body issuing State Certificates.

### **Criteria for Recognition**

Public benefit organisations are exempted from income tax if they meet the following requirements:

- are registered or founded in compliance with the law, and specify in their bylaws, regulations or other document the scope of work of the non-commercial organisation and its status as a non-commercial organisation, as well as a ban on distributing the income or property among organisation members, founders or private persons, including during the reorganisation and liquidation process of the non-commercial organisation;
- the entire income from the entity's activity is spending to pursue its goals;
- use no part of their property or income in the interests of an organisation member, founder or private person;
- support no political party, electoral bloc or candidate running for public office and spend no part of the income or property to finance them;

No other public associations or foundations are entitled to income tax exemption.

### **Criteria for Obtaining Tax Concessions**

The only criteria for obtaining public benefit status (and consequently getting tax concessions) is for an organisation to function for at least six months and to have no arrears in the state budget, as confirmed by a letter from the State Fiscal Inspectorate.

### **Gifts to Associations/Foundations**

Article 36 of the Tax Code defines donations for charitable purposes as gifts and donations in favour of organisations issued public benefit certificates. Under the same article, resident donors are entitled to deduction of any donations made for charitable purposes during the current fiscal year, provided these do not exceed seven per cent of taxable income. Donations for charitable purposes shall be deducted provided proper evidence is presented. A donor declares donations to the Ministry of Finance, which establishes the fact in order to reduce taxation of the donor by an appropriate amount. There are no clear provisions regarding donations to non-resident associations or foundations.

### **Criteria for NGO Development Evaluation**

In the Republic of Moldova they operate with a set of criteria elaborated by USAID for the NGO sustainability index. According to the evaluation of 2000 and 2001 years, the overall rating of Moldova's NGOs was of mid-transition, between early transition and consolidation. The overall rating takes into account the legal environment, organisational capacity, financial viability, advocacy capacity, service provision, infrastructure and public image.

Thus the overall rating of Moldovan NGOs is higher than the rating of NGOs from the majority of CIS countries but lower than that of South East European countries. The parameters elaborated for NGO sustainability index helps Moldovan NGOs to organise themselves and to elaborate a development strategy.

Since 1997 it has become a tradition to organise a National NGO Forum and Fair, every two years. The third National NGO Forum took place in November 2001 and was an occasion for Moldovan non-governmental organisations to evaluate what they have achieved since the previous Forums in 1997 and 1999 and discuss problems of major interest for the sector. Given the above, the participants to the National NGO Forums of the Republic of Moldova determined the main tasks:

- The activity of the non-governmental organisations should contribute to the resolution of the major problems the society is facing;
- Partnership between non-governmental organisations and other sectors of society is a vital condition for the consolidation of the civil society;
- NGOs must continue cooperation with local government based on democratic principles and values;
- Non-governmental organisations should be involved in perfecting the legal framework regulating the activity of not-for-profit organisations. Lack of transparency in governing is a violation of democratic principles;
- In order to increase the efficiency of the non-governmental sector it is important to identify legal means of influencing local government;
- Closer ties with the mass media will improve the transparency of NGO activities and inform the general public about its mission and success;
- To ensure a sustainable development of the associative sector it is important to build a partnership with local business and ensure NGO access to public funds;
- Encouraging civic participation;
- Contributing to civic education;
- Advocating accountability and transparency of social and political process;
- Exposing social and political conceptions;
- Ensuring the fairness and openness of the electoral process;

However, the contribution of civil society organisations is substantial and significant only in some of above-mentioned problems. The effectiveness of NGO contribution depends on the level of public interest for certain aspects of social and political development, the availability of domestic and external funding, the creation by the government of incentives for the NGOs' involvement in democratic governance-related issues.

At the same time, the above factors greatly depend on the self-organisation of NGOs. In the last few years the Moldovan NGO community seems to have found a certain form of self-organisation and launched very good projects. Certainly in self-organising, Moldovan NGOs follow the same path as their Central and Eastern European counterparts. The regional NGO Forums aiming at identifying the most active NGOs in the region embody the first level of self-organisation. The Sector Forums are becoming a tradition as well, for example the Forum of Environmental NGOs, Youth NGOs, Gender NGOs, etc. National NGO Forums embody the second level of self-organisation. Delegates to the forum are selected based on the following criteria: performance, territory and field of activity. The Forums focus on the major challenges of the NGO community; decide on joint initiatives, partnership with government and business, etc. Further, the National Forum elects an NGO Council entrusted with implementing Forum Resolutions as well as monitoring the development of the sector and representing its interests in relations with other parties. In their activity, Council members are guided by a Code of Best Practice and do voluntary work. The Council Chair is elected by rotation from among the Council members. After three National NGO Forums and two NGO Fairs, NGOs reached the conclusion that the Council should represent only the NGOs participating at the Forum, so as to enable the rest of NGOs to find other ways of self-organisation. If self-organisation is based on standards of best practice, the risks of schisms or conflicts within NGOs are very slim.

The NGO Council is entitled to promote the development of NGOs' infrastructure. This includes a network of organisations providing technical assistance, information, consulting and training support to newly-formed NGOs. Also, several NGO publications emerged following the implementation of NGO Forum resolutions. The flow of information flow and the exchange of experience are facilitated by umbrella organisations covering a wide range. Another NGO Council task is to help the formation of coalitions.

A magazine focusing on the activity of local non-governmental organisations (NGOs) was launched in Moldova in 2002. "Vocea Civica" (The Civic Voice) is produced by the Council of Moldovan NGOs, and is to come out six times a year. The issues contain articles on the challenges facing civil society in Moldova and NGO activities that can be

organised under the auspices of the Stability Pact. Other highlights include interviews with NGO representatives. The issues also contain tips on how to write grant proposals, and a calendar of NGO activities. According to the editorial board of the new publication, the magazine aims to reflect a wide spectrum of opinions, and cover ways in which Moldovan NGOs respond to the key developments in the country.

### **NGO Involvement in Elaboration and Implementation of Public Policies**

There are many examples of NGOs working in partnership, either formally or informally, with local business, government and the media to achieve common objectives. One can say that Moldovan NGOs are not strong enough to participate in the development of policy at the central and local level. However, according to the recent poll research, Moldovan NGOs are able to provide services in the following areas: health care, psychological assistance, family planning, human rights, agricultural and small business development support. The services offered by NGOs mainly reflect the needs of communities, but they do not cover the entire needs. There are few NGOs that are able to survive on the revenues generated by the services they provide. In the case of large NGOs, the income they are able to earn from fees for their services are not more than 10 per cent of the total budget.

In the last few years Moldovan NGOs were involved in developing and implementing some projects in cooperation with state bodies. One can mention the elaboration of a National Strategy on Poverty Eradication supported by the World Bank and IMF, Local Agenda XXI supported by UNDP, resolutions of the Council of Europe concerning the functioning of Democratic Institutions in the Republic of Moldova, etc. It is obvious that state authorities are beginning to view NGOs as a resource for their experience and their information network. Local public administration organs are increasingly interested in NGOs' resources to solve community problems, but do not generally consider NGOs as full partners. One can say that the partnership between NGOs and public authorities is imposed by international financial organisations and donors.

There are also a lot of problems and misunderstandings. For example, in 2001 the Moldovan NGO community launched the idea of organising a Civic Forum, a framework for NGOs, political parties, trade unions and government to meet and talk about

prospects for development of the Moldovan NGO sector. This would have embodied the highest form of self-organisation; however the initiative failed to gain support. Some trade union leaders viewed the initiative as premature, on the grounds that NGOs had not yet gained the right to talk to such a strong partner as trade unions. Trade unions have thousands of members, they are equal partners with government and employers' organisations at the negotiating table and NGOs are not important enough yet.

### **NGOs and Political Parties**

Cooperation between NGOs and political parties is in fact very natural, as both are public associations and represent so-called civil society. In this respect joining their efforts according to certain principles might prove extremely useful in strengthening civil society. Nevertheless, the goals and methodology of NGOs and political parties differ a lot. As the goals pursued by political parties are different, one may wonder if by cooperating with them NGOs may impair their image of unpartisan organisations. This is not merely a rhetorical question as it is provided for in the existing legislation of the Republic of Moldova. Thus, in the 1996 presidential race the major players Petru Lucinschi and Mircea Snegur enjoyed the support of 60-70 NGOs each. Back then, society witnessed a race for securing public declarations of support from as many NGOs as possible. By this, candidates' image-makers sought to highlight which of the candidates enjoyed greater "support from civil society".

That is why the Moldovan NGO community has reached the conclusion that a distinction should be made between NGO involvement in politics (by publicly supporting political parties and governing programmes), and NGO promotion of public policies for the public interest without any ideological implication. Many sceptical analysts claim, however, that it is hard to distinguish between political involvement and promotion of accountable public policies.

In the Republic of Moldova relationships between NGOs and political parties are not exactly perfect. On the one hand, there is a low level of trust towards political parties across the post-communist region. On the other hand, immediately after the 2001 parliamentary elections when the great majority of democratically-oriented parties failed, a series of pretended "independent" media outlets, but in fact partisan ones, claimed that

the victory of the Communist Party was due to "the absence of civil society in the Republic of Moldova". Indeed, NGOs hardly receive positive coverage in the local mass media. The majority of the public has a generally moderate opinion of NGOs. Of course, there is some truth in those allegations, but only a little, as the collapse of the democratic parties is the fault of the parties themselves and their leaders.

To avoid such allegations in the future it would be appropriate to clarify the objective and subjective factors of the democrats' loss in the elections and the actions to be undertaken with a view to strengthening civil society.

There are quite a number of NGOs able to provide assistance and consultation to political parties on various issues. Think-tanks in Moldova are functioning both as independent institutions and as political party-affiliated organisations. The first type includes NGOs favouring a certain political doctrine and preferring to cooperate with parties embodying such a doctrine. For instance, the Socium-Moldova Foundation cooperates with social democratic-oriented political parties. The Institute of Social Technologies prefers to work with the Communist Party. A second type does not give preference to any political doctrine, while conducting studies and polls on the most important problems society is facing. An illustration of such think-tanks is the Institute for Public Policies, as well as NGOs working in specific fields, the Institute for Social Initiatives "Viitorul" – public administration; the Association for Participatory Democracy "ADEPT" – elections, political parties, NGOs. It is true that there are think-tanks within the parties themselves or within media outlets; however they have a different status.

After the 2002 political crisis, political parties too realised they needed some sort of cooperation mechanism. Thus, at the recommendation of the Council of Europe Parliamentary Assembly, a Permanent Round Table, open to all political parties and NGOs, was set up. The Round Table aims to defend and promote democracy and political pluralism in the context of a Communist majority in Parliament, which entitles them even to amend the Constitution. There are too many sceptical opinions on the sustainability of such a mechanism for political dialogue. Participants to the Round Table pursue different goals. Scepticism is coupled with suspicion that one political party might take advantage of the Round Table. Nevertheless, the strength of the R

Round Table is that it joins parties sharing the same values and issuing the same solutions to the problems society is facing, both may lead to sustainable alliances or fusion. Further, political parties participating in the Round Table have appealed for the informational assistance of NGOs, thus proving that cooperation with them is a real advantage. This kind of cooperation implies:

- direct interaction with party politicians on issues that are central to the NGOs;
- consultation with political parties when the latter develops policies and political programmes;
- mechanisms for regular consultations with party politicians;
- involvement in lobbying efforts at the levels of national and local legislatures;

Other types of advocacy NGOs may have only sporadic interaction with political parties.

## **THE MEDIA**

According to the *Nations in Transit* Report by Freedom House on Moldova on the year ending in 2001, Moldova has “a generally vibrant and free media”. The Constitution and the Law on Press provide legal protection for press freedom, and there are no special provisions against libelling public officials. Libel cases, whether involving officials or private citizens, are handled through the courts. Journalists accused of libel must prove the veracity of their statements. There is also a Law on Access to Information.

### **Constitutional and Legal Provisions**

The Law on the Press (Article 1) declares that in Moldova freedom of the press represents a fundamental right, confirmed by the Constitution. The state guarantees to every person the right of free expression of opinions and ideas, truthful information by means of periodicals and press agencies, which carry out their activities in conditions of political pluralism, as well as observance of the legislation on copyrights. Censorship of any kind concerning periodicals and press agencies, or interference in their activities of preparing and spreading information are prohibited.

Article 2 states that the editorial boards of the periodicals and press agencies are legal entities and carry out their activity according to current legislation and their statutes, and

Article 3 provides that officials of public offices present efficiently the material and information required by the periodicals and press agencies, except for materials and information enumerated in Article 4 and those considered state secret.

Article 4, on “The Freedom of Expression and the Limitation of Publicity” declares that periodicals and press agencies can publish, according to their own judgement, any kind of materials and information, except materials that contain disrespect and defamation against the state and the people, urge on a war of aggression, national, racial or religious hatred, incite discrimination, territorial separatism or public violence, as well as other manifestations that violate the present constitutional regime.

The Law on Access to Information, in Article 5, defines that the subjects of the law are information providers and information seekers; information providers, that is holders of official information required under the present law to provide such information to applicants, are: local and central public authorities – state administration bodies, as stipulated in the Constitution of the Republic of Moldova, and namely: Parliament, the President, the government, the Public Administration, the Judicial Authorities; local and central public institutions – organisations founded by state-represented activities; individuals and legal entities that, under the law or contract with public authorities, are empowered to provide some public services and to collect, select, preserve and hold official information, including data of a private character. Official information may be requested, under conditions defined in the present law, by: any citizen of the Republic of Moldova; foreign citizens who reside in the Republic of Moldova; and stateless persons who reside in the Republic of Moldova.

According to Article 6, official information is defined as all information held and administered by information providers, which has been developed, selected, processed, systematised and/or adopted by official bodies or persons, or that is presented to them in conformity with the law by other subjects.

### **State Owned and Private Media Outlets**

Moldova has a variety of newspapers and radio and television stations. The major television and radio broadcaster is *Teleradio Moldova*, a government-owned company,

but private television and radio stations broadcast in Moldovan (or Romanian) and Russian with locally-produced broadcasts. There is an official government press agency *Moldpress* and several independent press agencies, *Flux*, *BASA-Press*, *Interlic*, and *Deca-Press*.

Among the major newspapers there are government publications *Moldova Suverana* and *Nezavisimaia Moldova* (in Russian). There are also a number of privately-owned publications, among them *Flux*, *Dialog*, *Glasul Moldovei*, *Tara* and *Novoe Vremia* (in Russian). Although these publications are privately-owned, they usually support, or are affiliated with, a political party.

A particular aspect of the media in Moldova is the attention it receives from foreign media, print and broadcast. Early in 2000, *Jurnalul National*, a Romanian newspaper, began publishing a special edition in Moldova. Major Russian television stations also prepare broadcasts for Moldova. Radio Free Europe also has a special broadcast programme for Moldova.

## CHAPTER NINE

---

### INTERNATIONAL REQUIREMENTS AND INFLUENCE

*Oazu Nantoi*

#### Introduction

The Republic of Moldova has a different attitude towards integration in the EU and accession to NATO compared to the other countries of Central and Eastern Europe. Although the Republic of Moldova declared itself an independent state on 27 August 1991, today at the end of 2002, Moldovan society has not yet defined an explicit attitude towards the idea of European integration. Both the state problem of separatism and the peculiarity of the internal political process had a highly negative impact on the process of building the new state and determined an extreme sensitivity of the Moldovan state toward external factors and actors. Firstly, it refers to the fact that unlike the Baltic countries, the Republic of Moldova failed to detach itself from the influence of the Russian Federation. Consequently, this influence has had a considerable impact on the political, economic and other spheres. There are opinions that the behaviour of the Communist Party of the Republic of Moldova (CPRM) at the end of the year 2000, which provoked early elections on 25 February 2001, was coordinated by the leadership of the Russian Federation. At least the mass media of the Republic of Moldova regularly reported during this period about meetings of Vladimir Voronin, leader of the Communist Party of such an unimportant country as Moldova, with Vladimir Putin, the President of Russia. At the same time, the Republic of Moldova, being a European country from the geographical point of view, is automatically influenced by the integration processes in Europe by the intensification of its relations with neighbouring countries.

## **Moldova's Security Environment and Society's Views**

At the end of the year 2002, the future of the Moldovan state remained uncertain. First, the situation was determined by the Trans-Dniestr conflict, as a result of which the Moldovan state does not control over 12 per cent of its territory, almost 425 km of the state border, since the spring of 1992. Moreover, in this period the Moldovan political elite demonstrated its incapacity to ensure the reintegration of the country. None of the parliamentary majority from this period was capable of working out a coherent strategy for solving the Trans-Dniestr conflict and of implementing it. On 1 April 1995, through a decree issued by Boris Yeltsin, the troops of the former 14<sup>th</sup> Army stationed in the localities placed on the Eastern bank of the Dniester River were transferred to the jurisdiction of the Russian Federation. So far, the troops remain on Moldovan territory without any legal basis. On 3 July 2002 within the framework of the meeting between the parties participating in the negotiating process in Kiev, the idea of federalising Moldova was put forward, invoking the motif that through it the Trans-Dniestr conflict could be solved. Nevertheless, it is already obvious that the negotiations, including after the submission of this idea, are in a clear predicament. Being in this situation, the Republic of Moldova cannot even aspire to start negotiations for joining the EU.

Furthermore, both in the society and in the political elite of Moldova there is no consensus concerning the priorities of state foreign policy. From 1990, when the first democratic elections to the supreme legal body took place, the political spectrum of Moldova has been almost permanently dominated by parties that promote orientation towards the Commonwealth of Independent States (CIS) and that did not raise the question of joining the European Union and NATO. As a result of the early elections from 25 February 2001 the Communist party of the Republic of Moldova (CPRM) obtained a massive victory (50.07 per cent of valid votes; 71 mandates out of 101). This party promised in its election programme "to examine the adherence of the Republic of Moldova to the Russia-Belarus Union".

The attitude of society is even more confused. The Constitution of the Republic of Moldova adopted on 29 July 1994 stipulates explicitly (Art. II) that the Republic of Moldova is "a neutral state" that proclaims its "permanent neutrality". In addition, in this article it is stated that "the Republic of Moldova will not admit the stationing of any

foreign military troops on its territory." So as long as the provisions of the Constitution of the Republic of Moldova are not modified, the adherence of the Republic of Moldova to NATO cannot be adopted on an official level. The introduction of these norms in the Constitution of Moldova was determined by the fact that in Moldovan society there is no clear consensus concerning the geopolitical orientation of the Republic of Moldova. In December 1991, the President of the Republic of Moldova Mircea Snegur signed the adherence of the Republic of Moldova to the Commonwealth of Independent States (CIS). This step, according to the mass media, was determined by the supposition that within the CIS it would be easier to solve the Trans-Dniestr conflict. Besides, in the document it was established that the Republic of Moldova would not participate in any military activities within the CIS, would not coordinate its foreign and migration policy. It can be supposed that the norm of neutrality of the Republic of Moldova was included in the Constitution as a supplementary guarantee against being constrained by the Russian Federation to engage in politico-military blocks within the CIS. The adherence to the CIS by the Republic of Moldova in 1991 was ratified only in 1994 after the advocates of the pro-Russian and pro-CIS orientation of the Republic of Moldova won the parliamentary elections on February 27.

The first relatively free and democratic elections in the Soviet Socialist Republic of Moldova (the legal predecessor of the Republic of Moldova) took place in February-March 1990. Consequently the government was formed and it was to work according to a Programme of activity that contained no reference to the central power from Moscow. From May 1990 to November 2002, nine governments changed in the Republic of Moldova. This demonstrates that the Republic of Moldova suffered from a lack of stability and political continuity. Or the problem of the adherence of the Republic of Moldova to the EU was formulated clearly as a strategic priority only in "The Programme of Activity of the Government of the Republic of Moldova for the period 1998-2001" adopted on 4 June 1998. In this Programme, integration into the European Union is declared as a "main strategic objective of the foreign policy of the Republic of Moldova". To achieving the objective of integration, the government of the Republic of Moldova was:

- To elaborate and put in practice consistently the national strategy of EU integration; to ensure the strict enforcement of the provisions of the Agreement for Partnership and Cooperation;
- To form a department for European Integration with the prerogatives of coordination of the internal plan for the integration process of the Republic of Moldova in the European Union;
- To intensify the politico-diplomatic measures for initiating the negotiations for association of the Republic of Moldova to the EU; to conclude a free trade agreement between the Republic of Moldova and the European Union and to obtain from the EU a favourable visa regime for the citizens of the Republic of Moldova.

What is more, the Government of the Republic of Moldova, with the purpose of pursuing a coherent government policy for integration into the European Union, assumed the obligation to observe strictly that the commitments made on an international level did not contravene EU requirements for integration for candidate countries.

The Programme of Activity of the government that followed included these provisions. But the governments that ran the country between May 1998 and 25 February 2001 (the date of the last early parliamentary elections) did not have steady political support in the Parliament. The government headed by Ion Sturza, for instance, as a result of the situation in the Parliament, had the possibility to work for just eight months. On account of this, all the declarations referring to integration into the European Union as a strategic objective of the foreign policy of the state remained on the declarative level. Moreover, the Republic of Moldova still has no strategy for European integration.

## **Integration and Regional Concerns**

Nevertheless, the Republic of Moldova participates in the integration process with the other countries. In June 2001, the Republic of Moldova was accepted into the Stability Pact for South Eastern Europe. One of the conditions that the Republic of Moldova accepted was not to raise the problem of the Trans-Dniestr conflict within the Pact. The Moldovan leadership presents participation in this Pact as an alternative to European

integration. On 27 June 2001, the Republic of Moldova signed a Memorandum of Understanding concerning trade liberalisation and facilitation. By the end of 2002, the Republic of Moldova intended to sign free trade agreements with all the members of the Stability Pact for South Eastern Europe. Today the Republic of Moldova tends to become a member of the Agreement of Association in South Eastern Europe. The Republic of Moldova is to participate in some projects that are included in the plan of activity, worked out by the Central Office of the Stability Pact for the 2003 year. On 28 October 2002 the special coordinator of Stability Pact, Erhar Busek, visited Moldova. According to the national coordinator of the Republic of Moldova within the Stability Pact in South Eastern Europe, Ambassador Andrei Stratan, this visit will contribute to the extension of the numbers of projects implemented within the Pact.

## **Policy Priorities<sup>1</sup>**

The priorities of the national security policy in the Republic of Moldova are determined by the major dangers to national security and by the conjuncture of interests, very often unfavourable, of other states and international organisations. Besides, the political priorities of the state are strongly influenced by the quality of the internal political process; this determined the absence of some clear priorities in the sphere of state security and foreign policy over many years. Due to the quality of government, the Republic of Moldova was in such a state that some problems which society had been confronting only became aggravated after the declaration of independence on 27 August 1991 and they questioned the perspective of the existence of the Moldovan state.

The problem of building and consolidation of the new state, the Republic of Moldova, on the territory of the former SSR Moldova, could have been successfully solved if simultaneously had been accomplished:

- the consolidation of the heterogeneous population on the bases of the citizenship of the Republic of Moldova;
- the transformation of the former segment of the USSR economy into the economic foundation of the new state;

---

<sup>1</sup> As stated in the National Security Concept and other policy papers.

- the creation of a new legal and democratic state.

Unfortunately, none of these major objectives were achieved during the last 11 years of independence. The economic security of the state is not guaranteed. The Republic of Moldova defaulted *de facto*, not being able to honour its obligations connected with Eurobonds issued in 1997. In the society appeared a striking contrast, which to a great extent mentions the political extremes. Moldova became notorious in Europe for the exodus of her citizens as illegal immigrants to EU countries and Russia. There are no statistical data, but it is affirmed that almost 70-100,000 residents of Moldova obtained Russian citizenship and approximately the same number became Romanian citizens.

The most serious danger to the security of the Moldovan state presents the problem of separatism in the Eastern zone (Trans-Dniestr). The low level of civic culture in society, the lack of traditions of stability and political democracy, the polarisation of the society according to the ethnic and linguistic criteria in 1989, provoked a political conflict and created the *preconditions* for an armed conflict. The specifics of the political and demographic situation in Trans-Dniestr was used to provoke a serious armed conflict when the struggle for preservation of the USSR entered its acute phase. In the Eastern zone of the Republic of Moldova (Trans-Dniestr) the realisation of the following scenario was achieved:

- In the region where military troops under Moscow's command are stationed, separatism is provoked;
- An armed conflict between the constitutional power and separatist regime is provoked;
- The troops under Moscow's command get involved in the armed conflict on the side of the separatist regime;
- Russia imposes itself as a peacemaker in the conflict, she imposes a formula for a negotiation process and of peacekeeping forces, favourable to the separatist regime;
- Russia becomes an internal political factor and promotes the idea of "solving the conflict" through the creation of a "common state" (federation), that presupposes the transformation of the Republic of Moldova into a geopolitical satellite.

The negotiation process for solving the Trans-Dniestr conflict is at an impasse. The separatist regime, using ammunition from the stocks of the former 14<sup>th</sup> Army, Russia officers, etc succeeded in creating an army<sup>2</sup> equal to that of the Republic of Moldova. For example, the National Army of the Republic of Moldova has no tanks while the illegal army of the separatist regime has 17 T-64 tanks. In the zone controlled by the separatist regime, there are all the structures characteristic of a state. The separatist regime wields its control over the population from the zone using methods characteristic of a totalitarian state.

Initially in 1992, Russia, Ukraine, Romania and the Republic of Moldova participated in the negotiating process concerning the solving of the Trans-Dniestr conflict. The representatives of the separatist regime were not admitted to the building where the negotiations were held. On April 6 and 7 the Foreign Affairs Ministers of these countries met. In this way a mechanism of observers was established and the chances for a gradual normalisation of the situation appeared to be in place. Nevertheless, on 19 June 1992 in the town of Bendery a provocation was organised (the majority of experts consider that it was planned by the Russian secret service). Consequently, the Republic of Moldova suffered a military and political defeat, the four-sided mechanism of negotiation was destroyed and the Republic of Moldova had to accept the conditions formulated by the Russian Federation to stop the conflict.

Afterwards, the Republic of Moldova accepted the separatist regime to be an equal part in the negotiation process, while the Russian Federation and Ukraine had the status of "country guarantor". From 1997, the negotiation process has taken place in a five-sided format – the Republic of Moldova, the Russian Federation, Ukraine, the separatist regime and OSCE. It is obvious within this framework that the geopolitical interests of the Russian Federation are not counterbalanced, even if during the last few years Ukraine has tried to compete with Russia in Trans-Dniestr. On 24 May 2002 in Petersburg, the presidents of the USA and Russian Federation, George Bush and Vladimir Putin signed a common declaration with respect to the new strategic relations between the Russian Federation and The United States of America. This document in the chapter "Political Collaboration" states that: "Russia and the USA will collaborate on

---

<sup>2</sup> Iurie Pântea, 'The Military Aspect in Solving the Conflict in the East Zone of the Republic of Moldova, in *Aspects of the Trans-Dniestr Conflict*, Chișinău, 2001, "Știință";

solving the regional conflicts, including Abkhazia and Nagorno Karabakh" and also the problem of "Trans-Dniestr in Moldova". Already on July 2 with the meeting of the sides participating in the negotiation process from Kiev, a draft of an Agreement appeared *on paper*. According to it the solution to the Trans-Dniestr conflict consisted in the federalisation of Moldova. This idea was supported openly by the Embassy of the USA in the Republic of Moldova. On 29 August 2002, the draft on the Agreement was presented to the Permanent Council of the OSCE in Vienna; afterward it became an official document supported by OSCE.

These developments speak in favour of the supposition that a new division of the spheres of influence between the Russian Federation and the USA took place and that Moldova is left in the Russian sphere of influence. The leaders of the separatist regime rather successfully manoeuvre between Russia and Ukraine, succeeding in preserving the *status quo*. The stability of the separatist regime is also determined by the existence of an international network of organised crime that uses this "black hole" for big illegal economic activities. The massive contraband causes enormous economic damage to the national economy of Moldova, stimulating the eruption of the black economy. For instance in 1998, contraband through the part of the border controlled by the Republic of Moldova constituted at least 500 million US dollars and the size of tax evasion caused by it was equal to 150 million US dollars.

It is obvious that the size of contraband through the 450 km of the border with Ukraine controlled by the separatist regime, being close to the seaports such as Odessa and Ilicheovsk, is much bigger. There is evidence of "money laundering" by Russian sales agents through Trans-Dniestr banks. The financial resources that this network of organised crime has are used for corrupting the political elite from Russia, Ukraine and Moldova. The indolent character of the negotiating process, the application of double standards with regard to the separatist regime on the part of such countries as Russia and Ukraine, the denial of the application of some constraining measures against the leaders of separatist regime are caused by corruption and complicity in the illegal economic activities of influential persons from "guarantor countries". Meanwhile from 2001, the separatist regime has been developing intensively its relations with Belarus on different levels.

So far, it is evident that Moldovan society is not capable of promoting to power competent political forces, which would mobilise the internal resources of the state with the purpose of solving the problem of separatism. Furthermore, neither the juncture of interest of the external actors (the USA, Germany, France and the EU) offers an optimistic perspective in this direction.

Consequently, it can be concluded that separatism from the Eastern zone of the Republic of Moldova and the international network of organised crime that functions using this regime are the real dangers to the national security of the Moldovan state and they endanger the perspective of the existence of the Republic of Moldova as a sovereign state.

### **National Security: Military Doctrine and National Security Concept**

One of the main documents that refers to national security problems is the Military Doctrine of the Republic of Moldova adopted on 6 June 1995. The decision of the Parliament concerning the Military Doctrine of the Republic of Moldova states that: "the government, the Coordinating Council are responsible for drafting bills and other normative acts which will regulate the formation, training and use of the Armed Forces; they will draft bills referring to the guaranteeing of military security according to the Military Doctrine". The Military Doctrine of the Republic of Moldova declares as a main objective of the military policy "the guaranteeing of the national security of the people of the state, the prevention of wars and armed conflicts using the means of international law". The general command of the National Army is exercised by the President of the Republic of Moldova, but the direct command of the National Army is exerted by the Minister of Defence (as a rule a civilian). In the Military Doctrine of the Republic of Moldova, there is no mention of the possibility of joining NATO and OSCE within which the Republic of Moldova could participate in the formation of military blocs. Provision is made only for the technical and military collaboration of the Republic of Moldova which "is the prerogative of the state and is executed on the bases of the legislation in force and international agreements which the Republic has signed".

The Military Doctrine of the Republic of Moldova stipulates democratic control over the defence sphere, control over the military leading bodies and over the responsible factors

of the Armed Forces by the supreme political authorities. As potential and existing sources of military danger to the sovereignty, independence and territorial integrity, the following dangers are enumerated:

- Territorial pretensions of other countries;
- Attempts at interference in the domestic affairs, at destabilisation of the internal political situation of the Republic;
- The presence of foreign troops on the territory of the Republic;
- The activity of separatist organisations, orientation to the armed violation of the territorial integrity of the Republic;
- The creation of illegal military forces.

Obviously all these dangers were included in the Military Doctrine taking into account the existing conflict in Trans-Dniestr.

Another document that stipulates the political priorities concerning national security is the Foreign Policy Concept of the Republic of Moldova. This document was adopted through a Decision of the Parliament of the Republic of Moldova from 8 February 1995. The parliamentary majority that ratified the adherence to the CIS by the Republic of Moldova adopted this document. Therefore, also the Concept of the foreign policy of the Republic of Moldova reflected the absence of definite proprieties in the policy promoted by the parliamentary majority. The foreign policy concept formulates clearly that: "the specific geopolitical situation conditions the increased attention towards our country from the international community". As a unit of measure of this attention the Concept of the foreign policy suggests the fact that the Republic of Moldova "was recognised by the majority of states of the world..."; the recognition of the Republic of Moldova as an independent state in the view of the Moldovan political elite at the moment of adoption of the Concept of foreign policy was treated as an equivalent to European integration which was to offer the Republic of Moldova the possibility "to consolidate its national security and to ensure territorial integrity, thus contributing to the establishment of political security in the zone".

The concept of the foreign policy of the Republic of Moldova stipulates the following priorities:

Consolidation of independence and sovereignty of the country; Guarantee of territorial integrity; Affirmation of the country as a regional factor of stability; Contribution to the promotion of social-economic reforms necessary for the transition to a market economy and raising of the welfare of the population; Building of the legal state in which the fundamental rights and freedoms of human beings and national minorities are guaranteed and brought to international standards.

In the chapter Main Directions of foreign policy all the possible variants of the relations are enumerated without formulating some clear priorities. The first mentioned are relations with the members of the CIS. Relations with Russia, Ukraine and the Republic of Belarus are declared as a priority. In the Concept of the Foreign Policy of the Republic of Moldova the need to be active within the Council of North-Atlantic Cooperation and of the North Atlantic Council Meeting is mentioned. Special importance is attributed to participation in the programme "Partnership for Peace". In the chapter Regional and Subregional Cooperation, gradual integration into the European Union is declared as a major objective of foreign policy.

Today, it is obvious that many of these provisions of this Concept have been overtaken by reality, and the Moldovan state did not succeed in solving the problems concerning national security, through determining some clear priorities of foreign policy. In the spring of 2002 a draft of a new Concept of Foreign Policy of the Republic of Moldova was published and discussed. This draft was worked out by the Ministry of Foreign Affairs and raised interest in society. This interest was determined firstly by the fact that the new version of the Concept of Foreign Affairs was going to be discussed and voted on by the Parliament where the majority was held by the Communist Party which came to power with the promise "to examine thoroughly the possibility of adherence to the Russia-Belarus Union".

In addition, in this draft the necessity of orientating the integration of the Republic of Moldova to one of these poles to ensure the perspectives of national security development is clearly stated. This draft of the Concept defines the European Union as such a pole. In comparison with 1991-1994, when the Republic of Moldova linked all its

expectations to the CIS, the new Concept of Foreign Policy attributed the qualities (indisputable political and economic power, a model of democratic, political stability and economic welfare) to the European Union; this makes it more attractive for the Republic of Moldova as opposed to the CIS.

This time the primary idea is that the adherence to the EU of the Republic of Moldova will consolidate the stability of the Republic of Moldova, its independence of sovereignty, territorial integrity and national security. It is clear that the adoption of this variant of the Concept of Foreign Policy will contribute greatly, even in the conditions of a communist government, to a reorientation of the Republic of Moldova towards the EU. However, this draft has not yet been introduced in the agenda of the Parliament of the Republic of Moldova.

Meanwhile the leadership of the Republic of Moldova is trying to promote an inconsistent foreign policy. On the one hand, categorical declarations are made, with respect to the intentions of Moldova to become a member of the EU. On the other hand, these declarations are not supported by concrete actions. Moreover, the leadership of the Republic of Moldova is implicated in various events that are directed towards demonstrating fidelity to the integration process in the CIS. The President of Moldova has declared Moldova's intention of becoming a member of the Euro-Asiatic Economic Union and Moldova immediately obtained the status of observer. Only the position of Ukraine, which separates Moldova from the rest of the members of the Euro-Asiatic Economic Union and does not want to become member of this Russian-dominated organisation, does not allow Moldova to become a complete member of it. The CIS Summit on October 6-7 in Chisinau was presented by the communist leadership as a unique political event. Thus, the draft of the new Concept of the Foreign Policy of the Republic of Moldova does not reflect the real geopolitical orientation of the Moldovan state as it is not likely it be adopted by the present Parliament without essential modifications.

On 26 July 2002, the Parliament of the Republic of Moldova voted a decision on the Concept of the Military Reform. The appearance of this document was determined by a range of problems which the National Army has confronted during the last few years. The main objective of the Military Reform is announced as the establishment of a new

efficient and flexible system of ensuring military security, which will guarantee the defence of the sovereignty, independence, territorial unity and integrity of the state. The following factors are invoked as arguments in favour of the necessity of such a reform:

- the imperfection of the present system of ensuring the military security of the state;
- the adoption of permanent neutrality status and the promotion of an adequate foreign policy;
- the present geopolitical situation and the necessity of adjusting to the new realities, risks and missions;
- the insufficiency of financial resources and the necessity of correlating the system of ensuring the military security of the state with the present possibilities and the perspectives of economic development of the country;
- the relatively low qualitative situation of the Armed Forces and of the military potential of the country.

In the Concept of the Military Reform, the strategic environment in which the military reform is effected is described. It is highlighted that the Republic of Moldova does not have declared enemies and that the probability of the appearance of a major threat to the security of the state is minimal. The principal source of risks is considered to be regional instability and the accentuation of eventual short-term risks. In the Concept of Military Reform the following hierarchy of the main regional risks is set out:

the strategic imbalances of military potential in the region; the presence of some military tensions and conflicts that can grow; separatism and the internal political and socio-economic conditions that can affect directly the military potential and diminish the prestige of the public authorities; the appearance of some dysfunctions in the financial, information, energy, communications and telecommunications systems of the states; politico-military rivalries between newly-formed states.

For the first time organised crime, illegal drugs, weapon and strategic material trafficking are listed as transnational risks. There is a risk in the geographical position of the Republic of Moldova, at the confluence of some areas of tension (the Balkan peninsula

with the proliferation of the negative aspects from former Yugoslavia, the Caucasus-Caspian region, the Middle East). The division of spheres of influence between NATO and the CIS, the deployment of military forces belonging to some anti-constitutional structures. Accordingly, in the chapter on international collaboration in the military sphere, the necessity of respecting the permanent neutrality of states is again mentioned.

## **Participation in PfP Activities**

The Republic of Moldova joined the Programme "Partnership for Peace" on 16 March 1994 in Brussels when the President of Moldova signed the Statement of Intent, thus becoming the 12<sup>th</sup> signatory to this Programme. The Document of Presentation included the following activities:

- The Republic of Moldova supports NATO's efforts oriented towards the extension of mutually advantageous cooperation in Europe, it assumes all the responsibilities according to the Document and it considers the Programme "Partnership for Peace" as a guarantee of consolidating security and stability on the continent and it assumes that participation in the Programme will create conditions for security and for the increase of the defence capacity of the country;
- The Republic of Moldova will make efforts to establish closer collaboration with the political and military bodies of NATO within the framework of the Programme;
- The Republic of Moldova will participate in all the events within the Euro-Atlantic Partnership (meetings of the Foreign Affairs and Defence Ministers, chiefs of General Staff, seminars, symposiums, visits of military experts, military delegations, etc);
- Special attention within the Partnership is paid to the military study of languages (especially English and French), military budget planning, formation of the legal ground for the functioning of the Military Forces, the carrying out of research, the conversion of military industry and environmental protection, the problem of modernising information systems, means of communication; the organisation of leading military positions, the organisation of civil protection and the liquidation of the consequences of natural disasters, the rendering of humanitarian aid;

- The Republic of Moldova supports the efforts of the UN, OSCE, NATO, CEAP (Counsel of Euro-Atlantic Partnership) in resolving crisis situations and preventing them according to the norms of International Law, and will also participate in the common manoeuvres and exercises of the General Staff;
- With a view to carrying out peacekeeping operations, the Republic of Moldova makes available a military company, a venue for tactical exercises and for exercises at "company-battalion" level, a military aerodrome for peacekeeping and humanitarian operations, a military transport plane class AN-72, two transport helicopters class MI-8, and a staff of skilled military doctors.

The first Individual Programme for Partnership of the Republic of Moldova was elaborated in the first trimester of 1995 and was approved on 25 May 1995 at the session of the Supreme Security Council. The Republic of Moldova joined the Programme for Revision and Planning, launched by NATO with the purpose of assisting the Partners within the Programme "Partnership for Peace". The process consists of biennial cycles. The Republic of Moldova joined the Process in the second cycle (1997-1999). At the session of the Political-Military Central Committee (25 April 1997) documents of intention were presented, which were later approved by the North Atlantic Committee.

During the last few years, the level of participation of the National Army of the Republic of Moldova was the following:

1997 – 75 activities (conferences, seminars, workshops etc.) including 7 multinational peacekeeping exercises with officers from the general staff, soldiers, transport planes and helicopters;

1997 – 77 activities, including nine multinational peacekeeping exercises with officers from the general staff, soldiers, transport planes and helicopters;

1998 – 104 activities, including 14 multinational peacekeeping exercises;

1999 – 110 activities including 12 multinational peacekeeping exercises;

2000 – 79 activities, including eight multinational of command and general staff exercises with the participation of troops from the National Army;

2001 – 76 activities including nine multinational exercises with the participation of officers of the general staff and soldiers;

In 2002, – 85 activities and seven multinational exercises, including the participation of troops, were planned.

Bilateral exercises with the USA were carried out on the territory of the Republic of Moldova, such as the periodic "Medceur" and "Cornerstone" search, rescue and evacuation exercises. During 2002 the military of the National Army participated in three multinational exercises:

- "Cooperative Best Effort - 2002" (June 16-28)
- "Cooperative Lantern - 2002" (April 15-16)
- "Combined Endeavour -2002" (May 8-24)

By the end of 2002 the Moldovan military were to have participated in two more exercises:

- "Cooperative Adventure Exchange - 2002 (October 5-18)"
- "Cooperative Key 2002" (September 23-October 4)

The cooperation within the Partnership for Peace allows the military of the National Army of the Republic of Moldova to use the experience in forming military structures of the Western democratic countries and Partners, with the aim of training the staff, the linguistic education of National Army officers, ensuring access to information and statistics by participation in activities within the Partnership, to methods of organising peacekeeping and humanitarian operations, with the forms and methods of work of servicemen and general staff in engagements. The results obtained from the participation of the Republic of Moldova in the Partnership for Peace Programme are due above all to the financial support of NATO and of other countries, especially the USA, through the Warsaw Initiative.

### **Public Opinion and Attitudes toward NATO Membership Requirements (EU, etc)**

The problem of the Republic of Moldova's integration into the EU and NATO has not constituted a priority for Moldovan society after the declaring of independence.

Immediately after the first parliamentary elections based on a multi-party system, on 8 April 1994, the Parliament ratified the adherence of the Republic of Moldova to the CIS. The victory of the Communist Party of the Republic of Moldova (CPRM) in the Parliamentary elections of 25 February 2001 contributed much more to the pro-CIS orientation of the Republic of Moldova. In one of his interviews, the President of the Republic of Moldova<sup>3</sup> declared that "the geopolitical interests are of such a nature as it was intended to pass over us without any obstacles, and who knows, maybe NATO troops would already be stationed near Bryansk" (an unofficial translation, the original style was preserved deliberately). On October 4, closer to the CIS summit in Chisinau (October 6-7, 2002) the Parliament on the initiative of President Vladimir Voronin, withdrew all reservations formulated by the Republic of Moldova to the Constituting Agreement of the Commonwealth of Independent State (CIS) concerning its non-participation in coordination of foreign and migration policy with the other CIS countries. Through this step, the present leadership of the Republic of Moldova demonstrated more clearly that it distances itself from the EU and NATO. Meanwhile, the media in the Republic of Moldova offers the population information on the process of EU and NATO expansion and different positions on these processes have already been outlined.

Public opinion polls, carried out in the Republic of Moldova during the last years, demonstrate the motley picture of opinions *vis-a-vis* the EU and NATO. Three public opinion polls<sup>4</sup>, carried out by the Institute of Public Policy (IPP) between February 2001 and March 2002 contained the question: "In your opinion, what should the orientation of our country be?" (We should remain in the CIS; We should integrate with the European Union; We should not be part of either the CIS or the EU; I do not know). The answers to this question demonstrate that after CPRM victory the number of advocates of remaining in CIS practically did not change (43 – 35 – 41 per cent). On the other hand, the number of supporters of EU integration fell by 10 per cent (51 – 47 – 40 per cent) and the number of undecided rose (4 – 18 – 15 per cent). Analysis of the databases demonstrates that most of the supporters of EU integration are citizens with higher education – 57 per cent; with "high socio-economic status" – 55 per cent and in the age category 18-29 years old – 52 per cent. On the other hand, remaining in CIS is

---

<sup>3</sup> *Российская газета* (The Russian Newspaper), 7 March 2002.

<sup>4</sup> Barometer of Public Opinion, the Republic of Moldova, March 2002,p.66; see <http://www.ipp.md>

massively supported by “Russians”- 55 per cent, “Ukrainians” – 51 per cent , while only 34 per cent of “Moldovan-Romanians” support the idea of remaining in the CIS.

Also, from the analysis of these public opinion polls results, the supporters of remaining in the CIS voted solidly for the CPRM in February 2001, whereas the votes of EU integration supporters do not have such a massive representative in the Parliament. These votes have been dispersed among many parties, out of which only the Christian Democratic People's Party (CDPP) succeeded in passing the electoral quota of six per cent (as a result of the elections of 25 February 2001, 28.3 per cent of the valid vote was left without any representation in the Parliament). So Moldovan society is far from consensus on joining the EU. Furthermore, it is alarming that the delimitation in this problem is according to the ethnic criteria, which makes the process of society consolidation difficult.

Attitudes to NATO (*Ibidem*) in Moldovan society are more reserved. Only 36 per cent of those questioned have a “Rather good” or “Very good” attitude toward this organisation, about 38 per cent are undecided and 26 per cent have a “Rather bad” or “Very bad” attitude.

The Republic of Moldova is a state where external influence is strongly felt especially that of Russia and Romania. Now that Romania has been accepted into NATO in November 2002 and is succeeding in the process of European integration, it can be supposed that the pro-European and pro-NATO tendencies will continue to increase in Moldovan society.

## **Conclusions**

Since obtaining independence, the Republic of Moldova has not been able to promote a dynamic and consistent policy for EU integration and NATO accession. Clear priorities on this matter have not yet been formulated in Moldovan society. The problems of adherence to the EU and NATO did not serve as priorities for politicians and society during election campaigns. Only the draft Foreign Policy Concept of the Republic of Moldova, elaborated by the Ministry of Foreign Affairs in spring 2002, clearly formulated European integration as a strategic priority. It is unlikely that this document will be

energetically implemented. Collaboration with European structures and NATO is determined by external initiatives.

There are examples of efficient collaboration in some concrete cases. For instance, mine clearance of territories that had been mined during the armed conflict in 1992. Fuel for rockets of the class “sol-air” was used; it remained on the territory of the Republic of Moldova from the times of the Soviet Union and it presented a danger to the environment.

For the rest, the Republic of Moldova, especially in relation to NATO, promotes a policy of double standards. The Republic of Moldova participates in the programmes, which are financially supported from abroad.

On the other hand, the representatives of the Republic of Moldova participate regularly in meetings within the CIS, which bring no benefit to the national interests of the Republic of Moldova; they sooner constitute a demonstration of loyalty of the present political elite to the Russian Federation.

For the last 10 years the Moldovan governing, political elite, has treated the CIS as an instrument for solving internal problems and could not give up this incorrect position. Consequently, there is a real perspective for the Moldovan State to lose its sovereignty, especially due to the unsolved conflict in the eastern zone of the Republic of Moldova. On the territory of the Republic of Moldova, under the command of the separatist regime, there are illegal military troops with a fighting potential comparable to that of the National Army. Transforming the Unitary State Republic of Moldova, under the pretext of settling the Trans-Dniestr conflict, into a federation will transform Moldova into a protectorate of the Russia Federation.

Thus the Republic of Moldova is now a potential hotbed of regional instability. These alarming tendencies can be changed only if the EU pursues a more active policy with a view to counterbalancing the negative eastern influence and minimising the risk of real destabilisation of the situation in this part of Europe. Only in this case will the Republic of Moldova avoid the perspective of disappearing as a state, and avoid presenting a

danger to the stability and security in this region. Besides, it can be supposed that after a delay of 10 years Moldovan society will reorient itself towards EU and NATO integration.

## **CHAPTER TEN**

---

### **THE PARTICIPATION OF THE REPUBLIC OF MOLDOVA IN PEACEKEEPING OPERATIONS**

*Ştefan Gorda*

#### **Introduction**

The collapse of the old system of international relations based on the opposition of two military-political blocs has essentially changed the character of conflicts. The demarcation line between stability and instability has become displaced to within states and even some small rural communities, as is the case of the Republic of Moldova. Violence has become transnational and at the same time is manifested within states and areas. Using military terms, we can say that the traditional enemy seems to have disappeared but, paradoxically, the world is in a greater state of turbulence than ever.

Due to the fact that the nature of conflicts has fundamentally changed, the international community has been obliged to elaborate more efficient and viable procedures and models of reaction. Peacekeeping operations are an answer to the security challenges of the contemporary world. As a matter of fact, I believe that the term used by the French Army, that of ‘civil-military actions’, expresses most appropriately the task of the troops and the specifics of the actions aimed at resolving crises.

If in the bipolar world of blocs responsibility for stability was in a way attributed to the superpowers, today the whole international community has to assume responsibility for the destiny of peace. Although this statement seems to be indisputable, in reality, the degree of involvement of states in peacekeeping operations varies a lot. Some states and zones have become suppliers of stability and peace, others sources of instability and potential conflicts. Although the latter generate conflicts, they contribute less to the efforts of the international community to reinforce peace and security. The case of the Republic of Moldova represents a vivid example.

For each country participation in the peacekeeping operations means, firstly, the decision to assume its part of collective responsibility. That is why it is always necessary to analyse the existing possibilities, in order to offer the best way to assume these responsibilities. Becoming on 2 March 1992 a member-state of the United Nations, the Republic of Moldova has assumed obligations regarding international peace and security.

UN and OSCE documents, as well as the agreement which the Republic of Moldova has signed in the framework of the Partnership for Peace with the North Atlantic Alliance, stipulates that the Republic of Moldova participate in the peacekeeping operations. It is worth mentioning that on 16 July 1997 the Parliament of the Republic of Moldova has ratified the Agreement on the status of forces, made between the member states of NATO and other countries participating in the Partnership for Peace programme. This agreement is an important step in the establishment of a juridical basis for participation in peacekeeping operations.

Evaluation of the preparation stage of the Republic of Moldova's peacekeeping operations is dictated by a series of causes. Recently, the world has gained new experience in operations planning, in training troops and other staff, as well as in practical aspects of military operations. We mean here the participation of the neighbouring states of the Republic of Moldova in civil-military operations in different parts of the world. These operations are authorised by the UN or are carried out under OSCE control.

Besides, the range of operations has diversified. Along with the traditional operations stipulated in chapter VI of the UN Statute, a series of new operations are being used today. These refer to the preventive deployment of troops, stimulation of the peace-making process, the establishment of democratic institutions and the reconstruction of the economy, especially with regard to vital spheres, as well as intimidatory and humanitarian operations, etc. In addition, every country has its own experience of participation in this kind of international activities, its own objectives of domestic and foreign policy. Analysis of the degree of involvement in peacekeeping operations will

make it possible to determine more exactly the most efficient form of each country's contribution to the community's stability.

## **The Concept of National Security**

We should mention from the very beginning that at present the Republic of Moldova does not participate in peacekeeping operations authorised by the UN or carried out under OSCE control. This is not only the result of the economic-financial difficulties the country is experiencing. It is, primarily, the outcome of the way Moldovan decision-makers conceive the importance of this activity, and a result of the lack of a clear opinion towards this problem. It is also due to the poor leadership skills of those who led and lead the Republic of Moldova and its Army, and due to the general inefficiency of state institutions.

The conceptual level is in a way dominated by a one-sided understanding of the notion of permanent neutrality; a principle which was confirmed by the Constitution adopted in 1994. It has become a common thing to regard the above-mentioned principle as a justification for not participating in peacekeeping operations, ignoring the advantages of such an involvement. At the same time, the integration processes that take place on the European continent cannot but influence the mentality of the Moldovan decision-makers. Over the last few years a number of decisions were adopted that can be viewed as a starting point for the participation of the Republic of Moldova in peacekeeping operations.

The concept of national security stipulates that the Republic of Moldova be against the use of force in any part of the world and advocate the peaceful solution of any conflicts. The same document reconfirms the politics of permanent neutrality which, implicitly, excludes the country from participation in the actual military phases of peacekeeping operations. The concept regards local and regional conflicts as a threat to the national security of the Republic of Moldova. The document also dwells on the issue of coordination with other states in order to trace, prevent and mitigate the possible dangers for the national security of the republic. This might mean cooperation on the issue of regional security, although this is not directly stipulated. An important provision of the document underlines the necessity for a top-level preparations for combat and for

the mobilisation of the Armed Forces. We should, nevertheless, point out that the document cited does not refer to any kind of peacekeeping operations, and does not regard them as a compulsory aspect of the Republic of Moldova's national security system which, doubtless, denotes a serious drawback.

Another relevant document is the Military Doctrine of the Republic of Moldova, adopted by the Parliament on 6 June 1995. The Doctrine states the principle of preventing wars and conflicts by means of international law. In order to accomplish this task, the Republic of Moldova intends to participate in the world community's actions aimed at preventing wars and armed conflicts and at peaceful resolution of disputes. The above-mentioned document is marked by a certain systemic approach towards the concept of regional security. On the one hand, it confirms the need to create certain condition under which, in case of an external military threat, the right of assistance from international organisations to the Republic of Moldova is assured. On the other hand, it states the intention of the Republic of Moldova of participating actively in the creation of an international collective security system.

The Doctrine allows the stationing of peace-making forces on the territory of the Republic of Moldova, when this is stipulated in international agreements. The Republic of Moldova considers that all states and international organisations, whose policies are harmless to its interests and do not contravene the UN Statute, are its partners.

In its turn, the Republic of Moldova's Concept of Foreign Policy, adopted by the Parliament on 8 February 1995, stipulates that our country attaches great importance to UN peacekeeping activities, with regard to the prevention and resolution of international, regional and local conflicts. In this respect, the Republic of Moldova plans to be active within the framework of the UN, in order to assure regional and international security, but strives to increase the efficiency of the mechanism applied. Moldova will support traditional and new forms of UN activity, which aim at a more active involvement of the organisation in clarification of problems linked with maintaining peace and security, real disarmament, environmental protection and other issues.

## **Legal Framework**

The Law on Participation of the Republic of Moldova in international peacekeeping operations, adopted on 26 July 2000 determines the way peacekeeping forces of the Republic of Moldova participate in international peace-making operations, as well as the way these forces are organised and trained. The document clearly defines the notion of peacekeeping. In the understanding of Moldovan authorities it means: prevention, limitation and moderation or cessation of hostility between states or within a state through the involvement of a third party, authorised by qualified international organisms. These actions should be organised and led by the international community with the aid of multinational military and police forces and civilians. The Moldovan military staff can participate in such kind of operations as soldiers, in subdivisions completed according to the multinational principle, or as part of medical or other detachments, as well as in subdivisions (platoon, company, battalion) or separate units (independent battalion, brigade). The number of participants depends on the proportions of the conflict and is settled in the appropriate mandate. We believe it is worth mentioning the stipulation with regard to the legal status of the detached troops, which is based on the principles of the UN Charter and on the results of negotiations with the parties involved.

The principles of participation of the Republic of Moldova in peacekeeping operations derive from its fundamental interests and international obligations. The operations should be authorised by the UN or OSCE. Due to the fact that Moldova is considered a neutral country, any direct participation in international peace-making operations is excluded. The Republic of Moldova takes into consideration a number of essential conditions when adopting any decisions in this respect. These include: the consent of the conflicting parts to receive multinational peace-making forces, the existence of a clear and applicable international mandate, and the multilateral preparation of the peace-making forces. In addition, a ceasefire agreement should be brought into force.

In the peacekeeping forces are selected military specialists, police workers, as well as military units of the country's armed forces – subdivisions with arms, military equipment and logistical support. The decision to dispatch the military contingent to an international peacekeeping operation is made by the Parliament, on the proposal of the President of the country, who is the Supreme Commander of the Armed Forces. This proposal should

contain data about the territory where the military contingent is detached, its tasks, the type of armaments, the chain of command, the timespan of the mission and the conditions for its prolongation, the order of rotation of the forces and the conditions for it return home.

As for the decisions on despatching military specialists, police workers as well as their recall, they are adopted by the competent authorities – the Foreign Ministry, Ministry of Defence, Ministry of the Interior, the Information and Security Service. The President of the country is endowed with the right to recall the peacekeeping forces if the international politico-military situation has changed as a result of non-observance of the agreement about the status of the peace-making troops, and of the provisions of the UN Charter.

The military contingent of the peacekeeping forces is selected from the country's Armed Forces and is completed on a voluntary basis with persons who are doing their military service on contract, and who have successfully passed a medical examination. The selection, the structure and the troops of the military contingent of the peacekeeping forces must be approved by the President of the country – the Supreme Commander of its Armed Forces. The military are trained according to a special programme elaborated by the Ministry of Defence, while the police workers and other staff are trained by the respective Ministries and Departments. The Foreign Affairs Ministry gives the final instructions. During the whole period of the mission, the staff of the peacekeeping forces enjoy the privileges and immunities of UN staff, in accordance with the convention about the UN privileges and immunities of 13 February 1946, and with the Convention about the privilege and immunities of the specialised instructors of 21 November 1947, to which the Republic of Moldova adhered.

According to the above-mentioned law, the peacekeeping staff have the right to financial insurance and social protection. The law stipulates that the expenses for training and armaments, maintenance and the salaries of the military contingent during the training period and during their participation in the international peacekeeping operations should be met by the Ministry of Defence. Besides, the funds allocated by international institutions should be transferred to the account of the Ministry of Defence and should be used according to their destined purposes. The maintenance of other specialists is paid

from the funds allocated by the Foreign Ministry for this sort of activity. The government settles guarantees and compensation for the peacekeeping forces staff and for their family members (i.e. compulsory life and medical insurance). Seniority for the period of the mission is calculated preferentially: a month spent on the mission equals three normal months. All these guarantees are not valid for deserters and offenders.

## Perspectives

In order to give this process a concrete dimension, as well as to implement in practice the obligations assumed at an international level with regard to the direct participation of the military and civilian forces in peacekeeping operations, a number of decisions need to be taken:

At governmental level:

- a) A decision regarding the allocation of funds to the “Blue Helmets” peacekeeping unit.  
The Ministry of Defence should be authorised to make this unit active.
- b) A decision regarding the implementation on the territory of the Republic of Moldova of the provisions of the Agreement on the status of the Armed Forces signed by the member-states of NATO and the “Partnership for Peace” programme.
- c) A decision on the funding from state Budget of the participation of the Republic of Moldova in the “Partnership for Peace” Programme.

At the level of the President of the Republic of Moldova, the Supreme Commander of the Armed Forces, and at the level of the Supreme Security Council :

Approval of the decision taken by the Ministry of Defence and other competent ministries as well as the approval of the government's decisions in accordance with the Constitutional prerogatives.

At the level of the Ministry of Defence:

- a) Elaboration of the Ministry of Defence's order about the creation of the "Blue Helmets" peacekeeping unit which would include indications regarding the deployment of the unit, the chain of command, the equipment, and the personal accountability of responsible command personnel.
- b) The approval of the modifications in the Individual Partnership Programme (IPP) and the elaboration of suggestions for the revision of the IPP for the next period;
- c) The elaboration of instructions and dispositions for the boards of the Ministry of Defence and the General Staff, regarding revision of the plans for participation in multinational and bilateral operations held within the framework of the Process of Partnership Planning and Revision, the NATO training group, NATO specialised Agencies and Committees.

Taking into account the fact that one of the most complicated problems met in the process of organisation of the national "Blue Helmets" unit represents the problem of financial and technical resources, the idea of cooperation with other countries is welcomed. In this case a certain part of the expenses can be offset. These include: expenses for the formation, preparation, supply, service and training of the unit. The draft project for the Moldovan-Romanian Battalion for peacekeeping missions is a good example in this respect. This battalion could be created in order to carry out a number of joint peacekeeping missions, authorised by NATO, OSCE or the UN. The principles of the organisation of this unit might include the following suggestions:

- The number of the contingent and its leadership should be equal for both countries;
- The Republic of Moldova and Romania should supply sub-units of equal value;
- The forces remain deployed in resident garrisons on the national territories of the states;
- A common, bi-national and stand-by leadership is formed;
- Staff, logistics and international communications problems are part of national responsibilities;
- Operational procedures are NATO standard procedures;
- The working language is English;

Details regarding preparation and leadership problems:

- Each country supplies half of the administrative staff;
- Each state provides a residence for the leadership;
- Each state assures the necessary logistics on its territory;
- The leadership meets every month for 2-3 days training; the meetings take place in each state on the principle of rotation;
- The commander of the unit is appointed by mutual agreement of the two armies, for a six-month period. The first commander is chosen by drawing lots:
- The assistant commander is chosen from the other state.
- The commander has the right to lead only in operational problems and in training exercises: staff problems, preparations for combat, as well as logistics and equipment are matters within national competence.
- The battalion performs annually two training exercises on the territory of each country in turns.
- The engagement of the battalion in the mission is made in accordance with national legal procedures.

Although the relations between the Republic of Moldova and Romania cannot be labelled as the best ever existing between the two countries, military-political considerations dictate a thorough analysis of this proposition by the decision-makers of both states and the adoption of a decision in this respect.

## CHAPTER ELEVEN

---

### CRISIS MANAGEMENT

*Sergiu Gutu*

#### Introduction

The epoch of military change manifested by the entrance of human civilisation into a new stage of development which is characterised by the intensification of the social process, the spreading of new technology, international convergence, a rapid evolution of political events and the proliferation of new dangers and threats, represents an important problem for state security and the area of international stability, whose prevention and settlement requires an efficient system of crisis management.

Since 1988 political change, especially that which took place in Eastern Europe, has redefined the contemporary geopolitical and geostrategic context, foreshadowing the beginning of a contradictory millennium, during which the political game among the states in the field of international relations has brought new participants. They represent a new arsenal, which is important for the balance coefficient of the field of security and stability.

As a result of the break-up of the USSR and socialist camp, and the beginning of democratic reforms in the newly-formed countries in the post-Soviet space, ethnic, religious and territorial confrontations have intensified. These have caused such phenomena as separatism, nationalism and extremism that have led to the creation of crisis and conflict zones in this territory. These phenomena had an impact upon the Republic of Moldova, they are reflected in a proportional crisis of a latent and constant conflict that has lasted up till now. Furthermore, in present conditions the Republic of Moldova faces threats of another character. The geopolitical situation of the country demonstrates it: the Republic of Moldova owing to its geopolitical position is a "bridge" between the countries of Eastern Europe and those of Western Europe.

Because of the weakness of the border, today the Republic of Moldova is dealing with such phenomena as illegal migration on the basis of forged documents, drug trafficking, smuggling and others. Concomitantly, the market for Moldovan goods is situated mostly in the East. Also, Moldova lacks its own power resources and raw materials: all these limit the access of the state to vital resources for the population and the economy, create political and socio-economic instability in the country, contribute to the persistence of some domestic and external problems, hinder the efficient development of the state and reinforcement of democratic society.

In addition there is the damage caused by natural calamities and disasters, technological and ecological accidents that impose the making of quick strategic, decisions sometimes even unexpected ones on the leadership of the country, the management of resources by the centre and the settlement of a crisis which has appeared in a short period of time. Speaking about the main objectives that crisis management imposes, it can be affirmed that the Republic of Moldova became a full member of the international community, as the other new democratic states. Despite this, only recently has it introduced the concept of crisis management, thus realising its national-state interests adequately.

## **Legal Stipulations**

With the purpose of foreseeing some special circumstances connected with taking exceptional measures for defending the welfare of society, security and state stability, the Republic of Moldova has a set of normative acts which regulate the process of crisis management, as follows:

The Constitution of the Republic of Moldova stipulates the prerogatives of the state leadership in taking the decisions concerning the management of crises of any nature stated in:

- Article 66 "The Parliament's basic powers": (e) to approve the state's military doctrine; (l) to declare partial or general mobilisation of the armed forces; (m) to declare the states of national emergency, martial law, and war.
- Art. 72 "Classification of Laws" P. (3) The purpose of the organic laws is to direct and control: (m) the states of national emergency, martial law and war.

- Art. 87 "Powers Regarding National Defence" P. (2) On prior approval from Parliament, the President of the Republic of Moldova can declare partial or general mobilisation of the armed forces.  
 P. (3) In the case of armed aggression against the country, the President of the Republic of Moldova takes the steps required to repel aggression, and to declare a state of war, and informs Parliament immediately on the situation. If Parliament is not in session, the President convenes by right the Parliament within 24 hours from the time when the aggression was launched.  
 P. (4) In order to ensure national security and public order the President of the Republic of Moldova can under the rule of law also take other steps.
- Art. 94 "Presidential Acts"  
 P. (2) Those decrees issued by the President that fall under the provisions of Article 87 paragraphs (2), (3) and (4) must be countersigned by the Prime Minister also.

Having examined the constitutional stipulations we can affirm that the state supreme law sets three levels of crisis and divides them into emergency situation, state of siege, and state of war. The Constitution does not specify them, leaving their defining to other organic laws in this domain.

It is necessary to highlight that at this moment the legislation of the Republic of Moldova in this domain has some major drawbacks:

1. No law defines the notions of states of emergency, siege and war;
2. Up to now the Law on the States of National Emergency, Martial Law, and War has not been adopted (the draft law is in the Parliament). This law is stipulated in the Constitution and is aimed at defining these notions, establishing the procedure for their introduction and raising the states of crisis, bringing together in a law the functions of the authorised bodies in the domain, the legal framework, the grounds, the mode and the mechanisms of their realisation.
3. Today the notions states of national emergency, martial law and war as established by the Constitution differ from the notions given by other normative acts, which focus on the area of crisis management.

4. The Law on Defence Article 4 contains the notion "introduction of state of belligerence" which is not stipulated by the Constitution.

## **Introduction of the Special States**

The mode, time and degree of the introduction of a Crisis State are regulated by several normative acts of the Republic of Moldova.

### **1. State of War**

According to the Law on Defence Art 15, a "State of War" is introduced in some localities or on the entire territory of the state together with the declaration of a State of Belligerence only when there is a danger of armed aggression. The war starts with the declaration of a State of Belligerence or with the *de facto* beginning of military actions and ends on the day and at the hour when the military operations end *de facto*.

If armed troops or groups attack or invade by surprise the territory of Moldova, the local military authorities are obligated to take all the measures to repulse the attack without waiting for a declaration of war. The last paragraph that states that the local military authorities can assume the right to start military actions without declaring a State of War, gravely affects the stipulations of the Constitution, infringes on Articles 4 and 5 of this law which state that only the Parliament and the President of the Republic of Moldova are authorised to declare a State of Belligerence and State of War. Besides, the above-mentioned paragraph does not correspond to reality as the local military administrative bodies do not have permanent forces to carry out this task and they will not have time to create the necessary forces in case of a *de facto* armed invasion. In this case, the primary task of repulsing the invasion is incumbent on the Border Guards.

### **2. State of Martial Law**

In the legislation of the Republic of Moldova, the State of Martial Law is nominated in the Constitution of the Republic of Moldova and is not specified (described) by other normative acts in this area.

The classical notion of a State of Martial Law (included in the draft law on states of emergency, of martial law and of war) is a set of political, military, economic and social measures that sometimes are introduced in some localities or on the whole territory of the country with the purpose of enhancing the fighting efficiency and the level of popular and economic readiness on a certain territory, in a situation of imminent armed aggression against our country.

The essence of the classical notion of a "State of Martial Law" and specifically of a "situation of imminent aggression against the country" can be compared to the "introduction of the State of Belligerence in a case of armed aggression" from Art. 15 of the Law on Defence. Moreover, the State of Belligerence is equal to the State of War and they are introduced simultaneously, but the Constitution makes no provisions for "State of Belligerence" and it is evident that the content of this article at the point "if there is danger of aggression" refers to the notion of State of Martial Law, that are mentioned in the Constitution only as a State of War.

The absence of the explanation of the notion "State of Martial Law" in the organic laws that regulate crisis management and the divergences stated above make the introduction of this level of crisis stated in the Constitution and it imposes the reevaluation and improvement of the legislative framework in this domain.

### **3. State of Emergency**

As a result of the analysis of the State of Emergency stipulated in the Constitution of the Republic of Moldova, the same problems were spotlighted as the ones exposed on the State of Martial Law.

The notion State of Emergency is stipulated in the Constitution of the country, but it is not used and regulated by other normative acts in this domain. Furthermore, it is easier to correlate the legislative provisions in effect that determine "exceptional situation" with the constitutional notion "State of Emergency", as the classical notion of state of emergency comprises a set of political, economic and social measures and of public order introduced temporarily in some localities and on the whole territory of the country, in cases of:

- a) Imminence of the introduction of some exceptional situations of a technological and ecological nature, that require the prevention, diminution and liquidation of their consequences;
- b) The existence of some threats to national security or constitutional order which require the defence of the constitutional state and the insurance or restoration of constitutional order.

From the classical notion of "State of Emergency", we can conclude that it is larger than the notion of the "exceptional state" and divides technological threats from threats to constitutional order. This imposes the updating of the Law on the Legal Regime of Exceptional States and Special Forms of Governing of the SSR of Moldova" and the introduction of the notion "State of Emergency".

Today the Law on the Legal Regime of Exceptional States and Special Forms of Governing of the SSR of Moldova (today the Republic of Moldova) adopted on October 10, 1990 is the main legislative act which establishes the political, juridical, economic, social, administrative-organisational and other conditions for declaring an exceptional state on the territory of Moldova as well as the mode of introducing special forms of governing in certain territories of the Republic, determine the peculiarities of the activities of local state authorities and of the state administration under the conditions of special forms of governing, and the mode and conditions for annulling an exceptional state.

#### **4. Exceptional States**

According to the law in effect the declaration of an exceptional state and the introduction of some special forms of governing are aimed at quick normalisation of the situation, the restoration of legality and constitutional order.

Art. I of this law stipulates that the exceptional situation is a temporary measure decreed by the Supreme Soviet of the SSR of Moldova (today the Parliament) or by the President of the SSR of Moldova (today the President of the Republic of Moldova) according to the Constitution and this law is aimed at ensuring the security of citizens, legality and constitutional order in case of natural disasters, major accidents and catastrophes, epidemics, plagues, riots and in other exceptional situations. The decision on declaring

exceptional situation on the territory of the SSR of Moldova is adopted by the Supreme Soviet of the SSR of Moldova by the majority of the deputies or individually by the President of the SSR of Moldova either on his own initiative or at the suggestion of the Government, Local Soviets of Deputies (today District Councils).

Article 2 stipulates that the document on the declaration of an exceptional situation must indicate its motives, terms and the territorial limits of its action. The Supreme Soviet of the SSR of Moldova or the President of SSR of Moldova has the right to annul the exceptional state until the expiration of the fixed term, or to prolong the exceptional situation if the circumstances which served as motives for declaring it have not been eliminated and if the law does not stipulate another way for prolonging it. The decision on the introduction, cancellation and prolonging of exceptional situations comes into effect at the moment of its adoption, if something different is not provided and is brought to the public's notice.

Over time, some stipulations of this law have been changed. The Law on Civil Protection (1994); the Law on the Fire Protection Department 1994; and is specified through: the Decision of the Government of the Republic of Moldova on the Classification of Exceptional Situations Nr. 259, March 1998; the Decision of the Government of the Republic of Moldova on Approbation of the regulations of the Exceptional Situations Department Nr. 1223 November, 2001.

## **The Structure of Crisis Management**

### **1. The Structure of Military Crisis Management**

Aimed at preventing and settling military crises, crisis management is carried out according to the leadership structure of the national military security system of the Republic of Moldova, which consists of the local authorities empowered and responsible for conceiving, planning, organising, coordinating the measures and actions aimed at national defence during peace, a state of emergency, martial law and in case of war.

- The Parliament of the Republic of Moldova is the Supreme Body that can decide on the fundamental problems of military policy and defence of the state.

- The President of the Republic of Moldova is the Supreme Commander of the Armed Forces; he exercises the supreme command of the national system of military security. The Supreme Security Council works as a consultative body of the President and its action is based on a presidential decree. It elaborates and presents to him recommendations on matters concerning the guaranteeing of military security. Since the moment of declaring the state of martial law or of war, the Supreme Security Council is transformed into the Supreme Defence Council and presents recommendations concerning the guaranteeing of state defence; in the territorial-administrative units it forms Territorial Councils of Defence.
- The government of the Republic of Moldova ensures the execution of the measures referring to the state defence by all the ministries and other establishments of central public administration, it carries out management in the area of defence through the central staff of the Ministry of Defence, the Department of Border Guards, the Department of Carabinieri (Gendarmerie) and other structures subordinated to the executive power, whose attributions are stipulated by law.
- The Ministry of Defence is a central public specialised administrative authority; it directs the National Army and is responsible for its training, for the strategic planning of the use of the Armed Forces and for coordinating their training, aimed at ensuring the proper level of national defence.

According to the stipulations of the Military Reform Concept adopted by the Decision of the Parliament of the Republic of Moldova Nr. 1315 - XV of 26 July 2002, in peacetime or wartime the command of the Armed Forces is performed by the Supreme Command of the Armed Forces headed by the President of the Republic of Moldova – the Supreme Commander of the Armed Forces. The Supreme Command of the Armed Forces consists also of the Minister of Defence and the Head of the Carabinieri. If a serving officer, the Minister of Defence is the deputy Commander of the Armed Forces. If the position of Minister of Defence is held by a civilian, the Head of the General Staff of the armed forces becomes first deputy to the Supreme Commander.

The executive body of the Supreme Command, which carries out the strategic planning and command of the armed forces, is the Head of the General Staff of the Armed Forces and also consists of the Heads of the General Staff, of the Border Guards and

Carabinieri, the Head of the Military-Administrative Department and other persons holding high positions, and appointed by the Supreme Commander of the Armed Forces.

The General Staff of the Armed Forces is the body that coordinates the plans for the formation and use of armed forces, their training and mobilisation as well as the equipping of the territory of the country in the interests of defence.

The prerogatives, rights and responsibilities of the leading bodies in the defence domain are regulated by the Constitution of the Republic of Moldova and legislation in effect.

They are aimed at centralised management of the system of military security, strategic planning and operation of the military structure; this includes long-term, medium-term and short-term planning.

The administrative-military actions are organised with a view to organising and performing actions that ensure the country's readiness for defence, the realisation of the legislative provisions in force concerning the record, readiness and equipping of the armed forces with human and technical resources necessary in peacetime, mobilisation in wartime as well as other actions established by law.

The main measures referring to administrative-military actions and the principles of its organisation are established by the government. To carry out the measures planned for the military-administrative domain, administrative-military territorial bodies have been established in the Republic. The Central administrative-military body is the Administrative-Military Department. The administrative-military territorial bodies include military centres, which are active in the territory under the command of the Administrative-Military Department, having the status of an office of regional (municipal) council.

At the directives of the Prime Minister, the heads of the local public administrative-military bodies elaborate measures for ensuring conscription of civilians into military service, mobilising human and material resources and other problems in the defence domain. These measures are compulsory for the execution of all state bodies, public establishments and economic agents (irrespective of the form of property).

## **The Structure of Crisis Management of an Exceptional Nature**

Some particular cases of exceptional situations such as earthquakes, radioactive contamination of territory, catastrophic floods and other calamities of a natural and technological character, demand only the temporary introduction of a exceptional state on the whole territory or on the territory of a region by the leadership of the Republic. The exceptional state includes a set of economic and social measures as well as an increase in the rights of the administrative bodies, which according to the legislation in effect in case of exceptional situations manage the activities.

With a view to forming a unique state policy, coordinating activities in the area of prevention and liquidation of the consequences of exceptional situations, caused by natural, technological disasters, accidents and catastrophes in the Republic of Moldova, according to governmental, Committees for Exceptional Situations are created in all the territorial bodies starting with the government of the Republic of Moldova. The Committee for Exceptional Situations during the exceptional situations is the body which takes decisions, plans, organises and coordinates the activities which carry out the measures connected with the exceptional state. In case of natural, technological and ecological exceptional situations, the coordination and the management of the measure are performed by the government of the Republic of Moldova and it is the executive body of the Committee for Exceptional Situations of the Republic of Moldova.

The Department of Exceptional Situations has the following functions: to conduct directly civil protection on the whole territory of the Republic; to coordinate the actions of the central and local administrative bodies in case of danger of exceptional situations and the liquidation of their consequences; to inform the leading bodies of civil protection in case of danger and the start of natural or ecological exceptional situations; to organise rescue operations and other indispensable actions using the means and civil protection forces; to gather, generalise and present information on exceptional situations; to manage together with the Ministry of Internal Affairs the evacuation of the population to established sites and to keep records.

In exceptional cases the Department of Exceptional Situations forms the coordinating centre which gathers and distributes information on the exceptional situation, prepares suggestions for the decisions taken by the Committee for Exceptional Situations, evaluates the forces and means, transmits the dispositions to the subordinate bodies and monitors the liquidation of the consequences of the exceptional situation.

In case of the unleashing of exceptional situations, the Committee for Exceptional Situations has the following functions: it elaborates dispositions concerning the extraordinary measures for protecting the population and properties, for localising and liquidating the consequences of the exceptional situations; it controls the activities of the Committee for Exceptional Situations, of local public and branch administration and analyses rescue operations and quick reaction measures; it carries out measures for supplying the committees in time with the necessary forces and measures; in exceptional situations, it forbids meetings and other mass activities; it coordinates mass media activity on informing the population about the causes and the proportions of the exceptional situations, about the measures taken by the government for preventing danger, for liquidating the consequences of the situation and for protecting the population as well as the rules of behaviour during exceptional situations; in case of necessity it takes the decisions on the temporary interruption of gas, electricity and drinking water supplies.

Since the declaration of exceptional situations on a certain territory, the Committees for Exceptional Situations of the local public administrative bodies plan, organise and coordinate the activities referring to the taking of the necessary measures based on regulations, adopted by local public administrative bodies.

During exceptional situations, depending on the circumstances the following measures can be taken:

- temporary evacuation of the population from territory where lives are endangered, with the obligatory provision of temporary or permanent housing;
- introduction of a special regime of access to localities of the population;
- introduction of a regime of normative food consumption as well as articles of daily necessity;

- introduction of quarantine and of other sanitary-antiepidemiological measures;
- use of the resources of enterprises, establishments and organisations for preventing and liquidating the consequences of the exceptional situation;
- introduction of a special regime of action for enterprises, establishments and organisations, solving of some problems that concern their activities and that contribute to rescue operations and first-aid operations;
- appointment and dismissal of heads of enterprises, establishments and organisations, interdiction of the dismissal of workers and employees on their own initiative, but for motivated cases;
- introduction in exceptional cases of people fit for work to work at enterprises, establishments and organisations as well as in the liquidation of the consequences of the exceptional situations;
- introduction of special instructions for using the means of communication.

These are the basic principles that regulate the legal bases of the exceptional situations and the measures carried out by the local public authorities for organising the management of the exceptional situations.

To manage the crisis situations connected with accidents, catastrophes and natural calamities on all levels of civil protection, special documents for their management were elaborated.

The most important are: a) plans preparing the management bodies of civil protection forces for work in exceptional situations; b) plans for civil protection against exceptional situations (these are elaborated by all the territorial management bodies); c) an outline of civil protection measures in cases of the danger of an exceptional situation; d) plans for ensuring the measures and actions of civil protection forces (they are elaborated by all the management bodies of civil protection); e) a scheme for organising the management, communications and information flow in exceptional situations; f) estimates of forces and measures of civil protection for liquidation of the consequences of exceptional situations; g) the scripts (plans) of action of Committees for Exceptional Situations; h) instructions for actions in exceptional situations of the duty officers and staff of the Civil Protection Service; i) plans for cooperation with military bodies in cases of exceptional situation.

The management of civil protection in cases of major technological accidents, catastrophes and natural calamities as well as control over civil protection measures are organised by the Committees for Exceptional Situations.

The Committee for exceptional situations of the Republic of Moldova manages the actions of all the management bodies of civil protection through the district, municipal, town, village, ministerial and departmental Committees for Exceptional Situations. The main management board of the Committee for Exceptional Situations is composed of officers and employees of the Department of Civil Protection and Exceptional Situations.

In case of danger and the appearance of exceptional situations the Committee for Exceptional Situations uses the Plan of Defence of the Republic of Moldova against Exceptional Situations. In its chapter 11 are stated the actions of the management bodies of the civil protection forces directed at tackling the exceptional situations, organising the examination and liquidation of the consequences of exceptional situations.

For managing civil protection actions on the spot, in the case of the appearance of major accidents, natural catastrophes and calamities, an operations group is appointed from the members of the Republic's Committee for Exceptional Situations and the Department of Exceptional Situations, in case it needs to be moved to the affected region.

Announcements and information on the situation, orders for action, rules of behaviour and security measures in the affected regions are realised:

- for management bodies, workers, employees and units of civil protection through existing networks, by word of mouth and local systems for announcing potential dangerous objects.
- for the population, through prepared texts or impromptu news bulletins, by local radio stations, TV channels, mobile and stationary broadcasting equipment as well as local systems of information.

The liquidation of the exceptional situations is carried out by the forces and with the means of civil protection under the management of the respective Committees for

Exceptional Situations on the territory of their competence. On all levels scripts (plans of action) are elaborated in advance for exceptional situations for the main categories of exceptional situations. They are kept together with plans of civil protection against exceptional situations.

### **The Structure of Crisis Management in the Context of Combating Terrorism**

The legal and organisational framework of the fight against terrorism in the Republic of Moldova, coordination of the actions of the special antiterrorism structures, of actions carried out by the central and local public authorities, by public associations and individuals as well as the rights, obligations and guarantees of the individuals connected with it are set out in the Law on Combating Terrorism of the Republic of Moldova Nr. 539 from 12 October 2002.

The legal framework of the anti-terrorist s actions consists of the Constitution of the Republic of Moldova, the European Convention on Repression of Terrorism, the principles and norms unanimously recognised by international law, international agreements, the present law and the Decision of the Parliament of the Republic of Moldova Nr 464 from 27 September 2001 and other normative acts that regulate relations in this domain.

#### **1. Management of Anti-Terrorist Operations**

For management of an anti-terrorist operation, an operational group is created headed by a representative of the service of Information and Security of the Republic of Moldova, of the Ministry of Internal Affairs, of the General Prosecutors Office or of the Service of State Protection and Guard depending on the jurisdiction. The actions of the operative group for the management of anti-terrorist operations are regulated by the standard Regulation of the operative group for managing anti-terrorist operations approved by the government. The military, employees and specialists, engaged in the anti-terrorist operation are subordinated to the leader of the operations group.

Taking into account the proportions and the degree of social danger of a terrorist act, the negative consequences that it can cause, a representative of the government can be

appointed leader of the operations group. The leader of the group establishes the perimeter of the unfolding of the anti-terrorist operation and decides on the use of force and methods. The interference of any other person in the management of the anti-terrorist operation is not permitted, irrespective of his/her position.

## **2. The Forces and Means involved in the Anti-Terrorist Operation**

The operations group has the right to involve, according to the method established by the government, the forces and means of the public administrative authorities that have the function to combat terrorism. These authorities offer human forces, weapons, special means and material resources necessary for the anti-terrorist operation.

## **3. The Establishment of a Legal Framework in the Region of the Anti-Terrorist Operation**

In the region where the anti-terrorist operation takes place, the persons participating in the anti-terrorist operation have the right:

- a) to take measures for limiting and banning the traffic of vehicles and pedestrians;
- b) to verify the identification cards and other documents, and in their absence to detain the respective persons for establishing their identity and other circumstances;
- c) to detain the persons that committed or are committing offences or resisting the legitimate requests of the persons that participant in anti-terrorist operation as well as persons who tried to penetrate the region of the anti-terrorist operation without permission;
- d) to enter freely the houses and other buildings on the territory belonging to private persons, as well as the premises belonging to legal entities, regardless of the form of property or the juridical form of the organisation, to use the means of transport of the private and juridical persons with the purpose of stopping the terrorist act, following the persons suspected of committing the terrorist act, if delay can create real danger for people's life and health.
- e) to verify the means of transport, persons and their belongings using technical means at the entry of the zone of the terrorist act;

- f) to use telecommunications and transport equipment belonging to private individuals and organisations irrespective of the form of property or juridical organisation.

The elaboration of a set of draft legislative acts aimed at specifying and defining legal aspects of the problem in question will be a step forward in the development of the Republic of Moldova as a democratic and constitutional state.

## **The Use of Armed Forces**

### **The Use of Armed Forces Within the Country.**

The Armed Forces can be used in peacetime, in order to assure the military security of the state. In accordance with the National Security Concept approved by the Parliament, the main tasks of the military security include, along with the defence of the state against external aggression, the localisation of armed conflicts and the repression of illegal military violence manifested at the country's borders, the support given to state bodies and subunits during implementation of the missions aimed at the establishment of national security. The stipulations in regard to participation in the ensuring of states of emergency and the liquidation of the consequences of emergency cases are provided in Laws on Carabinieri (Gendarmerie) and Border Guards.

At the same time, the Military Doctrine of the country stipulates that separate units and subunits of the National Army can be used to assist the frontier guard and the Carabinieri in the protection of the population against armed violence, in the localisation and blockading of the potential conflict areas, in the prevention of disputes, the defence of important objects and civil protection units, in the liquidation of the consequences of natural disasters, damages and catastrophes, in accordance with the legislation.

The Concept of Military Reform, approved by the Parliament in 2002, specifies the reasons for the use of the Armed Forces in the above-mentioned situations. It stipulates that, during crises, the Armed Forces can participate in accordance with the law, and in cooperation with other states, in the following actions: the prevention of destabilising actions, the neutralisation of terrorist elements, and other illegal armed groupings,

prevention of the proliferation of conventional and mass-destructive arms, intervention in crisis situations in order to protect citizens and basic infrastructures. The Armed Forces may be used in cases of natural disaster, damages and catastrophes at the request of the government, in accordance with the laws. The main restriction related to this chapter is stated in the Law on Armed Forces. It stipulates that the engagement of the Armed Forces in the resolution of problems unrelated directly to state protection be made exclusively on the basis of the Parliament's decision. In cases of states of emergency, the decree of the President of the Republic of Moldova is required.

On a superficial analysis it seems that all the problems linked with the legal framework of the involvement of the Armed Forces in problems that do not directly refer to the issue of defence are solved. Nevertheless, the use of the Armed Forces in the resolution of conflicts arising within the state is a problematic issue.

The legal framework and the experience of other states demonstrates that the use of the army in such kind of situations can be accepted only under restricted conditions. The army should be used only to counteract aggression against the country's constitutional system, and only in cases when the qualified forces aimed at ensuring the state's security and at keeping the public order did not manage to stop the rebels. According to the provisions of the Law on Civil Protection, the government can decide to use the military units of the Ministry of Defence in the performance of rescue works and other works that cannot be delayed under emergency conditions. This settlement contradicts the above-mentioned stipulations, although it seems rational that the decision to use units of the National Army be within the government's competence.

### **The Use Of Armed Forces Abroad**

The main task of the Republic of Moldova's military policy is ensuring the military security of the state, the prevention of wars and conflicts by means of international law.

The use of Armed Forces outside the country is possible only in accordance with the international obligations regarding security and peacekeeping, assumed by the Republic of Moldova, and with the existing Law on the Dispatch of military contingents abroad.

Besides, the respective international treaty should be unconditionally ratified by the Parliament.

One of the strategic missions of the Armed Forces in peacetime is preparations for participation in the peacekeeping operations carried on under UN and OSCE aegis.

The Law on Participation of the Republic of Moldova in international peacekeeping operations is the legal framework for the participation of the country in the above-mentioned operations. Taking into account the Constitution of the Republic of Moldova, its national interests and the international agreements Moldova has signed, the law determines the principles of the participation of the Republic of Moldova in international peacekeeping operations organised and carried out by the international community.

Signing these international agreements commits the Republic of Moldova to offer the international community its peacekeeping forces only for international operations carried out under UN or OSCE aegis, on the basis of a clear and applicable international mandate, after the status of the multinational peacekeeping forces has been determined.

Another relevant issue is the fact that the Republic of Moldova excludes itself from direct participation in international peace-making operations, while allowing its participation in international peacekeeping operations only after a ceasefire between the belligerents has been signed and brought into force.

A decision to send a military contingent from the Republic of Moldova abroad is adopted by the Parliament of the Republic of Moldova, at the suggestion of the President of the country, the Supreme Commander of Armed Forces.

A decision to withdraw peacekeeping forces may be taken in cases when changes in the international military-political situation, are such as to mean that the provisions of the UN Charter, and of the agreement on the status of international peacekeeping forces, are not being observed and in cases when the participation of the Republic of Moldova in the above-mentioned operations can affect its national interests. At the same time, the above-mentioned law provides that its action will not affect the inalienable right of the

Republic of Moldova to individual and collective protection, in accordance with Article 51 of Chapter VII of the UN Charter.

## Bibliography

The Constitution of the Republic of Moldova (*adopted on 29 July 1994*);  
The Law on defence of the Republic of Moldova (*Nr. 964-XI, 17 March 1992*);  
The Law on Armed Forces of the Republic of Moldova (*Nr. 966-XII from 17 March 1992*);  
The Law on Civil Protection of the Republic of Moldova (*Nr. 271-XIII from 9 November 1994*);  
The Law on the Legal Framework of Exceptional Situations and other Forms of Special Governing in the SSR of Moldova (*Nr. 290-XII from 1 October 1990, Veștile Nr. 10/244, 1990*);  
The Law on Combating Terrorism of the Republic of Moldova (*Nr. 539 from 12 October 2002*);  
The Law on the Participation of the Republic of Moldova in International Peacekeeping Operations (*Nr. 1156, Monitorul Oficial 149-151/1106 from 30 November 2000*)  
The Law on State Border Guards of the Republic of Moldova “(*Nr 1316 from 29 December 2000*);  
The Law on Carabinieri Troops of the Republic of Moldova (*Nr. 806-XII from 12 December 1991*);  
The Concept of National Security (adopted through the Decision of the Parliament Nr. 445-XIII on 5 May 1995);  
The Concept of the Military adopted through the Decision of the Parliament Nr. 1315-XV from 26 July 2002);  
The Military Doctrine (adopted through the Decision of the Parliament Nr. 482-XIII on 6 June 1995);  
The Decision of the Parliament of the Republic of Moldova on Terrorism Combat (*Nr. 464 from 27 September 2001, Monitorul Oficial 121-123/870 from 5 October 2001*);  
The Decision of the Government of the Republic of Moldova on the System of Warning, Information, Classification of Exceptional Situations of a Natural and Technological Character and the Enhancement of the Intervention Capacity of the Public Administrative Authorities (*Monitorul Oficial Nr. 30-33/269 from 9 April 1998*);

The Decision of the Government of the Republic of Moldova on the Approval of the Regulations of the Department of Exceptional Situations nr.1223 (*Monitorul Oficial nr. 141-143/1280 from 22 November 2001*);

The Materials of the Conference of the European Centre of Studies on Security George C. Marshall 'Crisis Management in Moldova', (*Chișinău 2-6 April 2001*);

The Bill on the State of Emergency, Martial Law and War



**DEFENCE AND SECURITY SECTOR  
GOVERNANCE AND REFORM IN SOUTH EAST  
EUROPE: INSIGHTS AND PERSPECTIVES**

**ROMANIA**

**A SELF ASSESSMENT STUDY**

## TABLE OF CONTENTS

### **Part One: Summary Security Sector Reform**

- |    |  |   |
|----|--|---|
| 1. | Security Sector Reform in Romania..... | 3 |
|    | <i>Liviu Muresan</i>                   |   |

### **Part Two: Democracy and Defence**

- |    |   |    |
|----|---|----|
| 2. | Democratic and Civilian Control of Defence.....   | 19 |
|    | <i>Nicolae Dolghin and Alina Macovei</i>  |    |
| 3. | Parliamentary Oversight over National Defence.....  | 37 |
|    | <i>Teodora Furior</i>   |    |
| 4. | Defence Planning: System Building, the Role of the Armed Forces and Civilian Control..... | 60 |
|    | <i>Mihaela Matei</i>  |    |
| 5. | Democratic Control of Intelligence and Security Services.....                             | 80 |
|    | <i>Valentina Farcas</i>   |    |

### **Part Three: Government and Society**

- |    |  |     |
|----|--|-----|
| 6. | From Democratic Reform to Good Governance. Military and Civilian Training on Defence Issues..... | 91  |
|    | <i>Julian Fota</i>   |     |
| 7. | Transparency and Accountability.....   | 109 |
|    | <i>Mihail Ionescu</i>  |     |
| 8. | Institutes, Media, Information Policy and Civil Society.....                                     | 128 |
|    | <i>Liviu Muresan</i>   |     |

### **Part Four: International and Regional Influences**

- |     |  |     |
|-----|--|-----|
| 9.  | International Requirements and Assistance for Defence and Security Reform..... | 143 |
|     | <i>Marian Zulean</i>   |     |
| 10. | Peacekeeping and Regional Security.....  | 159 |
|     | <i>Alexandru Nicolae-Cotoară and Marin Bănică</i>                              |     |
| 11. | Crisis Management.....   | 180 |
|     | <i>Floreac Dan</i>   |     |

## **CHAPTER ONE**

---

### **SECURITY SECTOR REFORM IN ROMANIA**

*Liviu Muresan*

#### **1. The New International Security Landscape**

The international security environment registered a dramatic change after the September 11, 2001, terrorist attacks. Until September 11, phenomena like terrorism, drug-trafficking, trafficking in small arms, illegal migration, money laundering acted almost separately. As a result national and international institutions were dealing separately with these phenomena, more or less efficiently. Suddenly, it was discovered that in practice a nexus could be seen of these different phenomena used by criminal domestic and transborder networks as a way to improve the efficiency of their work.

After the tragic September 11 event, mankind is still confused about the causes, the mechanisms of the criminal activities. It has become obvious that the next 9/11 is possible at any time with different targets, resources, techniques and results. The authorities and citizens are still unprepared to face this kind of new situation. Between the intervention in Afghanistan and the attack on Iraq by USA, the alliances against terrorism registered different evolutions.

New relationships between the US and Russia, on the one hand, and between NATO and the European Union, on the other, are marking the international security environment – new partnerships, but also new tensions. Under these circumstances, a lack of time, money, vision or political will, could affect not only national but also international security. From this perspective, Security Sector Reform of the future NATO members seems to be crucial.

There are opinions that these international evolutions have brought a new input for Security Sector Reform. From the perspective of other analysts, ‘the response of states

to the 11 September 2001 terrorist attacks on the United States may slow down the development of a security reform agenda...<sup>1</sup>

## **The Basic Reason for Security Sector Reform in Romania: an Introduction**

In Romania, we can say that there are three basic reasons for security sector reform. The first is associated with the collapse of the Warsaw Pact and Ceausescu's regime. The Romanian people decided that they wanted democracy and a free market system, and so did the other former socialist states.

This basic fact is sometimes overlooked when we speak of 'accession to Transatlantic and European institutions', meaning, essentially, NATO and the EU. Of course, Romania wants to enter these two organisations. However, their 'doors were opened' only some three or four years after Romania began its democratisation process.<sup>2</sup>

NATO and EU set requirements, or conditions. For NATO, for instance, they are more specific and are both political and military, because NATO is a political and military alliance. The EU concerns itself primarily with economic affairs and democracy issues. But requirements emanating from these two institutions cover all aspects of security sector reform.

Moreover, Romania has to adjust its security posture (and set priorities in its reform agenda) because of regional requirements. By necessity, it is more concerned with what is taking place in the Balkans and in South Eastern Europe than NATO candidates like Slovenia, for instance. The 'NATO agenda' is a very important part, but only one part, of

---

<sup>1</sup> Dylan Hendrickson & Andrzej Karkoszka, *The Challenges of Security Sector Reform - Chapter Summary from the SIPRI Yearbook 2002: Armaments, Disarmament, and International Security*, (Oxford: Oxford University Press, 2002), pp. 8-9. '...The response of states to the 11 September 2001 terrorist attacks on the United States may slow down the development of a security sector reform agenda. Increased importance is being placed on developing cooperation with the armed forces, intelligence services and law-enforcement services of other states to identify and eliminate groups and individuals engaged in terrorist acts. There is a risk that security sector reform will become subordinate to anti-terrorism activities in countries where the development of this cooperation is seen as particularly important.'

<sup>2</sup> It has to be mentioned that in July 1990 Romanian Prime Minister Petre Roman addressed a letter to NATO's Secretary-General Manfred Wörner inviting him to visit Romania. The letter also proposes the accreditation of a Romanian Ambassador to NATO. In November 1990, Liviu Muresan, the leader of the majority in the Parliament Assembly proposed officially to the government and Parliament to organise a State Secretariat for European Integration of Romania and to ask Brussels officially to consider an invitation to the country to join the European Community.

the 'security sector agenda'.

As in other Central and Eastern European countries, the deep and extensive process of reforming the security sector is a work in progress in Romania also. The steps taken up to now, and the assessment of the first half of Adrian Nastase's mandate as Prime Minister were encouraging and instrumental for the final decision on Romania's acceptance into NATO (Prague Summit 2002).

## The Framework

The essence of democracy and democratic control over the armed forces were created by the Constitution and laws. In Romania, the 'framework' of democratic control over the military had to be put in place almost overnight, whereas Western countries had decades, even centuries, to construct it.

In their chapter on 'Democratic and Civilian Control of Defence', Dr. Nicolae Dolghin and Alina Macovei provide an overview of the legal framework existing in Romania for democratic and civilian control over the armed forces. The authors highlight the existence of different types of control:

- democratic
- political
- parliamentary
- civilian

Currently, in the specific literature, the phrases 'civil control' and 'political control' are interchangeable.<sup>3</sup>

The authors present the most important Constitutional provisions in this field regarding the prerogatives of the President, the Prime Minister, the government, the Supreme Council of National Defence, the Parliament. Details are offered on the legal framework

---

<sup>3</sup> Rudolf Joo, 'Le contrôle démocratique des forces armées', *Cahiers de Chaillot*, L'Institut des Etudes de Sécurité, L'Union de l'Europe Occidentale, Paris, 1996

in place for the public authorities with decision-taking responsibilities in the security sector.

The integration process will induce further substantial modification of the internal legislation, in accordance with the standards of NATO and EU member states. The changes in the defence field are likely to include:

- renunciation of the constitutional provision that stipulates the obligation of military service (conscription), in order to build up a professional Armed Forces (based on volunteers);
- simplification of the transit and stationing of foreign troops on national territory;
- demilitarisation of other public institutions (Police, Border Police and others);
- improvement of the social protection of the military involved in the personnel downsizing process and of the social status of the military in active service;
- further improvement of democratic oversight over the Armed Forces;
- further improvement of the organisation and functioning of the existing Supreme Council of National Defence.'

The contribution of Teodora Furor in 'Parliamentary Oversight over National Defence' examines the political power given to the Parliament by the Constitution and other laws, and tries to see which of these legal provisions are translated into effective instruments of control, and which of them go no further than good intentions in written words.

The Parliament is the institution that establishes the connection between the armed forces, government and citizens. It mirrors the aspirations of the nation and its dominant political culture, and explains to society the needs and interests of the state. It is extremely important to reconsider the role of legislative institutions as we have moved into a new century full of change, when states are no longer defined by their intact sovereignty, but by their quality as 'member states', 'associated states', 'allied states', etc. The Parliaments have to re-assert themselves vis-à-vis the ever-growing dominance of 'executive governments', within or outside the state. Their work has to be managed and organised in a systematic way. It also has to be supported and administered properly by human and instrumental capacities and facilities. The Parliaments need a strong 'insight for oversight'. '

The essence of parliamentary oversight is to 'grasp the 'dividing line' between the parliament and government: to what extent should the parliament be involved in the activities of government?'.<sup>4</sup> Civil-military relations must be based on transparency, trust, shared responsibility and mutual respect, on efficient division of labour in the field of defence, otherwise the interlocking of the political decision and the military decision can become a critical issue. Making the functioning of the parliament and the defence sector transparent means also promoting awareness of human rights and security issues among the public and civil society. During the last decade, a high level of public and political attention was devoted to defence in Romania. But attention is not always translated into awareness, either among the public at large, or among members of parliament.

The chapter focuses on the Parliament's oversight process, a short description of Parliament and legislative procedure, the Constitutional and legal provisions regarding parliamentary oversight, with a special reference to defence and security, the legislative function as a means of control, Parliamentary oversight through the budget law, Parliamentary Committees for Defence, oversight of Intelligence Services, access to classified information, and Parliamentary oversight over Romania's participation in peacekeeping operations.

The author notes that pro-active, bipartisan parliamentary committees examine defence, and security matters but they are not very well resourced. The use of external experts from NGOs, academics and other independent think-tanks or research institutes is considered unsatisfactory.

Thus most of the parliamentary committees are confronted with a lack of professional staff and an extremely small research staff. The scarcity of resources is one of the biggest impediments in exercising efficient parliamentary oversight.

---

<sup>4</sup> H. Born, 'Learning from Best Practices of Parliamentary Oversight of the Security Sector', *DCAF Working Papers*, No. 4.

Another difficulty of parliamentary oversight may be considered in some situations the political willingness of parliamentarians to use their constitutional powers and to keep the government accountable.

In spite of differences in domestic policy, there is a solid cross-party commitment to foreign policy objectives. Without a strong opposition or a minority opinion, a vigorous parliamentary debate on security issues is hampered.

Brigadier-General Mihail Ionescu, in his presentation on 'Transparency and Accountability', outlines the creation of a new legal framework which, in accordance with the Constitution and embedded with the democratic principle of Parliamentary control over the military, has shaped a new system that has been in place and worked effectively for several years. This system comprises the Parliament, the President of Romania, the Supreme Council of National Defence, the government, the Ministry of National Defence, the Ministry of the Interior, the Romanian Foreign Intelligence Service, the Romanian Intelligence Service, the Protection and Protocol Service, the Special Communications Service, the Office of the Government for Special Problems and the State Reserves. Notably, a Ministry for Parliamentary Relations has been established to coordinate the activities of the Executive vis-à-vis the Parliament. Each Ministry also has a State Secretary responsible for parliamentary relations.

The two main aspects for guaranteeing full parliamentary control over the above-mentioned authorities are:

- ensuring broad transparency of the process of drafting and implementing security and defence policy
- accountability for actions taken.

The author discusses transparency issues in connection with:

- the Parliament and the government, regular information to the deputies and senators

- parliamentary instruments such as addressing questions and interpellations to the government
- cooperation between the Parliament and the government through the Ministry for Parliamentary Relations, regular dissemination of information to society and institutions

He further illustrates areas of accountability, e.g. – policy development with a focus on national strategies in the field of defence and security; – policy implementation; – instruments of control by Parliament: granting of a vote of confidence to the government, engaging government responsibility for a specific programme, a general political declaration or a draft law, the suspension and impeachment of the President, asking for penal indictment of government members for actions pursued in the exercise of their public function.

The author underlines the need for an improvement of the law-making process and of the whole political system in order to sustain the citizen's rights and European integration, an economic re-launch by the continuation of privatisation, restructuring and modernisation, a reform of the social security system and the enhancement of social cohesion and solidarity. There is a strong need for a better education system in accordance with the requirements of the new information society and the cultural framework of European and Euro-Atlantic integration.

In the chapter on 'Defence Planning: System Building, the Role of the Armed Forces and Civilian Control', Mihaela Matei starts from the role of civil society in debates related to risks to national security, missions of the armed forces or the role of security sector institutions considered poor or irregular in many cases.

Romania was to some extent a pioneer among Central and Eastern European states in the creation of a national defence planning system, starting with 1998. The process of development of specific documents, concepts and regulations could be divided into three inter-related stages of development:

- the first one consisting in the adoption of ordinance 52/1998, that defined as the main planning documents the National Security Strategy (NSS), the government's White Paper on Security and National Defence (GWP) and the National Military Strategy (NMS)
- the second focusing on ensuring the appropriate implementation of the legal provisions regarding the defence planning process
- the third stage, currently unfolding, characterised by a more profound approach to civil-military relations at the MoD level.

The author stresses the importance of improving defence planning procedures and inter-agency cooperation. She shows that there are still difficulties in building a new military culture and overcoming system inertias to ensure substantial civil-military relations in the defence planning process.

No such significant advancement has however been made in involving civil society in the national security strategy drafting process. Inadequate communication between state structures and independent experts, the low level of expertise on security and defence issues of non-governmental institutions, the evolution of public or media debates, often too politicised, have contributed to the low profile of civil society in security and defence issues.

Both military and civilians had to face the task of re-defining the armed forces' role and shape in a new environment, where the absence of a clearly defined external threat has complicated classical approaches to plans and scenarios in force-building. The process is therefore dual: not only creating a new military thinking, but also developing a culture of understanding in military affairs among civil servants and policy-makers within the MoD.

The author suggests that new security missions for the armed forces could contribute to the strengthening of civilian oversight and bring fresh civilian expertise into military affairs, as in the case of defence diplomacy tasks where civilian leadership has to cooperate directly with specialised military structures in promoting forms of military cooperation, assistance or information-sharing.

Iulian Fota, in his contribution ‘From Democratic Reform to Good Governance. Military and Civilian Training on Defence Issues’, analyses the civil-military relations from the point of view of good governance<sup>5</sup>, of military servicemen’s capacity to understand the new requirements that come from the fact that contemporary military professionalisation requires knowledge of international organisations, interagency stratagems and procedures in multinational bureaucracies, and on the other side, the fact that civilians must have very good knowledge of defence policy, defence planning, force structures, etc.

The author highlights the fact that during the past two years, the development of military education in Romania was increasingly influenced by the preparation of the military establishment for integration into NATO.

Referring to the latest programmatic documents adopted by the MoD, he considers that it recognised the fact that the MoD does not yet have a global strategy for attracting, selecting, training and using personnel with a real potential for holding positions within NATO structures and denounced the fact that up to now the training offered to military and civilian personnel has not aimed at the development of professional competence in accordance with NATO’s procedures, principles and working standards. One of the tasks pursued as a priority by this document was that of reorganising the training programmes of civilian and military personnel in accordance with the requirements of Romania’s integration into NATO.

The author considers that the efficiency of Romania’s Parliament in exercising democratic control is rather low due to:

---

<sup>5</sup> In Romania, the concept of ‘good governance’ entered into the vocabulary relatively late and mainly within the academic environment. It is generally accepted in a wider sense of competent management of the country’s general resources in order to increase living standards. Probably, the factor that would impose ‘good governance’ as a current practice in Romania is the EU, a first step in this sense being made through the translation, by the EURISC Foundation, of the document ‘The European Governance: the White Book’ (Brussels, COM(2001)428 end), elaborated by the European Commission. On page 10 of this document, the five principles of good governance are stipulated.

- most MPs who are members of the specialised commissions not having training or experience on specialised issues;
- the reports and documents supplied by the expert structures within the Parliament mainly covering issues of general interest, the basic information source being the Internet, thus reflecting the limited capacity of analysis of these structures;
- the tendency of controlling structures to drive the specialised oversight commissions into a relationship of dependency.

In his chapter on 'Institutions, the Media, Information Policy and Civil Society', Dr. Liviu Mureşan underlines the importance of access to information of public interest for civil society, the role of the media and that of institutions in charge of ensuring transparency, such as the Presidency, the government, the Parliament, the Ministry of Defence, the Ministry of Foreign Affairs and other ministries.

The latest annual report *Nations in Transit*, which devotes considerable attention to the state of civil society, non-government organisations, the media and the government, says that Romania has a political system fraught with difficulties... (where) the system is fragile but not unstable, civil society is relatively vibrant but still lacks resources and funding, a large portion of the Romanian media has been privatised and is relatively independent, that Romania's constitution guarantees access to information, but governmental officials can hamper direct contact with ministerial officials and therefore journalists frequently rely on unofficial sources. Evidently, the state health of civil society has improved and is improving, but in Romania it is not entirely sound.

The author shows that according to the Media monitoring Agency, Academia Catavencu, in its report on the Freedom of Speech in Romania (October 2002) 'in the two years of PSD governance, Romania registered a significant regression in terms of freedom of expression.'

An important assessment of the real functioning of the Law 544/2001 on the access to public information was carried out by one of the leading Romanian daily newspapers.

The results of the investigation lead to some positive but also some negative conclusions:

- There are very many state institutions that do not obey and apply Law 544/2001 regarding free access to public information, even though the law was implemented in December 2001. Institutions that do not intend to apply the law or others that are only now setting up information offices fall within this category.
- In some institutions that already have public relations offices, the law is not correctly applied; the answers to peoples' requests for information are done in a selective way and the deadlines for replying are at the whim of the public servants.
- In some cases, functionaries who have nothing to do with implementing the law register the citizens' requests and there is no confirmation for this.
- In some cases, the information requests are directed to media relations offices despite the fact that the law clearly specifies that public relations offices should be organised. According to the law, media relations' offices should deal only with requests coming from the journalists.
- Institutions such as the Senate, the Police, the Ministry of Justice, Ministry of Finance, Ministry of Health, Ministry of Education, Romanian National Television, and The Ombudsman have failed to solve this problem according to the law.
- In the case of the Romanian Senate, the institution that voted the law, the official answer was that a PR office could not be established before January 2003 due to lack of funds. The Minister of Health has not yet considered the idea of organising a public information office.
- Many institutions use the need for time and specialised personnel for establishing Internet teams/offices as an excuse for not implementing the law faster despite the fact that a very small percentage of the Romanian population has access to the Internet and the clear prescription of the law that 'every citizen should have unrestricted access to information of public interest'.
- A positive conclusion is that the institutions that deal with the smallest amount of information of public interest, the Romanian Intelligence Service (S.R.I.) and Foreign Intelligence Service (S.I.E.) answered (almost all) the journalists' questions promptly.

- The conclusion is that the government should urgently take some action in order to oblige the public institutions to implement the law, to make it a real instrument in the fight against corruption with the direct support of the population.

Thus, the author concludes that the attitude of the administration in the process of EU and Euro-Atlantic integration should not be regarded as the responsibility of a specific institution and civil servants, but of the mechanism as a whole. The implementation of Law 544/2001, regarding free access to public interest information, is not only a matter of the credibility of the Nastase Government, but of the credibility of Romania.

The contribution on 'Crisis Management' by Dr. Florea Dan defines the concepts of 'emergency situation', 'civil emergency' and 'crisis management'. He further focuses on procedures for recognising a crisis situation, for example who should declare it, who should act, when to use force and cooperation among the different actors.

The author considered that Romania does not have a coherent and integrated strategy and a national crisis management system that would take into consideration the characteristics, dimensions and complex consequences of these risks, mainly non-military, multidirectional and unpredictable.

It is considered that legislation on this subject is incomplete ... Romania does not yet have a national integrated system with specialised permanent structures and expertise, capable of evaluating potential crisis situations

The Romanian Constitution recognises only a limited number of exceptional situations whose proclamation belongs strictly to the competence of the President. It follows that no other authority has the prerogative of declaring a state of crisis or of civil emergency. As a result of the existing legal ambiguity in recognising that in Romania, at national or regional level, conditions could be created for the emergence or manifestation of crisis situations, it is difficult to appreciate who should declare the existence of such a situation and when.

Nevertheless, it must be underlined that Romania does have a system for the management of natural and/or technological disasters; such situations are considered

most of the time civil emergencies rather than crises for which a state of emergency or of siege should be declared.

Experts from various fields involved in the analysis and management of crisis phenomena try to work out the necessary concepts for building a national system of crisis management in Romania, starting from a European and global definition of a crisis situation and adapted to the specific conditions of the country.

In addition, this chapter shows how the Romanian system relates to other systems in the region and at international level.

The performance of the national system of civil emergency management can be appreciated only in the context in which this system is integrated into the network of a regional, European and international system, based on common structural, functional and operational procedures.

The last two contributions highlight the international dimension of the reform, as well as the efforts made to ensure compatibility of the Romanian security sector with international developments.

Thus, the contribution on ‘Peacekeeping and Regional Security’ by Col. Nicolae Cotoară and Col. Marin Bănică focuses on Romanian participation in Peace Support Operations (PSO) in the Balkans as one of the modalities to contribute to common regional crisis management. The substantial Romanian participation in PSO proved its capacity as a provider of security and a factor for stability in the region as well as its competence as a NATO candidate.

The experience gained in the Romanian participation in peace support operations is very useful in all military units, taking into consideration that so far more than 8,000 Romanian military personnel have participated in different missions in the theatres of operations. This experience has permitted the adaptation of training programmes to the real conditions in the theatre and to equip forces according to real needs.

The authors underline the Benefits of PSO for Romania. Participation in peace support operations and in military regional initiatives offered the possibility of preparing, equipping and training Romanian military units to NATO standards, to work together with NATO countries.

The regional community is part of the Euro-Atlantic community and regional cooperation is a good exercise for future integration in NATO and the EU. This cooperation leads to good-neighbourly relations between Romania and the other states in the region.

This participation has offered the opportunity for Romania to make contributions in the regional security field as a stability factor and provider of security, to gain international experience and to exchange experience with different states in the region, from both the theoretical and practical points of view.

The new stability of the region is the best environment for national security, and the expenditure in this field can be used in a better way.

The authors also indicate that in PSO there are perspectives for further developments. Having in mind the high level of interest of the countries in regional involvement, we can expect a future improvement of the relations among states and identify new common interests and values.

In the near future, full integration in the regional structures is possible for some states that are still outside them. Stability and cooperation can be expanded into the neighbouring areas where it is necessary.

As a stability factor and security provider, Romania affirmed its commitment to develop its participation in peace support operations and regional military initiatives and to improve the quality of this participation, even after the Prague Summit.

Marian Zulean in the chapter on 'International Requirements and Assistance for Defence and Security Reform' focuses on the international requirements and the assistance received by Romania from NATO and other international organisations, to ensure compatibility in peacekeeping operations.

Assistance for defence and security reform is an important issue of the process of democratisation of East European countries, but the historical legacy of the Cold War was an obstacle that it blocked a coherent and consistent programming of Western aid. Sub-programmes for fostering the Parliament's expertise, transparency of the media, political decisions and budgeting, advocacy for NGOs dealing with security or military programmes have comprised almost all of democratic civil-military relations. But the resources allocated were too low compared to the needs and regional expectations. Moreover, in the first years of transition, the majority of aid and support went to the 'Visegrad countries' that eventually became NATO members.

The author's opinion is that the best way to assess the impact of assistance for democracy as proposed by Thomas Carothers<sup>6</sup> is to understand the effects. For Romania, he estimated that US and Western democracy aid had positive effects in a number of sectors. The most important was aid to hold democratic elections, to reform major state institutions, especially the judicial system and the Army, and assistance to civil society.

Therefore, in Romania, Western assistance was essential in building democratic institutions, particularly a democratic civil-military pattern. But this is not the end of the process, a coherent programme on assistance to foster the institutions, help civil society to grow and aid development of the mechanisms of civilian control must continue. Otherwise, the institutions would remain fragile and could fail due to political or economic failure. A British landowner once told an admiring visitor that to grow a good green lawn you need some grass seeds and about 500 years. Therefore, it takes time for the mechanism of civil-military relations to work properly and needs clear vision and continuous support.

Among the numerous opportunities, the Pfp has been a good training school for making the Romanian Armed Forces (RAF) compatible with NATO forces. Bilateral military assistance programmes also played an important role in making the RAF more professional, in setting up a multi-year defence planning system and reorienting the

---

<sup>6</sup> Thomas Carothers, *Assessing Democracy Assistance: The Case of Romania*, (Washington, D.C.: Carnegie Endowment for International Peace, 1996).

Armed Forces towards regional security requirements. However, the systematic approach and inclusion of intelligence, domestic forces and defence industry in the assistance programmes came rather late and many things still need to be done in this respect.

The sincerity of the words of Adrian Nastase's government team and of the new leadership in the components of the Romanian Security Sector has to be followed by more energetic steps to keep up the momentum of NATO's interest in having Romania as an active member of the Euro Atlantic security community.

The results of good governance will be the best signal to be sent from Bucharest in this very period.<sup>7</sup>

---

<sup>7</sup> Making a candid analysis of the country, 'The New York Review of Books' published an article 'Romania: Bottom of Heap' in which they quoted the British historian R.W. Seton-Watson who wrote in 1934 'Two generations of peace and normal governance could make Romania a heaven on Earth'; quoted in Tony Judt, *The New York Review of Books*, 11 November 2001.

## CHAPTER TWO

---

### DEMOCRATIC AND CIVILIAN CONTROL OF DEFENCE

*Nicolae Dolghin and Alina Macovei*

#### Introduction

The Armed Forces are equally part of the political society and the society which, if needed, they defend. For quite some time now, we have witnessed more and more challenging debates on civil-military relations.

Different phrases were used to name this type of control: democratic control, political control, parliamentary control or civil control. Though the area of these concepts partially overlaps, they are not identical entities, they rather express the types of control provided by the law and put into practice by various public authorities. Still, there are authors that say that certain terms are identical: “Currently, in the specific literature, the phrases *civil control* and *political control* are interchangeable”<sup>1</sup>. Here, the concept *civil* means the prevalence of the civil structures, grounded in the people’s sovereignty, in the defence and security decision-making process.

Civil democratic control of the military can be defined as all the prerogatives the Constitution and the Law confer on the authorities of the political society – democratically elected or legally established – necessary to set the legal frame for the organisation, functioning and responsibilities of the military body. They are also necessary in order to establish the limits of action and to check the extent to which the activity of the military body observes the legal provisions and the decisions of the competent authorities.

---

<sup>1</sup> Rudolf Joo, ‘Le contrôle démocratique des forces armées’. *Cahiers de Chaillot*, L’Institut des Etudes de Sécurité, L’Union de l’Europe Occidentale, Paris, 1996.

## **The Constitution and Law**

The Romanian Constitution was adopted through national referendum in December 1991. It stipulates, *inter alia*, the main prerogatives of the Romanian public authorities in the area of national defence, and article 118 of the fundamental law is about the Supreme Council of National Defence. Since its promulgation, Romania has begun an intense transformation process of the old legislation according to the prescriptions of essential law, including in the field of defence. Today, in Romania, there is no law relating to defence issues adopted before 1990.

The constitutional provisions relative to the field of defence reflect the main concerns of the new political institutions established after the December 1989 revolution. Among others, one of the most important was to build the judicial framework for the depolitisation of the Armed Forces and their subordination to the appropriate political authorities emerging as a result of free elections. The Armed Forces thus joined other arising democratic institutions in Romanian society.

The Constitution also legalised the domestic solutions aiming at dealing with risks and threats emerging in such an unstable and explosive area as Eastern and South-Eastern Europe at the beginning of the 20th century.

As stipulated by the Constitution, the Parliament of Romania is not only the Romanian people's supreme representative body, but also the sole authority that makes the laws of the country. The Parliament passes organic, ordinary and constitutional laws.

As regards defence issues, the Parliament's crucial role is manifested in the legal framework it creates for the armed forces. It refers to the role of the military body; the budget, its size and structure; Romania's National Security Strategy; ratification of international military treaties and agreements; preparation of the population, economy and territory for defence; the conditions of state of siege or emergency; other legal documents that have an impact on armed forces activity; the strategic requirements and priorities incumbent on the military institution during certain periods.

The Parliament gives its vote of confidence to the government's Programme and composition, which includes the Minister of National Defence. Other forms of the Parliament's control are: accounts, reports, information, documentation, messages, programmes, etc, which often refer to the armed forces' tasks.

The Parliament's Defence, Public Order and National Security Commissions are mainly responsible for the thorough analysis of all draft laws, government ordinances and emergency ordinances, of all legislative proposals submitted to the Parliament that refer to matters of interest to the armed forces. The Parliament also exerts its control by means of questions and interpellations which, as stipulated by the Constitution, must be answered by the "Cabinet and each of its members".

Besides the prerogatives of the President, the Parliament, the Prime Minister, the government and the Supreme Council of National Defence, the Constitution makes the following provisions too:

- subordination of the Armed Forces exclusively to the will of the people to guarantee the sovereignty, independence and unity of the State, the country's territorial integrity and constitutional democracy;
- access to public duty or dignity, civil or military, is granted to persons of Romanian citizenship and whose residence is in Romania;
- active members of the Armed Forces, policemen and other categories of civil servants, established by organic law, are not allowed to join political parties;
- any service of a military character or activities performed in place thereof by those who, according to the law, are exempted from compulsory military service conscription due to religious beliefs do not represent forced labour;
- citizens holding public offices, as well as military people loyally fulfilling the obligations they are bound to, and shall, for this purpose, take oath as requested by law;
- citizens have the right and duty to defend Romania;
- military service is compulsory for all Romanian male citizens aged 20, except for cases provided by law;
- for training in active military service, citizens may be conscripted up to the age of thirty-five.

At present, all political parties represented in the Parliament have agreed on the need to revise the Constitution, and, in this regard, discussions are going on at the political level.

These modifications will probably reflect the changes in Romanian society during the last 11 years since the adoption of the Constitution, and the positive changes in the European and global security environment as well as the need to support the joint Euro-Atlantic and European efforts. The new provisions will, certainly, deal with national defence issues, too. Probably, some revisions will occur in the next two years.

According to the existing Constitution, the President of Romania may initiate its revision on proposals from the government, or of at least one-quarter of the members of the Chamber of Deputies or Senate, or of at least 500,000 citizens with the right to vote from at least half of the counties of the country.

The Chamber of Deputies and the Senate must adopt the draft or proposals of revision by a majority of at least two-thirds of the members of each Chamber of the Parliament.

## **Constitutional Provisions for Public Authorities with Prerogatives in Defence**

### *The President of Romania*

The President of Romania represents the Romanian State and is the safeguard of the independence, unity and territorial integrity of the country, guards the observance of the Constitution and acts as a mediator between the Powers of State, as well as between the State and society, and is elected by universal, equal, direct, secret and free suffrage.

The President of Romania may consult the government on urgent, extremely important issues, may participate in meetings of the government debating subjects of national interest relative to foreign policy, defence, national safety and public order as well as other matters (on the Prime Minister's request), and presides over the government meetings he attends.

Also, the President may, after consultation with the Parliament, ask the Romanian people to express, by referendum, their will on subjects of national interest.

The President of Romania is the Commander-in-Chief of the Armed Forces and President of the Supreme Council of National Defence. He may declare, with the prior approval of the Parliament, partial or general mobilisation of the Armed Forces. Only in exceptional cases shall the mobilisation decision of the President be submitted for approval to the Parliament within five days of its adoption.

In the event of an armed aggression against the country, the President shall take measures to repel the aggression, and shall promptly bring them to the knowledge of the Parliament. If the Parliament is in session, it shall be convened *de jure* within 24 hours of the outbreak of the aggression.

In compliance with the law, the President has the capacity to bring in a state of siege or emergency in the whole country or in a part of it, and shall request Parliament's approval of the established procedures within five days of their adoption.

The President of Romania has also the following powers: to confer decorations and titles of honour; to award the ranks of marshal, general and admiral; to appoint people in some public offices, in accordance with the terms provided by law.

#### *The Government of Romania*

The government ensures the implementation of the domestic and foreign policy of the country, in accordance with its Governmental Programme accepted by the Parliament, and exercises general management of public administration. In the exercise of its powers, the government cooperates with the social bodies concerned.

Membership of the government is incompatible with the exercise of any other public office in authority except the office of a Deputy or Senator. Likewise, it is incompatible with the exercise of any office or professional representation paid by a trade organisation.

The Romanian government adopts decisions on the implementation of laws and ordinances. The Prime Minister signs the decisions and ordinances adopted by the government. These are countersigned by ministers who are bound to act to carry them out, and published in the Official Gazette of Romania. Decisions of a military character are communicated only to the institutions concerned.

Within the Parliamentary control over its activity, the government shall be bound to present any information and documents requested by the Chamber of Deputies, Senate or by Parliamentary Commissions. Members of the government are allowed to attend the proceedings of Parliament and, if they are requested to be present, their participation is obligatory. The government and each of its members are bound to answer questions or interpellations raised by the Chamber of Deputies.

The Parliament may pass a special law enabling the government to issue ordinances in areas outside the scope of organic laws. In exceptional cases, the government may adopt Emergency Ordinances which can come into force only after their approval by the Parliament.

#### *The Prime Minister*

The Prime Minister directs government's actions and coordinates the activities of its members, in accordance with the powers and duties incumbent on them, and submits to the Chamber of Deputies or Senate reports and statements on the government's policy.

#### *The Supreme Council of National Defence*

The Supreme Council of National Defence is the administrative and autonomous authority that is responsible for unitary organisation and coordination of activities concerning the country's defence and national safety.

### *Laws and Normative Acts on Defence Affairs*

- Law 45/1994 regarding the National Defence of Romania;
- Law 73/1995 regarding the preparation of the National Economy and Territory for Defence;
- Ordinance 46/1996 regarding Romania's National Defence Planning;
- Emergency Ordinance 1/1999 regarding the State of Siege and Emergency;
- Emergency Ordinance 14/2001 (ratified by Law 389/2001) regarding the organisation and functioning of the Ministry of National Defence;
- Law 90/2001 regarding the organisation and functioning of the Romanian Government and Ministries;
- Law 415/2002 regarding the Supreme Council of National Defence.

### **Provisions of Laws and Normative Acts**

#### *The President of Romania*

The law regarding the national defence of Romania (45/1994) stipulates that, for collective security and in compliance with the assumed obligations deriving from international treaties that Romania is a party to, the president may ask and submit to the Parliament for approval participation with contingents and military equipment in the building of international forces for peacekeeping and humanitarian operations.

Also, exercises and military operations of the Armed Forces that imply the presence of foreign military units on the territory of Romania must be approved, for each case, by the Romanian Parliament on a request from the President.

#### *The Government of Romania*

The Romanian Government is responsible for the activity, organisation and implementation of the procedures regarding national defence, and has the following prerogatives:

- a) to coordinate the ministers' and other activities of the authorities of public administration in order to ensure the country's defence capacity;
- b) according to the law, to provide the allocation and utilisation of material and financial resources in order to organise, equip and mobilise the Armed Forces, to maintain the troops in good condition and train them, to keep technology and armaments in a proper state, and to achieve the defence investment programme;
- c) to establish the main duties of the ministries and an economic mobilisation plan for the first year of war;
- d) to make available, during peacetime, material stocks for defence needs as well as for the population during wartime;
- e) to direct, through the Prefects (government's local representative), the specific activities of the counties and Municipality of Bucharest.

In compliance with the Ordinance on National Defence Planning (no. 52/1998), in order to carry out the provisions of the National Security Strategy of Romania, the government, according to its programme accepted by the Parliament, draws up a White Paper on Security and National Defence that stipulates the main objectives and missions for the institutions involved in national defence, measures and actions, as well as natural, human, material, financial and any other resources that must be provided on a yearly basis, in order to set up and prepare the forces taking part in national defence and security according to their specific missions.

#### *The Prime Minister*

According to the law regarding the organisation and functioning of the Romanian Government and Ministries (90/2001), the Prime Minister directs the government's actions, coordinates its members' activity, in accordance with the prerogatives and duties incumbent on them, and represents the government in its relations with the President of Romania, Parliament, the Supreme Court of Justice, Constitutional Court, Court of Audit, Legislative Council and Public Minister, with other public authorities and institutions, parties and political alliances, unions and non-governmental organisations (NGOs) etc, as well as in international relations.

### *Supreme Council of National Defence*

According to the stipulations of the Law regarding the organisation and functioning of the Supreme Council of National Defence (415/2002), its activity is submitted to the Parliament for consideration. The Council presents to the Parliament annual reports on the activities it has performed.

The President of Romania presides over the Council; the Prime Minister is its vice-president, while the ministers of national defence, the interior, foreign affairs, justice, industry and resources, the directors of the Romanian Intelligence Service and Foreign Intelligence Service, as well as the chief of General Staff and Senior Presidential Adviser for National Security are members.

The meetings of the Supreme Council of National Defence have a confidential character and are convened by its president, but also at the request of at least one-third of its members. Its decisions are adopted by consensus and communicated to the concerned authorities of the institutions of public administration; its members are responsible for the implementation of these decisions.

According to the law, the Supreme Council of National Defence has the capacity to promote the National Security Strategy, military and other departmental strategies, to proclaim a state of siege or emergency, to declare mobilisation, to settle issues regarding the national economy, the population and preparations for territorial defence, to notify the draft judicial acts referring to national security and, in general, to deal with all other issues stipulated by law and relating to national defence and security.

The law on national defence also contains the following provisions:

- the adopted measures in the field of national defence are binding for all citizens, public or private authorities, institutions and economic organisations.
- during wartime, the General Headquarters is established at strategic level, which will direct military actions and will be directly subordinated to the Supreme Council of National Defence; the chief of the General Headquarters will be appointed by the President of Romania, on the proposal of the Ministry of National Defence.

- Romanian citizens fit for military service cannot be appointed to high public office in institutions of authority, if they have not carried out military service for reasons imputable to them.

### *Ministry of National Defence*

The main prerogatives, organisation and functioning of this ministry are provided by Emergency Ordinance 14/2001, approved by Law 389/2001. This Ordinance was elaborated and adopted soon after the new government was formed following the autumn 2000 parliamentary elections. The laws and normative acts described in the second chapter provide some other prerogatives and powers in the field of national defence.

According to this ordinance, the Ministry of National Defence is a specialised body of the central public administration, subordinated to the government. It directs all activities relating to national defence (in accordance with the laws and National Security Strategy provisions) and guarantees the sovereignty, unity and independence of the State, the country's territorial integrity and constitutional democracy. The Ministry of National Defence is responsible for its entire specific activity aimed at putting into practice the constitutional and other legal normative acts, for the decisions of the government and the Supreme Council of National Defence, as well as for the implementation of treaties that Romania is a party to.

In the exercise of its prerogatives, the Ministry of National Defence cooperates with other ministries and specialised bodies of central public administration, with local authorities of the public administration and autonomous public authorities, NGOs, as well as with economic agents.

The organisation of the Ministry of National Defence consists of central structures subordinated to the minister of National Defence:

- the Department for Euro-Atlantic Integration and Defence Policy;
- the Department for Parliamentary Liaison, Legislative Harmonisation, and Public Relations;

- the Department for Armaments;
- the Inspectorate of the Ministry of National Defence;
- The General Secretariat;
- The General Directorate for Defence Intelligence.

The General Staff of the Armed Forces, the High Command, the directorates, the military educational institutions, the research institutes and other structures are also subordinated to the Ministry of National Defence.

The personnel of the ministry consist of military and civilians.

#### *The Department for Euro-Atlantic Integration and Defence Policy*

This department coordinates the process of Euro-Atlantic integration and the development of the international military relations; it is responsible for putting into practice defence policy; ensures integrated defence planning; manages the scientific research activity in its own area of responsibility. Since its establishment, a civilian Secretary of State has directed the Department for Euro-Atlantic Integration and Defence Policy.

#### *The Department for Parliamentary Liaison, Legislative Harmonisation and Public Relations*

This department ensures the relations with the Parliament, other public institutions and NGOs; coordinates legislative activity; supports draft laws in the Parliament; guides the harmonisation process of defence-related legislative activities with NATO and EU member-states; leads public relations activities and scientific research in its own area of responsibility. A civilian Secretary of State directs it.

#### *The Department for Armaments*

This department is responsible for the acquisition of military equipment and manages scientific research activity in its own area of responsibility. A civilian Secretary of State directs it.

The State Secretaries are appointed by decision of the Prime Minister on the proposal of the Minister of National Defence.

*The Inspectorate of the Ministry of National Defence*

Performs specific oversight and evaluation prerogatives regarding military activities. A General-Inspector appointed by the Minister of National Defence directs it.

*The General Directorate for Defence Intelligence*

Is the structure that is responsible for the collection, processing, verification, saving and the capitalisation of information and data regarding external and internal, military and non-military factors of risk and threat to national security. It ensures the protection of security information and cryptographic activity as well as the geographical information needed by the Armed Forces. A General Director appointed by decision of the Prime Minister on the proposal of the Minister of National Defence directs it.

The other Directorates carry out specialised functions in their respective fields of activity. The Minister of National Defence appoints their Directors.

The Ministry of National Defence has the following important specific responsibilities:

- analyses and proposes to the Supreme Council of National Defence and to the government the necessary measures to ensure the capability to defend the country;
- implements measures adopted by the Supreme Council of National Defence and the government with reference to the Armed Forces;
- is responsible for the Armed Forces fighting capacity;
- sets up, dissolves, deploys and redeploys in peacetime units up to brigade level;
- draws up draft laws regarding national defence and ensures the harmonisation of these documents with those of NATO and EU countries;

- coordinates NATO and EU integration policy for the subordinated structures; maintains and develops political-military cooperation with other states; and ensures the representation of the Romanian Armed Forces to the Armed Forces of other states;
- manages the activity of intelligence, protection and military security;
- draws up budget proposals for Armed Forces financing and is responsible for its implementation and approval; assures the good development of financial bookkeeping activity;
- carries out defence planning in the framework of the available resources;
- is responsible for the training of the High Command and the preparation of the active forces;
- leads military education;
- ensures observance of the environmental protection standards by the military;
- organises and leads military public relations activity;
- establishes methods of organisation, working and jurisdiction of honour and trial councils;
- draws up rules regarding the provision, use, maintenance and restoration of the armaments, military equipment and other provisions, as well as the rules regarding the consumption of ammunition and other materials; establishes the norms regarding material and financial planning, the deduction, the accounting and the control of the material and pecuniary means needed by the subordinated structures;
- leads, guides and coordinates external trade concerning the import and export of military-related products and their references;
- elaborates military regulations and directions for military personnel; brings out military-related publications;
- leads the research and design activity of the subordinated structures;
- leads inspections, controls and internal audits in all subordinated structures;
- analyses the country's defence needs and proposes to the constitutional authorities measures regarding the organisation and the endowment of the Armed Forces, the preparation of the economy, population and territory for defence;

- organises in peacetime the preparation for mobilisation of the population; makes proposals for the declaration of general or partial mobilisation and leads its developments;
- guides and controls, through the General Staff and in cooperation with other pertinent institutions, the preparatory measures of the ministries, economic agents and public institutions in order to produce and perform services to the Armed Forces, to draw up papers on mobilisation and the preparation of the territory for defence;
- elaborates the National Military Strategy that expresses the goals and the fundamental options concerning the military policy of the country, on the basis of the National Security Strategy of Romania.

The state of siege is an exceptional measure and it is adopted in case of serious dangers to the defence of the country, to its national security or the constitutional democracy, or in case of preventing, limiting and removing the consequences of a disaster.

The state of siege may be instituted for a period of a maximum 60 days by presidential decree that should be countersigned by the Prime Minister and published at once in the Official Gazette.

During a period of a maximum five days from the setting up of the state of siege, the President requests the agreement of the Parliament to the adopted measures. If the Parliament does not agree, the President should revoke the decree and the measures are no longer applicable.

During a state of siege and proportional to the gravity of the situation, only if it is necessary, the exercise of some constitutional fundamental rights and liberties can be restricted with the agreement of the Minister of Justice. Some functions of the central and local administration are taken over by the civilian and military authorities stipulated in the decree on the implementation of a state of siege.

During a state of siege implemented on the whole territory of the country, the Minister of National Defence and the Chief of the General Staff may issue military ordinances. In

case of the state of siege implemented only in some areas, the Chief of the General Staff empowers the commanders of the main units in the respective areas to sign military ordinances.

### **The Minister of National Defence**

The Minister of National Defence is a member of the government and the Supreme Council of National Defence. He is a civilian and is responsible for his ministerial activity to the government, Parliament and the Supreme Council of National Defence.

He leads and represents the Ministry of National Defence in its relations with the Parliament, the President, the government, the central and local public administration, other Romanian public authorities and organisations, as well as similar foreign institutions. In the exercise of his responsibilities, the Minister of National Defence is assisted by State Secretaries and the Chief of the General Staff.

The Minister of National Defence also has the following prerogatives:

- organises, coordinates and oversees the application of laws, government ordinances and decisions, legal orders and instructions within the limits of his authority and the principle of local autonomy of public institutions and economic agents;
- initiates and decides on draft laws, ordinances, government decisions based on a government-approved methodology;
- proceeds to the application of his Ministry's strategy which is integrated in the strategy of social and economic development;
- in accordance with the agreements and conventions between Romania and other countries, he upholds the interests of the Romanian state before various international bodies and organisations and develops relations of cooperation with similar foreign bodies and international organisations; initiates and negotiates on the basis of a legal presidential or governmental authorisation the conclusion of conventions, agreements and other international documents or proposes adhering to existing ones;
- watches and oversees the application of international conventions and agreements between Romania and other countries and takes action to achieve the

necessary conditions for integration into European and Euro-Atlantic structures or in other international bodies.

During the absence of the Minister of National Defence, a State Secretary designated by the Minister ensures the leadership of the Ministry.

### **The General Staff**

The General Staff ensures the military leadership of the Armed Forces; is responsible for their fighting capacity; fulfils Euro-Atlantic integration programmes and programmes of political and military cooperation; and leads the activity of scientific research in its area of responsibilities.

In order to exercise its national defence-related functions, it takes care of the training of ministers, state secretaries and other people in responsible positions, as well as dignitaries of a certain rank, prefects, sub-prefects, mayors and other holders of municipal and rural office, leaders of economic agencies and public institutions with mobilisation tasks.

### **The Chief of the General Staff**

As the highest military rank in the Armed Forces, the Chief of the General Staff is appointed by the President on the nomination of the Minister of National Defence and following the notification of the Prime Minister. He is a member of the Supreme Council of National Defence.

At Chief of General Staff level, the Committee of the Chiefs of Staffs of Armed Forces' Services is established. It has a deliberative role and its organisation and function are approved by an order of the Minister of National Defence.

The law on the Ministry of National Defence defines his responsibilities. To exercise them, the Chief of the General Staff issues military orders, dispositions and instructions in accordance with his responsibilities.

In case of the proclamation of the state of siege on the entire national territory, the Minister of National Defence or the Chief of the General Staff issues legal military ordinances. In case of implementing a state of siege on part of the national territory, the Chief of the General Staff empowers the commanders of the main units to sign military ordinances in their area of responsibilities.

The Chief of the General Staff is obligated to assist the Minister of National Defence in leading the Ministry.

During the period of over 12 years of democratic evolution in Romania many changes have occurred in the domestic environment, but also in the European security environment.

The domestic changes have resulted in the consolidation of both democracy and the market economy, as well as in the general acceptance of human rights protection. The pursued goal has been not only the normalisation of life in Romanian society but also the achievement of the standards needed to integrate Romania into European and Euro-Atlantic structures.

The integration process will induce further substantial modification of internal legislation, in accordance with the standards of NATO and EU member states. The changes in the defence field are likely to include:

- renunciation of the constitutional provision that stipulates the obligation of military service (conscription) in order to build up a professional Armed Forces (based on volunteers);
- simplification of the transit and stationing of foreign troops on the national territory;
- demilitarisation of other public institutions (Police, Border Police and others);
- improvement of the social protection of servicemen included in the personnel downsizing process and the social status of those in active service;
- further improvement of democratic oversight over the Armed Forces;
- further improvement of the organisation and functioning of the existing Supreme Council of National Defence.

As a matter of fact, from the end of August 2002, Romania moved to demilitarise the Police on the basis of the Law regarding the Organisation and Functions of the Romanian Police and the Law on the Policeman's Statute. Although those two laws do not refer strictly to defence issues, they are legalising the disappearance from Romanian society of a militarised structure.

In accordance with those laws, police activity constitutes a specialised public service and the policeman is a civil servant with a special statute, without military rank, hierarchy and jurisdiction.

The results of future legislative initiatives are likely to be influenced by two significant factors: the Prague NATO Summit and the start of a Romanian electoral year at the end of 2003.

## CHAPTER THREE

---

### PARLIAMENTARY OVERSIGHT OVER NATIONAL DEFENCE

*Teodora Furior*

#### Introduction

A fundamental requirement of any nation is to ensure that the activities of its armed forces are subordinated to the political purposes of the constitutional government. There is a complementarity between security and democracy. Although not a goal in itself, democratic civilian oversight of a state's security forces is essential for the effectiveness of the security sector, for good governance and, most important, for the protection of the human rights of the population. The democratic control over the national defence and security system is a fundamental principle of the Romanian State and it is exercised both by the political society and by civil society. The Parliament represents the highest expression of the democratic will of the people. Therefore the Parliament should be the most important guardian of democracy.

The essence of parliamentary oversight is to "grasp the 'dividing line' between the parliament and government: to what extent should the parliament be involved in the activities of government?"<sup>1</sup>. Civil-military relations must be based on transparency, trust, shared responsibility and mutual respect, on the efficient division of labour in the field of defence, otherwise the interlocking of the political decision and the military decision can become a critical issue. Making the functioning of the parliament and the defence sector transparent means also promoting awareness of human rights and security issues amongst the public and civil society. During the past decade, a high level of public and political attention was devoted to defence in Romania. But attention is not always translated into awareness, either among the public at large, or among members of parliament.

---

<sup>1</sup> H. Born, 'Learning from Best Practices of Parliamentary Oversight of the Security Sector', *DCAF Working Paper Series*, No.4, p. 5.

The Parliament is the institution that establishes the connection between armed forces, government and citizens. It mirrors in politics the aspirations of the nation and its dominant political culture, and explains to society the needs and the interests of the state. It is extremely important to reconsider the role of legislative institutions as we have moved into a new century full of change, when states are no longer defined by their intact sovereignty, but by their quality of 'member states', 'associated states', 'allied states' etc. Parliaments have to reassert themselves vis-à-vis the ever-growing dominance of 'executive governments', within or outside the state. Their work has to be managed and organised in a systematic way. It also has to be supported and administered properly by human and technical capacities and facilities. Parliaments need a strong 'insight for oversight'.

This paper examines the political power given to the Parliament by the Constitution and other laws, and tries to see which of these legal provisions are translated into effective instruments of control, and which of them go no further than the good intentions of the written word.

### **Parliament's Oversight Process**

Democratic control over the Armed Forces and other institutions with military personnel<sup>2</sup> is exercised through legally established powers, stipulated by the Constitution. The public authorities possessing the most important means of political control are: the Parliament, the President of Romania, the government, the Supreme Council of National Defence, the judiciary, the Constitutional Court, the Ombudsman and the Court of Audit.

Representation of the sovereign people represents the foundation and the justification of the Parliament's pre-eminence amongst the other state authorities, and explains the control powers it has in relation to the President, the government and other public authorities.

---

<sup>2</sup> Besides the Armed Forces, there are other institutions with military personnel: the Interior and Foreign Intelligence Services, the Penitentiary Directorate within the Ministry of Justice, the Gendarmerie within the Ministry of the Interior, the Guard and Protection Service and the Special Communications Service.

## **Short description of Parliament and Legislative Procedures**

'Parliament is the supreme representative body of the Romanian people and the sole legislative authority of the State' (Constitution, Article 58).

The Parliament consists of the Chamber of Deputies and the Senate. They are elected for a four-year term of office, which may be prolonged by an organic law, in case of war or catastrophe. There are 143 senators and 344 deputies. The organisation and the functioning of the two Chambers are based on the principle of parliamentary autonomy and they are regulated by their own Standing Orders. Each Chamber elects its Standing Bureau.

The two Chambers have an equal position, being directly elected by the people, by universal vote, so having equal political legitimacy. This could lead to institutional blocking in cases of irreconcilable divergence between the two Chambers, so the Constitution provides that they can meet in joint sessions for debating common problems. "The Chamber of Deputies and the Senate meet in separate and joint sessions. The proceedings in a joint session are held in accordance with regulations passed by a majority vote of the Deputies and Senators"(Article 62).

The dualism of the Parliamentary structure is symmetric with the Executive structure, which is led by the President and the government. This is not only the expression of tradition, but an institutional necessity too, for optimising the legislative process. In the period of time a draft law is voted in one Chamber and then sent to be debated and voted in the second Chamber, the public, the press and the NGOs have an opportunity to get acquainted with the bill's provisions, to react and to express their opinion. In a young democracy, such as Romania, the possibility the second Chamber has to take into account the reactions of public opinion and to improve the text that will be finally adopted by the Parliament is an important contribution to the quality of laws.

Deputies and Senators are organised into Parliamentary Groups, according to the Standing Orders of each Chamber. Each Chamber sets up Standing Committees and may institute inquiries or other special committees. The Chambers may set up joint

committees too. The Standing Bureau and Parliamentary Committees reflect the political spectrum of each Chamber.

By its nature, the Parliament is a deliberative authority, a forum for debate on major problems of the nation. From the Parliament's capacity of supreme representative body of the Romanian people and single legislative authority of the country, follow its main functions: to represent the will of the people, to pass laws, and to exercise parliamentary control.

Representing the will of the people, the two Chambers have to be able to watch the implementation of government policy, in conformity with the electoral platforms and the aspirations of society.

The oversight is complex, especially throughout the compatibility between Parliament's prerogatives, its real possibilities and the freedom the government has to act.

### **Constitutional and Legal Provisions regarding Parliamentary Oversight**

Oversight refers to the crucial role of the legislature in monitoring and reviewing the activities of the executive. The term refers to a large number of activities carried out by the legislature in relation to the executive. The notion is inherent in the concept of the separation of powers, which simultaneously provides for checks and balances on the exercise of executive power, making the executive more accountable to an elected legislature. Oversight and accountability help to ensure that the executive implement laws in a way required by the legislature and the provisions of the Constitution.

The constitutional structure of the state provides the basic principles of parliamentary oversight. The specifics of the Romanian quasi-presidential regime are given by the following elements:

- dual structure of the executive: president and government;
- election of the president by universal vote;
- political responsibility of the government before the parliament; parliament can dismiss the government;

- power of the president to dissolve the parliament under specific conditions;
- the president is not politically responsible before the parliament, but the latter may proceed to the suspension of the president (by a request sustained by a third of the members) and the organisation of a referendum for his dismissal;
- the parliament may also send the president to be judged for high crimes;
- the president does not have the right to initiate laws;
- the exercise of presidential responsibilities in defence, foreign policy and state of emergency is conditioned by the will of the government and parliament.

Even if both the president and the parliament are directly elected by universal vote, only the parliament is considered the supreme representative body of the Romanian people. Based on the limited powers of the president, some authors say that Romania does not have a quasi-presidential regime, but a parliamentary regime with a directly-elected president.

### **Parliamentary Oversight over the Executive**

The programme and composition of the government are debated by the Chamber of Deputies and the Senate in joint session. The Parliament grants confidence to the government by a majority vote of Deputies and Senators, and thus gives legitimacy to the government's intentions and actions before the citizens.

The Constitution stipulates that "The Government is politically responsible for its entire activity only before the Parliament. Each member of the Government is politically and jointly answerable with the others for the activity and Acts of the Government" (Article 108). And further, in the second paragraph, "It is only the Chamber of Deputies, the Senate and the President of Romania that shall have the right to ask for criminal prosecutions against members of the Government for acts committed in the exercise of their office. The Government shall be dismissed on the date the Parliament withdraws its confidence".

The institution of parliamentary control is expressly consecrated in the content of Article 110, paragraph 1, of the Constitution. According to the provisions of this article, "The Government and other agencies of public administration shall, within the parliamentary

control over their activity, be bound to present any information and documents requested by the Chamber of Deputies, the Senate, or parliamentary committees through their respective presidents". The way in which this text is formulated clearly indicates that the Romanian Constitution expressly accepts parliamentary control over government and other authorities of public administration, regardless of whether they are central or local.

Information for the deputies and senators represents the first condition for exercising parliamentary control. Data offered on this occasion has the role of determining parliamentary action towards the government and other bodies of public administration. The information may concern the Parliament as a whole, one of its Chambers, parliamentary committees, or Deputies and Senators.

The prime minister has the possibility of presenting either in the Chamber of Deputies or in the Senate reports and declarations with regard to the policy of the government, which are submitted for debate to the Chamber before which they were presented.

The President of Romania enters in communication with the two Chambers in joint sitting through messages.

The information provided by the government is essential not only for the Parliament's oversight functions but for its legislative function as well. The information received is extremely important for finalising bills and for initiating actions that might lead to a modification of government policy, if the Parliament decides it is necessary.

The specific means the Parliament has for controlling the government are:

- questions, asking the government to explain a certain fact;
- interpellations, that ask the government to justify its policy in a specific field;
- Parliamentary inquiries, which is a means of investigating activity in a field;
- motion of censure, which provokes a general debate on government policy, having as a possible end the withdrawal of confidence.

A special procedure, with a mixed character, of legislation and control, is the engagement of the government's political responsibility before the Parliament for a draft

law. The procedure may involve a political declaration and the government programme too.

Parliamentary control is thus exercised not only by a specific means of control, but also in the frame of the legislative process or with the occasion of debating messages from the President or political declarations of the Prime Minister presented in the Parliament. In all these situations, members of Parliament, as censors of government action, ask the executive to explain and provide arguments for their position and policy.

Members of the government are entitled to attend the proceedings of the Parliament. If they are requested to be present, participation shall be compulsory (Constitution, Article 110)

### **Questions and Interpellations**

Article 111 of the Constitution stipulates the government's obligation, including that of each of its members, to answer questions put by members of the Parliament.

The establishment of a period of questions and interpellations is a simple and concrete means of parliamentary control, equally accessible to parliamentarians from the opposition as well as to those representing the majority.

According to the Standing Orders of the Chamber of Deputies and of the Senate, a question is understood a simple request referring to the truthfulness of some facts, the exactness of an item of information, the government's intention to communicate to the Parliament information requested by it, or to take a decision on a determined issue.

According to the Standing Orders of the Chambers, questions may be oral or written. Replies to questions do not lead to any immediate political sanction, and this distinguishes the question from other instruments of oversight, such as interpellation or motion of censure.

Interpellations represent a more complex constitutional means of parliamentary control. Interpellations are made in writing and their object must be clearly stated. They are

entered in a special register and posted in the assembly hall. Interpellation implies two possibilities: opening a general debate on a specific policy or fact, and allowing the plenum to vote a sanction for the issue that is the subject of the interpellation.

Article 111, paragraph 2, of the Constitution enables each Chamber to express by a motion its position with regard to an issue that has been made the object of interpellation. This is one of the few possibilities a Parliamentary Chamber has for adopting a certain attitude towards the government about its policy in a certain field, or towards a person exercising a government function. In all cases, however, the motion produces no legal effect, being only a political sanction that may or may not affect the position of the government in that specific matter.

Questions and Interpellations are developed in a weekly sitting, in which the floor is given to the interpellator and to the representative of the government, who may reply immediately, or ask for a delay to the next sitting devoted to the debate of questions and interpellations.

Since the beginning of 2001, Members of Parliament have raised numerous questions and interpellations on topics related to defence and national security issues. They were all answered by the minister of defence, or other officials called by the parliamentarians.

### **Motion of Censure**

The motion of censure represents a corollary of parliamentary control. The government is submitted to a parliamentary vote of confidence. But this vote of confidence is not granted once and for all. Hence, a motion of censure may withdraw the confidence granted to the government.

On the basis of Article 112 of the Constitution, a motion of censure can be initiated by a quarter of the total number of deputies and senators. In other words, at least 121 Senators and Deputies must sign such a motion. The motion of censure is adopted if a majority of the Deputies and Senators vote in its favour. Adoption of the motion of censure is effectively followed by the dismissal of the government and the launch of proceedings for the formation of a new government.

In Romania's recent parliamentary history, none of the motions of censure raised in the parliament was passed in a vote, because of the simple logic of parliamentary politics: the government emanates from the parliament's majority. Members of parliament may be reluctant to call to account a government that is made up of leaders of their party. So, the effectiveness of motion of censure as a means of control is in practice hampered by the political solidarity of the majority and by the weakness of the parliamentary opposition.

### **Parliamentary Oversight over Defence and Security**

The main legal sources of parliamentary control over the military are given by three fundamental principles of the Romanian democratic regime, already mentioned in this paper: the elected nature of the Parliament, the separation of powers, and the contract of government, realised in the government's programme. These principles and the provisions of the Constitution are further detailed in a number of laws that regulate activity in the field of defence and the way the parliament keeps the government and the army accountable on behalf of the people.

### **Procedures on Fundamental Security and Defence Documents**

The Romanian National Security Strategy is the fundamental document that decides the planning of defence at the national level. According to the Law regarding the Planning of National Defence, the President presents the Strategy to the Parliament within three months of his investiture.

The new Romanian National Security Strategy was only forwarded to the Parliament in November 2001, because after September 11, the concepts and the drafts needed to be re-evaluated. The strategy is structured on the following chapters: definition of national security interests, objectives that affirm and protect these interests, evaluation of the international security environment, identification of the internal and international security risk factors, the main directions and means of action that will ensure Romanian national security.

The National Security Strategy was presented by the President in a joint session of the Deputies Chamber and the Senate, and was adopted by Parliamentary Decision in December 2001. Previously, it had been debated and approved in a joint meeting of the Defence Committees of the Senate and the Deputies Chamber, which presented their report to the plenum.

On the basis of the National Security Strategy, and following the directions of the Government Programme, the government elaborates the White Paper on National Security and Defence, which establishes objectives and tasks for institutions in the field, measures and actions to be taken, and the necessary resources that must be invested in national defence. This document has to be presented to the Parliament too, within three months of the Parliament granting confidence to the government. The White Paper passes the same procedure as the National Security Strategy, being discussed and approved at a joint meeting of the Defence Committees, and afterwards in the plenary of the Parliament.

The 'White Paper of the Government – "Romanian Army 2010: Reform and Euro-Atlantic Integration" – was approved in November 1999 by a Parliamentary Decision. The document contains the concept and the long-term perspective of the modernisation of the armed forces'. Giving continuity and coherence to the reform process in the army, the document is still valid and accepted by the present Parliament and government.

On the basis of the National Security Strategy, the White Paper on Defence and the Government Programme, the ministries and other institutions with responsibilities in the field of defence, elaborate their own departmental strategies, programmes and plans, with the aim of fulfilling national objectives and interests. These documents are submitted for the government's approval. The Supreme Council of National Defence ensures the unitary coordination of all these strategies.

## **The Armed Forces**

A basic principle of democracy is that civilian authorities, unlike military leaders, have a right to be wrong, therefore the military is no more than an instrument for the state's national defence and foreign policy. The Army and everything it implies – hierarchy,

subordination, rigorous discipline – is just a public administrative service. The Romanian legal system makes a clear division of authority between president-government, prime minister-minister of defence, minister of defence-chief of general staff.

Article 117 of the Constitution stipulates that 'The Army shall be exclusively subordinated to the will of the people to guarantee the sovereignty, independence and unity of the State, the country's territorial integrity, and constitutional democracy'. The structure of the national defence system, the organisation of the Army, the preparation of the population, economy and territory for defence, as well as the status of the military is regulated by organic laws.

In July 2001, the Parliament approved by Law the Government Ordinance regarding the organisation and the functioning of the Defence Ministry. The act settles the responsibility the Defence Ministry has, before Parliament, the government and Supreme Council of National Defence, for the way it applies the Constitution, other laws and treaties ratified by Romania, in the field of defence.

The 'Law Regarding Romania's National Security', in force since 1991, stipulates that the Parliament shall control the activity of all the institutions having responsibilities in this field: the Romanian Intelligence Service, the Foreign Intelligence Service, the Guard and Protection Service, and also the internal specialised structures of the Ministry of Defence, the Ministry of Justice and the Ministry of the Interior.

### **Supreme Council of National Defence**

The Supreme Council of National Defence is the autonomous administrative authority invested with the responsibility to organise and coordinate the activities of national defence. The Constitution stipulates that 'The Supreme Council of National Defence shall organise and coordinate in a uniform manner activities related to the country's defence and national security' (Article 118).

The President of Romania is the Commander-in-Chief of the Armed Forces and also the Head of the Supreme Council of National Defence. The Prime Minister is the vice-president of this authority.

Members of the Supreme Council of National Defence are the Defence Minister, the Minister of the Interior, the Minister of Foreign Affairs, the Minister of Justice, the Minister of Industry and Resources, the Minister of Finance, the directors of the Romanian Intelligence Service and the Foreign Intelligence Service, the Chief of the General Staff and the presidential adviser for national security.

The Parliament is not represented in this institution, because it is conceived as an authority of the public administration, autonomous within the government, led by the President and submitted to Parliamentary oversight. Members of Parliament can participate in working meetings of the Supreme Council of National Defence, with the approval of the President.

The new law regarding the organisation and functioning of the Supreme Council of National Defence has been in force since June 2002, and stipulates that the activity of this authority is submitted to parliamentary examination and verification. Annually, and at the request of the parliamentary standing committees or whenever it is considered necessary, the Supreme Council of National Defence shall present reports on its activities in a joint session of the Parliament.

### **State of War, Crisis or Emergency**

The Constitution stipulates in Article 62 that in their joint session, the two Chambers of the Parliament shall declare a general or partial mobilisation, a state of war, the suspension or the ending of military hostilities.

Further on, in Article 92, it provides that the President of Romania ‘may declare, with the prior approval of the Parliament, a partial or general mobilisation of the Armed Forces. Only in exceptional cases shall the decision of the President be subsequently submitted for approval by the Parliament, within five days of its adoption. In the event of an armed aggression against the country, the President of Romania shall take measures to repel the aggression, and shall promptly inform the Parliament, by a message. If the Parliament is not in session, it shall be convened *de jure* within 24 hours of the outbreak of the aggression’.

These constitutional provisions provide a framework for effective action without eluding the responsibilities and the specific attributions of the authorities. The president may declare the mobilisation of the armed forces, but with the previous approval of the Parliament. He will probably involve in the decision process the Supreme Council of National Defence, so we do not have here the exercising of a discretionary presidential power. The Constitution does not specify which the exceptional cases are when the presidential decision is afterwards submitted for parliamentary approval, but they must be situations of extreme emergency. In any case, if the president did not respect his legal obligations, the Parliament might raise the issue of assuming responsibility, and eventually the issue of his judgement and dismissal, in accordance with the Constitution.

Article 93 of the Constitution stipulates that the ‘President of Romania shall, under the law, institute the state of siege or emergency in the whole or part of the country, and shall request the approval of the Parliament on the measures taken, within five days of the adoption thereof. If the Parliament is not in session, it shall be convened *de jure* within 48 hours of the institution of the state of siege or emergency, and shall function throughout this state’.

The president will ask the Parliament’s approval for the decision already taken; the decision cannot precede the parliament’s approval because the decision itself is subsequent to the event. The Parliament is not convened just to give its approval, but it will function throughout the whole period of siege or emergency, as a guarantee against any kind of excesses, abuses, or rapid and wrong decisions, so providing the conditions for democratic debate in solving society’s problems.

### **Legislative Function as Means of Control**

The Parliament is the only possessor of legislative power; it is the sole authority invested with the prerogative of expressing and consecrating the general will in law. Its legislative competence is shared in some aspects, however, with the government and the President. The government has the exclusive role of elaboration of the state budget and the budget of social securities. The President may ask from the Parliament the re-examination of a law and the re-opening of its debate before it is promulgated. These

prerogatives are not in conflict with the Parliament's quality of sole legislative authority and do not alter the character of law, of being adopted only by the Parliament as an exclusive expression of its will.

The government has the right to exercise legislative initiative by sending to the Parliament bills. Members of Parliament and citizens, according to the Constitution, may also submit legislative proposals to the Chambers. They must be accompanied by an explanatory statement and worded in the form required of bills. The draft bills are forwarded to the Chamber of Deputies or to the Senate accompanied by the endorsement of the Legislative Council. (the Legislative Council is an advisory expert body of the Parliament that initials draft normative acts for the purpose of a systematic unification and coordination of the whole body of laws. It also keeps the official record of Romanian legislation).

In the field of defence, the Parliament is responsible for regulating by organic laws specific domains defined in the Constitution:

- structure and organisation of the national defence system;
- organisation of the Armed Forces;
- organisation and functioning of the Supreme Council of National Defence;
- preparation of the population, economy and territory for defence;
- military personnel status;
- state of siege and state of emergency.

By ordinary law, the Parliament regulates other fields within the defence and national security area, like the planning of national defence, the social relations of the military personnel, the material responsibility of the military, and so on. There are also other laws without a military character, but containing special provisions for the Armed Forces (laws on education, political parties, the Criminal Code, state budget).

### **Parliamentary Oversight through the Budget Law**

According to theory, control through the budget should be the most powerful instrument of parliamentary oversight over the military. The aims of parliamentary control over the

defence budget are to establish the military capability to meet national security needs, and to assure the proper balance of resources between the military and other institutions of the state. Budget control represents the core of parliamentary control. It gives the Parliament the power to enforce transparency and accountability of the military.

Every year, in the debate of the Budget Law, the Parliament gets information on the general structure and the specific amount of budgetary allocations for specific activities of the military, including the distribution of resources between sections and groups of articles of the budget. All budget documents are available to the members of Parliament, including information on all budget items. Parliamentarians may check if the resources allocated for defence are commensurate with, and spent according to, the national interests. In this debate, the government is obliged to present any information and document requested by members of parliament. The Constitution even provides that in cases when a legislative initiative involves the modification of the state budget, parliament must ask the government to provide information about all the budgetary consequences.

The budget report issued in a joint meeting of the two Defence Committees is not discussed and approved directly in the plenary of the Parliament. It goes to the Committees for Finance and Budget where it is usually modified to fit the proposals of the government. The amendments of the Defence Committees may be sustained in the plenary, when the chapter relating to the institutions of defence and public order is discussed, but given the limitations of the general economic situation, parliamentarians cannot obtain more than the government says is available unless resources are shifted from another sector. During the last two years, the defence budget has increased and was considered adequate for Romania's objective of becoming a NATO member, and high enough compared with the resources allocated to other sectors.

Once the budget is approved, its execution is monitored by the Defence Committees. Among the difficulties parliamentarians face in monitoring execution of the budget, are new budgetary process in the field of defence and the fact that procurement often escapes from political decision-making into free market methods. The Parliament's power to enforce the efficiency of expenditure and its rationalisation is limited by a lack

of informed public debate and the insufficient knowledge and experience of parliamentarians.

## **Parliamentary Committees**

The legislative function does not cease with the passage of a bill. Only by monitoring the implementation process, can members of the legislature uncover any statutory defects and act to correct misinterpretation or bad administration. In this sense, oversight exists as an essential corollary to the law-making function.

The Parliament is entitled and has the duty to check the way in which the provisions of the Constitution and laws are followed up and implemented, through the activity of the standing committees. According to constitutional regulations, each Chamber may constitute standing committees, inquiry committees or other special committees (Article 61). There is also a possibility of constituting joint committees of the two Chambers. The Deputies Chamber has 18 committees and the Senate 14. Two standing joint committees<sup>3</sup> and five special joint committees<sup>4</sup> were constituted.

Through committees, parliamentarians have the opportunity to focus their expertise and experience and to monitor government policy in detail.

## **Committees for Defence**

The parliamentary control over the armed forces is exercised through the two permanent committees for defence, public order and national security, both in the Senate and the Chamber of Deputies. The Committees consist of members with expertise in the military field and their activity is sustained by an infrastructure composed of civilian and senior

---

<sup>3</sup> Committee of the Romanian Parliament for European Integration and Joint Standing Committee of the Chamber of Deputies and the Senate for parliamentary control over the Romanian Information Service SRI.

<sup>4</sup> Committee for the elaboration of bills concerning the revision of Romania's Constitution, Special Committee of the Senate and of the Deputies Chamber for exercising parliamentary control over the Foreign Intelligence Service, Committee for the elaboration of the bill for modification of the Standing Orders for the Joint Sessions of the Deputies Chamber and the Senate, Committee for the control of implementation of Law no.42/1990, Joint Committee of the Deputies Chamber and the Senate for the control of the Court of Audit budget.

military advisers, experts and consultants. The Defence Committee in the Senate has 11 members, and the one in the Chamber of Deputies has 26.

The Committees meet once or twice a week. The Committees' area of competence and the meeting procedures are established in the Standing Orders of the chambers, and detailed in each Committee's Standing Order. Committees have control over their schedules, their agenda, the dates and the frequency of committee meetings. They have great latitude in the initiation and amendment of law. The work of the standing committee became more important after the adoption of the new Standing Orders of the two Chambers, two years ago, because it provided that amendments can be sustained in the plenary only if they were previously discussed and voted in the Committee and included in its report.

Given the equality of roles played by the Senate and the Deputies Chamber within the legislative process, the role and the functions of the two committees are the same. Even if the two chambers of the Parliament have different Standing Orders, in practice the two committees function in a very similar manner. There are situations when the two committees work in joint session, the most important being the following:

- hearings for the nominations of Cabinet members designated to run institutions with military personnel (the Minister of Defence and the Minister of the Interior);
- approval of the state budget for the institutions in the field of defence, public order and national security;
- approval of the National Security Strategy and the White Paper on National Security and Defence;
- approval of the participation of Romania's Army in military operations, in Peace Support Operations or in humanitarian operations, and the approval of big military exercises or other activities involving the transit of foreign military troops on Romanian soil.

Besides the legislative activity, hearings are the principal instrument for exercising parliamentary control through the Committee, whose members have the power to organise hearings on any topic they consider necessary:

- regular hearings of the Minister of Defence and the General Staff, on the execution of the National Security Strategy and all the important measures taken in the military reform;
- hearings of the commanders and analysis of reports with the aim of elucidating negative aspects signalled in parliamentary debates or by the media;
- hearings of superior officers who want to report attempts of a politicising nature.

All candidates of the rank of general and senior officers appointed to represent Romania abroad have to present themselves before the Defence Committee, and to answer questions asked by parliamentarians. The Ministry of Defence also invites members of the Defence Committees to the annual meeting with Romania's military attachés abroad.

The Committee is entitled to require at its meetings the presence of the minister of defence or flag officers from the MoD or the General Staff. It may also invite in its work experts representing civil society or professional groups.

Members of the Defence Committee are currently invited or they ask to go, by their own initiative, on special visits to military units and bases. They perform control and documentation activities at the ministry level or at the various echelons of the armed forces, they meet personnel from the ministry to discuss the bills examined at the committee-level, or with executives and trade union leaders to discuss questions related to the defence industry. Issues of major concern over the last years were the social consequences of the downsizing process implied by modernisation of the Romanian army: re-conversion programmes, military pensions, the role of the NCO corps, the way the military institution deals with the conscripts or the place of civilians within the MoD. The Defence committee may name special committees for parliamentary investigations on topics like the procurement process, military expenditures, and the use of resources by the military.

Committees for defence are monitoring Romania's participation in Peace Support Operations. The Minister of Defence and the Chief of the General Staff present at a joint meeting of the Defence Committees the mandate for operations, the budget, the risks, the rules of engagement and the period of engagement.

There are seven governmental institutions active in the field of defence, public order and national security: the Ministry of National Defence, the Ministry of the Interior, the Guard and Protection Service, the Special Communications Service, the National Agency for State Reserves, the Central Office for Special Problems, and the General Directorate for Penitentiaries. The Defence Committee in the Deputies Chamber has established eight working groups (sub-committees) that exercise parliamentary control over these seven institutions, plus a sub-committee on the defence industry.

Besides the activities already mentioned, the sub-committees focus their attention on specific issues that appear in the activity of every institution submitted to parliamentary oversight, like the inside effects of the reforms taken in the field, critical issues related to personnel downsizing, resource management, the necessity of budget appropriations, the relationship between these institutions and local administration, and also the relationship the institutions with responsibilities in the field of defence, public order and national security develop amongst themselves.

The most important thing these groups of work realise is a thorough knowledge of the institution they control, of the problems and *problematique* it deals with and, last but not least, of the people that work there. Establishing personal relationships, cultivated on a regular basis, between members of Parliament and the civilian or military employees from the security sector, improves very much the transparency and the flux of information regarding everyone's activity. This is an important impetus for the legislative activity of parliamentarians, not just for their oversight activity. On the other hand, having a continuous open dialogue with the Parliament, the attitude of the people who are scrutinised changes for the better, and the behavioural performance<sup>5</sup> of the controllers and the controlled improves.

## **Oversight of Intelligence Services**

Parliamentary control over the Romanian Intelligence Service is made by a Joint Standing Committee of the Deputies Chamber and the Senate, composed of three senators and six deputies according to the political representation.

---

<sup>5</sup> See D. Nelson, 'Civil Armies, Civil Societies, and NATO's Enlargement', *Armed Forces & Society*, Vol. 25, No.1 (1998), pp. 137-160.

Parliamentary control over the Foreign Intelligence Service is made by a Special Committee of the Deputies Chamber and the Senate, composed of two senators and three deputies, representing the parliamentary parties.

### **Committees of Inquiry**

Parliamentary inquiries represent one of the most specialised means of parliamentary control of the Executive. Committees of inquiry are set up by the Chamber of Deputies or the Senate at the request of one third of their members, rules which also apply when a parliamentary inquiry committee is set up in joint sitting of the two Chambers.

Furthermore, any standing committee may launch an inquiry, within its area of competence, with regard to the activity developed by the government, with the approval of the Chamber of Deputies, or respectively of the Senate. To obtain approval, the committee has to present a written request adopted by a majority of the committee members, stating the object of the inquiry, its aim, the means required, and the term within which the report will be presented to the Chamber of Deputies, or the Senate. In all cases, the setting up of a committee of inquiry is submitted for approval to the respective Chamber, and requires a majority of votes from deputies or senators.

The inquiry committee investigates a specific matter, the actions and measures taken in a specific field or institution. Its activity concludes with the elaboration of a report submitted to the debate of the plenary session. As a rule, the debate is followed by a vote for the approval or rejection of the report. The possible intention of the inquiry may be a change of attitude in the activity of the investigated authority, the informing of judicial bodies, and even the approval of a motion of censure, so entailing the resignation of the government.

The Parliament used this instrument of control on issues and institutions connected with privatisation and economic fraud, but without much success in revealing the facts and the individuals who were under public suspicion.

## **Access to Classified Information**

The Law regarding Romania's National Security, in force since 1991, stipulates that information in the field of national security can be communicated to the president of the Senate, to the president of the Deputies Chamber and also to the standing Committees for Defence, Public Order and National Security from the Senate and the Deputies Chamber.

The Law regarding the Protection of Classified Information, in force since April 2002, does not make any special reference to members of parliament, but stipulates that the Parliament, likewise the Presidency, the government and the Supreme Council of National Defence, shall issue their own regulations regarding the protection of classified information, in accordance with the law and with the assistance of the Romanian Intelligence Service. Since the Parliament has not issued this regulation yet, the status parliamentarians have in relation with classified information is not very clear.

## **Parliamentary Oversight of Romania's Participation in Peacekeeping Operations**

Peace Support Operations are becoming one of the most important activities of the armed forces and an essential instrument for implementing peace and stability within the international community.

In Romania, the Parliament has the last word on participation in operations abroad. The legal basis for the Romanian army's participation in Peace Support Operations is the Law on National Defence, which stipulates that the Parliament, on the proposal of the President, approves the participation of the Romanian armed forces in military actions, actions in support of peace or for humanitarian purposes.

The decision to contribute to PSOs is a political one, but all technical information has to be provided to the Parliament. The President writes a letter to the Parliament, presenting the international context and the arguments for the participation of the Romanian military in international missions abroad, asking its approval for the action. The letter is debated in a joint meeting of the Defence Committees of the Chamber of Deputies and the

Senate. The Minister of Defence, the Chief of the General Staff, other senior officials from the MoD, the Secretary of the National Supreme Defence Council, have to respond to all the questions asked by parliamentarians about the objective of the mission, the international legal base, the type of the contribution, the risks for the soldiers, logistics, transportation, the situation in the respective battlefields, etc.

The Defence Committees then issue a report that will be presented in the plenary session of the Parliament, in a joint session, and also a draft resolution regarding participation in the PSO. In 2002, the Parliament debated six letters from the President, asking for approval for increasing Romania's participation in PSOs. All of them received a positive answer.

After the deployment of Romanian troops abroad, there is no rule to establish the obligation of the MoD to present regular reports about developments in the field. But, the MPs have the right to ask for a report whenever they want to. And the report is presented at the committee meeting, usually by the Chief of the General Staff.

With the support of the MoD, MPs can also make visits in the field. At the end of August 2002, four members of the Defence Committees from the Chamber of Deputies and from the Senate, including the Chairmen, were in Afghanistan for three days, visiting our troops in Kandahar. On July 27-28, two other members of the Defence Committee were in Kosovo, to visit the Romanian Gendarmerie troops there.

### **Parliamentary Staff and Other Resources**

Pro-active and bipartisan parliamentary committees examine defence and security matters but they are not very well resourced. Standing committees have their own meeting rooms, staff and documentation but they do not have their own budget. Therefore the use of external experts from NGOs, academics, other independent think-tanks or research institutes is unsatisfactory.

Most of the parliamentary committees are confronted with a lack of professional staff and an extremely small research staff. A standing committee with 25-26 members is usually sustained by four or five parliamentary advisers and experts, who have to cover all the

committee and the chairman's activities, from secretarial work to draft laws and documentary reports on specific issues, research papers, or speech-writing. Parliamentary staff do not yet have a well-established civil service system.

The scarcity of resources is one of the biggest impediments to exercising an efficient parliamentary oversight. The Parliament relies on information provided by the government and the military, the very institutions it has to control. Not having enough experts and staff to rely on, not all members of parliament have sufficient knowledge and expertise to deal in an effective way with the complex and wide defence and security sector. However, it should also be noted that although Romania's Parliament is served by a small professional and research staff, it is one of the few Parliamentary institutions in South Eastern Europe to possess a staff of this kind.

Another difficulty of parliamentary oversight may be considered in some situations the political willingness of parliamentarians to use their constitutional powers and to keep the government accountable. Not only does the parliamentary majority loyally sustain their party colleagues from the government, but there is a consensus on national defence policy between the leading party and the opposition. The approval of the National Security Strategy and parliamentary support for Romania's participation in PSOs are relevant examples in this direction. In spite of any differences in domestic policy, there is a solid cross-party commitment on foreign policy objectives. Without a strong opposition or a minority opinion, a vigorous parliamentary debate on security issues is hampered.

## CHAPTER FOUR

---

### DEFENCE PLANNING: SYSTEM BUILDING, THE ROLE OF THE ARMED FORCES AND CIVILIAN CONTROL

*Mihaela Matei*

#### **Introduction**

It is a truism to assert that emerging democracies in Central and Eastern Europe did not possess at the beginning of the 1990s the necessary civilian expertise to replace the dominance of the military in the defence planning process. Military culture of defence planning was very much related to Cold War thinking of threat assessment, strategic theatres of deployment and the use of mass conscript militaries. General Staffs did the budgetary planning through centralised procedures, while defence policies followed the party line or the guidance provided within the Warsaw Pact. At the beginning of 1990s, the establishment of Western patterns of defence planning had to struggle against the inertia of old systems and search for an appropriate role-sharing among military and civilian structures of Defence Ministries. In some cases, the time of transition and inappropriate solutions led to extreme outcomes, such as the ‘politicising’ of the military or the ‘militarising’ of civilians<sup>1</sup>. The role of civil society in debates related to risks to national security, missions of the armed forces or the role of security sector institutions was in many cases poor or occasional.

The building of sound defence planning systems in post-communist countries should be investigated as an ongoing process, as it implies continuous adaptations to the strategic environment, the pursuit of deeper types of cooperation among military and civilian structures and the production of specific procedures for evaluation and review of defence reform outcomes. The substance of defence policy and planning is pending on the reform of the entire security sector, a profound transformation of the military culture

---

<sup>1</sup> G. C. Maior, ‘Personnel Management and Reconversion’, in L. Watts (eds), *Romanian Military Reform and NATO Integration*, (Iași, Oxford, Palm Beach, Portland: The Centre for Romanian Studies, 2002), p. 58.

and the creation of a new type of civil-military relations. From this perspective, planning stands for the core of Armed Forces reform and a *sine qua non* criterion for integration into the North Atlantic Alliance.

Romania was to some extent a pioneer among Central and Eastern European states in the creation of a national defence planning system, starting in 1998. The process of development of specific documents, concepts and regulations could be divided into three inter-related stages of development. In the first one, a top-down regulatory approach was established by the adoption of Ordinance 52 / 1998<sup>2</sup> that defined as main planning documents the National Security Strategy (NSS), the Government's White Paper on Security and National Defence (GWP) and the National Military Strategy (NMS). To ensure appropriate correlation between defence policy goals and internal democratic procedures, the system followed a cyclical approach, adoption and revision of each of these documents being related to the four-year presidential and governmental mandate. The Ordinance was approved by Law 63 /2000<sup>3</sup> which included more detailed provisions concerning the role of state institutions in the drafting and approval of each document.

A second stage has ensured the appropriate implementation of legal provisions regarding the defence planning process. It included the adoption and first revision of the NSS, the adoption of first GWP and NMS, as well as the establishment within the Romanian Ministry of National Defence of an integrated resource management system, based on an adaptation of the United States' model of planning, programming and budgeting process (PPBS)<sup>4</sup>. 'Romanian' PPBS aims to translate defence policy goals into missions and tasks of the Armed Forces and prioritise the funds' allocation according to national objectives. It has been conceptualised and developed to embody the existing institutional and strategic specificity of the Romanian military. This second stage basically closed the circle objectives – missions – structures and resources and

---

<sup>2</sup> Government Ordinance No. 52/1998 regarding defence planning, published in the Official Gazette, I Part, No. 302 18 August 1998.

<sup>3</sup> Law no. 63/2000 for the adoption of Government Ordinance no. 52, published in the Official Gazette, I Part, No. 185, 28 April 2000

The law has also increased Parliament's role in this field, stating that the National Security Strategy has to be approved by the Parliament, while in the Government Ordinance it was only presented to it during a joint meeting of both chambers.

<sup>4</sup> S. Lungu, 'Joint Defence Planning', in L. Watts (eds), *Romanian Military Reform and NATO Integration*, (Iași, Oxford, Palm Beach, Portland: The Centre for Romanian Studies, 2002), pp. 107-119.

led to the completion of planning procedures in national defence, as well as to the clear demarcation of military and civilian responsibilities within this process.

In the third stage, currently under way, the process has turned to a deeper perspective on what civil-military relations mean at the Defence Ministry level. Present evolutions are addressing a twofold development of defence planning – within the defence structures and within the national security framework. The first comprises the endeavour to correlate strategic and force structure planning with resources management, improve professional expertise of both civilian and military planners and enhance cooperation between the General Staff and other central Defence Ministry structures. In the second one, military transformation has to be integrated into overall security sector reform, by re-assessing the role and missions of each type of security forces and institutions, defining a national framework for crisis management and supporting the establishment of a security community within civil society.

## **The Documentary Process in Defence Planning**

### **Legal Framework and Shared Responsibilities**

According to Law 63/ 2000 on Defence Planning, the National Security Strategy is elaborated by the President, approved by Parliament and revised every four years after the presidential elections. As the most important document for establishing political requirements for national security and defence, NSS defines national interests and goals, evaluates the international and domestic security environment and assesses the risks and threats to national security, establishes guidelines for each institution involved in ensuring national security and specifies the main tools and means in this field. It has a medium timeframe of validity and a long-term perspective up to eight years in planning security goals and means.

The Government's White Paper on National Security and Defence enforces the provisions of NSS by incorporating inputs from the Government Programme. It sets out the main objectives and tasks of public institutions involved in ensuring national security and defence, measures and actions to be taken by them, structures and necessary resources (human, financial, material) to be provided annually for the building up and

training of forces engaged in national security and defence. GWP has the same validity and long-term perspective as the NSS and it has to be discussed in the responsible Committees of the Parliament and approved in a joint meeting of both Chambers.

The National Military Strategy, developed by the Defence Ministry, expresses Romania's objectives in defence policy in accordance with the NSS and GWP, evaluates from a military viewpoint security risks and threats, defines the missions of the armed forces in countering them, sets out force structure, organisation, equipment, training and operational levels, logistics and infrastructure needed for the Armed Forces to fulfil their tasks. Finally it stipulates the military measures required for meeting the cooperation, partnership and alliance commitments undertaken by Romania. The NMS is approved by the government and is also subject to renewal every four years.

On the basis of each departmental strategy or plan, institutions involved in ensuring national security issue specific guidelines for multi-year resource planning and evaluation. The Defence Ministry's Defence Planning Guidance allocates the budget by major programmes<sup>5</sup>, each of them being approved by the Parliament on a yearly basis along with the defence budget.

Law 63 defines as the overall coordinating body in defence planning process the Supreme Council of National Defence chaired by the President and composed of all ministers and chiefs of agencies involved in national security.

Therefore, according to national regulations, it is the President who defines overall security and defence policies and the government which implements them, to include development of structures and tasks, specific measures in crisis management, coordination of government plans and policies, etc. Courses of action or resource projection and allocation, as included in GWP, are subject to parliamentary approval. The President through the Supreme Council of National Defence can declare a state of

---

<sup>5</sup> According to the law, Defence Planning Guidance (DPG) is revised annually. Starting with 2002, its timeframe has grown from four years to six years to match the NATO resource planning period. DPG no.2 2002-2007 established eight major programmes: Land Forces, Air Forces, Navy, Communication and Automated Data Processing, Central Administration, Logistics, Defence Intelligence and International Activities, each of them under the responsibility of a programme manager.

emergency or war, but he is compelled by law to seek parliamentary approval before or right after making the announcement.

Law 63 / 2000 does not include details about the Supreme Council's role in defence planning – besides its coordination task – but the last few years consecrated the practice of endorsement of the NSS, GWP and NMS by the Supreme Council before being put to Parliament or the government. In the summer of 2002, the law for the functioning of the Supreme Council was revised to take account of this routine and define comprehensively its responsibilities in the field of security and defence<sup>6</sup>. Before 2002, there was a need to clearly delimit responsibilities in the field of force structure approval, as the previous law entitled the Supreme Council to perform this task, but it was the Parliament, as the main representative of the principles of elective democracy, that provided the funds for building the overall military system. The new regulations indicate that the organisation of the armed forces is subject to approval by the Parliament, after being endorsed by the Supreme Council, the same principle being applied to the defence budget, as well as to the budgets of other institutions involved in ensuring national security.

Legally speaking, the planning system's responsibilities are therefore divided between the President and the government on the basis of a conceptual model of 'guidance versus policy' that requires close coordination between the two state bodies. This approach is based on the existing provisions of the Romanian Constitution, adopted by referendum at the beginning of the 1990s, which do not always separate their roles in security and defence planning in a systematic way.<sup>7</sup> In mid-2002, internal debates started in order to prepare the revision of the Romanian Constitution and create more clear-cut responsibilities and procedures for the President, government and Parliament.

---

<sup>6</sup> The previous law for the functioning of the Supreme Council of National Defence (Law 39 / 1990 published in the Official Gazette, I Part, no. 142 13 December 2002) was revised and a new law incorporating detailed Supreme Council tasks in the field of defence planning was recently adopted. See Official Gazette, I Part, no. 494 10 July 2002

<sup>7</sup> For more details on the 'dual government' system, see the Centre for European Security Studies, 'Organising National Defences for NATO Membership, the Unexamined Dimension of Aspirants' Readiness for Entry' *Harmonie Paper*, No. 15, Groningen, pp. 108-109.

## **Improving Defence Planning Procedures and Inter-Agency Cooperation**

The legal framework provided the basis for a joint effort at national level that has been substantiated in time in the creating of new types of cooperation between Defence Ministry structures and other government institutions. In practice, continuity and coherence in developing strategies have been ensured by the gradual constitution in different Ministries and Agencies of core teams of experts who joined together in regular meetings to draft and revise the text of the NSS, GWP and NMS. The experts' direct involvement in preparing and advancing planning documents ha successfully contributed to avoiding the politicisation of this very sensitive process. Government Programme and National Security Strategy stipulations are incorporated into the process and detailed within the GWP and NMS without creating discontinuity or discrepancies in the fulfilment of the main security and defence objectives – such as integration into NATO and the EU or the ensuring of the necessary capabilities for the territorial defence of Romania.

Teamwork played a fundamental role in creating inter-agency communities and developing step by step a common language among diplomats, public servants and military or police officers. It also inherently became a factor in balancing and adapting each institution's internal agenda. Progress has been considerable. In 1998 and 1999 knowledge about the role and importance of a national security strategy, for example, was very low, even among defence or foreign affairs experts. Conceptual differences between force planning and policy planning were hardly understood at the level of the General Staff, while confusion governed the division of responsibilities in connecting those two in an integrated defence system. Involvement of civil experts in the drafting of National Military Strategy was limited and occasional. After one or two years of regular discussions and meetings, specialised inputs in the drafting of the NSS or White Paper improved noticeably and became more standardised and less prone to advance internal 'hidden agendas'. The planning for the first White Paper (adopted by the Parliament in autumn 2000) required numerous reunions, some of them coordinated by the structures responsible for defence policy within the Ministry of Defence. The second White Paper (currently in final draft) is now better fitting the domestic policy planning of all institutions involved in security forces, from the Defence Ministry to the Ministry of the Interior and Intelligence Services.

Joint civil-military or Defence Ministry-General Staff' proposals in defence policy planning and implementation have been further developed by the creation of inter-departmental coordination committees from leadership level (the Defence Planning Council) to expert level (working groups on NATO integration, specialised areas of military reform etc). The Defence Ministry's civil servants acquired larger, if not primary responsibilities, in defining the armed forces' role and missions within the military strategy. Correspondingly, as their expertise in military affairs has improved, they have participated in debates related to force planning and prepared in cooperation with the military structures political-military guidelines for the structural reform of the Armed Forces. There are still difficulties in building a new military culture and overcoming system inertias to ensure substantial civil-military relations in the defence-planning process. The considerable public legitimacy that the Romanian military establishment acquired and maintained during the post-communist period<sup>8</sup> had a positive impact on the development of a leading role of the Armed Forces in pursuing NATO integration. But it also determined some unconstructive attitudes in the acceptance of civilian inputs in defence affairs and a sort of isolationist posture, based on the idea of preserving the exclusivity of technical advice in military policies.

No such a significant advance has, however, been made in involving civil society in the national security strategy drafting process. Inadequate communication between state structures and independent experts, the low level of expertise in security and defence issues of non-governmental institutions, the evolution of public or media debates, often too politicised, contributed to the low profile of civil society in security and defence issues. Although the Defence Ministry has been directly involved in common projects, seminars, workshops with different NGOs, to explain and promote a common understanding about defence planning and management, no direct significant input from civil society has been specifically included in these processes. According to an independent assessment, there has been an important improvement during the last years, as 'gradually the army has become a more open institution and elements of civil society do have some access to information through the Defence Ministry's public relations department and direct contacts'<sup>9</sup>. Important incentives in this field are currently

---

<sup>8</sup> L. Watts 'The Crisis in Romanian Civil-Military Relations', *Problems of Post-Communism*, Vol. 48, No. 4, July / August 2001.

<sup>9</sup> Centre for European Security Studies, 'Organising National Defences for NATO Membership...', 111.

given by the creation of informal networks of communication, as well as by the direct involvement of international NGOs<sup>10</sup> in supporting the building of a security community within Romanian civil society. For the first time at the end of 2001, the second National Security Strategy explicitly stated as one of its main objectives the need "to involve civil society in promoting national security goals"<sup>11</sup>. Concrete means and types of cooperation in this field are still to be assessed on a regular basis, in order to overcome the current discontinuous forms of relationships. The study of one of the oldest democratic practices in Europe, the British model of developing its Strategic Defence Review and White Paper, could provide a valuable contribution to creating mechanisms of civil society consultation in the defence planning process.

As previously stated, the planning process ought to evolve periodically to incorporate lessons learned and take account of the strategic evolutions in the field of security affairs. The first planning cycle was incomplete as a National Security Strategy was presented to the Parliament on the basis of Ordinance 52, only in 1999, its term of validity thus being reduced to the last two years of the presidential mandate of Emil Constantinescu. Based on this NSS, the White Paper and the Military Strategy were approved at the end of 1999 and beginning of 2000, while the elections occurred the next year, in the autumn of 2001. The new president, Ion Iliescu, sent his strategy to the Parliament for approval in the first year of his mandate (December 2001), allowing for the system to develop according to the required timeframe. In 2001 and 2002 the Defence Planning Guidance was revised twice and issued before the national budget to permit the resource planners to develop their programmes and plans during the Fiscal Year.

Due to the scarcity of resources in times of economic transition, one of the most important tools in developing civilian control in the defence planning process has been budgetary planning. Inner civilian oversight has basically started in this field, by assigning exclusively to the civilian leadership the tasks of controlling and evaluating overall allocation of funds, on the basis of the assertion that it is the only one to be

---

<sup>10</sup> Such as the Marshall Centre for Security Studies (Garmisch-Partenkirchen), the French IFRI, the Geneva Democratic Control of the Armed Forces.

<sup>11</sup> 'The National Security Strategy of Romania. Safeguarding Democracy and Fundamental Freedoms, Sustainable Economic and Social Development, and Integration into NATO and the European Union' approved by Decision No 36 of the Senate and Deputies Chamber Common Session on 18 December 2001, Official Gazette, I Part, No 822120 December 2001.

politically accountable to the taxpayers and the voters. Specifically, starting in 2001, a Directorate for Integrated Defence Planning was established within the Defence Ministry, under the coordination of a civilian state secretary for defence policy to ensure overall resource management for the entire military institution<sup>12</sup>. The planning system provided therefore the framework for institutional changes within the Defence Ministry with a clear division of responsibilities between civilian and military structures. As policy and resources planning are in civilian management, subsequent strategic, operational and acquisition planning are tasked to the General Staff.

The second cycle is, however, only a step forward, as new issues related to system evolution and the capacity to fulfil its role emerged. The events of September 11 took place while the second NSS was being finalised, consequently new changes had to be incorporated in the document with respect to assessing the impact of the terrorist threat to national security and determining appropriate policies in response in the field of diplomacy, intelligence, the police and the military. Those attacks confirmed that changes in post-Cold War international relations may well be generated by unexpected events and phenomena, and that uncertainty in international security evolutions have to be somehow included in the planning process<sup>13</sup>. The Romanian system could be appreciated to some extend as unbending, since timeframes and domestic procedures are not flexible enough to ensure the necessary revisions of security and military strategies, if unexpected phenomena or evolutions occur. Nevertheless, the assumptions of Law 63 are based on the fact that the defence planning system has to rely on firm ground and establish normative fixed procedures, essential in transitional times to ensure continuity in pursuing security goals and guidelines. Debates generated by September 11 on this subject might offer fertile ground for future adjustments of the planning process and its legal framework.

---

<sup>12</sup> Prior to this, resource management was tasked to the J8 Directorate of the General Staff. According to the current system, chiefs of the three services are programme managers and account directly for programme development and funds allocation to the Directorate for Integrated Defence Planning.

<sup>13</sup> For a perspective on the impact of revolutions in international affairs on defence policy and armed forces missions, see also G. C. Maior, M. Matei, 'Defence Policy Developments: Old and New Missions for the Armed Forces', *Occasional Papers*, No. 1; Introductory remarks at the joint conference of ERGOMAS Working Group 'The European Officer and the Challenges of the New Missions' of the Miklos Zrinyi National Defence University 'The Hungarian Military Higher Educational System Facing the Challenges of the New Millennium', 28-30 November 2001, God, Hungary.

## **Security Risks, New Missions and Structures – a Paradigmatic Shift**

### **Changing Defence Policy and Defining a new role for the Armed Forces**

For countries in Eastern Europe, finding the appropriate balance between threats and capacities in planning defence has been a challenging issue. Transition makes the focus on resources compulsory, but also has an embroiling effect on risk evaluation. It has become a cliché to assess that the end of the Cold War has dismissed both the probability of a major war in Europe and the need for nation states to have mass armies<sup>14</sup>. Countries in Western Europe, as well as some Eastern PfP members have assessed the importance of smaller, more flexible and professional militaries to be able to address a range of complex risks to national security. Moving towards a world where military threats diminish creates a major problem: how is the military institution to deal with mostly non-military, non-conventional risks? What are the required capabilities or if so, is the military institution becoming less relevant for a state security? Or in Daniel Nelson's<sup>15</sup> terms: ,where enemies are imprecise, or when "they" have become intertwined with "us", at whom is defence planning aimed? If a state, a government or a citizen perceives the greatest threat from crime, corruption, drugs, infectious diseases or other amorphous perils, what are the weapons? Where is the frontline? Who are the troops?

Michael Alexander and Timothy Garden noted that in the Cold War period any assessment of force requirements began with a threat analysis. Today such assessments are more about risks and needs<sup>16</sup> and the process of finding an appropriate balance between the two. Changes in defence policy and planning have to include a more flexible perspective on risks, missions and resources of the Armed Forces that will ineluctably generate a fundamental transformation of the armed forces' role at domestic and international level and, consequently, a major shift in the military or strategic culture. Many analysts stated that countries in transition, such as Romania,

---

<sup>14</sup> K. Haltiner, 'Democratic Control of Armed Forces: Renaissance of an Old Issue?', International Security Symposium, Special Ergomas Programme, Geneva.

<sup>15</sup> D. Nelson, 'Beyond Defence Planning', a paper prepared for a 'Workshop on Transparency in Defence Policy, Military Budgeting and Procurement', Sofia, Bulgaria, 2001, pp. 17-20.

<sup>16</sup> M. Alexander and T. Garden, 'The Arithmetic of Defence Policy, *International Affairs*, Vol. 77, No. 3, p. 510.

face a double challenge: doing at the same time military reform and modernisation and keeping up with evolutions in the international environment, basically performing in parallel both reform and the inner transformation of the entire system. This paradigmatic move constitutes both a tremendous opportunity for post-communist militaries and a major challenge. New concepts and models are not easy to be imported or replicated, nor do they fit the domestic tradition and circumstances. Meanwhile, security organisations and processes (NATO, PfP) are changing in the attempt to re-assess their roles and needs in the post-Cold War era or the post-post Cold War, as someone named the period after the September 11 attacks.

Both the first and the second National Security Strategy stated that there is no major conventional threat to the country's security, established as a major goal integration into NATO and the EU and asserted the preference towards using preventive diplomatic and military means, as being less expensive and more effective on the long run in promoting Romania's national interests. The current NSS<sup>17</sup>, approved by the Parliament on 18 December 2001, develops a broader vision on what security means, including other non-classical fields of action such as reform of the public administration, education or social system and, as previously mentioned, involvement of the civil society in policy debates. Further emphasis has been added to Romania's participation in cooperative security arrangements. Moreover, new formalisations of Romania's security are embracing the goal of increasing the health and wellbeing of individuals as a dimension of, and a scale for, state security.

The current NSS also asserts a more comprehensive perspective about risks and threats to national security, divided into risks, vulnerabilities and challenges. The factors of risk represent those elements, situations or conditions, either domestic or external, which might affect the security of the country, generating adverse effects or affecting fundamental national interests. Vulnerabilities are defined as states of things, processes or phenomena in domestic life, which diminish the capability for responding to existing or potential risks or favour their emergence or development. New challenges are those types of risks of non-classical asymmetric nature, which may consist of deliberate armed and non-armed actions aimed at affecting national security by having direct or indirect consequences for the country's economic and social life (terrorist actions, illegal access

---

<sup>17</sup> 'The National Security Strategy of Romania...'

to computer systems of strategic importance, deliberate provocation of ecological disasters, etc). It is therefore affirmed that the fundamental responsibility of the state is particularly to manage authoritatively the risks and vulnerabilities of a domestic nature, which inevitably influence Romania's position in the international security environment. Through the attention it pays to these domestic factors, Romania can, on the one hand, still be an important provider of regional and international security and, on the other hand, turn fulfilment of the objectives of sustained, durable, economic, social development into a valuable and specific resource for the country's real security. The main risks identified in the NSS rely on the effects of instability and low intensity crises at sub-regional level, proliferation of weapons of mass destruction, trans-national organised crime and illegal trafficking, clandestine migration and actions inciting to extremism, intolerance, separatism and xenophobia. As they are of a primary non-military nature, the NSS emphasises the role of cooperative diplomacy, economic development and internal security in responding to current risks, as well as the opportunities given by Romania's participation in different security processes and organisations (OSCE, UN, PfP). In the process of drafting the NSS, risks to national security have been considered from a political standpoint and defined on the basis of their impact on the promotion and ensuring of Romania's national interests. Operationally, evaluation and analysis of those risks are mainly addressed by the national intelligence agencies that present regularly updated information to the Supreme Council of National Defence and annual assessments of their activity to the Parliament.

On the basis of current NSS assessment about non-conventional challenges, different major inter-agency processes started in 2002 in order to assess the required types of cooperation in countering terrorism. Among them, a National Committee for UN Resolutions on terrorism was created under Ministry of Foreign Affairs coordination. A sectorial counter-terrorism strategy was developed by the Romanian Intelligence Agency and approved by the government in April 2002. The National Security Strategy stated the need to create military forces for special operations and a Defence Ministry concept has been drafted in this field.

Defence policy goals defined in the NSS are integration into the Euro-Atlantic and European military structures; the development of a credible, modern and effective defence capability; the strengthening of civil control over the armed forces, as well as the

improvement of Romania's status as a security provider. Among subsequent courses of action, priority has been given to fulfilling Membership Action Plan objectives, improving participation in PfP exercises and operations, optimising defence capabilities and pursuing the restructuring of the Armed Forces, improving the contribution to EU Headline Goals, implementing the 2001 Military Career Guide to ensure professionalisation and transparency within the military system, developing coherent acquisition and modernisation strategies. The main courses of action are continued from the previous NSS, while enhanced priority is given to resource planning and capability building, while new guidelines are introduced with respect to enhancing cooperation with intelligence agencies to improve the process of risk assessment and evaluation.

The first National Military Strategy, approved by the government at the beginning of 2000, has defined new missions for the armed forces, from crisis management to the use of defence diplomacy tools (promoting Confidence and Security Building Measures, regional cooperation initiatives, bilateral arrangements, cooperation with other states in information sharing, etc). It stated that territorial defence remains the core military task and defined military reform as intended to provide optimal capabilities for national defence and concomitantly improve Romania's contribution to regional peace and security. The NMS is undergoing revision on the basis of the new NSS within the Ministry of National Defence. Its drafting process is substantiated in intense debates between civil and military planners about the need to redefine the core missions of the Armed Forces. That is to say that future accession to NATO will have a direct impact upon the process of coordination of structural reform in the field of security, from coherent missions and force building to cooperation in crisis management. Within the process of amendment of the Military Strategy, new types of missions will be included, from future participation in Article 5 missions to counter-terrorist operations, shaping thereby a new type of military. The NATO transformation and the establishment of specific roles and capabilities for its members will require a detailed analysis of Romania's possible future contributions, to be reflected in the defence planning process. Moreover, EAPC and PfP adaptation to a changed security environment will deepen Romania's participation in subsequent process and enlarge the framework of its partners' cooperation to include the entire national security sector as a whole.

It is worth noting that current legislation strictly limits the peacetime involvement of the Romanian Armed Forces in domestic missions to the logistic support provided, upon request, to other security forces, in dealing with, for example, sizeable civil emergencies. In this field, there are authorised opportunities for offering military equipment or infrastructure to forces of the Ministry of the Interior in ensuring border security in difficult areas or circumstances, but no such support has been supplied up to now, as there is still a need to clearly define in inter-agency discussions the operational details of such assistance. This mission, stated in the first NSS, will also require further consideration and re-adjustments at the level of operational plans. The same situation is applicable to addressing in a detailed manner the military in countering the proliferation of weapons of mass destruction, addressing NBC policies and adapting its existing means and structures to NATO requirements in these fields.

According to current developments in the defence policy field, the Romanian armed forces will have to turn gradually into a security and defence system, in which besides the traditional role of ensuring homeland defence, its soldiers must be prepared for different types of peace support or crisis response tasks, and participate in multinational military cooperation. New missions, requiring new capabilities oriented towards expeditionarism and commitment, are being developed as main requirements of the new defence posture. Meanwhile, there is a need to keep a certain level of readiness and commitment in the military body, as a particular institution within society, based on what Huntington defined as “expertise, responsibility and corporateness”.<sup>18</sup>

## **Designing a New Force Structure and Building a New Military Culture**

As Tim Edmunds from King's College London observed, in Central and Eastern Europe, in terms of ‘drivers’ and incentives, a changed geo-strategic environment, international commitments and the goal of NATO and EU accession have helped to de-legitimise a traditional concentration on the military roles of National Defence and the “Socialising” function assigned to militaries of mass conscription. In their place, new roles or more precisely newly-perceived roles, such as International Normative and Diplomatic, are emerging.

---

<sup>18</sup> S. Huntington, *The Soldier and the State: The Theory and Politics of Civil-Military Relations*, (Cambridge, MA: The Belknap Press of Cambridge University, 1957), pp. 8-12.

If at the beginning of the 1990s no real culture of multinational operations or multinational diplomacy existed within Romanian military bodies, in the last 10 years, a certain tradition of international involvement has emerged from practicing multi-level cooperation and peacekeeping. This process should be considered as a two-edged one: participation in peace operations and international initiatives has generated new types of communication and cooperation from the highest leadership level to the lowest operational one that created new thinking and perceptions, both within the military and within civil society ideas about the role of the military; on the other side, this has continuously shaped and improved the form, tools and substance of military engagement in these types of missions.

In Romania's case, practice has preceded conceptualisation: the 1990s experience in peace operations included various types of contribution, from military engineers to hospitals, infantry, to intelligence cells or CIMIC officers, while clear definitions of missions and operational doctrines were almost non-existent. The legislation regulating Romania's participation in peace support operations was adopted in 1994, after participation in three multinational missions, including a very difficult one, the case of Somalia. On the basis of the first NMS and Defence Planning Guidance, only in November 2001 was a doctrine for participation in multinational operations issued at Defence Ministry level. In 2002, a defence ministry order regulated, in an inclusive manner, the defence structures responsibilities in the process of analysis, preparation, decision-making and deployment in PSO within the Romanian Defence Ministry.<sup>19</sup> Clear guidelines with respect to political-military assessment of various missions, the preparation of military content of the proposals to the Parliament, resource analysis, etc, have therefore been issued and the emerging system will allow a better internal coordination and speed up these processes.

One of the major achievements of the current planning cycle has been the integration of strategic planning or military planning in overall policy planning, on the basis of both specific Defence Ministry regulations and institutional changes. Consequently,

---

<sup>19</sup> The Ministry Order no. 196/22.12.2002, "For the regulation of responsibilities regarding Romanian military participation with forces and means in PSO under UN or OSCE mandate and in cooperation initiatives with the purpose of building multinational units designed for PSO"

operational plans will be developed upon the provisions of the NMS and Defence Planning Guidance and revised according to the timeframe of those documents. Notwithstanding, due to the novelty of the defence planning system, cooperation between civil and military structures in this field is still inadequate to meet the normative framework requirements or it is developed on an occasional basis. Policy experts' knowledge about military affairs is weak in comparison with the task of ensuring or evaluating the implementation of the planning procedures from the NSS down to the operational level in an integrated manner. Therefore, in some cases, current documents do not reflect the existing or designed plans and the civilian control mechanisms ought to be further improved.

Translation of the military strategy into specific doctrines and plans has acquired a tremendous importance as Romania's involvement in operations has evolved and developed very rapidly. In September 2002, a Romanian battalion participating in Operation Enduring Freedom became involved in combat operations, assuming a level of risk considerably different from that of standard peacekeeping efforts. The Romanian Armed Forces have not undertaken such an involvement since the Second World War. Much remains to be done in the field of creating comprehensive military thinking, procedures and plans to pursue this endeavour, as models for doctrinal approaches are currently under analysis. The process was delayed during the previous planning cycle, due to the focus on restructuring priorities and a lack of expertise in this field. Building a culture of military participation to support security goals and objectives within the armed forces, as stated in the NSS, is still a major issue to be tackled and that will influence directly the development of Romania's defence policy in the following years.

Adaptation of the military in shape and size to its new missions has been extremely difficult, as Romania had to deal with a considerable military legacy and a tradition of popular participation in large-scale wars in the 19<sup>th</sup> and 20<sup>th</sup> centuries. An extensive downsizing process started at the beginning of the 1990s. "Officially numbering 320,000 at the time of the revolution (...), the Romanian armed forces were cut to 143,028 by the end of 2000"<sup>20</sup> – all figures including conscripts. Wartime strength decreased from more than half a million to 230,000 in 2001. Military personnel on active duty were approximately 100,000 at the end of 2001. Defence plans have been developed ever

---

<sup>20</sup> See L. Watts 'Crisis', pp. 108-109.

since to increase the number of professional military and to re-shape the entire force structure. In order to reduce the negative effects of the restructuring process, a reconversion system has been established together with NATO and funded by the World Bank. The plans have been refined and changed over the years, sometimes in a disconnected manner, but the goal of Romanian military reform remained the same: to establish a leaner, more effective and flexible force structure, one that is NATO-compatible, yet affordable.

According to the guidelines of the “Objective Force Concept”, approved in spring of 2002 by the Supreme Council of National Defence, the process of restructuring the Romanian Armed Forces will continue in the next few years to reach a manpower of 90,000 by the end of 2007. The Romanian military aims to have an active duty corps of about 60,000 (50,000 military and 10,000 civilians), 90 per cent of whom will be professionals, who will be kept in high readiness (7–30 days). A lower-readiness territorial force of about 30,000 (25,000 military and 5,000 civilians) will be deployable in 90–360 days. The previously existing Reserve Forces will be completely dismantled. According to the Western-style pyramid of ranks, of the 75,000 active duty and territorial forces, 12,500 are to be officers, 25,500 non-commissioned officers, 23,500 contract personnel and 13,500 conscripts. The intention was announced to accelerate the process of professionalising the armed forces, which will lead to the gradual elimination of conscription by 2007. The Romanian Armed Forces will be able to sustain simultaneously up to two battalions in missions abroad for a six-month period, to be extended to a brigade-plus level as the reform proceeds. Current plans also include the creation of forces for special operations at platoon level. This Objective Force Concept constitutes the hard core of the revision of the National Military Strategy in the autumn of 2002. Reductions are designed to allow a better focus on training, equipment, sustainability and deployability of forces designed for NATO/PfP operations. Priorities in addressing the reform process and designing an appropriate resource allocation correspond to the objectives assumed in the Membership Action Plan for the next cycle. The MAP process was basically the one that over the years introduced a sense of discipline in meeting established goals in defence reform and adopting a strategy of “small steps” instead of developing ‘all-inclusive’ plans, consequently being a direct support for the national planning system.

Introducing a new conceptualisation of defence planning and military affairs needs sound and substantial civil-military relations. It is common sense that planning for a

certain type of command and control for a new force structure or asserting certain operational rules of engagement in a specific operation have inner political implications, therefore they should be analysed and endorsed by the civilian leadership, but at times such a kind of planning has been exclusively military. Both military and civilians had to face the task of re-defining the armed forces role and shape in a new environment, where the absence of a clearly defined external threat has complicated classical approaches to plans and scenarios in force-building. The process is therefore dual: not only creating a new military thinking, but also developing a culture of understanding in military affairs among civil servants and policy makers within the Defence Ministry. The defence planning process, debates related to the new force structure or the drafting of Annual National Plans for NATO membership have contributed to building common approaches of both civil and military experts, but no one should think that this is an effortless or rapid process. Transformation could become a major opportunity to bridge the gap between the military and civilian culture, by blurring the classical lines between them in the process of re-assessing the main defence planning requirements. New security missions for the armed forces could contribute to the strengthening of civilian oversight and bring fresh civilian expertise into military affairs, as in the case of defence diplomacy tasks where civilian leadership has to cooperate directly with specialised military structures in promoting forms of military cooperation, assistance or information sharing.

### **Way Ahead: Towards a Security Planning Concept**

It is not tautological to reiterate that defence is only a part of a larger security picture, where adaptable shifts in the balance between means (diplomatic, economic, military, social) become an intrinsic part of any state's international engagement.

For many years, the armed forces were conceptualised as a distinct corporative system, apart from national intelligence or diplomacy structures and built upon specific managerial rules of an organisation designed exclusively for clearly-defined outside threats. Thinking broadly, no one can describe today what the military is about, without looking at the roles and specificity of other security sector institutions – including the international or multinational ones – while the issue of civil-military relations is intrinsically connected to that of inter-institutional management and planning. The ability

to cooperate, share information and coordinate measures could be tested in difficult circumstances, as September 11 demonstrated.

In recent years, legislation has been developed to assess the role of the President and Supreme Council of National Defence in addressing crisis or emergency situations, but no such provisions exists for the government. A law on a national system for crisis management was recently sent to Parliament, after quite a long period of debates and re-adjustments, establishing specific tasks in addressing and managing crises for all governmental structures and agencies, including the central structures and the local administration. To provide an operational framework for cooperation until the law was issued, the Defence Ministry launched in 2001 a series of meetings with other agencies resulting in a government protocol of cooperation in crisis and emergency situations signed at ministerial level. After the approval of the law, provisions for the Armed Forces role in crisis management will be incorporated in defence planning documents and plans.

Romania's NSS clearly assessed the need to develop a larger cooperation between security forces and agencies, in dealing with securing state borders, intelligence-sharing, civil emergencies. However, the process of cooperation encountered significant difficulties derived from bureaucratic procedures and the existence or even augmentation of cultural gaps between security sector components. For example, the military system has benefited directly from the Partnership framework of planning and cooperation. While other security forces were mainly assisted in their reform at bilateral level, the armed forces were involved in multinational operations at a considerably higher level than other security forces.

Concrete proposals have been brought up recently to improve cooperation between national security forces and, to some degree, think about the possibility of some type of common training, to address both multinational operations and domestic missions. As an example, Romania military training institutions for security strategies and resource management have opened up to receive high-level officials from police and intelligence structures, while the legal framework of cooperation between the two ministries will be re-defined to include topics of common interest and activities. While these changes are

inevitably occurring in specific areas such as civil emergencies, logistic support or counter-terrorism measures, a broader picture needs to be designed.

That is to say that the defence planning process has to be integrated into a larger framework of security planning or security sector reform. Romania's planning system is an appropriate tool in advancing this goal in a methodically manner, as the government White Paper addresses sectorial strategies of reform of all institutions involved in providing national security, not only of the defence system as is the case in other countries' national planning. Second the GWP has specifically asserted the goals and means to develop a comprehensive vision on security sector reform and during further refinements within the planning cycles, it could become the basis for developing a sound policy in this field.

This process will necessitate an integrated policy towards very diverse institutions and capabilities, each of which has its own inner logic of development and its own system of interactions: force planning resulting in deterrence and response to a certain spectrum of risks; diplomatic policies creating incentives for cooperation and the insertion of the state's objectives on the international agenda; the political sector, as an interface between authority, governance procedures and legitimacy; interior forces and intelligence, addressing a different agenda in countering risks to national security; the economic sector, incorporating commercial or financial policies and last, but not least, the society component, as a form of collective identity that substantiates the practice of representative democracy. The essence of such endeavour will be to ensure the cohesion of different processes of domestic transformations and adaptations in order to correlate 'grand strategies' with micro-policies in a coherent concept circumscribing Romania's role as a regional and global player in the field of security.

## **CHAPTER FIVE**

---

### **DEMOCRATIC CONTROL OF INTELLIGENCE AND SECURITY SERVICES**

*Valentina Farcas*

#### **Introduction**

There are few institutions in Romania that enjoy greater public scrutiny than intelligence and security agencies. The reason lies in the pre-1989 history, when “the intelligence community” was perceived to be acting abusively against Romanian society, in the service of the dictatorial power of the Ceaușescu regime. That is why the intelligence activity was among the first to be reformed, reorganised and placed under democratic and civil control. Today, more than 13 years after the events of December 1989, the doubts as to the integrity of the intelligence agencies have faded. Still, there are associations and organisations of civil society actively involved in monitoring very closely these services.

All intelligence organisations are controlled in their activity by the Parliament, mainly through the parliamentary committees of its two Chambers and through special joint committees created for the main security agencies – the Romanian Intelligence Service (SRI) and the External Intelligence Service (SIE).

#### **Legislative Provisions**

Specific provisions regulating the activity of the intelligence and security agencies are contained both in laws referring directly to these Services and in other legal instruments dealing with various aspects of their activity. This is because there are autonomous intelligence agencies and others that are subordinated to, or part of, other institutions or central administrative bodies, such as the Ministry of National Defence and the Ministry of the Interior.

The main laws relating to the intelligence and security Services are the following:

- Law no.40 of 1990, concerning the organisation and functioning of the Ministry of the Interior, recently re-published in the Official Gazette with all amendments, and Law no.360 of 6 June 2002, on the Status of the policeman and the demilitarisation of the Police;
- Law no.14 of 24 February 1992, relating to the organisation and functioning of the Romanian Intelligence Service (SRI);
- Law no.45 of 1 July 1994, regarding Romanian National Defence and the government's Emergency Ordinance no.74 of 15 June 2000, on the organisation and functioning of the Ministry of National Defence;
- Law no. 92 of 24 July 1996, concerning the organisation and functioning of the Special Communications Service;
- Law no.1 of 6 January 1998, relating to the organisation and functioning of the External Intelligence Service;
- Law no.191 of 19 October 1998, on the organisation and functioning of the Protection and Safeguard Service;
- Law no.182 of 12 April 2002, regarding the protection of classified information and Government Decision no.781 of 25 July 2002, regarding the protection of confidential information;
- Law no.415 of 27 June 2002, concerning the organisation and functioning of the Supreme Council of National Defence.

## **Institutions**

In Romania, the following organisations are considered intelligence agencies:

- the Romanian Intelligence Service;
- the External Intelligence Service;
- the Department for Information and Military Representation of the Ministry of National Defence;
- the Department for Information of the Ministry of the Interior;
- the Protection and Safeguard Service.

There are also a number of other bodies which carry out intelligence activities and are connected with the above-mentioned agencies: the Special Communications Service, created in 1996 by Law no. 92; the National Intelligence Academy, the former National Intelligence Institute, subordinated to the Romanian Intelligence Service, created in 1995 and reorganised in 2000 through Government Decision 952/2000, as well as other agencies dealing with the treatment of classified information.

As parts of the national defence system of Romania, the missions of the intelligence agencies are subordinated to the task of safeguarding national security, identifying and neutralising any risk that might affect national security.

The Romanian Intelligence Service, as part of the national defence system, performs missions relating to the collection of information, verification and evaluation of intelligence with a view to identifying and countering any action considered a threat to national security; ensures the protection of classified information; performs missions to counter terrorist activities in Romania.

In its activities, the Romanian Intelligence Service cooperates with similar autonomous agencies as well as with bodies of the central administration. By law and according to the particularities of each mission, the Romanian Intelligence Service can use undercover agents or agencies, functioning according to the law. It can cooperate with similar agencies from other countries, either in exchanging and comparing intelligence or on specific issues, with the approval of the Supreme Council of National Defence. It cannot perform missions of criminal investigation, and cannot detain or arrest suspects.

The Romanian Intelligence Service is led by a Director with the rank of Minister who is appointed by the Chamber of Deputies and the Senate in joint session, on the President's proposal, and after being interviewed by the Special Joint Committee exercising parliamentary control over the activity of the Service. He can be removed from office by the Parliament, in joint session, on the request of the President or on the proposal of at least one third of the total number of deputies and senators.

The activity and missions of the External Intelligence Service are considered classified information. In performing its missions, the Service makes use of undercover agents and agencies. Sources of intelligence, methods and means used can not be unveiled in any circumstance and to anybody. Nevertheless, it is required by law that these methods and means used to gather intelligence should not harm the rights and fundamental liberties of citizens, and their personal life, honour or reputation.

The command of the External Intelligence Service is exercised by a Director, ranking as a Minister, appointed by the Supreme Council of National Defence on the proposal of the President.

It is not clearly stated who can remove from office the Director of the External Intelligence Service. But by corroborating the provisions from different legal acts that regulates the activity of this Service, and the principle of symmetry, it is the Supreme Council of National Defence which is entitled to take such decision. Action in this regard is taken on the proposal of the President who in turn receives such a proposal from the Special Joint Committee for exercising parliamentary control over the activity of the External Intelligence Service.

The Protection and Safeguard Service is an autonomous body specialising in the protection and safeguard of Romanian and foreign officials. Nevertheless, it is entitled by law to perform duties and organise missions that are specific to intelligence agencies but only in connection with its main duty. Any information that it may come across should be forwarded to the interested intelligence body. It cannot perform missions of criminal investigation, and cannot detain or arrest suspects. But it can make use of arms and ammunition in cases of imminent danger, it can immobilise aggressors and hand them over to the specialised bodies.

Command of the Protection and Safeguard Service is exercised by a Director, ranking as a Secretary of State and appointed by the President, on the proposal of the Supreme Council of National Defence. There is no precise provision as to who can remove the Director of the Protection and Safeguard Service but, being appointed by the President, it is assumed that this responsibility belongs to the President.

This Service reports to the Parliament on its activities at least once a year.

The Intelligence Departments of the Ministry of Defence and the Ministry of the Interior are responsible, in accordance with their subordination, to the Minister of National Defence and the Chief of the General Staff and, respectively, to the Minister of the Interior. But since the government itself and its members are responsible to the Parliament, these Departments too are under the ultimate control of the Parliament.

All intelligence organisations are directly subordinated and responsible to the Supreme Council of National Defence which is itself responsible to the Parliament.

#### Duties and Responsibilities of the Intelligence and Security Agencies

The duties and responsibilities of the intelligence and security agencies differ to the extent that each of them has specific areas of responsibility, but all of them are aimed at the same goal, which is safeguarding national security. They are all parts of the system of national defence, which is coordinated by the Supreme Council of National Defence.

The Romanian Intelligence Service, which is specialised in intelligence regarding national security, organises and performs activities of gathering, verifying and making use of information in order to identify, prevent and counter acts that constitute, according to the law, threats to Romania's national security. It is also invested with duties and responsibilities in the field of countering terrorism, mainly at the level of intelligence-gathering and prevention, but also of performing counter-terrorism intervention, capturing and neutralising terrorists, freeing hostages and re-establishing legal order.

It ensures the protection of classified information and prevents the leaking of such information and other confidential data. In this respect, if required, the Romanian Intelligence Service can verify individuals which have access to this kind of information, with the exception of civil servants from the Ministry of National Defence, Ministry of the Interior, Ministry of Justice, External Intelligence Service and Protection and Safeguard Service, which have their own measures of protection.

From this perspective, it also carries out activities targeted at preventing, discovering and dismantling intelligence networks organised on the Romanian territory that can endanger national security, and the illegal manufacturing, possession and use of means of interception of communications.

Apart from the intelligence service of the Ministry of the Interior, no other intelligence agency can proceed to the detention or arrest of citizens. If during missions it is necessary to detain one or more persons, they must be immediately handed over to specialised bodies invested with the duties of exercising justice.

Investigation and surveillance activities for the purpose of intelligence-gathering and with the strict observance of legal procedures are common to all intelligence organisations.

### **Parliamentary Control**

The Romanian Constitution contains a number of specific provisions relating to intelligence and security activities. Thus it is stipulated in Art.62 that the Chamber of Deputies and the Senate, in joint sessions, examine the reports of the Supreme Council of National Defence, appoint, on the proposal of the President of Romania, the Director of the Romanian Intelligence Service and exercise control over the activity of this Service.

According to Art.118, the Supreme Council of National Defence organises and coordinates in a unitary manner activities relating to the country's defence and national security.

Apart from the Committees for Defence, Public Order and National Security of the Chamber of Deputies and the Senate, there are two special parliamentary committees having oversight functions over the activity of the External Intelligence Service and the Romanian Intelligence Service.

The Special Joint Committee for exercising parliamentary control over the activity of the External Intelligence Service was created through two Parliamentary decisions: no.13 of 3 June 1998 and no.44 of 28 October 1998. It consists of five members – three Deputies

and two Senators – elected for the duration of the legislature. They must declare under oath that they did not collaborate with the former Secret Police and that they are not related in any way to any existing intelligence organisation. Decisions are taken by majority vote of the members who are present.

The Committee exercises concrete and permanent control over the activity of the External Intelligence Service having as main duties the following:

- analyses and verifies the strict observance of the Constitution and Romanian laws by the External Intelligence Service;
- verifies if orders, decisions and other norms emanating from the commanding structures of the External Intelligence Service are in accordance with the Constitution and Romanian laws, with the decisions of the Supreme Council of National Defence and those of the government;
- analyses the budget of the External Intelligence Service and its implementation;
- interviews the person proposed by the President of Romania for the position of Director of the External Intelligence Service and issues a consultative opinion that is forwarded to the President. It can also propose to the President the removal from office of the Director of this Service;
- verifies how Romania's interests are promoted and how the Service is acting in identifying, analysing, monitoring and eliminating threats to national security;
- verifies how the Service cooperates with other national intelligence organisations as well as with intelligence services of other countries;
- verifies the criteria for selection and promotion of the personnel of the Service.

The Committee can invite to its meetings the Presidents of the two Chambers of the Parliament, the chairmen of the Committees for Defence, Public Order and National Security of the Senate and the Chamber of Deputies, members of the Supreme Council of National Defence and other officials.

The work and documents of the Committee are considered classified information, with the exception of its conclusions that are made public after being authorised by the Permanent Bureau of the two Chambers of the Parliament. The members of the Committee are bound not to expose classified information they have knowledge of in

their capacity. Otherwise, they face suspension from the Committee and, if acting in bad faith, losing parliamentary immunity and being deferred to justice.

The Committee present reports on its activity whenever asked by the Parliament.

The Special Joint Committee for exercising parliamentary control over the activity of the Romanian Intelligence Service was created through Parliamentary Decision no.30 of 23 June 1993. It has nine members that cannot be part of other parliamentary committees in the same time. Nor can they be members of the government. As in the case of the Special Joint Parliamentary Committee for the External Intelligence Service, the members of this Committee must declare under oath that they did not collaborate with the former Secret Police and that they are not related in any way to any existing intelligence organisation. Decisions are taken by majority vote of the members who are present.

The Committee exercises concrete and permanent control over the activity of the Romanian Intelligence Service having as main duties the following:

- verifies if in exercising its duties the Romanian Intelligence Service strictly complies with the provisions of the Constitution and Romanian laws;
- examines allegations of illegal action by the Romanian Intelligence Service and decides upon measures to be taken;
- interviews the person proposed as Director of the Romanian Intelligence Service and forwards a report on this issue to the Parliament;
- examines budget proposals for the Service and forwards to the specialised parliamentary committees its proposals for budget allocations;
- monitors the use of funds from the State Budget allocated to the Service and also monitors the creation and use of other sources of income for the Romanian Intelligence Service.

At least once a year, but also whenever necessary, the Committee presents a report on its activity to the Parliament.

The work and documents of the Committee are considered classified information, with the exception of its conclusions that are made public after being authorised by the Permanent Bureau of the two Chambers of the Parliament.

The Committee members are bound not to expose classified information they come across in their capacity. Otherwise, they face suspension from the Committee and, if acting in bad faith, losing parliamentary immunity and being deferred to justice.

There have been no cases of accusations against the intelligence agencies as such for illegal behaviour. Still, there were certain allegations of criminal conduct by individuals working in these agencies. These allegations were investigated, and the persons concerned were judged and, when found guilty, dismissed and convicted. Most allegations were about abuse of power or use of information for personal interest, by blackmail, as in a recent case that ended with the conviction of the accused officer.

In another case, that was on the front pages for a considerable period of time, the Director of the Romanian Intelligence Service himself came under scrutiny for socialising with a local businessman running a shady financial operation and apparently doing him favours. After being investigated by the Parliamentary Committee in charge of overseeing the activity of the Romanian Intelligence Service, these allegations of wrongdoing were proved unfounded and dismissed.

In general, if an investigation of the activity of an intelligence service is necessary, the normal procedure goes through the parliamentary committee exercising oversight functions over the respective intelligence agency.

It is here that alleged cases of breach of law by intelligence agencies are examined, analysed and verified. Any person or organisation can file a complaint with these committees. In doing this, these committees can ask for documents, data and information and can interrogate persons in connection with the examined facts, and the intelligence agencies are obliged to comply with the conclusions. There is a limitation, though. Documents, data and information relating to intelligence activities and connected with national security which are pending or will be carried out in the future, and also information that can lead to the exposure of undercover agents, information sources, or

existing methods and means of investigation, cannot be presented, unless this contradicts the constitutional order.

Another investigating body connected with the activities of individuals – officers or civilians – working in intelligence agencies is the Office of the Military Prosecutor. This legal institution is part of the Military Justice system that is, in its turn, part of the National Justice system having investigative powers over persons working in a militarised institution and being accused of breaching the law.

How military justice works is another topic, but it is worth mentioning in this context that members of the intelligence organisation from the Ministry of the Interior are no longer subject to military justice as the police have been demilitarised.

## **Intelligence Reorganisation**

The organisation and activities of the intelligence agencies have been constantly monitored by the Parliament, the Supreme Council of National Defence and the government. There has been an ongoing preoccupation with improving the activity of these Services to make them as efficient as possible in the face of the changing security environment. And, at the same time, to keep their actions in accordance with the law.

An example is the creation of a National Intelligence Institute, now called the National Intelligence Academy, as a military school, subordinated to the Romanian Intelligence Service, organising advanced studies relating to intelligence activity. The aim is to prepare highly-qualified specialists in intelligence issues, policy planning, risk management and other aspects relating to national security. The courses are organised for a four-year period. With the approval of the Supreme Council of National Defence, foreign students are also admitted to this Academy.

All intelligence agencies are required to present reports to the Supreme Council of National Defence once a year and whenever requested. The activity of all intelligence agencies is coordinated by this body.

According to the Constitution and its constitutive act, the Supreme Council of National Defence is an autonomous administrative authority invested with the organisation and integrated coordination of all activities relating to national defence and national security. Therefore, it is obvious that intelligence organisations receive overall directions as to their main objectives from this Council, which meets once every three months or whenever necessary to assess the national security situation and to evaluate the activity of all the parts involved in the national defence system. The Council presents annual reports, and whenever requested, to the Parliament, which considers them in joint session of its two Chambers.

The contribution of the intelligence organisations to risk and threat analysis is very important at the level of prevention and early action. Also, on the basis of intelligence gathered, the national security concept can be modified in accordance with the overall changes in the regional and international security environment. It offers the possibility of adapting the security strategy to an ever-changing reality, where mobility and counter-action is of the essence for modern security strategies.

All intelligence organisations develop, with the approval of the Supreme Council of National Defence, their cooperation with similar bodies of neighbouring, NATO and other countries. Such cooperation, which is carried out mainly at the level of exchanging information and of joint action, has been quite instrumental in fighting terrorist acts, organised crime, trafficking of drugs, weapons and human beings and money laundering.

## CHAPTER SIX

---

### FROM DEMOCRATIC REFORM TO GOOD GOVERNANCE. MILITARY AND CIVILIAN TRAINING ON DEFENCE ISSUES

*Iulian Fota*

If we use the standard formula that NATO representatives use in general in dialogue with their Romanian partners, we could say that in the field of education of civilians and the military ‘progress was registered but there is still much to be done’<sup>1</sup>. Constitutionally and institutionally, the requirements for good functioning of civil-military relations exist. If the same issue of civil-military relations is analysed from the point of view of good governance<sup>2</sup>, of the military’s capacity to understand the new requirements that devolve from the fact that contemporary military professionalisation requires knowledge of international organisations, interagency stratagems and procedures in multinational bureaucracies, and on the other side, the fact that civilians must have a very good knowledge of defence policy, defence planning, force structures, and so on, we find that in spite of a very good start<sup>3</sup>, developments were very slow.

Institutionally, Romania could boast a significant number of institutions of military and civilian education and training in defence affairs, but if we evaluate the quality of the didactic processes, the structure and curriculum, an entire series of improvements should be introduced, so that both military and civilian personnel would be capable of

---

<sup>1</sup> This is the classic formula used by NATO every spring when, within the NATO+Romania reunions, the results of the National Annual Programmes – MAPs – are evaluated.

<sup>2</sup> In Romania, the concept of ‘good governance’ entered the vocabulary relatively late and mainly within the academic environment. It is generally accepted in a wider sense of competent management of the country’s general resources in order to increase the standard of living. Probably, the vector that would impose the ‘good governance’ as a current practice in Romania is the EU, a first step in this sense being made through the translation, by the Ministry of European Integration, of the document ‘European Governance: the White Book’ (Brussels, COM(2001)428 end), elaborated by the European Commission. On page 10 of this document, the five principles of good governance are stipulated.

<sup>3</sup> As early as 1992 the National College of Defence was established, which had as its main purpose the training of civilians on national security and defence issues; in 1992 we also registered the first wave of civilians within the Ministry of Defence, including the first civilian official to hold a leading position within the MoD (Dr Liviu Muresan, deputy director of National Defence College).

correctly assimilating the new set of skills: political, military, managerial, international. The following study intends to review developments from 1990 up to today and the current situation in the field of military education and training, of the civilians' role in defence affairs and of Parliament's role, and especially that of parliamentary staff in defence affairs.

## **Education and Training for the Military: 1990-2002**

Developments in the field of military education and training were related to, and determined by, the general development after 1990 of the military establishment and by the stages of the reform. Up to 1997, the reform of Romania's Armed Forces, according to some recent studies<sup>4</sup>, was divided into three periods:

1990-1992 – the period of Armed Forces decommunisation and depolitisation, in parallel with the adoption of a new legislative framework, through the approval of a new Constitution and of specific laws;

1993-1994 – the period of launching the process of the forces' reduction and restructuring in parallel with the start of the 'civilianisation' process<sup>5</sup> and the building of the first political-military structures inspired by the West;

1994-1997 – the period of Partnership for Peace, characterised especially through the synchronisation of reform with a series of international programmes and especially with the Partnership for Peace, including the development of interoperability with NATO, such as PARP. As the first country that signed the PfP Framework-Document, Romania considered its participation within it as the main way of preparing itself for eventual integration into NATO.

At present, we can consider that we are at a fourth stage, begun in 1997, through the effort of getting, in Madrid, an invitation for integration into NATO, an effort that had to find support also in the acceleration of the process of military reform. This last stage

<sup>4</sup> C. Zavate, 'The Reform of the Romanian Armed Forces in the 90s' ('Reforma în armata României în anii '90'), *Dosarele Istoriei*, No. 5 (2002), p. 59.

<sup>5</sup> M. Zulean, 'Professionalisation of the Romanian Armed Forces', in A. Cottéy, T. Edmunds, A. Forster (eds.), *The Armed Forces and Society*, (Palgrave & Macmillan, 2002).

could be entitled ‘pre-integration into NATO’, characterised especially by the implementation of some irreversible measures of reform aimed at meeting the standards and criteria of integration into the Alliance<sup>6</sup>.

The restructuring and modernisation of military education was a major objective of the reform process since the preliminary stage of the launching of the process. It is worth underlining the fact that even since the first months after the change of regime in December 1989, military personnel requested, through different articles, that, within the new reform process of the Armed Forces, the reform of military education should be a priority<sup>7</sup>. Moreover, ‘for renewing military education’, the sending of Romanian officers to courses abroad was requested<sup>8</sup>. Coming to meet all these requests, the defence minister of that period, General Victor Stănculescu, admitted, in March 1990, that ‘change of the education system is one of the keys of Armed Forces’ democratisation<sup>9</sup>.

Military education also follows the general stages of reform. The stage 1990-1992 was one of transition that could also be named of ‘repair measures’<sup>10</sup>. From the point of view of military education, the main aim of this stage was the depolitisation and decommunisation of the Romanian Armed Forces, a process focused on two directions: a. the dissolving of the Communist Party’s structures from the military education system; an important consequence was the transformation of the ‘patriotic education’ process into a ‘civic education’ process and the passing of the responsibilities for its good functioning from the hands of a party secretary to the hands of a military commander<sup>11</sup>;

---

<sup>6</sup> The transformation of the General Staff into a modular structure, similar to those of NATO armies; the establishment of specialised structures for the integrated management of relations with NATO, especially the Department for European and Euro-Atlantic Integration; the acceleration of force reduction and restructuring in parallel with the increase of the capability of participation in crisis management, a priority in this sense being the establishment of the Rapid Reaction Force and of the Air-lift Detachment equipped with C-130 Hercules aircraft; the establishment of the Department for Human Resources Management; the introduction of the defence planning system PPBS.

<sup>7</sup> The newspaper file ‘Armata poporului’ from January-March 1990.

<sup>8</sup> Article ‘For renewing military education’ (*Pentru înnoirea invatamintului militar*), *Armata Poporului*, 31 January 1990, p. 2.

<sup>9</sup> V. Stănculescu, interviewed by BBC, on the occasion of his visit to UK, March 5-10 1990: ‘I have in view the transformation of the education system in order to promote and stimulate the initiative for a wider democratisation of all the organisational structures of the Armed Forces’.

<sup>10</sup> N. Spiroiu, ‘Romanian Armed Forces in the process of democratic reform’ (*Armata Romana in procesul reformei democratice*), *Gindirea Militara Romaneasca*, No. 4, (1993), p. 12.

<sup>11</sup> Every military unit, at the same time being considered also an organisation of the Romanian communist party, had within its structure the position of party secretary (political commissar), who was responsible, among other things, for the “patriotic” education of both military officers and conscripts; see also M. Zulean, ‘Transformation of the Romanian Civil-Military Relations After 1989’, *DCAF Working Papers*, No. 25, 2002.

b. the elimination, from the curricula of the military institutions of higher education, of those political subjects (scientific socialism, Marxist political economy etc) or the removal of the ideological elements from military subjects<sup>12</sup>. Through a ministerial order given on 28 December 1989, the political faculty of the Academy of Higher Military Studies was dissolved<sup>13</sup>.

The Department for Education, Science and Culture was established in 1990. One of the department's main tasks was that – starting from a multitude of proposals and alternatives – of conceiving a pattern of military education reorganisation, which would equally meet requirements related both to a new military efficiency of the military establishment and to the development of a democratic environment in Romania. Representative of the first requirement is the transformation, in 1992, of the officers' schools in higher institutes of military education. As for the second requirement, the most cited example is that of the National Defence College, the first institution for the common education of the military and, especially, of civilians on issues of national defence and security.

An important trend in the efforts for reform of Romanian military education in the period 1990-92 was that of its compatibilisation with civilian education, as an answer to the new strategy of the Ministry of National Defence of rethinking the place of the Armed Forces in society. Military education should not have, from an academic point of view, a special statute and, aside from its military nature, it should comply with the same academic standards as civil universities. The certification of teaching staff and institutions as well as of the military academies was made according to the norms of the Ministry of National Education; university regulations valid for the civilian academic system were adopted, including the 'University Charter'. Fundamental subjects that were forbidden during the dictatorship period, such as informatics, management, psychology, were reintroduced into the curricula. No less important, the study of foreign languages was intensified and the study of political sciences was introduced.

---

<sup>12</sup> The Romanian military doctrine resulted from the political programmes of the Romanian Communist Party and not from an analysis of risks and threats to national security.

<sup>13</sup> Order of the Minister of Defence no. M.C.7588 ,issued on 28 December 1989.

During this period, 107 officers and military students were sent abroad for perfecting their training in institutes of military education in Belgium, France, Britain and the USA<sup>14</sup>. As in the other sectors of military life, success in planning and implementing the reform of military education was conditioned by many requirements, among which we note: correlation with the general reform of the military establishment; making education costs fit the country's economic potential; its modernisation on a scientific basis, especially to reflect the changes that the military world suffered as a result of technological progress. Accordingly, as Romania clarified its new security and defence policies, under the influences of the objectives that devolved from it, military education had to answer new challenges: the organisation of the educational system; the management of education; the legislative framework; the formation and improvement of teaching personnel.

The stage 1993-94 did not bring significant institutional transformations in military education, but it was acknowledged that the modernisation of military education would have to be synchronised with the general process of Armed Forces reform and, if possible, even to precede it. The assessment of the new internal and international context prompted the heads of the Romanian military educational system to rethink the process of education starting mainly from its purpose, respectively the new type of Romanian officer. This officer was already requested to think and act creatively and efficiently and to be capable of fulfilling both his tasks, of ensuring national security, as well as being able to cooperate properly within the structures of international security<sup>15</sup>. The officer was to become the functional nucleus of the whole military system; he ensured the armed forces' functionality through the guidance of the 'people-instruments-actions' complex<sup>16</sup>. On the basis of the new pattern, the components of the officer's pattern were to be:

1. the human pattern, which expressed the military educational ideal;

---

<sup>14</sup> A. Constantin, 'Restructuring dimensions in the process of forming and improving the military personnel' ('Dimensiuni ale restrukturării în procesul de formare și perfecționare a cadrelor armatei'), *Gindirea Militară Românească*, No. 4, (1993), p. 48.

<sup>15</sup> *The Reform of the Romanian Armed Forces: Current Stage and Perspectives*, (Reforma în armata română: stadiul actual și perspective), Ministry of National Defence, Office of Information and Public Relations (1995), p. 26.

<sup>16</sup> *Military Review* (Panoramic Militar), Ministry of National Defence – Office of Public Relations, 2 (1996), p. 14.

2. the professional pattern, which summed up the fundamental capabilities through which the officer could meet the armed forces' functional requirements;
3. the social-civil pattern.

The fundamental characteristic of the officer's pattern would be the one according to which the officer is commander, military leader. The quality of a military leader is the foundation and synthesis of all his components. The officer's training is oriented towards forming his capabilities of leading people, echelons and structures of armed forces during peace and wartime. On the other hand, the officer has to be skilled and his skills are to be

- a. commander skills;
- b. arms specialist skills;
- c. fighter skills;
- d. educator and education manager skills;
- e. 'officer-citizen' skills.<sup>17</sup>:

All these theoretical accumulations, together with the experience acquired in 1994 following the participation of the Romanian Armed Forces in the first activities of cooperation within the Partnership for Peace, determined the next stage of the transformation of military education (1994-97). In 1995, the Supreme Council of National Defence approved the 'Concept on reorganisation and modernisation of military education'<sup>18</sup>, a document that was to initiate the amplest reform process of military education after 1990.

The new structure of military education maintained the five military high schools, with a study-duration of four years, through which the general information and initial military socialisation were ensured. There would also have to be good selection processes for future candidates for admission to military academies.

The three services of the armed forces would have an academy each, with a study-duration of four years, within which the formation of future officers as military leaders

---

<sup>17</sup> *Military Review (Panoramic Militar)* (2/1996), p. 15.

<sup>18</sup> *Reform of the Romanian Armed Forces*, p. 26.

was ensured. Basic scientific military training at university level would also be achieved, as well as the common training as officers specialised in the respective services. At graduation, the student would be granted a licence in military sciences, the first rank of officer, and access to initial specialisation and to training for his first position would be ensured.

The application schools of the services organise courses of up to a year for initial specialty and of two weeks to six months for subsequent improvement and specialisation; within these schools, warrant officers and non-commissioned officers are also improved, as well as reservist officers.

The Academy of Higher Military Studies will ensure the training and improvement of headquarters and staff officers at the level of joint armed forces, through the two-year education of comprehensive studies and through one-year post-academic studies courses.

The Military Technical Academy, the Military Faculty of Physical Training and the Medical-Military Institute, during four and six years of study respectively, would train engineers, doctors, chemists and physical training teachers-officers.

The schools of warrant officers and non-commissioned officers of the services of the armed forces, with duration of two to three years, would ensure the formation as specialists of these categories of personnel for platoon, group, unit and combat leadership.

Besides all these provisions, this new concept stipulated also an indirect way of meeting personnel needs through staffing the Armed Forces with graduates of civil faculties, who, depending on their profession, receive military training and service specialisation for six months to one year in application schools.

In parallel with the institutional development, but to a smaller extent, the improvement of curricula was taking place, especially with a view to completing them with those subjects that would ensure a better connection between the military and their civilian colleagues (after 1994 the number of the latter being significantly increased), as well as of the

armed forces with civil society. Thus, in the academic curricula of the military academies, including the Academy of Higher Military Studies, the compulsory study of some subjects was introduced, such as: geopolitics, international security systems, political-military doctrines, Romania's foreign and security policy, communications and public relations, European studies, civil-military relations and elements of democratic control of armed forces<sup>19</sup>. From information available to the author, the qualitative level of these courses could not be evaluated; yet, it is understandable that some of them, especially the ones that presuppose proper specialisation<sup>20</sup>, have not yet met expectations due to the fact that they were taught by teachers who were not specialised in these subjects.

Starting with 1997, military education passed from the institutional development stage to a stage of educational system quality improvement. This improvement would not have been so significant if it had not been based to a great extent on Western expertise and assistance and if it had not been motivated by Romania's strong desire to join NATO.

A first example in this sense is the establishment, in 1997, within the Academy of Higher Military Studies, of the Regional Centre of Training, which was the result of cooperation between Romania and Britain.<sup>21</sup> The Centre offers, to both military and civilians, the possibility of attending post-graduate courses on procedures of command and staff of joint armed forces and multinational operations, all compatible with NATO procedures. The Centre also offers specialised courses on military peacekeeping operations, on planning of multinational operations and orientation of staff activities, especially designed for officers trained to be appointed to multinational staff positions (strategic commands and under NATO's strategic command).

In 1999, the Regional Centre of Defence Resources Management, which was established in cooperation with the United States of America, specifically the US Naval Postgraduate School, Monterey, California, became operational. The Centre could offer both post-graduate courses of improvement for leaders and post-graduate courses for specialists, the objective of these courses being the training of military and civilian

---

<sup>19</sup> According to the curricula of the Academy of Higher Military Studies and 'Nicolae Balcescu' Academy of Land Troops.

<sup>20</sup> For example, civil-military relations and democratic control.

<sup>21</sup> Since 2000, it has also been accredited as a PfP Centre.

personnel in the field of defence planning, defence resources management and technical and logistic systems.

It should be emphasised that both centres have three common characteristics:

- through their regional dimension, they are also open to representatives of countries of the region, which wish to train their military and civilian personnel;
- the two centres are accessible both to the military and to civilians, which confers on them a special place within the environment of military education;
- the two centres are opened also for other institutions of Romania's system of national security.<sup>22</sup>

No less important is the establishment of Centres for the study of foreign languages, especially the English language, within all the academies of the services. The learning of these languages is made through the assimilation of all the four skills (hearing, speaking, writing, reading), according to STANAG 6001.

During the last two years, the development of military education in Romania was increasingly influenced by the preparations of the military establishment for integration into NATO. The permanent annual consultations with representatives of NATO headquarters, which take place under the aegis of MAP, have greatly contributed to the rationalisation of the education process and especially to its focusing on future needs. In an internal document adopted in April 2002, the Defence Minister Ioan Mircea Paşcu underlined the fact that 'the experience of the last states that integrated into NATO has demonstrated the necessity of yearly training, even since the pre-integration stage, of civilian and military personnel capable at any moment of taking over positions in different NATO structures'.<sup>23</sup>

Moreover, this document recognised the fact that the MoD does not yet have a global strategy for attracting, selecting, training and using personnel with a real potential for

---

<sup>22</sup> In the last two years, the courses of these centres were attended also by representatives of the Minister of the Interior, of the Intelligence Services, and of other government agencies.

<sup>23</sup> 'Concept of Military and Civilian Personnel's Training for Taking Over Positions in NATO Structures' ('Conceptia de pregatire a personalului militar si civil,in scopul preluarii unor functii in structurile NATO'), Ministry of National Defence, Office of Human Resources Management (2002),1.

holding positions within NATO structures and denounced the fact that up to now the training offered for military and civilian personnel did not aim at the development of professional competence in accordance with NATO's procedures, principles and working standards. One of the tasks pursued as a priority by this document was that of reorganising the training programmes of civilian and military personnel in accordance with the requirements of Romania's integration into NATO. A first step in this sense was the launching, in the autumn of 2002, of a specialised course within the Academy of Higher Military Studies. After the Prague Summit and the invitation of integration into NATO, the pressure of reorganisation has increased and the success of this measure will depend both on its objectivity and on the capacity of military educational structures of transposing into objectives the requirements devolving from NATO membership.

No less important is the fact that integration into NATO, besides the military dimensions, also requires an intellectual-cultural dimension.<sup>24</sup> In the past years, a few steps were made in this sense, and we mention here firstly the adoption, at the end of 1997, of the 'Concept on human resources management within the Romanian Armed Forces', the most important document of its kind since 1990, whose purpose was:

- 1 'the modernisation of the system of human resources of defence management in accordance with the theory and practices of modern armed forces of NATO members';
- 2 'the restructuring of the personnel of services and military ranks, for ensuring interoperability with NATO armed forces in the field of human resources'.<sup>25</sup>

According to this concept, the objectives of modernisation of the human resources management included the post's definition of military ranks, in a pyramidal system, and their restructuring according to personnel categories, so that the balance between officers and non-commissioned officers would tend towards the value 1/3; the accentuation of the professionalisation of military personnel, as a foundation of the achievement of interoperability with NATO armed forces; the rehabilitation of the non-commissioned officer's status and the adjustment of the system of his training and professional employment, in order to become the 'backbone of the armed forces'. A

---

<sup>24</sup> M. Clemmesen, 'Integration of New Alliance Members: The Intellectual-Cultural Dimension', *Defence Analysis*, Vol. 15, No. 3, (1999), pp. 261-272.

<sup>25</sup> 'Romania-NATO:1990-2002', Academy of Higher Military Studies (2002), p. 80.

second important step consisted in the adoption, in 2001, of the military career guide, a document which is compatible with those of NATO countries' armed forces and which ensures transparency, equal opportunity and honesty in the promotion of officers, warrant officers and non-commissioned officers in the ranks of the military hierarchy through two fundamental instruments: the Military Career Guide and the selection commissions (the main way of eliminating subjectivism and especially nepotism, from evaluation of the professional performance of military personnel).<sup>26</sup>

Returning to good governance and analysing the current state of military education and training<sup>27</sup>, future efforts should be focused mainly on aspects related to the structure and curriculum in the military academies of the services and in the Academy of Higher Military Studies. Also, the teaching staff should have to be both diversified and rejuvenated, especially in those subjects whose correct assimilation started in Romania only in 1990: international relations, strategic studies, issues of Euro-Atlantic integration. The teaching staff in these units of military education is made up only of officers, which is not very challenging for the students from an academic point of view. At this moment, there are neither civilian professors, nor associate professors from Western countries with permanent status. The current international military phenomenon is too weakly reflected, especially under those components related to the typology of new conflicts and international crises, the new roles and tasks of military forces, the reform of military establishments in the post-modern period.

Maybe we could find here the key to the Westernisation of the training and educational process through a greater accent not so much on the education process, which sometimes could only be formal and without substance, but on the transformation of the individual's mentality, in respect of personality and on the encouragement of personal initiative.

---

<sup>26</sup> G Maior, 'Personnel Management and Reconversion' in Larry L. Watts (ed), *Romanian Military Reform and NATO Integration*, (The Centre for Romanian Studies:Iași, Oxford, Palm Beach, Portland, 2002) pp. 57-81.

<sup>27</sup> This part of the study is based on the analysis of educational curricula and plans of the Academy of Higher Military Studies and of the 'Nicolae Balcescu' Land Troops Academy and on the author's interviews with professors of military academies and heads responsible for the training and education process within the Directorate for Human Resources Management.

## The Role of Civilians in Defence Affairs

The years 1990 and 1991 cannot be underlined as significant for civilians' access to the Romanian Armed Forces and MoD. The army was at a stage of refitting itself for the new internal and international political environment. Moreover, taking into account the negative experiences that had come from the Armed Forces' contact with the communist political authorities, we could say that within the Armed Forces there was a visible 'aversion' to civilians, a fundamentally healthy phenomenon justified by the Armed Forces' desire to be apolitical. To the extent that during 1991 the Armed Forces' status in society strengthened and on an international level military relations with NATO member states and even with NATO became more developed, within the MoD the fact started to be acknowledged that an important part of the reform process would be the creation of the necessary conditions for the presence within the Armed Forces of civil servants, including a civilian minister of defence. In a discussion held in 1992 with the author of this study, General Nicolae Spiroiu declared that he was the last military minister and that one of his main tasks was to create within the MoD the necessary conditions for the first civilian minister after more than 50 years.

In 1992 the MoD made an extremely important step, both in encouraging an increased presence of civilians within MoD and especially in initiating a permanent process of civilians' training in Defence Affairs through the establishment of the National Defence College. The post-academic curriculum, its main objective, consisted in the common training for six months of approximately 30 persons, of whom two-thirds were civilians, on issues of national security and defence. At the same time, the establishment of the college placed the first civilian personality in a command position within the MoD, specifically the appointment of Dr Liviu Muresan as deputy director of the College. The success of the College in the following years was undeniable, being the main way of forming a new civilian community of experts on defence and security issues. Up to 2002, of the total of 499 graduates, 266 were civilians, many of them having today responsibilities related to national defence<sup>28</sup>.

---

<sup>28</sup> 'Introduction of the College of National Defence', annex 2, Ministry of National Defence (2002).

The reorganisations carried out up to November 1993 created the necessary conditions for the access of civilian personalities to the ministry's leadership<sup>29</sup>. Through the Romanian Government's Decision no.0828 of 26 November 1994 and on the basis of Law no.45 of 1994, within the structure of the Ministry of National Defence a Department for Defence Policy and International Military Relations (DPARMI) was established, which was to be headed by a civilian state secretary<sup>30</sup>. The main responsibilities of this state secretary were defence policy, international military relations, educational and training activities, and public relations. In March 1994, a civilian was appointed to the position of Defence Minister<sup>31</sup>. Yet despite these developments, up to 1996 the number of civilian public servants increased slowly. Moreover, they were mainly appointed in consultative positions, from where they could only intervene indirectly in the decision-making process, the central role in this field continuing to be held by the military.

Besides the presence of civilian personalities, the real presence of public servants in MoD started in 1997, a year when we registered not only a significant increase of their number, especially within DPARMI. For the first time since 1990, in 1997 the position of civilian deputy director was established for each of the offices within the department, and for the section-type smaller structure it was stipulated that public servants could lead such structures<sup>32</sup>.

In 1999, with British assistance, the draft of the guide on "Policies of recruitment, selection, training and development of civilian employees' careers within the Romanian Armed Forces" was concluded. The main objective of this document was that of setting the major reference points for management of civilian personnel<sup>33</sup>:

- redefining civilians' status within the Romanian Armed Forces, in accordance with Law no.188/1999 on the status of public servants; implementing this law would determine the existence, within the MoD, of two categories of civilians: public servants and non-commissioned civilian personnel;

---

<sup>29</sup> *Reform of the Romanian Armed Forces*, p. 15.

<sup>30</sup> The first person nominated for this position was Dr. Ioan Mircea Pașcu, at that time University professor within the National School of Political and Administrative Studies.

<sup>31</sup> Gheorghe Tinca, at the time of his appointment as civilian minister of defence being diplomat within the Ministry of Foreign Affairs, specialised on disarmament issues.

<sup>32</sup> Government's Decision no. 110/1997.

<sup>33</sup> 'Romania-NATO: 1990-2002', Academy of Higher Military Studies (2002), p. 84.

- capitalising on the professional competence of highly-educated civilians and transforming them into experts or expert-structures leaders;
- ensuring a career direction for highly-educated civilians comparable with that of officers;
- establishing a recruitment and selection system for attracting personnel with growing potential.

## **Civilians' Training in Defence Affairs**

### **1) Government Approaches**

From 1992 to 1994, the only way of training civilians in security and defence issues was the National Defence College, although it had the drawback of being accessible only to a reduced number of civilians with a certain position in society (representative politicians, members of parliament, senior government servants). Of the representatives of civil society, only certain journalists had the chance of attending this form of education and mainly rather on the basis of personal relations than as a result of a settled strategy.

Only with the launch of Partnership for Peace and especially with the start of all those Western programmes of education and training, such as the George C. Marshall Centre, the NATO School of Oberammergau or IMET (organised by USA), could we say that the process of civilians' training in defence affairs really started, especially at intermediate level. Between 1994 and 1998, the process of civilian training took place preponderantly in the West. Starting with 1998, the new established training centres, the Academy of Higher Military Studies (which is also a PfP centre) and the Brasov for defence resources management, opened their doors also to civilians. For the first time, public servants both from the MoD and from other state institutions, had access to the same forms of training as the military. The first Romanian civilians specialised inside the country in peacekeeping or defence planning issues are graduates of these structures. At the level of 2002, approximately 150 civilians graduate annually in the different forms of training offered by these two centres. However, up to now, within the Academy of Higher Military Studies or within the academies of the land forces there have been no arrangements for training civilians on defence affairs issues.

An additional problem consists in the fact that the process of civilian training, be it in the West or in Romania, has offered opportunities to civilians from the central administration. Representatives of civil society, especially from academic circles, cannot boast of such an opportunity. Their contact with defence affairs consisted mainly in their participation in different seminars and conferences, but without benefiting from access to courses of medium or long duration.

## **2) Non-Governmental Approaches**

In order to correct this situation, in the last two years civil society has tried to set up alternative arrangements for civilian training on defence affairs issues. Benefiting especially from Western technical assistance and sponsorship, using different technical formulas such as seminars, conferences, summer schools, youth-leaders schools, different formulas of higher education, civil society can boast of several notable results in this field.

Thus, under the aegis of the Black Sea University Foundation and with the support of EURISC Foundation, during 1993-1996, it succeeded, every year, in organising a 'Summer school on risk and security issues'. Benefiting from the presence of Romanian and also Western lecturers, 25 youths had the chance, for two weeks, to be initiated into issues relating to national security and defence.

Another example is the 'Summer school for youth-leaders on integration and security', organised in 1996 by the EURISC Foundation and financed by the European Commission through the 'PHARE for Democracy' programme. The importance of this initiative was that it approached the issue of democratic control over security structures both as a precondition of Romania's democratisation and a necessity related to Romania's integration into NATO and EU.

A last significant example is the initiative of the National School of Political and Administrative Studies in developing a Euro-Atlantic Programme within which there will also be organised a post-graduate training programme for a wide range of civilians, from government civil servants to journalists and academic professional personnel. Its main objective is the comprehensive study of the main issues related to reform of the military

establishment, Romania's integration into NATO and the functioning of the North Atlantic Alliance.

### **3) The Role of Parliament and Parliamentary Staff in Defence Affairs<sup>34</sup>**

Although institutionally Romania's Parliament is well equipped both with expert structures and with parliamentary staff, its efficiency in democratic control issues is rather low.

Firstly, most members of the Parliament participating in special commissions, such as the ones on defence, public order and national safety, have no training or experience on specialised issues. Except for a very small number of members of Parliament, who in the past graduated from the National Defence College and who, based on this training, opt for such a commission, most members of the Parliament are appointed on purely political criteria. That is why, many times, in order to blur their own lack of competence, the control is limited to general issues.

Secondly, although expert structures function within the Parliament, both at central level (Centre of Information and Documentation, Department of International Relations) and also at the specialised commission level, with few exceptions these structures cannot contribute effectively to assisting the members of the Parliament by more than supplying them with reports and documents on issues of general interest, the main information source being the Internet. Parliament's expert structures have a limited capacity of analysis and of formulating proposals of sectoral policies, although many of those working within these structures are young and with a good basic knowledge, many of them being graduates of political sciences, economic sciences, law, etc. The explanation of this fact is the lack of specialisation, of specialised training, of experience and of specialised information.

Thirdly, due to some political and functional reasons, it seems that *de facto* those structures that should be controlled tend to drive the control-specialised commissions into a relationship of dependency. The mere fact that many of the members of these

---

<sup>34</sup> This part of the study is based on many interviews by the author with members of the House of Deputies (the lower house) as well as with certain staffers.

commissions get the necessary information on the basis of personal relations and not on the basis of some protocols with the respective institutions confirms the above-mentioned assertion.

With regard to the training of parliamentary staffs, up to now there has been no official programme of specialised training, except some courses of legal parliamentary practice. A staffer's specialisation becomes a question of personal option and, usually, by his own efforts, he tries to complete his studies or to diversify his knowledge. A very important role could be played by the presidents of the commissions of defence, who could improve this situation in the short term by showing initiative. A very good example is that of the president of the House of Deputies' commission on defence<sup>35</sup>, who has initiated since his appointment a programme of making the commission's workings efficient through:

- initiating the commission's staff and diversifying the professional base through the employment of political science and international relations graduates, in parallel with ensuring training programmes on special issues;
- - introducing modern methodologies of the proceedings of debates within the commission: power-point presentations, recording of debates, and so forth.
- - cooperating on a wide scale with non-governmental organisations specialised in defence and security issues, as a form of ensuring independent expertise and alternatives to the commission.

From the point of view of public servants' careers within the Parliament, their advancement follows a pattern that seems to become general at the level of the entire central administration. A public servant's career is very attractive for a youth of 25-29 years old. The medium remuneration level is attractive for a 25-year-old person in a society in which the level of economic development is pretty low. The chance of some specialised course or scholarship, not uncommonly at the state's expenses, is added to the salary. Yet, the problem is that, after several years, during which they also gain experience, they become attractive to commercial companies from at home or from abroad, which "steal them" by offering much better salaries. Thus, after a period of time,

---

<sup>35</sup> Deputy Răzvan Ionescu.

the cycle of such experts' training has to be resumed with the respective financial and functional costs. That is why parliamentary staff tend to be as temporary as the members of the Parliament they work for.

## **CHAPTER SEVEN**

---

### **TRANSPARENCY AND ACCOUNTABILITY**

*Mihail E. Ionescu*

The end of the Cold War brought with it a good deal of interest in how to reform and put onto a democratic basis the whole web of relations between the institutions of Romanian society. With the adoption of a new Constitution in 1991, the primary sources of the parliamentary control of the security and defence policy were settled: the separation of powers, the elected nature of the Parliament which makes it the highest representation of the democratic will of the people and the obligation of the government to put into practice the programme approved by the Parliament. Transparency and accountability are required by a series of laws and acts, the latest one being a Law on Access to Public Information. We shall refer to the relevant laws and normative acts in this study.

The creation of a new legal framework, in accordance with the Constitution and embedded in the democratic principle of Parliamentary control over the military, has shaped a new system which has been in place and worked effectively for several years now. This system comprises the Parliament, the President of Romania, the Supreme Council of National Defence, the government, the Ministry of National Defence, the Ministry of the Interior, the Romanian Foreign Intelligence Service, the Romanian Intelligence Service, the Protection and Protocol Service, the Special Communications Service, the Office of the Government for Special Problems and the State Reserves. Notably, a Ministry for Parliamentary Relations has been established to coordinate the activities of the Executive vis-à-vis the Parliament. Each Ministry also has a State Secretary responsible for parliamentary relations.

Essential for guaranteeing full parliamentary control of the above-mentioned authorities are two aspects: attesting the broad transparency of the process of drafting and implementing security and defence policy as well as showing responsibility for the actions taken. The latest action taken in the area of security sector reform was the

promulgation of a Romanian National Security Concept. It met the defence and security requirements in content and development. Prepared by civilians and the military, it was known to the public and accepted by the Romanian Parliament. Thus, it provided clear policy guidance on defence development to the Defence Ministry, the General Staff, and to the civilians and the military in these institutions.

### **Transparency: The Parliament and the Government**

The nature of parliamentary control over state bodies external to its structure ranges from full competence, oversight of observance and control for sanction and approval of certain actions. Besides, the Parliament has duties in the orientation of the general policy of the government, through the approval of its political programme<sup>1</sup>.

The instruments of control are varied, utilisable by deputies and senators (questions and interpellations), or through information, documentation and advisory structures (the special Committees functioning within the Senate and Chamber of Deputies: the Committees for Defence, Public Order and National Security of the two Chambers, the Standing Committee for Control of the Foreign Intelligence Service, the Standing Committee for Control of the Romanian Intelligence Service).

### **Regular Information of the Deputies and Senators**

The institution of parliamentary control, expressly consecrated in article 110 of the Constitution, refers not only to the government but also to the other authorities of the public administration, regardless of whether they are central or local. The regular information of the parliamentarians represents the first condition of the exercise of parliamentary control and data offered through yearly reports has a determining role in shaping parliamentary action towards several bodies of the public administration. These committees include members with expertise in defence matters composed of senior advisers, experts and consultants.

---

<sup>1</sup> Article 102 of the Constitution.

Another tool of control is exercised through the Standing Committee for Control of the Foreign Intelligence Service and the Standing Committee for Control of the Romanian Intelligence Service. Those special committees are composed of Deputies and Senators elected from the ranks of the Committees for Defence, Public Order and National Security of the two Chambers. The current activities through which those committees exercise parliamentary control include oversight and documentation at the level of ministries and staff echelons of the intelligence services. Members of those committees may attend assessment sessions at the level of the Ministry of National Defence and Ministry of the Interior. The Committees for Defence, Public Order and National Security of the two Chambers are allowed to hold hearings of the following institutions: Ministry of National Defence, Ministry of the Interior, Protocol and Protection Service, the Special Communication Service, the Office of the Government for Special Problems and the State Reserves.

### **Questions and Interpellations**

According to article 111 (1) of the Constitution, every member of the Parliament has the right to address questions and interpellations to members of the government. According to the Standing Orders of the Parliament, the question is a simple requirement to ask whether information is true or not, if the government or other bodies of the public administration do not submit in due time the documents and information requested by the Parliament or by the special committees. For these questions, there is a special 'ministerial hour' included in the weekly agenda of the Parliament. The questions can be oral or written and members of the government cannot answer if the representative who asked the question is not present in the chamber. The questions that are not answered in the sitting are published in the Official Gazette (*Monitorul Oficial*) at the end of each ordinary sitting. If the question is submitted in written form, it has to be answered within 15 days of its registration.

The interpellations are another constitutional mean for controlling the government. Unlike the questions, which are raised by an individual member of the Parliament, and are subject to the same rules both in the Chamber of Deputies and Senate, the interpellations have a different regime from one chamber to another. In the Senate, any individual senator can raise interpellations and their subject can regard any aspect of

government activities. The Chamber of Deputies accepts interpellations from any parliamentary group or individual deputy but only on matters regarding the domestic or foreign policy of the government. The interpellation can be addressed only in written form, specifying its aim and motivation and it is advertised in the chamber. Afterwards, the interpellations are developed in a weekly meeting when the representative of the government may answer or may ask for a delay of not more than three days.

Furthermore, article 111 (2) of the Constitution provides the possibility of each chamber expressing its position towards the problem that was raised in the interpellation through the means of a motion. However, the motion has the effects of a political sanction exclusively on the matter it addressed. Since the beginning of the mandate of the current government (December 2000), there have been 23 questions and interpellations related to defence and security matters, and all of them have been answered in due time.

### **Ministry for Parliamentary Relations**

Beginning with 2001, the need for more efficient cooperation between the Parliament and the governmental bodies determined the creation of the Ministry for Parliamentary Relations, as a special authority of the central government administration. The new ministry is responsible for planning, coordinating and ensuring that proper legislative procedures are followed in the approval of laws initiated by the government.

Besides, at the level of each ministry there is a state secretary for parliamentary liaison. There are monthly meetings with all state secretaries for coordination of their legislative activities in order to provide a more effective and proficient legislative process. Most often, it is the state secretary for parliamentary liaison who comes to the weekly meetings with the Senators and Deputies, which were instituted in 2001. In the Ministry of Defence, the State Secretary for Relations with the Parliament and Public Authorities is in charge of keeping constant liaison with the Parliament and preparing the documentation requested by its members, regarding any defence issue.

## **Transparency: Society and Institutions**

There is regular dissemination of information to society with regard to the activities of the central authorities responsible for the implementation of security policy. The Ministry of National Defence, for example, has several publications in print, which address information related to defence policy, budgeting, the law on conscription, the rights of service personnel. There are regular press releases, press bulletins and press briefing transcripts available on-line to the media and the public via the Internet website. For most of the institutions the information on the website is available in English and French versions as well. Those interested in the aspects related to the Ministry of National Defence should access the on-line publications available at <http://www.mapn.ro>, for the Ministry of the Interior the web address is <http://www.mi.ro>, information regarding the Romanian Foreign Intelligence Service is available at <http://www.dci.ro> while the address for the Romanian Intelligence Service is <http://www.sri.ro>. The content of those sites is comprehensive, providing information about the roles and missions of the respective institutions, press releases, and background information on the activity of the institution, legislation related to their activity and various links. Worth mentioning is also the website of the Chamber of Deputies <http://www.cdep.ro>, which offers on-line data base with all reports, legal initiatives, documents of the committees, bill tracking, minutes of the meetings, questions and interpellations.

## **Accountability: Policy**

The implementation of effective democratic control over the armed forces, and generally over the security sector, presumes the implementation of a democratic approach to planning, programming and budgeting in accordance with the principles of defence policy derived from the National Security Strategy, the White Paper on National Security and Defence and the Romanian Military Strategy, issued by the Minister of National Defence.

Hence, Law No.63/2000<sup>2</sup> on National Defence Planning, which modified Ordinance No.52/1998 of the government, is the basic document that established the concrete tasks and terms for the main state bodies in charge of national defence and security planning and the main documents which have to be prepared for this purpose. According to the law, the basic document to plan national security and defence is the National Security Strategy. It aims at defining national interests, assessing the international security environment and the threats to be coped with, identifying sources of danger, establishing lines of action and resources involved in the security sector. The law stipulates further that in order to implement the Strategy on National Security of Romania and the Government Programme, the government is responsible for drawing up The National Security and Defence White Paper. The Paper establishes the main goals and tasks of the bodies engaged in achieving national security and defence, as well as the necessary human resources, assets and finances. The Paper covers the same timeframe as the National Security Strategy and is approved by the Parliament within at most three months after the government receives a vote of confidence.

In their turn, ministries and the other public institutions in charge of defence, public order and national security make up their own department strategies, programmes and plans, in order to put into practice the tasks designated in the National Security Strategy, Governing Programme and National Security and Defence White Paper of the Government. Departmental strategies are submitted for government approval within at most 45 days from the approval of the White Paper by the Parliament.

On the basis of the departmental strategies approved by the government, the Minister of National Defence, Minister of the Interior and the heads of other public bodies in charge of defence issue their own strategic planning guidance or orders. These include the fundamental political and military goals, principles and options on the basis of which the specialised structures of the ministries and the relevant bodies plan the structure and capacity of the component forces, as well as allotting resources, making up policies and sector programmes. Planning guidelines and orders cover the same timeframe as the department strategies.

---

<sup>2</sup> Law No. 63 from 2000, approving Government Ordinance No. 52 of 1998 on planning national defence activities, published in *Monitorul Oficial*, I Part, No. 185/ 2000 and republished in *Monitorul Oficial* No 525/2000

The strategic and operational plans are made up, upgraded and approved according to the specific regulations of each ministry or other public bodies in charge of defence. The programmes are made up for a four-year term, aiming at covering longer terms; they are approved by the Parliament, completed and upgraded according to their stage of evolution.

The strategic and operational plans for using the armed forces include: the tasks of various forces, during peace, crisis and war time, scenarios likely to happen, in which these tasks will be carried out, plans of action for putting them into practice. Scenarios take into account classic and special military and humanitarian actions, achieved within the national or international frameworks or within the framework of multinational force groupings.

On the basis of the programmes on modernising and training forces, and according to the funds allotted through the state budget, the Ministry of National Defence, Ministry of the Interior and other public bodies in charge of defence make up annual plans on modernising and training constituent forces and report on the stage of achieving the previous programmes on modernising and training forces in the previous period of time. The ministers and heads of the public institutions in charge of defence approve the annual plans.

Reports on the stage of implementation of the programmes on modernising and training the forces are presented to the government. Pursuing how these medium and long-term programmes as well as the annual plans are implemented is the responsibility of the planning bodies of the Ministry of National Defence, Ministry of the Interior and other public bodies in charge of defence, while the commanders and chiefs of the relevant ministerial and other body structures are putting these into practice.

The National Security Strategy determines the political requirements of national security and defence, establishing defence planning at the national level. The document is submitted to the Parliament by the President of Romania within four months of his election. The Romanian president presented the first National Security Strategy to the Parliament immediately after its endorsement by the Supreme Council of National

Defence in June 1999. Its main goals were the defence of the fundamental rights and freedom of the citizens, maintaining the unitary, independent, sovereign and indivisible Romanian state, enhancement of the rule of law and of the democratic institutions, the improvement of the socio-economic welfare and the promotion of our interests worldwide which were and still are our main national interests. The fundamental option which impregnates all the objectives is European and Euro-Atlantic integration. The document is structured as follows: the characteristics of the international security environment, national interests, risk factors for national security, methods of action in order to ensure Romanian national security goals. The international environment was defined by the end of the Cold War bipolarism and the acceleration of the globalisation processes, a new era with potential sources of instability in Romania's neighbourhood and unconventional risks and challenges at the international level. Romania's main national interests were said to be confronted with important risk factors: military conflicts with the potential of spreading at regional and sub-regional level, the proliferation of weapons of mass destruction and dangerous materials, the expansion of terrorist activities and of organised crime, the prolongation of economic difficulties which could produce social unrest, the state's deprivation of access to vital resources, political extremism but also the deterioration of the environment.

In the field of foreign policy, the main goal was European and Euro-Atlantic integration and also cooperation with the OSCE, enhancement of the strategic partnership with the US, supporting the European Security and Defence Identity, developing partnership relations with the states in the area. The economic reform and development represented, as nowadays, one of the priorities of our national security which was to imply macro-economic stabilisation, the connection of Romania to international communications, the development of an efficient education system adjusted to European standards.

Law enforcement, civilian control of the national safety institutions, enhancing border security and cooperation with other states' intelligence services, were designed as some of the key requirements for the fulfillment of our national security goals.

National defence is structured around the fundamental goal of preventing, deterring and foiling any possible aggression against Romania. The Romanian army is in an early

stage of the modernisation process characterised by building a modern and credible defensive capacity and speeding up implementation of priority programmes of interoperability with the military structures of NATO.

Romania is committed to taking part in multinational peacekeeping operations and crisis management, especially in SE Europe.

The current National Security Strategy was adopted by the Parliament in December 2001<sup>3</sup> and is structured as follows: national interests, definition of the main security goals, specific features of the international security environment, identification of the risk factors (domestic and external) and vulnerabilities, ways and means of ensuring national security goals.

Our main national interests are to maintain the sovereignty, integrity, unity and independence of the state, to guarantee democracy and human rights, human security, the welfare of the citizens, the socio-economic development of the country, the maintenance of the national identity and the protection of the environment.

Romania will probably not face classic military threats in the near future, but is confronted with domestic risk factors (economic difficulties, corruption, social conflicts, criminality, pollution, the brain drain, public distrust of state institutions, etc), foreign risk factors (negative sub-regional trends concerning democratisation, economic development, proliferation of terrorist networks and weapons of mass destruction, clandestine migration, destabilisation of the regional security environment, etc) and new threats like transnational terrorism and organised crime, cyber-crime, negative engineering of the country's image, economic-financial attacks and so on.

Taking all the realms of activity existing in Romania today, we assert that we need an improvement of the law-making process and of the whole political system in order to sustain the citizen's rights and European integration, an economic re-launch by the continuation of the privatisation, restructuring and modernisation, reform of the social security system and enhancement of social cohesion and solidarity. There is a strong

---

<sup>3</sup> The document was endorsed by Decision No 36 of the Senate and Chamber of Deputies in common session on 18 December 2001 and was published in *Monitorul Oficial*, I Part, No. 822/ 2001.

need for a better education system in accordance with the requirements of the new information society and the cultural framework of the European and Euro-Atlantic integration.

Concerning the realm of national security and law enforcement, we should harmonise legislation with EU regulations, build up the institutional system of law enforcement and strengthening measures for fighting terrorism, organised crime and corruption in order to correspond with NATO and EU norms and procedures.

National defence is a cornerstone for our security strategy. Romania will follow the reform process of the armed forces by achieving the goals mentioned in the Annual National Programme for NATO integration, which implies a structural modernisation of forces, an adjustment of the integrated planning system and the professionalisation of armed forces personnel. Acquiring the necessary capabilities will allow our country to fulfill the obligations it assumed, by taking part in operations of peacekeeping, crisis response, fighting terrorism, and providing humanitarian support at sub-regional and regional levels. Romania is committed to military cooperation with NATO, the UN and EU by confirming its status of security provider.

We have to implement further programmes of professional retraining for redundant manpower in the army and from the defence industry, a branch that is currently being reorganised. Interoperability with NATO implies flexible, mobile forces, an efficient management of human resources and of capabilities, enhanced collaboration between special intelligence services in the domestic and external realms. Our foreign policy is devoted to promoting Romania as a strong candidate for the North-Atlantic Alliance and EU integration. According to the official documents, we can count on the intellectual potential of our people, on the required resources and on the social support for modernisation, in order to reach the goals of national security at the beginning of the 21st century.

The White Paper on Security and National Defence is drafted by the government and sets out the national objectives in the security and defence area, for the duration of its mandate. The document is approved by the Parliament, which determines therefore how resources will be used to provide national security.

The first White Book concerning Romania's security and defence matters was adopted on 26 November 1999 by the Parliament of Romania as a result of open debate in the Parliament and civil society. It deals mainly with the reform of the Armed Forces, being subtitled 'Romanian Armed Forces 2010: Reform and Euro-Atlantic Integration', and is based on the stipulations of the law on defence planning.

The document establishes the main objectives and tasks of the institutions involved in achieving national security and defence policy, the measures that are to be taken, as well as the resources available for reaching the intended objectives.

The strategic objectives of the defence policy are: the prevention, deterrence and countering of an eventual aggression against Romania; the achievement of interoperability with NATO's military structures; the continuation of the reform of the command and operational structures of the Armed Forces in order to increase its mobility, flexibility and efficiency; the increase of the role of civilian officials and specialists in the elaboration and control of defence policy; and the enhancement of regional security and stability.

The main directions of the defence policy are defined in the document as follows:

- increasing the Armed Forces' combat capacity – the objectives of combat preparedness are established in close relation with the missions and allotted budgetary resources, having in view the achievement of the preparedness standards of modern armed forces;
- developing human resources and intensifying the professionalisation of the Armed Forces personnel through the adoption of the 'pyramid pattern' structure of roles, the proportion of officers to non-commissioned officers being planned at approximately 1/3;
- modernising military education, as an integral part of the national system of education – the system of military education includes the elementary education of forming and training officers, warrant officers and non-commissioned officers, as well as specialised education during their military career;
- improving the Armed Forces' equipment, which will be a priority immediately after the conclusion of the Armed Forces restructuring, in 2004;

- ensuring the necessary resources for defence, it being planned that the defence budget will be increased from 710 million dollars in 2000 to a minimum of 1,190 million dollars in 2007;
- restructuring the defence industry, for this objective a concept of restructuring, development and gradual integration of the defence industry to the level of NATO's standards/requirements is being elaborated;
- developing relations with civil society by ensuring access to information regarding the main activities of the Armed Forces through a complex structure of public relations; at the same time, the military system is subject to the democratic control of civil society;
- intensifying military relations with the Armed Forces of other countries and with international organisations, which represents part of the Romanian foreign policy of promoting the national interests of security.

The document also presents the current state of the Armed Forces, as well as the reform process of the military system, based on the 'Concept of the restructuring and modernisation of Romania's Armed Forces (FARO 2005/2010)', with a view to ensuring an effective response to the new risks to Romania's national security;

The reform of the Armed Forces constitutes a systemic reform that integrates the redefinition of Armed Forces' missions; the rebuilding of the Armed Forces' operational structure; modernisation; the management of defence, human and financial resources; management of the acquisitions system; the perspectives for developing military research and technology; the reform of the defence industry.

A separate chapter deals with the redefinition of the relations between the military system and civil society in interconnected fields such as military justice, religious assistance, environmental protection, etc. Furthermore, the document states clearly the contribution of ministries, government institutions and other public institutions to the effort of ensuring Romania's defence.

The Military Strategy is drafted by the Ministry of National Defence and expresses the objectives and fundamental options in military policy, in accordance both with the National Security Strategy and the White Paper on Security and National Defence. The

Military Strategy is approved by the government and is subject to renewal every four years.

The current Military Strategy was approved by the government in the spring of 2000, being the first document of this type drafted by the Ministry of National Defence. The document includes the following chapters: the security environment, the risk factors, defining the national interest and the fundamental objectives of national defence, national military objectives, strategic principles, strategic concepts, strategic missions, command and control of the national defence forces, the structural organisation of PROJECT FORCE-2005, the concept of training and operations of the armed forces, logistics, infrastructure and resources of the armed forces.

The fundamental objective of Romania's national defence consists in achieving the required and adequate military capability to preserve national sovereignty and independence, territorial integrity and unity, constitutional democracy and the principles of the rule of law. In order to achieve this fundamental objective, Romania's Military Strategy establishes national military objectives. These objectives include gradual integration into NATO structures, enhancement of its contributions to regional security by participating in conflict prevention, crisis management and collective defence as well as humanitarian actions, and the prevention, deterrence and defeat of any possible armed aggressions against Romania.

Concerning the strategic principles, Romania's Military Strategy is based on the principle of non-aggression and has a prevailing defensive and active character. The strategy stipulates also that the Romanian Armed Forces are subordinated and will respond to the civilian democratic leadership of the state.

There are four concepts which guide the use of the Armed Forces: credible defensive capability, restructuring and modernisation, enhanced and more operational partnership and gradual integration into NATO. Regarding the structural organisation of the PROJECT FORCE – 2005, the Romanian Armed Forces will include operational forces, territorial forces and reserve forces. As far as action is concerned, the Armed Forces will consist of Surveillance and Early Warning Forces, Main Forces and Reserve Forces. Structurally, the Armed Forces include Land, Air and Naval Forces. The PROJECT

FORCE – 2005 consists of 112,222 military personnel and 28,000 civilians. Recently, the Ministry of National Defence communicated publicly that it is taking into account new ceilings for the year 2007: 75,000 military personnel and 15,000 civilians. The ongoing military reform conceived as a necessary process for the successful transformation of the Armed Forces aims at creating a more compact, efficient, effective and flexible army compatible with NATO standards.

The implementation of the Planning, Programming, Budgeting and Evaluation System (PPBES) and the creation of a single Defence Planning Council within the Ministry of National Defence has made the planning process more transparent. Transparency was strengthened with the inclusion of the minister in the Defence Planning Council together with the state secretaries, the chief of the General Staff and the Secretary General, ensuring, at the same time, an integrated approach to defence planning.

The main instrument, Defence Planning Guidance (DPG), is now periodically reviewed with every new budget projection for the coming years in order to ensure we continue to reassess objectives and priorities for optimal effectiveness. The reviewed Defence Planning Guidance (DPG) will cover the timeframe 2002-2008.

The integrated approach to resources management will be in accordance with the missions of the armed forces and it will take into account the structural changes, as well as their influence on military capabilities. The implementation of the requirements for the restructuring of the armed forces and their supplying with equipment, imposes a real increase of funds from about 710 million dollars in the year 2000 to 1,190 million in 2007 to which the foreign debts for procurement expenses and the money needed for education and health, should be added. This is the best option for Romania and, at the same time, a realistic element of stability for the planning process.

Under these circumstances, the strategy of resource allocation will aim at two fundamental aspects simultaneously. Firstly, the funds will be allocated to the programmes, which provide the achievement of PROJECT FORCE - 2005 and are cost-effective, by eliminating rapidly the means and programmes which are no longer necessary. Secondly, priority will be given to the balancing of our budget for the allocation of resources.

There are estimates that in the year 2006 the Alliance standards will be met (40 per cent for personnel, 35-40 per cent for procurement, 25-20 per cent for operations and maintenance). The allocation of resources will be closely related to the budget envisaged for the multi-annual planning process. This process includes two phases. The first phase (2000-2003) focuses on orienting resources towards the restructuring of operational forces at the minimum requirements for a credible and interoperable defence. The second phase (2004-2007) will focus especially on the modernisation of combat equipment. The phases of this process are interrelated and their deadlines may be changed according to the allocation of additional funds.

The 2002 Defence Budget<sup>4</sup> amounts to 2.38 per cent of GDP (more than one billion dollars). The government and Parliament have agreed to maintain the 2.38 per cent of GDP target as a defence budget base line for 2003-2005, a fact that ensures we comply with the policy desired by the United States and NATO. In July 2002, the government decided to increase the defence budget by 1,000 billion ROL, which is about 30 million dollars.

### **Accountability: Execution of Policy**

Romanian legal literature devotes a lot of attention to the subject of the accountability of the public sector having in mind that, in principle, Parliamentary control refers to the whole state activity, comprising all public authorities, but in practice the function of control was limited and specialised for several public authorities. It is worth stressing that parliamentary control is essentially and exclusively political. Both instruments and procedures of control as well as the sanctions that are to be applied are exclusively political and include the following: the requirement that the President consult the Parliament in advance and seek its approval in case of imposing exceptional measures, the granting of a vote of confidence in the government, launching a parliamentary inquiry, engaging the government's responsibility for a specific programme, a general political declaration or a draft law, suspending the President from his function, the

---

<sup>4</sup> The state budget for 2002 was approved by Law No. 743 from 2001, published in *Monitorul Oficial*, No. 784/2001.

procedure of impeachment of the President, asking for penal indictment of government members for the actions pursued in the exercise of their public function.

The requirement that the President consult the Parliament in advance and seek its approval in case of imposing exceptional measures taken in accordance with article 93 (1) of the Constitution. Here we may include the message of the President through which he notifies the Parliament about the measures taken in order to respond to an aggression against the country. According to Art. 92 (2) of the Constitution, the President of Romania is empowered to declare, with the prior approval of the Parliament, the partial or general mobilisation of the armed forces. In exceptional cases, the President is allowed to issue the decree for mobilisation and to submit his decision to the Parliament within five days. Article 92 (3) of the Constitution stipulates that the President of Romania may take the necessary measures in case of armed aggression against the country and those measures should be presented in a message to the Parliament, and both chambers should present their view on the message in a joint sitting.

### **Granting of a Vote of Confidence in the Government**

Another rule, which regulates the relations between the Parliament and government, says that the government should be granted the support of the Parliament for the whole period of its mandate. Thus, the government achieves legitimacy as an indirect expression of the electorate's will. The practice of granting support for the government presumes two steps. Firstly, there are hearings of each person proposed for the office of minister by the appropriate Committees of the Senate and Chamber of Deputies. Hence, the Committees for Defence, Public Order and National Security in the Senate and Chamber of Deputies are responsible for holding hearings in joint sittings of the candidates for the ministerial offices at the Ministry of National Defence and Ministry of the Interior. After these hearings, the committees draw up an advisory opinion, which is transmitted to the candidate through the office of the Prime Minister. On the basis of the advisory opinions received, the candidate for the office of Prime Minister may introduce modifications in the government list or preserve the initial configuration, assuming responsibility for the investiture of the government team.

The presentation of the government programme is another instrument through which the government is accountable to the Parliament. By this, the parliamentarians have the chance to check each objective assumed by the government and to be informed about the way the government understands its duties in domestic and foreign policy as well as the general management of public administration.

However, neither the specialised Committees nor the parliamentary groups have the right to make changes in the government list or government programme. It is only through a vote in a joint sitting that the government is approved and guaranteed with parliamentary support.

Another instrument of control, which is the most serious, is exercised through the withdrawal of parliamentary support for the government in case the majority of members of Parliament disagree with the policy pursued by the government. According to Art. 112(2) of the Constitution, a motion of censure may be initiated with the support of at least one-fourth of the members of the Parliament and should be communicated to the government on the same day of its registration. It is presented in a joint sitting within three days of its registration and the Prime Minister is expected to present the government's position towards this motion. If the motion is approved, the government is dismissed on the same day. However, up to now, the Parliament has voted no motion against the government.

Parliamentary inquiry is another channel of control of the Parliament over the government. By virtue of article 61 (4) of the Constitution, and stipulations of the parliamentary standing orders, each chamber of the Parliament may create committees of inquiry at the requirement of one-third of its members. Moreover, art. 86 of the joint standing orders of the Chamber of Deputies and Senate stipulates the possibility of creating common committees of inquiry, with the approval of the majority of the members present. Those committees will draft a report with the results of the investigation, to be submitted either to a meeting of the chamber or to a joint sitting, according to the nature of the committee. Besides, the standing orders of the Chamber of Deputies and Senate stipulate that each permanent committee may start an investigation on problems related to its object of activity, but only with the approval of the respective chamber.

## **Engaging Government Responsibility for a Specific Programme, a General Political Declaration or a Draft Law**

Article 113 (1) of the Constitution introduces another political instrument for balancing the relations between the Parliament and the government – engaging political responsibility. At this point, the government has full liberty to choose the moment for engaging its responsibility as well as the subject of the programme or law for which it engages its responsibility. However, it is the whole government which is responsible before the chambers of the Parliament. In other words, if the Parliament initiates a motion of censure that is approved by a majority of the members of the Parliament, the government is dissolved. On the contrary, if the Parliament agrees with the programme or the general policy proposed, the government's position is strengthened and the approved document becomes part of the government programme.

Up to now, no government has engaged its responsibility for a matter related to security and defence policy.

## **Suspending the President from his Function**

The Parliament is empowered to suspend the President from his function by a majority vote of the members of both chambers in a joint sitting, following consultation with the Constitutional Court. In case of approval of the proposal for suspension, a referendum for dismissing the President should be organised within 30 days. There is no provision in the Constitution with regard to the specific reasons that may open the road for suspending the President from his function. However, Article 95 (1) of the Constitution stipulates that the procedure for suspending the President can be raised only in grave cases when the President breaks the provisions of the Constitution. This procedure is extremely complicated, including the cooperation of both chambers of the Parliament, the Constitutional Court and the involvement of the electorate. Moreover, up to now there has never been a case to put it into practice.

## **The Procedure of Impeachment of the President**

While suspending the President from his function is a political measure involving his political responsibility, the procedure of impeachment refers to the legal responsibility of the President. According to article 84 of the Constitution, the President may be subject to an impeachment procedure in a case of high treason, which is equal to the breaking of an oath and the fundamental interests of the country in the exercise of presidential attributions. This procedure involves both chambers of the Parliament, the General Prosecutor and the High Court of Justice.

## **Asking for Penal Indictment of Government Members for Actions Pursued in the Exercise of their Public Function.**

Another tool of control of the government's activities is the procedure for penal indictment of individual members of the government, stipulated by article 108 (2) and (3) of the Constitution. Both the cases and punishments applicable in this situation are to be stipulated by the law on ministerial responsibility. Worth mentioning is that the penal responsibility of the ministers is raised only in relation to facts associated with the exercise of their functions. When a minister who might be the object of penal responsibility is also a member of the Parliament, the rules of parliamentary immunity apply as well. Therefore, the chamber of which the minister is a member should be asked to analyse the situation and approve the withdrawal of parliamentary immunity by a vote of at least two-thirds of its members. In case of the penal indictment of a minister, the President of Romania may ask for his/her suspension from the function. No minister of defence or minister of the interior has been subject to penal indictment since the approval of the new Constitution in 1991.

Undoubtedly, progress is being made in strengthening transparency and accountability in security and defence planning. The adoption of key documents in the area of security and defence, the completion of the legal framework through the adoption of new laws, the preparation of periodic reports to the Parliament and the communication of information to the general public suggest a real impetus for increasing transparency and accountability.

## **CHAPTER EIGHT**

---

### **INSTITUTES, MEDIA, INFORMATION POLICY AND CIVIL SOCIETY**

*Liviu Mureşan*

#### **Introduction**

The latest annual report *Nations in Transit*, which devotes considerable attention to the state of civil society, non-governmental organisations, the media, and the government, says that Romania has a political system fraught with difficulties... (where) the system is fragile but not unstable, civil society is relatively vibrant but still lacks resources and funding, a large portion of the Romanian media has been privatised and is relatively independent, that Romania's constitution guarantees access to information, but governmental officials can hamper direct contact with ministers and therefore journalists frequently rely on unofficial sources. Evidently, the state of health of civil society has improved and is improving, but in Romania it is not entirely sound.

#### **Constitutional and Legal Provisions**

The right to free access to information of public interest is stipulated in Romania's Constitution, Art.31: 'the right of each individual to access any information of public interest cannot be restricted. Public authorities, in areas within their jurisdiction, are obliged to secure accurate information for citizens about public affairs and their personal matters. The right to free access of information must not be detrimental to the measures of protecting minors and national security. The mass media both public and private are compelled to inform the public opinion accurately. Public radio and televisions are autonomous. They must guarantee relevant social and political groups their right to broadcast. Organic law regulates the management of these services and parliamentary control over their activities'. In addition to this, Art. 20 of the Constitution refers to the regulations regarding human rights that '... will be interpreted and applied according to

the Universal Declaration of Human Rights...' and applied with priority in case of inconsistency with the internal laws.

The first law on the setting up and operation of not-for-profit organisations was a Law passed in 1924 on associations and foundations, a year after the Constitution of 1923, the first Constitution in Romania to promote the right to association at a time when it was regarded with restraint in the country, had entered into force. Prior to the passing of this law, associations and foundations were set up by the state by royal decree only. Up to 1989 this law was neither effectively applied nor abrogated, which largely accounts for the gaps and inconsistencies it contains, in the context of the profound modifications undergone by the social and normative framework. Thus, after becoming a "new democracy" Romania did not pass a law on associations and foundations. The existing law makes registration relatively easy and places few restraints on freedom of opinion.

The 1991 Constitution states that "Romania is a national, sovereign and independent state, unitary and indivisible" (article 1, paragraph 1). This constitutional provision shows that in Romania the legal system is unitary and the normative acts passed by the competent bodies are applied countrywide. At the same time, the fundamental law explicitly provides, under art.37, for the right of association: "Citizens may freely associate in political parties, trade unions and other types of association". These are the grounds for the setting up of not-for-profit organisations.

The 'Ordinance on Associations and Foundations', No. 26/2000 was issued by the government of Romania and published in the Official Gazette, No. 39 of 31 January 2000. In Romania, the laws on not-for-profit organisations or on any other matter apply countrywide. There are no different legal provisions at local or regional level.

According to article 1, the associations and foundations created based on this law are legally not-for-profit juridical persons. The Ordinance was elaborated in order to create the framework for: exercising the right to free association; promoting the civic and democratic values of the legitimate state; pursuing the achievements of a general, local or group interest; facilitating access for associations and foundations to public and private resources; partnership between the public authorities and not-for-profit legal persons; respect for public order.

The legal documentation for setting up civil society organisations is governed by civil law. An association can be set up by three or more persons who put together a financial contribution, their knowledge and efforts for pursuing the activities of general, community or not-for-profit personal interest.

The organisation becomes a legal person after being included in the ‘Inventory of Associations and Foundations’ held by the judicial authority within the residential territory. Before this the NGO needs to prepare the status and constitutive document, proof from the Ministry of Justice that the chosen name is available, documents regarding the registered office and patrimony – in the case of foundations, the next step being the authentication of the statute and constitutive act.

After being enlisted in the ‘Inventory of associations and foundations’, the organisation’s representatives receive a certificate of enlistment with the name of the association, location, and period of activity, number and date of the enlistment procedure. The certificate constitutes the proof of the legal person’s status.

### **Non-Governmental Institutions**

The number of associations and foundations in Romania is permanently increasing and their role has been consolidated in Romanian society over the last few years. A number of foundations succeed in having an important role in assisting the setting up of new NGOs and as monitors of the new NGO community in Romania. The funding of these activities was based on support received from international organisations, the EU, American institutions and foundations, or private funds coming from abroad, such as the support provided by George Soros, who played a leading role in Central-Eastern Europe, especially in the 1990s. Besides training, organising round-tables and other events, these associations and foundations have succeeded in creating data-bases on the Romanian NGO-community, as well as publishing directories of this community.

The first directory on associations and foundations in Romania was published in 1991 by the Open Society Foundation of Romania (revised and republished in 1994). The Foundation for the Development of Civil Society published a new version of the Directory

in 1997 (revised and republished in 1999). This one was also accompanied by a CD ROM, which facilitates access to the information to be found on the 744 pages of the printed volume. For the drafting of the Directory, the team of the Foundation for the Development of Civil Society has contacted 19,000 organisations by mail, phone or field research. The latest version of the Directory offers information on 5,173 NGOs.

In the course of time, NGOs in Romania have undergone a certain specialisation, e.g. human rights, environmental issues, the training of journalists, children in institutions, health and social issues, etc. Despite the strong support of the population for the European and Euro-Atlantic integration of Romania and the authorities' commitment to Romania's accession to NATO and the European Union, a relatively small number of NGOs is active in this field.

Regarding relations with the public authorities, the main characteristic of the law is partnership. Apart from the recommendation that local authorities support NGOs by providing adequate premises, the most important prescription of the Ordinance is that regarding the access to public information – article 50 'Public authorities are obliged to provide the associations, foundations and federations information of public interest, according to the law'. This article is based on the Constitutional art.31, on Romania's international obligations assumed through treaties and agreements and underlined by the law 544/2001 on free access to information of public interest.

According to the *Nations in Transit* report, funding for Romanian NGOs is meagre. Around 36 per cent comes from abroad, but foreign donors have started to reduce the level of direct support. The NGO community is recognising its weakness, due to lack of experience, to lack of sufficient financial means, to the weak interest of the authorities in developing a sustainable partnership with NGOS, but also due to a certain lack of interest in the community. This situation generates concern regarding the country's capacity to improve democracy, as signalled also by the Newsletter *Voluntar*, addressed to 4,000 persons/institutions interested in civil society matters.

## **The Government and Information Dissemination**

The Romanian Presidency, government and other authorities all have offices of information. Amongst the tasks of the information offices, organising press conferences and conducting scheduled meetings with representatives of the media are routine functions.

The current Romanian legislative framework requires the government to reveal, explain and justify policy and plans in security affairs. This obligation is more or less explicitly mentioned in different chapters, sections or subsections of the laws on national security.

The following institutions are designated to exercise democratic control in the field of national defence and security: the Parliament, the President of Romania, the government, the Supreme Council of National Defence, the Judicial courts, the Constitutional Court, the Ombudsman (The Advocate of the People) and the Court of Audit. The Public Relations Directorate within the MoD, for instance, organises weekly press conferences on Tuesday and every time a major event requires supplementary information for the public. Press releases are sent to the media on a regular almost daily basis and press tours and meetings for foreign journalists are organised when needed.

An important move towards transparency is the significant quantity of information available on public institutions' web sites, although not thoroughly updated. The information is electronically disseminated through the websites of the Presidency [www.presidency.ro](http://www.presidency.ro), Parliament [www.cdep.ro](http://www.cdep.ro), government [www.government.ro](http://www.government.ro), Ministry of Defence [www.mapn.ro](http://www.mapn.ro) and of all the other ministries' websites, with links on the home page of the government.

The website of the Romanian government covers the detailed structure of the institution – ministries, agencies, the prime minister, the government programme with different reports on results achieved so far, legislation, agenda, press releases and newsletters, short historical and updated general information on the country. The site is continuously updated and provides extensive links to other institutions.

The information published on the official websites and the printed/audio-visual/electronic information disseminated through the governmental agencies (embassies, cultural centres, institutes) is available in most cases in foreign languages too, especially in English. The MoD publishes an English-language newsletter 'Romanian Military Newsletter' and an online version of the printed military newspapers and magazines at [www.presamil.ro](http://www.presamil.ro).

The Ministry of Public Information acts as the information service of the government, producing and disseminating information for both the external and the internal public. Its activity is regulated by a governmental decision HG 13/2001 regarding the organisation and the functioning of the Ministry of Public Information.

Recently the Ministry of Public Information launched a public awareness campaign about law 544/2001 on free access to information of public interest. It used TV and radio spots, printed information materials and the 42 central and 1,300 information offices set up all over the country in the seven months since the law was approved by the parliament.

The Romanian Printing House Humanitas has recently published a web guide with 1,700 sites grouped into 75 thematic categories. These include authorities, business, art and culture, politics, legislation, education and others. The guide can also be accessed online at the following address: [www.ghidweb.ro](http://www.ghidweb.ro) .

Although most of the authorities have their own web sites, they are not updated on a regular basis and do not have enough links to specialised sites. Authorities have started using the Internet in their striving for transparency in cases of public procurement. The Adrian Nastase government has had several initiatives at central and local level, but there is still room for improvement, especially in communications between the public administration and the citizens. The development of the public-private partnership will play a special role in this context in its contribution to the consolidation of the state of law and improvement of the free market economy.

The government's relationship with the NGO community is relatively weak and *ad hoc*, but it has called on NGOs for advice and support. Both the government and the parliament have special departments to deal with NGOs. A major "quasi-non-

governmental organisation” is the Romanian Institute for International Studies, which functions as a think-tank for the Ministry of Foreign Affairs, publishes the *Romanian Journal of International Affairs*, and has good connections with policy research institutes in Western countries.

## **Access to Information**

Transparency International Romania has published the results of a project on *The Role of the People's Advocate in Protecting Free Access to Information of Public Interest*. Marian V. Popa, President of Transparency International Romania, explained that within that project an experiment was conducted “focused on the willingness of public authorities to grant public access to information of public interest. The conclusions were encouraging under the circumstances, when Law 544 had not been adopted yet, still being a Bill in the parliamentary debate” (at that moment). In the meantime, the Law was passed, and Transparency International conducted a new experiment to measure the improvements after one year. Unfortunately, there was less reason for satisfaction, since “public servants still ... prove unable to see the connection between their conduct and the general suspicion regarding all activities financed by public funds.” This study was important not only thanks to its conclusions, but also through the partnership that came into being among NGOs in these matters: the Association for Human Rights Romania – Helsinki Committee, the Romanian Academic Society, IRIS – Centre for Institutional Reform and the Informal Sector, the Media Monitoring Agency – Academia Catavencu, The Centre for Independent Journalism, the Association Pro Democracy, the Centre for Legal Resources.

Presented by the Ministry of Public Information in good printing conditions, but in a quite poor English translation, the 540-page “Romania 2002” guide could be also seen as an indication of the authorities’ attitude towards public information and good governance. The seven-page chapter on transport, communications, information technology and mass-media covers in two pages the entire topic analysed by this research, without mentioning public information activities, legislation or the existence and role of civil society in accessing information of public interest and informing the citizens.

Apart from the governmental information contribution, a valuable source of information can be private initiatives like 'The Workbook', one of the most comprehensive sources of business information available in Romania. Its contents spread from purely business information to government and central offices or diplomacy. Built up in different chapters, the publication proves to be a very useful and transparent instrument in search of information on many sides of Romanian's economic-political activity.

Law 544/2001 regarding free access to information of public interest, concerning transparency of decisions in public administration states:

Art.1 The free and unrestrained access of one person to any information of public interest, defined in this way through the present law, constitutes one of the fundamental principles of the relations between persons and public authorities, in accordance with the Constitution of Romania and the international documents ratified by the Parliament of Romania. Art. 3 The providing, by the public authorities and institutions, of free access to the information of public interest is accomplished 'ex officio' or by request, through the agency of the department for public relations or the person especially appointed with this view. Art. 4 In order to provide any person's access to information of public interest, the public authorities and institutions are bound to organise specialised information and public relations departments or to appoint persons discharging functions within this domain. Art. 15 The access of the mass media to the information of public interest is guaranteed. The activity of collecting and disseminating information of public interest, carried on by the mass media, constitutes a materialisation of the citizens' right of access to any information of public interest.

As member of the European Council and part of the European Convention on Human Rights, Romania is also compelled to respect the adopted documents on freedom of information and expression.

## **Progress and Regression**

According to the media monitoring agency, Academia Catavencu, in the report on the Freedom of Speech in Romania (October 2002) "In the two years of PSD government, Romania registered a significant regression in terms of freedom of expression."

The phenomenon with the most negative effect – considering its impact on public opinion – is the political distortion of the information broadcast by TV stations. The most intense pressure is directed toward the local press. In some districts, political leaders, the heads of the local administration associated with businessmen put immense pressure on the few publications which dare to release criticisms directed at them.

Along with these two phenomena that we consider to be the most serious, some others must be recorded:

## **1) Legislation**

- The legal framework inherited from the communist dictatorship has not been modified in order to be in accordance with European jurisprudence; we are talking primarily about the Penal Code articles that incriminate “calumny and insult.” A journalist could receive up to two years in prison for libel and up to five years for reporting false information that endangers national security and international relations.
- The government and the coalition of parliamentarians promote draft laws that consist of serious contradictions with the principles of the freedom of speech: the project for the classified information law and the project for the right of reply law.
- The new audiovisual law, which is on the whole quite modern and aligned with European provisions, maintains political control on the issue of broadcasting licenses. Another flaw is that it allows the CNA to withdraw a license based on transgressions in a TV show.

## **2) Jurisprudence**

- European Court of Human Rights jurisprudence has had the power of law in Romania since 1993. In spite of that, mainly because the local legislation is not yet aligned to the provisions of the European Court, and the lack of assessment of these provisions, the current trials follow local laws (Penal Code).

- The damages requested in most civil trials do not abide by the proportionality principle; huge amounts of money are requested in the present economic context.
- The law of access to information, considered one of the few successes in this line of activity has been passed; unfortunately, the law has not been assimilated yet at jurisprudence level; the first case tried based on this law was a failure (with symbolic value): a citizen fought in court a refusal to release the results of analysis on the water in a city; the court validated the refusal.

### **3) Economy**

The total absence of financing facilities; media institutions are subject to the same tax framework as any other company; in Europe, media groups have up to a 100 per cent exemption from VAT. The absence of any economic protection determines the vulnerability of the mass media to pressure from political or economic interests through resorting to economic levers, especially advertising contracts; the utilisation of advertising as an instrument of editorial control determined the fraudulent behaviour of certain press institutions which began practicing blackmail in order to get advertising contracts.

“Romania – Annual Report 2002” drafted by *Reporters without Borders*, mentions that in contradiction to European standards for freedom of information, Romanian legislation still punishes libel with heavy fines and suspended jail sentences. The press may enjoy a lot of freedom, but journalists especially in the investigative sector, work under the threat of heavy legal punishment. The penal code allows for prison sentences of anything from two months to two years for “insults” (article 205) and three months to three years for “libel” (art. 206). Prison sentences of six months to five years are handed down for “offences against authorities” (art. 238) and of three month to four years for insult and libel of public officials.

Another topic of concern of the Report is the fact that in January 2001 the financial authority of the press agency, Rompres, was transferred to the Ministry of Public Information, thus removing it from control by parliament, which until then had seen to its supervision, as in many democratic countries. In 2000 Romania signed the “Charter for

media freedom" in the Stability Pact for South-Eastern Europe, which stipulated that the public media must serve the public interest and have a sufficient margin of independence relative to the executive. In November the Stability Pact for South-Eastern Europe (the media task force) asked Romania to remove the press agency, Rompres, from under the authority of the Ministry of Information and to guarantee its independence.

### **Obstacles to Media Freedom**

Currently, an abundance of independent media are still available, but a repressive Penal Code, corruption, political and economic pressures, and low journalistic standards have all proven significant obstacles to establishing genuine press freedom in the country.

By 1994, Romania's Press Freedom ranking had once again fallen to only "Partly Free" status and remained there through Freedom House's 1999 report. A recent law on state secrets, passed by the Romanian parliament in March 2001, could result in a further decline in press freedom in Romania.

If we have a critical attitude towards public information and good governance we have also to take into account the high degree of privatisation of the Romanian mass media.

From the thousands of publications enjoying a certifiable periodicity, and hundreds of radio and TV stations all over Romania, almost all of them are private. The only public/state-owned media are TVR – the national television, Radiodifuziunea Romana – the national radio and Rompress – the news agency.

Up to October 2002 the numbers for the audio-visual media were: 120 licences for TV stations and antennae broadcasters; 2,217 for cable broadcasts and 22 for satellite broadcast, altogether covering all urban areas and some rural ones. The station with the greatest coverage (almost the entire country) is the public channel Romania 1. According to a July 2001 estimate, TVR (with two public channels) has the highest rating 36.4 per cent, followed by the private ones: PRO TV and ACASA TV (Media PRO) 25.9 per cent, ANTENA 1 18.9 per cent; PRIMA TV 7.1 per cent and the rest covering about 11.7 per cent together.

Nicolae Manolescu, a well-known cultural personality, recognises that due to the mass media, Romania is already in Europe, but “now there are more journals per capita in Romania than in other countries. But speaking from the quality perspective, we have to recognise a certain lack of experience”.

Anca Harasim, Executive Director of the American Chamber of Commerce in Bucharest, was recently asking for more “objectivity and professionalism from the Romanian mass-media”.

The most important assessment on the real functioning of the Law 544/2001 about public information was done by the newspaper “Ziua” and its special reporter Razvan Savaliuc, not in his capacity of journalist but as common citizen. Supported by the editorial team, he sent hundreds of requests for public information from state authorities, based on law 544/2001. Simple questions were asked, without requiring complex documentation work and to which the answers were supposed to be delivered in a maximum of 10 days, according to the law. All the letters were sent by regular mail with confirmation of receipt required at the destination so that the journalist should have proof of their arrival. The newspaper waited for 16 days (three for the envelopes to arrive at the destination, three to get back and 10 for the institutions to answer) before going public with the results of the investigation that led to the following conclusions:

- There are very many state institutions that do not obey and apply the Law 544/2001 regarding free access to public information, even though the law was implemented last December. Institutions that do not intend to apply the law or others that only now are organising information offices fall within this category.
- In some institutions that already have public relations offices the law is not correctly applied; the answers to peoples' request for information is done in a selective way and the deadlines for replying are at the whim of the public servants.
- In some cases, functionaries who have nothing to do with implementing the law register the citizens' requests and there is no confirmation for this.
- In some cases the requests for information are directed to media relations offices despite the fact that the law clearly specifies that public relations offices should

be organised. According to the law, media relations offices should deal only with requests coming from journalists.

- Institutions such as: the Senate, Police, Ministry of Justice, Ministry of Finance, Ministry of Health, Ministry of Education, Romanian National Television, and The Ombudsman, have failed to solve this problem according to the law.
- In the case of the Romanian Senate, the institution that voted for the law, the official answer was that a PR office could not be established until January 2003 due to the lack of funds. The Minister of Health has not yet considered the idea of organising a public information office.
- Many institutions use the need for time and specialised personnel for establishing Internet teams/offices as an excuse for not implementing the law faster despite the fact that a very small percentage of the Romanian population has access to Internet and the clear prescription of the law that “every citizen should have unrestricted access to information of public interest”.
- A positive conclusion is that the institutions that deal with the smallest amount of public interest information, the Romanian Intelligence Service and Foreign Intelligence Service promptly answered (almost all) the journalist’s questions.
- The final conclusion is that the government should urgently take action to oblige the public institutions to implement the law, to make it a real instrument in the fight against corruption with the direct support of the population.

The Centre for Opinion and Market Research carried out a survey on a representative group of 552 persons within the framework of an international study made by Gallup in 30 countries, on 23,000 persons. Following the conclusions of this study, the most credible institutions in Romania are the non-governmental organisations. Fifteen per cent of the respondents trust the NGOs, as compared to the European average of 14 per cent, and as compared to those who trust the Romanian government (six per cent).

Being aware of the weaknesses of the process of implementing the law regarding free access to public interest information, 544/2001, the Prime Minister of Romania, Adrian Nastase, warned the county’s prefects that applying the law is not an optional approach. He admitted that public relations offices have not been organised everywhere and that the established media relations and public information personnel are not trained sufficiently. In his opinion, public servants should give up their opacity and understand

that access to information is not a favour but a right of those who are paying their duties and taxes to the state. The specialised media relations departments should offer complete public information to the journalists.

Advancing the process of EU and Euro-Atlantic integration, the attitude of the administration is not only a problem of a specific institution and their civil servants, but of the mechanism as a whole. The implementation of Law 544/2001, regarding the free access to public interest information, will be not only a problem of credibility of the Nastase Government, but of the credibility of Romania.

### **Selected Bibliography:**

- N. Manolescu, 'Prin presa suntem deja in Europa', *Revista 22*, Nr. 12/19, 2002, pp. 12-13.
- 'A Report on Freedom of Speech in Romania' (October 2002), Media Monitoring Agency – Academia Catavencu.
- 'Access to Information of Public Interest in Romania' (September 2001), Transparency International Romania, Bucharest.
- 'The Role of the People's Advocate in Protecting Free Access to Information of Public Interest', Transparency International, AFIR Publishing in Bucharest 2002.
- 'Ghid tiparit pentru web-ul romanesc', *Ziarul Financiar*, 2002, p. 22.
- L. Ciobanu, 'ONG-urile, mai credibile decat Cabinetul Nastase', in *Cotidianul*, din 27.08.2002
- A. Harasim, 'Romania cere presei obiectivitate si profesionalism!', in *Independent*, 31.08 – 01.09.2002, p. 2.
- 'Romania 2002', Ministry of Public Information, Bucharest, 2002.
- Fundatia pentru Dezvoltarea Societatii Civile, 'Catalogul Asociatiilor si Fundatiilor din Romania', 1999.

## CHAPTER NINE

---

### INTERNATIONAL REQUIREMENTS AND ASSISTANCE FOR DEFENCE AND SECURITY REFORM

*Marian Zulean*

#### Introduction

The latest developments in the international security environment have turned defence and security reform into a matter of priority concern and of extensive programmes of action, at both the national and international levels. The main reasons for that are the considerable broadening of the scope of security policy (analysts speak now about “human security” to include instability and poverty as threats to national security), the evaluation of what has been called “first generation problematic”<sup>1</sup> and moving on to a more comprehensive approach to defence and security reform (“second generation problematic”).

Although this reform in Romania was initiated as an outcome of the 1989 Revolution, when the Army played an essential role in overthrowing the dictatorship, and carried out since then with increasing determination, a substantive contribution has been brought to this process by the international community. Important assistance programmes and institutions, such as the Partnership for Peace and later the Membership Action Plan have been initiated and implemented to help East European countries in carrying out these reforms.

On the other hand, the concept of “security sector reform” showed up very late in the advisers’ and policymakers’ language, initially used by British experts when they talked about all kind of missions (from defence diplomacy to peacekeeping), besides the

---

<sup>1</sup> See T. Edmunds, A. Forester and A. Cottey, ‘The Second Generation Problematic: Rethinking Democracy and Civil-Military Relations in Central and Eastern Europe’, *Armed Forces and Society*, forthcoming.

traditional one. If the main focus of reform was initially on “civilian control of the Armed Forces”, the later evaluation realised the existence of shortcomings. First, in the case of Romania<sup>2</sup>, defence has been organised as a system, and the Armed Forces were just a part, maybe not the most important one, of the defence system. Therefore, later, the focus changed from the reform of the Armed Forces to reform of the whole system and the word “sector” has been introduced to include intelligence, domestic structures and the defence industry in the reform process. Also, the focus moved from “civilian” to “democratic” control, since a sort of civilian control (subjective in Huntington terms) was exercised before 1989. So, today we can talk about complex measures of reforming the entire security sector.

### **Criteria for NATO Membership**

NATO is also making another long-term investment in European stability through its ongoing enlargement process (“open door” policy). PfP has been seen as a front door by East European countries keen to become full members of NATO. One of the most important documents for candidate countries was the “Study on NATO Enlargement”<sup>3</sup>, adopted in 1995, that established clear criteria for the admission of new members .

Among the political conditions, they should comply with the basic principles embodied in the Washington Treaty: democracy, individual liberty and the rule of law; accept NATO as a community of like-minded nations joined together for collective defence and the preservation of peace and security, with each nation contributing to the security and defence from which all member nations benefit; and be firmly committed to the principles, objectives and undertakings included in the Partnership for Peace Framework Document.

From the military point of view the candidates should demonstrate a commitment to and respect for OSCE norms and principles, show a commitment to promoting stability and well-being through economic liberty, social justice and environmental responsibility and establish appropriate democratic and civilian control of their defence forces.

---

<sup>2</sup> The 1974 Law of National Defence sets missions for the whole system of security, and made the “war of an entire people” an official systematic doctrine.

<sup>3</sup> *Study on NATO Enlargement*, September 1995, at: <http://www.nato.int/docu/basictxt/enl-9506.htm>

Drawing lessons from the PfP dialogue and the first round of enlargement, the NATO Summit in 1999 adopted a tailored and clear framework to prepare the candidate countries for membership, namely the Membership Action Plan. Through this Plan, each aspiring country is requested to draw up annual national plans of preparations for possible future membership, setting objectives and targets for its preparations and containing specific information on steps being taken, the responsible authorities and, where appropriate, a schedule of work on specific aspects of those preparations. The plan is divided into five chapters: political and economic issues, defence, resources, security and legal issues.

## **Western Programmes of Assistance**

Important multilateral and bilateral programmes were adopted with a view to assisting the implementation of defence and security reform in countries wishing to join NATO.

### **1) Multilateral Assistance**

NATO, EU, OSCE are institutions that have provided significant assistance programmes. Although the EU and the Western European Union (WEU) played an important role in the early 1990s, their assistance for defence and security reform decreased in importance, but a more coherent policy is emerging as European Security and Defence Policy becomes stronger. However, NATO and OSCE played the most important role in supporting military reform in Romania.

### **2) NATO and the Partnership for Peace (PfP)**

NATO has been the main multilateral organisation able and interested in promoting democratic civil-military relations and reform of the security sector. It acted more like a “carrot” for East European countries in search of integration into a more prosperous Western world. Aware of the lack of civilian expertise, NATO allies and partners run a large number of activities to develop civilian expertise in security. NATO has strengthened its information programmes for partners, including conferences and seminars (including at the NATO Defence College and at the NATO School (SHAPE) in

Oberammergau), programmes of visits, fellowships, etc, and it has sought to improve their focus and avoid being patronising.

However, the main instrument of NATO assistance to Eastern Europe, implicitly Romania, has been the Partnership for Peace. At the Ministerial Meeting of the North Atlantic Council/North Atlantic Cooperation Council on 10-11 January 1994, NATO launched the Partnership for Peace, to forge new security relationships between the Alliance and its East European partners. The main goals were to expand and intensify political and military cooperation throughout Europe, increase stability, diminish threats to peace, and build strengthened relationships by promoting the spirit of practical cooperation and commitment to democratic principles that underpins the Alliance.

Romania was the first European country to sign "The Framework Document of the Partnership for Peace" in 1994. According to this document, Romania had to cooperate with NATO in:

- facilitation of transparency in national defence planning and budgeting processes;
- ensuring democratic control of the defence forces;
- maintenance of the capability and readiness to contribute, subject to constitutional considerations, to operations under the authority of the UN and/or the responsibility of the CSCE/OSCE;
- the development of cooperative military relations with NATO, for the purpose of joint planning, training and exercises in order to strengthen their ability to undertake missions in the fields of peacekeeping, search and rescue, humanitarian operations, and others as may subsequently be agreed;
- the development, over the longer term, of forces that are better able to operate with those of the members of the North Atlantic Alliance<sup>4</sup>.

Initially (1995-1997), Romania prepared a considerable amount of troops and equipment from the three services which cover the entire range of PfP operations; later (1997-1999), the Romanian contribution to PfP rose to the level of two brigades and one

---

<sup>4</sup> See *Partnership for Peace: Framework Document*, Brussels, 10 January 1994, at: <http://www.nato.int/docu/basictxt/b940110b.htm>

engineer battalion. The acquisition of C-130 military transport aircraft significantly improved the operational and rapid deployment capability of the units prepared for PfP. Romania hosted land exercises such as COOPERATIVE DETERMINATION, and naval and river exercises: COOPERATIVE SUPPORT and DANUBE.

Under the PfP aegis, Romanian troops participated in peace support operations, such as Desert Storm (1991), Alba (1997), IFOR (1996), SFOR and KFOR (2000) and, recently, ISAF (2002).

### **3) The Organisation for Security and Cooperation in Europe**

played an important role in establishing dialogue and confidence-building measures among NATO countries, candidates and other former Soviet states. The most important moment for our research is the adoption of the Code of Conduct on Political-Military Aspects of Security, in which the participating States undertook, *inter alia*:

- to consider the democratic political control of military, paramilitary and internal security forces as well as of intelligence services and the police to be an indispensable element of stability and security;
- to provide at all times and maintain effective guidance to and control of its military, paramilitary and security forces by constitutionally established authorities vested with democratic legitimacy. They will clearly define the roles and missions of such forces and their obligation to act solely within the constitutional framework;
- to provide for legislative approval of defence expenditures;
- not to tolerate or support forces that are not accountable to or controlled by their constitutionally established authorities<sup>5</sup>.

### **Bilateral Assistance**

The US has been by far the most important donor for Romanian defence and security reform, both for the military and for strengthening the civil society dealing with security

---

<sup>5</sup> See *Code of Conduct on Politico-Military Aspects of Security*, Chapter IV, Budapest, 1994, at: [http://www.osce.org/docs/english/1990-1999/summits/buda94e.htm#Anchor\\_COD\\_65130](http://www.osce.org/docs/english/1990-1999/summits/buda94e.htm#Anchor_COD_65130)

issues. After the adoption of NATO's new strategic concept in 1991, the US introduced four measures for reforming the security sector in Eastern Europe: the International Military Education and Training (IMET), the Cooperative Threat Reduction (CTR), Joint Contact Team Programme and George Marshall European Centre for Security Studies. The most important US agencies and NGOs involved in programmes related to civil-military relations were USAID, DOD, National Endowment for Democracy and National Democratic Institute. The aid has been channelled to civil society and to the military.

### **Assistance for Civil Society**

USAID has been by far the most important source of funding for the "civil society" part. Two types of programmes have addressed the complexities of civil-military relations within USAID. Beginning in the summer of 1998, the Global Bureau's Centre for Democracy and Governance (G/DG) is developing a cooperative agreement to implement a set of activities that will promote programming in civil-military relations at a global level.

The National Endowment for Democracy (NED) is a private, non-profit, bipartisan, organisation created in 1983 to help strengthen democratic institutions around the world. NED in Romania has paid for many programmes of fostering parliamentary expertise or the transparency of political decisions and freedom of the press.

National Democratic Institute is a non-profit organisation working to strengthen and expand democracy worldwide. Through forums, workshops and the use of international experts, NDI helps create a neutral environment where government, civil society and military leaders can build up mutual confidence and bridge the gap between these distinct communities. NDI programmes also foster an exchange of "lessons learned" about democratic civil-military relations among countries that have experienced similar transitions.

### **US Assistance for the Military**

The most important military assistance programmes for Romania are Mil-to-Mil, the Warsaw Initiative and IMET. Through the former, more than 850 activities have taken place since 1993, and through the second over 10 million dollars were allocated to

Romania every year since 1996 to hold PfP activities. However, IMET is the more important one for our topic.

The International Military Education and Training programme, or IMET, is a programme funded through an appropriation from the State Department, and administered by the Bureau for Politico-Military Affairs and the Department of Defence's Security Assistance Agency (DSAA). This programme provides funding to bring foreign military personnel – officers and enlisted men – to the United States to take short-term and longer-term courses designed primarily for US military personnel. The programme gives foreign students exposure to US military professionalism within the context of American life and culture. In 1990, Congress amended the IMET programme to include foreign civilian personnel who worked in security-related positions as a class eligible for such foreign training. The Expanded IMET (E-IMET) programme has become the basis for greater Department of Defence involvement in training civilian personnel in a much more far-reaching programme focused on improved civil-military relations.

While the level of foreign interest in US professional military education and, to a lesser degree, technical training is at an all time high, in practice fewer military students from more countries are funded with progressively less money. US policy interests today encourage the assistance of newly-democratic governments, particularly in Central and Eastern Europe. Through the “Gerald Solomon Freedom Consolidation Act”, the American Congress approved recently 50 million dollars military assistance for seven countries in order to prepare for NATO. Among them, Romania received 11.5 million.

### **Bilateral Assistance from Other Countries**

German assistance<sup>6</sup> comprises three aspects: the detachment of military advisers to the Romanian MoD, assistance for bilateral activities (high level talks, expert meetings and conferences) and military training and education. The most important activities of military advisers were to assist the department of logistics, to assist the setting up of an institute of strategic studies and to advise the Secretary of State for Military Politics on issues like civil-military relations, military strategy, alternate military service, programming and

---

<sup>6</sup> I would like to thank Colonel Rudiger Volk, the German military adviser to the Secretary of State of the Romanian MoD, who helped me on this issue.

budgeting. As far as training and education is concerned, we estimate that up to 122 officers received training in German military academies.

The Romania-France Special Partnership is based on historical tradition and basically consists of important support by France to Romanian aspirations to join NATO. A special long-term cooperation was established with Britain which established a British-Romanian Regional Centre for PfP officers in Bucharest.

### **The Impact of Western Assistance**

The impact of Western aid can be assessed from various sources. In his 1999 book, 'Aiding Democracy Abroad', Thomas Carothers<sup>7</sup> complains of how little the assistance providers learned about the effects of their assistance. He tried to fill the knowledge gap and that is why he wrote about the "learning curve". It is also very hard to establish criteria for the success of aid to democracy. Of course, it is useful to study the internal assessments of USAID and DOD, but it can also be assessed from the interviews and study of documents presented by Romania or independent experts to NATO or EU. In order to have the picture and dynamics of the changes, I will present below the main stages of the Romanian reform.

### **Stages of Reform**

*The first stage* of Romania's defence restructuring process began with the de-Communisation and downsizing of the Armed Forces. In the aftermath of the 1989 revolution, some of the first 'revolutionary measures' involved the changing of commanders and the transfer of control of Securitatea (the secret service) to the Army and the withdrawal of the military from use as a free workforce in the national economy.

The most notable contribution in the institutionalisation of the democratic civil control in this period is the establishment of the Supreme Council of National Defence. Through this Council was established an agency for coordinating concepts and executive actions in crisis situations. This first stage, full of debates and social and political anxieties,

---

<sup>7</sup> Thomas Carothers, [\*Aiding Democracy Abroad: The Learning Curve\*](#) (Washington, D.C.: Carnegie Endowment for International Peace, 1999).

ended up, on the institutional field, with the adoption of Romania's Constitution, which stated clearly the democratic principles of governing, citizens' rights and liberties, the institutions of state power and the relations between them.

*The second stage (1992-1997).* The dismemberment of the Warsaw Treaty and Romania's desire for integration into NATO, together with NATO's programmes of assistance and the conditionality – inherent in the criteria for joining NATO – have acted as important factors that influenced the setting up of civilian control and the professionalisation of the Army.

During this time, the National College of Defence (1992), aiming at preparing civilian experts in the security field, was established, and a civilian deputy minister was appointed (Ioan Mircea Pascu – 1993). This was followed by the appointment of a civilian Minister of Defence (Ambassador Gheorghe Tinca), and the legal framework for democratic control and the reorganisation of the security institutions was adopted. Also, during this period, Romania became the first East European country to join the Partnership for Peace, in 1994. With the PfP, reform and interoperability programmes (the Planning and Review Process with its objectives of interoperability) were adopted. Moreover, OSCE adopted its Code of Conduct, with a separate chapter dealing with civilian control of Armed Forces (Budapest, December 1994).

*A third stage* was the one between 1997 and 2000, when the coalition government of the Democratic Convention-Democratic Party-UDMR was in power. After the failure of Madrid, where Romania was not invited to become a NATO member, the process of reform did not stop; on the contrary, substantial improvements were made to the defence planning process and to the system of military education, through the adoption of the Emergency Decree on defence planning (1998) and of the Concept of Human Resources (1997). Now too the programmes of assistance on security have been intensified and a serious diplomatic effort is being carried out.

In this context, the civil-military aspect of defence and security reform also continued to develop and assert itself. An important moment of this stage was the Washington Summit, through which the preparing of NATO candidates on the basis of the annual plan (Membership Action Plan) was proposed. Unfortunately, divergences within the

government coalition and the electoral campaign led to the allotment of fewer financial resources for reform of the army.

A *last stage* started with the elections of November 2000 and the formation of the new government. The Prague NATO Summit (November 2002) and Romania's expectations of becoming a member of the Alliance acted as an important stimulus for a focused effort on continuing the reform. Thus, Prime Minister Adrian Nastase succeeded in concluding a social agreement with the unions and signed a common declaration with the parliamentary parties on preparations for NATO membership. For achieving the consensus, President Ion Iliescu convened in Snagov, on 31 March 2001, a meeting of political parties and representatives of civil society which resulted in the signing of "The Appeal-Declaration of the NATO 2002 Forum". Coherent measures for fulfilling the Membership Action Plan, cycles II and III, were taken, including the improvement of the framework of democratic control of the army. In the field of diplomacy, the successful performance by Romania of the duties of OSCE's presidency and the organisation of the Summit V-10 "The Spring of New Allies" were important actions for promoting Romania's regional role and for its image abroad.

### **Setting up of the Framework and Institutions for Democratic Control**

The juridical substantiation of the democratic control of the security sector has its origins in the Constitution of 1991 and in the Law on National Defence no. 45/1994. Romania's Constitution stipulates that the army is exclusively subordinated to the people's will in order to guarantee the country's sovereignty, independence, territorial integrity and constitutional democracy. The Law on national defence completes the Constitution and defines the fundamental principles of ensuring national defence, the structure of the national system of defence, and the public authorities' role in the field of defence. Other organic laws, such as the Law on preparing the national economy and territory for defence (no. 73/1993), the Law on preparing the population for defence (no. 46/1996), the Law on the organisation and functioning of the Defence Department (41/1990, amended through the Emergency Decree of 26 January 2001), complete the legislative framework regarding civil-military relations and the organisation of defence.

According to the Constitution, all of the three public powers – executive, legislative and judiciary – have responsibilities in monitoring and oversight over the army. Of all the forms of democratic control, the Parliament's role is the most important one.

The Parliament issues laws on national defence, varying from the organisation of the Ministry of Defence and of the armed forces to the procedures of defence planning and social protection. The Parliament exerts its authority, asking for reports on military programmes and activities and through the medium of its commissions for defence, public order and national safety.

The President of the country represents the Romanian State and is the guarantor of the country's independence, unity and territorial integrity. He is the Supreme Commander and president of the Supreme Council of National Defence (CSAT), a position that confers on him major influence on issues of national security, such as the declaration of a state of emergency or siege. CSAT organises and coordinates activities related to national defence and safety.

The Prime Minister is the vice-president of CSAT and chief of Civil Protection. In addition, the prime minister leads the government's executive activity and implements defence policy, through the activities and means of the Minister of Defence. The General Staff is part of the Ministry of Defence and is subordinated to the civilian minister of Defence.

The most important mechanism of control is that of the budgetary allocations, including the planning, budgeting and acquisition system. The improvement of this type of mechanism has been delayed due to uncertain forecasting of GDP and to the impossibility of implementing multi-annual budgets, according to NATO standards. Since 2001, the new system of planning, programming, and budgeting (PPBES) was implemented. The defence budget is today public and subject to internal audit, as well as to the oversight of other institutions, such as the Ministry of Finance, parliamentary commissions or Accounts Courts.

Another important aspect of the democratic control, connected with civil society, is transparency. Besides the mechanism of budget control, the relations between the

media and the Army seem to be the second important successful mechanism for civilian control of the army during this period. Together with the political institutions of control and NGOs, the independent press is an important obstacle to military abuses. Over these years, the press has acted as a genuine “watchdog” for democracy, being considered the fourth power within the state.

Democracy presupposes the separation of the state powers. In spite of all these, a democratic society presupposes the existence of some informal mechanisms and of some non-state institutions for achieving indirect civilian control, organisations of “civil society”. Institutions, such as an independent press or non-governmental institutions and independent institutes of research (think-tanks), contribute to a well-informed civil society on issues of security and creation of expertise among civilians. There are a few organisations and foundations very active in the field of security policy, such as “Manfred Woerner” the Euro-Atlantic Association, the EURISC Foundation, “George C. Marshall” – Romania Association, and the recently-created “Casa NATO”.

### **Changing Roles, Missions and the Defence Planning System**

During the communist period, Romania had a relatively well-structured defence policy, whose main objective was the defence of the country’s territorial borders. As a result, the main task of the political and military elite after 1989 was to replace the authoritarian pattern of professionalisation with a democratic one.

Up to 1994, when Romania applied for membership of NATO’s Partnership for Peace, both military and political establishments had been seeking new strategic concepts and military doctrines. In 1994, a National Integrated Security Concept and Military Doctrine emerged. In practice, both of them were somewhat confused, identifying a large number of security risks but with no clear rationale of how these should be addressed by the Romanian Armed Forces. As a result, these documents were not ratified by the Parliament, and were sent back to the Ministry of Defence to be rewritten.

Clear and comprehensive security concepts and sound mechanisms for defence planning were in reality not drafted until 1997. An important role in the drafting of the

defence planning concepts was played by the assistance of the United Kingdom, the Netherlands, and United States (the so-called Kievenaar Studies).

In accordance with the ‘Law on Romanian National Defence Planning’, the planning of defence is based on political and strategic decisions and options made by the Romanian parliament, president and government, as well as other public institutions that assume security and national defence responsibilities. According to the Law, national values and interests, risks and threats to these values, as well as the main guidelines for ensuring Romanian national security are defined by a presidential document officially presented to the Parliament – the National Security Strategy. In order to accomplish the provisions of the National Security Strategy, the government elaborates the White Paper of Defence, establishing the goals, tasks and budget of the security and defence institutions.

After this, each ministry or public institution with defence- and security-related tasks has to prepare its own departmental plan, programme or strategy according to the governing programme and provisions of the White Paper. At the level of departmental strategies, the Ministry of National Defence, as the authority responsible for the military defence of the country, produces the Military Strategy, while the Romanian Ministry of the Interior and Intelligence Services prepare their own strategies according to their own responsibilities.

The first document, the “National Security Strategy of Romania”, was approved by the Supreme Council of National Defence in June 1999. In December 2001, President Iliescu presented to the Parliament the new “National Security Strategy of Romania”, which proposed a clearer vision of the security framework and of Romania’s strategic goals, defined national interests and established the main directions of action for ensuring security.

According to the provisions of Law No. 63/2000 on National Defence Planning, the Ministry of National Defence implements a new planning, programming, evaluation and budgeting system (PPBES) from 2002 (tested in 2000 and 2001). The core of this new system is an integrated concept of human, material and financial resources planning and management, which will improve the capability of the Armed Forces to fulfil its operational criteria. The framework of democratic control offers the civilian leadership

the opportunity to set goals for the armed forces and for a restructured military to prove that they are able to accomplish the tasks. Indeed, a Pentagon official observed that ‘...the Directive of Defence Planning is one of the best in Eastern Europe’, but that ‘...it isn’t completely implemented’.

The need for interoperability with NATO in the framework of PfP has also established new goals and strategies for the reform of the Armed Forces. PARP, for example, has provided a structured approach for developing the interoperability of the Romanian Armed Forces with NATO Allies. Subsequently, the MAP has helped to push Romanian military reform towards Power Projection. In the field of education, centres for foreign language training, peacekeeping, and defence-planning training have also been established. Moreover, more than 1,500 Romanian officers have attended courses in NATO member countries.

## **Conclusion**

Assistance for defence and security reform is an important issue of the process of democratisation of East European countries, but the historical legacy of the Cold War was an obstacle that blocked a coherent and consistent programming of Western aid. The sub-programmes of fostering the Parliament's expertise, transparency of the media, political decisions and budgeting, advocacy for the NGOs dealing with security or military programmes, have covered almost all the issues of a democratic civil-military relations. But the resources allocated were too low compared to the needs and regional expectations. Moreover, in the first years of transition the majority of aid and support went to the “Visegrad” countries that eventually became NATO members.

The best way to assess the impact of assistance for democracy as proposed by Carothers is to understand the effects. For Romania, he estimated that US and other Western democracy aid had positive effects in a number of sectors. The most important was aid for realising democratic elections, reforming major state institutions, especially the judicial system and the Army, and assistance to civil society.

Therefore, in Romania Western assistance was essential in building democratic institutions, particularly a democratic civil-military pattern. But this is not the end of the

process, a coherent programme of assistance to foster institutions, help civil society grow and develop the mechanism of civilian control must continue. Otherwise, the institutions would remain fragile and could fail due to political or economic failure. A British landowner once told an admiring visitor that to grow a good green lawn you need some grass seeds and about 500 years. Therefore, it takes time for the mechanism of civil-military relations to work properly and needs clear vision and continuous support.

The PfP has also been a good training school for making the Romanian Armed Forces compatible with NATO forces. Bilateral military assistance programmes also played an important role in making the military more professional, in setting up a multi-year defence planning system and reorienting themselves towards regional security requirements. However, the systematic approach and inclusion of intelligence, domestic forces and a defence industry into the programmes of assistance came rather late and many things still need to be done in this respect.

## Bibliography

- Carnovale, M., 1999, 'NATO, Partners and Allies: Civil-Military Relations and Democratic Control of the Armed Forces', Bishkek, Kyrgyzstan, PfP Seminar Available at:  
[http://www.isn.ethz.ch/pfparchive/documents/1999/PfP\\_Kyrgyzstan/Carnovale.htm](http://www.isn.ethz.ch/pfparchive/documents/1999/PfP_Kyrgyzstan/Carnovale.htm)
- Carothers, T., 1999, 'Aiding Democracy Abroad', Carnegie Endowment for International Peace, Washington, D.C.
- Cope, J., 1995, 'International Military Education and Training: An Assessment', *McNair Paper*, No.44, Institute for National Strategic Studies, Washington, D.C.
- Danopoulos, C. & Zirker, D., *The Military and Society in the Former Eastern Bloc*, (Boulder, CO: Westview, 1999), pp. 137-155.
- Fitch, J.S, 1979, 'The Political Impact of US Military Aid to Latin America', *Armed Forces and Society*, Vol. 5, No. 3, pp. 360-385.
- Forman, J.M. & Welch, C., 1998, 'Civil-Military Relations: USAID's Role', USAID Centre for Democracy and Governance, Washington, D.C.
- Huntington, S.P., *The Third Wave*, (Norman, OK: University of Oklahoma Press, 1993), p. 384.
- Huntington, S.P., 1995, 'Reforming Civil-Military Relations', *Journal of Democracy*, Vol.6, No. 4, pp. 9-17.
- Political Military Steering Committee on Partnership for Peace, 15 June 1999  
Towards a Partnership for the 21st Century, The Enhanced and more Operational Partnership, Available at  
<http://www.nato.int/pfp/docu/d990615a.htm>
- Sheehan, M., 1999/2000, 'The Role of NGOs in Building Security in South Eastern Europe', *Central European Issues*, Vol. 5, No. 2, pp 44-50.
- Sava, N., Tibil, G. & Zulean, M., Eds. 1998, 'Armata si Societatea (Army and Society)', Info-Team, Bucuresti.
- USAID, 1998, The USAID FY 1998 Congressional Presentation, Romania.  
Available at: <http://www.info.usaid.gov/pubs/cp98/eni/countries/ro.htm>
- Wedel, J., *Collision and Collusion: The Strange Case of Western Aid to Eastern Europe 1989-1998*, (New York, NY: St. Martin's Press, 1998)

## **CHAPTER TEN**

---

### **PEACEKEEPING AND REGIONAL SECURITY**

*Alexandru Nicolae-Cotoară and Marin Bănică*

In the last decade, after the Cold War, the security environment has changed totally in Europe, particularly in East Europe and South-East Europe. The collapse of the Soviet Union, the Warsaw Pact and Yugoslavia has resulted in many serious security problems in the region. New security risks have appeared: ethnic confrontations, trans-border crime, illegal trafficking in people, drugs and arms, economic problems, high unemployment, organised crime, the restructuring process, etc. The terrorist attacks on the United States of America underlined the importance of asymmetric risks and changed the approach of international cooperation in the field of security. Common threats have encouraged countries to work together and to build a regional cooperation system. The countries of South-Eastern Europe assessed the security situation in their region in the Common Assessment Paper on Regional Security Challenges and Opportunities (SEECAP), a very useful document that permits the start of cooperation in this field.

Under these new conditions, Romania started a wide military reform process. This process involves several aspects: strategies, doctrines and concepts; internal and international relations; military structures; the operationality of the structures; infrastructure, etc.

Adapting its national strategy, Romania changed its approach to participation in regional military initiatives and in peace support operations (PSOs). An intensive and competent participation of the Romanian Armed Forces in regional military initiatives and in PSO proved the efficiency of the reform of the military structures reform as well as their capacity to act and cooperate in the international environment.

## **Peace Support Operations**

### **1) Participation in PSOs within the framework of PfP**

Romanian participation in PSOs in the Balkans is one of the modalities to contribute to common regional crisis management. Substantial Romanian participation in PSO proved its capacity as a provider of security and a stability factor in the region as well as its competence as a NATO candidate.

The Partnership for Peace (PfP) offered a new framework for cooperation in the field of security and a good opportunity for joint training of military forces. Romania, the first country to have joined the PfP, took this opportunity to prepare its forces better and to realise interoperability with NATO forces. At the same time, Romania adapted its National Security Strategy to the new framework of cooperation.

Romania selects annually all exercises and activities in the Partnership Work Programme that it is interested in and sends its Individual Partnership Programme to NATO. Romanian participation in PfP exercises and activities is much appreciated among NATO and PfP countries. Starting from 1994, when the first Romanian IPP was agreed with NATO, Romanian participation in PfP activities increased steadily, reaching its highest point in 1997, with almost 600 activities. The evolution of Romanian participation in PfP activities and exercises is:

Year	1994	1995	1996	1997	1998	1999	2000	2001
Activities	60	145	385	580	546	426	290	293
Exercises	4	8	12	18	36	30	22	24
Exercises in Romania	0	2	2	3	2	3	4	0

We realised that massive participation in the PfP programme is not the right approach and that we have to increase emphasis on quality as distinct from quantity, in order to prove our commitment to credibility. As a result, since 1998 we have focused on high priority/high payoff activities and exercises. We participated in a wide range of NATO/PfP exercises, in which all types of PfP missions were exercised. Since

1999/2000, our focus has shifted to those NATO/PfP and PfP exercises that can best prepare our units and personnel for reaching the interoperability standards required by the Alliance.

For a more efficient training, Romania established a new PfP Training Centre in Bucharest available for its officers and for those of other states in the region.

After good results in PfP training of its forces, Romania engaged these interoperable forces in NATO-led peace support operations in the Western Balkans, the highest stage of cooperation with NATO in the field of security, proving in this way the efficiency of joint training. The success gained in these NATO-led peace support operations proved the level of training and interoperability of Romanian military forces with NATO forces.

## **2) Units designed for PSO**

At the beginning, Romania created only a military field hospital as a unit designed for humanitarian and PSOs. Later, within the force-restructuring process, Romania established some special support and combat units to participate in PSOs. These units were trained and equipped according to their new mission and made available for PfP. These units comprise all three armed forces: Army, Navy and Air Defence and are deeply involved in PfP activities. All of them are operational and ready to be deployed in the theatre. Their capability is planned within PARP (PfP Assessment and Review Process).

According to the Annual National Plan/Membership Action Plan, third cycle, the forces available for PSO are, under:

*International Agreements:*

### **Land Forces**

SFOR/KFOR strategic reserve:

- 1 infantry battalion (400 military module)

Multinational Peace Force South-Eastern Europe:

- 1 infantry battalion (400 military module)

- 1 engineer company (119 military)
- 1 reconnaissance platoon (19 military)
- 1 transportation platoon (40 military)

**SHIRBRIG:**

- 1 infantry company (144 military)

**UN:**

- Joint Romanian-Hungarian battalion – infantry battalion module (449 military)

*NATO-led PSO:*

**Land Forces**

- 1 paratrooper company (33 military)
- 3 infantry companies (144 military/coy )
- 1 engineer company (121 military )
- 1 mountain troops company (136 military )
- 1 military police company (123 military )
- 1 demining detachment (40 military)

**Air Force**

- 4 MIG-21 Lancers (80 military)
- 1 C-130B transport aircraft (48 military)

**Navy**

- 1 frigate (280 military )
- 1 minesweeper (80 military)
- 1 diving operations ship (65 military-45 crew and 20 divers)
- 1 maritime tug (70 military )
- 2 armoured river ships (115 military )
- 1 river tug (15 military )
- 1 EOD/SEAL diving team (24 military )

*Participation in PSO*

At the beginning, Romania participated with medical personnel (one field hospital in Kuwait/'GRANDBY'/1991, in Somalia/'UNOSOM'/1993-94 and Angola/'UNAVEM III'/

1995-97) and military observers (Iraq-Kuwait/'UNIKOM'/1991-to date, Moldova/'GROM'/1992-93, Rwanda/'UNAMIR'/1994, Congo/'MONUK'/1999-up to now, Georgia/1999-to date, Kosovo/'KVM'/1999-up to now, Eritrea/'UNMEE'/2000 and Macedonia/2001-to date).

After the specific training and intensive preparations, Romania sent combat troops to a theatre outside the Balkans (one infantry battalion to Angola/'UNAVEM III' and 'MONUA'/1995-99).

Throughout the 1990s, the Balkans was once again an area of turmoil. The international community intervened for the cessation of the violent conflict in Croatia, the ethnic cleansing in Bosnia-Herzegovina and Kosovo, the crises in Albania as well as the Macedonian-Albanian ethnic dispute.

The international community covered the Balkans with a network of initiatives, strategies and programmes. The United Nations and the Organisation for Security and Cooperation in Europe joined their efforts with NATO as the only political-military power and the European Union as a regional political-economic power. The evolution of the situation determined the necessity of NATO involvement for the first time in such cases.

On 14 December 1995 when the General Framework Agreement for Peace was signed in Paris after negotiations held in Dayton, UN Security Council Resolution 1031 empowered NATO to implement the military aspects of the Peace Agreement. As a consequence, on 16 December the Alliance's North Atlantic Council launched the largest military operation ever undertaken by the Alliance, Operation Joint Endeavour. A NATO-led multinational force, called the Implementation Force (IFOR), was established and started its mission on 20 December 1995, with a one-year mandate. Due to IFOR's success, a secure environment was instituted. Romania took this opportunity to send an engineering battalion to Bosnia-Herzegovina within IFOR as a high priority and reduced its presence outside the Balkans. The Romanian engineer battalion contributed in the following areas:

- reconnaissance in the field of mining and demining;
- detailed reconnaissance for further operations;

- building, repairing and maintaining transport facilities;
- activities in the civil-military field, in order to identify needs and design infrastructure projects.

In 1997, when a European coalition was established to manage the crises in Albania, Romania was the only non-NATO country to contribute to Operation ‘ALBA’, with an important contingent of combat troops (one infantry battalion and staff officers, 400 military personnel) which successfully participated together with contingents from some NATO countries.

After the completion of IFOR’s mandate in December 1996, NATO concluded that support for the establishment of a secure environment was still needed. In December 1996, NATO Foreign and Defence Ministers agreed that NATO should organise a Stabilisation Force (SFOR) which was activated the same date the IFOR mandate expired. While the role of IFOR was to implement the peace, the role of SFOR is to stabilise the peace.

The states in the region were very interested in joining the international effort and to contribute to the mission. Romania, after its contribution with one engineering battalion to IFOR, had 122 troops deployed in Bosnia-Herzegovina within the SFOR mission:

a) National Detachment “BOSNIA” (68 military personnel – Engineers and Military Police) has a mandate for the following tasks:

- reconnaissance in the field of mining and demining;
- detailed reconnaissance for further operations;
- building, repairing and maintaining transport facilities;
- activities in the civil-military field, in order to identify needs and design infrastructure projects, to contribute to the harmonisation of relations between civilian and military institutions.

b) ‘HOLLAND’ Detachment (49 military personnel)

In accordance with the Romanian offer to join in NATO-PfP operations, Romania and the Netherlands participate jointly in SFOR in Bosnia-Herzegovina. This unit has the following tasks:

- collection of ammunition (from collection points);
- destruction of the collected ammunition;
- transport of military personnel to the theatre of operations;
- escort of mixed convoys.

c) National Information Cell (RO-NIC)

Romania participates with a NIC (five military personnel) near the SFOR Command in Bosnia-Herzegovina. This structure is involved in the process of information collection within the theatre of operations in Bosnia-Herzegovina, for the SFOR Command.

After the Kosovo conflict, in June 1999, the UN Security Council took the decision to deploy an international civil and security presence in Kosovo under UN auspices – KFOR. By 20 June, the Serb withdrawal was complete and KFOR was well established in Kosovo (Operation Joint Guardian). The PfP countries in the region showed their interest in making an important contribution to this operation.

The current Romanian participation in the Peacekeeping Force in Kosovo (KFOR) consists of 222 military personnel:

- a) 1 Inf. Coy. / 812 Inf. Bn. (89 military personnel) serving with the Belgium-Luxembourg Detachment 'BELUROKOS'.

The Romanian unit has the following tasks:

- patrolling in the area of responsibility of the detachment;
- various permanent tasks in the traffic control point 'DOG TWO', located on the border between KOSOVO and SERBIA.

- b) 1 Inf. Coy. / 26 Inf. Bn. (86 military personnel) within the Italian contingent 'ITALCON'. The tasks of the unit consist of the following:

- patrolling within the area of responsibility;
- various permanent tasks at the traffic control point.

c) 1 Road Traffic Control Platoon (25 military personnel) serving with the Greek contingent. Its tasks are as follows:

- patrolling within the area of responsibility;
- various permanent tasks in the traffic control point;
- specific tasks for traffic control.

d) Seventeen staff officers and NCOs within KFOR Command, out of whom seven are specialists in psychological operations.

e) RO-NIC (five military personnel) near the KFOR Command in Kosovo.

In 2002, Romania assured the facilities (railways, airports, ports, camps, etc) for rotation of KFOR troops.

In addition, Romania participated within the SFOR/KFOR Strategic Reserve with one Infantry Battalion (a module of 400 military personnel). This unit can take part, following a NATO request, in the following types of missions on the territory of Bosnia-Herzegovina or Kosovo:

- intervention if a crisis arise or levels of tension in the area increase;
- force protection;
- supplementing the forces after the use of tactical and operational reserves;
- carrying out demonstrations of force, acting as a deterrent.

Romanian participation in PSOs in the Balkans is one of the modalities to contribute in joint regional crisis management and a great opportunity to work together with NATO troops. The substantial Romanian participation in NATO-led PSOs proved its capacity as a security provider and stability factor in the region as well as its competence as a NATO candidate.

## **Romanian Participation in Fighting Terrorism**

After the 11 September 2001 terrorist attack against the United States of America, Romania was among the first non-NATO states to adhere to the anti-terrorist coalition. In the beginning, Romania made available its territory for coalition troops and later it sent a peace support operations unit within the International Security Assistance Force – ISAF (Operation ‘FINGAL’) – 57 military personnel: three liaison officers, one MPs Platoon (25 military personnel), one C-130 “HERCULES” aircraft (20 military personnel), five staff officers and NCOs within ISAF Command and four staff officers within the Multinational Brigade Command. The first mandate of the Romanian units was completed on 15 July 2002. The area of responsibility for the Romanian unit is Kabul.

The tasks of the MPs Platoon are as follows:

- reconnaissance;
- patrolling within Kabul;
- traffic control and escort;
- investigating road accidents;
- special transport;
- securing critical points;
- participation in the training of teachers in the Afghan Police Academy.

From 22 July 2002, Romania has even participated in the International Antiterrorism Coalition ‘ENDURING FREEDOM’ with one Infantry Battalion (400 military personnel). The participation period for the Romanian unit was 1 July – 31 December 2002, the transfer of authority took place on 23 July 2002 and the area of responsibility of the Romanian units was Kandahar.

The tasks of the unit are as follows:

- sensitive site surveillance;
- support for humanitarian actions;
- securing the deployment area of the Coalition Forces;
- combat actions.

## **Developing Multinational/Peacekeeping Units**

The states in the region needed to establish some military cooperation initiatives and multinational formations to be better prepared for crisis management. Only a few years were necessary for multinational formations to become a reality and to bring together states in the region with different statuses and interests: NATO members, NATO candidates, PfP members. This situation proves that security interests can bring together states for regional partnership.

### **1) Activation and Training of Forces**

The forces available for PSO are 100 per cent professionally manned. Conscripts are not appointed to these units. The training programme and equipment are adapted to the needs of the PSO.

The training of forces is a national responsibility, and Romania has made every effort to ensure the best conditions for nominated units. There are three possibilities for training the forces available for PSO: national training, in the basic units and in national training fields; regional training, in the exercises of multinational units and PfP training, within PfP activities and exercises. Regional and PfP training is very important because it is conducted within multinational formations, in an international environment and the English language is exercised.

The activation of the unit designed for an operation is on the basis of a national decision. In every mission outside national territory the appointment of personnel is on a voluntary and selection basis. So far, young men have been very interested in joining the PSO units and in participating in missions outside national territory. Their quality is very good and the level of selection is satisfactory. After activation, the training is intensified and the equipment adapted to the real specific conditions in the theatre.

## **2) Foreign Support**

Usually the financing of PSO units is a national responsibility, but all foreign support for them is welcome. Foreign support is not constant but it appears when a partner considers it necessary.

The units available for PSO are much appreciated in the international environment and they receive important support especially in PfP training. NATO sponsors different activities: courses, seminars, workshops, etc, where the personnel are trained in conducting exercises and peace support operations. The Warsaw Initiative sponsors 100 per cent participation in NATO/PfP exercises and 20 per cent of their preparation activities (planning conferences). The Warsaw Initiative can sponsor the exercises in the spirit of PfP and their preparation activities on a request basis.

On the basis of the bilateral cooperation programme, some NATO countries sponsor training in their schools and courses made available for Romanian officers. At the same time, some NATO countries sponsor PfP training of personnel in Romania (for example the Regional PfP Training Centre, the Foreign Language Training Centre, etc).

## **3) Bilateral Military Units**

After 1990, in the new security environment, Romania started a process of normalisation and development of very good relations with neighbouring countries. These countries responded accordingly, and together they looked for common interests, values and ways of cooperation. The Armed Forces looked for ways of cooperation in the military field. They found that cooperation within joint units would be very beneficial.

In this context, the Joint Romanian-Hungarian Peacekeeping Battalion was established as a bilateral military unit. It consists of two similar modules, well-equipped and trained. Agreement on the establishment of this unit was signed in Budapest on 20 March 1998. The Technical Agreement was signed on 15 May 1999 in Budapest. The battalion became operational on 1 January 2000. It is designed for peacekeeping operations and humanitarian missions under UN or OSCE mandate, led by NATO or EU. The Romanian module consists of one Infantry Battalion (449 soldiers). Every year command of this

battalion rotates between Romanian and Hungarian commanders. The joint activities consist of exercises on the territory of each country.

There have been discussions to create a similar bilateral unit with the Republic of Moldova, at General Staff level, but it has not yet been realised.

Yugoslavia (now Serbia and Montenegro) also made a proposal to Romania to establish a bilateral unit similar to the Joint Romanian-Hungarian Unit. Romania is analysing this proposal. Yugoslavia is also making efforts to become a PfP member.

#### **4) Regional and Global Multilateral Military Units**

Simultaneously, Romania belongs to different sub-regions which influences the Romanian options for adhering to different regional military initiatives. Romania is part of Central Europe, but at the same time it belongs to the Balkan Peninsula and to the Black Sea Area. This situation persuaded Romania to join all military regional initiatives in its area.

Due to its position and historical background, the most important involvement of Romania is in Balkan military initiatives and multinational units (SEDM, SEEBRIG, ETF). Cooperation in the area has become very strong and the states in the region are committed to contributing to security in this part of Europe. NATO plays a major role in the Balkans and its enlargement in the area is expected to be a solution for stabilising the situation. At the Foreign Ministers Meeting in Istanbul (13 February 2002), the so called '2+2' initiative (Greece, Turkey, Bulgaria and Romania) was launched, aiming to support the NATO candidacy for Bulgaria and Romania. The Defence Ministers Meeting in Athens (18 April 2002) determined the establishment of the military dimension of this initiative (meetings in this format at defence minister and chiefs of general staff level).

On the other hand, the consolidation process of the EU's defence capabilities will continue, aiming to ensure to a great extent Europe's security. But it is already obvious that in the future security will be preserved only through a coalition of states interested in defending and protecting their citizens, values and prosperity against non-conventional destructive threats.

Starting with March 1996, Romania has participated in the South-East Europe Defence Ministerial (SEDM) to intensify understanding and political-military cooperation in the region aimed at strengthening stability and security in South Eastern Europe. From the beginning, Romania has played a prominent role due to its considerable participation in all SEDM projects. Within Engineer Task Force (ETF), Romania contribute with one Engineers Company. For the Communications and Information System, Romania has donated 300,000 dollars. Romania also actively participates in the South-Eastern Europe Simulation Network (SEESIMNET) and in Satellite Interconnection of Military Hospitals (SIMIHO).

Romania took over the Presidency of the SEDM Coordination Committee (SEDM-CC) and PMSC/MPFSEE (Political-Military Steering Committee/Multinational Peace Force in South-Eastern Europe) on 1 September 2001, for two years. Its priority goals are the following:

- improving the SEDM contribution to security and stability in SE Europe;
- maintaining the transparent and open character of the initiative for admitting new members;
- enhancing the SEDM cooperation framework in order to address non-conventional and non-military challenges to regional security;
- creating favourable diplomatic and military conditions for enhanced involvement of partner countries in crisis management endeavours in SE Europe;
- developing and implementing SEDM cooperation programmes;
- improving military training in the region;
- finalising the process of making the MPFSEE operational.

In this position, Romania has organised all the meetings under SEDM auspices. The last SEDM-CC meeting took place in Constanța on 6 September 2002. The meeting analysed the stage of the Communications and Information Systems project, the SIMIHO project, the agenda of the Deputy Ministers of Defence Meeting and the SEESIM project.

After its first meeting, on 8 February 2002, Romania took over the chairmanship of the Working Group on 'Defence/Military Support to Counter-proliferation of WMD, Border Security and Counter-terrorism'. This working group was established following the SEDM Meeting in Turkey (20 December 2001).

The most important SEDM project is the Multinational Peace Force in South-Eastern Europe (MPFSEE). The Romanian contribution to this force is: one infantry battalion on module structure (400 military personnel), one reconnaissance platoon (24 military personnel), one transportation platoon (32 military personnel), staff officers and NCOs group (15 military personnel), one engineering company (121 military) – within the ETF, and 36,636 dollars – the Romanian share for financial year 2002.

The 8<sup>th</sup> PMSC meeting took place in Constanța, on 3-4 September 2002. The meeting analysed the stage of the Communications and Information Systems project, the stage of preparations for HQ SEEBCRIG movement to Constanța, the possibilities for participation in NATO-led PSOs and the stage of implementation of NATO/PfP SOFA Agreement within SEEBCRIG countries. From September 2003, the MPFSEE HQ will be located in Romania (Constanța).

As a part of Central Europe, Romania needed to become a participant in Central European Nations' Cooperation in Peace Support (CENCOOP) and it did not hesitate, in 1998, when the initiative was established. The initiative is to improve regional cooperation among Central-European countries, according to the UN Stand-By Arrangements. There is no legal framework for cooperation. The participating states signed only a 'Letter of Intent' which also includes the 'Framework Document for CENCOOP' (Vienna, 19 March 1998). At the Defence Ministers Meeting (Bratislava, 21-22 June 2001), the 'Resolution concerning the Further Development of Central European Nations' Cooperation in Peace Support (CENCOOP)' was signed. The priorities of cooperation at CENCOOP level are: information exchanges; creation of a pool of forces for humanitarian operations; creation of a pool of military observers for crisis management operations; creation of a pool of military police. Romania has received two seats of non-permanent military representatives (Chief, National Planning Cell and his Deputy) in PLANSTAFF/CENCOOP. At the last Defence Ministers Meeting

on 20-21 June 2002, the necessity of contributing to combating international terrorism was emphasised.

Another initiative in Central Europe that Romania is involved in is The Multinational Engineering Battalion between Slovakia, Hungary, Romania and Ukraine ('TISA' BATTALION). This multilateral military unit is designed for humanitarian intervention in natural disaster situations in the Tisa River area. The agreement among the governments of Hungary, Romania, Slovakia and Ukraine regarding the establishment of the Multinational Engineering Battalion was signed in February 2002 and the Technical Agreement is under negotiation. The Romanian contribution consists of one Engineering Company.

The strategic importance of the Black Sea increased significantly after September 11. Securing the area and promoting a climate of peace and stability can contribute directly to the diminution of a whole range of conventional and non-conventional risks to Europe's security. Countries in the region cannot deal alone with the emerging security challenges. In spite of their different interests and policies, a concerted effort towards security and stability is needed. Developing a security forum in the Black Sea region would bring together states interested in putting aside their differences and undertaking joint projects for their mutual benefit. Romania belongs to the Black Sea area and it is already involved in the Black Sea Naval Cooperation Task Group (BLACKSEAFOR) alongside Bulgaria, Georgia, the Russian Federation, Turkey and Ukraine. The Chiefs of Defence Staffs met in Brussels in 1998 and decided to establish in the Black Sea area a force similar to that already existing in the Baltic Sea. It aims at enhancing confidence and mutual understanding among the participating countries and developing cooperation and interoperability between their naval forces. The task group's status is on-call and designed for search and rescue missions, humanitarian assistance, de-mining and environmental protection operations. Romania contributes with one ship and staff officers. In August 2002, the second activation of BLACKSEAFOR took place.

The establishment of the BLACKSEAFOR proved that cooperation is possible and can produce significant outcomes in an area that is going to become one of great interest economically but also from the security point of view.

As an active UN member, Romania joined the Multinational Stand-By Forces High Readiness Brigade for UN Operations (SHIRBRIG). In this initiative, cooperation is based on the 'UN Stand-by Arrangements System' (UNSAS), to which Romania acceded in September 1997. Availability of the force was declared starting from 1 January 2002. The Romanian contribution consists of one infantry company, up to 11 staff officers and NCOs and a financial contribution of 48,900 dollars, which represents the Romanian share for financial year 2002.

### **Perspectives of Involvement in Crisis Management**

Most of the bilateral and multilateral units are operational and ready to be deployed in theatres for crisis management.

The Joint Romanian-Hungarian Peacekeeping Battalion became operational on 1 January 2000 and it was made available for UN missions. A UN team has already assessed the readiness of the unit and the conclusion was that this bilateral formation is operational, very well prepared and it can be used in an operation. The moment of deployment depends on the UN.

The SEEBRIG was declared operational on 1 May 2001. The last PMSC/MPFSEE meeting (3-4 September 2002) discussed the readiness of this unit and decided to recommend to the Deputy Ministers of Defence Meeting to present the SEEBRIG force package to NATO, ready to be deployed in a NATO-led PSO.

SHIRBRIG has been operational since 1 January 2002 and made available for UN operations. Participation with military observers of SHIRBRIG has already been seen in Eritrea. The deployment of the whole unit in a PSO depends on the UN.

BLACKSEAFOR is also operational and was activated twice in the Black Sea area for exercises. The exercises emphasised BLACKSEAFOR's readiness but there has not been yet any situation in the Black Sea area or other sea region that needed the BLACKSEAFOR involvement in a mission.

## **Government Policy and Public Support**

According to Romanian policy, participation in regional cooperation initiatives and in peace support operations is one of the main ways to ensure the country's own security, being considered at the same time an important contribution to strengthening regional stability and contributing in joint crisis management in the area. This participation is a very good opportunity to prepare for Euro-Atlantic integration, and each initiative has its own specific features and specific objectives. At the same time, this participation proved the capacity of Romanian military structures to act and cooperate in the international environment.

## **The Decision-Making Process for Participation in PSO**

Romania participates in PSO on the basis of an external request. The Ministry of National Defence analyses the possibility of the Romanian Armed Forces being involved in the mission. In this process, more aspects are taken into consideration: the risks to the possible forces deployed, the forces available for the mission, the type of troops that are required for that mission, the number of troops necessary, the number of troops available, the type and quantity of equipment available, the type and quantity of equipment necessary, the costs of participation. The assessment of MoD is forwarded to the government to analyse the opportunity for Romanian participation in that PSO. The government forwards its proposal to the Supreme Council of National Defence for endorsement. After that, the Parliament analyses the proposal and decides upon the participation.

## **Legal Provisions**

Romania adapted its legislation to participate successfully in peace support operations and in regional military initiatives. The Romanian National Defence Law (No 45/1994) and the Emergency Ordinance No 13/2000 cover the participation with troops and equipment in multinational forces designed for peace support and humanitarian operations. On this basis, the Minister of National Defence put forward a special order that covers the procedures and responsibilities within the MoD for participation in peace support operations and in regional military initiatives. The experience proved that the

legislation can be improved and MoD is working out a draft law referring to the participation of the Romanian Armed Forces in operations, individual missions, exercises and ceremonies outside national territory.

The legal length of time of a deployment in a PSO is six months. After that, rotation of troops is necessary. The troops are subordinated operationally to the multinational command in the theatre (on a transfer of authority basis) and to the national authorities from the administrative point of view.

## **Budgeting**

Budgeting of the units participating in PSO and in multinational formations is the responsibility of the Ministry of National Defence of Romania. Usually, when a new participation in a PSO is decided, the MoD budget is supplemented with the sum necessary for the mission. Because of this aspect, the Romanian MOD has not established a proportion of defence budgeting directed towards developing the country's peacekeeping formations, as distinct from forces designed for national defence. The national authorities decide the level of participation and the budget for the operation taking into consideration the constraints of the national budget and the national financial resources available at that time.

The budget for participation in multilateral peacekeeping units also fluctuates. For example, the national contribution to the joint SEEBRIG budget was 36,636 dollars, for 2002. This sum does not include the expenditure on national representatives in different meetings and exercises. In addition, Romania contributed 300,000 dollars in 2002 for the Communications and Information Systems project. When Romania has the presidency of PMSC/MPFSEE, it is responsible for expenditure on the Secretariat and organises all meetings. Romanian expenditure on the preparation of the new SEEBRIG HQ in Constanta is up to 10 million dollars.

## **Parliamentary and Public Opinion**

When a government proposal for participation in a PSO appears, the Parliamentary debates are, generally, on clarification of risks in the theatre to the Romanian

participants in the mission, financial aspects, the preparedness of the units, the necessary equipment. The general Parliamentary opinion is favourable towards participation in PSO. They consider this participation as a very good opportunity for training and testing of the troops in a multinational environment.

Public opinion in general is also favourable to this participation, the people agree with the government policy in this field and are proud of the behaviour of their troops on external missions. The big number of the volunteers and candidates for PSO shows the interest of the young people in this type of mission.

## **Conclusions**

### **1) Lessons Learned**

Cooperation in the Balkans can and must be of assistance for extending cooperation in the Black Sea Area and especially in the Southern Caucasus, where ethnic confrontations, border problems, terrorist activities and the lack of regional cooperation initiatives must be overcome.

Participation in military regional initiatives is a very good opportunity to prepare military units in the field of interoperability with NATO troops, and participation in peace support operations is the best opportunity to verify the training of the units, the level of interoperability with NATO troops, and to contribute to regional crisis management.

The experience gained in the Romanian participation in peace support operations is very useful for all military units taking into consideration that so far more than 8,000 Romanian military personnel have participated in different missions in the theatres of operations. This experience has permitted the adaptation of the training programme to real conditions in the theatre and to equipping the forces according to their real needs.

### **2) Benefits for the Region**

Only a few years ago, nobody could have imagined the possibility of cooperation in the Balkans, but now it has already become a reality.

The participation of various countries in peace support operations and in military regional initiatives has created a regional community responsible for their security and proved that the nations of the region have more common values that bring them together. This participation has developed the regional potential in crisis management and the regional partnership has become a reality.

Regional military initiatives bring together NATO countries and PfP nations. Representatives of different nations taking part in the multinational units work and train together using the English language to understand each other. For example, SEEBRIG comprises units from Greece, Italy and Turkey as well as from Albania, Bulgaria, FYROM and Romania that participate together in various exercises and courses, and soon they will be engaged in a peace support operation.

Several states in the region have expressed a desire to join various regional military initiatives, which is a proof of the high interest in them. Recently, Croatia became a new CENCOOP member, Ukraine became an observer of SEDM and requested observer status in CENCOOP, the Czech Republic became an information partner of CENCOOP and Yugoslavia declared its interest in becoming a SEDM country. For Yugoslavia, this adhesion is considered a way of integration into the regional community and the start of European integration, but to do this it must first become a PfP member.

### **3) Benefits for Romania**

Participation in peace support operations and in military regional initiatives has offered the possibility to prepare, to equip and train Romanian military units at NATO standards, to work together with NATO countries.

The regional community is part of the Euro-Atlantic community and the regional cooperation is a good exercise for future integration in NATO and EU. This cooperation leads to good-neighbourly relations between Romania and the other states in the region.

This participation has offered the opportunity for Romania to make contributions in the regional security field as a factor of stability and provider of security, to gain international

experience and to exchange experiences with different states in the region, from both the theoretical and practical points of view.

The new stability of the region is the best environment for national security, and expenditures in this field can be used in a better way.

#### **4) Perspectives**

Having in mind the high interest of the countries in regional involvement, we can expect future improvement of relations among states and identify new common interests and values.

In the near future, full integration into regional structures is possible for some states that are still outside them.

Stability and cooperation can be expanded into the neighbouring areas where it is necessary.

As a stability factor and security provider, Romania has affirmed its commitment to developing its participation in peace support operations and regional military initiatives and to improving the quality of this participation, even after the Prague Summit.

## **CHAPTER ELEVEN**

---

### **CRISIS MANAGEMENT**

*Florea Dan*

#### **Introduction**

In today's strategic context, military aggression is no longer a major threat to national security. It is rather the tensions and antagonisms resulting from interethnic conflicts, extreme nationalism, failure of reforms and economic inefficiency, the frequency and huge dimensions of natural and/or technological disasters with a major impact on society and the environment which represent the starting point of crises jeopardising global stability and security.

Even if major military risks are no longer imminent, it is to be stressed that the risks threatening national security are multiplying, becoming more complex and less predictable, and coming from various directions, which make them difficult to analyse and control. The concept of extended security, confirmed in the Alliance's Strategic Concept adopted at the Washington Summit, recognises, besides the indispensable defence dimension, the importance of stability and the congruous evolution of political, economic, social and environmental factors for the security of the Euro-Atlantic countries.

Based on these considerations, the democratically-advanced countries took early action to define the concept of crisis and its institutionalisation, rapidly adapting their crisis management systems to the requirements of the new security environment.

In the present international context, increasingly subject to globalisation, the potential threats to our country's national security are mainly of a non-military nature. Therefore, Romania's security interests can be affected by risks other than military, including terrorist acts, sabotage activities, organised crime or obstruction of the flow of resources

that are vital for the economic and social development of the country. Illicit trafficking, clandestine immigration, drugs, the movement of people and an increasing number of natural and technological disasters may also raise serious stability and security problems.

### **Romania's Regional Security Environment**

In spite of the multitude and complexity of these risks and the difficulty of predicting them, Romania must be ready for efficient and democratic action to cope with any of the situations generated by these phenomena. Today, Romania does not have a coherent and integrated strategy and a national crisis management system that would take into consideration the characteristics, dimensions and complex consequences of these risks, mainly non-military, multidirectional and unpredictable. As far as the structural and legal aspects of crisis management are concerned, they focus for the time being on situations of armed conflict, state of emergency and state of siege.

Legislation on this subject is incomplete – it does not cover the whole topic. As a result, existing institutions and mechanisms are able to manage only crises typical for the 'Cold War' era. To this day, Romania does not have a national integrated system with specialised permanent structures, capable of evaluating, or the expertise to deal with potential crisis situations.

Anticipation and prognosis of crisis effects and an efficient mechanism of crisis prevention and management are national requirements, being at the same time an essential condition for Romania's integration into Euro-Atlantic structures.

Considering the above-mentioned, it is necessary for Romania to have – on a permanent basis – instruments, institutions, procedures and communication systems capable of preventing and managing crises, of deciding which events should follow their normal course and which should be dealt with to diminish the effects that might lead to an emerging crisis.

## **National System for Crisis Management**

The future National System for Crisis Management, proposed in a draft law, will include institutions, mechanisms, procedures, instruments, backup structures, planning instruments, supervision, command and control capabilities. Constructed as such, the system will be capable of coherent action in crisis management, of preventing potential crises or solving those in incipient phases, thus resulting in minimal losses in all areas: social, economical, financial and of property.

In crisis management, state entities will have the possibility to decide and coordinate the adequate reaction through political, economical, social and ultimately coercion measures, for which an adequate legal and organisational framework has to be established.

As is well known, investments in crisis prevention are far less expensive than those needed for overcoming crisis situations, removing their effects and ensuring a state of normal conditions for the future activities of the nation.

The Romanian Constitution stipulates in art.92 (2) and 93 that the President can declare a partial or general mobilisation, a state of emergency or of siege, without specifying under which conditions – apart from military aggression – these special measures can be implemented. Consequently, it can be said that in Romania crisis situations are not analysed and managed in a fully organised manner, either in general or in particular cases.

Nevertheless, it must be underlined that Romania does have a system for the management of natural and/or technological disaster to the extent that such situations are considered most of the time civil emergencies rather than crises for which a state of emergency or of siege needs to be declared.

## **State of Emergency**

Emergency Ordinance no.1/1999 regarding the implementation of the state of emergency and state of siege specifies the conditions under which such situations can

be declared, the duration, the consequences and also responsibilities for government bodies in managing and solving them.

It is interesting to point out, however, that the above-mentioned document does not clearly indicate that such measures are enacted in crisis situations, does not define the notion of a crisis and does not identify a crisis as an exceptional situation. Therefore, experts from various fields involved in the analysis and management of crisis phenomena try to work out the necessary concepts for building a national system of crisis management in Romania, starting from a European and global definition of a crisis situation and adapted to the specific conditions of the country.

At national but also at international level, efforts are made to understand those crisis situations where special measures must be implemented and for creating an operational management based on standard procedures, known to and accepted by a large majority of states.

For a common language to be used by all experts involved in crisis management, we accept as necessary a comprehensive definition of crisis, an outlining of its components, of different phases of development, a delimitation between different types of crises, in such a way as to make it possible to establish concrete and coherent integrated procedures, adapted to each situation.

In our view, there exists today at global but also at local level, at least one type of crisis – social, economic, financial, religious, ethnic or of other nature – more or less recognised, for which special measures need to be taken by the authorities of the states in which it takes place.

In this case, a first step for experts involved in the study of crisis phenomenon must be the definition of different types of crises requiring special measures; in other words, criteria to delimitate a crisis from a civil emergency should be worked out.

In our opinion, defining the two notions and their characteristics delimitating them one from the other should represent the coordinated effort of experts and the starting point

for fundamental research, of international and national interest, leading to an integrated system of surveillance, command and control in a common informational framework.

## **Civil Emergency**

We consider a civil emergency as a situation which, through its destructive evolution, can place an individual or a collective in a physical, psychological, material or financial situation where it is impossible to protect his, her or its physical integrity, life and/or property, and which, therefore, calls for intervention on the part of professional specialised bodies and means.

Consequently, irrespective of the complexity of an emergency situation, of the size of the area of its manifestation, of its duration or the time needed for the elimination of its effects, if the necessary capabilities of response are available, the authorities can appreciate if special measures are necessary.

Then, the logical question is when are special measures needed?

In our view, the main types of crises calling for the implementation of the state of emergency are:

- serious disturbance of public order, with effect on national security;
- internal armed conflict between legal armed forces and organised groups which under a command of their own exercise such a control over a part of a country's territory that enables them to organise sustained and coordinated military actions;
- serious internal tensions arising from different causes and generating violent clashes;
- non-peaceful meetings, demonstrations, processions and other manifestations using weapons or violating legal provisions;
- the initiation of aggression from within the country by secretly trained groups with paramilitary structures, directed against the independence and territorial integrity of the nation;

- the organising, training, leading or controlling of groups of persons with a view of taking over police, gendarmerie or army functions;
- illegal activities aiming at changing the form of government;
- terrorist acts such as mass poisoning, infecting water, provoking epidemics or obstructing medical aid;
- informational aggression through the mass media or other means of public communication;
- major disasters.

Leaving aside the implications and consequences of classical or atypical armed conflicts for the fundamental interests of a country, we consider that a state may use special measures in situations arising from a serious breach of fundamental human rights and freedom, surpassing by far the existing reaction capabilities, and when the use of normal legal procedures can no longer guarantee a return to normalcy quickly and without consequences.

Only under such forms of manifestation and response can it be appreciated that a situation of civil emergency becomes a crisis requiring not only special measures, but also adequate forces and means to control it.

### **Recognising and Declaring a Crisis Situation**

As a result of the existing legal ambiguity in recognising that in Romania, at national or regional level, conditions could be created for the emergence or manifestation of crisis situations, it is difficult to appreciate who should declare the existence of such a situation and when.

Since the Romanian Constitution recognises only a limited number of exceptional situations whose proclamation belongs strictly to the competence of the President, it follows that no other authority has the prerogative of declaring a state of crisis or of civil emergency.

However, there are legal provisions nominating public authorities entitled to submit to the President proposals for the implementation of exceptional measures – the Ministry of

National Defence or the Government Commission for Protection against Disasters. These institutions, having the possibility to evaluate risks and to anticipate their evolution in time and space in order to prepare an effective operational response, are in a position to suggest to the President plans elaborated to counter all identified risks through specific measures and means.

Emergency Ordinance no.1/1999 referring to the state of emergency and the state of siege does not indicate expressly who initiates the implementation of these measures; therefore this responsibility lies exclusively with the President, the Decree being countersigned by the Prime Minister.

But the Law referring to the structure and functioning of the Supreme Council of National Defence provides in art. 46 (1) that, at the President's request, the Council, in its capacity as a consultative body, analyse and submit proposals for implementing the state of emergency or the state of siege.

The above-mentioned Ordinance provides that the President implement the state of siege for a period of 60 days and the state of emergency for a period of 30 days with the possibility – depending on the development of the situation – of prolonging either of the two periods with Parliament's approval, without a clear definition of the conditions imposing such measures. These provisions can lead to the conclusion that, once implemented, the exceptional situation can be terminated before the expiration of the established period, through a Decree, if the hazardous situation ends, or can be kept in force indefinitely, a situation that is not expressly stipulated by the Ordinance.

The competence of managing a crisis situation in case of exceptional measures belongs in the first place to the President. He can request proposals in this respect from the Supreme Council of National Defence. This competence also belongs, in a second place, to the Supreme Council of National Defence, which has a duty to develop in advance action plans for the implementation of the state of emergency or of siege, and in the third place to the Prime Minister in his double capacity as Head of the Government and Vice-president of the Supreme Council of National Defence. In the fourth place, the Ministry of National Defence is the body responsible for managing the state of siege and the Ministry of the Interior – the state of emergency. Last but not least, the Government

Commission for Protection against Disasters is responsible for the management of civil emergency situations brought about by a natural and/or technological disaster.

Various other bodies from central and local administration also have specific functions within their fields of competence.

During emergency situations, an important responsibility is borne by military authorities nominated by the Minister of the Interior and the Minister of National Defence and confirmed by the Supreme Council of National Defence. Their competence is established at different levels - local, provincial and regional – and, in exercising the act of command, they formulate military ordinances in accordance with the provisions of art. 24 of Emergency Ordinance no.1/1999. Bearing this in mind, it is important to stress the need for early and continuous selection and training of individuals involved in these structures, in order for them to understand and respect legal provisions, to refrain from committing abuses or imposing unnecessary restrictions on human rights and the freedoms provided in the Constitution.

### **Use of Force**

Since the notion of crisis is not clearly defined in Romania, this phenomenon is not divided or delimited in its development, either in its evolution or its maintenance. The measures to be taken in the process of returning to normalcy do not provide for a gradual approach to the deployment and use or to the reduction and withdrawal of forces and means involved in a specific situation of crisis management.

Using separately the forces and means of the Ministry of Defence for the management of a state of siege and, respectively, of the Ministry of the Interior for the management of a state of emergency, leads to the idea that each of these two situations may represent a separate dimension of the crisis, even though by law both ministries have duties that are specific to the two situations.

It is important to underline that all components of the national defence system, some economic ministries as well as non-governmental bodies have specific duties, defined in

their rules of organisation and functioning, for prevention, protection and intervention in case of natural or technological disasters.

Law 106/1996 on Civil Protection and Law 124/1995 on Protection against Disasters provide precise duties for government and non-government bodies in the field of civil protection and defence against disasters.

Both laws point out to the need for working out comprehensive action plans establishing clear areas of competence and specific duties for all forces and means involved in case of a crisis situation.

It is obvious that phenomena and processes with harmful consequences on human activities must be identified, analysed and monitored in a framework involving various fields of activity, to which an efficient management should be applied.

Past situations from which Romania should have drawn valuable lessons on crisis management did not convince the responsible authorities at that time to take action for formulating legal provisions necessary for creating a national system of crisis management.

The 1977 earthquake in Romania, the 1986 nuclear accident at the Chernobyl power station in Ukraine, the 1999, 2000 and 2001 extensive floods and earth-slides, showed that in crisis situations generated by disasters, special forces and civil protection volunteers did not respond at full capacity or that this capacity was not efficiently used.

## **Cooperation between Agencies**

On their own, these forces did not have the necessary capacity to deal simultaneously with the implementation of preventative measures, rescue actions, medical emergencies, religious assistance and so on. Cooperation between different specialised structures was self-imposed. Even more, the shortage of manpower and means made it necessary to appeal to the support of operational units from the Ministry of the Interior and the Ministry of National Defence and in more complex situations to the support of

the entire community. In some cases, there was a call for international humanitarian assistance and support.

Unfortunately, Romania, like many other countries of the world, cannot afford the costs of implementing and maintaining reaction forces large enough to give an adequate and efficient response to the danger of a crisis situation likely to emerge on its territory.

For this reason, the action is focused on permanently controlling and monitoring risks in order to prevent crises from arising or maintain them at a level permitting the return to normalcy swiftly and with minimal losses.

The limited capability of reaction to crisis situations occurring in many countries, such as the 1999 earthquakes in Turkey or the terrorist attack on the United States in September 2001 and others, has dramatised the need for a worldwide analysis of the possibility of establishing a common front for crisis management on the basis of consensus and procedures for joint action.

A step forward is represented by the initiative of the Euro-Atlantic Partnership Council (EAPC) to establish under the supervision of the NATO's SCEP Committee a Euro-Atlantic Disaster Reaction Coordinated Centre (EADRCC). This structure should, in case of major disasters and at the request of an affected state member of the EAPC, form a Euro-Atlantic Disaster Reaction Unit (EADRU) made up of national elements of intervention.

Similar proposals are discussed in the UN system through the Office for Coordination of Humanitarian Assistance – OCHA – and the International Organisation for Civil Protection.

The need for the establishment of a global system of cooperation against the various types of crises, which have become an increasingly complex phenomenon, imposes the creation of an extensive system involving as many states and international organisations as possible, based on the observance of human rights and of the principles of democracy.

## **Crisis Management**

The particular geographical and climactic conditions of Romania have imposed the need for development of an adequate legal, organisational and institutional framework capable of effective reaction in case of disasters.

In this sense, in the last 12 years, a new legal framework has been developed reflecting the new post-Cold War conditions. Simultaneously with this radical geopolitical change in Europe, at the international level natural and/or technological disasters have intensified as a consequence of the significant climate changes of the past decades.

The main body in charge of the protection against disasters, irrespective of their nature, is the Governmental Commission for Protection against Disasters, together with specialised commissions on various types of disasters. These bodies ensure the monitoring of risk factors in their fields of activity (Law 124/1995) and prompt intervention in case of disasters. In the exercise of monitoring disasters and of reacting to them, the Civil Protection Command, as a specialised technical body, ensures the link between the military and civil components of the forces and resources intervening in case of disasters.

Of great importance for all factors involved in crisis management is cooperation with similar bodies abroad. In this respect, Romania has concluded bilateral and multilateral agreements with neighbouring countries, with nations of Southeast Europe and with NATO member states. The alignment to EU legislation relating to crisis management is an ongoing process, while closer interoperability ties with NATO forces to be deployed in case of crisis has been developed through common training activities since 1993, as part of the process of Romanian integration into Euro-Atlantic structures. Emphasis is put on regional cooperation and Romania is an active member of the Stability Pact for South Eastern Europe within the framework of the Disaster Prevention and Preparation Initiative (DPPI).

Today, the need for an adequate technical and informational basis for the establishment of an integrated system of supervision, command, control and coordination, in order to ensure the implementation of the standard procedure required by interoperability criteria

for crisis management, is stringent for Romania. To achieve this goal, it is essential to rely on real internal support as well as on regional projects under the Stability Pact for South Eastern Europe.

A national authority competent and capable of exercising a modern management of crisis situations is possible only by incorporating in one body all components managing different types of crises.

The effectiveness and opportunity of such a mechanism will depend on a firm command, a proficient IT system, professional operational structures and logistics adapted to face the most difficult crisis situations.

The performance of the national system of civil emergency management can be appreciated only in the context in which this system is integrated in the network of a regional, European and international system, based on common structural, functional and operational procedures.

## **Annex 1**

### **DCAF's ENGAGEMENTS IN SOUTH EAST EUROPE**

***Philipp H. Fluri, Ph.D.***

The Geneva Centre for the Democratic Control of Armed Forces (DCAF) was established in 2000 as an international foundation under Swiss law on the joint initiative of the Swiss Department of Defence, Civil Protection and Sports, and the Federal Department of Foreign Affairs. 42 governments have hitherto joined the foundation ([www.dcaf.ch](http://www.dcaf.ch)). In implementation of its mandate, DCAF focused its initial activities on South East Europe, and the Former Soviet Union.

In its short existence, DCAF has supported and initiated over a hundred seminars, publications and international cooperation projects. After having been heavily engaged in strategically advising then President of the Federal Republic of Yugoslavia Kostunica on security sector reform during the transition period after Milosevic's fall, DCAF has offered to set up an *International Security Advisory Board (ISAB)* for South East Europe (SEE).

#### *International Security Advisory Board (ISAB) for SEE Countries*

The ISAB is to review the progress of security sector reform in interested SEE countries and offer advice to senior policy makers, and consequently to key government agencies, regarding policy orientation, approaches, priorities, and specific solutions. In itself, ISAB will consist of a group of senior experts, but will also work with a larger network of experts who may be engaged on an *ad hoc* basis to assist in the execution of specific projects. Its work shall be conducted through periodic consultations, meetings, and seminars, with either all or some of the members taking part.

ISAB is to engage experts on defence, demobilization, intelligence, police, border security, and parliamentary oversight. It aims to identify needs, bring together the policy makers and their staff in the host country with outside experts, and help develop a coherent reform program. It would respond to requests from senior policy makers to the best of its ability.

DCAF actively supports the *Demobilization and Retraining* effort in Bosnia and Herzegovina<sup>1</sup> and *Border Management Reform* in Albania, Bosnia and Herzegovina, Croatia, Macedonia, and Serbia & Montenegro<sup>2</sup>.

In the field of *Parliamentary Oversight and Reform of the Security Sector*, DCAF will make the Handbook on Parliamentary Oversight (jointly written with the Inter-Parliamentary Union and published in 2003) available in Albanian, Macedonian and Serbian. This handbook, together with other materials of foundational character prepared by DCAF, will be used in DCAF-organised seminars for parliamentarians and committee staffers.

#### *DCAF Funded Parliamentary Staff Experts Program in SEE*

The current DCAF project on Parliamentary Staff Experts in SEE aims to develop a network of parliamentary experts in defence and security issues. Furthermore, it hopes to facilitate communication between parliaments, contribute to the harmonization of democratic standards and encourage the development of cooperative patterns in the region.

To assist the parliaments in SEE and facilitate local parliamentary research capacity, the project funds local experts to the parliamentary security and defence committees in Albania, Bosnia-Herzegovina, Croatia, Serbia and Montenegro, Macedonia and Moldova. The funding will cover the cost of between one to two positions for a two-year period. The OSCE missions in the region will act as the key partner in this initiative, in close cooperation with the respective parliaments.

#### *Joint DCAF/OSCE (Serbia & Montenegro) Project on 'Legislative Oversight of Security Sector Reform (SSR) in the Serbian Parliament'*

The DCAF/OMIFRY study on 'The Security and Defense Committee of the Parliament of the Republic of Serbia', which commenced in Dec 2002, has now been completed. The project shall conclude with a workshop at which the above-mentioned study will be discussed and

---

<sup>1</sup> A Qualitative, Quantitative and Effectiveness Analysis of Armed Forces Demobilization and Retraining in Bosnia & Herzegovina from 2000 to date. A research programme focusing on the demobilization and retraining programs conducted by the World Bank and the International Organization for Migration in Bosnia and Herzegovina, since March 2000. The study will include a critical analysis of the information provided and will be published as a joint DCAF/BICC (Bonn International Centre for Conversion) Study.

<sup>2</sup> Lessons Learned from the Establishment of Border Security Systems (on-going project 2001-2004). In order to assist the Governments of Albania, Bosnia and Herzegovina, Croatia, Macedonia, and Serbia & Montenegro, and particularly their respective Ministries of the Interior responsible for creating new border security systems, DCAF has developed a program - with the full consent of the above mentioned countries – to help address the strategic considerations and needs involved in this process. Through a series of tailor-made workshops DCAF has, together with seven donor countries, been offering an inside view at how Estonia, Finland, Germany, Hungary, Russia, Slovenia and Switzerland (countries with advanced border security systems already in place) have reached their respective levels and what lessons they have learned in the process.

there will also be a debate on the implementation of the recommendations. The final outcome of the project should, therefore, be the elaboration of recommendations for improved oversight mechanisms vested with (or hopefully added to) the Serbian Parliament.

*Series of Workshops in several SEE countries on the joint DCAF/IPU Handbook on the Parliamentary Oversight of the Security Sector*

Through these workshops, the recently published DCAF/IPU Handbook on parliamentary oversight of the security sector will be introduced, first and foremost, to parliamentarians and parliamentary staffers in the region, and also to governmental representatives, academia and NGOs. For this purpose, DCAF will assist in the translation of the Handbook into some of the languages of the region.

## **ANNEX 02**

### **AUTHOR BIOGRAPHIES**

#### **THE EDITORS**

**TRAPANS, Dr. Jan** former Defence Minister of Latvia and Ambassador of Latvia to NATO, is Senior Research Fellow at the Geneva Centre for the Democratic Control of Armed Forces

**FLURI, Dr. Philipp** is Deputy Director of the Geneva Centre for the Democratic Control of Armed Forces

#### **FOREWORD**

**DE DARDEL, Dr. Jean-Jacques** is an Ambassador and Head of the Centre for International Security Policy at the Federal Department of Foreign Affairs in Switzerland

## **ALBANIA**

**ABAZI, Enika** is currently a PhD candidate at Bilkent University in Ankara

**BERBERI, Sokol** is currently executive director, Centre for Parliamentary Studies

**BOGDANI, Mirela** is currently at the law faculty at Tirana University

**BUMCI, Aldo** is a researcher at the Albanian Institute for International Studies

**CILI, Henri** is currently at the Institute for Democracy and Development

**GAGE, Gjergji** is a researcher at the Albanian Institute for International Studies

**GUMI, Viktor** working in the Parliament

**KAJSIU, Bleni** Albanian Institute for International Studies

**LLESHI, Sander** is currently a colonel at the Skenderbej Military Academy

**NAZARKO, Mentor** former advisor to the Albanian President 1997-2002

**TOTOZANI, Igli** is currently an Advisor to the Minister of Defence

## BULGARIA

**ATANASSOVA, Maria** is Senior Advisor, Legal Department, Council of Ministers, Associate Professor in Administrative Law, Sofia University School of Law, Bulgaria.

**DIMITROV, Konstantin** holds a M.Sc. degree in Electrical Engineering and is Assistant Director at Sensor Systems and Modelling Department ICSR-BAS.

**DIMITROVA, Petya** holds a Masters degree in International Relations from the Faculty of Law at Sofia University and currently works in the Strategy & Defence Planning Directorate at the Ministry of Defence of the Republic of Bulgaria.

**GEORGIEVA, Stoyana** is consultant to the Executive Director of bTV. She produces news and analysis for traditional media.

**JIVKOV, Jivko** is director of the National Service of Military Police in Bulgaria.

**KIROV, Tsonko** is a member of the Committee on Foreign Policy, Defence and Security in the 39<sup>th</sup> National Assembly. He is a deputy in the NDSV parliamentary group, elected in the city of Plovdiv. Mr. Kirov holds a M.Sc. degree in radio-electronics engineering with specialisation in aviation equipment.

**IVANOV, Rossen** is a Civil Servant at the Bulgarian MoD Department.

**MATEEVA, Ralitza** (Capt. BUAF) is member of the Bulgarian Ministry of Defence. She is an expert in Strategies and Analysis, Defence Planning Directorate.

**NIKOLOV, Nikola** is Director of Civil Protection in Bulgaria, part of the Civil Protection Directorate of the Ministry of Defence of Bulgaria.

**PANTEV, Plamen** is Director of the Institute for Security and International Studies (ISIS) in Sofia, Bulgaria.

**RATCHEV, Valeri** holds the rank of Colonel in the Bulgarian Armed Forces and currently is Defence and Staff College Deputy Commandant and Dean of the National Security and Defence Faculty.

**SHALAMANOV, Velizar** is Deputy Minister of Defence of the Republic of Bulgaria, appointed in November 1998. Prior to this appointment Dr. Shalamanov served as Head for New Technologies in the C2 Section of the Military Research Institute of the General Staff of the Bulgarian Armed Forces. He holds a M.Sc. degree in Electrical Engineering (1984) and a Ph.D. degree in Computer Science (1991).

**TAGAREV, Todor** is Director of Programs of the Centre for National Security and Defence Research at the Bulgarian Academy of Sciences.

**TASHEV, Blagovest** recently received his PhD in 2001 on the Future of Security Relations in Eastern Europe titled 'East European Security Revisited: Institutions, Power and Security' from the Graduate Program of International Studies at the Old Dominion University in Norfolk, Virginia.

**TOTEV, Dobromir** is Chief of the Programme Analysis and Evaluation Department and Acting Director of the 'Defence Planning' Directorate of the Bulgarian Ministry of Defence.

**TSANEV, Ivo** is a Member of Parliament and the Internal Security and Social Order Commission.

**TZVETKOVA, Avgustina** is Secretary General of the Atlantic Association of Young Political Leaders (AAYPL) and the Bulgarian Euro Atlantic Youth Club (BEAYC).

**YANAKIEV, Yantislav** works for the Sociological Research Centre of the Ministry of Defence in Sofia and was the co-author with Professor Christo Domozetov of 'Public Perceptions of Euro-Atlantic Partnership: Issues of Security and Military (The Case of Bulgaria)'

## CROATIA

**ČUMPEK, Tatjana** Researcher at the Institute for International Relations (IMO) and publishes in the IMO Review. She is also active in NGO's and leading Croatian-Russian friendship society in Karlovac.

**CVRTILA, Vlatko** Faculty Member of Political Sciences

**CZIRAKY, Dario** Member of the Department for Macroeconomic Research at the Institute for International Relations (IMO) in Zagreb.

**GRUBISA, Damir** currently a Senior Research Fellow at IMO – the Institute for International Relations in Zagreb, and acting President of the Croatian Political Science Association. He also teaches International Relations and Human Rights at Bologna University's postgraduate study in Sarajevo.

**MAHECIC, Zvonimir** (Lieutenant Colonel) Assistant to the Head of the Office of Military Affairs of the President of the Republic of Croatia.

**Radičević, Tomo** is on the editorial board of Defendology and wrote the Defense Transparency: White Paper on Defense.

**STANICIC, Mladen** Director of the Institute for International Relations (IMO) in Zagreb and Head of the Department for Macroeconomic Analysis. Further, he is editor-in-chief of the journal "Croatian International Relations Review".

**ŽUNEC, Ozren** Head of the Croatian Intelligence Service (HIS) and Professor at the University of Zagreb.

## **MACEDONIA**

**DONCEV, Aleksandar** is Undersecretary of Police at the Ministry of Interior.

**GAREVA, Radica** is an Undersecretary the Ministry of the Interior.

**GEORGIEVA, Lidija** is Assistant Professor for Peace and Conflict and Etiology of Threats at the Institute for Defence and Peace Studies, Faculty of Philosophy, Skopje.

**IVANOVSKI, Zoran** currently works at Military Academy in Skopje.

**KLJUSEV, Nikola** is Minister of Defence of the Republic of Macedonia.

**KOTOVSCEVSKI, Mitko** is Professor at the Institute for Defence and Peace Studies, Faculty of Philosophy, Skopje.

**KUZMANOVSKI, Sasho** is an analyst at the European Security and Defence Project (EBOP).

**VANKOVSKA, Biljana** is Associate Professor of Political Science and Military Law at the University of Skopje, Macedonia..

## **MOLDOVA**

**BARBAROSIE, Arcadie** is Executive Director of the Institute for Public Policy.

**BOTAN, Sergiu** is a member of the Public Benefit Certification Commission under the Ministry of Justice.

**CHIRTOACA, Nicolae** is President of the National Organization Committee and member of the European Organizing Committee.

**CIBOTARU, Viorel** is Programme Director of the project “Public Opinion Barometer in Moldova”.

**COJOCARU, Gheorghe** is Editor of the Arena Politicii magazine and Researcher at the ASM.

**CULEAC, Ion** is Administration Counsellor at the Ivisible College of Moldova (ICM).

**FEVRALIOV, Serghei** Colonel (retired.) is an expert at the Euro Atlantic Centre of Moldova in the field of military and security.

**GAUR, Oleg** is an expert at the Institute for Public Policies (IPP) of Moldova.

**GORDA, Stefan** is IPP Expert at the International Relations Department of the Ministry of Interior, Moldova.

**GUTU, Sergiu** is a Lieutenant Colonel and a Senior Officer in the Military Policy and Foreign Relations Department of the Ministry of Defence, Moldova.

**NANTOI, Oazu** is Co-chairperson of the Social Democratic Party of Moldova.

## **ROMANIA**

**BANICA, Marin** (Colonel) is a senior police officer at the Ministry of the Interior, Romania.

**COTOARA-NICOLAE, Alexandru** is a Colonel in the Romanian Armed Forces.

**DAN, Florea**

**DOLGHIN, Nicolae** is a Colonel working with the Romanian General Staff.

**FARCAS, Valentina**

**FOTA, Julian** is Special Assistant to the Secretary of State and the Chief of Defence Policy in Bucharest.

**FURIOR, Teodora**

**IONESCU, Mihail** is Director of the Institute for Political Studies of Defence and Military History.

**MACOVEI, Alina**

**MATEI, Mihaela** is Head of the Security and Defence Policy Division of at Romania's Ministry of National Defence.

**MURESAN, Liviu** is Executive President of Eurisc Foundation.

**ZULEAN, Marian** is a member of the International Affairs Department of the Romanian Presidency.