



МЕЃУНАРОДНА НАУЧНА КОНФЕРЕНЦИЈА
БЕЗБЕДНОСНИ КОНЦЕПТИ И ПОЛИТИКИ - НОВА
ГЕНЕРАЦИЈА НА РИЗИЦИ И ЗАКАНИ



INTERNATIONAL SCIENTIFIC CONFERENCE
SECURITY CONCEPTS AND POLICIES - NEW
GENERATION OF RISKS AND THREATS

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PARLIAMENTARY CONTROL OF THE SECURITY SECTOR OF THE REPUBLIC OF MACEDONIA AS A PRECONDITION FOR THE DEVELOPMENT OF DEMOCRATIC SOCIETY

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ABSTRACT

The efforts to establish a democratic legal order in the period immediately after the Republic of Macedonia gained its independence in the area of the security sector institutions were carried out with more or less pronounced difficulties. That, more than ever, imposed the need for establishment of parliamentary and other forms of democratic control and monitoring of the work of the security sector institutions, as these institutions are essentially considered as the most conservative and toughest structures of the social system, which repeatedly opposed the changes that were dictated by the new way of social order, in then still fragile democracy of the Macedonian state. This situation is slowly changing and the security sector reforms are implemented at a very slow pace and this has repeatedly been and still is one of the key points in the reports that the Republic of Macedonia receives with respect to our aspirations to join the big European family.

From today's perspective, however, the Republic of Macedonia has had good progress in the implementation of the commitment to democratic oversight and control of the actions of the security institutions and certainly, in terms of transparent operation of the security sector as a whole, but the fact is that the reforms are not completed yet.

Democratic order implies the need for an independent and democratic control of the security sector, which will be organized in a way chosen by modern democratic states. In that context, the legislature of the Republic of Macedonia, pursuant to its constitutional powers, examines the performance of the security sector institutions and thus establishes the basic legal principles and standards and respect for the basic human rights and freedoms. The completed process of legal and transparent operation of the security sector, in addition to the constitutional and legal regulatory framework for the implementation of parliamentary control and oversight of the work of security sector institutions, also requires strong political will, knowledge and skills. Considering the current political developments in the Republic of Macedonia when the Parliament operates with virtually no opposition, it seems superfluous to mention the political will, knowledge and skills for effective supervision of the security sector in conditions when to date, for six months the parliamentary committees have not been staffed.

In this paper, we will give a critical review of the functioning of the parliamentary committees in circumstances when their members from the opposition are absent and whether the parliamentary mechanisms for security sector control is only a democratic decor or effective mechanism aimed at protecting human rights and freedoms from possible abuses by the security sector institutions.

Keywords: *security sector, parliament, parliamentary committees to supervise the work of the security sector, democratic society*

1. INTRODUCTION

In every democratically organized society like ours, a system of parliamentary democracy governs. Among other things, it involves the inviolable right of every citizen at democratically organized free and secret elections to cast their vote and thereby contribute to the election of their representatives in the legislature – the Parliament. These representatives, throughout the duration of their terms of office, have the opportunity, the right and the duty to represent the interests of the citizens. Elected MPs debate and make decisions on various issues of daily life. In this context, in democratic conditions the issues of security can be solved as well.

In Parliament, with dialogue and effective hearings, the deputies reach a compromise on a range of complex security issues that concern both individual and national and international security. Despite the fact that security issues are more associated with the executive branch and its agencies and the parliament is seen as a legislative body, it is necessary to achieve its real contribution, *inter alia*, as a body which exercises direct control over the executive branch, i.e. specifically over the security sector institutions. From today's perspective, however, the Republic of Macedonia has made good progress in the implementation of commitments for democratic oversight and control of the work of the security institutions and certainly in terms of transparency of the security sector as a whole, but the fact is that the reforms are not fully completed. Democratic order implies the need for an independent and democratic control of the security sector, which will be organized in ways that modern liberal democracies have chosen. In this regard, we make the following hypothesis: *The effective implementation of parliamentary mechanisms for security sector control affects the effectiveness and accountability of their operation.*

2. NOTION OF PARLIAMENTARY OVERSIGHT OF THE SECURITY SECTOR

The Parliament in a democratic state is the highest representative and legislative body that represents the sovereignty of the people and is solely authorized to express the will of the people by adopting the Constitution and laws as the highest legal acts, as well as other political acts. The Parliament of the Republic of Macedonia, called a unicameral Assembly, as a constituent and legislative representative body composed of 120 members, represents the central authority of parliamentary democracy in Macedonia. In this context, the Parliament or the MPs, using the vocabulary of democracy, are legitimate representatives of the general public that guarantee, both at party or at individual level, strengthening of the legitimacy of parliamentary decision-making, *inter alia*, on security issues.

Parliamentary control as an activity, process or phenomenon substantially vivifies the sense of responsibility and accountability (transparency) of the institutions of the executive branch. Its contents create the basic conditions for respect for human rights and freedoms, the rule of law and strengthening the citizens' trust in institutions.

The political purpose of parliamentary control means controlling the power of the executive branch and therefore minimizing any abuse of power, whereas the operational purpose relates to ensuring effective and efficient operation of the institutions of the executive power.

Parliamentary control over the operation of the institutions of the executive power, including the security institutions, depends on the power that the parliament has over the government.

In accordance with the constitutional and legal regulations in the country, the Assembly shall have the following legal instruments for supervision of the work of the government, including the security sector institutions:

- *Parliamentary questions* – the institute of parliamentary questions is an important mechanism for monitoring the work of the executive branch as a whole. According to Article 72 of the Constitution, Parliamentary question can be asked by a delegate and the manner and procedure for setting up a debate on a MP question are governed by the Rules of Procedure of the Assembly. The sessions for MPs in the Assembly are transparent and the citizens can learn about their content on the parliamentary channel and thus the right questions and the corresponding answers can greatly affect the awareness of the voters about the capacity of the Government or other public functions (Kozarev, 2012). According to the MPs in the opposition, a great opportunity for direct political dialogue are the oral questions, since, as a rule, the oral questions must be answered immediately or exceptionally in writing within 20 days, all the more that they are not previously known, which creates an opportunity for the MPs in the opposition to confront directly the Prime Minister and the Government on key issues of national interest (Korunovska Avramovska, 2012).
- *Impeachment* - this mechanism is a qualified parliamentary question, which is submitted by at least five MPs and relates to the work of the executive power as a whole or of a member. “Each impeachment leads to a vote at the end of the debate by giving an assessment to the Parliament for the work of the Government or any of its members“ (Shkaric 1995: 653). The method and procedure for submitting and debating on the interpellation shall be regulated in the Rules of Procedure (Article 45-51).
- *A trust vote* - a parliamentary mechanism that can be activated at the initiative of at least twenty deputies. Under Article 214 of the Rules of Procedure of the Parliament, the request for a trust vote for the Government shall be submitted in writing and must be explained and it can be submitted to the Prime Minister in writing or orally at the session of the Assembly. In terms of casting the trust vote, the Parliament convenes a meeting held on the third day of submitting the motion. Following the end of the debate on the confidence in the government, the MPs vote three days after the motion was submitted. This once again shows that virtually there is no equal position between the Parliament and the Government as if the trust vote does not pass in the Parliament, the Prime Minister must resign within 24 hours (Shkaric, 1995).
- *Parliamentary committees* – the legal basis for the establishment of parliamentary committees of inquiry as a mechanism for supervision and control over the Government and the institutions of the executive power is contained in the Constitution and Rules of Procedure of Parliament. In Article 76 of the Constitution, it is stipulated that the Assembly may set up survey committees for any domain or any matter of public interest, in practice this amounts to an opportunity for establishment of permanent and temporary (ad hoc) parliamentary committees tasked to review draft laws and other acts passed by the Assembly and

perform other duties prescribed by the Rules of Procedure of Parliament (Article 117-131).

3. PARLIAMENTARY COMMITTEES FOR OVERSIGHT OF THE SECURITY SECTOR

Parliamentary committees can be defined as small groups of parliamentarians who are joined on a temporary or permanent basis for extensive review of various matters within the scope of responsibilities of the concrete parliamentary committee; they are subsidiary bodies of the parliament which should provide better quality and more efficient work of the parliament as a whole (Petrov, 2010).

When we talk about parliamentary oversight of the security sector institutions in Macedonia, there are several parliamentary committees that, in one way or another, have certain control and / or appropriate obligations regarding the security sector in Macedonia in the broadest sense of the word:

- Committee for Defence and Security - which is authorized to monitor the armed forces and the police and act as the parent committee on matters related to their activity.
- Standing Inquiry Committee for protection of civil freedoms and rights - the only parliamentary body with investigative role, which is the focal point of the assembly where citizens can complain against violations.
- Committee for supervising the work of the Security and Counter-Intelligence Directorate and the Intelligence Agency- responsible for supervising the work of the Intelligence Agency and the Security and Counterintelligence within the Ministry of Interior.
- Committee for oversight of the implementation of the special Intelligence measure interception of the communication by the Ministry of Interior, the financial police authorities, the customs authorities and the Ministry of Defence - a body which supervises the Ministry of Interior, financial police authorities, the customs authorities and the Ministry of Defence with respect to the legality of the measures for monitoring the communications of these two Ministries.
- Finance and Budget Committee - a body of the Assembly, which has the authority to review and approve the budgets of the security sector institutions through the usual process of budget drafting.

The most qualified parliamentary committees that have direct supervision of the main components of the security sector in Macedonia are the Committee for Defence and Security and the Committee for supervising the work of the Security and Counter Intelligence Agency.

3.1 Committee for Defence and Security

The Committee for Defence and Security in Parliament dates back to 1991 when it was established as a permanent body, with the original name of the Internal Policy and Nationwide Defence. "In 2002, by a decision of the Assembly a Committee for Defence and Security was established, as a specialized working body of the Parliament responsible for providing advice and recommendations to the plenary concerning laws or decisions pertaining to national defence and security of the citizens" (Kozarev, 2012:111).

In the scope of responsibilities of the Committee for Defence and Security of the Assembly include issues related to:

- protection of the order stipulated by the Constitution;
- performing control in the field of defence and security;
- defence of the country and civil defence;
- cooperation with the collective defence and security systems to which the country has acceded;
- integration of the country in the Euro-Atlantic organizations and the relations of the country with these organizations;
- protection of the life, personal security and property of the citizens guaranteed with the Constitution;
- production, sale, purchase, possession and carrying of weapons, parts of weapons and ammunition;
- protection of persons and property;
- citizenship;
- maintenance of the public order;
- public gatherings and performances;
- security of road, air, railway and lake transport;
- protection against natural disasters and epidemic diseases;
- registration of place of domicile and residence;
- border crossing and movement along borderlines;
- movement and stay of foreigners;
- identification and resolution of border incidents and other violations of the state borders;
- and other issues concerning the internal policy and defence (Muaremoska Abduli, 017:189).

The Committee for Defence and Security represents all political parties and it is comprised of representatives from all communities. Such heterogeneity in its composition aims at efficient functioning of the Committee in terms of effective debate, cooperation and understanding among its members, on the one hand, and cooperation with other parliamentary committees which in any way have an insight into the work of security sector institutions. Decisions are usually made by consensus, but they can also be outnumbered, it has 12 members and their deputies and one chairman. According to the Rules of Procedure of the Assembly and the Rules of Procedure of the Committee for Defence and Security, the Committee can request information and data from all agencies in the field of security and defence, as well as to invite scientists, professionals, public figures and representatives of other organizations, institutions and associations to its meetings, for presenting their opinions on projects and issues relating to defence and security. Such a practice was established in 2003-2004, when many scientific, professional and public figures were actively involved in the work on adopting laws and other projects (Dojchinovski, 2012).

3.2 Committee for Supervising the Work of the Security and Counter-Intelligence Directorate and the Intelligence Agency

After Macedonia gained its independence in 1991, there was a need to create a system that would meet the needs of democracy to which the Macedonian nation aspired. To that aim, the necessity for creating a parliamentary body that will supervise the work of the Bureau for State Security raised. Hence, the Committee was established to supervise and control the work of the State Security Service. The State Security Service essentially reflected the intelligence community in the country until 1995, when the assassination of the President of Republic of Macedonia, Kiro Gligorov seems to have been the motive for dividing the service. Reviewing the effectiveness of the secret services, a decision was made to divide the State Security Service into a Directorate for Security and Counter Intelligence¹ and an Intelligence Agency². In this context, it is essential to mention the Sector-Office of Military Security and Intelligence which is also included within the intelligence community of the country. The Committee for Oversight of the State Security Service was renamed into the Committee for Supervising the Work of the Security and Intelligence³ as a result of the renaming of the Office for State Security into Directorate for Security and Counterintelligence. However, the responsibilities remained unchanged until the formation of the Intelligence Agency, when a specific parliamentary body was renamed into a Committee for supervision and control of the Security and Counter-intelligence Directorate and the Intelligence Agency. Since in 2002 the office became a directorate, the Committee took the name that is used until today - Committee for supervision and control of the Security and Counter-intelligence Directorate and the Intelligence Agency.

The Committee has responsibility and specific duties in relation to the work of the Security and Counter-intelligence Directorate and the Intelligence Agency and the legal matters of their work, as well as the protection of human rights and freedoms against their possible unjustified restriction by the Intelligence services. The specific duties of the Committee for supervision and control of the Security and Counter-intelligence Directorate and the Intelligence Agency, according to the Rules of Procedure and the Rules of Procedure of the Committee are:

- respecting the rights and freedoms of the citizens, companies and other entities stipulated by the Constitution and the laws on the part of the Security and Counter-intelligence Directorate and the Intelligence Agency;

¹ As a body within the Ministry of Interior, the authority for the security and counterintelligence activity, taking into account the threats and dangers to security arising from inside. Its jurisdiction is regulated by the Law on Internal Affairs. By administration, it is headed by a Director, proposed by the Minister and appointed by the Government of the Republic of Macedonia. The Director of the Security and Counter PRO report for their work to the Minister and the Government of the Republic of Macedonia

² Intelligence Agency is a fundamental institution in charge of intelligence understood as a process of collecting data and information necessary to protect the vital interests of the country from the dangers outside from other countries. The legal basis for its functioning stems from the Law on the Intelligence Agency. The head of the Agency is a director who is appointed and dismissed by the President. The Director of Intelligence reports to the President of the Republic for the Agency's operation and work, but the responsibility of the Director may be requested by the Government of the Republic of Macedonia

³ Department - Office of Military Security and Intelligence in the Ministry of Defence. Its jurisdiction is regulated by the defence. The Sector is headed by Office chief, appointed and dismissed by the Minister of Defence. The Head of the Sector -Office reports to the Minister and the President of the Republic of Macedonia for their work.

- implementation and enforcement of legislation of the Security and Counter-intelligence Directorate in terms of misconduct, taking unauthorized activities, abuse and other adverse trends in its work, contrary to their rights established by law;
- methods and means used by the Security and Counter-intelligence Directorate and the Intelligence Agency in terms of legislation and respect of the rights of citizens and other entities;
- material, personnel and technical facilities of the Security and Counter-intelligence Directorate and the Intelligence Agency and
- other issues concerning the Security and Counter-intelligence Directorate and the Intelligence Agency (Muaremoska Abduli, 2017: 194)

The Committee for supervision and control of Security and Counter-intelligence Directorate and the Intelligence Agency consists of nine members (a president from the opposition and eight members) and eight deputies (members) that replace the regular members in case of absence. "The Committee does not have an advisory service or an independent budget and only one person is in charge of its bookkeeping. The Committee meetings are closed due to the specific character of the discussions during the exchanged classified information" (Bogoevski, 2012:16).

4. THE EFFECTIVE IMPLEMENTATION OF PARLIAMENTARY CONTROL OF THE SECURITY SECTOR IS A PREREQUISITE FOR EFFECTIVE AND ACCOUNTABLE OPERATION OF SECURITY AND DEFENCE

If we take into account the fact that security is one of the vital values of human survival, it is understandable why society should strive toward its improvement and protection. The state should provide conditions for efficient and effective operation of the security sector institutions as actors in building the security of the citizens and the state. Precisely for this purpose, it is a legitimate opportunity to apply the powers that allow arbitrary treatment based on the nature of their work. Any possibility of arbitrariness entails the need for supervision, control and accountability by the institutions and bodies which are independent and impartial. In this context, the need of mechanisms for parliamentary control over the executive power is understandable. The parliament representatives who are the embodiment of the will of the citizens are best qualified to perform the control and supervision of the operations of the security sector institutions. They have a legal opportunity for direct insight into the actions of the security and defence institutions through the parliamentary committees formed for this purpose. The existence of such committees and their effective functioning is a prerequisite for efficient operation of the security sector institutions, but the question that arises is whether the parliamentary control is effectively implemented.

In practice there are many problems facing this control and supervision system and we will state some of them:

- The representatives fail to attend special training for oversight of the security and defence institutions resulting in lack of expertise;
- The way of arranging visits to security sector institutions (specifically referring to the visits that need to be made by the Chairman of the Committee for supervision and control of Security and Counter-Intelligence Directorate and the Intelligence Agency);

- The submission of the reports to the parliamentary committees is almost always delayed and their review is more of a formality than a practice (Bogoevski, 2012:16);
- Difficulties in obtaining a certificate for working with classified data required for the representatives that are members of the committees;⁴
- Lack of a quorum of the committee, as a consequence of the representative's membership in several parliamentary committees (the committees for the control and supervision of the security sector have the smallest number of held meetings compared to the number of meetings held by other parliamentary committees);
- Lack of a separate committee budget that would allow engagement of experts in a particular field in order to support the control and oversight of the security sector, when necessary.

In this context, it is understandable why different scholars, experts and parliamentarians have different views on whether and how efficient the parliamentary control mechanisms are in the oversight of the work of the security sector. Therefore, according to Professor Bakreski, parliamentary control of the security sector in Macedonia amounts to a formal monitoring pursuant to the provisions of the Constitution and the laws, but there is no objective, real and effective control. Macedonia has symbolic discussions on enhancing security, symbolic visits to the security and defence institutions and few recommendations from the parliamentary committees responsible for oversight of the security institutions (Bakreski, 2008). On the other hand, the chairman of the Committee for Defence and Security, Vladimir Gjorchev believes that parliamentary control works well and expects the process to develop further. Furthermore, he believes that the Parliament uses the mechanisms of civil control and the performance assessments vary depending on whether they come from the government or the opposition.

The essence of the existence of the parliamentary mechanisms to control the security sector is that it provides them with the concept of political responsibility established by the Constitution which is aimed at establishing a balance between the legislative, executive and judicial authority. The aim is to direct the citizens through their elected representatives to control and oversee the responsible authorities of the executive branch, in this case the security sector institutions. Therefore, one can say that the strengthening of such control contributes to greater efficiency, effectiveness and of course accountability of the security sector institutions. That leads to the achievement of the ultimate goal, strengthening of democracy and protection and improvement of the safety of the citizens and the state as one of the vital values of human survival.

5. CONCLUSION

In conclusion, the afore-stated underlines the need for parliamentary control over the work of the security institutions sector. It entails an obligation on each system in democratic societies to find a legal way to control the power that is also legally granted to the institutions, the only ones that have a legitimate opportunity to apply special powers that can limit the compliance of human rights and freedoms in the procedures and manner prescribed by law in order to protect the security of the state and its citizens. Transparency

⁴ Before starting their work, the members of the Committee for supervising the work of the Security and Counter Intelligence Agency and the Committee for supervising the implementation of measures for monitoring the communications by the Ministry of Interior and the Ministry of Defence, must undergo a security check in order to gain permission to work with classified information.

and accountability in the operation of the security and defence institutions should be an imperative for a democratically organized society like ours, which justifies the need for proper parliamentary mechanisms that will monitor and control the work of the security sector institutions. The fact is that such a compromise is possible if we take into account that secrecy should actually be an exception in the operation of the security and defence institutions, as the commitments to democracy are directed towards transparency and accountability of the security sector institutions. Consequently, it is understandable why the inherent nature and dynamics of the security sector is a true challenge to effective parliamentary oversight.

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