COLLECTION OF POLICY PAPERS ON SECURITY POLICY FROM THE PERSPECTIVE OF YOUNG LEADERS

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FOREWORD

ISAC is proud to present its second compilation of policy paper recommendations, as part of its "Young Leaders Training" project. Since its founding, ISAC has sought to focus its activities towards educating and empowering current and future young leaders for the challenges which lie ahead in Serbia. This project has continued such activities, and represents a continuation of the first young leader's training project which was started in 2014/2015. While similar in scope, the 2015/2016 program mainly focused on aspects of foreign and security policy and particularly sought to address three broad areas:

• Security sector reform
• Civilian and democratic oversight of the security sector
• Advancement in Euro-Atlantic integrations

Each group of participants selected their own specific topic within those areas and the way they were going to address the topic and form their papers. ISAC provided the necessary lectures, presentations and workshops throughout the year for the participants to become familiar with the background of those topics, analyse some of the issues and discover best practices in dealing with them when it came to research, writing and formatting their policy recommendations. Once completed, and as part of the program's final activities, participants will also have an opportunity to present their papers to respective decision and opinion makers in Serbia.

We would like to thank the Balkan Trust for Democracy and the NATO Public Diplomacy Department for supporting the 2015/2016 "Young Leaders Training" program and recognizing its importance; this project would not have been possible without their support. Furthermore, we would especially like to thank Mr. Milan Sitarski for his commitment and expertise as the mentor for all the groups in preparing their policy recommendations.

We hope that you will find these papers useful and that they will help contribute to the discussion when it comes to Serbia's future steps in the areas of foreign and security policy.

The ISAC Fund Team

EUROPEAN SECURITY IS CHANGING - AND OURS?

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Abstract

The process of globalisation and the increasing interconnectedness has created a need for a united and single response to modern security challenges, risks and threats. Serbia's unambiguous foreign policy goal of joining the EU unquestionably requires legislative alignment with the *acquis communautaire*. The subject matter of this policy proposal focuses on a brief overview of the key strategic foreign policy and security documents – the National Security Strategy of the Republic of Serbia (2009) and the European Security Strategy (2003). This paper also analyses the outlines of the new EU Global Strategy, along with providing recommendations for potential modifications to the National Security Strategy of the Republic of Serbia in the light of the Global Strategy.

Introduction

It has been almost 13 years since the European Security Strategy was adopted and not much less time has passed since the adoption of the National Security Strategy of the Republic of Serbia. The dynamic security and foreign policy environment, however, is affected by many new and hybrid challenges, risks and threats. Though the nature of these documents may be general and widely applicable, their role is a strategic one. The main problem of the two strategies is their obsoleteness and inapplicability. Changes in the security environment for the EU have triggered the initiative to adopt a new, EU Global Strategy.

Recent developments, including the influx of refugees and terrorist attacks, have undoubtedly contradicted the view expressed in the previous European Security Strategy:

"Europe has never been so prosperous, so secure nor so free. The violence of the first half of the 20th Century has given way to a period of peace and stability unprecedented in European history."[1]

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1) European Security Strategy (2003), translation available at: http://www.isac-fund.org/download/Evropska%20strategija%20bezbednosti.pdf (accessed 12 February 2016).

The Global Strategy to be presented to the European Council this June should compensate for the changed nature of European security, which in the "post-Lisbon" context is drastically different from the one at the beginning of the 21st century. Opting for a new strategy is a departure from idealpolitik and a move toward realpolitik.[2] During the process of the discussions and proposals, the participants should be wary of making the same mistakes once more. The European Security Strategy was created during the US intervention in Iraq and at the time, it was more of an instrument to create political balance between the conflicting views of EU member states regarding the intervention, rather than a public security assessment or a profound strategic document that would clearly delineate the EU's foreign and security policy. This document must have its "use value" and should be used as a guideline for achieving clearly defined goals. Though experts fear whether the interests and values, and by extension the goals, of the member states can be aligned, the EU will strive to present itself as a relevant, strong and unified player on the global scene with this Strategy. Some authors have analysed the process of adoption of the new Strategy from the perspective of US-EU relations and focus on the possibility that the new Strategy may be a departure from relying on US assistance in the cases that security of the continent is jeopardised.

The National Security Strategy of the Republic of Serbia is also characterised by many flaws. Given its strategic nature, the drafting of such a document requires a concerted effort of the entire security system. However, the security dynamics frequently fluctuate and transform, to which a timely response must be provided. A good example may be the modification, updating and redefining of the USA National Security Strategy, or the overall national security system. The US makes annual updates, modifications and adjustments of it strategy, depending on the current and future risks and threats. Regardless of Serbia's capacities and the problems it faces, preparation and modification of this document has strategic, political and security implications.

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2) Goldmann, Kjell. *Realpolitik and Idealpolitik: Interest and Identity in European foreign policy.* The Swedish Institute of International Affairs, Stockholm, 2012.: 2.

Context and importance of the issue

Since the European Security Strategy was adopted in 2003, the world has changed drastically. The official debate on the new EU Global Strategy on Foreign and Security Policy started over a year ago and the public debate, consultations and ministerial meetings are now taking centre stage.

According to Federica Mogherini, High Representative of the Union for Foreign Affairs and Security Policy, this process "gives us the opportunity to forge a stronger and more effective EU foreign policy and engage the public on debates about (new) foreign policy."[3] The High Representative goes on to say "today, world foreign policy is not just a question for experts – it affects all of us: from the food we eat and the clothes we wear to our daily security and the future prosperity of our children."[4] Mogherini closes her statement with: "This is why I believe it is important to involve all of you in our strategic reflection – to hear many voices and get different perspectives."[5]

This transparent and accessible model of cooperation has been achieved through online communication between the stakeholders. We must be realistic, of course, and be aware that not all proposals will be analysed equally and eventually adopted as a potential solution. Still, this form of public inclusion may contribute to a better and more comprehensive approach to creating such an important strategic document.

On the other hand, there are opinions that by adopting the new strategy, which will redefine the Union's foreign and security policy, the EU is trying to position itself as the global leader.[6] This idea is not irrational. However, the spirit of "unity" is once again being reviewed and questioned. We must bear in mind that the member states are not equal, and have different capacities, interests and values.[7] The greatest challenge of the new Strategy may be in

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3) https://europa.eu/globalstrategy/en/global-strategy-foreign-and-security-policy-european-union (accessed 10 February 2016).

4) *Ibidem.*

5) *Ibidem.*

6) Walt, Stephen. *EU Global Strategy Expert Opinion.* Institute for Security Studies, EU, 2016, https://europa.eu/globalstrategy/en/eu-global-strategy-expert-opinion-no1-20-january-2016 (accessed 9 February 2016).

7) Youngs, Richard. *EU Global Strategy Expert Opinion.* Institute for Security Studies, EU, 2016, https://europa.eu/globalstrategy/en/eu-global-strategy-expert-opinion-no3-20-january-2016, accessed 10 February 2016.

aligning the various interests and values, and finding a middle-ground to keep all the actors happy.

In light of the modern security threats, which are not contained within national borders and are regional or global in nature, it is clear that the EU will direct its new Strategy toward resolving the global issues, in an attempt to minimise the consequences of the current challenges and to eliminate their causes.

The National Security Strategy of the Republic of Serbia was adopted in 2009. It is a strategic and general document. As such, it does not provide concrete guidelines for solving issues. On the contrary, the Strategy is only a basic document to serve as a guide in preparation and adoption of action plan for specific policies. Nonetheless, it is yet to be modified, updated, reviewed or evaluated.

The transnational and asymmetric character of contemporary security challenges, risks and threats has been amplified, particularly in the period after the National Security Strategy of the Republic of Serbia was adopted. Over the past six years we have witnessed many crises that posed security threats in our immediate or wider environment, such as the Paris terror attacks, attacks in Kumanovo, Zvornik and many others. Europe is currently also facing an unprecedented refugee crisis which may have indirect implications for security. These are the arguments supporting the view that Europe and the Western Balkans are no longer dominated by military threats and wars. The security dynamics have changed. A new look should be taken at the security environment, and the security policy should be adapted accordingly, to be appropriate for the time and the world in which our state operates.

The Brussels Agreement was adopted in 2013 and created a new political reality, which requires a review or modification of the National Security Strategy, given that the current strategy places emphasis on preservation of the territorial integrity and sovereignty, and lists Kosovo* as a security threat. It is now perfectly appropriate to ask whether the Brussels Agreement is compatible with the current strategy.

In the light of these realities, Serbia must act proactively. After the EU Global Strategy is adopted, Serbia will have the opportunity to work systematically on adopting an important document on foreign policy and security, in

a transparent manner. We should bear in mind that in the course of EU negotiations Serbia will likely face more explicit requirements regarding the Strategy, and to address some of its politically delicate segments.

Description of the issue

The National Security Strategy is primarily a political document establishing the starting points, scope, content, objectives, principles, players and instruments of the security policy.[8] The National Assembly adopted the National Security Strategy in October 2009, six months after the National Defence Strategy was passed in April of the same year. This paper will focus on the issue of the lack of initiative and willingness to start a discussion on revising the current National Security Strategy or adopting a new strategy that would address the changes in the security environment and be compatible with Serbia's current position and policy in the areas of national security.

In addition is the issue that Serbia currently has no clearly defined foreign policy established by legislation, nor a strategic document covering this field. As a country that aspires to join the EU, a political entity that views foreign and security policy as one, Serbia should take a more serious approach to defining the nation's policies in these vital areas. The European Security Strategy was adopted in 2003, and a new one is being defined as we speak. This should be an incentive for Serbia to consider whether the current strategy is an adequate response to modern concerns. Strategies are "living organisms" and should be periodically revised, though this is rarely done in practice.

Serbia has in the past lagged in adoption of strategic documents compared to other Western Balkans states (2002-2006). The political situation in Serbia shaped to a significant extent the process of the document preparation and adoption. First, due to the different stances on national security held by then President Boris Tadic and Prime Minister Vojislav Kostunica, the

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8) A qualitative analysis of the strategy is available in: Hadžić, Miroslav. *Bezbednosn enepoznanice Srbije.* In: Godišnjak reforme sektora bezbednosti u Srbiji 2008–2011, Beograd, 2012: 57–76.
* This designation is used in this paper in line with the UN Security Council Resolution 1244/1999 and the International Court of Justice opinion on Kosovo Declaration of Independence. Further in the paper, this designation will be implied.

security strategy was drafted in two parallel processes. Furthermore, there was no legal framework for the strategy preparation and adoption, so the Law on the Serbian Armed Forces and Law on Defence were adopted in 2007. This was followed by a slew of events that postponed the adoption of the strategy: parliamentary elections in 2007, adoption of a resolution on "protection of sovereignty, territorial integrity and constitutional order of the Republic of Serbia," Kosovo's unilateral declaration of independence in 2008 and local, parliamentary and presidential elections.

Kosovo's unconstitutional unilateral declaration of independence in 2008 shaped without doubt the atmosphere in which the key strategic security documents were adopted. Notably, the documents insist on a traditional interpretation of the concept of security, in which security is correlated primarily with sovereignty and territorial integrity, as a result of the political situation in the country at the time. The biggest threat to Serbia's national interests singled out in the National Security Strategy is the "illegal unilateral declaration of Kosovo independence."[9] We see a new political reality today in Serbia-Kosovo relations. Within the framework of the political dialogue between Belgrade and Pristina, the Brussels Agreement was signed in 2013, and with it the Republic of Serbia was set on the path toward an institutional regulation of relations with Kosovo. This begs the questions of whether the current strategy is sustainable and applicable in these circumstances.

Furthermore, Chapter 35 in the negotiations with the European Union aims at complete normalisation of relations between Serbia and Kosovo. Paragraph 38 specifies that in the process of accession, Serbia should "ensure that adopted legislation, including its geographical scope, does not run counter to the comprehensive normalisation of relations with Kosovo." This suggests that in negotiations on the remaining 34 chapters, Serbia will have to exclude Kosovo from the Serbian legal and institutional system, at least in the sense that it cannot expect that new legislation it adopts will automatically apply to Kosovo, without having to go through additional negotiations.[10]

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9) Defence Strategy of the Republic of Serbia (2009), p. 6

10) Study "Karika koja nedostaje: Reforma sektora bezbednosti, 'vojna neutralnost' i EU integracije u Srbiji", Centar za evroatlanske studije, Beograd, 2014.:55-56.

Serbian Assembly adopted the decision on neutrality in December 2007 within the "Resolution on the protection of sovereignty, territorial integrity and constitutional order of the Republic of Serbia." This resolution and that single article is the only official document referring to neutrality. Serbian strategic security documents, that is, the Defence Strategy and the National Security Strategy, never mention this status. They also avoid expressing any views on a potential NATO membership. This has created room for arbitrary interpretation and political voluntarism, allowing authorities to radically and frequently change the direction of security policy, without facing any consequences. At the beginning of 2015, the Individual Partnership Action Plan (IPAP) between Serbia and NATO was adopted. That is the highest level of partnership and only one step away from membership.

Unlike the transparency dominating the EU debate, Serbian National Security Strategy was prepared in quite a different atmosphere. A handful of public discussions cannot contribute immensely to a document that is crucial for the country's security. Strategy planning should be approached from different vantage points (from judiciary, political, economic, institutional etc. points of view) in order to take into account the threats that could potentially jeopardise the country and its citizens. Though the matter of national security is much wider in scope than just defence, the entire process of writing the National Security Strategy in the official institutions was managed by the Defence Ministry. This is evident in the military-centric approach permeating the current strategy. Short deadlines that were provided for organising a public discussion, the lack of proactiveness on the part of the Defence Ministry during the public discussion, absence of a long tradition in having public discussions and including citizens and civil society in the oversight of the security sector all affected the quality of the public discussion.[11]

Still, there are many more organisations, academic institutions and individuals today who are competent in the discussion of international relations, foreign policy and security. Security is a public good, because it affects the security and safety of citizens (human security) and the security of their rights and property, not just that of certain groups, parties, or the current government. Though the state is the dominant provider of security,

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11) Bjeloš, Maja. *Nedostatak kvalitetne javne rasprave prilikom donošenja zakona iz oblasti bezbednosti i odbrane.* In: Bezbednost Zapadnog Balkana, Beograd, 2009.: 56-65.

citizens and civil society organisations today represent equally important players in the security sector, and must be included in the discussion when new legislation and strategies are being adopted.[12]

The main characteristic of modern threats is their unpredictability. That is why security today is viewed as a global issue, while the national security is associated with the circumstances in the immediate surroundings. There is a need to provide a single and coordinated response to security challenges and threats. The problems should be put in a wider context, and politics and diplomacy should be applied in resolving those problems. The European Union is targeting its new strategy toward resolving global issues. Now is the time to act proactively and align the interpretation of the concept of security with the European standards and values. The European Union's Heads of State and Government are defining what the internal security strategy should be like: "Internal security strategy must be adaptable both to the needs of its citizens and to the challenges of the dynamic and global 21st century."[13]

Recommendations

The recommendations given here draw on this short analysis, the process of drafting the Global Strategy and the perception of the limitations of the National Security Strategy of the Republic of Serbia. The objective of these guidelines is simple. It aims to improve the process of discussing and drafting a potential new National Security Strategy of the Republic of Serbia to make it more efficient, effective, transparent and European.

- National Security Strategy should be an umbrella strategic document that would serve as a basis for creating and defining the overall state, foreign and security policy

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12) Ejdus, F. "*Koncept reforme sektora bezbednosti*". In Godišnjak reforme sektora bezbednosti u Srbiji, ed. Hadžić, M., Milosavljević, B.,Stojanović, S. and Ejdus, F., Beograd: Centar za civilno-vojneodnose, 2009.: 65.

13) Rizmal. Irina. *Uloga Zajedničke bezbednosne i odbrambene politike EU i NATO u reformi sektora bezbednost,* Novi Vek:Glavni izazovi reforme sektora bezbednosti, Centar za evroatlanske studije, Beograd, 2012., 1.

- The government, competent ministries (Defence Ministry, the Ministry of Foreign Affairs, Ministry of Interior, the President, and Ministry of Justice) and other government bodies should make a sustained effort in any future redefining of the National Security Strategy of the Republic of Serbia

- Drawing on an adequate security assessment and the Global Strategy, the challenges, risks and threats to the Republic of Serbia's national security should be redefined

- A transparent public debate should take place during the preparation and adoption of the new National Security Strategy

- A functional website should be built to inform the public about any updates regarding the development of the new strategy

- Taking a leaf from the EU's book, a subsite via which questions and suggestions can be submitted should be created

- The validity of the National Security Strategy should be limited

- The revision frequency should be specified (1-5 years)

- Civil society organisations, non-governmental organisations, the academic community and the general public should be included in order to pick from a wider body of ideas and proposals

- National Security Strategy should be aligned with the most general provisions of the future Global Strategy, bearing in mind the CFSP and Serbia's aspiration to join the EU

- Special attention should be given to predominant challenges, risks and threats (migration, terrorism, foreign fighters, cyber and energy security, emergencies etc.)

Bibliography

1. Bjeloš, Maja.*Nedostatak kvalitetne javne rasprave prilikom donošenja zakona iz oblasti bezbednosti i odbrane.* In: Bezbednost Zapadnog Balkana, Beograd, 2009.: 56-65.

2. Ejdus, F. "*Koncept reforme sektora bezbednosti".* In Godišnjak reforme sektora bezbednosti u Srbiji, ed. Hadžić, M., Milosavljević, B., Stojanović, S. and Ejdus, F., Beograd: Centar za civilno-vojneodnose, 2009.: 65.

3. European Security Strategy (2003), translation available on: http://www.isac-fund.org/download/Evropska%20strategija%20bezbednosti.pdf (accessed 12 February 2016).

4. Goldmann, Kjell. *Realpolitik and Idealpolitik: Interest and Identity in European foreign policy.* The Swedish Institute of International Affairs, Stockholm, 2012.: 2.

5. https://europa.eu/globalstrategy/en/global-strategy-foreign-and-security-policy-european-union (accessed 10 February 2016).

6. A qualitative analysis of the Strategy is available in: Hadžić, Miroslav. *Bezbednosne nepoznanice Srbije.* In: Godišnjak reforme sektora bezbednosti u Srbiji 2008–2011, Beograd, 2012: 57–76.

7. Rizmal. Irina. *Uloga Zajedničke bezbednosne i odbrambene politike EU i NATO u reformi sektora bezbednost,* Novi Vek: Glavni izazovi reforme sektora bezbednosti, Centar za evroatlanske studije, Beograd, 2012., 1.

8. Defence Strategy of the Republic of Serbia (2009), p. 6.

9. Study, Karika koja nedostaje: Reforma sektora bezbednosti, 'vojna neutralnost' i EU integracije u Srbiji, Centar za evroatlanske studije, Beograd, 2014.:55-56.

10. Walt, Stephen. *EU Global Strategy Expert Opinion.* Institute for Security Studies, EU, 2016, https://europa.eu/globalstrategy/en/eu-global-strategy-expert-opinion-no1-20-january-2016 (accessed 9 February 2016).

11. Youngs, Richard. *EU Global Strategy Expert Opinion.* Institute for Security Studies, EU, 2016, https://europa.eu/globalstrategy/en/eu-global-strategy-expert-opinion-no3-20-january-2016 (accessed 10 February 2016).

CAPACITIES AND POTENTIALS OF THE SERBIAN ARMED FORCES TO ACT IN EMERGENCIES

Jelena Vraneš, Jovana Perkučin, Dejan Remetić

Abstract

The current organisation of the Serbian Armed Forces can handle emergencies operationally. Technical capacities are relatively sufficient to respond to the existing challenges, but the operational procedures may not be best suited to cover every risk. The Serbian Armed Forces do not recognise the notion of crisis management, though its units carry out those tasks. Still, there is no single coordination body or authority that could plan and manage Serbian Armed Forces' operations in emergencies.

This paper will shed some light on crisis management, to what extent this concept is recognised in the European Union and NATO, and how it can be implemented in the structure of the Serbian Armed Forces. Beside the organisational solution, we will also provide recommendations for improving the organisational, human and material capacities of the Serbian Armed Forces in emergencies.

Introduction

Active involvement of the armed forces in crisis management has been particularly significant over recent years. Contemporary challenges to security are increasingly manifested as non-military security challenges, risks and threats. In this ever changing field and approach to security at the beginning of the 21st century, it is evident that most governments are focusing on new, non-military security challenges, risks and threats. To prevent and recover from these threats, a coordinated and efficient effort of multiple bodies from all levels of government is needed.

Capacities of the Serbian Armed Forces to react in this field should be continuously improved, in accordance with Serbia's needs and global trends. Natural disasters that have recently affected Serbia have exposed certain weaknesses of the responses in crisis. Reform of the Serbian Armed Forces to improve its responsiveness in the process of preventing and alleviating the effects of natural disasters is a priority, but the armed forces' capacity

to handle any of its three missions defined by the law must be raised simultaneously.

Though capacity of the Serbian Armed Forces should be increased for it to be able to react in accordance with the adopted strategies to security threats, risks and challenges Serbia faces, additional incentive should come from joining the European Union and aligning with EU policies, as well with contemporary developments in this area.

EU, NATO and crisis response

The European Commission plays a key role in coordinating crisis measures. The Commission does that through the Civil Protection Mechanism, within which the Emergency Response Coordination Centre monitors existing and potential crises. The Centre coordinates efforts between the country concerned, experts in the field and the countries participating in the mechanism.[14]The Mechanism currently includes 33 European countries (28 EU member states, Former Yugoslav Republic of Macedonia, Iceland, Norway, Montenegro and Serbia). Serbia joined the mechanism in 2015, while Turkey is waiting for the ratification of the signed agreement.

Disasters include floods, forest fires, storms, tsunamis, terrorist attacks, technical or radiological accidents and similar events. During the state of emergency in Serbia in 2014, most EU states offered assistance in boats, helicopters, pumps and humanitarian aid packages. More than 800 humanitarian workers from EU member states were deployed in Serbia and Bosnia and Herzegovina. The European Commission co-financed the transport of the assistance to the devastated areas. That was the biggest operation to date since the Civil Protection Mechanism was established.[15]

Certain humanitarian crises and natural disasters may require responses that can only be provided by the military, such as road and bridge repairs. That is why civil-military coordination is important in these situations.[16]Crisis

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14) http://europa.eu/pol/hum/index_hr.htm, accessed 16 February 2016

15) http://europa.rs/evropski-komesar-za-humanitarnu-pomoc-i-vanredne-situacije-u-poseti-beogradu/, accessed 16 February 2016

16) http://ec.europa.eu/echo/what/humanitarian-aid/civil-military-relations_en, accessed 28 November 2015

response in EU includes the immediate mobilisation of resources to respond to a crisis in the most efficient manner, regardless of whether the disaster was natural or man-made. An effective response to crises and disasters, which are unexpected or difficult to predict, is an integral part of the comprehensive approach of the European External Action Service (EEAS).[17]

Given the different ways crises manifest themselves, it is obvious that different mechanisms within the EU will be activated. The Crisis Response System ensures coherence between various aspects of crisis response and management measures, in particular in the security, political, diplomatic, consular, humanitarian, developmental, corporate and environmental fields. The Crisis Response & Operational Coordination Department is responsible for the activation of the Crisis Response System and therefore plays a central role in ensuring a swift and effective mobilisation of EU actors and instruments.[18]

Effective coordination of the relevant crisis management instruments, military or civilian, is the priority during all phases of the crisis cycle. Depending on the characteristics of a particular crisis, the EEAS crisis platform[19] can bring together:

• Various EEAS crisis response/management structures: Crisis Management and Planning Directorate (CMPD), Crisis Response Department, EU Military Staff (EUMS), Civilian Planning and Conduct Capability (CPCC), Situation Centre (SitCen), EU Situation Room as well as other relevant departments of the European External Action Service.

• The EU Military Committee (EUMC).

• The relevant European Commission services, such as the EU Humanitarian Aid and Civil Protection department (ECHO).[20]

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17) http://eeas.europa.eu/crisis-response/about-us/index_en.htm, accessed 07 February 2016

18) http://www.eeas.europa.eu/crisis-response/what-we-do/index_en.htm, accessed 07 February 2016

19) http://www.eeas.europa.eu/crisis-response/images/crisis_platform_2013.jpg, accessed 29 February 2016

20) http://www.eeas.europa.eu/crisis-response/what-we-do/crisis-platform/index_en.htm, accessed 07 February 2016

On the other hand, in the context of deepening relations and cooperation in all security-related issues between the EU and the NATO, as well as between Serbia and the NATO, we should not forget about NATO's role in crisis management. Crisis management is one of NATO's main security tasks, which can involve military and non-military measures to address the full spectrum of crises. Crisis management, therefore, is a concept that beside military intervention also includes protection of civilians.

NATO's involvement in civilian protection started in the 1950s. NATO members soon realised these capacities can be utilised effectively also in case of floods, earthquakes or technological incidents. As early as 1953, NATO set up a disaster assistance scheme following flooding in Northern Europe. In 1958, it established a detailed procedure for coordination of disaster assistance between NATO member countries. The Euro-Atlantic Disaster Response Coordination Centre (EADRCC) was established in 1998to co-ordinate aid provided by different member and partner countries.[21]The Centre functions as a supply and demand system for coordinating both requests and offers of assistance mainly in case of natural and man-made disasters.[22]This civil emergency response mechanism involves NATO members and partner countries. EADRCC cooperates closely with the United Nations Office for the Coordination of Humanitarian Affairs. To date, EADRCC has conducted 14 exercises, and Serbia participated in three of them. The Centre is important for information sharing. It forwards assistance requests to NATO and partner countries, keeps track of the assistance offered and timelines, and of other issues required for a successful disaster relief.[23]

Serbian Armed Forces and non-military threats

Crisis response management is usually the task of civilian authorities, as is the case with Serbia, while the military is involved during exceptional crises to assist and support the civilian authorities. Emergency management and action are regulated by the Law on Emergencies. More precisely, the law governs *"emergency action, declaration and management; system for the protection and rescue of people, material and cultural goods and environment*

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21) http://www.nato.int/cps/en/natolive/topics_49192.htm, accessed 07 February 2016

22) http://www.nato.int/cps/en/natohq/topics_52057.htm?, accessed29 November 2015

23) http://www.nato.int/cps/en/natohq/topics_52057.htm#, accessed 07 February 2016

against natural disasters, technical-technological incidents – accidents and disasters, terrorist action, war and other major afflictions (hereinafter: natural and other disasters); the law also regulates the duties of government bodies, autonomous provinces, local governments and involvement of the Serbian police and Armed Forces in protection and rescue operations; as well as the rights and duties of citizens, companies, other legal persons and entrepreneurs regarding emergencies; civilian protection organisation and activities relating to protection, rescue and recovery against natural and other disasters; system financing and oversight; international cooperation and other issues relevant for the organisation and functioning of the protection and rescue system."[24]The Ministry of Interior and, more specifically, its Emergency Management Sector, coordinate the work of all entities involved in the protection and rescue system. The protection system includes emergency centres, civilian protection units, fire and rescue departments, police, military and other entities whose regular activities include protection and rescue, companies and other legal persons, Serbian Red Cross, Serbian Mountain Rescue Service and associations trained and equipped to protect and rescue.[25]

Though emergency action is under competence of civilian authorities, the Serbian Armed Forces may be called in to assist in the event of major crises. "Should the available forces and instruments be not sufficient to protect and rescue people, material and cultural goods and environment from crises caused by natural and other disasters, upon the request of the emergency unit within the Ministry, the Ministry of Defence ensures involvement of its organisational units, and of command centres, units and institutions of the Serbian Armed Forces in the protection and rescue operations. When Serbian Armed Forces participate in protection and rescue operations, they are managed by their respective commanding officers, in line with the decisions of the emergency response centres that manage and coordinate protection and rescue operations."[26]

Activities of the Serbian Armed Forces in these situations are aligned with their mission statements. The Serbian Armed Forces have three missions: to defend the state from external armed attacks; participate in peace building

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24) Law on Emergencies, Article 1, http://www.mup.gov.rs/cms/resursi.nsf/Zakon%20o%20 vanrednim%20situacijama-lat.pdf, accessed 07 February 2016

25) Ibid, Article 8

26) Ibid, Article 12

and preservation of peace in the region and world wide; and provide support in the event of natural and other disasters. As the government's armed forces, their task is to deter many threats, both military and non-military. Military challenges, risks and threats include aggression, armed rebellion and other threats involving weapons, while non-military challenges, risk and threats include terrorism, organised crime, corruption, natural disasters, technical-technological incidents and other incidents and threats.[27]

Actions of the Serbian Armed Forces in assisting the civilian authorities in fighting security threats includes support in combating internal security threats and terrorism and assistance to civilian authorities in the event of natural disasters, technical, technological and other accidents. To realise its third mission, the Armed Forces execute preventive deployment, anti-terrorist and anti-rebel operations, and may organise other operations depending on the circumstances.[28]

As both civilian and military forces may help in rehabilitation efforts after a crisis, it is essential to achieve national operability, i.e. the capacity of the armed forces to be compatible with the civilian actors. Interoperable, successful and effective action of joint capacities of armed and civilian forces depends on technical equipment and joint trainings for emergency action.[29] This is particularly important in light of the fact that Serbian Armed Forces and the Ministry of Defence do not develop special capacities for deployment in protection and rescue operations, but support civilian authorities and rescue and protection bodies with existing capacities. Logistical support, air force, engineering and CBRN defence units may be deployed in protection and rescue operations.[30]

27) Law on Defence, Article 4, paragraphs 10 and 11, http://www.paragraf.rs/propisi/zakon_o_ odbrani.htmlm, accessed 16 february 2016

28) Keković Zoran, Komazec Nenad, Milinović Momčilo, Uloga Vojske Srbije u odgovoru na nevojne pretnje, Vojno delo, zima/2011, p. 230, http://www.odbrana.mod.gov.rs/odbrana-stari/ vojni_casopisi/arhiva/VD_2011-zima/Vojno%20delo%20zima-2011.pdf, accessed 16 february 2016

29) Ivaniš Željko, Jeftić Zoran, Milinović Momčilo, p. 180-181.

30) National Protection and Rescue Strategy, Article16, http://www.mup.gov.rs/cms_lat/sadrzaj. nsf/Nacionalna_strategija_zastite_i_spasavanja_u_vanrednim_situacijama_lat.pdf, accessed 16 February 2016

Crisis management

Crisis management became a necessity in every area of human activity in the 21st century. There is no activity immune to internal or external factors. Though crises have always been present, the need to forecast and manage them has only recently become a part of the agenda. Importance of crisis management and action has been recognised by both states and international organisations. Despite the growing application of crisis management worldwide, however, it appears this practice has not taken root in Serbia. The absence of crisis management was particularly glaring during flooding in May 2014, when Serbia acted like a deer caught in the headlights. The situation could have been forecast and the response to the floods could have been significantly better. That in turn would have reduced the damage and human and material losses. Bearing in mind that during this crisis the Serbian Armed Forces were the main actor and coordinator on the ground, we will focus on their effectiveness during the crisis. Despite their immense efforts, the lack of a well thought-out plan of action was evident.

To understand the necessity of introducing crisis management in Serbian Armed Forces, we first need to define what exactly this term entails. Crisis management is a set of functions or processes whose goal is to identify, study and forecast potential crises, and establish methods to help an organisation prevent, deal with or overcome the crisis with minimal consequences.[31]This definition indicates that the key component of crisis management are crisis definition, crisis control, critical decision making, and drawing on the lessons learned.

It is particularly important to make a distinction between crisis management and the National Strategy for Protection and Rescue in Emergencies. Crisis management is a set of specific actions, from crisis forecasting and specific actions to be taken if the crisis occurs, to drawing on the lesson learned from past crises. The National Strategy for Protection and Rescue in Emergencies outlines general guidelines and is more of a theoretical framework than an embodiment of actions institutional actors should take in a crisis. The Strategy applies to all actors and provides scarcely any instructions. Crisis management, on the other hand, would apply to only one institution –

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31) Samed Karović, Nenad Komazec, Područje odbrambene delatnosti kao predmet istraživanja kriznog menadžmenta, Vojno delo, leto/2011, p. 287.

Serbian Armed Forces – and would address the specific actions to prevent a crisis, react in a crisis and follow up after a crisis has been resolved. Though the Strategy was adopted in 2011, we were completely taken by surprised by the 2014 floods and Serbia suffered major losses during this crisis. This situation is also the best indicator that the Strategy in itself is not enough and that additional specific directions which crisis management provides are required.

The Law on Emergencies was an attempt to pick up from where the Strategy left, but it failed to solve the problem entirely. This Law primarily addresses the Ministry of Internal Affairs' (MUP) actions in crisis situations and defines them more precisely. It insufficiently addresses the conduct of the Serbian Armed Forces and their involvement in situations when they need to be deployed on the ground.

It is important to note that crisis is not a routine event, like flooding or a traffic accident. A crisis is an unforeseeable event that takes everyone by surprise.[32] This inability to foresee is the main cause of office holders' inadequate or slow response in crisis situations. If we add limited time available to act and the related pressure, as well as the lack of or impreciseness of information on the situation, decision making in a crisis becomes very challenging.

Bearing in mind that one of the missions of the Serbian Armed Forces is to assist civilian authorities in dealing with non-military threats to security on the Serbian territory, deploying crisis management during floods, earthquakes, fires etc. becomes an imperative. Crisis control as one of components of crisis management proved to be essentially lacking during the May flooding. Crisis control does not only entail control in reacting to a crisis, but also anticipating potential crises, providing expertise and assistance in determining indicators of a crisis and coordinating all actors participating in crisis containment and resolution.[33] Crisis control is based on a predefined plan of action and plan of forecasting and anticipating potential non-military threats that may jeopardise the territory of Serbia.

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32) Keković Zoran, Komazec Nenad, Milinović Momčilo, *Uloga Vojske Srbije u odgovoru na nevojne pretnje*, Vojno delo, zima/2011

33) Keković Zoran, Komazec Nenad, Milinović Momčilo, *Uloga Vojske Srbije u odgovoru na nevojne pretnje*, Vojno delo, zima/2011

Though the May floods were defined as a natural disaster that struck Serbia unexpectedly, they could have been forecast, and a plan of action in case of floods should have been prepared. That was not the case, however. This crisis situation was dealt with without a clear plan of action. In these situations, when there is no crisis management to prepare decision makers for a crisis situations, a crisis can easily get the upper hand over the organisation, instead of vice versa. That means there is no coordination on the ground, it is unclear who does what and where, who is in charge of what and the entire operation depends on the individuals and their resourcefulness in a given situation.

Though flooding is a natural disaster, this type of crisis appears in certain intervals, certain time of the year and in certain regions. This significantly facilitates both foreseeability of the crisis and taking of preventive measures that can help prevent or at least contain the crisis. These types of crises are easiest to manage, because the element of unpredictability is minimal.

The significance of crisis management in crises caused by natural disasters, such as flooding, fires, etc., have been recognised by the United Nations. The Economic and Social Commission for Asia and the Pacific is supporting Thailand's government efforts to tackle floods with satellite images. In cooperation with international partners, the UN have provided Thailand authorities with access to satellite images, in order to be able to better forecast and tackle the issue. [34]

Serbian Armed Forces coordination with other authorities

One of the main issues regarding the reaction of the Serbian Armed Forces in crisis situations is the coordination with other authorities. The key issue, namely, is the separation of jurisdictions and deciding when the Serbian Armed Forces can intervene. The Law on Serbian Armed Forces specifies clearly that the President or the Minister of Defence, with authorisation from the President, may decide to provide assistance to a government authority, organisation, provincial authority or local governments to protect lives and safety of people, protect property and the environment or for other reasons

34) http://www.unescap.org/news/united-nations-supports-flood-crisis-management-thailand-real-time-satellite-data

provided by the law.[35]In theory, however, when an actual crisis arises, this procedure may be a hindrance.

The Law on Emergencies states that when other forces and means of protection and rescue system are insufficient to protect and save people, material and cultural goods and environment from catastrophes caused by natural and other disasters, at the request of the Ministry – organisational unit in charge for emergency situations, the Ministry of Defence ensures involvement of organisational units of the Ministry of Defence, commands, units and institutions of the Serbian Armed Forces to assist in protection and rescue operations. In line with that, when the Serbian Armed Forces are involved in protection and rescue, they are under command of their respective commanding officers, in accordance with the decisions of the emergency committee that manages and coordinates protection and rescue efforts.[36]

The Strategy recognises that efficient disaster reduction requires a strong institutional basis that ensures further capacity building, improvement of the relevant systems, development programmes and legislation, facilitates the flow of information and provides efficient dialogue and coordination mechanisms. However, this provision has not been elaborated on and has remained at the level of a recommendation.

Justification for introducing crisis management

As mentioned above, crisis management can help armed forces react more efficiently in an emergency. It may not be necessary, given that armed forces have an evolvedhierarchy that enables them to successfully conduct their activities, but it is definitely needed, as it can help foresee and prevent certain situations.

Crisis management involves strategic and action planning, which can give an advantage to armed forces when dealing with emergencies. The flaws of the current Law on Emergencies affects the Serbian Armed Forces. The law fails to specify which body or person will communicate with the Emergency Sector on behalf of the Serbian Armed Forces. Though we are aware that

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35) http://www.vs.rs/content/attachments/Zakon_o_vojsci.pdf

36) http://www.mup.gov.rs/cms/resursi.nsf/Zakon%20o%20vanrednim%20situacijama-lat.pdf

it will be the Chief of Staff of the Serbian Armed Forces, the operational capacity for data processing falls upon the officers following orders, without a previous detailed analysis. Therefore, creating a new organisational unit or improving an existing one to establish crisis management will improve the strict military hierarchy and help greatly the security and defence objectives of the Serbian Armed Forces.

Finally, it is important to mention operability of the crisis management unit outside emergencies. Continuous capacity building, analyses of situations and past efforts, data collection and cooperation with other authorities should help improve the readiness of armed forces to tackle certain disasters.

Joint Operations Command

Joint Operations Command of the Serbian Armed Forces General Staff is recognised in the defence system as the organisation that meets the commanding needs at all levels. According to the organisational chart, the Joint Operations Command is in charge of operations planning, and projecting the number of forces needed to execute and command operations, both during war and in peacetime.[37]

Joint Operations Command is configured as an organisational unit that will "grow in line with the needs"[38], and is the ideal point in the system where to establish crisis management. As Joint Operations Command (JOC) is already managing certain operations and administrations of the Serbian Armed Forces General Staff, crisis management would be established as yet another horizontal task handled by JOC. That means that the necessary changes in the organisational chart would be barely noticeable, while the operational work would need a certain mandate to establish the required parameters for full operability of crisis management.

A systemic solution for establishing an operational unit within the Joint Operations Command of the Serbian Armed Forces General Staff could resemble the one of the Peace Missions Centre – it could be a vertical unit

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37) http://www.politika.rs/scc/clanak/20204/%D0%9D%D0%90%D2%D0% 9E-%D0%BC%D1%83%D1%81%D1%82%D1%80%D0%B0-%D0%B4%D0%BE- %D1%98%D1%83%D0%BD%D0%B0 , accessed 19 February 2016

38) Ibid.

with its own commanding officers and capacities, which would organise everyday activities and be accountable to the Serbian Armed Forces Chief of Staff.

Recommendations

• Define capacities that are at the disposal of the Serbian Armed Forces in emergencies*(competent body: newly formed crisis management unit within the Joint Operations Command of the Serbian Armed Forces General Staff and/ or Strategic Research Institute of the Ministry of Defence)*

• Modify systemic document of the Serbian Armed Forces General Staff to introduce crisis management within the framework of the Joint Operations Command.*(competent body: newly formed crisis management unit within the Joint Operations Command of the Serbian Armed Forces General Staff and/or Strategic Research Institute of the Ministry of Defence)*

• Improve capacity in line with the needs of crisis management: human resources – organisation chart of the Serbian Armed Forces General Staff – Joint Operations Command (crisis management unit)*(competent body: Serbian Armed Forces General Staff)*

• Drafting a public procurement plan (by J5 – Planning and Development Authority of the Serbian Armed Forces General Staff) in line with the Serbian Armed Forces plan of action in emergency, and in consultation with the competent crisis management unit of the Joint Operations Command of the Serbian Armed Forces General Staff.*(competent body: newly formed crisis management unit within the Joint Operations Command of the Serbian Armed Forces General Staff and Planning and Management Authority J-5)*

• Improve capacities in line with the needs of crisis management: material resources – procurement of the required equipment (according to the previously proposed public procurement plan)*(competent body: Ministry of Defence)*

• Prepare an action and logistics plan – to plan the required reserved forces for logistical operations in an emergency.*(competent body: newly formed crisis management unit within the Joint Operations Command of the Serbian Armed Forces General Staff)*

- Draw topographic charts for emergencies – draw potentials routes, alternative routes and critical areas *(competent body: Serbian Armed Forces General Staff, a newly formed crisis management unit within the Joint Operations Command of the Serbian Armed Forces General Staff in particular)*

- Provide an analysis of the past engagement of the Serbian Armed Forces in emergencies and a map of actions*(competent body: newly formed crisis management unit within the Joint Operations Command of the Serbian Armed Forces General Staff and/or Strategic Research Institute of the Ministry of Defence)*

- Improve strategic documents in line with the previously proposed systematisation – Serbian Armed Forces Doctrine and Serbian Armed Forces Operations Doctrine *(competent body: Joint Operations Command of the Serbian Armed Forces General Staff, Strategic Research Institute and the Ministry of Defence)*

- Plan and execute inter-departmental exercises for crisis prevention and action in the event of natural disasters *(competent body: Serbian Armed Forces General Staff and Emergency Sector of the Ministry of Internal Affairs)*

Bibliography:

1. IvanišŽeljko, Jeftiæ Zoran, MilinoviæMomèilo, Fleksibilnimodularnivojnisastavizamisije u vanredimsituacijama in "Zbornikradova" sakonferencijeUpravljanje u vanrednimikriznimsituacijama-terorijaipraksa, Beograd 2015, http://www.securesrb.org/files/ZBORNIK_RADOVA_SR_HR_CG_MK_BiH_ELEKTRONSKA_VERZIJA-konacan.pdf, accessed 16 February 2016

2. Kekoviæ Zoran, KomazecNenad, MilinoviæMomèilo, *UlogaVojskeSrbije u odgovorunanevojnepretnje*, Vojnodelo, zima/2011, p. 230, http://www.odbrana.mod.gov.rs/odbrana-stari/vojni_casopisi/arhiva/VD_2011-zima/Vojno%20delo%20zima-2011.pdf, accessed 16 February 2016

3. SamedKaroviæ, NenadKomazec, *Podruèjeodbrambenedelatnostikao predmetistraživanjakriznogmenadžmenta*, Vojnodelo, leto/2011, http://www.odbrana.mod.gov.rs/odbrana-stari/vojni_casopisi/arhiva/VD_2011-leto/25.%20Podrucje%20odbrambene%20delatnosti%20kao%20predmet%20istrazivanja%20kriznog%20menadzmenta;%20Samed%20Karovic,%20Nenad%20Komazec%20i%20Nenad%20Djuric.pdf

Legislation:

1. National Protection and Rescue Strategy: http://www.mup.gov.rs/cms_lat/sadrzaj.nsf/Nacionalna_strategija_zastite_i_spasavanja_u_vanrednim_situacijama_lat.pdf, accessed 16 February 2016

2. Law on Defence: http://www.paragraf.rs/propisi/zakon_o_odbrani.htmlm, accessed 16 February 2016

3. Law on Emergencies: http://www.mup.gov.rs/cms/resursi.nsf/Zakon%20o%20vanrednim%20situacijama-lat.pdf, accessed 16 February 2016

4. Law on Armed Forces: http://www.vs.rs/content/attachments/Zakon_o_vojsci.pdf

Internet sources:

1. http://ec.europa.eu/echo/what/humanitarian-aid/civil-military-relations_en, accessed 28 November 2015

2. http://eeas.europa.eu/crisis-response/about-us/index_en.htm, accessed 07 February 2016

3. http://europa.eu/pol/hum/index_hr.htm, accessed 16 February 2016

4. http://europa.rs/evropski-komesar-za-humanitarnu-pomoc-i-vanredne-situacije-u-poseti-beogradu/, accessed 16 February 2016

5. http://www.eeas.europa.eu/crisis-response/images/crisis_platform_2013.jpg, accessed 29 February 2016

6. http://www.eeas.europa.eu/crisis-response/what-we-do/crisis-platform/index_en.htm, accessed 7 February 2016

7. http://www.eeas.europa.eu/crisis-response/what-we-do/index_en.htm, accessed 7 February 2016

8. http://www.nato.int/cps/en/natohq/topics_52057.htm#, accessed 7 February 2016

9. http://www.nato.int/cps/en/natohq/topics_52057.htm?, accessed 29 November 2015

10. http://www.nato.int/cps/en/natolive/topics_49192.htm, accessed 7 February 2016

11. http://www.politika.rs/scc/clanak/20204/%D0%9D%D0%90%D0%A2%D0%9E-%D0%BC%D1%83%D1%81%D1%82%D1%80%D0%B0-%D0%B4%D0%BE-%D1%98%D1%83%D0%BD%D0%B0, accessed 19 February 2016

12. http://www.unescap.org/news/united-nations-supports-flood-crisis-management-thailand-real-time-satellite-data

"WHO CONTROLS POLICE TAPPING?"
- TOWARDS BETTER CONTROL OVER POLICE -

Veljko Jovanović, Matija Trenković, Stefan Milutinović, Ivan Kutlarović

Abstract

Are you being tapped, by whom, to what extent, how and why? Who approved and allowed the tapping? Who, if anyone, controls it? These are only some of the questions the authors have asked themselves. You will find most answers in this short policy proposal. We will also discuss what tapping issues Serbia is facing, how other countries solved them, how we can try to solve them and preserve our privacy at the same time, prevent misuse and establish effective control of all "tappers". The research provides insights into how this field is regulated in Serbia and presents the relevant bodies and institutions. We also showcase best practice examples from EU member states, as well as various mechanisms and recommendations for improvement of this field in Serbia.

Context and importance of the problem

There is an ongoing discussion in Serbia and around the world on special measures of secret monitoring and recording of communication (colloquially known as tapping) deployed by security, intelligence and secret services. Transparency of these activities is problematic, to say the least, and is part of the *security vs. freedom* debate. Do these actions jeopardise human rights and sovereignty of the individual, institutions and countries that are being tapped? How far can security go in jeopardising freedom? These are some of the questions being raised in Serbia and will be discussed in this paper.

The Security and Information Agency (BIA), Military Security Agency (VBA) and Military Intelligence Agency (VOA) have lately been under scrutiny by the public and the civil sectors because of their obsolete methods and unclear and non-transparent operations. This particularly applies to secret surveillance and recording of communication.

The general public often forgets these measures are also used by the Ministry of Internal Affairs (MUP). Tapping conducted by the MUP is not

clearly defined by law, and neither are precise mechanisms for controlling the MUP.

The biggest problem is that the Serbian National Assembly cannot control the police activities regarding tapping.

The Serbian Constitution guarantees the secrecy of mail and other means of communication. Article 41 clearly states that "secrecy of mail and other means of communication is inviolable." Departure from this principle is allowed only pursuant to a court order, for the purpose of conducting criminal proceedings or defending national security.[39]

Serbian Criminal Procedure Code[40] (ZKP) defines this monitoring as a technique of gathering the evidence that may only be authorised by an investigating judge if conditions stipulated by the law have been met and the public prosecutor has provided substantiated justification for this measure. _The court may order monitoring and recording of telephone and other communication, or surveillance of electronic or other addresses of the suspect, as well as the confiscation of letters and other mail_.[41]

The order to conduct the secret monitoring of communication is executed by the police, Security and Information Agency or Military Security Agency.

Law on the BIA[42] and Law on the VBA and VOA[43], clearly define who, where, how, to what extent and in what manner secret tapping may be utilized. Furthermore, these agencies are controlled by the National Assembly (via the Committee for Oversight of Security Services)[44], Serbian Government (via the Security Services Coordination Office), courts (who authorise tapping), independent bodies (the Office of the Ombudsman, Commissionaire for Information of Public Importance and Personal Data Protection) and the civil sector (non-governmental organisations).

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39) The Constitutional Court of Serbia, http://bit.ly/21aEFCw

40) Criminal Procedure Code, http://bit.ly/1QhC027

41) Ibid, Article 166.

42) Law on the BIA: http://bit.ly/1Va2f1W

43) Law on the VBA and VOA; http://bit.ly/1Wdiz1t

44) Rules of Procedure of the Serbian National Assembly, http://bit.ly/1QhC027

On the other hand, there are no provisions in the Law on Police[45] addressing this issue or defining the mechanisms for controlling the tapping conducted by MUP. MUP conducts the tapping on the basis of the Criminal Procedure Code.

Who within the MUP has the mandate to monitor communication?

1. Security Affairs Department

The cabinet of the Ministry of Internal Affairs includes a Security Affairs Department. This department is in charge of protecting the Ministry and secret information. In performing those tasks, the department may apply operational methods provided by the Criminal Procedure Code and Law on Police, including special measures for secret data collection. The objective is to ensure security of certain buildings, persons and police officers. [46]

2. Sector for Internal Control of Police

The Sector for Internal Control of Police is an independent organisational unit within the Ministry of Internal Affairs dealing with legality of police work (paying attention in particular to whether human rights are respected in performing police tasks).[47] "Members of the Section for Secret Audio-Visual Surveillance, within the Sector's Department for Criminal Operations, are responsible, pursuant to the Criminal Procedure Code, for applying special evidence gathering techniques and other measures of secret data collection."[48]

3. Criminal Investigation Administration[49]

The Criminal Investigation Administration is an integral part of Police Directorate. It is responsible for the uncovering and the coordinated combating of crime in Serbia. To detect crime, the Administration has the

45) http://www.mup.gov.rs/cms_lat/sadrzaj.nsf/Prednacrt_ZOP.h

46) Ibid, p. 28.

47) Sector for Internal Control; http://bit.ly/1SwQL2w

48) Petrović, Predrag; *Posebne mere tajnog prikupljanja podataka: Vodič za nadzor*; Beogradski centar za bezbednosnu politiku; Beoograd 2015; p. 27-28

49) Petrović, Predrag; *Posebne mere tajnog prikupljanja podataka: Vodič za nadzor*; Beogradski centar za bezbednosnu politiku; Beoograd 2015; str.27.

right to apply the secret data gathering measures in accordance with the Constitution, Law on Police, Criminal Procedure Code and Law on Electronic Communication. Crime investigation police includes specialised units responsible for application or coordination of special measures for secret data collection: Special Investigative Methods Service, Surveillance and Documentation Department and Department for Undercover Agents.

This paper will primarily focus on increasing and regulating the control of this organisational unit of the Ministry of Internal Affairs, given that its work affects the majority of Serbian citizens.

Who has the right to control MUP?

Serbian National Assembly, among others, performs control and oversight of the work of the Government, the ministers, security services, governor of the National Bank, the Ombudsman and other bodies in accordance with the law.[50]

To facilitate its work and pursue its mandate, the National Assembly establishes permanent working bodies – the committees. The committees are formed to "discuss proposed laws and other acts submitted to the National Assembly; to assess the Government's policy management; to monitor how the laws and other general acts are implemented by the Government and other government bodies and authorities, as well as to discuss other issues within the National Assembly's mandate."[51]

Defence and Internal Affairs Committee[52] oversees the work of the Ministry of Internal Affairs, i.e. of the Police Directorate. Unlike the Committee for Security Services Control, this Committee does not have the explicit mandate to oversee the use of special phone tapping measures in police work, i.e. in the work of the Criminal Investigation Administration. It does, however, have the mandate to discuss any issuers regarding internal affairs, which certainly includes deployment of special methods.

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50) Law on the National Assembly; Articles 7 and 15; http://bit.ly/25KtCU2

51) Law on the National Assembly; Article 27; http://bit.ly/25KtCU2

52) Defence and Internal Affairs Committee, http://bit.ly/1Oi2j6N

Ministry of Internal Affairs reports regularly on its work and the security situation. To date, these reports have only covered the security situation in Serbia and have not offered detailed information on MUP's work and the methods used by the police. Members of the parliament should use their powers to discuss the regular reports and require from the minister information on the number of the applied evidence gathering techniques, i.e. targeted search measures.

The new Law on Police has introduced new mandates for the competent internal affairs committee of the National Assembly, which could improve the parliamentary control over police in practice. The Defence and Internal Affairs Committee is expected to discuss annual reports on the work of the Internal Control Sector, and oversee whether (i) the budget and other means are lawfully used, (ii) special techniques for evidence gathering defined in the law governing criminal procedure, targeted search measures and integrity tests are conducted lawfully, (iii) political, ideological and interest neutrality is complied with in police work and (iv) perceived unlawful actions and irregularities in the Ministry's work were allowed and adopts relevant conclusions.[53]

Internal Control Sector

The new Law on Police[54] provides that this Sector controls all personnel in the Ministry. The subject matter of internal control, however, is limited to controlling the lawfulness of the police staff and the fight against corruption. Areas such as (i) assessment of application of professional standards in MUP, (ii) adherence to administrative procedures and (iii) functioning of the organisation as a whole are outside the scope of the Sector's work.[55]

Furthermore, the part of the law that regulates internal control of the police fails to point out that the Internal Control Sector is an independent organisational unit of the Ministry. What is more, the Minister is the one providing guidelines and operating instructions, except for activities undertaken during pre-investigation and investigation procedure at

53) Peščanik - "Četrdeset čarobnih štapića"; http://bit.ly/25HojEA

54) Zakon o policiji; http://bit.ly/201lpXr

55) Peščanik - "Četrdeset čarobnih štapića"; http://bit.ly/25HojEA

the request of the competent public prosecutor (Article 233). Though some progress relative to the previous law has been made by revoking the minister's authority to interfere with the Internal Control Sector's investigations and assign them to another organizational unit within the police, there are logical concerns about the Sector's options if it receives an order from the Minister to assign a corruption investigation to another police unit. This again imposes limitations on the Sector's independence.

Almost no mention was made of publicity of the Sector's work in the new Law on Police. The citizens have the right to know what happens to corrupted police officers or those who have exceeded their power, abused their position, conducted unlawful tapping; why operational data is being leaked, what parts of the police force are particularly at risk of corruption and who is in charge of controlling all members of the Ministry of Internal Affairs.

Independent bodies[56]

Two key independent bodies controlling the work of government bodies, and MUP by extension, are the Ombudsman and Commissionaire for Information of Public Importance and Personal Data Protection.

The Ombudsman controls the work of government bodies to protect and promote human rights. The Ombudsman initiates the control procedure upon a complaint received from citizens or at his own initiative. During the control, the Ombudsman has the right to access the premises of public authorities – including the premises of security services – and to obtain any data relevant for the control, including the information classified as top secret (government secret). Given his broad mandate, the Ombudsman is the only control body that can oversee the application of measures that are underway. To exercise his authority, the Ombudsman needs to undergo a special security clearance for access to data classified as top secret – "Government secret."[57]

Should he find irregularities in the work of a government body, the Ombudsman issues recommendations on how to eliminate the detected

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56) Petrović, Predrag; *Posebne mere tajnog prikupljanja podataka: Vodič za nadzor*; Beogradski centar za bezbednosnu politiku; Beoograd 2015; p. 55.

57) Law on Data Secrecy, Article 38, paragraph 2 and Article 53.

irregularities. The government body is required to notify the Ombudsman within 60 days from receipt of the recommendation whether it has followed the recommendation and eliminated the irregularity, or to provide the reasons for why it failed to do so.[58]

Commissionaire for Information of Public Importance and Personal Data Protection (the Commissionaire) oversees the implementation of the Law on Personal Data Protection and flags instances of abuse during data collection. Given that personal data is collected in use of special measures, this aspect of work of security bodies falls within the jurisdiction of the Commissionaire.

To date, the Commissionaire has not been overseeing directly the use of special measures by the police. The Commissionaire has, however, investigated the work of telecommunications operators on two separate occasions, and the practice of secret monitoring of telecommunications was reviewed in the process. In 2011–2012, the Commissionaire investigated the access to data retained by telephone companies, while internet providers were investigated in 2014. The Commissionaire's findings indicate that there are flaws in the regulations, and in the operators' procedures and capacities, which create a risk of misuse during secret monitoring of telecommunications and data mining.

There are currently no clear mechanisms for cooperation between MUP's internal control and the external control mechanisms in Serbia, particularly with regards to control of special measures involving tapping.

Policing oversight in Europe

The Council of Europe

A special publication[59] issued by the Council of Europe on deployment of special investigative means, including tapping, provides basic guidelines and recommendations in this area. A country's legal framework should:

• Specify circumstances and conditions under which such measures may be deployed;

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58) prisluskivanje.bezbednost.org

59) Council of Europe, Office in Belgrade; Deployment of special investigative means; http://bit.ly/1VbjJL8

• Ensure adequate control in the deployment of such measures through prior authorisation and supervision during the investigation phase or review upon deployment (either by the judiciary or any other independent body);

• Ensure that such measures are limited to investigations into serious crime (proactive or reactive) and be proportionate.

France[60]

Inspectorate of the National Gendarmerie (Inspection de la gendarmerie nationale)

The Inspectorate reports to and is under administrative control of the Ministry of Defence, Ministry of Internal Affairs and Ministry of Justice. This provides for a balance and prevents abuse by any ministry. The Inspectorate is managed by the Inspector General. The Inspectorate is responsible for: overseeing the work of the police, controlling and investigating police misconduct, and providing recommendations to improve police force operations in general and ensure the lawfulness of specific measures (in particular with regards to misuse of certain measures, including tapping).

Inspectorate General of the National Police (Inspection Generale de la Police nationale)

Another control body is the Inspectorate General of the National Police. The Inspectorate General reports to and is under administrative control of the Ministry of Justice (and has special cooperation with the Office of the Public Prosecutor) and the director of the police. Its tasks and missions include: control of police officers, administrative and technical staff of the national police; and administrative and judicial investigation of police officers. It also prepares studies and assessments regarding police security and investigation of policing, as well as on discipline and ethical issues. Special attention is paid to organisational units responsible for crime prevention, human rights and ethical issues.

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60) http://bit.ly/1RGnvKd

Great Britain[61]

Her Majesty's Inspectorate of Constabulary is a separate, <u>independent office</u> in the United Kingdom that independently assesses and monitors police, provides recommendations for police work and advises the Ministry of Interior about how police work can be improved. It also provides recommendations for operational and structural improvement of policing.

Belgium[62]

Standing Police Monitoring Committee

The Committee is under administrative control of the Belgian parliament, to which it reports. Its responsibilities include: police and investigation oversight; inspection and monitoring of all police services and officials holding policing powers; detecting instances of inappropriate conduct by members of the Ministry of Internal Affairs; investigating cases of disciplinary action and functioning of the police force; and proposing changes, cooperation and coordination in all police matters, particularly in cases relating to human rights and freedoms of citizens.

Ireland[63]

Garda Siochana - Garda Siochana Complaints Board

The Board was reporting to the Minister of Justice and was an <u>independent</u> agency. It was managed by a Commissionaire. Its task and responsibilities included: management and oversight of investigations launched upon complaints submitted against Irish police and public officials; monitoring of all police officials; and investigating cases related to disciplinary action and criminal code.

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61) http://bit.ly/1WeXGmk

62) http://bit.ly/1VbrH7h

63) http://bit.ly/1qw1dAM

Recommendation for improving policing oversight

1. Intensify efforts and expand powers of the Defence and Internal Affairs Committee

Defence and Internal Affairs Committee can also require of the Ministry of Internal Affairs to provide (extraordinary) reports on "matters within its jurisdiction".

Committee for Oversight of Security Services and Defence and Internal Affairs Committee can promote policing oversight by deploying special measures and establishing regular cooperation with independent government bodies, the Ombudsman and the Commissionaire for Information of Public Importance and Personal Data Protection.

According to their Rules of Procedure, committees may rely on experts to investigate certain issues under competence of the National Assembly. Legal, technical and security experts can help members of parliament by providing additional information on deployment of special measures and clarifying the specifics. For instance, telecommunication experts may assist members of the parliament by explaining what they should focus on in oversight of measures deployed for secret monitoring of communication.

Since the democratic changes in Poland in 1990's, the parliamentary committee that oversees security services and the police is always chaired by a representative of the opposition, in order to prevent misuse of security services by the government and improve democratic oversight.

2. Improve independence of MUP's Internal Control Sector

As examples from some countries in Europe show, policing controllers are independent in their work, both from political and police actors and decisions. They are either independent bodies or under administrative control of several ministries (predominantly justice ministries). Furthermore, there are standing parliamentary committees responsible for constant oversight of the police and its continued improvement through recommendations and advice.

MUP's Internal Control Department should be independent in its work relating to police oversight (in particular relating to misuse of special investigative and tapping measures), and more transparent to public. Reports should be submitted periodically (preferably every four months) to MUP, the relevant committee and the Ombudsman and be available at the Sector's official website.

3. Improve cooperation between internal and external controllers

Establishing cooperation between MUP's internal control and external oversight agencies is important for several reasons. First, to maintain professionalism, expertise and transparency of the police force, mechanisms for external control and oversight depend on effective internal control. An independent and successful internal control in MUP would provide for continued and regular external control, and the two together will enhance the democratic civilian control of the police service. That is why external oversight institutions have four tasks in relation to external control: (1) to provide conditions for establishing internal control mechanisms; (2) to oversee the this control to ensure their successful and independent work within the police force; (3) to provide an independent mechanism for filing citizens' complaints, petition and accusations against the work of police officers and their involvement in corrupt activities; (4) resolve corruption cases by police that the police cannot solve either due to the complexity of the issue or conflict of interests.[64]

64) Internal and external control; http://bit.ly/1UHThcn

Bibliography

Adopted Laws and Acts

Rules of Procedure of the National Assembly

Constitution of the Republic of Serbia

Law on the Security Information Agency

The Criminal Code of Serbia

The Law on the National Assembly

The Law on the Police

The Law on Classified Information

Law on Military Security Agency and Military Intelligence Agency

Internet pages

Belgrade Center for Security Policy - http://bit.ly/2aJs86N

Đorđević, Saša, Četrdeset čarobnih štapića, Peščanik, online izdanje, Beograd, 2016. - http://bit.ly/25HojEA

Đorđević, Saša, Unutrašnja i spoljna kontrola, Peščanik online izdanje, Beograd, 2012. - http://bit.ly/1UHThcn

Committee for Security and Internal Affairs - http://bit.ly/1Oi2j6N

prisluskivanje.bezbednost.org

Sector for Internal Control - http://bit.ly/1SwQL2w

Constitutional Court of the Republic of Serbia - http://bit.ly/21aEFCw

Publications

Petrović, Predrag; Posebne mere tajnog prikupljanja podataka: Vodič za nadzor; Beogradski centar za bezbednosnu politiku; Beograd 2015

PARLIAMENTARY CONTROL OF SECURITY SERVICES – THE CASE OF VOA-VBA

Aleksandra Zdravković, Danica Rajin, Emilija Milenković, Ksenija Filipović

Abstract

The subject matter of our research is parliamentary oversight of military security services, because of the parliament's role as the main mechanism of democratic control over security bodies, primarily the military, the police and the security services. After the political change in Serbia 2000, a thorough reform of the security sector, including the security-intelligence system, was launched. This dynamic process has its own course, stages and certain rules. A more complete control should be established and the somewhat vague legislation should be modified. Clear-cut laws need to be adopted to regulate concretely the work of the security services and specify their jurisdictions in deploying methods, measures and procedures that violate human rights and freedoms. Some progress has been made lately in increasing the transparency of security services in Serbia with regards to updated fact sheets, compliance with provisions concerning information of public importance and cooperation of security services with the civil society. Is that enough, however? Is the current law being implemented and does it need to be modified – those are some of the questions we have dealt with in this paper.

Our recommendations will focus on the need to increase the initiative by MPs in the Committee for Oversight of Security Services, and the possibility of including independent experts in the Committee's work. This practice has been used in other countries and would contribute to depoliticising oversight.

Keywords: security services, democracies, reform, control

Introduction

The state as the referent provider of security in a modern society has a legitimate monopoly over the use of force. States perform this role through establishment and work of services whose primary goal is preservation of constitutional order. The traditional character of security institutions raises several questions: what are their boundaries, if any, and, more importantly, do these boundaries serve to protect the citizens, or security services? There are several forms of control over security services in Serbia: political oversight exercised by political subjects, such as the parliament, the government and political parties; civilian oversight exercised by independent institutions, civil society organisations and the public; and legal oversight by administrative and judiciary bodies. Democratic control is the pillar of any developed society, and its main goal is protection and wellbeing of citizens.

The subject matter of our research is parliamentary oversight of military security services, because of the parliament's role as the main mechanism of democratic control over security bodies, primarily the military, the police and the security services. The relationship between the parliament, as the representative body of the citizens, and security services that guard the citizens' safety, has been instrumental in creation of modern democratic societies, and is especially important for countries undergoing transition. Establishing oversight over intelligence and security services is possible only when those services function continuously and harmoniously with the common objective of safeguarding and improving national security in accordance with the constitution.

Our target audience are military, police and security services personnel, as well as representatives of the political and government elite that wish to contribute through their public work to the security and defence sector. Our second target audience are researchers, students and other interested public who wish to become familiar with the legal framework for the parliamentary oversight of security services. The third target audience include independent government bodies that put the pressure on the government to improve transparency of government bodies.

Oversight of VOA and VBA and the legal framework

Oversight of VOA and VBA is a sensitive topic that touches the work of secret services in Serbia. The proposed Law on Oversight of Security Services, submitted in 2014 by the then chairman of the parliamentary Committee for Oversight of Security Services, Momir Stojanović, was supposed to regulate in more detail the relationship between agencies and authorities to improve the mechanisms of oversight. Several provisions of the Law on the Basics of Security Services Governance in Serbia should be more restrictive to ensure adequate control and oversight. One of its particular flaws is the failure to regulate how data obtained by VOA and VBA are to be used and recorded. This problem is linked also to a wider issue of the authority of the institution of parliament, personal integrity of MPs and the political priorities the political parties, and by extension MPs, impose upon themselves. Political influence must not be left out here either, as it hampers further the possibility to have an independent and professional oversight of security services.

The legal framework (Law on VOA and VBA, Constitution, Rules of Procedure of the National Assembly, Law on the Basics of Security Services Governance) does a relatively good job in covering the jurisdiction, instruments and mechanisms for control of security services, but has boiled down in practice only to a consideration of reports provided by the services, without any relevant initiative to improve oversight.

Parliamentary oversight of the security sector is one of the many issues facing the countries in transition, including Serbia. At the heart of the issue is the security sector reform and establishment of a system of democratic and civilian oversight of the sector. The key role within the democratic and civilian control should be played by the parliament, and essential to the process is the accountability of the security sector. At its disposal, the parliament has instruments to exercise the oversight function, such as: interpellation and motion of no confidence against the government, parliamentary inquires, work of the standing parliamentary committees, public hearings, budget control, as well as special control mechanisms, primarily via the work of independent government bodies. Three factors are vital to exercising parliamentary oversight: legal mandate, the capacity to exercise oversight and a critical attitude and willingness by the MPs to hold the government accountable.

The constitutional and legal framework stipulate that the security sector in Serbia is under democratic and civilian oversight. The role of the National Assembly in the parliamentary oversight of the security sector is to put in place an adequate legal framework, which, beside the legislative activities, includes many other instruments of parliamentary and non-parliamentary control of the security services. The key role in democratic and civil control in the National Assembly is given to the Committee for Oversight of Security Services.

Winston Churchill said once "the parliament is a workshop of democracy, and it is in this workshop that the necessary limits of government are defined, as well as efficient mechanisms of control."[65]

"Parliament is responsible for setting the legal parameters for security activities. Achieving parliamentary control of the security sector is vital to ensuring that the security policy and the related costs are transparent, responsible and aligned with the national interests.[66]"

This area falls into the domain of national sovereignty. The generally accepted standards for democratic and parliamentary oversight of the security sector stipulate that: the state is the only actor in society that has the legitimate monopoly of force; the security services are accountable to the legitimate democratic authorities; the parliament is sovereign and holds the executive accountable for the development, implementation and review of the security and defence policy; the parliament has a unique role in authorising defence and security expenditures; the parliament plays a crucial role with regard to declaring and lifting a state of emergency or the state of war; principles of good governance and the rule of law apply to all branches of government, and therefore also to the security sector; security sector personnel are individually accountable to judicial courts for violations of national and international laws; security sector organisations are politically neutral.[67]

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65) Born, H., Democratic Control of Defence Activities, in: Fluri, P. (Ed.), Defence Institution Building, DCAF,
Geneva, 2006, p. 83.

66) Born, H, Priručnik za poslanikebr 5/03-Parlamentarni nadzor bezbednosnog sektora: Načela, mehanizm i ipraksa, Goragraf, Beograd,2003. p. 18-19

67) Born, H, Priručnik za poslanike br 5/03-Parlamentarni nadzor bezbednosnog sektora: Načela, mehanizm i ipraksa, Goragraf, Beograd,2003. p. 22

Conditions for an effective parliamentary oversight of the security sector thus include:

(1)   Clearly defined constitutional and legal powers;

(2)   Customary practices

(3)   Resources and expertise

(4)   Political will[68]

Research of parliamentary oversight of the security sector[69]highlights the fact that in many countries, the government is trying to play a dominant role in security issues; it is essential that the parliament has the power and resources to exercise an effective control[70], to propose changes or reject legislation proposed by the government, to control how the laws are implemented and how the budgetary appropriations are utilised. This power derives from the Constitution and the laws, as well as parliamentary procedures and customary practices. Over time, social norms and practices for accountability and parliamentary oversight have been developed.[71]

To exercise effective oversight of the security sector, MPs deploy any instrument available to the parliament to control and oversee the government, i.e.: to organise parliamentary hearings and pose questions, or set up parliamentary inquiries.[72]These instruments allow MPs to obtain data on the defence and security policy implemented by the government and on security and defence issues in general; to assist the parliament in overseeing implementation of the laws; investigate breaches, mismanagement and potential abuse of security forces or components thereof; and to direct the attention of the general public to defence and security issues.

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68)Ibid, p. 75.

69) One of such researches was conducted for the needs of MPs by the Information and Research Department: http://www.parlament.gov.rs/народна-скупштина/организација-и-стручна-служба/информативно-истраживачки-послови.294.html

70) Videti: Born, H., Priručnik za poslanike broj 5/03-Parlamentarni nadzor bezbedonosnog sektora: načela, mehanizmi i praksa,Goragraf, Beograd, 2003

71) Ibid, p. 75.

72) Parlamentarna kontrola sektora odbrane i bezbednosti (Kontrolna uloga parlamenta), Odeljenje za informativno-istraživačke i bibliotečke poslove, 2008, http://www.parlament.gov.rs/народна-скупштина/организација-и-стручна-служба/информативно-истраживачки-послови.294. html

"The power of the purse" plays a major role in democratic and civilian oversight. In most countries, the security budget is an integral part of the entire government budget, thus giving parliament the opportunity to influence each stage of the security budget adoption and control.

Parliamentary committees, which monitor the work of all individual government bodies and ministries, also have a significant role in parliamentary oversight of the security sector. In many countries, these committees have been reformed to adapt to different government sectors and develop expertise in the respective sector oversight. Even these specialised committees, however, are not always capable of covering the work of one sector.

From the viewpoint of government's accountability, it suffices for a ministry to be aware that committees could review any aspect of their work. For the control to be possible[73] and effective, the committees have to be independent in their decision-making. The most powerful mechanisms for parliamentary oversight of security sector are created by forming specialised committees for defence, internal affairs and security services, which helps meet the need to have specialised and expert knowledge on the committees, and to ensure legitimacy and transparency.[74]

Fight against corruption in security services and the problem of democratic oversight

The fight against corruption in security services is a very important aspect of improving the work of these bodies. It is also unavoidable and urgent in order to eliminate the obstacles to security services reform. The task of security services is to use the gathered intelligence to help government bodies make informed decisions. This allows government bodies to set priorities that will guide their actions. This entire process may be summed up as an "operational cycle". For it to be successful, all the stages must

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73) According to Born, H, Priručnik za poslanike broj 5/03-Parlamentarni nadzor bezbedonosnog sektora: načela, mehanizmi i praksa,Goragraf, Beograd, 2003.

74) See: Janković, S., Parlamentarna kontrola sektora bezbednosti, Antologija tekstova sa Škole za reforme sektora bezbednosti, Centar za međunarodne i bezbedonosne poslove, Beograd,2007, p.113

be executed correctly. This, however, is frequently not the case, and the intelligence cycle gets corrupted throughout its stages.[75]

Corruption often occurs because the security services are subject to influence by ruling political parties. No matter how hard members of these services strive to work and proceed lawfully, they will be hampered by the existing family and party relations. This is where corruption in public services originates from. There are plenty of opportunities for corruption. Data analysis and intelligence reports and assessments can be politicised if intelligence analysts write reports to please the political decision makers (the so called *intelligence to please*), instead of actually presenting the information derived from the raw data collected. Vital information that could cause potential discomfort to political decision-makers is thus omitted, which may lead to wrong decisions. Finally, intelligence, assessments and reports may not be communicated to all the relevant security institutions, which can jeopardise security of citizens and the state.[76]

When the current ruling party came into power in 2012, it changed the 2007 Law on the Basics of Security Services Governance in Serbia to stipulate that the head of the Security Services Coordination Office can be anyone appointed by the president of Serbia. After that, Aleksandar Vučić, who was at the same time the Deputy Prime Minister and the Minister of Defence, was appointed to head the Office. After the 2014 elections, Mr. Vučić became the Prime Minister, and still remained the head of the Security Services Coordination Office.[77] This indicates there is no real democratic oversight of these services, as long as there is an obvious connection between secret services and political parties.

Giving a greater autonomy to security services could even have a negative effect if it should give them more freedom in handling information only formally, but they still remained under political influence. This would allow decision makers to eschew the blame for a bad move by claiming they lacked the required information. This could create a vicious cycle that would be hard to break.

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75) http://www.acas.rs/wp-content/uploads/2013/01/korupcija_i_sluzbe_bezbednosti.pdf p.2, accessed 14 February 2016.

76) http://www.acas.rs/wp-content/uploads/2013/01/korupcija_i_sluzbe_bezbednosti.pdf p.3, accessed 14 February2016.

77) http://www.koreni.rs/vucic-i-dalje-na-celu-sluzbi-bezbednosti/ accessed 14 February2016.

There are many flaws with the right of the National Assembly to control security services as well. The Committee was first established during the 2012-2014 assembly, when the Defence and Security Committee was reorganised and split into the Committee for Oversight of Security Services and Defence and Internal Affairs Committee. We believe this is a good solution, because tasks were made more concrete and the scope of competences and obligations of committee members has been narrowed. Namely, the Committee for Oversight of Security Services conducts an oversight of: constitutionality and legality of the work of security services, their compliance with the National Security Strategy, the Defence Strategy and the security intelligence policy of the Republic of Serbia, whether they observe political and ideological neutrality and neutrality of interests, legality of deployment of special means and measures for secret data collection, as well as legality of use of budget appropriations and other funds. The Committee is also authorised to discuss and adopt reports on work of security services, discuss proposed laws and other legislation and general acts, launch initiatives and submit proposed laws that are within jurisdiction of those services.[78]There were 9 MPs on the Committee in the previous assembly, and currently it comprises 8 MPs. If the Committee were to fulfil its mandate, it would be able to conduct quality oversight of military intelligence services. However, things have been different in reality. Given the scope of activities and the number of MPs, we believe the MPs are not involved enough and their number prevents them from performing a quality oversight. The number of MPs in every other committee ranges between17 and 20.

Article 51 of the Serbian Constitution from 2006 guarantees freedom of access to data owned by government bodies and organisations performing public duties, in line with the law. Similarly, Article 15 of the Law on the Basics of Security Services Governance in Serbia stipulates that security services are required to keep the general public informed about their work. Though access to information is provided for by the Constitution and the laws, exercising that right in practice is still very difficult. The decades-long habit of government bodies, and security bodies in particular, to not be held accountable for their work by the general public is now clashing

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78) Bogoljub Milosavljević i Predrag Petrović, Bezbednosno-obaveštajne službe Republike Srbije, Godišnjak reforme sektora bezbednosti, 2008.

with the new requirements, and it will take time for this to change[79]. This was illustrated by the conflict between the Ombudsman and the Military Security Agency, when the Ombudsman accused VBA of illegal surveillance of political parties, unions, etc. VBA refused to provide the documents demanded by the Ombudsman and thus proved it refuses to allow anyone to have access to data held by government bodies. The lack of transparency is reflected in the work of the Committee for Oversight of Security Services, whose sessions are mostly closed for public, and session minutes are not available. The only available data are video recordings of sessions when reports provided by the services are adopted, and these videos are also posted on the respective services' websites. The Committee has in the past few years taken the side of military intelligence services, instead of exercising real oversight of their work. That's yet another indicator that VOA and VBA reform is urgent and necessary to increase awareness of the civil society and strengthen their role and influence over security services. According to research conducted by the Belgrade Centre for Security Policy (BCBP), transparency of a committee's work is largely correlated with the role of the committee chairman, who is the key to initiating cooperation with and provide more transparent reporting to the public. According to a person familiar with the Committee's work, Mrs. Jadranka Joksimović has made the work of the Committee more systematic and serious. In an institutional framework where the frequency of committee meetings and its agenda invariably depend on the will of the committee chair, the chair person's dedication is essential to an efficient and effective committee work.[80]Our communication with BCPB representative Katarina Đokić has lead us to believe that making the topic discussed at the committee meetings public is enough to make a committee's work more transparent.

Comparative overview

Parliamentary oversight of security services in various legal systems takes different forms. In some countries, parliamentary control is exercised via committees, and in others by special independent control bodies (often

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79) Ibid.

80) http://www.bezbednost.org/upload/document/parlamentarni_nadzor_i_izgradnja_ integriteta_u_ins.pdfp. 38,accessed 31 March 2016

called parliamentary bodies), like in Germany, Macedonia or Bosnia and Herzegovina. Members of parliamentary committees for oversight of security services are appointed in various ways. In some countries, they are appointed by the Prime Minister, though the committee is not an internal organisational unit of the Parliament (Great Britain); in some countries they are proposed by the executive and elected by the Parliament (Australia), while in most countries only the Parliament appoints committee members (Denmark, Italy, Spain). Examples from the neighbouring countries may be most useful due to similar historical circumstances that shaped the creation and development of security services, primarily during the transition from socialism. In the comparative overview, we will discuss the Committee and Citizens Council for oversight of security services in Croatia and Slovenia, and the Joint Committee of the House of the Representatives and House of Commons in Bosnia and Herzegovina, as well as their legal framework.

In Croatia, parliamentary oversight is exercised by the Croatian Parliament, directly and via a national security committee. They may require of the security and intelligence agencies and president of the Croatian Supreme Court to report on the measures and instruments deployed by the security and intelligence agencies in general, as well as against certain persons. In some countries, beside/instead of committees as permanent bodies of the Parliament, special parliamentary control bodies have been created to oversee the work of security services. One such example is the Commission for Oversight of Security and Intelligence Services in Slovenia, and the Joint Commission for Oversight of Security and Intelligence Agency in Bosnia and Herzegovina. In Bosnia and Herzegovina (BiH), parliamentary oversight is handled by the Security and Intelligence Commission, an independent control body which is not a parliamentary committee in reality, but is in essence a parliamentary body(which is why this form of oversight is similar to parliamentary oversight). When amendments to the Law on Security and Intelligence Agency of BiH came into force on 19 February 2009, the Commission changed its name and became the Joint Commission for Oversight of BiH Security and Intelligence Agency. This Commission oversees the legality of the Agency's work; discusses and provides opinions on appointment of Agency's director general and his deputy; discusses the chairman's reports on matters within his jurisdiction, including measures taken to resolve any issues identified in the Agency during an inspection, audit or investigation; discusses the director general's reports on Agency's

work and expenses, and analyses how the budget appropriations are being used; provides opinions on the Agency's proposed detailed budget; discusses reports by the chief inspector; requires Agency staff and the chairman to provide expert advice in conducting oversight; conducts investigation of the Agency's work. The Commission discusses also other issues within the Agency's jurisdiction, in accordance with the Law on Security and Intelligence Agency of BiH, as well as other specific laws from which their jurisdiction derives.

The situation in Slovenia is similar. The 2003 Law on Parliamentary Oversight of Security and Intelligence Services provides for setting up of a special parliamentary commission to perform parliamentary oversight of Slovenian security services – the Commission for Oversight of Security and Intelligence Services. The main task of this Commission is to control whether activities and measures taken by Slovenian secret services comply with the Constitution and the law. The Commission is set up by the National Parliament and composed of MPs. Work of the Commission is governed by its Rules of Procedure, adopted at the Commission's proposal by the Slovenian Parliament. The Commission may not have more than 9 members. Commission chair, deputy chair and members are elected by the Parliament, at the proposal of parliamentary groups and by majority of vote of all MPs. The Commission sessions are closed for public, but at the proposal of the chair, two thirds of the members present may decide to have the entire session or a part thereof be open to public. The law specifies the Commission's many competences in performing oversight of security services. Some forms of oversight established by the law take the form of inspections, and are conducted on behalf of the Commission by a specially authorised group comprising at least three members. This group includes MPs of the ruling coalition and opposition in the Parliament, and is elected by the Commission by majority of all experts. The group is formed separately for each inspection. The group may demand of the service it investigates any documents, materials and data, as long as they are within the jurisdiction and competences of the Commission.[81]

81) "Kontrola službi bezbednosti", Dejan Milenković, Slobodan Koprivica, Vladimir Todorić, Centar za novu politiku, Beograd, 2011. p.23-30

With the fall of the Berlin Wall and the beginning of transition in Eastern Europe, international documents regarding democratic and civil oversight of security services gained importance. Majority of earlier international documents, starting from the UN Charter, Council of Europe documents, OSCE and other international agreements and conventions fail to even mention democratic and civilian oversight. The first such political document was adopted at a meeting of OSCE member states in Budapest on 3 December 1994, entitled: Code of Conduct on Politico-Military Aspects of Security. With it, a foundation for setting legal norms in this area was established. The Parliamentary Assembly of the Council of Europe joined the drive to establish legal standards in this area by adopting the Recommendation for Control of internal security services in Council of Europe member states in April 1999. In February 2003, the PA adopted the proposed Recommendation for democratic oversight of security sector in Council of Europe member states; on 23 June 2005, Recommendation for democratic oversight of security sector in Council of Europe member states. The European Commission for Democracy through Law (better known as the Venice Commission) adopted a Report on the Democratic Oversight of the Security Services on 1-2 June 2007.[82]

Closing considerations –Recommendations

• Committee for Oversight of Security Services is understaffed due to lack of MPs interested to participate in the work of the Committee and exercise substantial oversight in accordance with the current law. For a more effective control, MPs and members of this Committee need to be trained and made aware of the sensitivity of the oversight they need to take part in. Accordingly, the key to a more effective control is placing focus on building MPs' capacity and integrity, as well as their professional capabilities.

• Capacities of the Defence and Security Committee and Committee for Oversight of Security Services need to be strengthened, particularly in relation to access to information, regardless of the degree of secrecy, and Committee members should be included in the work of the National Security Council.

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82) Demokratska i civilna kontrola rada službi bezbednosti u Republici Srbiji od 2000. do 2010., Radojica Lazić, PHD Paper, FPN, Beograd, 2013.

- Focus should be placed on improving internal control of security services, protecting whistleblowers, holding public discussions on proposed legislation regarding work and activities of security services.

- The Committee should be depoliticised and its cooperation with other bodies (e.g. the Ombudsman, State Audit Institution, and Security Services Coordination Office) should be strengthened.

- We argue that a more complete legal solution, adopted in a regular legislative procedure and subject to a broader public discussion, is a necessary precondition for addressing this issue.

With this policy proposal, we wish to join the ranks of other advocates of security sector reform in order to safeguard the citizen's rights and their overall wellbeing, and to point out to the necessary steps Serbia will need to take in the process of transition.

Bibliography:

• Radojica Lazić, *Demokratska i civilna kontrola rada službi bezbednosti u Republici Srbiji od 2000. do 2010.*, PHD Thesis FPN, Beograd, 2013.

• Dejan Milenković, Slobodan Koprivica, Vladimir Todorić, *Kontrola službi bezbednosti*, Centar za novu politiku, Beograd, 2011.

• Bogoljub Milosavljević and Predrag Petrović, *Bezbednosno-obaveštajne službeRepublike Srbije*, Godišnjak reforme sektora bezbednosti, 2008.

• Born, H, *Priručnik za poslanike broj 5/03-Parlamentarni nadzor bezbedonosnog sektora: načela, mehanizmi i praksa*,Goragraf, Beograd, 2003.

• http://www.bezbednost.org/upload/document/parlamentarni_nadzor_i_izgradnja_integriteta_u_ins.pdf

• http://www.koreni.rs/vucic-i-dalje-na-celu-sluzbi-bezbednost

• http://www.acas.rs/wp-content/uploads/2013/01/korupcija_i_sluzbe_bezbednosti.pdf

PROBLEM OF FOREIGN FIGHTERS AS A CHALLENGE TO SECURITY IN SERBIA

Suzana Bošković, Vladimir Koturović, Jovana Poznan

Summary

This policy proposal discusses the treatment of Serbian citizens who are returnees from foreign wars, primarily in Syria and Ukraine. We will discuss potential problems that may arise upon their return home. We will present how other countries have tackled the same problem, and propose several solutions that could mitigate the potential harmful consequences relating to returnees. The paper will focus on the legal aspect of this situation, i.e. on the criminal prosecution of foreign fighters as one of the solutions. Furthermore, we will propose solutions that involve the reintegration of foreign fighters into society, as a means of deterring their return to battlefields and preventing indoctrination and recruitment of new recruits to fight abroad. Our primary message is that returnees from different battlegrounds worldwide must receive a just and civilised treatment by their home state (in this case, Serbia).

Furthermore, we must not treat returnees as statistics that can only be addressed by mere changes of the Criminal Code. This problem requires a comprehensive approach and a joint response of a wider circle of government authorities and non-government actors (legislative, executive and judicial authorities, social institutions, non-governmental organisations…). Another key message of this policy proposal is the importance of prevention. It is vital that all the players above are involved in preventing the return of foreign fighters back to the battlefield, and also in preventing recruitment of new fighters for wars in foreign countries or potential terrorist attacks.

Introduction

Involvement of foreign players in wars waged on the territories of states other than their own is as old as social conflicts themselves. There are various reasons for a country to intervene in another state, and these reasons often boil down to alleged or real protection of strategic and national interests.[83] On the other hand, some individuals go to wars as mercenaries or volunteers, for personal benefit or principles they believe in.

Developments triggered in 2010 with the start of the Arab Spring are still evolving. In particular, protests against Basar el Asad's government in Syria have turned into a civil war with no end in sight. Formation of a terrorist organisation that calls itself Islamic State has further complicated the situation. This organisation controls large parts of Syria and Iraq where heavy fighting is currently ongoing. This conflict is specific due to the large number of people circulating the area, with many people arriving at and leaving the battlefields, with a vast number of volunteer foreign fighters. In addition to Syria, another global battlefield with many foreign fighters is Ukraine. In many cases, these people are perceived as a threat to the home state due to the fear that they may perform terrorist attacks or other crimes that would be perceived as a direct consequence of their involvement in the war. It is, therefore, important to pay attention to this phenomenon and find a solution that would apply to returnees, and also deter the returnees from going back to the battle or committing a crime in their home state. This fear is not ungrounded. Research has shown that perpetrators of many terror attacks over the past few years were actually veterans from previous conflicts, and that terrorist who have earlier war experience are much more dangerous than those coming from national terrorist cells.[84]

There is no precise information that could help create a psychological profile of an average person who would go fight in Syria or Ukraine. Returnees include veterans that fought in the battlefields of former Yugoslavia, but also young men, mostly with criminal past.[85] This phenomenon, is not limited to one social group, therefore the solution cannot be one-dimensional either.

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83) Zov rata u Siriji i bosanskohercegovački kontigent stranih boraca, Vlado Azinović and Muhamed Jusić, Atlantska inicijativa Sarajevo 2015, page 9.

84) Ibid

85) Živković, V., Stojanović, F. (2015). Borci iz Srbije u ratu u Siriji – pravni i politički tretman po povratku. Godišnjak Fakulteta bezbednosti. Beograd: Fakultet bezbednosti, p. 137-156.

Beside the concrete war experience, which involves various trainings on how to use arms and fight on the ground, returnees may be exposed to all sorts of religious dogmas and indoctrinations. All this contributes to radicalisation of fighters, which they in turn may attempt to spread in their home countries. Furthermore, establishing connections with other fighters in the war zone is another potentially serious threat, because it increases the possibility of returnees committing a terrorist attack upon their return home.[86] There are other methods of radicalisation and recruitment of terrorists that do not entail direct contact with war and fighters, of course. Beside the danger of taking part in terrorist activities, there is the possibility these persons may join various crime groups.

An assessment must be made whether a returnee poses a risk for society upon his return home. This assessment can be based on the information about returnee's stay in the war zone: e.g. how much time he spent on the battlefield, why he left, which exact activities he engaged in, what was the reason of his return to Serbia etc. All this information is important to understand the issue and design the best possible solution. However, the key problem with returnees is the fact that there is no standardised method to assess the risks the returnees pose for their home country.[87] It should also be noted that a large number of returnees had no previous experience in fighting and that most of them will come home with symptoms of post-traumatic stress disorder.

Attitude of the international community and experiences of other countries

The problem of returnees returning from conflicts fought outside their own states deserves attention of both researchers and all the afflicted states. Not long after the conflicts in Syria and Ukraine spread, this became an international issue and was on the agenda and a subject matter of urgent discussions in almost every European state. "War veterans, seasoned in conflicts, potentially further ideologically radicalized, connected with like-minded people in the region and worldwide, ready to be engaged in acts

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86) Ibid
87) Ibid

of violence and terrorism in their home environments,"[88] became an issue that needed a global answer. Understanding that the problem can greatly affect their security, governments adopted a two-pronged "therapy" for the phenomenon. First, various resolutions and conventions have been adopted at the international level and, secondly, countries proceeded to change their legislation and apply different prevention measures, in an attempt to nip the problem in the bud.

a) Governments' response within international organisations (UN and EU)

When discussing the international response to this problem, we can look at its global and regional dimension. As an umbrella organisation, the **United Nations** became the forum for finding a global solution for this problem, because through the effort of its various committees and working bodies, the UN can get a complete overview of the issue. The defeating results of research conducted by those bodies and the determination of member states to regulate this subject matter prompted this international organisation to adopt some legal acts that would impose specific obligations at the national level. One such obligation was specified by the UN Security Council Resolution adopted on 24 September 2014.[89] This resolution gave four clear instructions to all member states:

1. Member states must establish a closer and stronger cooperation in the exchange of information (this applies in particular to cooperation between security and intelligence services);

2. Foreign fighters returning to their states of residence need to be penalised, and the sanction policies need to be modified (by changing the criminal laws);

3. Particular attention must be given to those recruiting potential fighters or inciting them to acts of terrorism in their states of residence (apply strictest control of illegal channels of transport of persons to zones of armed conflict); and

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88) Ibid, p. 51.

89) Ibid, p. 54.

4. Particular attention must be given to transport and communication channels, in order to prevent potential terrorist radicalisation of returnees (prevent recruits from travelling and preventing terrorism upon their return home).

Of particular interest to Serbia at the regional level is the **European Union** which is facing major challenges, directly relating to conflicts in Syria and Ukraine. Beside the matter at hand, EU has been at the epicentre of an economic and monetary crisis since 2008. It is also in a difficult situation caused by the migrant crisis, due to the influx of immigration from conflict and other areas. Despite all these challenges, the EU Council has adopted certain decisions that are relevant for the matter at hand. Namely, in November 2015, "ministers of justice and home affairs of EU member states agreed to exchange information on EU citizens returning from fighting in Iraq and Syria, but did not commit to a wider coordination of intelligence services."[90] Member states committed to improve sharing of information on foreign fighters and their movements through territory of member states. Some members of the European Commission stated ahead of the Council meeting that they will propose that a "European intelligence agency" be formed. However, the states have managed to jealously guard the issues of security and intelligence services within their borders. This is indicated by two results of this decision: first, a "European intelligence agency" has not been established and, second, the decision does not clearly specify the obligation of member states to ensure exchange of information between their intelligence services.

b) Experiences of other countries in addressing this issue

When speaking about experiences of individual states, we can say that they are essentially not that different. The main differentiator is not the degree of readiness to approach the problem in a serious and thorough manner, but rather the economic situation in the country and lack of competent institutions or their failure to act. No country failed to change their criminal laws or take any other purely normative step, but when it comes

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90) "EU će deliti informacije o povratnicima iz Sirije i Iraka", http://www.novosti.rs/vesti/planeta.299.html:577729-EU-ce-deliti-informacije-o-povratnicima-iz-Sirije-i-Iraka

to preventive measures, which require a wider social engagement, many legislators have remained silent. For that very reason we can differentiate between **developed countries and countries in transition or developing countries,** and present some key steps they have taken to address this very important problem.

In the developed group, Germany has modified its criminal code to criminalise travel to foreign battlegrounds, in line with the UN Resolution, and to seize travel documents, identity papers and impose a ban on leaving the country. Some countries in Western Europe, such as The Netherlands, have provided for the option to revoke the returnees' citizenships and residence permits. Others, like Great Britain, have introduced tight surveillance of the returnees. However, Germany is the leader when it comes to prevention measures. According to 2015 data, over 400 foreign fighters had returned to Germany. Since the conflicts in Syria started, German security and intelligence services have been working at full capacity, but absolute surveillance has proved to be impossible, as expected. Hence the German security and intelligence services believe that the penal policy cannot be the only instrument in deterring radicalisation and recruitment of returnees. A comprehensive strategy is needed instead that would include counselling, exit assistance and other types of social programmes.[91] A counselling Violence Prevention Network (VPN) has been established, and its primary target group is the most vulnerable category – the young people in environments that could breed extremist ideas and behaviour, including returnees from Syria. The primary goal of the network is to combat terrorism at its early stages. With that goal in mind, Violence Prevention Network organises seminars in schools to teach how extremist groups recruit and instrumentalise the young."[92] Everyday lectures given by experts, victims and families of killed returnees leave a remarkable impression on the potential targets of those who recruit future foreign fighters or terrorists. As the criminal code usually provides prison sentences for returnees, those in prison should also be educated, and the Violence Prevention Network does that by providing support to prisoners. As the head of the VPN told DW, "No matter what happens, we will not leave them. We want the process of de-radicalisation to take place in prison as well."[93]

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91) "Socijalni rad sa džihadistima", http://www.dw.com/sr/socijalni-rad-sa-d%C5%BEihadistima/a-18386702
92) Ibid.
93) Ibid.

On the other hand, with regards to the states undergoing political and economic transition, "in the Western Balkans, Montenegro, Kosovo, Macedonia, Bosnia and Herzegovina and Serbia included provisions sanctioning fighting in foreign battlegrounds in their penal codes during 2014 and 2015."[94] Bosnia and Herzegovina has approached this matter from a strictly criminal law point of view, and we believe this approach is cardinally wrong. "In the summer of 2014, Bosnia and Herzegovina introduced amendments to Criminal Code. Article 162b (Illegal formation and joining foreign paramilitary and para-police forces) sanctions persons that organise, manage, train, equip or mobilise individuals or groups to join a foreign military, paramilitary and para-police formation outside of Bosnia and Herzegovina."[95] Changes to the criminal code also included measures to join these groups or cooperate with them. However, in later application of the modified legal acts, the Prosecutor's Office prepared indictments mostly by referring to articles addressing terrorist acts and incitement of terrorism (202a – Public incitement to terrorist activities; 202b – Recruitment for terrorist activities and 202d – Organising terrorist groups). These crimes do pose a threat and are very important, but they are not directly related to the specific matter at hand. The approach of the Bosnia and Herzegovina legislature to the issue indicates that there is no clear will to treat the problem of returnees independently from the more narrowly defined fight against terrorism, particularly because this refers exclusively to citizens of Bosnia and Herzegovina. This has precluded preventive measures, similar to those implemented in Germany, from taking root. Unfortunately, the situation in other countries in the region is almost identical. Urgent modifications of the criminal code and the "emergency criminalisation" of returnees have not been accompanied by adequate measures of prevention and other "social responses" to this phenomenon. Repressive measures and stigmatisation via penal policy to which foreign fighters are exposed to are insufficient and fail to achieve what we believe is the most important goal – preventing the radicalisation of returnees and their recruitment to terrorism.

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94) Zov rata u Siriji i bosanskohercegovački kontigent stranih boraca, Vlado Azinović and Muhamed Jusić, Atlantska inicijativa Sarajevo 2015, p. 55.

95) Ibid.

Recommendations

Solving the problem of foreign fighters is very complex. There is a constant dilemma whether a single all-round solution should be found, or whether each case should be individually analysed. The latter approach would certainly be more appropriate, because it would involve finding an adequate solution for each individual case in view of the specific circumstances. However, this approach would necessitate a lot of time and capacities and would be very difficult to define legally. Our recommendations, therefore, will be based on a single approach for all foreign fighters returning to Serbia. We should also bear in mind that legal regulation of this issue is rather novel, and our goal is to provide recommendations that would serve as a basis for further discussion on this complex issue.

The various recommendations for solving this problem can be roughly divided in three groups, in line with the timeline in which the relevant measures need to be applied. We believe greater emphasis should be placed on prevention, to primarily deter our citizens from travelling to foreign battlefields. A more detailed description of these three groups of measures follows.

1) Prevention

Prevention involves measures to reduce or prevent the possibility of fighters entering zones of conflict. It is a complex activity that requires coordination of various government bodies, as well as the wider society and social institutions. Bearing in mind the main players in charge of implementing preventive measures, we believe prevention can be divided into three subtypes:

• Prevention implemented by authorities, including the government, ministry of education, ministry of youth and sport, legislative authorities, whose goal is to create an efficient prevention strategy

• Prevention within the education system, that involves the following measures:

- providing timely education and information to students about the seriousness of this issue and its consequences. This is done via trainings, workshops or seminars within schools and other educational institutions

- additional communication within educational institutions with groups of students that are potential dangers or at risk

- including the youth office in informing the students about the issue

• Prevention via the media, which criticise the travelling of domestic fighters to foreign battlefields and expose the harmful consequences

• Prevention implemented by security service members by visiting persons that are known to be planning or are suspected of planning to leave the country.

Furthermore, cooperation in prevention at the international level is also very important. The EU has already taken steps to coordinate member states' efforts in implementing preventive measures, such as detecting suspicious travels and passengers, reactions of the judicial system and cooperation with third-world countries. Serbia could intensify its cooperation with EU in the area of deterring fighters from going to foreign battlefields.

2) Criminal prosecution of foreign fighters upon their return

Criminal prosecution of returnees is the key measure applied by Serbia based on the Criminal Code. Serbia has added article 386a to its Criminal Code, which penalises *participation in wars or armed conflicts in another state*, and article 386b, which refers to *organizing participation in wars or armed conflicts in another state*. We believe full and consistent application of these provisions must be ensured. In the future, we should think about creating a legal solution that would take into consideration the types of activities our citizens were engaged in on foreign battlefields.

3) Reintegration and re-socialisation

Criminal prosecution of Serbian returnees should be combined with their re-socialisation. The individuals who have served their sentence and have been assessed as non-threatening should be reintegrated in society. These social policy measures call for a greater support of institutions and civil society in reintegration of these individuals. Reintegration and re-socialisation primarily entail mandatory seminars and trainings for these individuals. The objective of these trainings is to provide (additional) education, chances of

employment, further training or specialisation for a certain trade, as well as psychological assistance, support from the social services and any other type of assistance that may be necessary for these individuals.

Beside these three main groups of recommendations, we believe it is also important to work on the following measures:

1) Limiting freedom of movement of returnees upon their release from jail

Limiting freedom of movement of returnees upon their release from jail and during the early phase of their reintegration may be useful in their surveillance.

2) Intensifying coordination between intelligence services, judiciary and the Ministry of Internal Affairs

3) Greater coordination at the regional, inter-state and global level

As the issue of foreign fighters is an international problem, cooperation at the regional and international level is crucial. This applies to both bilateral security cooperation with countries in the region and EU member states and to international cooperation and cooperation via various international organisations, primarily the EU, OSCE and UN.

Bibliography

Živković, V., Stojanović, F. *Borci iz Srbije u ratu u Siriji – pravni i politički tretman po povratku*. Godišnjak Fakulteta bezbednosti. Fakultet bezbednosti, Beograd 2015, p. 145-164.

Zov rata u Siriji i bosanskohercegovački kontigent stranih boraca, Vlado Azinović and Muhamed Jusić, Atlantska inicijativa Sarajevo 2015, http://docs.rferl.org/sh-SH/2015/06/11/ff1e6c4b-7ef1-4999-acab-ca66dc09aab1.pdf, accessed 15 February 2016.

Lister, C., *Returning Foreign Fighters: Criminalisation or Reintegration?,* Policy Briefing, Foreign policy at Brookings, August 2015.

The challenge of foreign fighters and the EU's response, http://www.consilium.europa.eu, accessed 12 February 2016.

Socijalni rad sa džihadistima, http://www.dw.com/sr/socijalni-rad-sa-d%C5%BEihadistima/a-18386702, accessed 14 February 2016.

 EU će deliti informacije o povratnicima iz Sirije i Iraka, http://www.novosti.rs/vesti/planeta.299.html:577729-EU-ce-deliti-informacije-o-povratnicima-iz-Sirije-i-Iraka, accessed 14 February 2016.