

EFFECTIVENESS OF CIVILIAN OVERSIGHT OF THE SECURITY SECTOR THROUGH PARLIAMENTARY COMMITTEES

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Civil society and parliamentary control over the system for national security are the basic principles of the state system in countries with parliamentary government. Without the observance of basic principles of democratic control, the idea of a democratic and legal state cannot materialize. The complex environment of uncertainty, which includes unconventional-hybrid wars, generates new challenges, risks and threats to national and international security, different from the ones we know. In this context, security sector institutions strive to adapt to the challenges. Since security is central to people's well-being, it is essential that their views should be clearly reflected in the security policy. Parliament is responsible for establishing the legal parameters, adopting the budget and monitoring the relevant activities. To fully exercise these responsibilities, it needs wide access to information, the necessary technical expertise, the power and the intention to keep the executive under control. In this article, we will try to give a real picture of the concept of active citizen control by presenting information analysed and extracted from focus group discussions, which reflects a qualitative and topical nature. The legislative process is a complex factual composition carried out according to a strictly normatively regulated procedure. In this context, the necessity of imposing a legal initiative must be established in advance, based on permanent observations, analytical studies and research. Therefore, the research method used throughout this paper will be that of analytical research.

Keywords: security; Parliamentary control; civil society; sovereignty; hybrid war;

INTRODUCTION: SECURITY IN THE POLICY!

The security of the *polis* is a problem of its citizens. How will it be defended from external attacks is decided by its citizens. The development of social relations, known as democracy, sometimes transformed into an oligarchy, sometimes passing into a tyranny, does not cancel the civil interest in security issues, the crystallization of the internal aspect taking place with Juvenal's question – "*Quis custodiet ipsos custodes?/And who will protect us from the guards?*".

Obviously, gradually, the leading external security aspect of society begins to coexist with the internal one. Hence the definition of "*civilian control over the armed forces and over activities in the field of national defence is a type of civil activity that is carried out both through the bodies of state power and through free public formations, initiatives and movements of citizens. It is subordinated to the interest, condition and use of the armed forces to meet the interests of society only*" (Rachev, 1996, p. 20). "*L'État, c'est moi/The state, it is me!*" – claimed Louis XIV, the French absolutist king. This quote speaks not so much to the self-evident self-awareness of the divine right of the monarch as to the fact that the claim was controversial even in his days. Almost 75 years after the death of Louis XIV, the French Revolution broke out, the people took over (at least for a short time) the power and the state.

Ideas for civil society:

John Locke

Refusing the state of nature and avoiding the state of war – the main reason for the formation of society. In the "*state of nature*" there is no: generally accepted and recognized law; a knowledgeable and impartial judge; a force ensuring the application of laws and punishing their violators. It justifies the goals and functions of state administration – the protection of the rights and freedoms of citizens and property; formulates the dominant role of the idea of the right of the majority; raises the idea of the right of the people to use force against the government when it tramples by force its own rights.

Jean-Jacques Rousseau

The essence of the legitimate political system consists in the following: a person, uniting with others in a society, to preserve his freedom. Theory of popular sovereignty: source of statehood – the absolute sovereignty of the people; essence – the general will.

FROM TRADITIONAL TO CIVIL SOCIETY

The secularization, i.e. the profanization – the ossification of the social world and of all social relations, the birth and release of private interests, initiative, personal independence, the actual liberation of the previously suppressed natural elements of man etc. pose very acutely the problem of social order, of the conditions of the very existence of society. The state as a mechanism is the solution to the question of civil peace. The state represents a contract between people to establish and preserve social order.

Civil society is a substantial reality, while the state is an instrument of civil society. It is in the viscera of this society that ideas about the desired state crystallize, the general will of the people, the general interests, needs, and goals of society are formed. The forms of civil life are characterized by their self-regulation and self-governance. Self-regulation is carried out with the help of rationalized rules and prescriptions, accepted moral norms, cultural patterns, customs, traditions etc.

Pluralism, which expresses and is based on the differences between people and groups of people, does not contradict unity and the principle of social harmony and social peace. There is a clear need, expressed in society, for the elected representatives of the people in parliament to work closely with the government and the security sector in particular. Although they work towards the same goals, their roles are and should be radically different. The Parliament is responsible for establishing the legal parameters, for adopting the budget and monitoring the relevant activities carried out by the governments. It can fully exercise these responsibilities if it has wide access to information, the necessary technical expertise, the power and the drive to keep the executive under strict accountability and control. Of course, it requires a social structure based on trust and dialogue. Civil society can join this dialogue, it has this right in several ways. Perhaps the best is through non-governmental organizations (NGO) that have a wide range of activities, expertise, financial security and civic initiative. They play a key role in implementing the principles of democratic participation.

The relationship between NGOs and ruling groups has improved over the years in rule-of-law states, which cannot be boasted in societies ruled by authoritarian, totalitarian and undemocratic authorities. In Bulgaria, there is a tendency towards consolidation, mutual trust and cooperation between individual NGOs and the authorities. We hope that a vigilant civil society and the representatives of the people will increase their efforts to ensure that all actors in the security sphere will direct their mutual efforts for the common good of all citizens. The very nature and dynamics of the security sector challenge parliamentary scrutiny itself.

The variety of issues, often technical, the complex organization of people in the sector and reference to secrecy laws, rules and practices make it somewhat difficult for parliamentarians, especially if they do not use independent research or expertise. The idea of control or power is central to the concept of democracy, a concept that may be differently understood or interpreted.

Democratic control refers to the norms and standards governing the relationship between the public and the representative power in the form of the parliament and the democratically elected power subject to supervision by the judiciary, the media and civil society organizations. How does democratic control relate to other concepts affecting the relationship between the security sector and society? Citizen monitoring and control in local self-government is an absolutely necessary element of a democratic state and is an important form of citizen participation in local self-government. It is an essential factor in protecting the rights of citizens and their legitimate interests as well as the well-being of the local community the involvement of interested parties is one of the ways that guarantees the quality of services, being the main mechanism for countering corrupt practices.

In Bulgarian legislation, the public control of the activities of local self-government and local administration is not legally regulated. It is implemented on the basis of the constitutional right of citizens to associate. There are no legal mechanisms regulating the cancellation, amendments or suspension of acts of the local self-government bodies, or removal and monitor legal responsibility of the bodies and officials of the local administration. It is widely believed that security policy is a “*natural*” task for the executive that has the necessary knowledge and can make quick decisions. Parliament is generally considered to be the less appropriate institution when it comes to dealing with security issues, especially with the longer procedures and lack of full information and expertise on the important issues. But at the same time, the parliament is charged with evaluating and monitoring the executive. The political philosophy for determining the place of special services in the security system is laid down in the constitutional text. If there is a place to start, it is the fundamental law itself. Mention should be made, in this context, that civil and human rights are often mistaken, with no clear difference between them. Many times, these two areas are intertwined.

What Are the Possibilities of Exerting Control over the Security Services?

Parliamentary control is a prerequisite for democratic legitimacy. Recent changes in the legislative process and the increased legislative role of the executive have created the need to strengthen parliamentary control procedures. This phenomenon is not alien to the institutional structure, as the main tools

of parliamentary democracy are related to people's vote. The important rule here is that colleagues cannot control colleagues. It is thus proper for parliamentary committees to include deputies professionally removed from both security services and security services. Control is civil in the deepest sense of the term.

The difficulty here comes from the major changes in the composition of the parliament and the need in each new mandate to look for people who have already gained experience as MPs in this area. In democratic societies, the government and parliament, together with the judiciary, share responsibility for the proper functioning of the security sector.

Together they are responsible for the continuous cycle including: formulation of national security and defence policies; enforcing these policies; regular performance reviews and audits. In the allocation of responsibilities, the executive exercises day-to-day control over the implementation of policy in practice. Civilian control of defence and armed forces, to be effective, requires a good understanding of defence and force planning principles, comprehensive, clear and auditable planning procedures, solid citizen participation and strict citizen oversight at every stage of planning. A good working model of civil-military interaction in defence and force planning should be based on:

- Goal-oriented, not necessarily rule-abiding, civil-military cooperation at a working – expert level, where participation is commensurate with the available expertise and specific experience of the participants in the planning process;
- Distribution of decision-making powers depending on specific expertise and personal interest;
- Clear civilian control over defence policy and planning, including authorization of all milestone decisions by the relevant civilian authority.

Parliament's role in developing new national security policy is limited, as this is primarily a government prerogative. However, an important role for parliament is to make the process transparent to the public and thus exerting an indirect influence on policy formation. Parliamentarians must also argue the case for emerging security concepts, must explain why change is needed, and win public support and understanding.

Parliamentary committees provide subject matter expertise and are often consulted in the earlier stages of policy development, when a project is being drafted or time is allowed for reflection and consideration. Committees also use discourse to inform the development of related legal norms. The second phase begins with the formal arrival of an amendment proposal. Especially when defences

are built, committees reject or propose changes to draft documents, the proactive and decisive role of the legislature in the decision-making process becoming visible. The passing of defence legislation and the approval of security policies by parliament are actions considered the most important factors in democratic civilian control, as they must represent the broad sections of the people.

The issue of transparency and accountability is on full display when it comes to monitoring and auditing public spending and government financial requirements. The tools and mechanisms used by parliament to control policy implementation and oversee fund administration are common to most democratic systems and typically include parliamentary debates, questions and interpellations, and parliamentary polls as a means of obtaining information from the executive. Because security is of primary importance to people's well-being, it is essential that their views are clearly reflected in security policy. Parliament is responsible for establishing the legal parameters, adopting the budget and monitoring the relevant activities. It can fully exercise these responsibilities if it has wide access to information, the necessary technical expertise, the power and intent to keep the executive in check. It is achieved by fulfilling several sub-criteria – effective participation, i.e. a real opportunity for each member to bring their views to the attention of other members of the community; voting equality enlightened understanding, i.e. within a reasonable period of time everyone has the opportunity to become familiar with the planned policies and their alternatives and consequences and to form an opinion; control over the agenda, i.e. everyone has an equal opportunity to determine and decide which issues will be included in the agenda; inclusion of the adult population.

Another common ground for democratic societies in the exercise of oversight is the establishment of specialized defence committees and sometimes intelligence committees to oversee government policies and to scrutinize the operations and performance of security sector organizations in this area. The size and special focus of the committees allow for more careful consideration of subjects and offer a better opportunity to reach compromises or find consensus among different political parties on important security issues. In this sense, committees are most influential in preparing new legislation or amendments, also providing expertise and advice on executive projects or petitions before they are brought to Parliament for full debate. Committee reports provide guidance to legislators regarding their discussions and their final decisions on issues.

Security clearances for parliamentarians serving on defence committees allow them to hold isolated hearings when secrecy is required, but, beyond the borders

of national security committee representatives, also provide the basic level of transparency to society and the public. All procedures and mechanisms built into constitutional provisions and law to promote accountability of the executive to the legislature and bind both to constitutional principles are not ends in themselves. They serve the general purpose of providing the nation with the most effective security policies that contribute to the best interest of society while striking a balance between the need for security and the maintenance of democratic freedoms and civil liberties. Parliamentary and public control of the budget often clashes with long established executive power in the security sector. However, it can and should be exercised to ensure accountability in the use of public security and defence resources.

The most important role of parliament and parliamentary committees to be effective is to establish an appropriate legislative framework that ensures – as far as possible within the particular constitutional framework – the application of all principles and legislation for a comprehensive audit and control process. Apart from it, parliamentary and public oversight of the security sector through the budget must be firmly rooted in the country's political culture.

INSTEAD OF CONCLUSIONS

Civil control in state administration is an absolutely necessary element of any democratic state. It is an essential factor for protecting the rights of citizens and their legitimate interests. The involvement of interested parties is one of the ways that guarantees the quality of services, as well as the main mechanism for countering corrupt practices. When developing a new policy or considering a change to an existing one, the process should be open to all stakeholders, but mechanisms and procedures should be used to take into account the views and opinions of those who would be affected or those who have a particular interest in the particular policy or change thereof. In Article 21 of the Law on the Management and Functioning of the System for the Protection of National Security, it is stated that *“the activities of the bodies and structures of the system for the protection of national security shall be subject to parliamentary, administrative, judicial and civil control”*. The principles of good governance require the active participation and cooperation of the various partners – state institutions, local authorities, citizens and structures of civil society, in formulating, implementing and controlling the various policies. The dialogue between the local government and the interested parties is an important part of the process of development, implementation and monitoring of the national security policy in the Republic of Bulgaria. The processes of civil

participation in the monitoring and control over the implementation of policies can be mandatory, i.e. required by law, and optional – initiated by the will of the local administration or the local public. In order for society to be more active and transparent in its exercise of civil control, there should be active participation and dialogue:

- Participation in cross-sectoral working groups;
- Participation in expert meetings, forums and information campaigns;
- Participation in information meetings, round tables, conferences, seminars and others;
- Participation in polls and public opinion research.

As a full member of the EU, in relation to the role of national parliaments in the democratic control of European security and defence, it should be noted that there is diversity and difference in the procedures of individual member states, Bulgaria included. However, the basic conditions on which this process takes place can be structured into several groups.

First of all, the existence of special legislation in some countries that regulates the conduct of military operations and civilian missions – the conditions for participation, the procedures and the main institutions, thus creating a clear normative basis for CSDP decision-making. In some countries, this process is not explicitly regulated in the legislation, but nevertheless the permanent practice has required the government representatives to conduct preliminary consultations and require the sanction of the parliament.

The exchange of information through hearings in the plenary hall and at meetings of departmental committees should be indicated as a further instrument for control of national parliaments. In these cases, the government has an obligation to provide MPs with information and documents regarding the joint actions undertaken within the framework of the European defence policy, as well as the manner of spending funds within the budget intended for defence (from the point of view of effectiveness, efficiency and transparency).

An important role in this process is played by the relevant committees of national parliaments, namely the security and defence committees. Regarding the European Parliament (EP), it should be emphasized that the control exercised by the EP over the common security and defence policy in no way replaces or hinders that of national parliaments.

The ability to finance certain operations within the security and defence policy with funds generated from the Community budget predetermines the control powers of the EP. The European Parliament has the right to organize public hearings

on current issues of security and defence policy, at which the financial aspects of the operations, the decision-making process and the assessment of the progress achieved and the challenges ahead are discussed.

Forms of interaction between national parliaments and the EP on security and defence issues with additional democratic control over policies in the security and defence sector are also implemented through the interparliamentary dialogue.

First of all, the Treaty of Amsterdam created a Conference of Committees on European Affairs, which is a forum for discussions in which representatives of national parliaments from the departmental committees on European affairs meet, as well as members of the European Parliament. The European and national parliaments are also represented within the NATO Parliamentary Assembly, which contributes to deeper analysis and cooperation between the two organizations on security and defence issues.

The gradual strengthening of the integration processes in the sphere of European security and defence is invariably related to assuming new responsibilities and contributing to the resolution of individual regional problems or crises.

The successful inclusion of the EU in this framework is tied to strengthening the accountability and democratic control of the sector. Parliamentary control in the security and defence sector with a view to striving for more effective public diplomacy and legitimization of actions in the security and defence sector, the new powers of the national and European parliaments, after the Lisbon Treaty, the control over the spending of funds for participation in civil and military missions, as well as the idea launched in the present development of the European Semester of defence should be also presented. The world has not become a more peaceful place even after the end of the “Cold War”, and even less so in recent years. What is happening in the security environment confirms the need to strengthen the power of the state – military, political, economic, civil and informational, in the name of stability, security, a healthy nation.

The ongoing Strategic Review of the system for the protection of national security and Strategic Review of Defence should clearly show what defence capabilities Bulgaria should have, to continue the modernization and strengthening of the defence. It will be very useful to reach a consensus because it will give stability on the main priorities of the defence policy and the policy in the security sector in the medium and long term.

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