



REFORM OF THE SECURITY SECTOR AND DEMOCRATIZATION OF THE REPUBLIC OF NORTH MACEDONIA

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Abstract

Security and reform of the security sector in the Republic of North Macedonia in 2024 is relevant once again. This question especially became intensive with the change of government in the last parliamentary elections. The essential goal of the announced new reform will be the merger of the two security services - the National Security Agency and the Intelligence Agency. It is about two separate services that function separately, the Intelligence Agency has officially existed since 1995, while the National Security Agency has been operating since 2019 after the Pribe remarks. The paper reviews the key reforms of the security services through an analysis of their normative and institutional design. The latest reform that has been announced will have wide implications for the democratization of society. Why? First of all, it will mean reducing the powers of the President of the Republic, who, according to the bicephalic authority, has the authority to appoint the director and deputy director of the Intelligence Agency and to demand responsibility from them. Second, serious implications are expected in the field of coordination of security services, which will certainly lose its significance. Finally, there will be a need to build a new model of democratic control over the security services. According to the author of the paper, the most important are the changes that will have an impact on democracy in general and on the relationship between the two concepts: the concept of security and the concept of human freedoms and rights. Time will tell which of these two concepts will be dominant!

Key words: *Security, intelligence service, counterintelligence service, reform, democracy.*

Introduction

The development of the security system in Macedonia since its independence has been followed by dynamic and controversial processes. Practically, they are related to the social development of the country and all the "diseases" that appeared along the way. The essence had another dimension. The relics of the past one-party system and their public and hidden exponents in the system of power acted publicly, but also semi-legally. The influence of these elements from the states that emerged from the former

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Yugoslav state was evident, but latent! In fact, it was difficult to break certain ties and links that were built by one party and with decades of ideology with one word and with a new political matrix - democracy. In the first years of independence, even the name of the security service responded to the remnants of the ideological matrix from the former system – the State Security Service. Even the progressive democratic forces that were the bearers of the process of creating a new, independent state were not aware of this institutional formality. Hence, the question arises: who moved these processes, under whose control were they and how much democratic capacity was really present at the personal, institutional and normative level? On the other hand, at the strategic level from a hierarchical point of view, all the way down to the lowest organizational units were managed by personnel who achieved their entire career development in the same service of the common Yugoslav state. All this led to the emergence of events that had a controversial nature: wiretapping in those first years was beyond democratic control, the service was an organ within the Ministry of the Interior, the assassination of the then president of the state, the predominance of repressive elements, etc. All of this led to a symbolic reform in the title from SDB to the Directorate of Security and Counterintelligence, then to the Directorate of Security and Counterintelligence... Naturally, no substantial reform in the direction of democratization of the security sphere was achieved, and the discovery was proof of that. the Big Ear affair, that is, the wiretapping of about 190 people by order of the Ministry of the Interior and, of course, confrontation with dissidents and their demotion in the professional development of the service. The merit system was a voiceless noun! Political influence had primacy! All these processes, but also the influence of the democratic security services, with which our service had a highly expressed declarative will, led to an essential reform – the separation of counterintelligence and intelligence as two faces of security and thus the emergence of a new security institutional design: Security Administration and counterintelligence (UBK) and Intelligence Agency (AR). All this took place under the strong control of the party-political establishment in power. But, very symptomatically, in the new intelligence agency, most of the personnel were taken over from the former Security and Counterintelligence Directorate. The centers of power were focused on having control over this reform process and therefore it was possible to guess exactly which service member would be deployed where. And this reform did not lead to a significant democratization of the security system. Events soon appeared that cast a dark shadow over the entire security system: the El Masri case, but also the mass wiretapping of thousands of people, suspicious cases, etc. The system could not withstand the pressure of both the domestic and the international public! The security system was on glass legs, eroded, without integrity and a danger to democratic values. The next reform was led by the famous Pribe Report - the so-called Urgent reform priorities³⁴ in five key areas: a. rapid implementation of the

³⁴The group of experts, led by the German Reinhard Priebe, was hired by the European Commission after the announcement of the "bombs" of the opposition to make an analysis of the situation and make recommendations. The report was published on June 8, 2015, and previously the group had three visits to Macedonia in April and May.



urgent reform priorities, primarily those related to the abolition of the intermediary function of the UBC and the abolition of direct access to the technical equipment that enables the monitoring of the communication signal; b. establishment of a National Coordination Center for Criminal Intelligence, which will effectively enable cooperation between law enforcement authorities and which will be responsible for monitoring communications in criminal cases with a warrant issued by a court; c. taking immediate steps in the direction of professionalization of the UBC and establishing a plan for the reform of this body; d. formation of a coordination department / establishment of a mechanism at the Government, which will ensure that all government bodies efficiently provide all the evidence requested by the Special Public Prosecutor's Office; e. providing the necessary resources to the parliamentary oversight commissions to ensure the capacity for effective oversight. In the basements of the security system, the Office of Security and Counterintelligence was finally packed away and a new National Security Agency was established. After the elections in May 2024, the new government notes in its electoral program a reform of the security system by merging the National Security Agency and the Intelligence Agency into one service, which in turn represents a radical reform worthy of expert and scientific analysis.

About the categorical apparatus: reform of the security sector

The phrase "reform of the security sector" in political and scientific traffic is not of recent date. [1] Under the influence of Anglo-Saxon authors, it grows into a special theoretical concept. From it, then, under the influence of the EU and NATO, it derived as a complete political strategy. [2]

The emergence and development of the concept of security sector reform are originally dictated by the radical and far-reaching changes in the local, regional and global security environment. The mentioned changes were repeatedly determined, and thus also determined by the specific-historical characteristics of individual states and regions. Hence, "security sector reform in different countries has different content, form, purpose and scope." [3]

In theory, a distinction is made between the terms security sector reform and armed forces reform. "The first term arose under the influence of changes in the modern societies of the Euro-Atlantic community, but also in countries in transition. Simply put, the term reform of the security sector is indirectly derived from the anthropocentric evolution of the opinion on security, through which the individual (citizen) is at its center, to then become the goal and benchmark of the security of society and the state." [4]

The reform of the security sector is increasingly used as a tool of social and security processes in the national state or communities of them. In that context, the scope of security sector reform is also often used as an important indicator of the direction, pace and scope of the overall democratic reform of the entire society. Although there is no universally accepted definition, under the term security sector reform, it is understood "a totality of changes in the opinion and practice of security within the



state" [4] and basically implies and requires: "(1) changes in the way of thinking and practicing security; (2) changes in constitutional and institutional arrangements; (3) establishment and development of democratic civilian control over the armed forces; (4) reform of the armed forces, i.e. redefining the goals and tasks of each of their components, and accordingly also changing their structure, training, equipment and numbers, and finally (5) various forms of international security cooperation and a higher degree of security integration." [5]

The concept of reform of the security sector has special importance in the countries of the Western Balkans, where conflicts took place, but also in Central and Eastern Europe, where that reform was "determined as a simultaneous process of adapting one's own society to modern trends, in the framework of which the inherited armed forces are adapting to the needs of the upcoming democratic order. Therefore, it is not surprising that the reform of this sector is often understood as a procedure of spatial transfer and application of Euro-Atlantic solutions in the security sphere". [4]

The reform of the security sector in Macedonia in the past years was correlated with the processes of democratization of the socio-economic and political system, building civil-military relations and Euro-Atlantic aspirations (cooperation with NATO and the EU). The following subdimensions are characteristic of the process of democratic reform of the security sector in Macedonia:

- political dimension: formally expressed in the last parliamentary elections, according to which the Government received huge support from the citizens, which is a sufficient basis for the implementation of the new reform of the security sector and thus the fulfillment of the promises in this area;
- normative dimension: the reform will imply a new normative framework with which the new intelligence-security service will be established, and the National Security Agency and the Intelligence Agency will cease to function. New laws will be passed in the field of security that represent a normative framework for the functioning of the new and reformed security institutions;
- institutional dimension: the new institution will unite both sides of the counter-intelligence and intelligence coin and a single institution will be created.

But norms and institutions are not enough for democracy. Democracy grows from "the bottom", and civil society develops "from within". And at the bottom and inside, the picture was and remained like this: exhausted economy, weak and dysfunctional institutions, dependent and ineffective judiciary, impoverished middle class, subject political culture, oligarchic and unethical elite, undeveloped public opinion, politicized and partisan administration, absence of intra-party democracy, fragile and inauthentic civil society. [6]



Constitutional dimensions of the new reform of the security system – 2024

Normative social order as a whole maintains the stability and constancy of society, thus realizing in people the feeling of security and the personal conviction that through respect and application of the norms of the legal order they will surely be able to achieve their desired desires, goals and interests. [7] The normative system comes to the fore especially in the process of radical reforms of the institutions. When it comes to the functioning of the security institutions and their reform, the constitutional-normative aspect imposes the need for consistent respect for the fundamental constitutional values. The constitutional dimension of the proposed reform of the intelligence-security system in 2024 has determinative significance. There are several reasons for this:

1. the organization of the government system is regulated by the constitutional norms and within which the security institutions have a special place. Power is an institutional and legitimate form of power that is particularly characteristic of the intelligence-security services. The constitutional value of the model of the organization of the government is realized in reality in the practice of creating foundations for the construction of a democratic legal order, legitimate political institutions and strengthening the position of the citizen. [8] At the same time, legal illusionism is the belief and claim that the constitutional model of government organization is identical to the government model. The same normative model functions differently in different periods in the same country, as well as in different countries. The picture of reality is always more diverse and complicated than the theoretical and normative sketch. Political and constitutional engineering, applied in the new democracies of the post-authoritarian and post-conflict type, further complicates its already complex nature. [9] It is normally expected that the new reform will also imply changes in several laws that will fundamentally reform the organization of the state government in the field of security;
2. bicephalic character of the executive power and new relations between the President of the Republic and the Government. The bicephalic executive in our parliamentary system means the separate functions of the head of state and the head of government. The new reform envisages the merger of the National Security Agency and the Intelligence Agency into one organization. With the existing constitutional and legal provisions, the President of the Republic has his powers in appointing the Director and Deputy Director of the Intelligence Agency (Constitution of the RSM).³⁵ I asked myself the question: will the new reform weaken the bicephalic character of the executive power and legalize the reduction of the powers of the President of the Republic in the field of security? In this context, it can be stated that this reform can also mean strengthening the position

³⁵Article 5 of the Law on the Intelligence Agency: The Agency is managed by a director who is appointed and dismissed by the President of the Republic of North Macedonia (Official Gazette of the RSM no. 21/2021); Article 84 of the Constitution of the RSM.



of the Government in relation to the President and new security structural relations between them. However, the constitutional competences of the President in the field of defense remain completely intact with this reform.

3. essentially, the basis of this reform is the relationship between two concepts: the fundamental constitutional values - human freedoms and rights and the realization of the strategic goals of the security policy. Which of these two concepts will gain primacy? In theory there are understandings that human freedoms and rights should not be violated for the purposes of national security, for higher purposes. There are also understandings that security has no price and for its realization there should be no restrictions, that is, those restrictions should be within the framework of the Constitution and laws. The foundation of these reform processes with a European sign are human freedoms and rights, their advancement in practice and realization of protection according to European standards and principles. In addition to the rest, the reform process is realized through multi-year harmonization of the national legislation with the European acquis in all areas of society. For our country, it can be stated that this process has two tendencies: on the one hand, a strongly expressed declarative will of the political establishment for the Europeanization of the Macedonian legal system, and on the other hand, there are evident continuous violations of human freedoms and rights by the institutions that at the same time are being Europeanized. [10]

In my opinion, with the new reform, priority will be given to the concept of human freedoms and rights, but with the conclusion that the state will make every effort not to harm the security goals!

Arguments in favor of the new reform of the security sector

The idea of integration of security and intelligence services in Macedonia is not new! Back in 2010, a draft law was prepared in which first of all, the obvious need for these services to come out of the veil of secrecy as a basic characteristic of the past period and to bring them closer to the citizens, of course with the limitations arising from the specific function performed by these services, is stated. Furthermore, a trend of complete legal regulation of this matter has been observed by defining the measures and procedures for the secret collection of data available to these services. Considering the possible limitation of the freedoms and rights of citizens with the measures taken by these services, the control and supervision by the parliament and the judicial authorities appears as a basic prerequisite and guarantor of the legality in their undertaking. And finally, the basic postulate from which modern security and intelligence services start is their openness to cooperation and exchange of intelligence data and information in international frameworks, which ultimately affects the way of their organizational setup and the way of performing their functions. [11]

Are there changes from 2010 to today that justify the government's idea of integrating the security system, and is there a serious analysis of the proposed changes?

First, it is indisputable that there are countries in the region in which these two services are integrated. With the Law on the Security-Intelligence System of the Republic of



Croatia from 2006, the Security-Intelligence Agency (SOA) and the Military Security-Intelligence Agency (VSOA) were established for the area of national security. So, in this European country, both services (military and civil) are integrated, intelligence and counter-intelligence.

In Serbia, the Security-Information Agency as a central, civilian and hybrid intelligence-security organization was established on the basis of the Law on Security-Information Agency from 2002. It has the status of a specialized agency of the Government of the Republic of Serbia.

Secondly, it is indisputable that the basic intention of the reform of the intelligence - security services in our country is to lay the foundations of a comprehensive, integrated and modern security system in which the position and role of the actors of that system will be clearly determined, avoiding the possibility of overlapping of their competencies and institutional resolution of the form and manner of cooperation and coordination of all security and intelligence services. This will complete the legal framework of action of the security-intelligence services with the introduction of a new model of two services, one civil (intelligence-non-profit) and one military (intelligence-security).

Third, integrated intelligence and counter-intelligence will make it possible to strengthen the control-supervision function over them. It will be the basis for raising the integrity of the members of the service, for which there is no transparent information in the public so far. By realizing the democratic control and supervision over an integrated service, the procedure for the realization of this important function will be facilitated. Of course, this will lead to the reform of the existing control and supervision system, and those who perform it should be educated about it.

Of course, the arguments in favor of the upcoming reform also have a wider social interest. For our small country, there is social justification for integrating intelligence and counterintelligence into one security institution. The merger of the two key security institutions will lead to the improvement of the financial situation of the new security institution through the rationalization and abolition of jobs or the reduction of the number of executors from a certain job, which will not disrupt the performance of the security function in society. This will lead to an effective reduction of expenditures on non-essential costs, and emphasis will be placed on strengthening the operational capacities and operational power of the intelligence-security institution. At the same time, the reform can also lead to overcoming the decade-long spatial problem for the National Security Agency, which is still located in the courtyard of the Ministry of Internal Affairs. All these indicators will make it possible to establish an institution that will no longer be an irresponsible, unscrupulous and voluntarist institutional bureaucratic machinery that reduces the individual to a mere number. Finally, the new security institution should not be a closed institution that skilfully hides and pushes its own abuses and manipulations under the carpet. Such putting a sign of equality is illogical, because one dimension is respect for the institution, and a completely different one is disrespect for individuals who abuse the institution.



Conclusion

The reform of the security sector practically begins with the adoption of a new legal framework. The regulation is the main foundation from which the rule of law springs, and therefore it is necessary to consistently respect the legal norms in this area. The reforms of the security sector so far brought to the surface the main disease of the institutions - partisanship and politicization. In any case, the partisanship of the security institutions manifests itself most often in practice when there is a change in the nomenclature of power and when the calculation between dissenters is evident. For this purpose, all legal and extralegal opportunities are used to occupy first the key positions, and soon all the other echelons of the complex and extensive security architecture. On the other hand, declarations for raising the professional and legal functioning of these institutions are regularly presented to the public. Therefore, with the new reform announced for this period, it is expected to strengthen the integrity and trust of the citizens in the security institutions; to fully implement the rule of law and consistent respect for human freedoms and rights in the security sphere; control - the supervisory mechanisms that are determined by the Constitution should be specified in practice; primacy of the merit system and reduction of party criteria; strengthening the legitimacy of security institutions; firm guarantees for departmentalization and depolitization. Finally, the practice should be abandoned: declaratively pointing out that it is being done in the name of the institution, when in fact they are protecting the interests and whims of superior managers, instead of the law!

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