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# The Missing Link

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Security sector reform, 'military neutrality' and  
EU-integration in Serbia

Policy Study

November 2014

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## Acronyms

BIA	Security Information Agency
BiH	Bosnia and Herzegovina
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defense Policy
CSO	Civil Society Organization
DCAF	Geneva Center for Democratic Control of Armed Forces
DOS	Democratic Opposition of Serbia
DSACEUR	Deputy Supreme Allied Commander Europe
EC	European Commission
EDA	European Defense Agency
EEAS	European Union External Action Service
EP	European Parliament
ESDP	European Security Defense Policy
EU	European Union
EUCI	European Union Classified Information
EUFOR Althea	European Union Force (Bosnia and Herzegovina)
EUFOR Concordia	European Union Force (Macedonia)
EUFOR RCA	European Union Force (Bangui, CAR)
EUNAVFOR	European Union Naval Force Atalanta (Somalia)
EUTM Mali	European Union Training Mission (Mali)
EUTM Somalia	European Union Training Mission (Somalia)
FRY	Federal Republic of Yugoslavia
ICTY	International Criminal Tribunal for the Former Yugoslavia
IPA	Instrument for Pre-Accession Assistance
IPAP	Individual Partnership Action Plan

KFOR	Kosovo Force
MLO	Military Liaison Office
NATO	North Atlantic Treaty Organization
OSCE	Organization for Security and Cooperation in Europe
PAP-DIB	Partnership Action Plan for Defense Institution Building
PfP	Partnership for Peace
RDB	Department of State Security
SAA	Stabilization and Association Agreement
SALW	Small Arms and Light Weapons
SEDM	Southeastern Europe Defense Ministerial cooperation process
SNS	Serbian Progressive Party
SOFA	Status of Forces Agreement
SPS	Socialist Party of Serbia
SSR	Security Sector Reform
TCP	Tailored Cooperation Program
TRZ	Technical Repair Institute
UNSC	United National Security Council
VBA	Military Security Agency
VKS	Supreme Court of Cassation
VOA	Military Intelligence Agency
WEU	Western European Union

## Executive Summary

The security sector constitutes an important component of any country's governmental structure. Democratic alignment of the security sector is one of the most important prerequisites for any democratically organized country. Because of this, security sector reform (SSR) is a key element of the democratic transformation of authoritarian countries. This is especially true for the countries of South-East Europe where the socialist era was succeeded by an era of warfare that witnessed a substantial erosion of the monopoly on the use of force as the result of a deliberate policy of violent ethnicisation of society and the state. Serbia began the process of security sector reform after 2000 under complex socio-political circumstances which largely shaped and defined the limitations of the scope and effects of such reforms implemented since then. This explains why Serbia entered the final phase of the European Union (EU) integration process – accession negotiations – in January 2014 with an incomplete and unsatisfactory record of security sector reform.

Assuming a successful conclusion to the negotiation process, the expectation is that Serbia will be accepted into the EU as a new member state and, as defined by the Copenhagen Criteria, as an established democratic country with a functional market economy and with its national legislation in conformity with the EU *acquis*. By any definition, this would imply that the security sector in Serbia has reached a democratically-aligned and functional level at which it can ensure a stable democratic order. To reach this level will require that security sector reform be addressed as a priority in the period leading up to EU accession. In its history of enlargement policy, the EU has not paid particular attention to security sector reform. This was the case because candidate countries had conducted such reform either within the framework of requirements for accession to NATO or successfully on their own before acceptance as an EU member. Serbia, however, is an exceptional case in this regard and will require that the EU take a firm stance on this issue and play a more proactive role as an external promoter of security sector reform. Three main reasons why a different and more robust approach by the EU is needed in the case of Serbia are: First, Serbia made a declaration of military neutrality in 2007. This concept was declared solely in reaction to the declaration of independence by Kosovo and is full of deficiencies that could have a negative impact on the successful completion of reforms in the security sector. Second, as a consequence of its declaration of military neutrality, Serbia is excluded from the

possibility of seeking membership in NATO. This greatly diminishes the role of NATO and leaves the EU as the only external actor in Serbia capable of exerting pressure on the authorities to undertake meaningful security sector reform through its policy of conditionality. Third, continuation of the dialogue between Serbia and Kosovo should lead to a complete normalization of relations prior to Serbia's accession to the EU, negating the once primary reason for the declaration of military neutrality. At the same time, Serbia's most important strategic objectives defined in state documents (defense of the territorial integrity of the country, including the territory of Kosovo) collide with this process.

Consequently, the European Union should identify security sector reform in Serbia as one of its main areas of interest in the accession process. To this end, the authors recommend:

To the European Union, EU member states and other Western countries:

- Define security sector reform as an important aspect of the integration policy towards Serbia in the accession process and approach it in a strategic and consistent manner, especially through the political criteria and chapters 23 and 31. The initiative must come from the member states;
- Establish an interdepartmental team comprised of representatives from the Directorate General for Enlargement, the EEAS and the EU Delegation to the Republic of Serbia;
- Report, in a systematic manner, the state of the security sector and the dynamics and deficiencies of reforms in the annual Progress Reports for Serbia, especially in the section "Political Criteria" and relevant sections in chapters 23 and 31;
- Require that Serbia, within the accession process, solve the existing constitutional and legal ambiguities and the contradictory roles and positions of relevant state bodies and institutions;
- Within chapter 23, monitor the work and operation of military departments of courts and prosecutors' offices in Serbia;
- Provide financial and other support for the work of the Office of the War Crimes Prosecutor in cases relating to former and current officials in the security sector and condemn any form of political pressure on the Office;
- Make the recommendations of other international actors, Serbia's Ombudsman and Commissioner for Information of Public Importance and Personal Data Protection

and civil society organizations regarding reforms of the legal basis of security bodies a condition of the accession negotiation process;

- Suggest to the Government of Serbia, in Progress Reports, that it secure space for the establishment of MP offices and employ parliamentary staff;
- Within chapter 31, require the Government of Serbia to provide the EU with complete information and documentation regarding existing bilateral military cooperation with the Russian Federation;
- Within chapter 35, make it a condition that Serbia exclude the territory of Kosovo from all strategic documents related to the defense of territorial integrity;
- Insist on greater transparency and clarity of budget lines for the security sector, and on strengthening the mechanisms of financial control over the sector;
- Western countries maintaining bilateral military cooperation with Serbia should closely coordinate their support for security sector reform in Serbia.

To the Government of Serbia:

- Adopt a new National Security Strategy, a new National Defense Strategy and a National Foreign Policy Strategy, taking into account the obligations of Serbia towards the EU and obligations originating from the April Agreement. Conduct a broad public dialogue on the concept of military neutrality and how relations with the EU and NATO should be structured;
- Address the perceived weaknesses and problematic elements in the Law on Defense and the Law on the Armed Forces, including the recently adopted amendments to both laws;
- Adopt a special Law on Security Vetting, which would prevent arbitrariness in employment in the security sector and thus limit the possibility for party control over the sector;
- Include the need to reform military departments at courts and prosecutors' offices in Serbia in the Government's Strategy for Judicial Reform and the Action Plan for chapter 23;
- Adopt the still outstanding measures recommended by the Ombudsman and Commissioner for Information of Public Importance and Personal Data Protection contained in the 14 points proposal;
- Strengthen the institutional and operational capacity of the Office of the Council on National Security and Classified Information Protection;



- Amend the Criminal Procedure Code to provide that prosecutors can submit a request to government and other bodies and legal entities to supply necessary information;
- Insist on full compliance with constitutional guarantees on communication secrecy;
- Encourage providers of electronic communications to cooperate more closely among themselves and to engage in self-regulation with the aim to develop common standards which all service providers would adhere to;
- Adopt a new Law on Whistleblower Protection that provides adequate legal protection for whistleblowers and ensure proper implementation of the Law;
- Amend the existing Law on Classified Information to eliminate perceived shortcomings and legal loopholes and create conditions for a more effective application of the Law; alternatively, adopt a new law which addresses these issues;
- Reform public enterprises which are part of the so-called defense industry, and solve issues regarding their debts and obligations towards the local communities in which they are located. Increase transparency of operations and control over exports.

To civil society, the media, academia and other interested parties (or actors):

- Start a broad public debate on weaknesses in the Constitution with respect to the structure of the security sector and democratic and civilian control over it, and also on any perceived contradictions and shortcomings which could be problematic for the process of Serbia's EU integration.

## Introduction

This study examines the primary role that the European Union (EU) could assume among external actors in promoting security sector reform (SSR) in Serbia, with the aid of instruments available to it within the framework of the EU accession process. Security sector reform is one of the key challenges of a democratic transformation of the Serbian state and society. The security sector is the segment of the former socialist country that perhaps was the most affected by the negative and authoritarian war transformation of state institutions in the 1990s. Reforms that were initiated in the security sector after 2000 took place under complex internal and foreign policy circumstances.

This study explores the possibility for an effective continuation of the reforms within the context of Serbia's EU integration process, which entered its crucial and final phase with the opening of accession negotiations in January 2014. The study is guided by three main hypotheses: first, that reforms undertaken in the security sector in Serbia to date are insufficient and incomplete and that relevant external actors can and should exert their influence to encourage positive development of the sector; second, that in a crucial segment of the security sector – defense – the actor with a traditionally leading role among external promoters of reform in the transition countries of East and South-East Europe, which is NATO, can assume only a limited role in Serbia due to the declared military neutrality of the country; third, that because of this, the European Union should take on the leading role of promoting and guiding SSR within the context of Serbia's EU integration process. The aim of this study, therefore is to develop ideas, suggestions and recommendations for the European Union to fulfill this active, key role of lead promoter of SSR.

Security sector reform can be broadly defined as „a process of adaptation of actors in the security sector to the political and organizational demands of transformation“<sup>1</sup>, and a reformed security sector as a system that „efficiently and effectively provides human and national security within the framework of democratic governance“<sup>2</sup>. This definition of a reformed security sector has five main elements. First, efficiency which can be seen as

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<sup>1</sup>Timothy Edmunds. 2007. Security sector reform in transforming societies: Croatia, Serbia and Montenegro. Manchester University Press.

<sup>2</sup>Heiner Hänggi. 2004. Conceptualising Security Sector Reform and Reconstruction. The Geneva Center for Democratic Control of Armed Forces – DCAF.

the relationship between achieved results and the means to achieve them. Second, effectiveness which can be defined as harmony between aims and achieved outcomes. Third, human security which refers to freedom from fear and protection of human rights. Human security has two further aspects: freedom from chronic threats, such as homicide, hunger, disease and repression and protection from sudden and damaging disruptions in all aspects of life, either at home, at work or in the community. Fourth, national security which is defined as the preservation of territorial integrity, national independence and sovereignty and the political stability of government institutions. Fifth, democratic governance, within the concept of security sector reform, which refers to legitimacy, representativeness, transparency, participatory involvement of citizens, legality and accountability in the governing of the security sector. Given the criterion of democratic governance within this concept, the process of SSR is not a simple technical process of reorganization of the security sector, and the concept as such is not value-neutral. The concept of SSR incorporates the values of liberal democracy and the efforts invested in the adoption of those values.<sup>3</sup>

The Organization for Security and Cooperation in Europe (OSCE)<sup>4</sup>, under its security sector reform mandate, refers to the definition used by the Geneva Center for Democratic Control of Armed Forces (DCAF) for what SSR means: ‘transforming the security sector, which includes all the actors, their roles, responsibilities and actions – working together to manage and operate the system in a manner that is more consistent with democratic norms and sound principles of good governance, and thus contributing to a well-functioning security framework’. The security sector consists of the armed forces, the police, the intelligence services, the border control service, the non-institutional security forces and oversight bodies such as parliament, government, the judicial system, the penitentiary system and civil society organizations.

Defense reform refers to the transformation of a country’s defense sector with respect to its institutions to ensure they are under civilian control to the extent that they: are guided by the principle of accountability and good governance; maintain an appropriate level of forces; have a representative composition; provide training and equipment

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<sup>3</sup>Filip Ejodus. 2009. Concept of security sector reform. Published in: 2008 Yearbook of security sector reform in Serbia. Belgrade Center for Security Policy. Available at: <http://www.bezbednost.org/upload/document/yearbook.pdf>

<sup>4</sup>Security Sector Reform. 2008. OSCE. Available at: <http://www.osce.org/odihr/30655?download=true>

appropriate for the strategic environment; respect international laws; and contribute to the fulfillment of national and international goals related to peace and security.

For purposes of the present study, the concept of SSR refers to the definition presented in the study “Concept of Security Sector Reform” by Filip Ejodus. According to Ejodus, the concept of SSR is comprised of four elements: actors, context, aims and dimensions. Actors of SSR, in a holistic approach, include statutory and non-statutory organizations responsible for protection of the country and the community, of which some have the right to use force and some do not.<sup>5</sup> This study deals primarily with the defense segment of the security sector in Serbia but also includes other segments. For conceptual reasons, the question of the police was omitted from the analysis. For the same reasons, a review of the security sector’s handling of the phenomenon of violent extremism, radicalization and foreign fighters, which has recently gained prominence in the context of the appearance of ISIS and the war in Ukraine, also remains outside the scope of this study.

Chapter 1 provides a review of reforms undertaken in the security sector in Serbia after the year 2000 and the socio-political context in which these evolved. Chapter 2 analyzes Serbia’s military neutrality, the political context in which it was declared and the basic controversies inherent in the very conception of neutrality stemming from this context. Chapter 3 provides an overview of relations between Serbia and NATO, the limitations that Serbia’s military neutrality imposes on these relations and how these limitations impact on NATO’s role as a promoter of security sector reform in Serbia. Chapter 4 analyzes the status that security sector reform is given in Serbia’s EU accession process, taking into consideration the EU’s Common Security and Defense Policy (CSDP), the EU’s traditional approach to negotiations in this field and the possibilities for a more active approach to SSR by the EU. Chapter 5 looks at the role of other important external and domestic actors in promoting SSR in Serbia, and the EU’s relationship with these various actors. The role of Serbia’s bilateral military cooperation with EU member states, other Western countries and Russia is given special attention.

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<sup>5</sup>Filip Ejodus. 2009. Concept of security sector reform. Published in: 2008 Yearbook of security sector reform in Serbia. Belgrade Center for Security Policy. Available at: <http://www.bezbednost.org/upload/document/yearbook.pdf>

This study is a result of the joint work of the Center for Euro-Atlantic Studies (CEAS) in Belgrade and the Democratization Policy Council (DPC) headquartered in Berlin. The research team consisted of Jelena Milić and Irina Rizmal (CEAS) and Bodo Weber (DPC). Research for this study was conducted in the period between late 2013 and November 2014. It is based on an analysis of publicly available scientific literature, materials and original documents and on a large number of interviews with state officials and political representatives in Serbia, experts, representatives of the European Union and EU member states, representatives of NATO and military attachés in Western embassies in Belgrade. Interviews were conducted in Belgrade, Brussels and Berlin. The authors of this study would like to thank all of the interlocutors who shared their knowledge and opinions.

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## **I. Security sector reform – its importance, achievements and remaining challenges**

In this section, the following points are reviewed:

- The cycles of security sector reform (SSR) Serbia went through since October 5, 2000.
- The historical burden and difficult socio-political context of those reforms, and the limitations they imposed on SSR.
- The remaining deficiencies and still-needed reforms in the security sector.
- The lack of any meaningful SSR since the SNS seized power in Serbia in 2012.

The three most commonly analyzed contexts in which SSR takes place in a country are post-authoritarian, post-conflict and developmental. In addition to these three, there is growing debate on the need for SSR in strong, developed countries.

### **I.1. The historical and socio-political contexts of SSR in Serbia since the Fifth October changes onwards**

The series of authoritarian regimes that preceded the beginning of the establishment of parliamentary democracy in Serbia left a legacy for the new authorities of a string of difficult circumstances such as a weak parliament, the existence of invisible centers of power in the security and business sectors, a link between the state and organized crime, etc.

#### ***The Milošević times***

The dominant political context during the 1990s in Serbia was characterized by strong elements of authoritarian rule under Slobodan Milošević and the political elite around him, as well as by the break-up of Yugoslavia and the resulting wars that Serbia waged in the former Yugoslav republics. The common mark of these wars was an exceptionally high occurrence of war crimes and crimes against humanity committed by regular units from Serbia's security sector structures or paramilitary units linked to the state. The key political actors during this period of time in Serbia were ex-communist elites who replaced their communist ideology with a nationalist one and the omnipotent state security apparatus which was not under the control of any political authority. The defense industry and foreign trade came under the control of the sons of generals and other high-ranking members of the security apparatus. The entire state apparatus became involved in illegal trafficking of cigarettes and petrol due to the economic

sanctions imposed on Serbia after the outbreak of war providing great wealth for the political elite which further enabled them to strengthen their influence in the country and society. The legacy of four lost wars waged by Milošević's Serbia generated another set of problems – primarily open status disputes and regional distrust.

### *The post-Fifth of October period*

The democratization process in Serbia was delayed from the outset by the fact that the new government of Prime Minister Djindjić had authority only at the national level and not at the federal level of the then Federal Republic of Yugoslavia (FRY). The federal level encompassed two key ministries of the security sector – defense and foreign affairs. This limitation of the Prime Minister's authority arose from the circumstances surrounding Montenegro's participation in elections and the nationalist policies of Yugoslav president Vojislav Koštunica. In that atmosphere, a cadre was formed which was not genuinely committed to the democratization of FRY and Serbia and which maintained and advocated for strong relations with Russia.

The beginning of the process by which the Milošević criminal regime was eventually dismantled was carried out through non-violent methods. This strategy required that very challenging compromises be made with representatives of the previous regime – not only with those who violated citizens' human rights by virtue of operating within the system, but also with the strategists and perpetrators of war crimes in the region and in Kosovo, as well as political and ethnic killings in Serbia proper. Compromise was necessary because non-violent methods of dismantling non-democratic regimes involve legal continuity which, in the case of Serbia, prevented a radical change of the compromised staff.

The period of assuming formal power of structures which, at the national level, meant the replacement of Milošević's Government, and the institutionally complex arrangements preceding it, in which Milošević's cadre remained at the top of the state apparatus – primarily in the security sector at the national level – had all the characteristics of an extremely complex post-conflict context. The Government of assassinated Prime Minister Zoran Djindjić was immediately faced with the difficult challenges presented by an Albanian insurgency in south Serbia and the desire of

Montenegro – joined in a state union with Serbia – for independence. At the same time, the EU and the USA were exerting legitimate pressure on Serbia to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY) and to implement UNSC Resolution 1244 in Kosovo. One should not forget that Serbian citizens, only a few months prior to the Fifth of October changes, lived through the severe trauma of the NATO bombing campaign designed to stop Serb aggression in Kosovo. Also, citizens of Socialist Yugoslavia had experienced a different relationship with the Soviet Union during the Cold War era than those of other Eastern European countries. The latter two points served to effectively eliminate NATO as a key actor in SSR during this period – unlike in other countries of Eastern Europe. All this made the key task of SSR in the post-conflict period more difficult. The gradual pacification of the security sector would necessitate, *inter alia*, demobilization, disarmament, reintegration, demining, prevention of proliferation of light and personal arms, etc.

The developmental context is a characteristic of poor countries, above all burdened by the problem of economic development of society. In such circumstances, SSR is most commonly focused on reducing the security apparatus and redirecting funds for security to economically more productive activities. In the case of Serbia, this context also involved the difficult legacy of an economy devastated by international sanctions and damaged by NATO bombing.

The opening of files that intelligence agencies had kept for ideological or political reasons was continuously postponed (allegedly to avoid exposing the network of collaborators and informers which would have jeopardized their continuing effectiveness) with the explanation that objective circumstances did not allow for this to take place. In effect, it was precisely the infrastructure that the process of lustration would have dismantled, and that remained well-established in the structure of the new state apparatus, that prevented the process – despite an adopted law – from ever commencing.

Despite these circumstances, through mid-2012, Serbia carried out two cycles of SSR during which Serbia professionalized its armed forces, entered NATO's Partnership for



Peace (PfP) program, requested a NATO Individual Partnership Action Plan (IPAP) and fulfilled most (all arrests and extraditions) of its obligations towards ICTY.

## **1.2. The link between SSR and cooperation with ICTY and trials before domestic courts**

From the period 2001-2003, Djindjić's Government once again found itself in an extremely unfavorable position. In part, this was a consequence of the previously-mentioned complex structural arrangements of the then national and federal authorities. It was also partly due to the fact that the Milošević regime had been replaced through non-violent methods which meant there was continuity in both legislation and security sector personnel. But this regime change had not come about because of the war crimes committed in the region in Serbia's name, or because of the obligation to hand over accused high state officials and police generals, as well as fighters from the armed forces and intelligence agencies to ICTY. Rather, it had come about primarily because of dissatisfaction among the Serbian population with their own internal economic situation and other negative effects of authoritarian rule on the quality of life in Serbia itself.

Despite these challenges, the obligation to cooperate with ICTY was, on account of the failure of lustration to be implemented, practically the only legal way to carry out a personnel regime change as a part of SSR. Detailed reports of the Humanitarian Law Center have revealed that most of those from Serbia that were put on trial for war crimes and crimes against humanity were the direct perpetrators of the crimes, usually low-ranking in the security sector.<sup>6</sup>

The difference between the number of those prosecuted before both ICTY and the courts in Serbia, and the number of recorded crimes committed by Serbian forces, give rise to reasonable suspicion that many of those responsible for war crimes have either quietly retired (without ever having been brought to justice), or are still in active service in the security sector in Serbia. Given that Serbia has fulfilled most of its obligations towards ICTY, the EU must continue to insist that suspected perpetrators of war crimes be

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<sup>6</sup>Report on war crimes trials in Serbia in 2013. 2014. Humanitarian Law Center. Available at: <http://www.hlc-rdc.org/wp-content/uploads/2014/07/Report-on-war-crimes-trials-in-Serbia-in-2013-ff.pdf>

brought to account before domestic courts in the interest of both justice and security sector reform.

### **I.3. The first cycle of security sector reforms (2000-2006)**

During this period the principle of civilian and democratic control of the armed forces was introduced for the first time when the General Staff and military intelligence agencies were subordinated to the Ministry of Defense. The Law on the Police<sup>7</sup> facilitated formal depoliticization and professionalization of the police forces. During this period several army and police generals were transferred to ICTY.

In the summer of 2002, two laws on the security services were adopted. The Law on Security Services of FRY regulated the activities of civilian and military services at the federal level, while the Law on the Security Information Agency transformed the Department of State Security Agencies (RDB) into the Security Information Agency.

It is generally considered that the Law on Security Services of FRY was drafted hastily because of the „Perišić Affair”, which confirmed the lack of civilian control over the military-intelligence services and armed forces. The expert community assessed the new Law as a “modern legal act”. The Law regulated the position, functions and jurisdiction of intelligence services at the federal level, as well as control over their work. These services included military security and military-intelligence services, as well as security services and research and documentation services at the Ministry of Foreign Affairs. The most important changes introduced by this Law related to the military-intelligence services which, for the first time, were defined by law and which required a court-issued warrant for the use of special procedures and methods that temporarily restrict constitutionally and legally guaranteed human rights and freedoms. In addition, the Law separated the Military Police from the military-intelligence services.

The Law was also important because it represented the establishment of mechanisms for democratic civilian control. Military services were subordinated to the Ministry of Defense and the Federal Government, which was an important step leading towards establishing civilian control over the armed forces, which, until then, were subordinate to the General Staff and Unit Commanders at lower levels. The Law also introduced

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<sup>7</sup>Law on the Police of the Republic of Serbia. “RS Official Gazette” no.101/2005.

parliamentary mechanisms for monitoring activities of the aforementioned services. A Parliamentary Commission for the Control of Intelligence Services in FRY was established, but it never became functional because of the many difficulties in the work of the Federal Parliament itself.

The National Parliament of Serbia also adopted the Law on the Security Information Agency. This legal act separated the Department of State Security (RDB) from the Ministry of Internal Affairs and transformed it into the Security Information Agency (BIA), directly subordinate to the Government of Serbia and under its control. With respect to its functions, it is an agency of a “mixed type” as it carries out both intelligence and counter-intelligence tasks and operates as a security service (protecting the constitutionally established order). The expert public, who welcomed the separation of the Agency from the Ministry of Internal Affairs, nevertheless criticized the Law as a whole, as well as some of its provisions. The Law, for example, contains only 28 articles, which do not regulate the subject matter precisely and efficiently. Intelligence and counter-intelligence elements are not clearly separated, and the same applies to the functions of the security services. Furthermore, the Law fails to clearly state and define the Agency’s methods of work and merely states that the Agency, in accordance with its jurisdiction, applies “appropriate operational methods, measures and actions, utilizing the appropriate operational and technical resources”.

#### **I.4. The second cycle of security sector reforms (2006-2012)**

In May 2006 Serbia and Montenegro finally split, giving Serbia greater opportunity to introduce more vigorous reforms. Unfortunately, in November 2006, as part of a futile attempt to prevent Kosovo’s independence, Serbia adopted a new Constitution that contained both insufficient and conflicting provisions related to democratic oversight of the security sector.

A new Law on the Security Services of the Republic of Serbia, which superseded the Law on the Security Services of FRY, was adopted on December 11, 2007. It provides for the existence of three agencies: the Security Information Agency (BIA), which is a special organization, the Military Security Agency (VBA) and the Military Intelligence Agency (VOA) all of which are within the Ministry of Defense. Based on the Law on Public

Administration, the three agencies are public administration bodies carrying out specific tasks of an authoritative character. The act specifying the operation and regulation of the Security Information Agency is the Law on the Security Information Agency. The Agency has the status of a legal entity and its work is coordinated by a Director, appointed and dismissed by the Government. The Law on the Military Security Agency and the Law on the Military Intelligence Agency shape the organization of the military-security-intelligence system. VBA and VOA are public administration bodies within the Ministry of Defense. Both agencies are independent in carrying out tasks within their jurisdiction and have the status of a legal entity, and their work is coordinated by a Director responsible to the Minister of Defense.

The Minister of Defense has a number of competencies in relation to military security services, and is responsible before the Government for their work. The organizational scheme of these services is available in the replies of the Serbian Government to the European Commission's questionnaire.<sup>8</sup>

The new Law on the Security Services of the Republic of Serbia makes no mention of the services at the Ministry of Foreign Affairs – the Department for Research and Documentation and the Security Service – which had a legal basis in the former Law on the Security Services of FRY. They are also not mentioned in the Law on Foreign Affairs. This can only mean that there is no longer a legal basis for their continued existence and that they have been abolished. However, it remains unclear why the Law on the Security Services of the Republic of Serbia failed to clearly state when they ceased operations and prescribe what will happen to the employees, equipment, documents and archives possessed by these services – common practice in the case of abolishing state institutions.

Given that the Serbian Constitution had failed to regulate the existence of the National Security Council, this was accomplished in 2007 through the new Law on the Security Services of the Republic of Serbia. The Law, among other things, regulates the Council's jurisdiction, composition and mode of operation. The Law states that "The Council shall, within its scope:

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<sup>8</sup>Responses of the Government of the Republic of Serbia to the EU questionnaire. Section: Foreign, Security and Defense Policy. Available at: [http://ceas-serbia.org/root/images/banners/Tekstovi/chapter\\_31.pdf](http://ceas-serbia.org/root/images/banners/Tekstovi/chapter_31.pdf)

- Ensure national security by considering security issues;
- Coordinate the work of state bodies that make up the security sector and consider measures to promote national security;
- Direct and coordinate the work of security services by reviewing intelligence-security assessments;
- Set priorities and ways to protect and guide the realization of national interests implemented by performing intelligence-security activities;
- Direct and coordinate the work of security services;
- Provide the Government with opinions on budget proposals for the security services, proposals on annual and medium-term plans of the security services, as well as the proposal to appoint or dismiss security services heads;
- Ensure coordinated application of regulations and standards for personal data protection, as well as other regulations protecting human rights that may be affected by exchange of information or other operational actions.<sup>9</sup>

Responsibilities of the Council are mainly focused on cooperation and coordination of traditional segments of security – the armed forces, the police, and the intelligence services. What is interesting is that special emphasis is placed on directing and coordinating the work of the intelligence services. Moreover, the Decision on Establishing the Council provides for the existence of a Bureau for Coordination which operationally coordinates the work of the intelligence services and is composed of the Council Secretary and heads of the security services. The Bureau for Coordination determines the tasks to be executed by operational harmonization of the work of the security services, establishes mixed working groups for operational tasks and analyzes the results of operational alignment and, if needed, reports on these activities to the Council.

The Law on the Security Services of the Republic of Serbia does not specifically provide jurisdiction to draft the most important strategic documents, especially the National Security Strategy, within the scope of work of the Council. This jurisdiction could possibly fall under the broad provision which implies that the Council suggests to the

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<sup>9</sup> Djordje Popović. 2009. National Security Council of the Republic of Serbia. Center for civilian-military relations. Available at:  
[http://www.bezbednost.org/upload/document/popovic\\_2009\\_savet\\_zanacionalnu\\_bezbednost.pdf](http://www.bezbednost.org/upload/document/popovic_2009_savet_zanacionalnu_bezbednost.pdf)

competent state authorities measures to improve national security. Unfortunately, even the Constitution itself fails to regulate responsibility for drafting the National Security Strategy.”<sup>10</sup>

The mentioned Law also regulates the work of the intelligence services, but the question is whether the Council’s work should be regulated by a special law. The Council should, through its work, encompass the entire security sector, which means it should establish an effective system of coordination. The lack of a systematic approach and institutional solutions to the architecture of the intelligence services could be a major obstacle to the successful functioning of the Council. The expert public is of the opinion that the mandate and jurisdiction of the Council warrants its regulation in the highest legal act of the state – the Constitution.<sup>11</sup> It also makes note of the problematic composition of the Council which does not include the Minister of Foreign Affairs, the President of the Supreme Court, the Republic Public Prosecutor and the President of the National Parliament as well as the President of the Parliamentary Defense and Security Committee and the President of the Committee for the Control of the Security Services – all of which should be represented on the Council.

The fact that the Law had provided that the Council Secretary is automatically the Head of the Cabinet of the President of Serbia caused great debate among the public, resulting in the Law being later amended, but once again in a controversial manner – he/she is directly appointed by the President of Serbia. The Law, which establishes the Council and the role of the President in it, changes the authority of the President of Serbia, without amending the constitution accordingly. Given that the position of Council Secretary was filled by the Deputy Prime Minister at the time, Aleksandar Vučić, the decision to give the President authority to appoint the Council Secretary was obviously political and contributed to the strengthening of the President’s authority over the security sector at the expense of the principle of separation of powers and democratic control. Additionally, Vučić, as the Minister of Defense, was both a member and the

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<sup>10</sup> Djordje Popović. 2009. National Security Council of the Republic of Serbia. Center for civilian-military relations. Available at:

[http://www.bezbednost.org/upload/document/popovic\\_2009\\_savet\\_za\\_nacionalnu\\_bezbednost.pdf](http://www.bezbednost.org/upload/document/popovic_2009_savet_za_nacionalnu_bezbednost.pdf)

<sup>11</sup> Djordje Popović. 2009. National Security Council of the Republic of Serbia. Center for civilian-military relations. Available at:

[http://www.bezbednost.org/upload/document/popovic\\_2009\\_savet\\_za\\_nacionalnu\\_bezbednost.pdf](http://www.bezbednost.org/upload/document/popovic_2009_savet_za_nacionalnu_bezbednost.pdf)

coordinator of the Council's operational body – the Bureau for Coordination of Security Services. As far as the authors of this study are aware, he continues, now from the position of Prime Minister, to perform these two incompatible functions. The National Security Council has not met since 2012.

The Law on Defense and the Law on the Armed Forces were adopted in 2009, and the Law on the Police in 2011. The arrests of Radovan Karadžić, Ratko Mladić and Goran Hadžić provided Serbia with a new opportunity to fill some of the gaps in its work on security sector reform. In this period, Serbia professionalized its armed forces and continued with the implementation of NATO standards. New, improved legal regulations were adopted which extended the jurisdiction of parliamentary committees in charge of security and defense.

#### **I.5. SSR since the coming into power of the SNS-SPS coalition in 2012**

In the period following the establishment of the first SNS-SPS coalition in 2012, Serbia was shaken by several serious affairs caused by the leakage of data from the security sector – originating mainly from warring currents in the Ministry of Internal Affairs and the police; by the lack of norms or lack of harmonized norms in the sector; party abuses and the strengthening of party control at the expense of democratic control over the sector; and the disrupted balance of extortion – the consequence of a dependent judiciary.

In July 2012, representatives of various independent bodies, the Ombudsman Saša Janković, and the Commissioner for Information of Public Importance and Personal Data Protection, Rodoljub Šabić, pointed out the alarming discrepancy between constitutional rights – in terms of tracking of electronic communication and data protection – and practice, as well as the problems that may cause and already are causing, and presented the 14 points<sup>12</sup> which consist of recommendations to overcome the situation. Among other things, it was suggested that it is necessary to adopt a new Law on the Security Information Agency (BIA). Some of the measures recommended have been implemented, in particular those concerning the shortcomings identified in the annual reports of the

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<sup>12</sup>Commissioner for Information of Public Importance and Personal Data Protection. 6.7.2012. Actual status in privacy protection field marks significant gap in relation to constitutional guarantees. Available at: <http://www.poverenik.rs/en/press-releases-and-publications/1386-konferencija-za-medijske.html>

European Commission (EC) on Serbia's progress in the functioning of BIA and military agencies. In addition, the Law on Private Security and the Law on Detectives have been adopted as was recommended.

Furthermore, in September 2013, a number of regulations were adopted regulating in more detail the Law on Classified Information, such as the Decree on detailed criteria for determining the degree of secrecy "state secret" and "top secret" and the Decree on detailed criteria for determining the degree of secrecy "confidential" and "internal" at the Office of the Council on National Security and Classified Information Protection, and the Decree on detailed criteria for determining the degree of secrecy "confidential" and "internal" at the Security Information Agency.

The Decree on detailed criteria for determining the degree of secrecy "confidential" and "internal" for the greatest number of public authorities is in adoption procedure as is the Law on Information Security, which together should normatively regulate the field of classified information protection at the national level.

According to the Office of the Council on National Security and Classified Information Protection, the establishment of an interdepartmental working group for drafting amendments to the Law on Classified Information is underway, with the aim of removing the observed shortcomings and legal loopholes in the Law, as well as creating conditions for its efficient implementation. A public hearing regarding amendments to this Law is expected in the first trimester of 2015.

In July 2012, a "double key" system was introduced in the Security Information Agency in terms of intercepting communication. The "double key" system prevents wiretapping of anyone's telephone from only one location, thus reducing the possibility of abuse of electronic surveillance of citizens' communication to the very minimum.

In February 2013, the Constitutional Court declared certain articles of the Law on the Military Intelligence Agency and the Law on the Military Security Agency unconstitutional, establishing that the Director of the Military Security Agency (VBA) can only issue a warrant for secret surveillance of electronic communication if a court order



is obtained previously, and the High Court in the area of an Appellate Court where the measure is to be implemented approves the secret electronic surveillance of telecommunications, thus enabling only an insight into the “listing”. The amendment of the Ombudsman was also adopted determining that if either VBA or VOA come into the possession of data and information that falls under the jurisdiction of other security services or the police, they must deliver this data or information to the other security services if they are important for matters of national security, and to the police if they relate to criminal acts which, in accordance with the Law on Criminal Procedure, require special procedures of gathering evidence.

In December 2013, the Law on Private Security and the Law on Detectives were adopted, which initiated the process of normative regulation of the private security sector, continuing with the process of adopting normative regulations, which is ongoing.

In June 2014, Amendments to the Law on the Security Information Agency entered into force, implementing the Constitutional Court decision that interception of communications is allowed only with permission of the court.<sup>13</sup>

On November 6, 2014, the first two Rulebooks (out of the seven planned) in accordance with the Law on Private Security came into force: the Rulebook on detailed conditions that must be met by legal and natural persons for the implementation of vocational training to perform the duties of private security and the Rulebook on the programs and how to implement training to perform the duties of private security.

During 2014, amendments to the Law on Defense and the Law on the Armed Forces of the Republic of Serbia were adopted which the expert public believes contain significant deficiencies.

The Law on the Export and Import of Arms and Military Equipment was adopted on October 8, 2014<sup>14</sup>, as well as amendments to the Criminal Code which introduce two

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<sup>13</sup>Analysis of the Law on Amendments of the Law on the Security Information Agency. 2014. Center for Euro-Atlantic Studies. Available at: [http://ceas-serbia.org/root/images/CEAS\\_Analysis\\_of\\_the\\_Law\\_on\\_Amendments\\_of\\_the\\_Law\\_on\\_the\\_Security\\_Intelligence\\_Agency.pdf](http://ceas-serbia.org/root/images/CEAS_Analysis_of_the_Law_on_Amendments_of_the_Law_on_the_Security_Intelligence_Agency.pdf)

<sup>14</sup> Law on the Export and Import of Arms and Military Equipment. “RS Official Gazette” no.107/2014. The Law entered into force on October 16, 2014.

new offenses – recruitment of foreign fighters in the territory of Serbia and participation of Serbian citizens in wars in which Serbia as a country is not taking part. Amendments to the Criminal Code were praised as proof of Serbia's readiness to contribute to the fight against terrorism.

After almost a year and a half, in late November 2014, Serbia finally appointed new Directors of the Military Intelligence Agency and the Military Security Agency. The Decrees issued by the President of Serbia for these appointments were handed to the Minister of Defense, Bratislav Gašić.

In the period since May 2012 (since establishment of the first SNS-SPS majority parliamentary convocation), 37 laws and bilateral agreements in total have been adopted governing the issue of security of the Republic of Serbia.<sup>15</sup>

## **I.6. What remains to be done**

The great floods that hit Serbia in May 2014 showed that the situation in the field of civil protection, an essential part of the security sector, is in poor condition.

There are enough other relevant indicators to demonstrate that the state of affairs in the security sector in Serbia is far from satisfactory, such as: incomplete judiciary reform, lack of mutual coordination between laws and strategies related to the security sector and poor law enforcement. Still, the issue of executive control of the security services probably has the most shortcomings, especially when it comes to matters of jurisdiction and the legal foundations of the National Security Council and the Bureau for Coordination of Security Services. The authority that the President of Serbia has in relation to the control of security services is incomplete and vague, as there is no mention of it either in the Constitution or in the Law on the President of the Republic. The Council Secretary, who also has a significant role in the work of these two bodies, is appointed and dismissed by the President which significantly increases the influence the President has as an individual on the security sector. The lack of solutions for defining

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<sup>15</sup>Laws adopted in the field of security by the National Parliament convocation since 31.5.2012. 2014. Center for Euro-Atlantic Studies. Available at: [http://ceas-serbia.org/root/images/Doneti\\_zakoni\\_iz\\_oblasti\\_bezbednosti\\_u\\_sazivu\\_NSRS\\_od\\_31-5-2012.pdf](http://ceas-serbia.org/root/images/Doneti_zakoni_iz_oblasti_bezbednosti_u_sazivu_NSRS_od_31-5-2012.pdf)

the role of the executive in overseeing the work of security sector agencies also impacts the work of the National Security Council. Agency directors are members of the Council, which has a mandate to oversee the very agencies that they lead.

Despite all of the above, the security sector was not mentioned by a single party in the last election campaign. Neither was it mentioned in all of the previous campaigns. There were also no pre-election promises with respect to even partial improvement of the security sector in areas in which it is obviously necessary: democratic oversight and normative framework of horizontal communication and vertical chain of subordination of certain parts of the system.

The state of affairs in the security sector and the need for reforms was not mentioned once by Prime Minister Aleksandar Vučić in his several-hours long acceptance speech in April 2014. In the absence of any attention paid to the security sector by the Government, the Serbian Progressive Party has continued its actions in furtherance of taking control over it. This issue has not been mentioned by the Western international community as being one of great importance.

## **II. Military “neutrality” of Serbia**

In this section, the following points are reviewed:

- The general concept of military neutrality.
- The political context in which Serbia declared military neutrality in 2007 – the independence of Kosovo.
- The reactive and non-transparent way in which the concept was introduced.
- Its inconsistency with key strategic documents of the Republic of Serbia.
- The controversial character of the concept that stems from this overall context.

### **II.1. The most commonly used definitions of the terms neutrality and military neutrality**

The concept of neutrality has fluctuated throughout the history of international relations. At the end of the 16th century and in the early 17th century, neutral countries were allowed to be friendly towards the side considered to be fighting for a “just cause”. This implied two important elements: the neutral country had to allow the crossing of foreign forces over its territory and it had the right to mobilize its people in order to stop

the conflict. In the 19th century neutrality changed its meaning and implied absolute impartiality and, for the first time, standardization of provisions for the neutral status of a country to be recognized in international relations commenced. In the 20th century, between WWI and WWII, the term “differential neutrality” arose, implying that abstention and impartiality were no longer the crucial criteria.

The term “permanent neutrality” was adopted at the Congress of Vienna in 1815, which then became a norm in international law. On this occasion, all European countries recognized Switzerland’s status as a permanently neutral country. Subsequently, the Hague Convention on the Rights and Duties of Neutral Countries in the Case of War on Land was adopted at The Hague in 1907. This document completely regulated the concept of military neutrality and defined its basic characteristics – that neutral countries should neither support parties to the conflict nor engage in the conflict. Additionally, the document determines some rights of neutral countries such as the inviolability of the territory of neutral countries and a prohibition on the use of their territory for the transport of armed forces. During this period, neutral countries were granted the right to develop their own armed forces for self-defense. It is important to mention that military neutrality becomes legally relevant only when other countries recognize this neutrality. A unilateral declaration of military neutrality does not mean that the country is recognized as neutral.<sup>16</sup>

The generally accepted characteristics of a neutral country are that its foreign policy is characterized by abstention, promotion of peace and cooperation and the contribution of troops to peacekeeping missions. In short, neutrality generally implies an attitude of a country to remain impartial in its international relations in cases of conflict and to perceive the warring sides equally.

## **II.2. Military alignment of Serbia in the recent past**

Advocates of Serbia’s military neutrality often highlight that it is based upon historical foundations, which is not entirely true. That same practice of overlooking relevant facts

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<sup>16</sup>Jan Litavski. 2012. The Controversies of Military Neutrality of Serbia. The New Century: Liberal responses to global challenges. Center for Euro-Atlantic Studies. Available at: <http://ceas-serbia.org/root/index.php/en/ceas-publications/100-the-new-century/450-the-new-century>

and revising history is also apparent in presentations made to the public about the „historically continuing good relations between Serbia and Russia“.

In the period between WWI and WWII, the Kingdom of Yugoslavia was a member of the military-political alliance Little Entente. In the period following WWII, Yugoslavia vacillated in its foreign and security policy; it was first loyal to the USSR, only to later associate with NATO. After the suspension of relations with the USSR in 1948, it established the Third Balkan Pact with Greece and Turkey.

### **II.3. The manner in which Serbia declared military neutrality in 2007**

On December 26, 2007, Serbia declared military neutrality. Prior to that, in December 2006, Serbia had become a member of the Partnership for Peace program and began the process of institutional cooperation with NATO. The manner in which Serbia unilaterally declared its neutrality is quite controversial; it did so in one sentence in the Resolution of the National Parliament of the Republic of Serbia on the protection of sovereignty, territorial integrity and constitutional order.

The passage containing the relevant sentence reads: „Due to the overall role of the NATO Pact, from the illegal bombing of Serbia in 1999, without a Security Council resolution, to Annex 11 of the Ahtisaari Plan rejected by Serbia, which determines that NATO is the ultimate authority in an independent Kosovo, the National Parliament of the Republic of Serbia brings a decision on declaring military neutrality of the Republic of Serbia in relation to existing military alliances, until a referendum which would be a final decision on the matter“.

Some among the expert public and the civil society sector criticized the fact that this decision, which generally should be of a strategic character, was not preceded by a public hearing and expert debate in the spirit of good democratic practice, and that such an important decision was made in one sentence in a document which basically refers to another matter.

This vaguely conceived military neutrality was declared primarily because of the existence at that time of a negative state policy towards Kosovo, which influenced all political decisions of Serbia and limited their effectiveness.

The facilitators behind the adoption of the policy of neutrality often used the argument that Serbia became militarily neutral in the same manner that other European countries became neutral – an argument which, like the argument that Serbia's neutrality is based on an historical foundation, is not entirely true. Austria, Ireland, Finland, Switzerland, Cyprus, Malta and Sweden became neutral within entirely different historical and military-political contexts. The differences between these countries and Serbia are enormous. In a cultural sense, those countries have always been considered a part of Western civilization and NATO views them as friendly countries. They are also relatively rich countries which can finance their neutrality. The majority of the abovementioned military neutral countries are members of the EU, whose founding and other acts regulate their fields of foreign policy, security and defense. Moreover, the Treaty of Lisbon, which applies to all EU countries, amalgamated to a certain extent individual security and defense policies into the Common Security and Defense Policy (CSDP). At the time when Serbia adopted military neutrality, all the other countries in the region either already were EU and NATO member states, or were on the path to becoming members.

For Serbia's policy of military neutrality to be functional and operational, it should have been adopted after a public debate and rational analysis of the geopolitical situation with a special focus on regional trends to ascertain the potential security risks and threats to Serbia, and to identify available and achievable resources for its defense from such risks and threats. Although the economic cost of military neutrality is a very important issue, especially in the case of a small and poor country such as Serbia, it was never discussed in the period preceding the adoption of military neutrality. The concept of military neutrality in the abovementioned circumstances implies that Serbia should develop a system of defense enabling it to rely on its own military forces. This raises many important questions with respect to the defense of the country, such as, for example, those related to the organization of the armed forces and the number of troops needed. If Serbia expects to be taken seriously as a military neutral country, it must maintain an

independent and credible military force. This would require a large budget for a defense system which a heavily-indebted Serbia with an ageing demographic could not provide. Upon its adoption, then, the decision on military neutrality should have been in accordance with a foreign policy strategy (which Serbia lacks),<sup>17</sup> complemented and developed by other strategic and doctrinal documents on national security and defense, and further based on budget plans and an analysis of the obligations Serbia would need to assume within the framework of the EU CSDP. If Serbia had been serious about military neutrality, it would have adopted a special legal act in which its military neutrality was declared, and only after expert and public debate on the issue. Instead, it used as a pretext for declaring military neutrality the fact that NATO is, according to the “rejected” Ahtisaari Plan, the “ultimate authority” in an “independent Kosovo”, and stated this fact in its declaration. In that one sentence proclaiming its military neutrality, Serbia did not reject the possibility of membership in new military alliances, only in existing alliances. It also did not prohibit the presence or movements of foreign troops or the construction of military bases on Serbian territory.<sup>18</sup>

Serbia’s unilaterally-declared military neutrality has not been recognized by any country within the international community, which by some definitions is necessary for legitimacy – nor has Serbia requested such recognition.

Given that much of the abovementioned is not included in the Resolution proclaiming military neutrality, and that Serbia conducts its internal and foreign policies in the manner of a country that has not declared neutrality in accordance with most accepted definitions of the term, but rather exhibits its neutrality only in relation to NATO, Serbia as a country can be understood to be strategically disoriented and not militarily neutral.

#### **II.4. Strategic documents of the Republic of Serbia and its military neutrality**

The Republic of Serbia, even after a declaration of its own statehood in early June 2006, failed to clearly define its foreign policy priorities. The Constitution of the Republic of Serbia, adopted on November 6, 2006, does not contain the basic principles of a foreign

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<sup>17</sup>Dragan Djukanović, PhD. 2010. Foreign policy orientation of the Western Balkans - a comparative analysis. Published in: 2010 Yearbook. Faculty of Political Science of the University in Belgrade.

<sup>18</sup>Jan Litavski. 2012. The Controversies of Military Neutrality of Serbia. The New Century: Liberal responses to global challenges. Center for Euro-Atlantic Studies. Available at: <http://ceas-serbia.org/root/index.php/en/ceas-publications/100-the-new-century/450-the-new-century>

policy.

Over the past ten years, first within the framework of the former Federal Republic of Yugoslavia (FRY) and then within the framework of the State Union of Serbia and Montenegro, a lack of will existed among leading political actors to reach agreement on a strategic foreign policy document. The acceptance speech in 2001 of Minister of Foreign Affairs Goran Svilanović and that of Minister of Foreign Affairs Vuk Drašković in 2005 represented the only framework for expressing the foreign policy priorities of the country.<sup>19</sup>

Until recently in Serbia, there was broad social consensus on the country's entry into the European Union. Increased Russian pressure in mid-2014, however, caused it to drop below 50%<sup>20</sup> for the first time since the beginning of the transition. Support for NATO integration has always been traditionally low at around 12%<sup>21</sup>.

The intensification of relations with countries of the Western Balkans and South-East Europe lately has been increasingly emphasized as a priority for Serbia, although significant differences of opinion exist among the current leading political parties in Serbia regarding this trend. These differences of opinions similarly apply to the determination of Serbia to have closer bilateral relations with other countries of the world and to more actively participate in the work of global and regional international organizations. These two trends are widely referred to as the "pillars" of foreign policy, and mainly relate to preservation of the constitutional order of the state, including the preservation of Kosovo within Serbia, integration into the European Union, strengthening of good-neighborly relations in the region of South-East Europe and balancing relations with the USA, the Russian Federation and the People's Republic of China. The level of importance given to each of these main aspects of the foreign policy "pillars", however, often fluctuates.

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<sup>19</sup>Dragan Djukanović, PhD. 2010. Foreign policy orientation of the Western Balkans - a comparative analysis. Published in: 2010 Yearbook. Faculty of Political Science of the University of Belgrade.

<sup>20</sup>Public Opinion Poll: European Orientation of the Serbian Citizens. June 2014. European Integration Office of the Government of the Republic of Serbia. Available at: [http://www.seio.gov.rs/upload/documents/nacionalna\\_dokumenta/istrazivanja\\_javnog\\_mnjenja/opinion\\_poll\\_14.pdf](http://www.seio.gov.rs/upload/documents/nacionalna_dokumenta/istrazivanja_javnog_mnjenja/opinion_poll_14.pdf)

<sup>21</sup>Public Opinion Poll: Serbian citizens' trust in Government of Serbia. June 2014. Center for Euro-Atlantic Studies. Available at: [http://ceas-serbia.org/root/images/CEAS\\_public\\_opinion\\_poll\\_-\\_June\\_2014\\_1\\_1.pdf](http://ceas-serbia.org/root/images/CEAS_public_opinion_poll_-_June_2014_1_1.pdf)



In April 2009, Serbia adopted the National Defense Strategy and in October of the same year it adopted the National Security Strategy. Similar to the case of military neutrality, the documents were adopted in a very non-transparent manner, in *ad hoc* procedures in which MPs were not given much of a chance (and, in any event, don't have the will and knowledge) to comment, and without any expert or public debate that should precede such a move. Although the parameters of national security are broader than defense, the entire process of drafting the National Security Strategy in public institutions was led by the Ministry of Defense. Had it not been for the intervention of the Belgrade Center for Security Policy, the timeframe for debate on a document of such importance would have lasted only two weeks, and then only within a circle of like-minded policy-makers.

Several years prior, two parallel processes were unfolding in Serbia in which the Prime Minister at the time, Vojislav Koštunica, and the President of Serbia, Boris Tadić, each made a Draft National Security Strategy. Experts noticed that the Constitution and other relevant documents do not specify who exactly has the mandate in matters of national security; whether it is the Government, the Parliament, the Ministry of Defense or the President. Analyses of the content of the relevant documents and the history of their adoption have been published in the excellent edition "Security Policies in the Western Balkans" by the former Center for Civil-Military Relations, now the Belgrade Center for Security Policy. It's a highly recommended resource for a more detailed introduction into the circumstances surrounding this matter and their implications.<sup>22</sup>

The National Security Strategy of the Republic of Serbia makes no mention at all of Serbia's military neutrality. On the other hand, it does mention the former European Security Defense Policy (ESDP) and points out that "Serbia is prepared to build the capacities and capabilities of its national defense system in accordance with the standards and obligations under the ESDP".

The period immediately following the adoption of military neutrality through to the end of 2012 was a period of continuity of earlier reform activities initiated by Serbia's armed

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<sup>22</sup>Jelena Milić. 2011. Can the EU Common Security and Defense Policy be an alternative for NATO integration of Serbia. Published in: Integration of the Western Balkans into the network of global security. Čigoja.

forces which took place either within the framework of the Partnership for Peace which Serbia joined in 2006, or within the scope of activities supported by OSCE, DCAF, NATO, and the governments of the USA, the United Kingdom, Norway and others.

Even after adoption of the April Agreement in 2013, no consideration was given to whether the Agreement is compatible with the National Defense Strategy and the National Security Strategy, although it reasonably provides grounds for opening the question of the meaning of the provision in the National Security Strategy which places Kosovo (due to the violation of territorial integrity and sovereignty of Serbia) at the top of the list of security threats. That “Kosovo [is] the greatest security threat”, was repeated by the Minister of Defense, Bratislav Gašić, during the presentation of the work of the new Government.<sup>23</sup> Experts are of the opinion that this phrase could be reformulated so as to remove Kosovo from the “Threats” section of the National Security Strategy and relocate it to the “Goals” section to emphasize that one of the strategic goals of the Republic of Serbia is peace and security in Kosovo which will, for example, be achieved through bilateral cooperation with the authorities in Kosovo and within the framework of regional cooperation.

The war in Ukraine and the intensified activities of Russia in all areas of bilateral relations with Serbia has laid bare the extent to which such a national security strategy is lacking. Thus, during the visit of the Russian Minister of Defense, Sergey Shoygu, to Belgrade in mid-November 2013, the Deputy Prime Minister at the time, Aleksandar Vučić, had the difficult task of defending the policy of Serbian military neutrality in the light of Russian expectations. “Serbia will not join NATO, but neither will it join the Organization of the Collective Security Treaty which is under the umbrella of Moscow. Her goal is to be a militarily neutral country”, Vučić stressed at the time<sup>24</sup>. Everything is viewed primarily through the prism of Serbian-EU integration. The Foreign Policy Strategy, one of the most important strategic documents of any country, is not yet adopted.

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<sup>23</sup>Jelena Milić. 2014. Putin’s Orchestra. The New Century: Liberal responses to global challenges. Available at: [http://ceas-serbia.org/root/images/Jelena\\_Milic\\_Foreword\\_Putins\\_Orchestra.pdf](http://ceas-serbia.org/root/images/Jelena_Milic_Foreword_Putins_Orchestra.pdf)

<sup>24</sup>Jelena Milić. 2013. Sad Stream. The New Century: Liberal responses to global challenges. Available at: [http://ceas-serbia.org/root/images/The\\_New\\_Century\\_No05-Jelena\\_Milic.pdf](http://ceas-serbia.org/root/images/The_New_Century_No05-Jelena_Milic.pdf)

### III. Military neutrality, Serbia-NATO relations and the scope of security sector reforms

In this section, the following points are reviewed:

- The development of relations between Serbia and NATO following the 1999 war and the 2000 regime change, in particular
- Serbia's joining NATO Partnership for Peace (PfP) program and the recently agreed Individual Partnership Action Plan (IPAP).
- The development of relationship since the first SNS-SPS government took office in 2012.
- The contradictions between public perceptions of NATO and practical cooperation.
- The limitations Serbia's declared military neutrality puts to NATO as a traditional actor promoting SSR.

Beginning in the 1950s and continuing through to the present day, Serbia's cooperation with NATO has taken various forms ranging from formal alliances in the Third Balkans Pact (1948-1953), to the training and schooling of Yugoslav National Army officers in NATO member states. In recent decades,<sup>25</sup> the intensity of this cooperation has fluctuated depending on the political circumstances present.

Relations of FRY and then Serbia with NATO over the past twenty years have been crucially defined by the role of NATO in stopping the war in Bosnia and Herzegovina, in the bombing of FRY and in supporting the new status of Kosovo.

The bombing of FRY in the spring of 1999, the Kumanovo (military-technical) Agreement by which the FRY Armed Forces had to withdraw from Kosovo and UN Security Council Resolution 1244, which stripped Serbia of its authority in Kosovo, have not been presented to the Serbian public as consequences of the crimes perpetrated in Kosovo by Serbian security forces, the FRY Armed Forces and the para-military units associated with them, but as a plan of the West for the secession of Kosovo from Serbia at any cost. This has determined the dominant attitude of citizens and politicians in Serbia towards NATO for all these years.

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<sup>25</sup>Previous and current activities of cooperation: Serbian Republic with NATO. Ministry of Defense of the Republic of Serbia. Available at: [http://www.mod.gov.rs/sadrzaj.php?id\\_sadrzaja=4360](http://www.mod.gov.rs/sadrzaj.php?id_sadrzaja=4360)

### III.1. The period from 2001 to 2005

Nevertheless, the Democratic Opposition of Serbia (DOS) Government made an historical step forward in January 2001 and adopted a program for resolving the armed rebellion of a segment of the Albanian population that had been simmering in the south of Serbia since 2000 through peaceful means and by taking measures against terrorism. To this end, and at the same time, Serbia began closely cooperating with NATO, that is, with KFOR, for which a legal framework was already in place – UN Security Council Resolution 1244 and the Military-Technical Agreement. This cooperation was expanded to include the EU and the USA, with an active role given to the OSCE and the UN. In fact, the authorities in Belgrade required the inclusion of KFOR because, they argued, “KFOR was the only security guarantee for Serbs in Kosovo”. With this, KFOR became the guarantor of security of the April Agreement which ended the crisis in the south of Serbia.<sup>26</sup>

Upon successful resolution of the crisis in south Serbia and up until the assassination of Prime Minister Zoran Djindjić in 2003, the Serbian authorities had worked intensely on the restoration of broken relations with Western countries, NATO member states and NATO itself. A concrete step towards establishing cooperation within NATO’s Partnership for Peace program was made in late April 2002 when the FRY Government adopted the recommendation of the Supreme Defense Council to initiate the process of accession to this program. The State Union of Serbia and Montenegro submitted an official request in June 2003 to the Alliance for accession to the Partnership for Peace program. In order to prepare the State Union for engagement in the Partnership for Peace, in June 2003 NATO started a special program for Serbia and Montenegro – the Tailored Cooperation Program (TCP). The TCP included participation in courses at the NATO College in Oberammergau, attendance at seminars and conferences, and the highest form of cooperation available to a non-NATO member – the granting of observer status to members of the armed forces at a number of Partnership for Peace military exercises.<sup>27</sup>

The Government, headed by Vojislav Koštunica, was formed after early elections in 2003. Immediately after, there was an indication that there would be some changes to the

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<sup>26</sup>Dušan Janjić. 2005. The Crisis in South Serbia. Belgrade Center for Security Policy. Available at: <http://www.bezbednost.org/All-publications/4317/The-Crisis-in-South-Serbia.shtml>

<sup>27</sup>Previous and current activities of cooperation: Serbian Republic with NATO. Ministry of Defense of the Republic of Serbia. Available at: [http://www.mod.gov.rs/sadrzaj.php?id\\_sadrzaja=4360](http://www.mod.gov.rs/sadrzaj.php?id_sadrzaja=4360)

courses of action Serbia was taking, including to the recent relaxation of relations with NATO. One of the reasons for Koštunica's popularity and his ability to defeat Milošević in 2000 was that he was one of the most vocal critics of the NATO bombing campaign and not critical of Milošević's politics in the region and in Kosovo. During his presidency of FRY, he gathered around him top security sector personnel who were very much inclined towards and maintained contacts with Russian structures and were very indifferent towards Prime Minister Đinđić and his Government.

The period of initial negotiations on the new status of Kosovo, from late 2005 until the end of 2007, was marked by an intensive anti-NATO campaign by Koštunica's Government, during which time fabrications and misinformation were spread. In this way, the Government defended its approach to the negotiations, while at the same time it concealed from the public the formation of the Defense Reform Group and other activities it conducted with NATO. Unfortunately, none of the progressive political structures, civil society organizations or other engaged individuals attempted to oppose the campaign, at least to correct the inaccuracies by which the system antagonized the public towards NATO. Neither was any attention paid to the possibilities that opened up by the establishment of the Defense Reform Group.

### **III.2. The Serbia-NATO Defense Reform Group**

The Serbia-NATO Defense Reform Group (the Group) was formed in 2005 as a joint body of the Ministry of Defense of Serbia and Montenegro and NATO as a result of an initiative of the Kingdom of Norway as the NATO Contact-Point Embassy at the time. Its primary goal was to increase the support of the Alliance in the process of security sector reform in Serbia and Montenegro, in the context of intensive work on the first Strategic Defense Review. In December 2006, following months of consultations, NATO approved the formation of the Group through the Political Committee and the Political-Military Committee of the Partnership for Peace program. The Group, which began operations in February 2006, represented a unique mechanism of cooperation between Serbia and NATO, one which the Alliance had never developed with any other country. The Group was set up with the following tasks:

- speeding up and supporting defense reforms,
- encouraging inter-ministerial cooperation, aimed at better coordination and

communication with a view to further development,

- introducing a project-oriented approach to reforms,
- encouraging NATO to better coordinate bilateral activities in support of defense reform, and
- preparing Serbia and Montenegro to engage in the Partnership for Peace.

The work of the Group during the period 2005-2008 was assessed as very successful, and experience has shown that it greatly facilitated the inter-ministerial approach to the processes important for defense reform and involvement in the Partnership for Peace program.

From 2008-2010 the Group had a two year pause, after which it resumed its work with the adoption of a plan for the Group for the period June 2010-June 2011, to include the establishment of bodies that support the work of the Group. The main achievements of the Group were: renewed support for institutional cooperation between Serbia and NATO in the process of defense system reform; attainment of partnership goals of the Planning and Review Process; successful engagement of the Operational Capabilities Concept; development of projects to solve specific reform problems; and improved coordination and efficiency of bilateral military cooperation with NATO and the EU.<sup>28</sup>

### **III.3. NATO Military Liaison Office**

The Agreement on Transit Arrangements concluded between Serbia and Montenegro and NATO, as well as the start of operations of the Serbia-NATO Defense Reform Group, imposed the need to strengthen direct institutional relations between Serbia and the Alliance. On the basis of an agreement between the Ministry of Defense of the Republic of Serbia and NATO, starting from December 2006, a NATO Military Liaison Office (MLO) was opened in Belgrade in the building of the Ministry of Defense.

In the organizational chart of NATO, the NATO Joint Command Forces in Naples has responsibility for the functioning of the MLO in Belgrade. The responsibilities of the MLO are: implementation of the Agreement on Transit Arrangements; providing support to

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<sup>28</sup>Previous and current activities of cooperation: Serbian Republic with NATO. Ministry of Defense of the Republic of Serbia. Available at: [http://www.mod.gov.rs/sadrzaj.php?id\\_sadrzaja=4360](http://www.mod.gov.rs/sadrzaj.php?id_sadrzaja=4360)

NATO and EU forces engaged in the region (EUFOR); providing support to the Serbia-NATO Defense Reform Group; cooperation in the field of public diplomacy; and other additional tasks – all of which were approved by the North Atlantic Council, NATO's political decision-making body.

The MLO also provides support for the military aspects of Serbia's engagement in the Partnership for Peace program, as well as military support to the mainly political role of the embassy of the state holding the two-year term of liaison for Serbia with NATO.<sup>29</sup>

#### **III.4. Partnership for Peace Trust Funds**

According to assessments of the Ministry of Defense of the Republic of Serbia, "NATO has provided a significant contribution to security sector reform in Serbia, by establishing two PfP Trust Funds". In March 2005, a Trust Fund intended for implementation of a project to destroy anti-personnel mine stockpiles was launched, with financial assets totaling around 1.7 million Euros donated by 12 countries. The direct implementers of the project were the Technical Repair Institute (TRZ) in Kragujevac and the company "Prva Iskra" in Barič. The project was implemented over a period of two years and was successfully completed in May 2007, with a total of approximately 1.4 million anti-personnel mines destroyed.

In addition, in January 2006, a new Trust Fund was launched aimed at providing support for employment in the civil sector of members of the Serbian Armed Forces who had become redundant in the process of reform. Under the auspices of the program, around 9.6 million Euros was invested in various forms of direct aid to enable persons within the framework of the program to start small businesses in the civil sector as well as for operational costs, for maintenance and evaluation of the program of career change support and for numerous promotional activities to ensure the transparency of the program.

The establishment of a new NATO Trust Fund for the Republic of Serbia currently is underway, which should enable the destruction of surplus munitions and also improve

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<sup>29</sup>Previous and current activities of cooperation: Serbian Republic with NATO. Ministry of Defense of the Republic of Serbia. Available at: [http://www.mod.gov.rs/sadrzaj.php?id\\_sadrzaja=4360](http://www.mod.gov.rs/sadrzaj.php?id_sadrzaja=4360)

the capacity of TRZ Kragujevac. The planned value of the project amounts to 7 million Euros and is to be implemented in two phases within a 4-year timeframe. The United Kingdom has accepted a leadership role in this project.<sup>30</sup>

### **III.5. Partnership for Peace**

In 2006, Serbia joined the NATO Partnership for Peace program, following a forward-looking decision by NATO to send an invitation to join despite the fact that Ratko Mladić had not yet been arrested, which until then had posed an obstacle to Serbia's entry into the program. The invitation was sent from the NATO Summit in Riga in November 2006, together with invitations for Bosnia and Herzegovina and Montenegro. The President of the Republic of Serbia at the time, Boris Tadić, following a positive decision of the Government, signed the Framework Document in December 2006 in Brussels, by which Serbia officially became a participant of the PfP program.

Entry into the program was preceded by the preparation of a Presentation Document which set forth the political objectives of participation in the program, the fields of cooperation in which Serbia was interested in order to fulfill these objectives, as well as the resources and assets it intended to make available for the activities of the program. The Document presented the political-military framework for the scope, intensity and type of cooperation with NATO. It is the only document that partner countries are expected to draft themselves. All others are a result of harmonization and agreement with NATO.

The Presentation Document<sup>31</sup> that sets forth Serbia's objectives in the Partnership for Peace program clearly states that Serbia's participation in the program will be in accordance with the economic, financial, human, material and other capabilities committed to the promotion of cooperation and joint action with NATO member states and other partner countries in the establishment of global, regional and national security. In the Document, Serbia expresses its readiness to take part of the responsibility for a stable and lasting peace in the region, engage in peace operations with a UN mandate and achieve interoperability of its armed forces with those of NATO

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<sup>30</sup>Partnership for Peace. Ministry of Defense of the Republic of Serbia. Available at: [http://www.mod.gov.rs/sadrzaj.php?id\\_sadrzaja=4358](http://www.mod.gov.rs/sadrzaj.php?id_sadrzaja=4358)

<sup>31</sup>Partnership for Peace Presentation Document of the Republic of Serbia. 2007. Ministry of Defense of the Republic of Serbia. Available at: [http://www.mod.gov.rs/multimedia/file/staticki\\_sadrzaj/mvs/Prezentacioni\\_dokument\\_eng.pdf](http://www.mod.gov.rs/multimedia/file/staticki_sadrzaj/mvs/Prezentacioni_dokument_eng.pdf)



member states. Furthermore, it highlights that the Republic of Serbia, through its engagement in activities of the Common Security and Defense Policy and in the Partnership for Peace program, strengthens its own security and, through dialogue and cooperation, contributes to peace and stability in the region, strengthening good-neighborly relations and resolving all disputed issues through peaceful means. Additionally, the Document expresses Serbia's readiness to participate in the majority of established mechanisms of the Partnership for Peace program, including the Individual Partnership Action Plan (IPAP), which suggests the possibility of intensive cooperation with the Alliance, adjusted to mutual interests.<sup>32</sup>

### **III.6. Institutionalization of Serbia's relations with NATO since the declaration of military neutrality in 2007**

Relations between Serbia and NATO were on an upward path even after the declaration of Serbia's military neutrality in late 2007, although there was somewhat of a slowdown and a pause in the work of the Serbia-NATO Defense Reform Group in the period 2008-2010.

In October 2008, the Republic of Serbia and NATO concluded a very important Security Agreement, although the National Parliament of the Republic of Serbia ratified it only in July 2011. This Agreement guarantees the minimum necessary standards of protection of data that are mutually exchanged. In this way, exchange of information of confidential content with NATO is enabled, creating the conditions for a more active role of the Republic of Serbia in the Partnership for Peace program.<sup>33</sup>

In late October 2008, the Government of the Republic of Serbia adopted the Decision on establishing a Mission of the Republic of Serbia to NATO, which represented an important step in strengthening Serbia's diplomatic and defense-military presence at the Alliance headquarters for the promotion of dialogue and cooperation. In mid-2014, Serbia appointed Miomir Udovički, former Assistant Minister of Foreign Affairs, as the new Head of Serbia's Mission to NATO in Brussels.

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<sup>32</sup>Previous and current activities of cooperation: Serbian Republic with NATO. Ministry of Defense of the Republic of Serbia. Available at: [http://www.mod.gov.rs/sadrzaj.php?id\\_sadrzaja=4360](http://www.mod.gov.rs/sadrzaj.php?id_sadrzaja=4360)

<sup>33</sup>Participation of the Republic of Serbia in the Partnership for Peace Program. Ministry of Foreign Affairs of the Republic of Serbia. Available at: <http://www.mfa.gov.rs/en/foreign-policy/security-issues/partnership-for-peace-programme>

The Military Representative Office at the Mission of the Republic of Serbia to NATO was established in September 2010 with the primary task of representing the Ministry of Defense and the Serbian Armed Forces at NATO and EU headquarters in Brussels. Important aspects in the work of the Military Representative Office are the representation of security and defense interests of the Republic of Serbia at NATO and the Permanent Missions of member states, participation in the work of organizational units of NATO and provision of support for the participation of representatives of the Ministry of Defense and Serbian Armed Forces in the work of the political-military, military and administrative NATO bodies. The Military Representative Office has a dual function, since in addition to the mentioned tasks it also carries out the tasks related to military cooperation with the EU, contributing therefore to the fulfillment of the most important foreign policy objective of Serbia – EU membership. The Military Representative Office consists of the Serbian Armed Forces Office and the Office of Defense in Brussels, and the Liaison Team within the NATO Military Cooperation Office in Mons.<sup>34</sup>

The Ministry of Defense of the Republic of Serbia joined NATO's Building Integrity Initiative in December 2011, and since December 2012, the NATO Tailored Building Integrity Program in South-East Europe, implemented through the Southeastern Europe Defense Ministerial (SEDM) cooperation process.

The Building Integrity Programme represents a part of the project through which NATO aims at confirming its commitment to the idea of promoting good governance in the defense and security sector. It was originally launched as an initiative within the Partnership Action Plan on Defense Institution Building (PAP-DIB) at the Euro-Atlantic Council Partnership meeting in November 2007. The main objective of the Programme is to raise awareness, promote good practice and develop practical mechanisms that can help participating countries to improve the state of integrity and to lower the presence of risk of corruption in national security sectors, thereby strengthening transparency and accountability. Activities within the Programme are primarily directed towards the issue of management of financial, material and human resources.

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<sup>34</sup>Partnership for Peace. Ministry of Defense of the Republic of Serbia. Available at: [http://www.mod.gov.rs/sadrzaj.php?id\\_sadrzaja=4358](http://www.mod.gov.rs/sadrzaj.php?id_sadrzaja=4358)

To date, the following activities have taken place within the framework of the Programme: a self-evaluation and a joint analysis by Serbia and a team of NATO experts of the degree to which integrity is present in the defense system of the Republic of Serbia, an analysis of progress in implementation of the recommendations, increased participation at a number of international conferences and workshops – some of which have been organized in Serbia – and trainings within the country or abroad dedicated to issues of building integrity. Additionally, a needs analysis for building integrity into the defense system of the Republic of Serbia is also ongoing, which will be carried out in cooperation with the Ministry of Defense of the Kingdom of Norway.<sup>35</sup>

### **III.7. Individual Partnership Action Plan (IPAP)**

The most important step towards strengthening cooperation with NATO since Serbia declared its military neutrality in July 2011, was the adoption of the Presentation Document<sup>36</sup>, which represents the first step towards the realization of an Individual Partnership Action Plan (IPAP). IPAP was established at the NATO Summit in Prague in 2002 and represents an intensive form of institutional cooperation with NATO to assist partner countries in reforms and modernization of its defense system, and which adjusts entirely to the partner's needs through the drafting of the Presentation Document for participation in IPAP. The Document is drafted every two years and can be updated on an annual basis, after the submission of information by the partner country. Cooperation between the partner country and NATO through IPAP commonly takes place in the areas of the political framework, security policy, defense, security and military issues, public information, science, environment and emergency planning, as well as administrative matters and issues of security and resource protection.

The IPAP Presentation Document was presented in November 2011 at NATO Headquarters in Brussels. The Ministry of Foreign Affairs of the Republic of Serbia stated on that occasion that the “undertaken activities related to IPAP are in accordance with

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<sup>35</sup>Partnership for Peace. Ministry of Defense of the Republic of Serbia. Available at: [http://www.mod.gov.rs/sadrzaj.php?id\\_sadrzaja=4358](http://www.mod.gov.rs/sadrzaj.php?id_sadrzaja=4358)

<sup>36</sup>Presentation Document of the Individual Partnership Action Plan between the Republic of Serbia and the North-Atlantic Treaty Organization (NATO). 2011. Ministry of Foreign Affairs of the republic of Serbia. Available at: [http://www.mfa.gov.rs/sr/images/stories/pdf/prezentacioni\\_dokument\(PzM\).pdf](http://www.mfa.gov.rs/sr/images/stories/pdf/prezentacioni_dokument(PzM).pdf)

the commitment of the Republic of Serbia to actively participate in the Partnership for Peace, but not contrary to the policy of military neutrality of the Republic of Serbia”<sup>37</sup>.

The Presentation Document then changed hands between the Serbian Government and NATO for the next two and a half years, to some extent because during this period Serbia changed Ministers of Defense three times and also in part due to objections Albania had regarding the Document. As a result, Serbia submitted its agreed proposal to NATO for consideration only in 2014, although the Serbian government had initiated the drafting of IPAP back in 2011.

The areas of future cooperation of Serbia with NATO, provided by IPAP, encompass the political and security framework, defense and military matters, public diplomacy, scientific cooperation, crisis management, emergency planning and classified information protection.

The Minister of Foreign Affairs of the Republic of Serbia, Ivica Dačić, announced in September 2014, during a meeting with NATO Deputy Secretary-General Alexander Vershbow held on the sidelines of the UN General Assembly, the imminent signing of IPAP. Unfortunately, following the incident at the football match Serbia-Albania, Albania broke the one-month “silent procedure” that precedes the adoption of IPAP by NATO. In late November 2014, Serbia’s request to join IPAP was approved by NATO’s Partnerships and Cooperative Security Committee. It was announced then that IPAP will be verified by the Serbian Government (confirmation by the National Parliament of the Republic of Serbia is not required). It is expected that the Alliance will then formally adopt the Document.<sup>38</sup>

### **III.8. The SNS-SPS Governments and the dynamics of cooperation with NATO**

The coming to power of the SNS-SPS Government, and specifically Tomislav Nikolić becoming President of Serbia, significantly altered the context of Serbia’s cooperation with NATO. This was evident during the marking of the fifteenth anniversary of the

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<sup>37</sup>Participation of the Republic of Serbia in the Partnership for Peace Program. Ministry of Foreign Affairs of the Republic of Serbia. Available at: <http://www.mfa.gov.rs/en/foreign-policy/security-issues/partnership-for-peace-programme>

<sup>38</sup> Večernje novosti: By joining IPAP Serbia is raising its relations with NATO to the highest level. 28.11.2014. NSPM. Available at: <http://www.nspm.rs/hronika/vecernje-novosti-pristupanjem-programu-ipap-srbija-odnose-sa-nato-podize-na-najvisi-nivo.html?alphabet=l#yvComment118794>

NATO bombing of FRY which was characterized by an unusually large number of events attended by representatives of various Russian institutions. Information about some of these events are unavailable. The effects of radiation from depleted uranium (alleged to be the result of NATO bombing) on peoples' health and the environment were strongly asserted, with very little information provided on the methodology of research, and for the most part, without calculating the extent to which the nuclear accident at Chernobyl may have contributed to any effects. President Nikolić, the Russian Ambassador Aleksandar Chepurin and participants of the events dominated the public space with declarations made on the "tens of thousands killed" during the NATO bombing.

This same Government also insists that the number of KFOR officers in Kosovo should remain at current levels. And, both Serbia and NATO assess cooperation between the Serbian Armed Forces and KFOR on the ground as very good, emphasizing that lines of communication between the Serbian Armed Forces and KFOR are established at all levels.<sup>39</sup>

Although Bratislav Gašić participated in a meeting that was organized during the NATO Summit in Wales, thus becoming the first Serbian Minister of Defense to take part in a NATO Summit, one nevertheless gets the impression that cooperation mainly takes place by inertia, based on previously drafted plans and agreements. In 2012, for example, only 119 out of the 151 planned military and expert activities were implemented.

Serbia has continued developing its practical cooperation with NATO, but with less enthusiasm for political dialogue. All military-technical cooperation programs between Serbia and NATO are still ongoing (over 160 activities had been planned in 2013), and some new activities were started. In July 2013, activities were initiated to remove the surplus munitions within the framework of the new Trust Fund under the auspices of the United Kingdom. In parallel, the pace of reforms at the Ministry of Defense is slowing down, which may not necessarily be due to political reasons, but rather as a consequence of two issues: personnel matters and budget limitations – and not just in

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<sup>39</sup>Partnership for Peace. Ministry of Defense of the Republic of Serbia. Available at: [http://www.mod.gov.rs/sadrzaj.php?id\\_sadrzaja=4358](http://www.mod.gov.rs/sadrzaj.php?id_sadrzaja=4358)

Serbia. Austerity programs in defense cooperation programs of NATO member states also have had an effect on the slight reduction of new activities.<sup>40</sup>

### **III.9. The contradictory perceptions of NATO, the limited range of existing cooperation**

Since the Fifth of October changes, relations between Serbia and NATO have been continuously improving, with occasional cooling off periods. This does not, however, correspond to the public perception of NATO, which remains almost the same as it was immediately after the bombing of FRY. Both Serbia and NATO are responsible for this state of affairs by tacitly agreeing to conduct joint activities away from view of the public. In this way, the public has been denied the opportunity to form a different opinion of NATO in the light of new circumstances, above all, with respect to the significant contribution in security sector reform activities made possible through Trust Funds. CEAS research conducted during 2012 shows that among those from the expert public and employees of the state administration who oppose Serbia's membership in NATO, there is no objection to a greater role of NATO in security sector reform.<sup>41</sup> One gets the impression that such a rational stance has not been adequately exploited to improve the perception of NATO among the Serbian public. Unfortunately, even the Democratic Party Government, which successfully implemented the professionalization of the armed forces and during whose time in office many of the mentioned activities with NATO were developed and implemented, did not have the political courage to explain the importance of cooperation with NATO to the public. NATO rhetoric was mainly focused on the side benefits of cooperation such as "messages to foreign investors" or "stability of the environment". The media and civil society must also share some level of responsibility for the fact that Serbian citizens, who demonstrated their political maturity by not opposing the First Agreement on normalization of relations with Kosovo by a majority, still lack reliable information upon which to adopt a more rational attitude towards NATO. Neither has the public been informed about the benefits that would

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<sup>40</sup>Milan Nič and Ján Cingel. 2014. Serbia's relations with NATO: The other (quieter) game in town. Central European Policy Institute. Available at: <http://www.cepolicy.org/publications/serbias-relations-nato-other-quieter-game-town>

<sup>41</sup>For a more dynamic reform of the security sector in Serbia. 2012. Center for Euro-Atlantic Studies. Available at: [http://ceas-serbia.org/root/images/CEAS\\_-\\_For\\_a\\_More\\_Dynamic\\_Reform\\_of\\_the\\_Security\\_Sector\\_in\\_Serbia.pdf](http://ceas-serbia.org/root/images/CEAS_-_For_a_More_Dynamic_Reform_of_the_Security_Sector_in_Serbia.pdf)

accrue to Serbia from potential membership.<sup>42</sup> Only a few CSOs publicly advocate Serbia's membership in NATO. Representatives of parliamentary parties, such as the Alliance of Vojvodina Hungarians, occasionally mention that Serbia could at some point in time become a NATO member. However, like the few minor opposition parties that sometime mention NATO, they do not relate it with SSR as a key reason for promoting more intensive cooperation and potential membership, but only as a financial investment, or as a necessity on the path to EU integration.

These contradictory perceptions stand in contrast to the scope of NATO contributions to security sector reforms i.e., the sub-section of defense which, because of the political-ideological orientation of Serbia, excludes the highest level of cooperation attainable – membership. Hence, the process of modernization of army units to NATO standards, i.e., interoperability, which under the current framework is limited to one squad, is envisaged to expand to include one battalion within IPAP (plus some units from other parts of the armed forces). NATO officials, however, have doubts that Serbia, because of its currently scarce financial and other resources, will actually manage to reach this level. Only through IPAP do sensitive “political” topics, such as mechanisms and institutions of civil, democratic control of the armed forces, become part of the cooperation equation with NATO.<sup>43</sup> Evidently, the ability of NATO to influence reforms in Serbia is significantly less than in those cases of NATO candidate countries. For these countries, reforms become part of NATO's policy of conditionality for membership. Through its current voluntary cooperation with Serbia, NATO will not be able to influence the “purging” of the top of the hierarchy of the military that was discredited in the wars of the 1990s.<sup>44</sup> Precisely because of the limited contribution NATO can make to security sector reform in Serbia, the role of other international actors, above all the EU, is all the more crucial.

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<sup>42</sup>Jelena Milić. September 2014. 10-times in favor – of joining NATO. Partnership Newsletter. 09/2014. Slovak Atlantic Commission. Available at: [http://ceas-serbia.org/root/images/PartnershipNewsletterAugust2014\\_3.13-21.pdf](http://ceas-serbia.org/root/images/PartnershipNewsletterAugust2014_3.13-21.pdf)

<sup>43</sup>Interviews with NATO officials. 2014. Brussels-Belgrade.

<sup>44</sup>FILE: Ljubisa Dikovic. 2012. Humanitarian Law Center. Available at: <http://www.hlc-rdc.org/wp-content/uploads/2012/11/Ljubisa-Dikovic-File-and-Annex.pdf>

## IV. The EU integration toolbox and security sector reform in Serbia

In this section, the following points are reviewed:

- The development of the EU's Common Security and Defence Policy (CSDP) including of a strategic-organizational framework for SSR outside the EU's borders.
- The EU's traditionally limited, low profile approach to SSR in the context of EU integration.
- The available toolbox for SSR in Serbia's accession process – especially chapters 31 and 23 and political criteria.
- The unique position of the issue of Kosovo in the EU Accession negotiation framework for Serbia and its implications for SSR.
- The lack of a consistent approach to SSR and the need and possibilities for a strategic approach in the specific case of Serbia's accession.

### IV.1. EU Common Security and Defense Policy (CSDP)

The idea of a common European defense framework practically arose already from the Treaty of Brussels in 1948, from which the Western European Union (WEU) soon emerged, but which, following the establishment of NATO, was left as a virtually irrelevant pact in the shadow of the transatlantic organization and without its own military capabilities. The idea was given the greatest impetus only after the end of the Cold War, in the run-up to the meeting of the European Council in Cologne in 1999, when France and the United Kingdom for the first time agreed that the European Union should have its own defense component.<sup>45</sup> Accordingly, the Council agreed that the Union should develop military capacities in order to be able to react to international crises autonomously. The first institutional structures were erected for analysis, planning and managing military operations. These decisions, leading to the abolishment of the WEU, were built into the Nice Treaty of 2003, opening the way for around sixty international, civil and military EU missions which have so far been undertaken.<sup>46</sup>

This policy received its last significant momentum with the Lisbon Treaty in 2009, which gave it its current form and name – Common Security and Defense Policy (CSDP). The Treaty introduced three basic novelties: first, a clause was added on mutual assistance and solidarity in the case of military aggression on a member state's territory and in the

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<sup>45</sup>On the background of the political decision see: David Charter. 2012. A Revoir, Europe. What if Britain left the EU? London: Biteback Publishing. pp.55-57

<sup>46</sup>About CSDP – Overview. European Union External Action Service (EEAS). Available at: <http://www.eeas.europa.eu/csdp/>



case of a terrorist attack; second, the tasks of international military missions expanded significantly; and third, the Permanent Structured Cooperation was established in the sense of harmonizing defense capacities and structures of member states, as a process that will, theoretically, lead to the formation of a common EU defense policy. Within this framework, already in 2004, the European Defense Agency (EDA) was established, with the task of promoting research and technologies, the military industry and a common European military market.

In addition, with the establishment of the position of the High Representative for the Common Foreign and Security Policy and the creation of the EU's diplomatic service – the European Union External Action Service (EEAS) – the management of Common Foreign and Security Policy (CFSP) and CSDP gained a new institutional space. By its legal-political character, the Common Security and Defense Policy, as part of the Common Foreign and Security Policy, remain a special field, within the domain of the sovereign member states. It is decided upon by the European Council, by rule of unanimity. The basic form of legal acts are decisions, while the legal instrument of legislation is excluded – which means that the European Court of Justice has no jurisdiction over the legality of the decisions.

This fact is important to be taken into account when analyzing the impact that EU integration tools have on security sector reform of EU candidate countries. Because of the specific position of defense and security policy of the EU, the Union's *acquis* that the candidate country has to incorporate into national law in the accession process remains rather limited.<sup>47</sup>

It is worth mentioning that in the context of sending its first international missions, the European Union began developing its own strategic and organizational framework for security sector reform. The Union's concept takes a holistic approach to SSR. It is based on a broad understanding of the concept of security that includes both state and non-state actors, and is therefore not limited to the narrower security sector, but also encompasses rule of law, good governance, democratic norms, human rights, and the

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<sup>47</sup>Screening Serbia. Analytical examination of the *acquis*. Chapter 31 – Foreign, security and defense policy - Explanatory. 15.7.2014. Available at: [www.seio.gov.rs/upload/documents/skrining/eksplanatorni/31\\_agenda.pdf](http://www.seio.gov.rs/upload/documents/skrining/eksplanatorni/31_agenda.pdf)

like. The concept therefore largely follows those of other international organizations, as presented in the introduction to this study. In addition to the concept, after 2009, a pool consisting of over a hundred experts was established for all aspects of SSR and tasked, until now, to help existing and potential new EU international missions with expert advice.<sup>48</sup>

## IV.2. Enlargement history and SSR – or why Serbia is a special case

Before analyzing the role of EU integration in Serbia it is worth taking a brief look at the heretofore enlargement history and the role of SSR. For comparison we will take some Western Balkans countries with similar historical backgrounds and security traditions – Croatia, which has already joined the EU, and Montenegro, which opened accession negotiations earlier – as well as some countries outside the region, such as Iceland and Austria. Austria, an EU member state, declared military neutrality and is not a NATO member. A superficial glance<sup>49</sup> already indicates that security sector reform played a limited role in all these cases: it took Croatia only six months from opening to closing of negotiating chapter 31 on the Common Foreign and Security Policy. Iceland and Montenegro completed the screening process in 2011 and 2013 respectively and have not yet opened negotiations on this chapter.<sup>50</sup> The report on the screening of chapter 31 is no longer than 7 or 8 pages in all three cases – while, for example, the report on the screening of chapter 23 on Judiciary and fundamental rights is longer than 42 pages in the case of Serbia. The reports do not contain many controversies – the section on security policy mainly comes down to the requirements for additional adaptation of legislation, strengthening administrative capacities and improving implementation of regulations in the areas covered by the limited *acquis* of the EU. In addition, it is stated

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<sup>48</sup>Michaela Friberg-Storey. Security Sector Reform. At: Handbook for Decision Makers. The Common Security and Defense Policy of the EU, 2014. Austrian Ministry for Defense and Sports. pp.170-172. EU Concept for ESDP Support to Security Sector Reform (SSR). Council of the European Union. 12566/4/05. REV 4. Available at:

<http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2012566%202005%20REV%204>. Security Sector Reform (SSR) and CSDP. 5.12.2012. EEAS CMPD. Available at: [http://capacity4dev.ec.europa.eu/system/files/file/15/12/2012\\_-\\_1253/security\\_sector\\_reform\\_ssr\\_and\\_csdp.pdf](http://capacity4dev.ec.europa.eu/system/files/file/15/12/2012_-_1253/security_sector_reform_ssr_and_csdp.pdf)

<sup>49</sup>Screening report Croatia. Chapter 31 – Foreign, security and defense policy. 22.6.2007. European Commission.

Screening report Montenegro. Chapter 31 – Foreign, security and defense policy. 16.12.2013. European Commission.

Screening report Iceland. Chapter 31 – Foreign, security and defense policy. 16.11.2001. European Commission.

<sup>50</sup>Iceland has in the meantime withdrawn its application for EU membership.

that most of the candidate countries already participate in EU military missions. The Progress Reports for Montenegro, in the section on political criteria, unlike the one for Serbia, does not even contain the sub-chapter “civilian oversight of the security forces”. Austria’s accession negotiations on chapter 31 were also brief.

The question that is raised is why then insist at all on security sector reform in the case of Serbia’s EU integration? The answer is because in all the above mentioned cases, there was no need for a stronger role of the European Union through the accession process. Croatia became a NATO member during negotiations with the EU, one year before opening chapter 31 and four years prior to accession to the EU; Montenegro has a good chance at becoming a member of the military alliance in 2015. Therefore, both countries have completed or will complete systematic reforms of much of their security sector within the framework of accession to NATO. Austria, on the other hand, entered the European Union in 1995, exactly forty years after establishing a modern armed forces and other security structures and democratic mechanisms of civilian control, that is, as a stable, democratic country. Serbia stands in contrast to these cases, with its specific history and security sector tradition in the near and distant past, a brief phase of democratic consolidation of state institutions and an unfinished reform of the security sector – in which, as shown above, the role of the traditional foreign actor, NATO, is relatively limited due to Serbia’s declaration of military neutrality.

#### **IV.3. The EU integration toolbox – chapter 31**

Within the structure of accession negotiations of the EU with Serbia, which consists of 35 negotiation chapters, the sections related to the security sector are mainly divided into two segments – the so-called political criteria and chapter 23<sup>51</sup> covering civilian oversight of the security forces and chapter 31 that mainly contains the *acquis* in the field of the EU’s Common Security and Defense Policy. It is important to mention that today, in contrast to earlier periods in the Union’s enlargement history when accession negotiations were reduced to formal adoption of the *acquis*, “the accession process is both technical and political ... member states can have an influence, they can exert pressure for reforms in specific fields”, as a representative of the EU pointed out to the

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<sup>51</sup>And chapter 24 which deals with matters of the Police, but which is not the topic of this study.

authors of this study – or, in the words of another: “We do not emphasize the legal part, it represents an absolute minimum”.<sup>52</sup>

Unlike the sections of chapter 31 related to common foreign policy, which, with the outbreak of the crisis in Ukraine and the refusal of Serbia to join EU sanctions against Russia, became a top of priority in political relations between Belgrade and Brussels, the security-defense sections remained in the shadows.<sup>53</sup> By and large, these sections relate to participation in international military (and civilian) EU missions, regulation of the arms trade, prevention of arms smuggling<sup>54</sup> and proliferation of illegal weapons and the so-called dual use goods, non-proliferation of weapons of mass destruction and protection of classified information. Obligations are generally divided into adopting the *acquis* and creating institutional-administrative capacities. The screening of the chapters was conducted in two parts – the explanatory screening took place in July and the bilateral screening took place during October 2014. The report on the screening is expected in spring 2015, while the date of opening the chapter is still unknown. In general, Serbia is on target to meet these obligations. The country is already engaged in two EU military missions with smaller contingents – EUNAVFOR Atalanta and EUTM Somalia, and during 2014, the National Parliament adopted a decision on participation in two additional missions in Africa – EUFOR RCA and EUTM Mali. All the necessary agreements have been signed – Framework Participation Agreement for participation in CSDP missions and operations (2011); Agreement on Exchange of Classified Information (2012); and Administrative Agreement with the European Defense Agency (December 2013). In the field of trade in dual use goods, Serbia needs to establish an EU regime defined by EU Council Regulation 2009/428 that transfers the competences in this field from the member states to the Union. Regarding trade in small arms and light weapons (SALW), Serbia still needs to adopt the Common Position of the Council 2008/944/CFSP.

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<sup>52</sup>Interviews with representatives of DG Enlargement and EEAS. 2014. Brussels.

<sup>53</sup>The following account is based on: Powerpoint presentations from the explanatory screening of chapter 31,

Available at:

<http://www.seio.gov.rs/%D0%B4%D0%BE%D0%BA%D1%83%D0%BC%D0%B5%D0%BD%D1%82%D0%B0.1208.html>; Minutes of the explanatory screening meeting, available at:

[http://www.seio.gov.rs/upload/documents/skrining/eksplanatorni/31\\_zapisnik.pdf](http://www.seio.gov.rs/upload/documents/skrining/eksplanatorni/31_zapisnik.pdf); Interviews with EU representatives, Brussels 2014, as well as the article from Tanja Mišćević, 2012. Obligations Ensuing From Common Security and Defense Policy in the Process of European Integration of Serbia. The New Century: Liberal responses to global challenges. Center for Euro-Atlantic Studies. Available at: <http://ceas-serbia.org/root/tromesecnik/New-Century-No-2-Tanja-Miscevic.pdf>

<sup>54</sup>Parts of these obligations additionally relate to Chapter 30 (Trade) and Chapter 24 (Justice, freedom and security)

Serbia also needs to adopt a new law on arms and military equipment trade in order to be able to join the Wassenaar Arrangement. Regarding export control, there are serious questions on the possible scarcity of existing administrative capacities at the competent ministries. During the bilateral screening, the Serbian Government announced that it will conduct an analysis of the situation in relevant bodies of these ministries and possibly increase their human capacity.<sup>55</sup> Regarding the prevention of proliferation of weapons of mass destruction, Serbia still needs to ratify the Additional Protocol to the Nuclear Non-Proliferation Treaty. The exchange of EU classified information (EUCI) regulates the manner of managing EU classified information in general, and within the framework of the Union's international mission specifically, by the candidate country. To this end, in 2011 Serbia signed the Security of Information Agreement. Serbia still needs to legally regulate the management of such information, especially in relation to determining the circle of officials that will be issued with a license for access to these data. As there is no common regulation among EU member states themselves, no clear instructions have been given to Serbia during the screening process as to how narrow that circle of individuals is meant to be defined.<sup>56</sup> However, given the „tradition“ of privatizing classified information in Serbia originating from socialist times, this remains a sensitive issue.

The scope and range of outstanding obligations in the security-defense sections of chapter 31 will officially be known only after the publication of the Screening Report. However, according to statements of EU officials given to the authors of this study, it can already be concluded that these will neither provide the basis for setting opening benchmarks nor are they likely to provide the basis for setting interim or closing benchmarks. It is more likely that benchmarks will be defined in the section on foreign policy, which is a subject of discussion among member states that only just began.<sup>57</sup>

#### **IV.4. The EU integration toolbox – political criteria and chapter 23**

The second part of a candidate country's reform obligations in EU integration refers less to the legal and more to the political requirements which can be summarized under the concept of democratic civilian control of the security sector. Ninety-percent of these

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<sup>55</sup> Interview with an EU representative. 2014. Brussels.

<sup>56</sup> Interviews with EU representatives. 2014. Brussels.

<sup>57</sup> Interviews with EU representatives engaged in the negotiations. 2014. Brussels.

requirements are contained in the so-called political criteria that are separate from the negotiating chapters, and the rest comprise judicial control of security forces, placed under chapter 23. These requirements are based on the so-called Copenhagen criteria for membership, which define a political criterion as “stability of institutions guaranteeing democracy, rule of law, human rights and respect for and protection of minorities”. According to the Copenhagen criteria, the accession process is limited to economic criteria and adoption of the *acquis*, while a decision of the European Council to open negotiations implies that “the political criterion is considered satisfied”.<sup>58</sup> This division is artificial in a way and overcome in practice, as it is clear that all current candidates are still on their way to fulfilling this political criterion. In that sense, the European Commission Progress Reports, in addition to the sections that monitor development on economic criteria, contain information on progress made under each chapter and almost always include a section on political criteria as well. As explained by a representative of the European Commission, “the political criteria play a key role in the accession process, especially for member states”<sup>59</sup>.

The European Commission regularly monitors the activities of security services in Serbia and presents its analyses and demands in a brief section on “civilian oversight of the security forces” in the chapter on political criteria of its annual Progress Report, especially in relation to the rights of citizens to privacy of communication. Therefore, the 2012 Progress Report notes that the Constitutional Court declared unconstitutional parts of the Law on the Military Security and Military Intelligence Agency, which allowed interception of communication without a court order, and requires “the legal framework to be resolved”. In its 2013 and 2014 Progress Reports, the EC monitors how the appropriate amendments were adopted for the military agencies, as well as for the civilian Security Information Agency (BIA) following a similar verdict by the Constitutional Court. The Progress Reports express support for the work of independent regulatory bodies such as the Ombudsman and the Commissioner for Information of Public Importance and Personal Data Protection, and in a passage in the 2014 Progress

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<sup>58</sup>Accession criteria (Copenhagen Criteria). The European Union. Available at: [http://europa.eu/legislation\\_summaries/glossary/accesion\\_criteria\\_copenhagen\\_en.htm](http://europa.eu/legislation_summaries/glossary/accesion_criteria_copenhagen_en.htm)

<sup>59</sup>Interview with a European Commission representative. 2014. Brussels.

Report, it expressed such support for the request of the Ombudsman for the adoption of a new Law on BIA.<sup>60</sup>

On the other hand, analyses of the state of parliamentary control remain superficial, and are generally confined to analyzing formal activities and the normative framework of the relevant parliamentary bodies. The most critical comment came in the 2012 Progress Report. Noting that the Parliamentary Committee for Civilian Oversight of the Security Services had divided into two committees, the Report stated that “parliamentary oversight in practice, remains limited”. The 2013 Progress Report only deals with the more formal aspects of the work of the committees – expansion of activities in the review of reports of security services and control visits.<sup>61</sup> As much as these advances are important, annual European Commission Progress Reports often miss, or avoid stating the point. As shown by a number of analyses carried out over the past years<sup>62</sup>, in Serbia, despite these formal advances, there is still no effective democratic, parliamentary control of the security services. Neither this fact, nor the causes behind the essentially *status quo*, are mentioned in the Commission Reports. These identified causes include: the traditionally rooted awe of the public towards security services in Serbia, also present among MPs, including members of relevant parliamentary committees; an authoritarian disciplinary culture within political parties and parliamentary groups; and the frequent turnover in the composition of supervisory parliamentary committees. The last reason is caused by the lack of any offices or parliamentary staff for MPs in the parliamentary system of Serbia, which largely prevents thematic specialization of MPs and thus lessens their ability to act independently. While it is hard for the EU to directly influence some of these causes, the Union has a potentially powerful instrument through which it could support the establishment of MP offices – IPA funds. However, upon the request of the authors of this study, representatives of the Commission stated that there is no such IPA project because “we [the EU] can only support projects for which there is a

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<sup>60</sup>Serbia Progress Report. 2012. European Commission.

Serbia Progress Report. 2013. European Commission.

Serbia Progress Report. 2014. European Commission.

<sup>61</sup>Ibid.

<sup>62</sup>Dejan Milenković, Slobodan Koprivica and Vladimir Todorić. 2011. Control of the security services. OSCE and the New Policy Center. Katarina Djokić and Vladimir Erce. 2014. Parliamentary oversight and building integrity in security institutions. Belgrade Center for Security Policy.

request from the Serbian side; we do not impose projects through IPA, it is left to the candidates to propose them”.<sup>63</sup>

Unlike the attention it gives parliamentary control, it appears that the EU does not at all deal with other, equally important state institutions for civilian oversight of the security forces. Consequently, nothing can be read in the Progress Reports on the constitutionally-legal problematic position of the President of the Republic in relation to the armed forces of Serbia, or on the troubled legal position and composition and function of the National Security Council or the Bureau for Coordination of Security Services.<sup>64</sup> Similarly, no mention is made of the practical functioning of civilian control of the armed forces implemented by the Ministry of Defense. It should be taken into account that the Ministry became part of the chain of command in the armed forces only in 2004, and that the political system in Serbia is historically marked by weakness or lack of a separation of powers.<sup>65</sup> The European Union also failed to react to the problematic elements retained in amendments to the Law on Defense and the Law on the Armed Forces of the Republic of Serbia, which were adopted in 2014.<sup>66</sup> It is not known whether the European Union has set a requirement for changing the Constitution in order to clarify the position of the President in relation to the armed forces, as it has done in relation to some other problematic elements regarding, for example, the independence of the judiciary (the appointment of Supreme Court judges and prosecutors by the Parliament).

It would be good for the EU to pay more attention to the lack of transparency of budget lines for the defense sector; other sources of financing for the sector and the ability to better control the flow of funds into the sector by various authorities.

As for chapter 23 with respect to judicial oversight of the security services, it seems that this area also is not seriously covered by the EU. According to statements by European

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<sup>63</sup>Interview with European Commission representatives.

<sup>64</sup>For more details see: Annex I - Mechanisms of democratic control of security services in the Republic of Serbia

<sup>65</sup>Yearbook of Security Sector Reform in Serbia 2008. 2009. Belgrade Center for Security Policy. pp. 141-2

<sup>66</sup>Amendment of the Law on Defense and Law on Serbian Armed Forces: One step forward, three steps back. 2014. Belgrade Center for Security Policy. Available at: [http://www.bezbednost.org/upload/document/amendment\\_of\\_the\\_law\\_on\\_defence\\_and\\_law\\_on\\_the\\_ser.pd](http://www.bezbednost.org/upload/document/amendment_of_the_law_on_defence_and_law_on_the_ser.pd)



Commission officials, “we [the Commission] do not explicitly deal with this, we never have”. Military courts and prosecutors’ offices remained in operation in Serbia up until 2004 and functioned outside the scope of the civilian judicial system and thus represented one of the most problematic parts of the judiciary since socialist times. Serious warnings have been raised by some former representatives of the military judiciary to the effect that military courts and prosecutors’ offices, even after their incorporation into civilian (higher) courts and prosecutors’ offices, still operate under the old rules.<sup>67</sup> The lack of EU monitoring of the work of this aspect of the judiciary constitutes a significant omission. Moreover, military judicial departments are not even covered by the Screening Report on chapter 23 or by its Action Plan.<sup>68</sup>

#### **IV.5. The security sector and the Kosovo issue – chapter 35**

The issue of Kosovo is unprecedented in the accession process of Serbia, and thus plays a significant role in it. By agreeing to a political dialogue and signing the April Agreement in 2013, Serbia assumed the path towards *de facto* institutionally arranging relations with Kosovo, and pledged that it will not hamper the process of Kosovo’s accession to the EU.

In accordance with the negotiating framework agreed among EU member states, a special chapter 35 on Kosovo was established, aimed at a complete normalization of relations between Serbia and Kosovo. This chapter does not currently contain a request for formal recognition of independence of the former province by Belgrade. In addition, the framework provides in Article 38 that, in its accession process, Serbia “ensures that the geographical scope of its adopted legislation does not run counter to the comprehensive normalization of relations with Kosovo”.<sup>69</sup> This means that Serbia will, through negotiations on the other 34 chapters, have to exclude the territory of Kosovo from the legislative and institutional systems of the Serbian state.<sup>70</sup>

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<sup>67</sup>Lakić Đorović. 24.10.2012. The eight passenger in civilian judiciary: Secret military courts in Serbia. E-novine. Available at: <http://www.e-novine.com/srbija/srbija-tema/73336-Tajni-vojni-sudovi-Srbije.html?print>

<sup>68</sup>Screening Report Serbia. Chapter 23: Judiciary and fundamental rights. 15.5.2014. European Commission. Action Plan for Chapter 23. August 2014. Ministry of Justice of the Republic of Serbia. Available at: <http://www.mpravde.gov.rs/files/Action%20Plan%20AP23eng.1.9..pdf>

<sup>69</sup>Negotiation Framework. 9.11.2014. Brussels. Available at: [http://www.seio.gov.rs/upload/documents/pristupni\\_pregovori/neg\\_frame.PDF](http://www.seio.gov.rs/upload/documents/pristupni_pregovori/neg_frame.PDF)

<sup>70</sup>Interviews with EU officials. 2014. Brussels.

This approach also becomes important from the point of view of the role of the security sector in accession negotiations and for chapter 31. As indicated in the previous Chapter III of this study, all relevant strategic documents and legislation of Serbia, such as the National Security Strategy, the National Defense Strategy and the Law on Defense, rest on defending Kosovo as a part of Serbian territory – which runs counter to the logic of the negotiation framework. Asked by the authors of this study how this matter will be regulated, some representatives of the EU explained that this topic will be negotiated within chapter 35, as other chapters will deal only with the “non-political, non-sensitive topics”, while others stated that it is not yet completely clear whether this will be negotiated within chapter 35 or chapter 31. Some EU officials warn that it is not yet decided even within the EU itself how much importance will be attached to these documents.<sup>71</sup>

#### **IV.6. EU accession negotiations and SSR – a consistent, strategic approach?**

How much does the European Union deal with the security sector in Serbia and the need for further reforming it within the process of EU integration in a systematic, strategic manner? Very little, according to the present analysis, but also judging by certain aspects of the internal organization of the Union: within the Directorate General for Enlargement (DG Enlargement) one person deals with chapter 31, and that person is also responsible for chapters 23 and 24. However, responsibility for negotiations on chapter 31 does not lie with the Commission – these are led by the European Union External Action Service (EEAS). EEAS is responsible for everything concerning foreign and security policy, while the Directorate General for Enlargement only assists. Already at the level of the EU Delegation to Serbia, there is no single person solely responsible for the security sector. Among the military attachés in EU member states’ embassies in Belgrade, the Austrian representative has been selected as a kind of contact point for the military aspect of chapter 31, but so far has had no contact with the EU Delegation, as the jurisdiction for defense policy lies with the member states, and therefore, with the ambassadors. Within the EU institutions there is no one person or team that would coordinate all aspects of the accession process related to security sector reform. At the same time, it seems that the responsible persons from various EU institutions are not familiar with the EU concept of security sector reform in a systematic way, let alone that the expert pool on

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<sup>71</sup>Interviews with various EU representatives. 2014. Brussels.

SSR would be used for enlargement policy. Also, it seems that, for now, there is no strategic coordination in the approach of the EU between the foreign policy and security policy sections of chapter 31, despite the increased importance foreign policy aspects have acquired in the context of the crisis in Ukraine.<sup>72</sup>

## **V. EU and other international and domestic actors promoting security sector reform**

In this section, the following points are reviewed:

- The role of other international actors that promote SSR and the EU's relationships with them.
- The EU's relationship with some domestic actors in Serbia that promote SSR.
- The role bilateral military cooperation between Serbia and EU member states, as well as other Western states plays, in SSR as well – as its limitations.
- The development of bilateral cooperation between Serbia and Russia and the controversies that arose around this relationship, especially in the context of the Ukraine crisis and Serbia's orientation towards EU-integration.

### **V.1. EU-NATO relations**

Contrary to the perception, prevalent in expert and even more so military circles in Serbia, that the EU's Common Security and Defense Policy constitutes an alternative to NATO, relations between the EU and NATO have developed in a completely different direction and spirit since the late 1990s.

With the creation of CSDP, the European Union emphasized from the very outset that it considers the objectives of its new defense component and its international tasks as a compliment to those of the transatlantic Alliance, and not as an alternative. As a result, the relationship between the EU and NATO has developed in the direction of being cooperative and complementary of each other's mandate, i.e., in avoidance of duplication of missions and structures. Thus, in March 2003, before commencement of the first EU military mission in history, the Berlin Plus Agreement was signed. The Agreement enables the use of NATO assets and capabilities for military missions led by the EU (the so-called Berlin Plus Missions). The Agreement regulates the modalities of using NATO equipment and an adaptation of the NATO defense planning system by the EU. Berlin

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<sup>72</sup>Interviews with various EU representatives and EU member states' Military attachés. 2014. Brussels-Belgrade.

Plus Missions of the EU are under the command of NATO's Deputy Supreme Allied Commander Europe (DSACEUR). To date, the EU has established only two missions within the Berlin Plus framework: Operation Concordia in Macedonia, which was completed in 2003, and the ongoing mission in BiH – EUFOR Althea – in which Serbia does not take part.<sup>73</sup> The EU continues to organize other military missions outside the Berlin Plus Framework. However, the question of the engagement of Serbia in these other EU military missions is also indirectly linked to NATO as the EU itself does not define the interoperability of troops participating in its military operations, but instead follows the rules defined by NATO. Units of the Serbian Armed Forces have taken part in such EU missions on the basis of the terms of operability reached through engagement within the Partnership for Peace.<sup>74</sup>

The Lisbon Treaty also emphasizes the complementary aspects of the mission of CSDP with the mission of NATO. Thus, in addition to the previously mentioned clause on solidarity in case of military aggression against an EU member state, it is underscored that „commitments and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organization, which, for those States which are members of it, remains the foundation of their collective defense and the forum for its implementation“.<sup>75</sup> Within the EU, a major debate is ongoing in relation to the described development of relations between the Union and NATO on whether the neutrality of EU member states that are not part of NATO (6 out of 28) can be preserved at all.<sup>76</sup>

In general, a high degree of cooperation and coordination exists between the EU and NATO, but apparently not with respect to the promotion of security sector reform in Serbia. Asked about the existence of an institutionalized form of cooperation between the Alliance and the Directorate for Enlargement and EEAS in Serbia, a NATO

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<sup>73</sup>EU-NATO: The framework for permanent relations and Berlin Plus. Council of the European Union. Available at: <http://consilium.europa.eu/uedocs/cmsUpload/03-11-11%20Berlin%20Plus%20press%20note%20BL.pdf>

<sup>74</sup>Tanja Mišćević. 2012. Obligations Ensuing From Common Security and Defense Policy in the Process of European Integration of Serbia. The New Century: Liberal responses to global challenges. Center for Euro-Atlantic Studies. Available at: <http://ceas-serbia.org/root/tromesecnik/New-Century-No-2-Tanja-Miscevic.pdf>

<sup>75</sup>Treaty of Lisbon amending the Treaty on the European Union and the Treaty establishing the European Community. 13.12.2007. Official Journal of the European Union. 2007/C 306/01.

<sup>76</sup>Jan Litavski. 2012. The Controversies of Military Neutrality of Serbia. The New Century: Liberal responses to global challenges. Center for Euro-Atlantic Studies. Available at: <http://ceas-serbia.org/root/index.php/en/ceas-publications/100-the-new-century/450-the-new-century>

representative explained that „it exists only on a personal basis – I am the institutional cooperation“.<sup>77</sup>

## **V.2. Relations between the EU and OSCE**

The OSCE Mission to Serbia, established in 2001, is one of the international organizations with the longest-serving presence on the ground in the country. Promotion of security sector reform constitutes a traditional part of OSCE's activities, and is implemented through the Military Reform and Cooperation Program and the Arms Control Program. Within it, in cooperation with UNDP, since 2011, OSCE has been implementing a project to destroy surplus obsolete weapons. Furthermore, alongside a project for improving the work of the Military Academy and other institutions for security education and military research, as well as a project for the promotion of gender equality in the security forces in Serbia, the OSCE has been working the longest and most consistently among international actors in Serbia<sup>78</sup> on developing the capacities for parliamentary oversight of security forces. Despite the OSCE's long-standing experience in security sector reform in Serbia, to the authors' knowledge, a form of institutionalized cooperation (i.e., a forum for regular exchange of information and experiences), has not been established (aside from its regular, annual call for other international organizations to submit their written analyses/assessments for the preparation of the EU Progress Report).

## **V.3. Relations of the EU with some domestic actors for oversight of security structures in Serbia**

The National Parliament: National Parliament MPs take part in exchange programs with their colleagues in the European Parliament (EP), financed through IPA funds. A Parliamentary Committee for Stabilization and Association, consisting of an identical number of members from both the National Parliament and the European Parliament, meets twice a year. In addition, members of the Committee for European Integration of the National Parliament and a delegation of the EP convene an annual inter-parliamentary meeting which alternates its venue between Belgrade and

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<sup>77</sup>Interview with a NATO representative. 2014. Brussels.

<sup>78</sup>Interviews with representatives of the OSCE Mission to Serbia. 2014. Belgrade.

Brussels/Strasbourg. However, neither of these programs specifically targets members of Parliamentary Committees overseeing the security forces.

Within the framework of the Stabilization and Association Agreement (SAA), the European Commission recently provided funds under IPA for the establishment of a working group for public administration reform which includes members of the parliamentary administration. It remains to be seen whether this forum will be used to strengthen the scarce human capacities of the Parliament's expert service specialized in security issues. No funding has yet been provided for a project in support of potentially the most effective measures for strengthening the thematic specialization of MPs and thus strengthening their autonomy – securing offices and staff for MPs<sup>79</sup>

Civil society Organizations: The number of CSOs and independent experts actively monitoring the development and reform of the security sector in Serbia is traditionally low.<sup>80</sup> Although regular contact and the exchange of opinions and information takes place between representatives of the Delegation of the European Union to Serbia and these organizations, the EU had not engaged with these organizations in a coordinated manner or provided any financial support for their work. Instead, CSOs engaged with and received support from bilateral donors from EU member states, Norway and the USA. This situation has now changed with the establishment in 2013 by the Serbian Government of the National Convention on the European Union – a platform through which civil society can actively participate in Serbia's EU integration process. With the opening of accession negotiations, the work of the Convention has been divided among a number of working groups that focus on specific negotiation chapters. Relevant civil society organizations and independent experts are sought out for the contribution they can make in their specific fields of expertise to the working groups. Among the working groups established, there is a group for chapter 31 Foreign, security and defense policy. The work of the Convention will largely be financed with EU funds.<sup>81</sup>

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<sup>79</sup>Interviews with EU Commission representatives. 2014. Brussels.

<sup>80</sup>For more details see: Annex I - Mechanisms of democratic control of security services in the Republic of Serbia

<sup>81</sup>National Convention on the European Union. Available at: <http://eukonvent.org/eng/about-national-convention-on-the-eu/>

#### **V.4. Support of the Geneva Center for the Democratic Control of Armed Forces (DCAF) to security sector reform in Serbia**

The Geneva Center for the Democratic Control of Armed Forces (DCAF) in Serbia for the most part concentrates on projects related to reforms in the police and the Ministry of Internal Affairs. DCAF also significantly promotes SSR through its support for projects of civil society organizations and expert groups. In partnership with domestic organizations, DCAF organizes educational events for young professionals in public administration, representatives of the academic community and civil society involved in SSR. For years, DCAF has been supporting capacity-building of parliamentary committees in the region that conduct oversight of security services.

#### **V.5. Bilateral military cooperation and SSR**

According to official statements, Serbia has established bilateral military cooperation with over 60 countries worldwide, among which a large number are European countries, out of which the majority are EU member states. According to the scope of military cooperation with Serbia, the USA is in first place with 140 out of 150 planned measures implemented in 2014. Among European countries, Serbia's greatest bilateral partner is Austria, with around 40 measures implemented followed by Germany with around 20 measures implemented. Other European countries that Serbia has implemented measures with include, for example, the United Kingdom, Norway, the Netherlands and Denmark. The measures implemented with Austria, for example, focus on military logistics, sanitary services, ABC weapons, and also include financing participation of Serbian Armed Forces members in exchange programs at the EU Defense College in Belgium. German bilateral cooperation is focused on Military Police, defense law, military history and sanitary services. The USA largely implements its military cooperation through the Ohio National Guard, encompassing, among other things, training of officers, exchange and training of units as well as joint exercises, aid in case of natural disasters and development of capacities for participation in multilateral operations. One of the most important future projects is the construction of the Center for the Training of Units for Multinational Operations in the „South Base”.<sup>82</sup>

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<sup>82</sup>Interviews with EU member states' military attachés. 2014. Belgrade.  
Serbia Ohio State Partnership Program. Ministry of Defense of the Republic of Serbia. Available at:  
[http://www.mod.gov.rs/sadrzaj.php?id\\_sadrzaja=4364](http://www.mod.gov.rs/sadrzaj.php?id_sadrzaja=4364)

The greatest part of this bilateral cooperation with Western countries is focused on modernization and reform of Serbia's defense system. However, when asked about the scope and effect of all of these measures, a military attaché from one EU member state explained that "bilateral cooperation depends on the will of the other, Serbian side. But we also have a certain influence in determining the needs in setting up the conditions for cooperation". When asked how to prevent the Serbian side from disagreeing to the requirements set and simply shifting to another partner, he explained that there is a certain level of coordination between the 17 Western countries which have bilateral military cooperation with Serbia. This coordination is established through regular meetings in Belgrade of the military attachés of those countries. Another military attaché, however, relativizes the scope of this coordination: "there is no genuine coordination between Western countries, Serbs choose what they like."<sup>83</sup>

To a certain extent, the case of US presents an exception to these limited impacts of bilateral military cooperation, due to support it has lent to Serbia's (state-owned) arms industry. In 2007, Washington facilitated a first and substantial arms deal for the Serbian company *Jugoimport SDRP* with Iraq, and helped to broker an initial deal with Afghanistan in 2011. In addition to arms sales to the US proper, these arrangements helped to prevent the collapse of Serbia's arms industry, which was heavily damaged in the 1999 NATO bombings and had degraded due to difficulties in its traditional export countries from the socialist era.<sup>84</sup> This important role gave the US some leverage in pressing for SSR and Western integration of Serbia.

#### **V.6. Bilateral military cooperation Serbia-Russia**

The intensification of bilateral military cooperation between Serbia and Russia attracted the attention of the EU and the West, especially since the outbreak of the crisis in Ukraine.

The development of political trends in Serbia, until late 2012, starting with the political dialogue between Belgrade and Prishtina and continuing through to the April Agreement

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<sup>83</sup>Interviews with EU member states' military attachés. 2014. Belgrade.

<sup>84</sup> Afghanistan buys arms from Serbia with the help of the US. 22.1.2011. *Blic Online*. Available at: <http://www.blic.rs/Vesti/Tema-Dana/230831/Avganistan-kupuje-oruzje-iz-Srbije-uz-pomoc-SAD>



and the opening of accession negotiations between the EU and Serbia, left Russia on the sidelines of developments. This was obviously to the dislike of Moscow, resulting in intensified lobbying of Moscow towards Belgrade and intensified military cooperation.

In late 2012, preliminary talks were held between the Minister of Defense at the time, Aleksandar Vučić, and the Russian Deputy Prime Minister Dmitry Rogozin, in Moscow – as a prelude to deeper and more specific military cooperation between the two countries. In early 2013, Serbia was also visited by Nikolai Patrushev, Secretary of the Security Council of the Russian Federation, and one of the most important and closest associates of Russian President Vladimir Putin. Prior to his appointment as “Chief of all Russian Security Services”, he headed the famous Russian Federal Security Service. The focus of the meeting Patrushev had with top Serbian officials was cooperation in the fields of security and defense. Shortly thereafter, Serbia and Russia signed a series of agreements. An agreement in the field of defense was also signed by the Serbian and Russian Ministers of Defense, Nebojša Rodić and Sergey Shoygu, during Shoygu’s rather spectacular visit to Belgrade in mid-November 2013 – the first visit of a Russian Minister of Defense in 15 years. Official sources report that the possibility of the exchange of security information in the fight against terrorism and organized crime was also discussed during the visit, including plans for further projects and investments in the defense industry.<sup>85</sup> The influential “Večernje novosti” evaluated the signing of the agreement with the following: “After a full decade and a half, this Agreement defines the relations of the armed forces of the two countries on completely new grounds. Although it is an umbrella agreement, based on which all further military agreements will be negotiated, it is already certain that its first results will be cooperation in the field of aviation, air defense and ground troops. An indication of a stronger partnership are joint exercises, as well as an announced participation of armored units of the Serbian Armed Forces at a tank competition, which is to be held next year in Russia. Building stronger relations between the General Staff of the Serbian Armed Forces and the Armed Forces

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<sup>85</sup>Jelena Milić. 2013. Sad Stream. The New Century: Liberal responses to global challenges. Center for Euro-Atlantic Studies. Available at: [http://ceas-serbia.org/root/images/The\\_New\\_Century\\_No05-Jelena\\_Milic.pdf](http://ceas-serbia.org/root/images/The_New_Century_No05-Jelena_Milic.pdf)

of Russia is envisioned as well.”<sup>86</sup> During 2013, Serbia became an observer in the Collective Security Treaty – an organization led by Moscow.<sup>87</sup>

The culmination of this pressure was the visit of Russian President Vladimir Putin to Serbia in mid-October 2014, a few days before the celebration of the liberation of Belgrade, which was the official reason for the visit. On this occasion as well, in a rather non-transparent manner, an agreement on military cooperation was signed. Minister of Defense Gašić stated that “This is the first agreement that Serbia has signed with the Russian Federation as an independent country, and it is a basis to start negotiations on the modernization of the Serbian Armed Forces, equipment procurement, spare parts for our resources, perhaps even airplanes whose purchase was discussed in 2012”. According to Gašić, the agreement is also a basis for military-medical, technical and military-educational cooperation of the two countries.<sup>88</sup> Shortly before the visit, Serbia was the only country from Europe which took part in the military exercise “Dance of the Tanks” in Moscow. In mid-November of this year, after having been repeatedly announced, the first joint exercise of the Armed Forces of the Russian Federation and the Serbian Armed Forces in history was held – the tactical anti-terrorist exercise “Srem 2014”.<sup>89</sup>

### *The Serbian-Russian humanitarian center in Niš*

In late 2011, the then Minister of Internal Affairs, Ivica Dačić, regarded as Russia’s man in the last two governments, announced the opening of the Regional Serbian-Russian Humanitarian Center in Niš, which Serbia had opened together with the Russian Ministry for Emergency Situations. Niš, the largest city in South Serbia, is close to Kosovo and on the potential route of the “South Stream” pipeline. The announcement was not

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<sup>86</sup>Vučić Told Shoygu: We are neither going towards NATO nor the Russian block. 13.11.2013. Večernje novosti. Available at: <http://www.novosti.rs/vesti/naslovna/politika/aktuelno.289.html:463460-Vucic-rekao-Sojguu-Ne-idemo-u-NATO-ni-u-ruski-blok>

<sup>87</sup>Milan Nič and Ján Cingel. 2014. Serbia’s relations with NATO: The other (quieter) game in town. Central European Policy Institute. Available at: <http://www.cepolicy.org/publications/serbias-relations-nato-other-quieter-game-town>

<sup>88</sup>Bilateral agreement signed. 16.10.2014. RTS.

<http://www.rts.rs/page/stories/sr/story/9/Politika/1724549/Potpisani+me%C4%91udr%C5%BEavni+sporazumi.html>

<sup>89</sup>First military exercise between Russia and Serbia held. 14.11.2014. Radio Free Europe. Available at: <http://www.slobodnaevropa.org/content/manevri-u-nikincima-u-podne-prva-vojna-vezba-rusije-i-srbije/26691409.html>

later followed through with any additional information. Due to the manner in which the Center was established and the lack of information about its activities, doubt about its genuine purpose arose from the very start. The Russian Ministry for Emergency Situations has an unusual, almost fully military structure, a mandate to act outside of Russia and equipment and logistics often better than that of some official Russian armed forces.<sup>90</sup> The Center was established at a time when in Russia itself, fierce debates were ongoing about the capacity of Russia to extinguish blazes on its own territory. The Serbian Minister of Foreign Affairs at the time, Vuk Jeremić, stated that “the opening of the Humanitarian Center in Niš has strategic importance for Serbian-Russian relations”. Representatives of both countries claim that it is not a military base, but a center that will “guarantee better security for Serbia and the entire Balkans”, although in both expert and diplomatic circles in Serbia there are serious doubts about the validity of this claim. Up until the catastrophic floods in Serbia in the spring of 2014, not much was known about the work of the Center.

In late 2014, Ivica Dačić, this time as the Minister of Foreign Affairs, announced the signing of a “diplomatic agreement on immunity” which he said would grant the Center and its employees the same status provided by the Status of Forces Agreement (SOFA) that Serbia has with the USA and other countries. It was planned for the agreement to be signed during the visit of Russian President Putin to Serbia.

At the very least, it is unusual to compare the proposed new status of a humanitarian non-military base and its staff with standardized documents concerning the status of foreign military forces in a country. SOFA does not provide for diplomatic immunity of guest armed forces in the host country. It is an agreement that determines how the military of another country will operate in the host country, and how legal claims against military personnel or the Ministry of Defense of the guest country will be handled. SOFA makes these procedures transparent to the government of the host country; in this case, the Government of Serbia.<sup>91</sup>

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<sup>90</sup>Humanitarian center or Russian military base. 24.11.2014. Radio Free Europe. Available at: [http://www.slobodnaevropa.org/content/srbija\\_nis\\_rusija\\_humanitarni\\_centar/24364951.html](http://www.slobodnaevropa.org/content/srbija_nis_rusija_humanitarni_centar/24364951.html)

<sup>91</sup>Regarding the announced new status of the Serbian-Russian Humanitarian Center in Niš. 2014. Center for Euro-Atlantic Studies. Available at: <http://ceas-serbia.org/root/index.php/en/announcements/3026-regarding-the-announced-new-status-of-the-serbian-russian-humanitarian-center-in-nis>

The agreement has not been signed, but it remains unclear why it was announced in the first place, given that the Serbian-Russian Humanitarian Center in Niš, according to the Law on Ratification of the Agreement between the Government of the Republic of Serbia and the Government of the Russian Federation on the establishment of the Serbian-Russian Humanitarian Center in Niš, is an inter-governmental, non-profit organization that enjoys the rights of a legal entity registered in the host country, and which may, with the integration of new participants, be assigned international coordination functions. However, there has yet been no integration of other participants, and no cooperation with European institutions, and therefore the Center does not have an international character. The Center is registered as a legal entity in the Republic of Serbia in accordance with its national legislation. In addition, the Law stipulates that Russian personnel in the Center, during their stay in the territory of the Republic of Serbia, enjoy the same legal status determined for the administrative and technical staff of the Embassy of the Russian Federation, in accordance with the Vienna Convention – as is, indeed, also provided by the Law on Ratification of the Agreement between the Government of the Republic of Serbia and the Government of the United States on protection of the status and access and use of military infrastructure in the Republic of Serbia. In short, the Center's status and the status of its employees is already clearly defined. According to statements of some European officials, the signing of the diplomatic immunity agreement was prevented only by political intervention from the EU.<sup>92</sup>

European Union officials, military attachés from EU member states, as well as NATO officials are not united in their assessment of the scope and importance of Serbia's military cooperation with Russia – and neither are military analysts in Serbia itself. One military attaché sees bilateral cooperation as „very marginal [...] look at the participation at the tank exercise in Moscow, which is purely of symbolic character“. A NATO representative, who also considers the public importance given to this bilateral military cooperation excessive, points to the case of the Russian donation of batteries for the MIGs the Serbian Armed Forces received, following the personal intervention of President Putin in August of this year: „What is most striking here is not the donation itself, but the awkward fact that the Serbian Armed Forces have only four functional

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<sup>92</sup>Interview with a Government official of an influential EU member state. 2014.

MIGs, and that these work only thanks to the donation of batteries“. An EEAS representative admitted to the authors of this study: „For one part of this cooperation we know what it contains, but for the rest we do not know what is envisaged by it“.<sup>93</sup>

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<sup>93</sup>Interviews with EU representatives, EU member states' military attachés and NATO representatives. 2014. Belgrade-Brussels.

## Conclusions and Recommendations

The security sector constitutes an important component of any country's governmental structure as it is responsible for regulating the monopoly the state maintains over the legitimate use of force. Democratic alignment of the security sector is one of the most important prerequisites for any democratically organized country. Because of this, security sector reform (SSR) is a key element of the democratic transformation of authoritarian countries, which includes also post-socialist countries, following the end of the Cold War. This is especially true for the countries of South-East Europe where the socialist era was succeeded by an era of warfare. This era witnessed a substantial erosion of the monopoly on the use of force as the result of a deliberate policy of violent ethnicisation of society and the state. Serbia, as one of these countries, began the process of security sector reform after 2000 under complex socio-political circumstances which largely shaped and defined the limitations of the scope and effects of such reforms implemented since then. This explains why Serbia entered the final phase of the European Union (EU) integration process – accession negotiations – in January 2014 with an incomplete and unsatisfactory record of security sector reform.

Assuming a successful conclusion to the negotiation process, the expectation is that Serbia will be accepted into the European Union as a new member state and, as defined by the Copenhagen Criteria, as an established democratic country with a functional market economy and with its national legislation in conformity with the EU *acquis*. By any definition, this would imply that the security sector in Serbia has reached a democratically-aligned and functional level at which it can ensure a stable democratic order. To reach this level will require that security sector reform be addressed as a priority in the period leading up to EU accession. In its history of enlargement policy, the European Union has not paid particular attention to security sector reform. This was the case because candidate countries had conducted such reform either within the framework of requirements for accession to NATO or successfully on their own before acceptance as an EU member.

Serbia, however, is an exceptional case in this regard and will require that the EU take a firm stance on this issue and play a more proactive role as an external promoter of security sector reform. Three main reasons why a different and more robust approach by the EU is needed in the case of Serbia are:

First, Serbia made a declaration of military neutrality in 2007. This declaration was taken in a non-democratic manner without serious public debate and solely in reaction to the declaration of independence by Kosovo. As such, the concept for this move was not developed in sync with Serbia's most important strategic documents as would be expected. Moreover, the theoretical basis for the declaration of neutrality is weak and inconsistent as is evident in the reaction of the Serbian Government to the sharpened relations between the West and Russia in the context of the Ukrainian crisis. These deficiencies could have a negative impact on the successful completion of reforms in the security sector.

Second, as a consequence of its declaration of military neutrality, Serbia is excluded from the possibility of seeking membership in NATO. In any event, Serbia has not indicated such an interest and as a corollary its cooperation with NATO has been limited. This greatly diminishes the role of a key external actor in promoting security sector reform which the Alliance has assumed in the case of nearly all previous candidates for EU membership. This deficiency cannot be compensated for by Western countries that maintain bilateral military cooperation with Serbia – cooperation that is only voluntary. This leaves the EU as the only external actor in Serbia capable of exerting pressure on the authorities to undertake meaningful security sector reform through its policy of conditionality.

Third, continuation of the dialogue between Serbia and Kosovo should lead to a complete normalization and institutionalization of relations prior to Serbia's accession to the EU, and later to Kosovo joining the EU – and with that the once primary reason for the declaration of military neutrality is negated. The security sector therefore represents an area in which the accession process as defined by the EU Negotiating Framework and the most important strategic objectives defined in state documents of Serbia (defense of the territorial integrity of the country, including the territory of Kosovo) collide.

As a consequence of this current state of affairs, the European Union should identify security sector reform in Serbia as one of its main areas of interest in the accession process.

To this end, the authors recommend:

To the European Union, EU member states and other Western countries:

- Define security sector reform as an important aspect of the integration policy towards Serbia in the accession process, and approach it in a strategic and consistent manner, with effective use of available tools and resources, especially through the political criteria and chapters 23 and 31. Because the Common Security and Defense Policy resides largely within the jurisdiction of member states, the initiative for such a new approach must come from the member states;
- Establish an interdepartmental team comprised of representatives from the Directorate General for Enlargement, the EEAS and the EU Delegation to the Republic of Serbia;
  - Team members should be familiar with the EU concept on SSR and, if required, experts from the EU pool of experts on SSR should be consulted;
  - The team should maintain regular communication with representatives of other international organizations engaged in SSR in Serbia, EU member states' military attachés in Belgrade and relevant representatives of civil society organizations and the expert public in Serbia;
- Report, in a systematic manner, the state of the security sector and the dynamics and deficiencies of reforms in the annual Progress Reports for Serbia, especially in the section "Political Criteria" and relevant sections in chapters 23 and 31. This should include making recommendations for further reforms using imperative language;
- Require that Serbia, within the accession process, solve the existing constitutional and legal ambiguities and the contradictory roles and positions of relevant state bodies and institutions which include among them the President and the National Security Council and its Bureau for Coordination of Security Services;
- Within chapter 23, monitor the work and operation of military departments of courts and prosecutors' offices in Serbia;
- Provide financial and other support for the work of the Office of the War Crimes Prosecutor in cases relating to former and current officials in the security sector and consistently condemn any form of political pressure on the Office;
- Review the recommendations of other international actors, Serbia's independent bodies of the Ombudsman and Commissioner for Information of Public Importance and Personal Data Protection and civil society organizations regarding reforms of the legal



basis of security bodies with a view to making them a condition of the accession negotiation process;

- Suggest to the Government of Serbia, in Progress Reports, that it secure space for the establishment of MP offices and employ parliamentary staff. The EU should provide some support for the offices with IPA funds; staff salaries should be secured through the state budget, and in the context of the budget savings that will be achieved through the planned public administration reform; the SAA working group on public administration reform could serve as a forum to plan and implement these projects;
- Within chapter 31, require the Government of Serbia to provide the EU with complete information and documentation regarding existing bilateral military cooperation with the Russian Federation. Additionally, the EU should demand information with respect to the basis for and manner of operation of the Humanitarian Center in Niš;
- Within chapter 35, make it a condition that Serbia exclude the territory of Kosovo from all strategic documents (National Security Strategy, National Defense Strategy) related to the defense of territorial integrity in accordance with Article 38 of the EU's Negotiating Framework with Serbia;
- Insist on greater transparency and clarity of budget lines for the security sector, and on strengthening the mechanisms of financial control over the sector;
- EU member states and other Western countries maintaining bilateral military cooperation with Serbia, such as the USA and Norway, should closely coordinate their support for security sector reform in Serbia.

To the Government of Serbia:

- Prior to accession to the EU, adopt a new National Security Strategy, a new National Defense Strategy and a National Foreign Policy Strategy, taking into account the obligations of Serbia towards the EU and obligations originating from the April Agreement. In parallel, conduct a broad public dialogue on the concept of military neutrality and how relations with the EU and NATO should be structured;
- Address the perceived weaknesses and problematic elements in the Law on Defense and the Law on the Armed Forces, including the recently adopted amendments to both laws;

- Adopt a special Law on Security Vetting, which would prevent arbitrariness in employment in the security sector and thus limit the possibility for party control over the sector;
- Include the need to reform military departments at high courts and prosecutors' offices in Serbia in the Government's Strategy for Judicial Reform and the Action Plan for chapter 23;
- Adopt the still outstanding measures recommended by the Ombudsman and Commissioner for Information of Public Importance and Personal Data Protection contained in the 14 points proposal, and, in particular, adopt a new Law on the Security Information Agency and draft any other related laws and bylaws;
- Strengthen the institutional and operational capacity of the Office of the Council on National Security and Classified Information Protection;
- Amend the Criminal Procedure Code to provide that prosecutors can submit a request to government and other bodies and legal entities to supply necessary information;
- Insist on full compliance with constitutional guarantees on communication secrecy which provide that interception of electronic communications and access to retained data on citizens' communications can be undertaken by the police only on the basis of a court order;
- Encourage providers of electronic communications to cooperate more closely among themselves and to engage in self-regulation with the aim to develop common standards which all service providers would adhere to;
- Adopt a new Law on Whistleblower Protection that provides adequate legal protection for whistleblowers and ensure proper implementation of the Law;
- Amend the existing Law on Classified Information to eliminate perceived shortcomings and legal loopholes and create conditions for a more effective application of the Law; alternatively, adopt a new law which addresses these issues. If the existing law remains in force, harmonize related legislation in terms of terminology and handling of classified information. Also, educate public authorities on the Law;
- Reform public enterprises which are part of the so-called defense industry, and solve issues regarding their debts and obligations towards the local communities in which they are located. Also, increase transparency of operations and control over state-owned enterprises for defense industry exports.

To civil society, the media, academia and other interested parties (or actors):

- As soon as possible, start a broad public debate on weaknesses in the Constitution with respect to the structure of the security sector and democratic and civilian control over it, and also on any perceived contradictions and shortcomings which could be problematic for the process of Serbia's EU integration.

## **Annex: Mechanisms of democratic control of security services in the Republic of Serbia**

### **Types of control**

In the Republic of Serbia, control of the security services takes the following forms: political control exercised by political entities such as parliament, political parties and public opinion; legal control implying administrative control of the administration and judicial control of the administration. The legal control can also be viewed as internal control, undertaken by the administration itself, and external control, which is the responsibility of judicial bodies, independent control bodies, the public prosecutor's office; 'mixed' control through independent bodies, which has elements of both political and legal control (the Ombudsman and the Commissioner for Information of Public Importance and Personal Data Protection, and the State Auditor).

### **Parliamentary control**

The 2006 Constitution provides that the National Assembly supervises the work of the security services (Article 99) directly and indirectly through its Defense and Security Committee. The National Assembly adopts legislation and strategic documents (the National Security Strategy) normatively regulating and directing the work of the security services, approves the budgetary resources for their work and has other parliamentary means of exercising supervision. Under the Law on the Security Information Agency, the Agency Director must report to the Parliament, i.e. to the Committee and the Government, on the Agency's work and the security situation in Serbia twice a year.

In its work so far the relevant committees have come up against two big problems limiting their efficiency. The first concerns the absence of clear criteria for determining the level of secrecy of documents produced by the security services, the procedure for their classification and declassification, the issuance of certificates enabling access to classified data as well as statutory penalties for disclosing secrets. In this regard, Committee members do not know what information they are entitled to seek and obtain from the services. This problem should have been addressed by adopting the Law on Classified Information in 2009. Unfortunately, practice has shown that the adopted Law

is full of defects, which is why there is currently a debate on whether to adopt a new law or amend the existing one.<sup>94</sup>

In 2010, the National Parliament adopted its Rules of Procedure which (in Article 46) divides the hitherto Defense and Security Committee into the Defense and Internal Affairs Committee and the Security Services Control Committee, whose mandates are set out in Article 66 of the Rules of Procedure. These measures are expected to improve parliamentary control of the security services. The provisions of the Rules of Procedure concerning the establishment of these two committees came into force in May 2012, with the establishment of the Parliament at the time.

Article 66 of the Rules of Procedure of the National Assembly states: “The Security Services Control Committee shall supervise the constitutionality and legality of the work of security services; supervise the conformity of the work of security services with the National Security Strategy, the Defense Strategy and the security-intelligence policy of the Republic of Serbia; supervise preservation of political, ideological and interest neutrality in the work of the security services; supervise the legality of the application of special procedures and measures for secret collection of data; consider the proposal of budget resources necessary for the work of security services and supervise the legality of budget and other resources spending; consider and adopt reports on the work of the security services; consider draft laws, other regulations and general acts within the jurisdiction of the security services; launch initiatives and submit draft laws within the jurisdiction of the services; consider proposals, petitions and complaints of citizens addressed to the National Parliament regarding the work of the security services and propose measures to resolve them, and notify the applicant thereof; determine facts on identified illegal acts or irregularities found in the work of the security services and their personnel and deliver conclusions thereon; inform the National Parliament on its conclusions and proposals. The Committee shall perform other activities in accordance with the Law and these Rules of Procedure. The Committee shall have 9 members.”

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<sup>94</sup>Application of the Law on Classified Information – 10 major obstacles. 2013. Center for Advanced Legal Studies. Available at: <http://cups.rs/wp-content/uploads/2014/08/Primena-zakona-o-tajnosti-podataka.pdf>

This separation should have, to an extent, solved the problem of broad jurisdiction of the previous Defense and Security Committee, which required from its members to possess expert knowledge on security services, the armed forces and the police.

Apart from the mentioned committees, the Finance Committee, by controlling the legality of budget expenditure, also oversees and controls the work of security services. The improvement of parliamentary oversight of the security services is further realized through the entry into force of the Law on Amendments to the Law on the Election of Members of Parliament, which the National Parliament adopted on May 25, 2011, and which returned the mandates of MPs to their disposal.

### Executive control of the security services

Executive control of the security services involves the work of specially established Government authorities and bodies within Government or officially authorized persons exercising “political” and “legal” control of the services, all of which fit into the wider definition of the concept of “executive power”. These are, above all, the National Security Council, the Office of the Council on National Security and Classified Information Protection, the Bureau for Coordination of Security Services and the Inspector-General of the Military Security and Military Intelligence Agencies.

The National Security Council is a working body of the Republic of Serbia that carries out specific activities in the field of national security. Its members are: the President of the Republic, the Prime Minister, the Minister of Defense, the Minister of Internal Affairs, the Minister of Justice, the Chief of the General Staff and security service directors. Until June 2012, the Council secretary was the Head of the Cabinet of the President of the Republic. Amendments to the Law<sup>95</sup> stipulate that the Secretary is appointed and dismissed by the President of the Republic, which means he/she does not necessarily have to be the Head of the Cabinet of the President of the Republic. The jurisdiction of the Secretary for matters of control of the security services stems from the Law on the Security Services. The Office of the Council on National Security and Classified Information Protection (previously envisioned as the Office of the Council on National Security by law) is

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<sup>95</sup>Law on the amendments to the Law on the Security Services of the Republic of Serbia. “RS Official Gazette” no. 72/12.

envisaged as a Government service performing administrative work for the needs of the Council; however, Government agencies cannot be established in order to perform such duties for bodies that are not public administration bodies which, due to its composition, the National Security Council certainly is not.

Furthermore, with the Law on Classified Information, this service was invested with powers that are incompatible with what a Government service is and should be. This relates to the activities entrusted to it, which include the issuance of certificates and permits following security vetting carried out by the competent authorities, which is tantamount to a specific kind of control of the controller, and brings it closer to contemporary security services.

The Bureau for Coordination of Security Services is primarily responsible for their coordination, but through this coordination it also exercises an informal type of control over them. Since the Bureau is made up of the Council Secretary and the security services directors, it is clear that there can be no genuine control. The Inspector-General responsible for controlling VOA and VBA exercises inspectorial supervision of the activities they undertake in accordance with their spheres of work, is appointed by the Government at the proposal of the Minister of Defense and with the consent of the National Security Council, for a period of five years, and answers to the Minister of Defense. The Inspector-General also deals with complaints from members of the public concerning alleged violations or denials of rights by VOA or VBA.

### **Judicial control of the security services**

The work of the security services is bound up with specific limitations on some human rights, particularly those relating to the corpus of privacy rights such as the right to secrecy of correspondence and other means of communication, the right to the inviolability of the home, and the like. Since the Constitution provides that the above-mentioned rights can only be limited subject to a court decision, judicial control of the security services, which consists of approving, monitoring and terminating the application of measures limiting guaranteed rights and freedoms, is an essential factor in democratic and civilian control of the services.

Judicial authorities exercise control of the work of the security services on the basis of two regimes, of which one is established by the Law on Criminal Procedure and the other by regulations and acts regulating in more detail the operation and organization of the security services. As regards the first regime, the services undertake operative measures in line with the measures laid down for conducting (pre)criminal proceedings and criminal prosecution actions by order of an investigative judge/prosecutor. Actions of an operative character undertaken by agencies under the Law on Criminal Procedure often do not relate to the processing of criminal offences, but constitute a preventive measure and serve to collect information which may lead to the initiation of criminal proceedings. The range of criminal offences subject to special procedures and measures is rather wide and has as such been criticized by the expert public. A request for applying a measure is made by a public prosecutor and an order for applying a measure by a judge. A measure is carried out by the authority entrusted with the measure. A measure is applied exceptionally only where the required information cannot be obtained by any other means and the order must clearly specify the measure employed, the subject, the duration of the measure, the grounds for applying the measure, and the like.

If the information collected in this way does not result in criminal prosecution, a judge decides on the termination of the application of the measures, and the collected material must be destroyed before a Commission, although no deadline for doing so is prescribed. What is controversial regarding surveillance measures is their incompatibility with the Constitution, which determines that it is not allowed to enter or search a home without a written decision of the court and against the will of the tenant, as well as that a search must be carried out in the presence of the tenant or his representative and two other adult persons, while from the statutory provisions governing the application of special surveillance measures it seems that this can be done only based on a court decision.

In respect of the implementation of special actions and measures in accordance with the rules regulating the work of the security services in the Republic of Serbia, it should be borne in mind that one of their essential duties and purposes is the collection of information of a preventive nature concerning threats against the constitutional order, the security of the state and the fight against terrorism and organized crime. This



function of the security services does not have to result in the initiation of criminal proceedings; the information collected in this way is also used for making political decisions and implementing such measures for the collection of such information is the main characteristic of security services. Such activities may be carried out only if they are clearly and precisely prescribed by law and are in accordance with it, as well as if they are approved by the court. Nevertheless, not all measures carried out by the security services are subject to an appropriate judicial procedure. An order in pursuance of a motion to implement special measures is issued by the President of the Supreme Court of Cassation (VKS) while in exceptional cases; the implementation of special measures is permitted based on an order of the Director of the security service involved, subject to the prior consent of the President of the Supreme Court of Cassation. An approved measure may be implemented over a period of six months and can be extended, subject to a new motion, for another six months in three-month periods.

The biggest problem is the possibility, stemming from the normative frameworks, for the Director of a service approving the implementation of measures with the prior consent of the President of the Supreme Court of Cassation but without his order. Once a measure starts to be implemented in this way, the security service involved must submit a regular motion to implement the measure within 24 hours.

Whereas in the case of the VBA and VOA the law stipulates that the President of the Supreme Court of Cassation must make a decision within 24 hours of the filing of a motion, in the case of the Security Information Agency this time limit is 48 hours, while the same time limit is prescribed for the judge to make a decision based on the request - which means that BIA can implement a measure for up to 96 hours without a decision adopted in a regular procedure. The impartiality of the judicial control of the security services may also be affected by the fact that making a decision to implement a measure is vested entirely in the Office of the President of the Supreme Court of Cassation.

The notion of internal control, which implies that a security service controls itself, is actually contrary to the conventional idea of control because self-control has certain inherent organizational and hierarchical shortcomings. The effectiveness, efficiency of operation, reliability of financial reporting and conformity with appropriate legislation

are the objects towards the attainment of which internal control is supposed to contribute, consisting of five mutually dependent components: control environment, assessment of risks, control activities, information and communication, and supervision. In Serbia, internal control of the work of the security forces constitutes the first line of their control, particularly during the monitoring of the lawfulness and regularity of application of special measures undertaken on the basis of a decision by the Director of the security service rather than on the basis of a judicial decision. The possibility of exercising effective, impartial and objective control depends on the mode of election and the position of persons carrying out internal control, on their relation to the service Director, and on the extent and effectiveness of the legal protection of members of the security services, so-called whistleblowers. Protection of whistleblowers is provided under the Law on the Anti-Corruption Agency, Law on Civil Servants, Law on the Ombudsman and others, while provisions relating specifically to the protection of members of BIA, VBA and VOA are incorporated in the Law on the Security Information Agency and the Law on the Military Security and Military Intelligence Agency. Experts believe that improvements are necessary in this field too. The Law on Whistleblower Protection was recently adopted.<sup>96</sup> The very draft of the Law was, during the public hearing, sharply criticized as inefficient and declarative. A vast number of amendments have been filed.

### **Control of security services by independent control bodies**

Control of the security services by independent control bodies is based on the specific powers of the Ombudsman and the Commissioner for Information of Public Importance and Personal Data Protection. The Ombudsman controls the services only within his jurisdiction. The Ombudsman has powers to protect the rights of citizens as well as to participate in the process of drafting and adopting legal norms.

The Commissioner for Information of Public Importance and Personal Data Protection exercises supervision of two spheres of human rights: free access to information on the basis of the Law on Free Access to Information of Public Importance, and protection of personal data on the basis of the Law on the Protection of Personal Data. The control of

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<sup>96</sup> Law on Whistleblower Protection. „RS Official Gazette“ no. 128/2014. The Law is to come into force on December 4, 2014 and to be applied from June 4, 2015.

the services exercised by the Commissioner is “general and indirect”. The “general” relates to all government bodies (other than those specifically prescribed by law) while the “indirect” means that the control does not relate exclusively and solely to the secret services. The problems related to the Commissioner’s work with the security services stem above all from the lack of cooperation on the part of the security services regarding access to information requested by the Commissioner and from the sheer number of citizens’ complaints of violations by the services of their right to privacy.

The experience so far, particularly in relation to the Commissioner for Information of Public Importance, suggests that obstacles are often placed before institutions established to control the Government already at the time of their establishment, such as delays in approving the act on the organizational chart, and in allocating appropriate premises or financial resources for work. These obstacles often grow if an institution appears determined to operate truly independently of the political structures, and when it does its job with dedication. Furthermore, since the members of the State Audit Institution are elected by MPs, it is highly uncertain whether they will be independent of political parties in their work.

Since the coming into power of the SNS-SPS coalition, there is a noticeable trend of growing tensions between these two independent public bodies on the one hand, and representatives of the executive, legislative and parliamentary Government in Serbia on the other. The trend is usually spotted in the derogatory relationship of the mentioned three branches towards independent bodies.

### **Public control of security services**

Civil society institutions, and particularly citizens’ associations, research centers and the media represent an important instrument for controlling the work of security services in developed democratic societies. The basis of their interest in the work of security institutions is the right of citizens to personal security and participation in the management of public affairs, and the assumption that practicing such control is enabled by access to information of public importance. The functions of civil society organizations (CSOs) in the security sector include support for government institutions in reforming the security sector, public supervision of the implementation of the security

policy and public advocacy of reform of the security sector. The number of civil society organizations concerned with security matters is small and cooperation between CSOs and government institutions is commonly not institutionalized, depending as it does on personal contacts with institution representatives. Organizations lack the capacity for systematic public supervision of the security sector, nor is there any continuous monitoring of large security sector institutions such as the armed forces or the police, while supervision of less prominent government bodies (e.g. customs) or non-government ones (e.g. private security companies) is not even mentioned.

The Constitution does not explicitly define the right of civil society to participate in the supervision of the security sector. Existing laws regulating the security sector do not oblige the armed forces to consult civil society when drafting and implementing security policies. Institutionalized cooperation through permanent bodies that would bring together representatives of civil society organizations and the authorities is non-existent, and initiatives for cooperation almost always stem from civil society organizations. The National Defense Strategy and the National Security Strategy should define the role of civil society organizations in preserving security and its defense, and amendments of existing laws regulating the work of the system and security actors should create a legal basis for cooperation between civil society organizations and security sector actors.

## About Center for Euro – Atlantic Studies

The Center for Euro-Atlantic Studies (CEAS) is an independent, atheist, socio-liberal, policy research think tank, driven by ideology and values. It was established in 2007 by a small group of like-minded colleagues who shared an awareness of the inter-conditionality between global and regional trends, foreign policy orientation of the country, security and defense sector reform, and transitional justice in Serbia. With these linkages in mind, CEAS was established with the following mission:

- To accelerate the process of Serbian EU integration and to strengthen its capacities to confront global challenges through collective international action, resulting in full and active membership of the EU;
- To strengthen the cooperation with NATO and advocate for full and active Serbian membership in the Alliance;
- To promote regional cooperation and raise public awareness of its significance;
- To impose a robust architecture of democratic oversight of the security system;
- To support the development of transitional justice mechanisms, their enforcement in Serbia and the Western Balkans, and the exchange of positive experiences; to emphasize the importance of mechanisms of transitional justice for successful security sector reform in post-conflict societies in transition towards democracy.

To accomplish its mission, CEAS is targeting Serbian policy makers and the Serbian general public, as well as international organizations, governments and other actors dealing with Serbia and the region of Western Balkans, or dealing with the issues that CEAS covers, through the promotion and advocacy of innovative, applicable and practical policies aimed at:

- Keeping up with the trends and developments in socio-liberal studies and practice, and at strengthening of socio-liberal democracy in Serbia;
- Adopting the principle of precedence of individual over collective rights, without disregard for the rights which individuals can only achieve through collective action;
- Strengthening the secular state principle and promoting an atheistic understanding of the world;
- Contributing to the erection and preservation of a more open, safe, prosperous and cooperative international order, founded on the principles of smart globalization and equitable sustainable development.

With its high quality research and devoted work CEAS generates accurate and recognized analyses primarily in the fields of foreign, security and defense policies with recommendations based on its core values, with specific focus on:

- Acceleration of the processes of Serbian EU integration and strengthening of its capacities for confronting global challenges through collective international action, resulting in full and active Serbian membership of the EU;
- Strengthening cooperation with NATO and advocacy for full and active Serbian membership in the Alliance;
- Promotion of the significance of regional cooperation;
- Imposition of the robust architecture of democratic oversight of the security system;
- Supporting development of transitional justice mechanisms, their enforcement in Serbia and the Western Balkans, and the exchange of positive experiences; emphasizing the importance of mechanisms of transitional justice for successful security sector reform in post-conflict societies in transition towards democracy;
- Promotion of humanitarian and security norm Responsibility to Protect arguing that the state carries the primary responsibility for the protection of populations from genocide, war crimes, crimes against humanity and ethnic cleansing, that international community has a responsibility to assist states in fulfilling this responsibility and that the international community should use appropriate diplomatic, humanitarian and other peaceful means to protect populations from these crimes if a state fails to protect its populations or is in fact the perpetrator of crimes;
- Promotion of Open Government Policy, aiming to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance.

## About Democratization Policy Council

The Democratization Policy Council (DPC) was founded in 2005 as a network of experienced professionals in the realm of policy analysis, international justice, security policy, post-conflict peacebuilding and policy advocacy. It is registered as a non-profit organization in Germany (Berlin) and the United States (501c(3)). DPC aims, through research, analysis, and advocacy, to promote a democratization agenda that can be adopted and employed in a coordinated manner by a critical mass of established democracies. DPC's founders believe that through a coordinated and strategic approach, the world's existing democracies can assist in the acceleration of the trend for peaceful democratic change, and that they have a responsibility and interest to do so.

In pursuit of these goals, DPC works to:

- Advocate that all democratic states adopt foreign policies that facilitate and actively assist the spread of liberal democracy, and that these policies be coordinated through mechanisms including the Democracy Caucus at the UN and the Community of Democracies;
- Shame ostensible proponents of democratization when they fail to conform their policies to their rhetoric, and point to realistic alternatives that address competing policy goals;
- Give a new voice to local democracy activists in countries affected by the policies of established democracies, especially the U.S. and EU members;
- Develop constructive policy recommendations for country-specific democratization initiatives; and advocate implementation of such policies by the EU, the United States, and other established democracies.

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