

SECURITY SECTOR CAPTURE IN SERBIA

AN EARLY STUDY



BCSP

BELGRADE, 2020

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List of abbreviations

BCSP	Belgrade Centre for Security Policy
BIA	Security Information Agency of Serbia (<i>Bezbednosno-informativna agencija</i>)
DOS	Democratic Opposition of Serbia
DRI	State Audit Institution (<i>Državna revizorska institucija</i>)
DS	Democratic Party
EU	European Union
MoD	Ministry of Defence
Mol	Ministry of Interior
Commissioner	Commissioner for Information of Public Importance and Personal Data Protection
SMATSA	Serbia and Montenegro Air Traffic Services
SNS	Serbian Progressive Party
SNB	National Security Council (<i>Savet za nacionalnu bezbednost</i>)
SPS	Socialist Party of Serbia
UJN	Public Procurement Administration (<i>Uprava za javne nabavke</i>)
VBA	Military Security Agency (<i>Vojnobezbednosna agencija</i>)
VOA	Military Intelligence Agency (<i>Vojnoobaveštajna agencija</i>)
VS	Armed Forces of Serbia (<i>Vojska Srbije</i>)
VU	Military Institution (<i>Vojna ustanova</i>)

Executive Summary

For several years now, various international indexes have been measuring the stagnation and decline of democracy, the rule of law and fundamental freedoms in Serbia. Although the country is still formally in the process of European integration, the European Commission noticed back in 2018 that there are elements of state capture in the entire Western Balkans region.

Due to the significance and ubiquity of this phenomenon in Serbia, the BCSP has embarked upon a pilot research project that aims to establish the main factors and conditions, as well as the mechanisms and actors, involved in state capture in the security sector. The capturing of the police, the security services and the defence sector in Serbia is analysed in this early study. Furthermore, it was necessary to situate the analysis in the country's political context, and special chapters cover parliamentary oversight and control and the security sector financing. The research was conducted from May 2019 to April 2020 and is based on insights gleaned from both primary and secondary sources.

State capture is an intentionally political undertaking in which individuals and groups (business magnates, politicians, criminals and, as is often the case, all of these together) gradually and systematically rewrite the formal “rules of the game” in order to pursue their particular interests, financial or political, to the detriment of the public good. This process includes various means, that are not necessarily illegal, such as legislative changes, the appointment of party bosses' loyal persons to key offices in the state, the employment of loyal apparatchiks at all levels of governmental institutions and the removal of existing employees at these institutions who could later become inconvenient witnesses. In the more advanced stages of state capture, the separation of powers comes to exist in name only and the institutions of the state cease granting socio-economic, political and other rights to the citizenry, functioning instead completely in the service of a tight circle of individuals and groups.

In this political endeavour, security institutions are one of the first targets of political actors because they represent means to increase political power. The military, police and security services have specific competencies that include the use of force, partially non-transparent way of work and a large budget, which makes them suitable as a means of capturing other public sectors, but also society as a whole. In all security institutions analyzed here, similar trends were noticed – i.e. decreasing transparency and politicization of work, strengthening of discretionary powers of their head officials, inadequate management of human resources, as well as almost completely meaningless internal control and external oversight.

Although there were elements of state capture in the security sector also when parties emerging from the coalition that overthrew the autocratic regime in 2000 were in power, the state can be said to have been completely captured only after the **establishment of a personal and party monopoly** of Aleksandar Vučić and the Serbian Progressive Party (SNS) over the state and society since 2012. Security sector institutions played an important role in establishing this monopoly rule in Serbia, so under the guise of fighting corruption Vučić first captured and held simultaneously key positions in the security system. Being the party chief at the same time, he was also Minister of Defence, First

Deputy Prime Minister responsible for security and the fight against organised crime and corruption, as well as the Secretary of the National Security Council which coordinates the work of security services. This was enabled by urgent legislative changes.

After the early elections in 2014, the SNS consolidated its power by winning an absolute parliamentary majority, and the opposition was divided and completely marginalized. Finally, Vučić cemented his political power in 2017 when he won the direct presidential elections and, in addition to his constitutional competencies, continued to direct the work of the executive and legislative branches of power. The National Assembly has become a machine for confirming and praising the work of the Government, and independent state institutions are also neutralized by the election of their new head personnel.

Decimated institutions and the absence of oversight and control have resulted in a system that leaves ample room for the misuse of security institutions for personal and party purposes. Therefore, it should come as no surprise that the incidence of intimidation, breaches of privacy and threats to the physical safety of journalists, activists and individuals critical of the government have been on the rise since 2014. Also on the increase are scandals pertaining to crime and corruption featuring members of the ruling party and its associates – to which security sector institutions either turn a blind eye or strive to protect their interests.

The reform of **security services** in Serbia was never finished, so it became customary for security services to “belong” to the most powerful political leader, with no regard for their constitutional powers or the office they hold. Serbia is one of very few European countries where the security services also have police powers and where the police depend on the Security Information Agency (*Bezbednosno-informativna agencija* – BIA) in order to employ special covert surveillance measures. The combination of both covert and law enforcement operations gives the security services a lot of room to manoeuvre and increases the risk of human rights violations and other abuses for political purposes. Instead of improving key legislation comprehensively, it was rather patched up occasionally and the agency’s director gained free reign in terms of human resources and financial management. Key positions were filled with those who have a proven track record of loyalty to the party leader and lower-ranking posts have also been staffed with party loyalists.

Oversight mechanisms have ceased to function. Internal control departments are insufficiently independent from the directors; members of the National Assembly have shown no interest in overseeing security sector activities – one of their constitutionally mandated duties; independent oversight institutions, which established good practices early on, have been hamstrung by their new leadership; judicial oversight has been neutralised by the appointment of loyal personnel to key offices (for the implementation of covert data-gathering measures); and relations between the services and the public have deteriorated significantly. Under these conditions, the security services increasingly overstep their powers and jurisdictions and increasingly act as a political police force that focuses its attention on critics of the regime, all the while tolerating or actively assisting organised crime and corruption. This was seen in a series of wiretapping scandals, investigation of the incident at the Pride Parade in 2014, and most recently in the Jovanjica affair when a large marijuana plantation on Serbian territory was exposed.

Security apparatus, particularly the **police** and secret security services, play an important role in the process of state capture. Manipulation of the police, as an investigative authority, ensures the impunity of the ruling political elite and their main allies in sensitive cases. The illegal demolition of private business objects in Belgrade's Savamala district during the election night in 2016 is one of the most vivid examples of how the state capture functions. Police resources are shifted from their regular activity and directed toward intimidating political opponents, critics of the government and employees of the criminal justice system. Organisational parts of the police, whose role is to maintain public relations and contact with the media, are used to promote the power of the dominant faction of the government. Mass arrests promoted in the media were conducted by the police without involving the prosecutor's office and with no court epilogues, are only a guise of the fight against organised crime.

The Ministry of the Interior (Mol) is in the leading position when it comes to the number of complaints filed concerning the handling of requests for free access to information of public importance, especially in the cases when the police had acted against politicians or when officials were suspected of connections with crime and corruption. Although the management of human resources in the Mol seems good and proper at first glance, there is still a lot of room left for political officials to hire people without job competitions or select commission members who make decisions concerning promotion or transfer on the basis of loyalty rather than merit. Poor external oversight and weak internal control of the police have led to a situation where "bad apples" within the force have become practically untouchable.

The risks of state capture in the **defence sector** are twofold. First, the defence sector has access to relatively large amounts of money and awards lucrative procurement contracts for equipment that, along with its high degree of non-transparency under the guise of protecting national security, potentially enables "extraction" of public resources. Secondly, certain structures in the defence system, particularly the security services and military police, can be exploited for private purposes, in order to reinforce political positions and intimidate opponents.

The capture of the defence sector is characterised by declining transparency and also by changes to the legal framework that reduce the possibility of external oversight. Increases in discretionary powers and informal governance creates more space for abuses and gives high-ranking functionaries free rein. Poor human resources management, including the appointment of the politically desirable rather than professionals and the treatment of whistleblowers, contributes to the outflow of personnel from the defence system. This has long-term consequences for the system itself and for citizens' security. Various incidents, such as the "Helicopter Affair" of March 2015 and the "Tank Affair" from August 2019, have exposed the trend of state capture and attempts to cover them up have seriously harmed the integrity of the defence system and will affect trust in the system for a long time to come.

Spending in the security sector has traditionally been less transparent and more difficult to oversee than in other public sectors, which is justified by the protection of national and public security. At the same time, the Serbian security sector draws a significant portion of the national budget: around 14 percent of the planned spending for 2020 is earmarked for the categories "public security" and "defence" (by way of comparison, just two percent is planned for healthcare). Procurement for this sector can be redirected to satisfy private interests and to broaden clientelist networks (for example, by awarding contracts). In the area of finance and procurement in the security sector, main risks

which facilitate state capture in Serbia are: non-transparent budgeting and expenditure; informal financial governance; lack of competition in procurement and the privileged position of certain companies in the arms trade; and the weakening of external oversight (that should be) conducted by the National Assembly and independent state institutions. These risks have become more pronounced with amendments to the legislative framework that started in 2014 and that have reduced transparency and external oversight, particularly in defence and security procurement. The “Krusik affair” in late 2019 illustrated how public resources are being “extracted” from a military company into a private company close to the father of the Minister of Interior. Instead of abuses being investigated, only the whistleblower was prosecuted for revealing the case to the public.

The **National Assembly** is one of the pillars of democratic civilian control that should stand as a bulwark of democracy and accountability of security sector institutions to prevent their abuse for the purpose of furthering state capture. However, the last two parliaments (2014-2016 and 2016-2020) have been characterised by a trend of simulating parliamentary control of the security sector. The role of the National Assembly, and particularly the relevant committees, has been reduced to rubber-stamping decisions already made by the executive power. No substantive discussions on current security issues, or on the planning or expenditure of budgetary resources or other sensitive topics, have been conducted either in the plenary sittings or committee meetings. The legislative and oversight functions of the Assembly are used to lawfully alter the rules of the game and reduce the level of oversight of security sector abuses. Parliamentary sessions were often used for political reckoning, attacks on the opposition, civil society and the media.

Almost half of the laws regulating the work of the security sector in this convocation were adopted in an urgent procedure. Parliamentary questions were insufficiently and irregularly used, and proposals to form inquiry committees to investigate major scandals such as the Savamala demolition and the crash of the military helicopter, as well as frequent wiretapping scandals, were ignored a total of 72 times. Sessions of the relevant parliamentary committees (Committee for Control of Security Services, Committee for Defense and Internal Affairs) are not open to the public or are short-lived despite an ambitious agenda. None of these committees has discussed budget proposals for security sector institutions in the last four years. Only a few committee members have the certificates necessary to access classified information and perform their oversight function.

This is only an early study which seeks to connect the dots between the numerous scandals that illustrate broader negative trends and the scope of state capture. The research also covered the private security sector, but this topic is presented in a separate publication.¹ In the coming period, the BCSP will analyze the dominant narratives that legitimize state capture, focusing on the security sector and the impact of Serbia’s foreign relations on this process.

¹ Key research findings, including the private security sector, were summarized in: *Security Sector in a Captured State*. Belgrade Centre for Security Policy, Belgrade, May 2020, www.bezbednost.org/All-publications/7257/The-Security-Sector-in-a-Captured-State.shtml.

State Capture in Serbia – A Conceptual and Contextual Introduction

Predrag Petrović

Two years have passed since the European Commission's Enlargement Strategy reaffirmed the European future of the Western Balkans as, "a geostrategic investment in a stable, strong and united Europe based on common values"². Yet, subsequent messages European officials then sent to leaders in the region came as a blow to Western Balkan countries – especially Serbia, which had been considered a regional frontrunner in terms of European integration. The European Union (EU) requested that, following ten years of reforms, Serbia's political leadership devote themselves to the rule of law, separation of powers, consistent implementation of the law and the establishment of institutions that ensure human rights, freedom and security. This message was concisely asserted in the strategy document, which emphasised that all of the countries of the Western Balkans unequivocally display elements of "state capture"³.

The *Freedom House index*, which has studied and evaluated the state of democracy and human rights in the world for decades, has also recorded negative trends in Serbia for five years in a row. The outcome of this being that the organisation's 2018 Freedom in the World report⁴ stripped Serbia of its status as a 'free' country, categorising it instead as a hybrid regime.⁵ This category includes countries that meet only the most basic standards for holding elections, with exceptionally fragile democratic institutions and facing serious challenges in preserving and protecting human and political rights.⁶ Moreover, Serbia is fourth on the list of European post-communist states that experienced the greatest democratic decline in 2019. This evaluation results from the fact that, according to all of Freedom House's indicators, Serbia is a captured state.⁷ The findings of other international research organisations point to the same conclusion as their reports also show declining democracy, rule of law and media freedom in Serbia.⁸

2 European Commission. *A credible enlargement perspective for and enhanced EU engagement with the Western Balkans*, 06/2/2018, https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf, p. 1.

3 Ibid., p. 3.

4 The 2018 report is available at: <https://freedomhouse.org/country/serbia/freedom-world/2019>.

5 The 2019 report is available at: <https://freedomhouse.org/country/serbia/freedom-world/2020>.

6 Freedom House, "Nations in Transit Methodology", <https://freedomhouse.org/reports/nations-transit/nations-transit-methodology>, 20/05/2020.

7 Freedom House, *Nations in Transit 2020*, 2020, https://freedomhouse.org/sites/default/files/2020-04/05062020_FH_NIT2020_vfinal.pdf, p. 2.

8 This was confirmed, rather paradoxically, after the Serbian Government sent an official response to Freedom House, in which it tried to refute this organisation's claims by referring to various sources in a methodologically unsound manner. The sources used by the Government actually report Serbia's long-established decline in the aforementioned areas. Aleksandar Ivković, "Reports cited by Serbia in response to Freedom House show an even darker image of democracy in the country", *EWB*, 21/05/2020. <https://europeanwesternbalkans.com/2020/05/26/reports-cited-by-serbia-in-response-to-freedom-house-show-an-even-darker-image-of-democracy-in-the-country/>; Slobodan Tomić, "Vlada vs Freedom Haus: slučaj zatvoren, šteta ostaje" ("The Government vs. Freedom House: Case Closed, Damage Done"), *Peščanik*. 20/05/2020, <https://pescanik.net/vlada-vs-freedom-haus-slučaj-zatvoren-steta-ostaje/>.

The Concept of State Capture

State capture is a process in which individuals and groups (business magnates, politicians, criminals and, as is often the case, all of these together) gradually and systematically rewrite the formal “rules of the game” – first in one sector and then in others – in order to pursue their own interests to the detriment of the public good. These interests may be the pursuit of material and financial gain or the accumulation of political power and command of the levers of state authority. These goals are often intertwined and mutually reinforcing since greater political power and authority makes it easier to alter or determine the rules of the game and also to redirect material and financial goods (whether public or private) into the hands of a tight circle of individuals and groups. For example, personal and party control of the police and judiciary guarantees individuals immunity from prosecution for illegal enrichment. In return, it comes to be in the interests of wealthy individuals to keep those politicians that enable this kind of enrichment in power for as long as possible. Thus, the captured state seems to function like some great perpetual motion engine.

In the original understanding of state capture, the principle actors behind this detrimental phenomenon were powerful companies and oligarchs who used private payments to politicians to shape public policy and the rules of the game (e.g. laws, ordinances, decrees and regulations) for the purpose of enriching themselves to the detriment of the public good.⁹ Given that the reality of many (captured) states is much more complex, later research has placed greater emphasis on political parties, their leadership and organisation along clientelist lines. Oligarchic political parties have now become the main actors of state capture as they occupy a strategic position in the state apparatus, which enables them to use loyal apparatchiks to decisively influence the formation and implementation of the rules of the game, as well as to award lucrative contracts to kindred tycoons.¹⁰ Recent processes of state capture in certain European states (e.g. Hungary and North Macedonia) but especially in South Africa have spurred new research the findings of which emphasise the political, systematic and intentional dimensions of this process. According to this understanding, state capture is a deliberately undertaken political-economic project in which political and private actors join forces and form secret networks within and around governmental institutions with the aim of accumulating unrestrained power.¹¹ These united actors do not use their accumulated power only to extract or redirect public resources for private gain, as previous conceptualisations emphasised, but also to alter the balance of power between different social groups, to stifle political opposition and critical voices, and to erase the remaining checks and balances between different branches of government.¹² A completely captured state

9 Joel Hellman, formerly a leading expert at the World Bank, was the first to conceptualise state capture. Joel S. Hellman et al., *Measuring governance, corruption, and state capture: How firms and bureaucrats shape the business environment in transition economies*, Policy Research Working Paper 2312, (Washington: The World Bank, 2000). p. 4.

10 For more on this understanding of state capture, see: Vesna Pešić, *State capture and widespread corruption in Serbia* (Belgrade: CEPS, 2007). p. 5-7, and Anna Grzymala-Busse, *Rebuilding Leviathan: Party Competition and State Exploitation in Post-Communist Democracies*, ed. Scott E Page (London: Cambridge University Press, 2007).

11 Catrina Godinho and Lauren Hermanus, “(Re)conceptualising State Capture - With a Case Study of South African Power Company Eskom” (State Capture and Its Aftermath: Building Responsiveness Through State Reform, 22 -24 October 2018, Johannesburg, Public Affairs Research Institute, 2018). p. 12.

12 Godinho and Hermanus, “(Re)conceptualising State Capture - With a Case Study of South African Power Company Eskom.” p. 11.

becomes, therefore, the polar opposite of a constitutional state, since public resources and the levers of state power are used for private gain to the detriment of the public good.¹³ This project, therefore, amounts to an undermining of the constitutional order and the social contract on which a political community is founded. Indeed, what it amounts to is “politics of destruction” and “a silent coup”.¹⁴ In this study we adopt this understanding of state capture and will explore it in more detail throughout in the paper.

State capture is accomplished via various means, some of which are often completely legal and take place through institutional mechanisms, at least in the beginning. Most commonly it begins with a combination of changes to primary and secondary legislation, the appointment of party bosses’ loyal people to key offices in the state, the employment of loyal apparatchiks at all levels of governmental institutions and the removal of existing employees at these institutions who could later become inconvenient witnesses. In the more advanced stages of state capture, the separation of powers comes to exist in name only and the institutions of the state cease granting socio-economic, political and other rights to the citizenry, functioning instead completely in the service of a tight circle of individuals and groups.¹⁵

It can reasonably be concluded from the above explained that state capture is not an accidental process – that is, the outcome of a set of circumstances and the unintended consequences of decisions made by political actors. On the contrary, state capture is an intentionally political undertaking in which political actors use negative policy outcomes (both real and imagined) of their predecessors as justification for the complete capture of state institutions.¹⁶ These legitimising narratives differ from country to country and oscillate between fighting crime and corruption in Moldova, to promoting social justice in South Africa, preserving national and cultural identities – i.e. mythomaniac notions of national origins – in North Macedonia and elsewhere.¹⁷ Of course, these narratives can and do change over time, as is clear from the example of Serbia, where the fight against crime and corruption was utilised initially but was subsequently replaced by nationalism. Even though the narratives change, their essence remains constant: to serve as smokescreen for ever broader and deeper state capture.

In a political endeavour such as this, security sector institutions number among the first targets of these political actors, since by increasing and concentrating their security power they are, at the same time, growing their political power. Some security sectors and institutions also draw large amounts of budgetary funding (for e.g. the defence sector or the police) and are, therefore, potential sources of cash flow for the party leadership and those close to them. Deep-rooted control of security sector institutions also ensures that the leadership of the ruling party can redistribute public funds into

13 Gerhard Erasmus, *When Corruption becomes State Capture* (Western Cape: Tralac, 2017).

14 Mark Swilling, “State capture is a systemic process, a political project,” interview by Karima Brown, *The Aubrey Masango Show*, 19 November 2018, 2018, <https://ewn.co.za/2018/11/20/listen-state-capture-is-a-systemic-process-a-political-project>.

15 For more on the concept of state capture, see: Marion Kraske, ed., *Captured States in the Balkans, Perspectives Southeastern Europe #4/2017* (Sarajevo: Heinrich Böll Foundation Southeastern Europe, 2017). and Jochen Luckscheiter and Keren Ben-Zeev, eds., *Robbin’ the Hood: Inquiries into State Capture, Perspectives #01/2019* (Cape Town: Heinrich-Böll-Stiftung e.V., 2019).

16 Ivor Chipkin et al., *Shadow State: The Politics of State Capture* (Johannesburg: Wits University Press, 2018). pp. ix-xiii.

17 Stojanović Gajić, S. “State Capture” (Presentation from workshop on state capture and think-tanks), *On Think Tanks*, 05/02/2019.

private pockets unhindered. Moreover, a captured security sector is an important stepping stone on the route to capturing other public institutions¹⁸ and society as a whole.¹⁹

Given that state capture in Serbia is (also) a political undertaking, it is important to first approach the political context of this process analytically.

The Political Context of State Capture in Serbia

Although elements of state capture have been present in the security sector²⁰ even when the parties stemming from the DOS coalition were in power,²¹ the state can be said to have been completely captured only after the establishment of a personal and party monopoly over the state and society.²² In Serbia this took place soon after the snap elections in 2012, when the presidential candidate of the then opposition Serbian Progressive Party (*Spska napredna stranka* – SNS), Tomislav Nikolić, defeated Boris Tadić, the candidate put forward by the ruling Democratic Party (*Demokratska stranka* – DS). The SNS also won a majority of seats in the Serbian parliament. This electoral success enabled the SNS to convince the Socialist Party of Serbia (*Socijalistička partija Srbije* – SPS) to abandon their coalition with the DS and to join the SNS in forming a government. This political reversal was veritable “electoral earthquake”²³, for it saw those who had been in power under the autocratic Milošević regime forming a government for the first time since the year 2000.

An important role in establishing personal and party monopoly rule in Serbia was played by security sector institutions – that is, by their rapid capture by the ruling SNS party.

18 For more on the links between the judiciary, the prosecution and the police in state capture in Serbia, see: Srđan Cvijić et al. *When Law Doesn't Rule. State Capture of the Judiciary, Prosecution, Police in Serbia*. OSEPI, Transparency Serbia & CINS. Belgrade and Brussels, October 2018, <https://www.opensocietyfoundations.org/publications/when-law-doesn-t-rule-state-capture-judiciary-prosecution-police-serbia>. For more on links between security services, the media, independent institutions and the judiciary in state capture in North Macedonia, see: Jelena Pejić, Sonja Stojanović Gajić. *Why Do We Need the Priebe Report as Well? How to Reverse the Trend of State Capture in the Western Balkans*, prEUGovor Coalition, Belgrade, 2018, <http://www.preugovor.org/Policy-Papers/1482/Why-Do-We-Need-the-Priebe-Report-As-Well.shtml>.

19 For more on the concept of a captured society, see: Maja Bjeloš. “Srbija je zarobljeno društvo – Intervju sa dr Predragom Cvetinčaninom” (“*Serbia is a Captured Society – Interview with Dr Predrag Cvetinčanin*”), Belgrade Centre for Security Policy, 2020, <http://www.bezbednost.org/Sve-publikacije/7259/Srbija-je-zarobljeno-drustvo.shtml>.

20 For more on this, see: Miroslav Hadžić, *Uskraćena bezbednost* (Beograd: Službeni glasnik, 2014). http://bezbednost.org/upload/document/uskracena_bezbednost._sadrzaj.pdf and Predrag Petrović. *The Anatomy of Capturing Serbia's Security - Intelligence Sector*. Belgrade Centre for Security Policy, Belgrade, 2020, pp. 13-16, <http://www.bezbednost.org/All-publications/7178/The-Anatomy-of-Capturing-Serbias-Security.shtml>.

21 The Democratic Opposition of Serbia (*Demokratska opozicija Srbije* – DOS) was a coalition of 19 political parties that overthrew the autocratic regime of Slobodan Milošević following elections in 2000. The two most powerful parties in the coalition were the Democratic Party and the Democratic Party of Serbia (*Demokratska stranka Srbije* – DSS).

22 This presupposes that a single political party wins several elections in a row and that its defeat at future elections is highly unlikely. Successive electoral victories ensure, among other things, party patronage, that is the appointment of those loyal to the party to key positions in state institutions. See, for example: Andrea Ostheimer, *Challenges to Democracy by One-Party Dominance: A Comparative Assessment* (Johannesburg: Konrad-Adenauer-Stiftung, 2006).

23 “Reagovanja na pobedu Nikolića” (“*Reactions to Nikolić's Victory*”), RTS, 20/05/2012, www.rts.rs/page/stories/sr/story/1950/izbori-2012/1106014/reagovanja-na-pobedu-nikolica.html, 28/04/2020.

More specifically, upon the post-electoral reopening of parliament, among the first laws²⁴ to be amended by the new government was the Law on the Bases Regulating Security Services. The official explanation for this was the need to broaden democratic civilian control by making the President of the Republic responsible for appointing and/or dismissing the Secretary of the National Security Council (*Savet za nacionalnu bezbednost* – SNB) and the head of the Security Services Coordination Bureau. In reality, however, lurking behind this amendment was the ambition of Aleksandar Vučić, the then acting leader of the SNS, to concentrate as much personal power over security sector institutions by simultaneously holding several important offices of state.²⁵ This would not have been possible without amending the Law on the Bases Regulating Security Services as, prior to this amendment, the President's chief of staff was automatically appointed as the Secretary of the Security Council.²⁶ Soon after the law was amended, Vučić took office as:

1. The First Deputy Prime Minister responsible for defence, security and the fight against organised crime and corruption;
2. The Minister of Defence;
3. The Secretary of the SNB and the head of the Security Services Coordination Bureau;
4. Leader of the SNS party (from September 2012).

Vučić used these offices to strengthen his control over the security sector, as well as his power and popularity in both Serbia and the SNS party. At press conferences he would often, in his role as secretary of the SNB and the head of the Coordination Bureau, announce decisive steps in the fight against crime and corruption, which would often be followed by real arrests. "Vučić was then the most powerful man in the country, in the *Assembly* (author's emphasis) he would pull from a leather briefcase overviews of our reports by teams working on individual cases and would announce arrests from week to week, from day to day. Which could not be done that quickly."²⁷ It is worth mentioning here that the Minister of Interior was also an SNS appointee, Nebojša Stefanović. This is how the SNS grasped all of the levers of hard security power in the Serbian state.

24 Preceding it were amendments to the Law on the Government and the Law on the Ministries. See the official web site of the National Assembly: www.parlament.gov.rs/akti/doneti-zakoni/u-sazivu-od-31-maja-2012.2194.html, accessed: 10/11/2019.

25 Predrag Petrović, *Bezbednosno-obaveštajni sistem Srbije se kroji po diktatu Aleksandra Vučića* (The Serbian Security and Intelligence System Shaped According to the Dictates of Aleksandar Vučić), Belgrade Centre for Security Policy, 23/07/2012, www.bezbednost.org/Bezbednost/4869/Bezbednosnoobavestajni-sistem-Srbije-se-kroji-po.shtml, 20/05/2020.

26 This previous approach was also not without its problems, since the law did not proscribe criteria or relevant qualifications or political impartiality as critical for the holder of this office, even though this was proposed by experts prior to the Law on the Bases Regulating Security Services was adopted. Deliberately avoiding the inclusion of these criteria enabled the then president of Serbia, Boris Tadić, to concentrate the power of the security services in his own hands via the Council Secretary. For more on this, see: Miroslav Hadžić, *Da li je Srbija u demokratizaciji prešla tačku bez povratka?* (Has Serbia Reached a Point of No Return in its Democratisation?) (Belgrade: Centre for Civilian-Military Relations, 2010) and Radmilo Marković, "Intervju Saša Janković: Pucanje režimskog kruga laži i obmana" ("Interview with Saša Janković: The Regime's Lies and Deceit Exposed"), *Vreme*, no. 1440. 09/08/2018.

27 Radmilo Marković, "Intervju – Siniša Janković, policijski inspektor u penziji: Sve boje prljavog novca," ("Interview with Siniša Janković, Retired Police Inspector: All Colours of Dirty Money") *Vreme*, no. 1507. 21/11/2019.

The Council and Bureau met very frequently precisely in those first two years after the SNS came to power (2012 and 2013)²⁸, while the nominal anti-corruption campaign was in full swing, which certainly contributed to an increase in Vučić's popularity and power. The most important event from this period, in terms of the popularity of the SNS, was the arrest of controversial businessman, Miroslav Mišković, in December 2012, which was used by the SNS and by Vučić to show the Serbian public that no one was untouchable. This arrest and others that occurred during this period increased the rating of the SNS and Vučić from 24 points during the election to 40 points – granting the party a more stable and lasting level of support.²⁹ This level of stable popular support could only increase during an election campaign. The narrative of “fraudulent privatisation” became a cornerstone of the SNS ideology and was accompanied by smear campaigns run by pro-government tabloids against opposition figures who had previously been in government. They principally targeted the leadership of the DS who were portrayed as the main perpetrators of corruption and criminality in the state, which further weakened the opposition.³⁰ As a result, another snap election was called in the spring of 2014, in which the SNS won an absolute majority, effectively doubling their parliamentary presence to 158 seats in a parliament of 250. Additionally, the elections resulted in an almost complete disintegration and parliamentary marginalisation of the opposition³¹, which made it easier for the SNS and its leader to accelerate their accumulation of power over the state and society.

The decisive victory at the 2014 elections made it possible for Aleksandar Vučić to form a government without the SPS and its leader, Ivica Dačić, but he foresaw that this would push the socialists into the arms of the opposition, potentially strengthening it as a bloc.³² SPS did enter the government but the party leader, Ivica Dačić, was forced to hand the premiership over to Aleksandar Vučić. The victory at the ballot box enabled the SNS and Vučić himself to more decisively establish control over state institutions by appointing loyal cadres to key positions in important sectors, such as the judiciary. In 2014, for example, Aleksandar Stepanović, a university friend of the SNS leader was appointed President of the Higher Court in Belgrade, which includes the Special Department for Organised Crime. Only a year later, under highly controversial circumstances, Mladen Nenadić was appointed prosecutor for organised crime.³³ These moves established personal and party control over investigations and proceedings regarding the most serious criminal offences.³⁴

28 Predrag Petrović, Katarina Đokić. *Slippery Slopes of the Reform of Serbian Security Services*. Belgrade Centre for Security Policy, Belgrade, 2017, www.bezbednost.org/All-publications/6584/Slippery-Slopes-of-the-Reform-of-Serbian-Security.shtml, pp. 8-9.

29 Dušan Spasojević and Zoran Stojiljković, *Između uverenja i interesa. Ideologija i organizacija stranaka u Srbiji* (Between Beliefs and Interests: Ideology and Organisation of Parties in Serbia) (Beograd: Fabrika knjiga, 2020).

30 Dušan Spasojević and Zoran Stojiljković, “Druga smena vlasti: da li je Hantington pogrešio?” (“Second Change of Government: Was Huntington Wrong?”) *Peščanik*. 27/02/2020. (Belgrade) 2020.

31 Ibid.

32 Of course, the importance of foreign influence should not be neglected here – particularly the efforts of the Russian Federation to ensure that a party with close links to United Russia forms part of the government and, in so doing, becomes able to represent Russian interests in Serbia, primarily those regarding energy policy and the resolution of the Kosovo issue. This is why Dačić was appointed First Deputy Prime Minister and Minister of Foreign Affairs, while his SPS colleague, Aleksandar Antić, was appointed Minister of Mining and Energy. This arrangement has remained unchanged since 2016.

33 For more on the contested procedure for selecting Nenadić as the prosecutor for organised crime, see: Vesna Rakić Vodinelić, „Pripreme za izbor javnih tužilaca - institucionalne i vaninstitucionalne” (“Preparations for Selection of Public Prosecutors - Institutional and Extra-Institutional”), *Peščanik*, 01/12/2015, <https://pescanik.net/pripreme-za-izbor-javnih-tuzilaca-institucionalne-i-vaninstitucionalne/>, 20/05/2020.

34 For more on this, see Predrag Petrović. *The Anatomy of Capturing Serbia's Security - Intelligence Sector*. Op. cit., pp. 32-33.

Increased political power enabled Vučić to additionally reinforce his authority within the party by marginalising those loyal to the founder of the SNS, Tomislav Nikolić. Here the example of Momir Stojanović, the former head of the VBA and the chair of the Security Services Control Committee (2014-2016). The party leadership ignored his initiative for comprehensive reform of the security and intelligence sector. Then his colleagues boycotted Stojanović during sessions of the Committee after he locked horns with Bratislav Gašić³⁵, whom Vučić has named as one of his most loyal people. Ultimately, Stojanović left the SNS and launched a grassroots movement called Sincerely for Niš (*Iskreno za Niš*), with which he stood in local elections in Niš in 2016. Following fresh snap elections in 2016, Stojanović was replaced as chair of the Security Services Control Committee by Igor Bečić, a loyal party soldier who completely snuffed out the Committee, making its work meaningless, and turned it into an instrument for public expressions of support for loyal SNS cadres.³⁶ The Defence and Internal Affairs Committee was already failing to produce any significant results³⁷, so the elections and intraparty dynamics had no effect on its activities (or lack thereof).

Vučić further reinforced his political power in 2017 when he won a direct presidential election. This was preceded by a showdown with the founder of the SNS and the then president of Serbia, Tomislav Nikolić, who sought to renew his term in office.³⁸ Upon becoming president of Serbia, Vučić handed the post of SNB secretary to his loyal party colleague and Minister of Interior, Nebojša Stefanović, but also appointed one of his most loyal henchmen, Bratislav Gašić, as director of the BIA.³⁹ For Minister of Defence, Vučić chose Aleksandar Vulin, the leader of the Movement of Socialists (*Pokret socijalista*), a micro-party that was propelled into government thanks only to the fact it was part of the SNS pre-election coalition. Ana Brnabić was named as the prime minister – then she had been the Minister of State Administration and Local Self-Government and prior to that she had had no public role. With that completed, Vučić had ensured that loyal people had been appointed to key offices in the executive branch and could, to all intents and purposes, continue to have complete control of the government and the shaping of its policies.⁴⁰

Under these conditions, the National Assembly was transformed not only into a machine for the rapid adoption of laws proposed by the ruling majority, but also into an instrument for public settling of scores with the diminutive and fragmented parliamentary opposition. To serve that aim, the SNS deployed various tactics, such as for example, the submission of a large volume of proposed laws using fast-track legislative procedures and then proposing hundreds of amendments to these laws, as well as putting diverse

35 Bratislav Gašić is one of the founders of the SNS. He was Minister of Defence from 2014 to 2016 and has been director of the BIA since 2017.

36 For more on this, see the chapter on the National Assembly.

37 For more on this, see: Nikola Tomić (ed.), *Alarm Report on the Progress of Serbia in Chapters 23 and 24*. PrEUgovor Coalition, Belgrade, September 2018, <http://preugovor.org/Alarm-Reports/1460/Coalition-prEUgovor-Report-on-Progress-of-Serbia.shtml>, and Katarina Đokić, Vladimir Erceg, *Parlamentarni nadzor i izgradnja integriteta u institucijama bezbednosti*, Beogradski centar za bezbednosnu politiku, Beograd, 2014, www.bezbednost.org/upload/document/parlamentarni_nadzor_i_izgradnja_integriteta_u_ins.pdf.

38 Ivica Petrović, "Vlast je tamo gde je Vučić," (*"Where Vučić is, There Lies Power"*) DW. 15/02/2017, www.dw.com/sr/vlast-je-tamo-gde-je-vu%C4%8Di%C4%87/a-37555453, 20/05/2020.

39 According to certain sources, Vučić appointed Gašić as the director of the BIA because his predecessor, Đorđević, failed to do everything that was asked of him. Omer Karabeg, "Čija je BIA" (*"Who's is the BIA"*), *Radio slobodna Evropa*, 16/06/2017, www.slobodnaevropa.org/a/most-cija-je-bia/28618158.html, 28/05/2020

40 Spasojević and Stojiljković, "Druga smena vlasti: da li je Hantington pogrešio?" Op. cit.

laws on the parliamentary agenda or amending the agenda at the last moment. Virtually no discussion was possible for “the most important law”, the Law on the Budget, which has in recent years seen significant increases in allocations for the security sector.⁴¹

Burgeoning political power also enabled Vučić to marginalise independent state institutions. This first affected the Ombudsman (Citizens’ Protector) during 2015 and 2016 and then also the Commissioner for Information of Public Importance and Personal Data Protection and the State Audit Institution.⁴² Once terms of office of leading personnel at these institutions expired, they were replaced with individuals who lack the will to oversee and control the executive branch. The most extreme example here being the case of the Anti-Corruption Agency, where Dragan Sikimić, a member and financier of the SNS party, was appointed to head the agency in 2018.⁴³

This level of power in the hands of one party and one party leader has not been seen since the autocratic Milošević regime and one consequence is the complete breakdown of checks and balances – not only between the various branches of government but also within state institutions. For example, important offices at state institutions were previously shared out to coalition partners, which enabled them to “keep an eye on one another”. This also made it possible for professional personnel at middle and high-ranking positions within security sector institutions to survive political changes, which in turn prevented security sector actors from being (too drastically) abused for personal and party purposes. However, this is no longer the case now that the SNS party is in control across the board.⁴⁴

Decimated institutions and the absence of oversight and control have resulted in a system that leaves ample room for the misuse of security institutions for personal and party purposes. It should come as no surprise, therefore, that the incidence of intimidation, breaches of privacy and threats to the physical safety of journalists⁴⁵, activists and individuals critical of the government have been on the rise since 2014.⁴⁶ Also on the increase are scandals pertaining to crime and corruption featuring members of the ruling party and its associates – to which security sector institutions either turn a blind eye or strive to protect their interests. It is precisely these scandals that provide the best indicator of state capture and the misuse of certain security sector institutions for personal and party interests, which is why they will be covered in greater detail in this study.

41 For more, see the chapter on the National Assembly.

42 For more on this, see: Predrag Petrović. *The Anatomy of Capturing Serbia’s Security - Intelligence Sector*. Op. cit., pp. 60-67.

43 Jelena Radivojević, “Sikimić bio član SNS-a kad je postao direktor Agencije,” (“Sikimić was a Member of the SNS when he Became Director of the Agency”) KRIK. 09/02/2018. (Belgrade) 2018. www.krik.rs/danas-sikimic-bio-clan-sns-kad-je-postao-direktor-agencije/, 28/04/2020.

44 Predrag Petrović. *The Anatomy of Capturing Serbia’s Security - Intelligence Sector*. Op. cit., p. 43.

45 Database of Attacks Against Journalists, Independent Journalist Association of Serbia (*Nezavisno udruženje novinara Srbije* – NUNS). Available at: www.bazenuns.rs/srpski/napa-di-na-novinare/31, last accessed on 19/05/2020.

46 Isidora Stakić, *Studija slučaja: Pretnje i pritisci na aktiviste i nezavisne novinare u Srbiji* (Case Study: Threats and Pressures Faced by Independent Journalists in Serbia). BCBP, Belgrade, 2019, http://bezbednost.org/upload/document/studija_slucaja_pretnje_i_pritisci_na_aktiviste_i_.pdf.

About the Pilot Research Project by the Belgrade Centre for Security Policy

Due to the significance and ubiquity of this phenomenon in Serbia, the BCSP has embarked upon a pilot research project that aims to establish the main factors and conditions, as well as the mechanisms and actors, involved in state capture in the security sector. The study will cover the following institutions and sectors: parliament, the police, the security services, the armed forces and security sector financing. In order to better understand the extent of the harm state capture in the security sector can inflict on the people of Serbia, the research findings are illustrated with real world examples.

Research was conducted from May 2019 to April 2020 and is based on insights gleaned from both primary and secondary sources. The springboard for the research were previous studies and analyses conducted by the BCSP, as well as the findings of research conducted by investigative journalists and other civil society organisation. These findings were deepened and expanded upon through interviews conducted with former and serving officials from the relevant state institutions, as well as with representatives of oversight institutions, lawyers, journalists and researchers whose work focuses on the security sector. We also made use of publically available information, such as the regulations, bulletins and websites of institutions, as well as press reports. We also submitted freedom of information requests to the studied institutions.

This study is the first step undertaken by the BCSP towards the aim of improving our understanding of this issue and pointing out the importance of tackling it as soon as is possible. The analysis does not, for example, cover the legitimising narratives employed by the authorities, nor the role of foreign policy actors in the capture of the Serbian state. Our intention is, therefore, to continue to investigate this issue in the future but also to persevere in our efforts to find a way out of this situation.

Capturing the Security Services in Serbia

Jelena Pejić Nikić and Predrag Petrović

Following the overthrow of the autocratic Milošević regime in Serbia in the year 2000, the new authorities in Serbia lacked the will to embark upon a comprehensive reform of the country's security services.⁴⁷ It became customary for security services to "belong" to the most powerful political leader, with no regard for their constitutional powers or the office they hold. Clientelism and personal and party relations became more important regulators of relations between the political sphere and the security services than the Constitution and laws of land. This is reaffirmed and reinforced by the trends evident over the last few years. From 2014 there was a gradual deterioration but, from 2016 onwards, the capture of the security services and institutions tasked with their oversight, as well as the continued capture of the state by the security services themselves, accelerated sharply.

The inherited bastions of security service power were never effectively reined in. Serbia is one of very few European countries where the security services also have police powers and the where the police depend on the Security Information Agency (*Bezbednosno-informativna agencija* – BIA) in order to employ special covert surveillance measures. Opportunities to improve key regulations have been missed. Instead, fast-tracked, last minute amendments of the Law on the BIA in 2014 and 2018 patched up only the most glaring omissions and granted the agency's director free reign in terms of human resources and financial management. Key positions were filled with those who have a proven track record of loyalty to the party leader and lower-ranking posts have also been staffed with party loyalists. Oversight mechanisms have ceased to function. Internal control departments are insufficiently independent from the director; members of the National Assembly have shown no interest in overseeing security sector activities – one of their constitutionally mandated duties; independent oversight institutions, which early on established good practices, have been hamstrung by their new leadership; judicial oversight has been neutralised by the appointment of loyal personnel to key offices (for the implementation of covert data gathering measures); and relations between the services and the public have deteriorated significantly.

Under these conditions, the security services increasingly overstep their powers and jurisdictions and increasingly act as a political police force that focuses its attention on critics of the regime, all the while tolerating or actively assisting organised crime and corruption. It remains to be seen whether the security services are able to perform any of their main functions – to foresee events and react to them in a timely manner. The scandals that have recently emerged likely reveal only the tip of the iceberg. In this chapter the BIA has garnered greater attention since it is a civilian service with broad-ranging powers and resources that is weakly regulated by legislation and has, therefore, a greater impact on processes of state capture than the military services.

47 See the overview of reforms in: *Godišnjak reforme sektora bezbednosti 2008* (Yearbook of Security Sector Reform in Serbia 2008), Centre for Civil-Military Relations, Belgrade, 2009. i *Godišnjak reforme sektora bezbednosti 2012* (Yearbook of Security Sector Reform in Serbia 2012). Belgrade Centre for Security Policy, Belgrade, 2012.

Serbia's Security Services in Brief

Serbia has three security and intelligence services, the civilian Security Information Agency (*Bezbednosno-informativna agencija* – BIA) as well as two military services: the Military Security Agency (*Vojnobezbednosna agencija* – VBA) and the Military Intelligence Agency (*Vojnoobaveštajna agencija* – VOA).⁴⁸ While the BIA has the status of a special national organisation directly answerable to the government, the VOA and VBA are administrative units seconded to the Ministry of Defence and answerable to the government only via the Minister of Defence. The BIA and VBA have police powers. The activities of these services are coordinated by the Security Service Coordination Bureau, which is an auxiliary body of the National Security Council.⁴⁹

Heritage Untouched: The Powers Granted to Serbia's Security and Intelligence Services

The power of the security services in Serbia rests on their covert and exclusive access to and control over information, which enables them to influence the shaping of decision-making and other developments in the society and the state from behind the curtain. The BIA is tasked with intelligence gathering, counter-intelligence and security roles in order to protect the Serbia's constitutional order from various threats, while the military agencies focus on protecting the country's defence system – the VBA provides security and counter-intelligence and the VOA gathers and analyses information on activities and threats that emanate from abroad.

In addition to tasks commonly associated with security and intelligence services, the BIA and VBA are granted powers that most of their European counterparts do not possess⁵⁰ - the application of police powers⁵¹ and participation in criminal investigations. The BIA has the full range of police powers, while the VBA has only certain powers as determined by law⁵². In addition to the fact that BIA operatives can apply coercion, use weapons and perform arrests, the BIA can under certain circumstances also directly undertake and conduct police work.⁵³ Both agencies can implement special measures

48 Zakon o osnovama uređenja službi bezbednosti Republike Srbije (Law on the Bases Regulating Security Services of the Republic of Serbia), Official Gazette of RS, nos. 116/07 and 72/12.

49 For a comprehensive graph displaying the structure of Serbia's security and intelligence system, see: Predrag Petrović. The Anatomy of Capturing Serbia's Security - Intelligence Sector. BCSP, Belgrade, 2020, p. 28, www.bezbednost.org/All-publications/7178/The-Anatomy-of-Capturing-Serbia's-Security.shtml.

50 See, for example: Jelena Pejić. *Bezbednosno-obaveštajni sistemi u državama članicama Evropske unije: primjeri Holandije i Hrvatske* (Security and Intelligence Systems in EU Member States: Croatia and the Netherlands). BCBP, Belgrade, 2016, <http://www.bezbednost.org/Bezbednost/6220/Bezbednosnoobavjestajni-sistemi-u-drzavama.shtml>, p. 13 and Andrej Stefanović. *Zakonska uređenost službi bezbednosti na Zapadnom Balkanu: Bosna i Hercegovina, Crna Gora, Albanija, Makedonija i Kosovo** (The Regulatory Framework for Western Balkan Security Services: Bosnia and Herzegovina, Montenegro, Albania, Macedonia and Kosovo). BCBP, Belgrade, 2016, <http://www.bezbednost.org/Sve-publikacije/6217/Zakonska-uredjenost-sluzbi-bezbednosti-na.shtml>, p. 10.

51 For an overview of police powers, see Article 64 of the Law on the Police.

52 Zakon o Vojnobezbednosnoj i Vojnoobaveštajnoj agenciji (Law on the Military Security Agency and Military Intelligence Agency), Official Gazette of RS, nos. 88/2009, 55/2012 – Constitutional Court Decision and 17/2013), Article 23.

53 Zakon o Bezbednosno-informativnoj agenciji (Law on the Security Information Agency), Official Gazette of RS, nos. 42/2002, 111/2009, 65/2014 – Constitutional Court Decision, 66/2014 and 36/2018, Articles 12 and 16.

for covert data collection, such as wiretaps, for the purpose of protecting national security or for the purposes of conducting criminal investigations.⁵⁴ Moreover, even though this was originally a temporary arrangement⁵⁵, the monitoring centre that conducts covert surveillance of electronic communications continues to be located on the BIA premises. One consequence of this is that the BIA is involved in the investigation of various types of criminal offences (organised crime, financial and commercial)⁵⁶ and probably has insight into special measures being implemented by the police and the VBA.

This combination of both covert and law enforcement operations gives the security services a lot of room to manoeuvre and increases the risk of human rights violations and other abuses for political purposes. It is not in accordance with European standards,⁵⁷ because it violates the autonomy of the police and can also jeopardise the secrecy of the services' operations.⁵⁸ Nevertheless, this additional strongholds of security service power in Serbia have remained untouched by any reforms, irrespective of appeals by experts and civil society.⁵⁹ The reasons for this are manifold.⁶⁰ First, in the chaos of transition, the government was able to use key personnel in the services to redirect large quantities of hard cash from the criminal underworld into legal flows. Secondly, loyal party minions and their cronies find it easier to escape justice for criminal offences and ensure their immunity from prosecution. Third, this state of affairs enables surveillance and intimidation of critical voices through the application of special measures and forced detention, which usually do not lead to charges being filed.⁶¹

54 For more on these measures, see: Predrag Petrović (ed). *Special Measures for Covert Data Collection: Oversight Handbook*, BCSP, Belgrade, 2015. www.bezbednost.org/All-publications/5867/Special-Measures-for-Covert-Data-Collection.shtml.

55 Pravilnik o zahtevima za uređaje i programsku podršku za zakonito presretanje elektronskih komunikacija i tehničkim zahtevima za ispunjenje obaveze zadržavanja podataka o elektronskim komunikacijama (*Rulebook on Requests for Devices and Software Support for Lawful Interception of Electronic Communications and Technical Requests for Obligatory Storage of Data on Electronic Communications*), *Official Gazette of RS*, no. 88/2015, Article 26.

56 For more on this, see: Predrag Petrović. "Security-Information Agency", in: Petrović, P. (ed.). *Integrity Assessment in the Security Sector in Serbia*. BCSP, Belgrade, 2014, www.bezbednost.org/All-publications/5607/Integrity-Assessment-in-the-Security-Sector-in-Serbia.shtml, pp. 98-125.

57 This evaluation was reaffirmed in the European Commission's annual report on Serbia's progress as early as 2008. See: Jelena Pejić, Sonja Stojanović Gajić. *Why Do We Need the Priebe Report as Well? How to Reverse the Trend of State Capture in the Western Balkans*, coalition prEUgovor, Belgrade, 2018, pp. 18-19, www.preugovor.org/Policy-Papers/1482/Why-Do-We-Need-the-Priebe-Report-As-Well.shtml.

58 See: Predrag Petrović, Katarina Đokić. *Slippery Slopes of the Reform of Serbian Security Services*. Belgrade Centre for Security Policy, Belgrade, 2017, www.bezbednost.org/All-publications/6584/Slippery-Slopes-of-the-Reform-of-Serbian-Security.shtml, p. 10.

59 Miroslav Hadžić, Bogoljub Milosavljević, *Model Zakona o službama bezbednosti Republike Srbije* (Model Law on the Security Services of the Republic of Serbia), Belgrade Centre for Security Policy, Belgrade, 2016, www.bezbednost.org/Sve-publikacije/6297/Model-zakona-o-sluzbama-bezbednosti-Republike-Serbie.shtml.

60 These reasons were established through conversations conducted with multiple interviewees.

61 Predrag Petrović, Katarina Đokić. *Slippery Slopes of the Reform of Serbian Security Services*, op. cit, p. 10.

Taking Over the Services: Party Patronage

The **Secretary of the National Security Council** plays one of the most important roles in the security intelligence system, even though this would be impossible to deduce from existing legislation. According to the letter of the law, the secretary provides support to members of the National Security Council and the heads of the security services gathered in the Security Services Coordination Bureau,⁶² but in practice it has become common for the secretary to also be the chair of the Bureau, through which all intelligence data flows. This is why the takeover of the security and intelligence system after the 2012 elections began with hurried legislative amendments that enabled Aleksandar Vučić, the leader of the ruling party, to be appointed to this post. He retained this position, even while he changed his other roles in government, until as President of Serbia he was unable to appoint himself. Instead, in late 2017, after a five-month delay, he named Nebojša Stefanović, the then Minister of Interior, as his successor. It runs counter to the spirit of the law that an individual who is, due to the office they hold, a member of the National Security Council, should also be appointed as its secretary.⁶³ This post has long been an important trophy for political parties. Prior to its amendment, the same law proscribed that this post should be held by the chief of staff to the president, having in mind a specific individual, Miodrag Rakić⁶⁴, who had the ear of the then president, Boris Tadić.

Counter to any existing regulations, **parallel coordination mechanisms** are being put into place to control the flow of intelligence. For example, in 2015 a special command was formed within the Ministry of Defence to be tasked with providing close personal protection to the then prime minister, Vučić⁶⁵, even though this role usually has to be undertaken by a civilian security institution⁶⁶. The command was made up of representatives of the VBA and VOA and it received intelligence relevant for its activities from the BIA and the Mol. That this move was in actuality intended as a show of loyalty to the ruling party and its leader is evidenced by the events of October 2016 when, almost a year after the command was formed, a cache of weapons was found close to Vučić family home and it was assessed that the security services had not been doing their jobs properly or in a coordinated manner.⁶⁷

62 *Zakon o osnovama uređenja službi bezbednosti (Law on the Bases Regulating Security Services)*. *Official Gazette of RS* nos. 116/07 and 72/12, Articles 7 and 12.

63 From 2012, the secretary of the Council has been appointed by the president, with no criteria set out for their selection. The appointment of an individual who is, as a consequence of their office in government, automatically an equal member of the Council runs counter to the spirit of the law. Specifically, Article 7, Paragraph 1 sets out that the secretary of the Council participates in the Council's activities with no decision-making powers.

64 For more on Rakić, see: M. Rudić. "Portret savremenika: Miodrag Miki Rakić. Za one koji ga ne znaju" ("Portrait of a Contemporary: Miodrag Rakić for Those Who Don't Know Him"), *Vreme*, 13/02/2014, www.vreme.com/cms/view.php?id=1173569, 30/04/2020.

65 B. Jelovac. "Gašić i Vojska formirali ŠTAB ZA ZAŠTITU VUČIĆA" ("Gašić and the Military Form Command to Protect Vučić"), *Blic*, 01/12/2015, www.blic.rs/vesti/politika/gasic-i-vojska-formirali-stab-za-zastitu-vucica/sq3ftnx, 30/04/2020.

66 *Uredba o određivanju poslova bezbednosne zaštite određenih lica i objekata (Ordinance on the Provision of Security Protection for Individuals and Buildings)*. *Official Gazette of RS*, nos. 72/2010 and 64/2013, Article 14.

67 See: "Hronologija reforme službi bezbednosti 2000" ("Chronology of Security Sector Reform 2000"), in: *Bezbednost na dlanu* – website on security sector reform in Serbia, <http://reforma.bezbednost.org/1-novembar-2016/>, 20/04/2020.

In Serbia it has become customary that after every election the political parties which form the government appoint their own people to key positions in the security services (directors, deputy directors, advisors, etc.), who then embark upon extensive personnel changes. As soon as it took and consolidated its power, however, this new regime has gone a step further and it seems that the decisive criterion for the selection of the director of the BIA has become a close personal friendship with the leader of the SNS. In 2013, for example, the job of BIA director was given to Aleksandar Đorđević, a lawyer with whom Vučić went to university and with whom he has been friends for decades,⁶⁸ only for him to be replaced in 2017 by Bratislav Gašić, co-founder and vice-president of the SNS (a party function he put on hold shortly before his appointment). Gašić proved his loyalty to Vučić several times while he was Minister of Defence from 2014 to 2016. Including following an incident at the Belgrade Pride Parade⁶⁹ when he (unlawfully) prevented the Ombudsman from conducting checks on the Ministry of Defence and the VBA (see below) and when he later formed the aforementioned Command for the Protection of the Prime Minister.

In other countries it is customary for laws governing the security services to proscribe criteria and procedures for the selection and dismissal of the director and their deputies. The term of office of the BIA director is insufficiently regulated by the Law on the BIA, considering the fact that, unlike the two military services, the civilian BIA has a director for whom no legal criteria are proscribed, nor is there a time limit on their term of office.⁷⁰ More general regulations, however, demand that the office holder has at least nine years of experience in the profession and that a at least an internal call for candidates is held.⁷¹

The appointment of loyal personnel to prominent positions in the military services took place a little later than it did at the BIA. The then only recently appointed director of the VBA, Petar Cvetković, showed his obedience at the first given opportunity by preventing external oversight following the incident at the 2014 Pride Parade. In 2018 Cvetković was replaced by Đuro Jovanić, a former manager of a restaurant owned by the Serbian military and a military police officer who served as Vučić's aide while the latter was Minister of Defence.⁷² Since 2012, Jovanić has been promoted four times within the military, in contravention with the Law on the Serbian Armed Forces.⁷³

That the **recruitment process** in the BIA, even for low-ranking posts, has fallen under the influence of the ruling coalition became clear to the general public in 2013 when Mićo Rogović, an SNS member of parliament and a former restaurateur from a small town in

68 S. Biševac. "Vučićev kolega" ("Vučić's Colleague"), *Danas*, 27/10/2013, www.danas.rs/ljudi/vucicev-kolega/, 20/04/2020.

69 "Istraga: Zašto je žandarmerija pretukla Andreja Vučića" ("Inquiry: Why Did Gendarmes Attack Andrej Vučić"), *Radio Slobodna Evropa*, 30/09/2014, www.slobodnaevropa.org/a/istraga-zasto-je-zandarmerija-pretukla-andreja-vucica/26613923.html, 20/04/2020.

70 Zakon o VBA i VOA (Law on the VBA and VOA), *Official Gazette of RS* nos. 88/09, 55/12 – Constitutional Court Decision and 17/13: Article 37. Zakon o BIA (Law on the BIA). *Official Gazette of RS* nos. 42/02, 111/09, 65/14 – Constitutional Court Decision and 36/18: Article 5.

71 Articles 45 and 66 of Zakon o državnim službenicima (Law on Civil Servants), *Official Gazette of RS* no.79/2005, 81/2005 - revision, 83/2005 - revision, 64/2007, 67/2007 – revision, 116/2008, 104/2009, 99/2014, 94/2017 and 95/2018.

72 J. Zorić, "Na koju stranu vuku promene u vrhu Vojske Srbije?" ("Whither Changes to the Leadership of the Serbian Armed Forces?"), *N1*, 17/09/2018. <http://rs.n1info.com/Vesti/a420750/Sta-znace-promene-u-vrhu-Vojske-Srbije.html>, 20/04/2020.

73 "Antić: Za malverzacije u trgovini oružjem odgovorno Ministarstvo odbrane" ("Antić: Ministry of Defence to Blame for Improprieties in the Arms Trade"), *N1*, 21/11/2019, <http://rs.n1info.com/Vesti/a545781/Antic-Za-malverzacije-u-trgovini-oružjem-odgovorno-Ministarstvo-odbrane.html>, 20/04/2020.

Serbia, resigned his seat so that he could, aged 47, undergo training and be employed at the BIA.⁷⁴ The press also reported about another, this time younger, restaurateur, SNS member and Belgrade municipal councillor, Simo Čulić, who was employed by the BIA as a media adviser.⁷⁵ Also well-known is the case of Dijana Hrkaloović, who first became a Belgrade councillor for the SNS party after the 2012 elections, then worked at the BIA until 2014,⁷⁶ when she was transferred to the Mol. There she was rapidly promoted to deputy chief of staff of the Minister, then via the Criminal Police Directorate to the role of State Secretary for the Mol before she was involved in a couple of scandals and vanished from public view.⁷⁷ Conversely, from publically available information it seems that even the best-performing graduates of the National Security Academy – which has been training students for the needs of the BIA since 2013 and is funded from its budget⁷⁸ – are not guaranteed job at the Agency.⁷⁹

In addition to these eye-catching examples, examining the human resources statistics at the BIA before and after the 2012 elections further reinforces suspicions about the scale of party patronage. In 2013 three to four more times as many BIA personnel were recruited than in any of the preceding three years⁸⁰, while at the same time the early retirement of Agency employees increased to eight times as many as in 2012.⁸¹ According to unofficial estimates, between 2012 and 2018 the BIA took on 250 new employees.⁸²

74 Ž. Jevtić, "Naprednjak ugostitelj, budući operativac BIA" (*"Progressive Restaurateur Future BIA Operative"*), *Blic*, 05/04/2013, <https://www.blic.rs/vesti/politika/naprednjak-ugostitelj-buduci-operativac-bia/sfdy1jy>, 20/04/2020.

75 A. Apostolovski, "Politika čeka zvanično izvinjenje BIA" (*"Politika Waits for Apology from BIA"*), *Politika*, 18/10/2017, www.politika.rs/sr/clanak/390989/Politika/Politika-ceka-zvanicno-izvinjenje-BIA and M. Nikolić, "SNS i misterija rumunskih 'internet specijalaca'" (*"SNS and the Mystery of Romanian Internet Saviours"*), *N1*, 05/07/2017, <http://rs.n1info.com/Vesti/a281097/SNS-i-misterija-rumunskih-internet-specijalaca.html>, 20/04/2020.

76 How long was the then 27-year-old Hrkaloović employed in BIA is unknown because BIA denied access to this information requested via available legal means. V. Bojana Jovanović, „Period Dijane Hrkaloović u MUP-u: mafijaška ubistva, veze kriminala i policije i prijave protiv nje”, *KRIK*, 29.5.2019, www.krik.rs/rad-dijane-hrkaloovic-u-mup-u-mafijaska-ubistva-veze-kriminala-i-policije-i-prijave-protiv-nje/, 18.5.2020.

77 Slobodan Georgijev, „Pad crnog labuda”, *Vreme*, 7.6.2019, www.vreme.com/cms/view.php?id=1694099, 18.5.2020.

78 According to professor Dragan Simeunović, the then acting director of the Academy, on the occasion of its establishment. "Osnovana Akademija za nacionalnu bezbednost", *Novi magazin*, 25.5.2013, www.novimagazin.rs/vesti/osnovana-akademija-za-nacionalnu-bezbednost, 20.4.2020.

79 This may be concluded from the words of the BIA director Bratislav Gašić, who spoke to the Academy's freshmen: "... I hope (highlighted by the authors) that the best students will find their place in the security sector of the Republic of Serbia, as well as in our house". "Govor direktora Bratislava Gašića povodom početka nove školske godine na Akademiji za nacionalnu bezbednost" (*"The Speech of Director Bratislav Gašić on the Occasion of the Start of a New School Year at the Academy for National Security"*), BIA, 9.10.2017, [https://bia.gov.rs/lat/mediji/saopstenja-za-javnost/govor-direktora-bratislava-gasica-povodom-pocetka-nove-skolske-godine/](https://bia.gov.rs/lat/mediji/saopštenja-za-javnost/govor-direktora-bratislava-gasica-povodom-pocetka-nove-skolske-godine/), 20.4.2020. The Agency denied access to information requested by BCSP on the number of Academy graduates employed in BIA with the justification that it didn't keep such records and that the Academy was separate legal entity, questions 10-15, 18.9.2019.

80 P. Petrović. "Security-Information Agency", op. cit, p. 114.

81 Response by BIA operative to a BCSP questionnaire, question no. 29, 21/01/2014.

82 V. Cvijić. "Situacioni centar za unutrašnjeg neprijatelja" (*"Situation Centre for the Internal Foe"*), *NIN*, 18/10/2018, www.nin.co.rs/pages/article.php?id=116611, 20.4.2020.

Legislative Reinforcement for Discretionary Security Service Governance

Having appointed loyal personnel to key positions, the next step was to increase their powers through legislation by **expanding the scope for discretionary decision-making and reducing transparency** in security service governance.

Instead of more precisely regulating the selection and term of office of the BIA director and deputy director, amendments to the Law on the BIA proposed in the autumn of 2017 using urgent legislative procedure (with no public debate even though no explanation was given for this) and adopted more than six months later, increased the discretionary powers of the director to manage human resources at the Agency. Included among the new approaches were the revocation of compulsory calls for candidates in recruitment procedures at the Agency; allowing the director to decide on the creation of new vacancies; making it possible for the director to pass an act on the internal regulation and systematisation of roles and to determine the coefficients for salary calculations (with the consent of the government); to determine the security clearance questionnaire; and to determine the professional development and evaluation of BIA operatives.⁸³

Excessive influence by the director on recruitment, promotion and termination of service paves the way for political interference in the operational activities of the Agency and political control of its personnel.

Additionally, the amended law also stipulates that **some BIA documents may be classified *a priori***, which is in contravention of the Law on Free Access to Information of Public Importance and the Law on Data Secrecy, which demand that data are classified individually and only after it has been assessed that harm would result if they were revealed and if the public interest doesn't prevail in a specific case. The Law on the BIA is also contentious because the director is empowered to regulate the processing of personal data pertaining to security checks, while the Constitution demands that such issues are regulated only by primary legislation. For the reasons here outlined, the Commissioner for Information of Public Importance and Personal Data Protection (hereinafter: the Commissioner) submitted a proposal to the Constitutional Court to examine the constitutionality of this law.⁸⁴

Although it was from the beginning deemed to be a weak and perfunctory law, especially when compared with the Law on the VBA and VOA, the Law on the BIA was not strategically and comprehensively amended in line with the aims of security sector reform. Instead it was patched up as needed, initially according to a requirement by the Constitutional Court and then in 2018 in order to bring it in line with the new Law on the Police. Both laws governing the security services were amended when the Constitutional Court declared it unconstitutional to apply special measures for covert electronic surveillance without a court order but the Constitutional Court took more time and needed more guile to pass this decision for the Law on the BIA – and for the National Assembly to pass the amendment – than was the case with the Law on the VBA and VOA.⁸⁵

83 See: P. Petrović, "Comments on the Draft Amendments and Supplements to the Law on Security Information Agency (BIA)", BCSP, 2017, www.bezbednost.org/All-publications/6715/Comments-on-the-Draft-Amendments-and-Supplements.shtml, 20/04/2020.

84 "Poverenik podneo predloge za ocenu ustavnosti Zakona o odbrani i Zakona o BIA" ("Commissioner Submits Proposal to Assess Constitutionality of the Law on Defence and the Law on the BIA"), Poverenik za informacije od javnog značaja i zaštitu podataka o ličnosti, 14/06/2018, www.poverenik.rs/sr-yu/saopstenja/2881-poverenik-podneo-56t8predloge-za-ocenu-ustavnosti-zakona-o-odbrani-i-zakona-o-bia.html, 20/04/2020.

85 To follow the chronology of these events, see: <http://reforma.bezbednost.org/19-april-2012/>, <http://reforma.bezbednost.org/27-septembar-2012/>, <http://reforma.bezbednost.org/29-decembar-2013/>, <http://reforma.bezbednost.org/29-januar-2014/>, 20/04/2020.

Additionally, the parliamentary majority took this opportunity to change the judicial instance that approves the use of special measures proposed by the BIA for the protection of national security. Instead of these measures being approved by the Supreme Court of Cassation, the power to approve them was granted to the President of the Higher Court in Belgrade – an office then already held by Vučić's colleague from the Faculty of Law⁸⁶ who had progressed through the judicial hierarchy unusually rapidly since 2013.⁸⁷ This change of the approval authority has not been introduced to the Law on the VBA and VOA.

Dependent and Distorted Internal Control

In a democratic society the security services are subject to multi-level oversight and control mechanisms, internal and external, institutional and public. Even though control mechanisms have seen some improvements since 2014⁸⁸ – particularly following the change in government when the new authorities had an interest in scrutinising how the previous administration ran the security services – this early enthusiasm waned, certain attempts to conduct oversight were discouraged through negative campaigning and finally finished off through the appointment of loyal personnel to key positions in oversight bodies.

The Law on the VBA and VOA proscribes a dual mechanism of internal control – an Inspector General for both the VBA and VOA, as well as internal control departments in each of the military agencies. They have been granted appropriate powers to control the activities of the agencies,⁸⁹ but lack the resources, autonomy and integrity to successfully do their work. These shortcomings have been compounded by frequent and intransparent personnel changes, as well as the fact that the post of Inspector General has been filled by the same individual on a caretaker basis since 2014.⁹⁰ One consequence of this is that VBA and VOA operatives are forced to turn to external oversight and control bodies, primarily the Ombudsman, which have uncovered a slew of deficiencies in the work of the internal control departments. They point to the fact that internal control is used as a means for the management to exert pressure on those employees who point out or wish to point out irregular or unlawful activities in the VBA – rather than for the timely detection and prevention of these activities.⁹¹

86 They both graduated from the Law Faculty of Belgrade University in 1994.

87 "Aleksandar Stepanović, sudija Vrhovnog kasacionog suda" ("Aleksandar Stepanović a Judge at the Supreme Court of Cassation"), Vrhovni kasacioni sud, www.vk.sud.rs/sr-lat/aleksandar-stepanovi%C4%87-sudija-vrhovnog-kasacionog-suda, 20/04/2020. Stepanović was in the public eye as the judge who exerted pressure on his colleague, Vladimir Vučinić, in the case against businessman, Miroslav Mišković, in 2013. V. Jeremić. "Zakasnela pravda za sudiju koji je vratio pasoš Miškoviću" ("Delayed Justice for Judge who Gave Back Mišković's Passport"), *Danas*, 06/09/2017, www.danas.rs/drustvo/zakasnela-pravda-za-sudiju-koji-je-vratio-pasos-miskovicu/, 20/04/2020.

88 Predrag Petrović. *The Anatomy of Capturing Serbia's Security - Intelligence Sector*. Op. cit, str. 66-76.

89 Law on the VBA and VOA, Article 54 and Rulebook on the Work of the Inspector General, *Official Military Gazette* no. 1/16 from 27/01/2016.

90 From February 2011 to December 2014 three people have held this post, which is supposed to have a five-year term of office. See the table in: Predrag Petrović. *The Anatomy of Capturing Serbia's Security - Intelligence Sector*. Op. cit, p. 71.

91 See, for example: "Krivična prijava šest meseci nakon penzionisanja" ("Charges Brought Six Months After Retirement"), Ombudsman of Serbia. 17/02/2016, <https://goo.gl/pbaZQS>, 19/11/2019.

2014 Pride Parade: From a Clash of Security Operatives to a Clash of their Overseers

At the Pride Parade held in September 2014 in Belgrade members of the Gendarmerie (Žandarmerija) were involved in a physical encounter with the brother of the then Prime Minister, Aleksandar Vučić, his close personal protection team of military personnel and the brother of the mayor of Belgrade. Before the police could launch an investigation, VBA personnel collected statements and video footage from surrounding security cameras, though they had no legal authority to do so. The Ombudsman of Serbia, Saša Janković, then initiated an inquiry into the Ministry of Interior and Ministry of Defence, with the latter completely refusing to cooperate.

The Ombudsman established that the VBA personnel and their superiors had acted unlawfully on this occasion.⁹² On the other hand, the Inspector General of the military services publically expressed a conflicting account. One explanation for this could be that the Inspector General appointed in late 2014 was a retired VBA officer who had previously headed the agency's department for operational and technical measures. This means that the Inspector General would have had to establish the legality of his own activities.

Instead of making use of the Ombudsman's findings, at their session in early 2015, members of the relevant National Assembly committee turned on him for launching an inquiry into this incident.⁹³ Janković has since then been targeted by political and media smear campaigns.⁹⁴

Unlike the VBA and VOA, internal and financial control at the BIA is not regulated by primary legislation but by classified secondary legislation passed by the director of the Agency. Hence the legal uncertainty surrounding internal control at the Agency is at an extremely high level. The head of the internal control department at the Agency is directly answerable only to the director, to whom they submit regular and periodic reports on their activities.⁹⁵

92 Javna preporuka za razrešenje ministra odbrane Bratislava Gašića i Javna preporuka za razrešenje direktora VBA Petra Cvetkovića (Public Recommendation for the Dismissal of the Minister of Defence Bratislav Gašić and Public Recommendation for the Dismissal of the Director of the VBA Petar Cvetković). Zaštitnik građana, 21/09/2015, http://zastitnik.rs/attachments/4320_javne%20preporuke.pdf, 07/11/2019.

93 "13. sednica Odbora za kontrolu službi bezbednosti" ("13th Session of the Security Services Control Committee"), National Assembly of the Republic of Serbia, 28/01/2015. http://www.parlament.gov.rs/13._sednica_Odbora_za_kontrolu_slu%C5%BEbi_bezbednosti.24170.941.html, 15/04/2017.

94 For example, see: "Vojska na nišanu. Zaštitnik protiv zaštitnika" ("The Military in the Sights, Ombudsman vs. Ombudsman"), Odbrana no. 226, 15/02/2015,

95 P. Petrović and K. Đokić. *Slippery Slopes of the Reform of Serbian Security Services*, op cit, pp. 20-22.

Rendering External Oversight Meaningless: Praise or Silence Instead of Critical Examination

The key external oversight bodies are the parliament, independent oversight institutions, the courts and the public. Effective control and oversight powers can only be exercised by those who are in possession of security clearance that enables them to access the higher levels of classified information (marked “Top Secret” and “Secret”). To obtain this, persons must first successfully pass security checks conducted by the BIA.

Even though it has the powers and constitutional authority to do so, the **National Assembly** lacks the will and resources to exercise oversight of security service activities. The Security Service Control Committee and plenary sessions simulate debate by combining several items on the agenda into one, severely shortening the duration of sessions.⁹⁶ Effective oversight is also made impossible because members of the relevant parliamentary committees from opposition parties are not granted security clearance.⁹⁷

Since 2015 this Committee has seen a decline in activity, which has now been reduced to deliberation of (regular) reports submitted by the security services and “inspection” visits to the regional centres of the services that, as a rule, determine that the security services are working “in accordance with the law” – with no reference to the numerous scandals in which the involvement of the security services is confirmed or suspected (see below). These scandals have not been deemed sufficient for the National Assembly to organise public hearings or even inquiry boards or commissions. Instead, statements issued following Committee sessions, which are usually not public, are used to praise the country’s President, ministers and the heads of security sector institutions.⁹⁸

Oversight conducted by Serbia’s independent oversight bodies was exemplary – **the Ombudsman of Serbia, the Commissioner for Information of Public Importance and Personal Data Protection (hereinafter: Commissioner) and the State Audit Institution (Državna revizorska institucija – DRI)** conducted oversight both proactively and reactively, investigated incidents, expressed critical assessments publically and recommended improvements. **Since 2014 persons heading these institutions have been exposed to smear campaigns and, as their terms of office expired, they were replaced mostly by those who did not continue with these best practices but rather headed empty institutions while personnel with relevant experience has been leaving.**

The 2017 appointment of Zoran Pašalić as the new Ombudsman of Serbia was the turning point in the period of effective oversight.⁹⁹ Unlike Saša Janković, the new Ombudsman does not possess the knowledge and skills to oversee the security services. Additionally, his predecessor was interested in and willing to conduct con-

96 Djurković, Sanja (ed.), *prEUgovor Alarm: Report on Progress of Serbia in Chapters 23 and 24*, prEUgovor Coalition, Belgrade, September 2019, <http://bit.ly/AlarmSept2019>, pp. 25-30.

97 Response by the Committee to BCSP freedom of information request. Belgrade, 15/06/2017. In response to a repeated request in March 2019, the National Assembly provided only the number of those with security clearance but not the names of the National Assembly deputies to whom it had been granted.

98 For more on parliamentary oversight of the security services, see the chapter on the National Assembly.

99 For more on the jurisdiction and powers of the Ombudsman, as well as on the reach of this institution in control and oversight of the security services, see: Luka Glušac, “National Human Rights Institutions and Oversight of the Security Services,” *Journal of Human Rights Practice* 10, no. 1 (2018).

trols of the security services and conducted the most sensitive checks personally.¹⁰⁰ Pašalić went down a different path by revoking security clearance from his employees,¹⁰¹ pressuring them with unauthorised recordings of their conversations and refusing for a year to propose the re-selection of four deputy Ombudsmen¹⁰² – which kept them in a state of uncertainty and reduced the capacities of the office. Three of the four deputies were appointed only in December 2019 by the National Assembly. By then those with significant experience of overseeing the security services had already resigned from this institution.

The activities of the Commissioner, which had actively engaged in oversight and was vocal in its criticism, were disrupted in a number of ways. First, as with Saša Janković, the ruling party and pro-government media ran smear campaigns against Rodoljub Šabić.¹⁰³ Second, in 2018 the BIA delayed granting security clearance to Šabić¹⁰⁴, with no justification, preventing him from accessing the higher levels of classified information. Third, when his term of office expired in 2018, the institution was allowed to remain leaderless for more than six months.¹⁰⁵ Fourth, the new Law on Personal Data Protection, adopted in November 2018, encumbers the already lacking capacities of the Commissioner's office with a large number of tasks, which is expected to create a serious bottlenecks for an institution that is already struggling to respond to the complaints of applicants for access to public information.¹⁰⁶ In addition, the security services have been refusing to cooperate with the Commissioner by not enforcing the institution's demands to make information of public importance available upon request.¹⁰⁷ In 2017 the VBA filed a lawsuit against the Commissioner's decision that it must make available annual statistical data regarding access to retained electronic communications data. In 2019 it even refused to make the necessary documents available for the Commissioner.¹⁰⁸

Until 2017, the State Audit Institution (DRI) had made some headway in oversight of the security services' finances. It conducted two audits of annual financial reports and financial propriety at the BIA (in 2013¹⁰⁹ and 2017¹¹⁰), while the VBA and VOA were

100 Interview with former employee of the Ombudsman's office, no. 2.

101 Interview with former employee of the Ombudsman's office, no. 3.

102 See: V. Petrović (ur.). *Ljudska prava u Srbiji 2019* (Human Rights in Serbia 2019), Beogradski centar za ljudska prava, Belgrade, 2020, p. 205-208.

103 K. Živanović. „Martinović lagao da je Šabić nenamenski trošio novac“ (*“Martinović Lied About Šabić Misusing Funds”*), *Danas*, 26/09/2018, www.danas.rs/drustvo/martinovic-lagao-da-je-sab-ic-nenamenski-trosio-novac/, 30/04/2020.

104 „Šabić dobio sertifikat za pristup državnim tajnama“ (*“Šabić Granted Security Clearance”*), *Insajder*, 18/06/2018, <https://bit.ly/2qOmjwn>, 20/04/2020.

105 Djurković, Sanja (ed.), *prEugovor Alarm: Report on Progress of Serbia in Chapters 23 and 24*, September 2019, op. cit., p. 21.

106 Interview with employee no. 1 at the Commissioner's office.

107 A list of unfulfilled resolutions made by the Commissioner is available by year at: www.poverenik.rs/sr-yu/o-nama/godisnji-izvestaji.html. For an overview of failures to respond to freedom of information requests by the BIA, the armed forces and the police, see the “I Have the Right to Ask and Know” infographic, prEugovor Coalition, 12/09/2019, www.preugovor.org/Infografici/1543/lmam-pravo-da-pitam-i-znam.shtml, 18/05/2020.

108 Commissioner for Information of Public Importance and Personal Data Protection, Annual Report for 2019, www.poverenik.rs/sr-yu/o-nama/godisnji-izvestaji/3284-izvestaj-poverenika-za-2019-godinu.html, March 2020, p. 125.

109 Izveštaj o reviziji godišnjeg finansijskog izveštaja i pravilnosti poslovanja Bezbednosno-informativne agencije za 2012. godinu (*Report on Audit of Annual Financial Statement and Regularity of Operations of the Security Information Agency for 2012*), Satate Audit Institution, August 2013, <http://dri.rs/php/document/download/184/1>, 20/04/2020.

110 Izveštaj o reviziji godišnjeg finansijskog izveštaja i pravilnosti poslovanja Bezbednosno-informativne agencije za 2016. godinu (*Report on Audit of Annual Financial Statement and Regularity*

subject to audits as organisational units within the Ministry of Defence in 2011 and 2013. The security services were also subjected to expediency audits for all direct budget recipients on two occasions: the use of official vehicles and accelerated pension benefits. Even though these checks revealed a number of weaknesses in the work of the DRI, they are nonetheless a significant step forward since, “nobody had ever poured over the finances of the services.”¹¹¹ This record of good practice came to an end, however, with the appointment of its new president in the spring of 2018, following which several experienced and well-regarded auditors resigned from the institution.

Judicial control is primarily involved in regard to implementation of special measures that temporarily restrict certain human rights. The competent judge provides prior approval in all cases but, unlike the use of these measures in criminal proceedings, the possibility of conducting further checks on measures implemented for the purpose of protecting national security is far more restricted.¹¹² It is highly questionable whether judges even assess the justifications provided to them by the directors of security services on the necessity and proportionality of these measures and whether they challenge the elastic concept of national security that the services invoke. Data on the number of times special measures are proposed and approved remain hidden behind a veil of secrecy until the Commissioner determines otherwise in each case through complaints proceedings. Moreover, information provided in the end show inconsistencies between records maintained by the courts and the services themselves.¹¹³

The easy and carefree use of special measures for covert data collection is further ensured by the appointment of those loyal to the ruling party and its leader, Aleksandar Vučić, to prominent positions in the judiciary. In late 2015, for example, even after a questionable candidate exam, the National Assembly used accelerated procedure to appoint Mladen Nenadić to the post of prosecutor for organised crime.¹¹⁴ He had previously been a lawyer from Čačak, unknown to the expert community and the general public, and a good friend of Aleksandar Đorđević, the then director of the BIA. Another important post in the judiciary is that of the President of the Higher Court in Belgrade, because, with the June 2014 changes to the Law on the BIA, it is this court that became empowered to approve special measures for the protection of national security. Since May 2014, this position has been filled by Aleksandar Stepanović, who is said by some sources to be a friend of Aleksandar Vučić.¹¹⁵ The law was conveniently amended only a month after his appointment (see above). It remains unclear why the approving court was not also amended for the military security services. Lawyers specialising in the security sector have for years been expressing concerns about the need to harmonise the rules on judicial instances that approve and oversee special procedures and measures for covert data collection.¹¹⁶

> of Operations of the Security Information Agency for 2016), State Audit Institution, 18/12/2017, https://bit.ly/DRI_BIA2017, 13/08/2018.

111 Interview with former DRI employee no. 1.

112 Predrag Petrović (ed). *Special Measures for Covert Data Collection: Oversight Handbook*, op.cit, str. 39-50.

113 “BIA prisluškuje bez kontrole, prošle godine 226 građana pod merama” (“The BIA Wiretaps Go Uncontrolled, 226 Citizens Subjected to Measures Last Year”), Institut za evropske poslove, 10/07/2019, <https://bit.ly/2YKo6Fa>, 20/04/2020.

114 B. Pavlović, S. Dojčinović. “Sve kontroverze izbora specijalnog tužioca” (“Everything Controversial about Special Prosecutor’s Appointment”), KRIK, 28/12/2015, www.krik.rs/sve-kontroverze-izbora-specijalnog-tuzioca/, 30/04/2020.

115 V. “Pyramid of (Crony) Security Power” (infographic), Belgrade Centre for Security Policy, 2019, www.bezbednost.org/upload/document/pyramid_of_crony_security_power.pdf.

116 B. Milosavljević. *Special Procedures and Measures for Covert Data Collection in Serbia: Legal Framework and Practice*. Belgrade Centre for Security Policy, Belgrade, 2015, www.bezbednost.org/All-publications/5896/Special-Procedures-and-Measures-for-Covert-Data.shtml.

Public Oversight Stuck in the Shadows of Non-Transparency

Civil society, as the bearer of public oversight, remains a rarely vocal critic of collapsing standards but this voice does not reach the government or the dominant pro-government media.¹¹⁷ Instead of being a clear channel of public oversight of the security sector, these media frequently and illegally publish classified or protected data, in the possession of the security institutions, in order to undermine the credibility of person criticizing official policies or politicians (see below).

Fourteen years ago the BIA was the most glaring example of refusal to adhere to the Law on Free Access to Information of Public Importance,¹¹⁸ but it has significantly improved since. It has appointed an experienced employee to respond to freedom of information requests and made the chief of staff of the BIA responsible for press relations. Much the same was true of the military services. In recent years, however, there has been a discernible trend of deterioration in the transparency of the security services. Transparency in reporting on the services' budgets has, for example, vanished almost completely. Since 2013 the budgets of the VBA and VOA have been completely assimilated into the budget of the Ministry of Defence; since 2014 the budget of the BIA is only provided as a total amount and the public has been shorn of insights even into the annual totals of its public procurements.¹¹⁹

There has been a deterioration in the security services' responses to requests for information of public importance. In many cases, they no longer provide information that they earlier possessed and provided to the BCSP. The BIA no longer has a person charged with press relations, since the then chief of staff, Jovan Stojić, left the Agency in 2015. Also notable is a deterioration in proactive publishing of information by the VBA, whose website has not been updated since 2017.¹²⁰

The Security Services in the Service of State Capture

The politicised security services are used to monitor, discredit and intimidate political dissidents, activists and those critical of the regime but are also used to shield the suspicious activities of those close to the ruling party. This has led to a breakdown in logic in which the regime's greatest domestic enemies have been labelled as "foreign spies" but are actually individuals from civil society, trade unions, journalists and members of the opposition.¹²¹ This assessment was publically declared by a high-ranking BIA official in October 2018 at the conference of a young association that has, due its membership and activities, been characterised as a GONGO (Government-Organised Non-Governmental Organisation). Opposition politics and free expression of critical thought are legitimate and desirable in democratic societies, while monitoring all those who think and speak critically is characteristic of the secret police in a totalitarian regime.

117 J. Matić. *Kontrola i sloboda medija: svedočenja novinara* (Press Freedom and Control: Testimony of a Journalist). Fondacija Slavko Ćuruvija, 2018, <https://bit.ly/2Hb9N11>.

118 Commissioner for Information of Public Importance. *Report for 2006, Belgrade, March 2007*, www.poverenik.rs/images/stories/Dokumentacija/61_cdok.pdf, 12/10/2019.

119 For more on this, see the section on financial governance.

120 See the VBA website: www.vba.mod.gov.rs/, last accessed on 20/04/2020.

121 Đ. Nasković, „BIA: „Spoljni faktor“ najveća pretnja po bezbednost zemlje“, *N1*, 5.10.2018, <http://rs.n1info.com/Vesti/a425693/Spoljni-faktor-najveca-pretnja-po-bezbednost-zemlje.html>, 20.4.2020.

It has been confirmed, for example, not only that the BIA followed and recorded Stevan Dojčinović, the editor of the investigative journalism platform *KRIK*, but also that they passed recorded material to *Informer*, a tabloid newspaper with close links to the government. The tabloid then used the information they received to launch a smear campaign against Dojčinović.¹²² In 2016 Dojčinović asked the Ombudsman of Serbia to investigate the actions of the BIA, which were established during court proceedings against *Informer*, but the Agency has been refusing to share the requested information for years. The Commissioner also reached similar conclusions about links between the BIA and certain parts of the media when, during checks of the MoI biometric database in 2014, it transpired that a photograph of Saša Ivanić (who was investigating drug lord, Darko Šarić) had been accessed by the BIA just before it was published by a tabloid newspaper.¹²³

The services are often embroiled in increasingly common wiretapping scandals. In February of this year, Defence Minister Aleksandar Vulin publically condemned a column written by former Minister of Defence, Dragan Šutanovac, for the weekly magazine *Nedeljnik*¹²⁴ even though it had been decided at the last minute not to publish the article. This raised suspicions about the misuse of the military services for surveillance of either opposition figures or journalists.¹²⁵ The accusations were denied by the Minister of Defence and the National Assembly Security Services Control Committee, which had requested that the Inspector General of the military services conduct an inquiry and submit a report.¹²⁶ The report soon dismissed any concerns about and “public insinuations” of unlawful use of special measures for covert data gathering but the public remained in the dark about how the Minister of Defence could have known about the unpublished article. In a similar manner, in 2015 the Committee dismissed the findings of the Ombudsman’s office on the misuse of the VBA to illegally monitor the activities of Vojislav Šešelj’s Serbian Radical Party.¹²⁷

That (part of) the BIA works in service of the ruling party’s interests is also evidenced by the case of Nebojša Blagotić, a police inspector from Niš, who in 2015 uncovered that individual police officers were passing information about his criminal investigation

122 “Potvrđena presuda „Informeru”, mora da plati odštetu uredniku KRIK-a” (“Confirmed Ruling Against Informer: Compensation for KRIK Editor”), *Cenzolovka*, 12/03/2019, www.cenzolovka.rs/pritisci-i-napadi/potvrdjena-presuda-informeru-mora-da-plati-odstetu-uredniku-krik-a/, 20/04/2020.

123 “Ko je odgovoran za objavljivanje fotografije tužioca iz baze MUP-a?” (“Who’s to Blame for Photo of Prosecutor Being Published?”). *Insajder*, 13/04/2016, <https://insajder.net/sr/sajt/tema/720/>, 20/04/2020.

124 J. Popović-Čosić. „Izvinjenje Kuriru i Nedeljniku”, Ministarstvo odbrane, 16.2.2020, www.mod.gov.rs/lat/15053/izvinjenje-kuriru-i-nedeljniku-15053, 30.4.2020.

125 “Saopštenje redakcije Nedeljnika: Odakle ministru Vulinu tekst iz Nedeljnika koji nikada nije objavljen?” (“Statement by Nedeljnik Editorial Board: Where did Minister Vulin get an Unpublished Nedeljnik Article?”), *Nedeljnik.rs*, 16/02/2020, www.nedeljnik.rs/saopstenje-redakcije-nedeljnika-odakle-ministru-vulinu-tekst-iz-nedeljnika-koji-nikada-nije-objavljen/, 20/04/2020.

126 36. sednica Odbora za kontrolu službi bezbednosti (36th Session of the Security Services Control Committee), Narodna skupština Srbije, 21/02/2020, www.parlament.gov.rs/36_sednica_Odbora_za_kontrolu_sluzbi_bezbednosti.38746.941.html, 20/04/2020.

127 “16. sednica Odbora za kontrolu službi bezbednosti” (“16th Session of the Security Services Control Committee”), Narodna skupština Republike Srbije. 21/03/2015, www.parlament.gov.rs/16_sednica_Odbora_za_kontrolu_sluzbi_bezbednosti_25002.941.html. “Redovan godišnji izveštaj Zaštitnika građana za 2015. godinu” (“Regular Annual Report of the Protector of Citizens for 2015”), Zaštitnik građana, 15/03/2016. www.ombudsman.rs/attachments/article/5555/Godisnji%20izvestaj%20Zastitnika%20gradjana%20za%202015.pdf, 30/04/2020.

to SNS functionaries via BIA personnel.¹²⁸ Not only were the police and BIA personnel who disclosed information from an ongoing investigation not subjected to criminal and disciplinary charges, but they were instead handed promotions – both were promoted to supervisory positions in the police and the BIA in Niš. On the other hand, Blagoić, who pointed out these activities was summarily pushed into early retirement.

Other methods are used to intimidate environmental activists and organisations working on the environmental impact of large-scale infrastructure projects. In addition to phone calls issuing direct threats, the BIA has also, with no legal authority, on two occasions conducted investigations of their financial propriety. Activists have also uncovered that representatives of the BIA are fictitiously employed in publically owned companies, such as the power utility *Elektroprivreda Srbije* (EPS).¹²⁹

There are many ways in which the BIA is linked to state-owned defence contractor, *Krušik* Valjevo, which last autumn found itself in the public spotlight after whistleblower, Aleksandar Obradović, disclosed documents showing that this heavily indebted company had been selling arms to an intermediary company with links to the father of the Minister of Interior at almost cost price.¹³⁰ The NIN weekly revealed that in the autumn of 2018 the director of *Krušik* made two donations amounting to 150,000 dinars to the Agency, which were concealed from the public as a commercial secret.¹³¹ Operatives of the BIA arrested the whistleblower at his workplace: “With raised voices they immediately asked: ‘who are you working for?’, ‘how much are they paying you?’ and ‘which politicians put you up to this?’”¹³² Which reinforces suspicions that, in this case, the BIA acted as a party political police force. Finally, as the allegedly damaged party in this incident, *Krušik* is being represented by a law firm that was founded by Alekdandar Đorđević, a former director of the BIA.

Another recent scandal shows the links between the security services and organised crime. Following the police accidentally discovering a large marijuana plantation in late 2019 on land owned by the *Jovanjica* concern,¹³³ which had received government subsidies and who’s owner has links to functionaries of the ruling SNS party, Vučić admitted that personnel from security institutions had provided protection to this criminal enterprise: “Individuals from the Mol, the BIA and even military structures were

128 P. Predrag Blagojević, “Inspektor niške policije: Podaci iz policijskih istraga preko BIA cure ka SNS,” (“Niš Police Inspector: Information on Police Investigations Leaked to SNS via the BIA”) 15 minuta, 08/12/2017. (Niš) 2017, www.juznevesti.com/Hronika/Inspektor-niske-policije-Podaci-iz-policijskih-istraga-preko-BIA-cure-ka-SNS.sr.html, 20/4/2020.

129 Stakić. *Case Study: Threats and Pressures Faced by Activists and Independent Journalists in Serbia*, Belgrade Centre for Security Policy, May 2019, www.bezbednost.org/All-publications/7049/Case-Study-Threats-and-Pressures-Faced-by.shtml, p. 15.

130 Cvijić, M. Čulibrk. “Država proizvodi, privilegovani profitiraju” (“The State Produces and the Privileged Profit”), *NIN*, 31/10/2019, www.nin.co.rs/pages/article.php?id=102350556, 20/04/2020. Various aspects of the *Krušik* affair are examined in the chapters on defence and financial governance in the security sector. See also: J. Pejić Nikić (ur.). *prEugovor Alarm Report on Serbia's Progress in Chapters 23 and 24*, prEugovor Coalition, May 2020, www.preugovor.org/Alarm-Reports/1596/Coalition-prEugovor-Report-on-Progress-of-Serbia.shtml, pp. 65-66.

131 V. Cvijić, M. Čulibrk. “Donacije za BIA poslovna tajna” (“Donations to the BIA a Commercial Secret”), *NIN*, 30/01/2020, www.nin.co.rs/pages/article.php?id=102351723, 20/04/2020.

132 “Uhapsili su me, a imam dokaze za sve sumnjive poslova” (“They Arrested Me But I Have Proof of All Suspicious Activities”), *NIN*, 17/10/2019, www.nin.co.rs/pages/issue.php?id=102350374, 20/04/2020.

133 J. Veljković. “Rasadnik marihuane u Pazovi: Lažni policajci i organska hrana” (“Marijuana Plantation in Pazova: Fake Police Officers and Organic Food”), *Javno.rs*, 22/11/2019, <https://javno.rs/vest/rasadnik-marihuane-u-pazovi-lazni-policajci-i-organska-hrana>, 30.4.2020.

involved in everything, issuing fake IDs.”¹³⁴ In December 2019, it was revealed that the BIA had employed individuals who had been blacklisted by the USA for illegal arms trafficking.¹³⁵

Capture of Security Services in Serbia: The Morning After

Captured security services put the interests of the party above the national interest. It is not surprising, therefore, that the new National Security Strategy fails to mention principles of impartiality and neutrality (in terms of politics, ideology and interests) for security actors.¹³⁶ They continue to exist, however, as legal obligations.¹³⁷ This study has focused on the BIA which is, as a poorly regulated civilian service with far-reaching powers, a more urgent problem than the military services. The absorption of a new party cadre has probably influenced the increased budget of the BIA and the re-direction of its priorities to facing off against “internal enemies” (or “foreign mercenaries”) but some serious oversights have also shown the professional weaknesses of this recruitment policy.

Here a few illustrative examples are presented. The first being from 2015 when Albanian football supporters managed to fly a drone carrying a flag of Greater Albania over a Belgrade football stadium. The game being played at the time was attended by the entire leadership of the Serbian state and many saw this incident as a very serious breach of security as the drone could have been armed.¹³⁸ The 2016 incident when a large cache of weapons was discovered in the vicinity of the family home of the then Prime Minister, Aleksandar Vučić. Also worth mentioning is the time when a representative of the Serbian Embassy in North Macedonia and BIA operative was present and took selfies while demonstrators violently stormed the Macedonian parliament in 2017.¹³⁹

Some cases that were used to divert the public’s attention still inadvertently showed a severe lack of seriousness in the governance of national security matters. In late 2019, a recording was made public allegedly showing a Russian intelligence officer paying a bribe to a retired Serbian agent. The resulting affair probably served to divert attention

134 Ivana Mastilović Jasnić, “Veliki Novogodišnji intervju: Vučić za “Blic” o aferama, pričanju na kineskom, šta zamera svojim ljudima, i zašto se ne bi opet kandidovao za predsednika,” (*“Big New Year Interview: Vučić talks to us about scandals, speaking Chinese, what he begrudges his people and why he wouldn’t run for president again”*), What he Blic. 01/01/2020. (Beograd) 2020.

135 In question is one Zoran Petrović, previously an employee of the Partizan Tech private trading company. V. Vuk Jeremić, “Radnik BIA pod sankcijama SAD,” (*“BIA Employee Blacklisted by the USA”*) *Danas*. 12/12/2019. (Beograd) 2019.

136 J. Pejić. “Military neutral European Serbia between the Republic of Srpska and the Greater Albania”, BCSP, September 2019, www.bezbednost.org/All-publications/7094/Military-neutral-European-Serbia-between-the.shtml, 20/4/2020.

137 Zakon o osnovama uređenja službi bezbednosti Republike Srbije (*Law on the Bases Regulating Security Services of the Republic of Serbia*), op.cit, Articles 2 and 15.

138 “Albania Awarded 3-0 win after Serbia Match Abandoned over Drone Stunt”. *Guardian Sport*. 10/07/2015, www.theguardian.com/football/2015/jul/10/albania-serbia-match-abandoned-drone, 20/4/2020.

139 In question is one Goran Živaljević who journalists discovered had been running a pro-Russian propaganda campaign to support the outgoing government in North Macedonia. This incident shows us not only the unprofessional conduct of a BIA operative but also that the Serbian security services poorly predicted the outcome of political events in North Macedonia and placed themselves on the side of the regime that suffered a defeat at the ballot box. For more on the Živaljević case, see: <https://www.krik.rs/tag/goran-zivaljevic/>, 20/04/2020.

away from other scandals, given the fact that the recording was twelve months old when it emerged and that the BIA confirmed its authenticity, even though the Agency did not make the recording in question.¹⁴⁰ In the summer of 2019, President Vučić appeared on national television waving documents visibly stamped “Top Secret”.¹⁴¹ He claimed that these documents had been declassified,¹⁴² which should have been visible (but was not), nor did he later make them available in response to a freedom of information request submitted by the BCSP.¹⁴³ Vučić’s aim was to show that the practice of (indirect) wiretapping of opposition politicians existed before he came to power. It cannot be explained why he would, other than for political purposes, expose the legitimate methods of the security services displayed in the document. This is particularly nonsensical if he had undertaken nothing in the meantime to resolve the issue he himself was highlighting and following the use of these measures’ secrecy as a go-to excuse for not revealing various information to the public – even annual statistics about how many times special measures had been applied.

Security services that recruit personnel based on their personal and party loyalties, rather than on their knowledge and capabilities, cannot be a pillar in fighting organised crime, extremism and terrorism, or any other risks and threats, especially those that are new and novel. Such security services either turn a blind eye to organised crime linked to the ruling party or become its custodians. It is questionable whether they are able to perform any of their main functions – to foresee and react to events in a proper and timely manner.

The dangers that lurk in the concentration of power into one security service, especially if the intended oversight mechanisms fail, are clearly pointed out by what has come to be known as the *Priebe Report*, produced for North Macedonia in 2015 in response to mass surveillance ordered by the country’s leadership.¹⁴⁴ This case from Serbia’s immediate neighbourhood, should serve as a warning shot and North Macedonia’s subsequent reforms of its security and intelligence sector should serve as a useful experience which we can learn from.¹⁴⁵

140 F. Švarn, D. Lukač. “Braća ruska, kesa Srpska” (“Russian Brothers, Serbian Bag”), *Vreme*, 28/11/2019, www.vreme.com/cms/view.php?id=1734997, 20/04/2020.

141 “Ovo su dokumenti koji potvrđuju da su pratili i prisluškivali Aleksandra Vučića!” (“These Documents Confirm Vučić was Followed and Wiretapped!”) *Pink*, 01/08/2019, <https://bit.ly/drzav-natajnepinktv>, 20/04/2020.

142 “Vučić: Skinuo sam oznaku tajnosti u skladu sa zakonom, brine ih šta još mogu” (“Vučić: I Declassified the Documents, They’re Scared of What Else I Can Do”). *N1*, 03/08/2019, <http://rs.n1info.com/Vesti/a504822/Vucic-Skinuo-sam-oznaku-tajnosti-sa-dokumenata-o-prisluskivanju-u-skladu-sa-zakonom.html>, 20/04/2020.

143 The request was submitted on 19 August 2019.

144 Jelena Pejić, Sonja Stojanović Gajić. *Why Do We Need the Priebe Report as Well?* Op.cit.

145 Predrag Petrović, Jelena Pejić Nikić. *Reform of Security Services in Serbia in Light of European Integration*. prEUgovor Coalition, Belgrade, 2019, www.preugovor.org/Policy-Papers/1584/REFORM-OF-SECURITY-SERVICES-IN-SERBIA-in-light-of.shtml.

Capturing the Police

Saša Djordjević

Security apparatus, particularly the police and secret security services, play an important role in the process of state capture. Manipulation of the police, as an investigative authority, ensures the impunity of the ruling political elite and their main allies. In contrast, police resources are shifted from their regular activity and directed toward intimidating political opponents, critics of the government and employees of the criminal justice system. Finally, organisational parts of the police, whose role is to maintain public relations and contact with the media, are used to promote the power of the dominant faction of the government.¹⁴⁶

The text contains an analysis of the factors, conditions and actors that made it possible for the Serbian police to become an instrument for gaining power and protecting the ruling party which, at the moment, happens to be the Serbian Progressive Party. The analysis focuses on the period 2016-2020, i.e. the time following the adoption of the new Law on Police, which was characterised in public discourse as a law whose main goal was to ensure better and more efficient police work.¹⁴⁷ However, to better understand the context of police capture, the analysis will also occasionally include the period that preceded the adoption of the 2016 Law on Police. The text consists of five sections: 1) police transparency, 2) management of human resources in the police, 3) police work, 4) external police oversight, and 5) internal control of the police.

Incomplete Transparency of the Police

Transparency is one of the ways to prevent state capture and detect corruption.¹⁴⁸ Information the police are obliged to publish under the Law on Police – about their work, the statutory changes and the security situation – are not regularly available. Moreover, some of the reports have *never* been published. The opportunity to educate the public about the work of the police is thus being missed, leaving room for arbitrary interpretations and the creation of police narratives that suit politicians. Also, the Ministry of the Interior (MoI) is in the leading position when it comes to the number of complaints filed concerning the handling of requests for free access to information of public importance. Complaints are filed especially when the police had acted against politicians or those that involved suspicions of officials' connections with crime and corruption.

146 *State Capture and the Political Manipulation of Criminal Justice Agencies*, Institute for Security Studies, Corruption Watch, 2019, www.issafrica.s3.amazonaws.com/site/uploads/2019-06-20-other-zondo-commission-submission.pdf, 30.4.2020, p. 3.

147 "Stefanović: A law that will make police work better and more efficient", *N1*, 18.1.2016, <http://rs.n1info.com/Vesti/a126974/Stefanovic-o-zakonima-o-policiji-i-javnom-okupljanju.html>, 1.7.2020.

148 Maira Martini, *State Capture: An Overview*, Transparency International, March 2014, www.transparency.org/files/content/corruptionqas/State_capture_an_overview_2014.pdf, 7. 4. 2020.

In terms of reporting on the work of the police, the MoI is obliged to publish: 1) annual reports on the security situation,¹⁴⁹ 2) quarterly reports on its work,¹⁵⁰ 3) annual reports on its work,¹⁵¹ 4) semi-annual information on statutory changes,¹⁵² 5) annual reports on the work of the MoI's Internal Control Sector,¹⁵³ and 6) annual reports on resolving complaints¹⁵⁴. Availability of the above reports and their regular updates would significantly improve the transparency of police work; however, the problem is that some of them are either not updated regularly or are not available at all.

Table 1 – *Availability of the reports which the Ministry of Interior is obliged to publish under the Law on Police of 2016**

Report	2016.	2017.	2018.	2019.
Annual Report on the Security Situation	No	Yes	Yes	No
Quarterly Report on the Work	No	No	No	No
Annual Report on the Work	No	Yes	Yes	No
Semi-Annual Information on Statutory Changes	Yes	No	No	No
Annual Report on the Work of the Internal Control Sector	Yes	Yes	Yes	No
Annual Report on Resolving Complaints	Yes	Yes	Yes	No

* *Last verified on 29 April 2020*

Annual reports on the security situation and annual reports on the work are not available in the "Reports" section of the official website of the Ministry of the Interior;¹⁵⁵ instead, they are, rather, included in the Information Booklet of the MoI, in which they are presented as one report instead of two. They are not even listed in the Information Booklet's table of contents, which makes them quite difficult to find. Also, the reports are not published under the time limit prescribed by law – three months following the end of the calendar year.¹⁵⁶ The reports for 2016 and 2019 have not been published to date. Quarterly reports on the MoI's work, which are considered and adopted by the Assembly, are not published at all. Only one semi-annual information on statutory changes is publicly available, covering the first six months of the year 2016.¹⁵⁷ Examples of good reporting practice are the reports on the work of the MoI's Internal Control Sector and the annual reports on resolving complaints. They are published regularly since 2016 and were being published even earlier than that before the new Law on Police even entered into force.

Unreliability of the currently available data happens to be an even bigger concern than the incomplete transparency of the MoI. Police records "do not offer a real picture – because of the dark figure of crime, but also because of the practice of placing

149 Law on Police: Article 6, paragraph 3, item 1.

150 *Ibid*, Article 6, paragraph 3, item 2.

151 *Ibid*, Article 6, paragraph 4.

152 *Ibid*, Article 254.

153 *Ibid*, Article 224, paragraph 5.

154 *Ibid*, Article 240, paragraph 2.

155 See: <https://bit.ly/mup-pocetna-dokumenta-izvestaji>, 29. 4. 2020.

156 Law on Police, *Official Gazette of the Republic of Serbia [hereinafter: RS]*, nos. 6/2016, 24/2018 and 87/2018: Article 6, paragraph 3.

157 See: <https://bit.ly/mup-informacija-zakon-januar-jun-2016>, 29. 4. 2020.

information about committed criminal acts in the so-called auxiliary records until they are solved”¹⁵⁸. Moreover, the performance of the police in combating crime is not presented objectively, primarily when showing the number and percentage of solved crimes.¹⁵⁹

In Serbia, the Mol is now traditionally the institution that receives the most requests for access to information of public importance compared to other state bodies, which is quite logical having in mind the amount of information it possesses. At the same time, it is the leading institution in terms of the number of complaints filed due to its failure to act upon the request of applicants. Since 2016, there has been an obvious decline in the number of submitted requests for access to information. On the other hand, there has been an increase in the percentage of complaints filed against Mol decisions in which citizens’ requests were dismissed or rejected. Their number was the highest in 2019 when the share of submitted complaints concerning the number of requests was 29%. In other words, it was 2% higher than in 2018, 14% higher than in 2017, and all of 21% higher than in 2016.

Table 2 *Number of requests and complaints submitted regarding access to information of public importance, and their trend concerning the previous year, from the time when the Law on Police entered into force**

	2016.	2017.	2018.	2019.
Number of requests for information of public importance	3887 29% ▲	2765 -29% ▼	1515 -45% ▼	1275 -16% ▼
Number of complaints filed with the office of the Commissioner	293 15% ▲	424 45% ▲	413 -3% ▼	365 -12% ▼
Share of submitted complaints concerning the number of submitted requests	8%	15%	27%	29%

* Source: *Reports of the Commissioner for Information of Public Importance on the implementation of the Law on Free Access to Information of Public Importance for the years 2016, 2017, 2018 and 2019*¹⁶⁰

Based on the analysis of the submitted complaints, it can be concluded that from 2016 to 2019, information concerning politically sensitive cases and human resources in the Mol was being denied. In 2019, the Commissioner had to react by dispatching a request to the Mol to provide a journalist with information sought in connection with a traffic accident that involved the official of the Serbian Progressive Party Zoran Babić.¹⁶¹ Although it failed to comply with the statutory time limits, the Mol eventually did submit the requested data while simultaneously withholding some that were quite important.¹⁶²

158 Dragan Milidragović, Nenad Milić, “Results and problems of regular police in combating crime”, *Žurnal za kriminalistiku i pravo* [Criminal Law Journal], 24(1), 2019, p. 67.

159 *Ibid.*

160 See: www.poverenik.rs/sr-yu/izvetaji-poverenika.html.

161 *Report on the Implementation of the Law on Free Access to Information of Public Importance for 2016*, Commissioner for Information of Public Importance, 2017, <https://www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2016/latizvestaj2016.pdf>, 29. 4. 2020, p. 19.

162 “Police notes from Doljevac - Babić is not mentioned, the road was slippery, the speed was high”, *Južne vesti*, 20. 6. 2019, <https://www.juznevesti.com/Drushtvo/Policijske-beleske-iz-Doljevca-Babic-se-ne-pominje-put-bio-klizav-brzina-velika.sr.html>, 20. 9. 2020.

In the period 2016-2018, the Commissioner requested that the MoI provide information to those who had submitted requests regarding: the demolition of buildings in Hercegovačka Street in Belgrade in 2016;¹⁶³ execution of the decision to demolish a facility that was built without the necessary permits in the Golija Nature Park, whose construction was started by the 'controversial businessman' from Kosovo Zvonko Veselinović;¹⁶⁴ the outcome of 24 "disputed" privatisations;¹⁶⁵ the procurement of video surveillance cameras to be installed in Belgrade¹⁶⁶.

Another area in which the police fails to act upon requests for information, and in which the number of complaints has changed, is its management of human and material resources. Thus, in 2019, the Commissioner had to ask the MoI to submit data on salaries, use of unpaid leave, internal job competitions and the procurement of vehicles to be used by the criminal police.¹⁶⁷ The Commissioner also had to react concerning applicants' complaints involving performance evaluations of police officers, their salaries, *per diems*, insurance and business travel orders.

(Absence of) Management of Human Resources

Favouring of certain candidates, employment based on party membership, nepotism and significant discretionary powers of political officials, or their abuse, have a detrimental effect on human resources management. The consequence is an inefficient and cumbersome work environment that undermines the work ethic and the existence of an accountable public sector.¹⁶⁸ In such an environment, the main criterion for advancement is obedience, instead of merit, which results in a situation that facilitates the capture of institutions.

In terms of the number of employees, the MoI is one of the largest ministries in Serbia's state administration. It employs almost 7% of all the persons who work in the public sector.¹⁶⁹ According to the data from January 2020, MoI employs 41,157 people. Out of this number, 12,198 are non-uniformed staff members while 27,212 are uniformed police officers.¹⁷⁰ Serbia currently has 566 police officers per 100,000 inhabitants, which is almost twice the average of the European Union (318) or the recommended standard of the United Nations (300). More than two-thirds of the budget of the MoI is spent on employees' salaries.

163 "Savamala case: The phantom suspension of state", *N1*, 25.4.2020, https://youtu.be/V_GXR-EowQ1w, 29.4.2020.

164 "Boulders thrown on building inspectors", *Javno.rs*, 7.12.2018, <https://javno.rs/vest/balvani-ma-na-gradjevske-inspektore>, 29.4.2020.

165 See: <https://24slucaja.cins.rs/sr>.

166 Saša Đorđević, "Public Recording with Secret Cameras", *Belgrade Centre for Security policy*, 2019, www.bezbednost.org/All-publications/7019/Public-Recording-with-Secret-Cameras.shtml, 29.4.2020.

167 *Report on the Implementation of the Law on Free Access to Information of Public Importance for 2019*, Commissioner for Information of Public Importance, 2020, www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2019/Izvestajza2019lat.pdf, 29.4.2020.

168 Marie Chêne, *Corruption and anti-corruption practices in human resource management in the public sector*, U4, 2019, www.u4.no/publications/corruption-and-anti-corruption-practices-in-human-resource-management-in-the-public-sector.pdf, 28.3.2020.

169 According to the data of the Statistical Office of the Republic of Serbia from 31 January 2020, the public sector has 602,567 employees.

170 Information Booklet on the Work of the Ministry of the Interior of the Republic of Serbia, updated on 16.1.2020, p. 77.

In terms of time, the reform of human resources management in the police and the MoI can be divided into three phases. During the first phase, which lasted from 2010 to 2016, the unfinished institutional framework and the incomplete legal framework have resulted in poor human resource management practices in the MoI. A sufficiently developed system of supervision and control of employment in the MoI did not exist, nor was there a practice of internal and external advertising of job positions. Job competition was not mandatory for admission into police service, while the promotion criteria were secret.¹⁷¹ During this period, acting officials – Including the Police Director – were appointed to key positions without a competition.¹⁷²

The police functioned for a year and a half without the head of the criminal police, although this is the second most important position in the police, right after that of the Director.¹⁷³ Politicians dismissed police generals at press conferences.¹⁷⁴ There was an attempt to lay off more than 1,000 people from the MoI who were willing to do police work, through the creation of “phantom” risk analysis jobs and compilation of lists.¹⁷⁵ The Ombudsman prevented it.

In the second phase, which lasted from 2016 to 2018, there was an impression of a desire to put a stop to poor management of human resources. The new Law on Police¹⁷⁶ came into force in February 2016, prescribing to a large extent the rules to be used for employment and promotion. Job competitions became mandatory. The Law also envisaged security vetting, not only when applying for a job but also in the course of employment. The criteria for promotion were also specifically listed. The establishment of the Sector for Human Resources within the MoI fulfilled the main organisational prerequisite for the development of human resources.¹⁷⁷

However, it was difficult to start implementing the new Law. Since the public competition for the position of Police Director was nine months late, the job of Director was still being performed by an Acting Director. The process of appointing the Police Director was only partially transparent. Information that shed some light on the appointment procedure was indeed published, for the first time, but the documents based on which the competition commission evaluated potential candidates were never made available to the public.¹⁷⁸

171 Saša Djordjević, “Institutional Integrity of the Police in Serbia”, in: Petrović, P. (ed.). *Integrity Assessment in the Security Sector in Serbia*. BCSP, Belgrade, 2014, www.bezbednost.org/All-publications/5607/Integrity-Assessment-in-the-Security-Sector-in.shtml, pp. 14-56.

172 Saša Djordjević. “MoI needs to depoliticise the police”, *Belgrade Centre for Security Policy*, 2016, www.bezbednost.org/Sve-publikacije/6009/MUP-da-izvrši-depolitizaciju-policije.shtml, 28.3.2020.

173 “Why did the Criminal Police Directorate operate without a head for a year and a half?”, *B92*, 4.12.2015, www.b92.net/info/vesti/index.php?yyyy=2015&mm=12&dd=04&nav_category=12&nav_id=1070871, 28.3.2020.

174 Saša Djordjević, “Dismissals against organised crime”, *Peščanik*, 23.6.2015, <https://pescanik.net/smenama-protiv-organizovanog-kriminala/>, 28.3.2020.

175 Saša Djordjević, “How to lose a job in the Serbian police”, *Vreme*, 21.1.2016, www.vreme.com/cms/view.php?id=1358431, 28.3.2020.

176 Law on Police, *Official Gazette of the RS*, no. 6/2016.

177 Saša Djordjević, “Human Resources Management”, in: Saša Đorđević (ed.) *Assessment of Police Integrity in Serbia*, BCSP, Belgrade, 2016, www.bezbednost.org/All-publications/6517/Assessment-of-Police-Integrity-in-Serbia.shtml, pp. 38-51.

178 *Ibid*, pp. 45-46.

Also, from December 2016 to June 2018, the criminal police operated for a year and a half without a head. It was the second such term. Much like the first time, the Police Director performed the duty of the head of the most important section of the police. It took two years to eliminate the practice of appointing Acting Assistant Ministers of the Interior. It finally ended in 2018, marking the beginning of the third phase of human resources reform. Although further progress was expected, the positive reform trend was, however interrupted.

The Law on Police was amended at the end of March 2018,¹⁷⁹ resulting in a step backwards in terms of the management of MoI human resources. It introduced the possibility of employment without a job competition if “the Act on Internal Organisation and Classification of Job Positions stipulated that no competition should be conducted for certain job positions”¹⁸⁰. It means that the Minister of the Interior will be deciding which persons can be employed outside the regular competition procedure, as Minister is the person who issues the Act on the Classification of Job Positions. Moreover, the Act is confidential.

As regards human resources management, the Minister also decides on the announcement of a public call for a job competition¹⁸¹ and selects members of the competition commission¹⁸², which is to compile a list of candidates. Based on this list, the Minister then chooses who will gain employment in the police and signs the employment decision.¹⁸³ The Minister decides how an internal job competition is to be conducted. He also selects and appoints members of the competition commission, which then selects personnel holding middle and senior positions in the MoI. Finally, the Minister also signs the decision on their promotion or transfer.¹⁸⁴ All this enables the politicisation of human resources management and the “adjustment” of job positions to suit current political objectives.

Due to the confidential nature of the Act on the Classification of Job Positions, it is impossible to monitor the development of human resources management in the MoI from the outside. On the other hand, this document has been amended no less than four times in the short period lasting from June 2018 to April 2019.¹⁸⁵ According to the official position of the MoI regarding confidentiality, public availability of this document could “endanger public and national security, primarily by making it possible to establish facts concerning the number of personnel and the operational functionality”¹⁸⁶ of organisational units within the police. In other words, organised criminal groups and individuals

179 Law on Police, *Official Gazette of the RS*, nos. 6/2016 and 24/2018.

180 Law on Police, *Official Gazette of the RS*, nos. 6/2016, 24/2018 and 87/2018: Article 135, paragraph 3, item 4.

181 “Decree on the implementation of public competition to fill a job position of police officer in the Ministry of the Interior”, *Official Gazette of the RS*, no. 18/2019: Article 4, paragraph 2.

182 *Ibid*, Article 5, paragraph 1.

183 *Ibid*, Article 23.

184 Rulebook on conducting internal competitions among the employees of the Ministry of the Interior, *Official Gazette of the RS*, no. 73/2016.

185 The Rulebook on Internal Organization and Systematization of the Ministry of Interior, internal, 01 No. 4685/18-13 dated 13 June 2018, with amendments 01 No. 7777/18-5 dated 30 July 2018, 01 No. 1643/18-5 dated 15 November 2018 and 01 No. 4959/19-3 dated 10 April 2019.

186 Response of the Ministry of the Interior dated 15. 1. 2020 to the request for access to information of public importance submitted on 10 May 2019 by the Belgrade Centre for Security Policy.

might be able to abuse the public availability of such a document.¹⁸⁷ In Croatia, however, the document of a similar nature is public.¹⁸⁸

One of the main problems is that there are serious indices that the winner of an internal job competition in the Mol is known well in advance.¹⁸⁹ Considering the above, professional advancement based on merit has been rendered completely meaningless. The police union has been drawing attention to the cases where the Mol had unlawfully evaluated the performance of police officers without issuing official decisions in the form of administrative acts,¹⁹⁰ regardless of the reaction of the Administrative Court and the Ombudsman¹⁹¹. It indicates that the performance evaluation process can be abused to discipline police officers who do not suit politicians in power, as can be observed from examples of inadequate treatment of police whistleblowers.

Nebojša Blagotić, the former police inspector from the Criminal Police in Niš with 27 years of professional experience, was forced to retire prematurely and unlawfully. Retirement happened in October 2015, after Blagotić discovered information from the security intelligence service was being leaked to a local businessman who was associated with the Serbian Progressive Party and who was, at the time, subjected to a police investigation. Since then, the Administrative Court issued two rulings in which it found that Blagotić's retirement was unlawful and ordered the Mol to re-hire him.¹⁹² The Mol has yet to comply with the decision of the Court.

Police officer Milan Dumanović is currently standing trial for revealing an official secret because he spoke in public about the illegal police action that took place in Potočari in July 2015, at the commemoration of the victims in Srebrenica, during the attack on the then President of the Government.¹⁹³ He was able to return to his job after more than two years but was also immediately transferred. The explanation that was provided for such treatment of Dumanović was that it was assessed that his presence in uniform would harm the interests and reputation of the Mol and have an adverse effect on other employees. The Police Director decided to transfer him based on the proposal of the chief of Police Administration of Pančevo.¹⁹⁴

187 *Ibid.*

188 See: "Decree on the internal organisation of the Ministry of the Interior", *Official Gazette of the Republic of Croatia [hereinafter: RC]*, nos. 70/2012, 140/2013, 50/2014, 32/2015, 11/2017, 129/2017, 5/2018, 109/2018, 24/2019 and 79/2019; "Decree on the classification of job positions of police officers", *Official Gazette of the RC*, nos. 129/2011, 82/2012, 140/2013, 32/2015, 40/2015, 115/2015, 11/2017, 102/2017, 129/2017, 5/2018, 109/2018 and 24/2019; "Decree on territories, headquarters, types and categories of police administrations and police stations", *Official Gazette of the RC*, nos. 117/2011, 50/2014, 32/2015, 11/2017, 66/2018 and 24/2019. Available at: <https://mup.gov.hr/pristup-informacijama-16/zakoni-i-ostali-propisi/propisi/ustrojstvo-ministarstva-unutarnjih-poslova/175278>, 28. 4. 2020.

189 Interview with an active police officer, 12. 12. 2019; Interview with an active police officer, 15. 12. 2019.

190 "The Mol has violated the rights of employees", *Police union Sloga*, 18. 4. 2019, <https://sindikatsipolicije.org.rs/?p=3734#more-3734>, 29. 3. 2020.

191 "The Mol continues to violate the rights of employees even after the recommendation issued by Ombudsman", *Police union Sloga*, 25. 5. 2019, <https://sindikatsipolicije.org.rs/?p=3897>, 29. 3. 2020.

192 "Confession of inspector-whistleblower: Who is sabotaging police investigations", *NIN*, 27.6.2019, www.facebook.com/ninonline/posts/2632153976854933/, 29.3.2020.

193 "Allegations of Serbian police officers: We were in Potočari illegally", *Al Jazeera Balkans*, 11.10.2016, www.youtube.com/watch?v=9P2vTSUlcU, 29.3.2020.

194 "Milan Dumanović returns to work only to be transferred to the police station in Alibunar", *Police union Sloga*, 29.10.2019, <https://sindikatsipolicije.org.rs/?p=4218>, 29.3.2020.

In 2015, police officer Ivana Veličković discovered several violations of regulations and human rights. Under the law, she reported them to the competent authorities, including the Assembly and the Ombudsman. However, instead of being rewarded for her actions, she was demoted. Also underway is an investigation into the workplace bullying she had been subjected to for years. At the end of January 2019, the High Court in Belgrade issued a final ruling ordering that Ivana Veličković be reinstated. However, the Mol refused to comply and has paid the fine in the amount of 100,000 dinars.

Unclear personnel changes in the Police Directorate continued into the third phase as well. This time, it was the Serbian tabloids that reported the dismissal of the head of the Belgrade Police and the commander of the special police unit – Gendarmerie. They provided no official confirmation and cited unnamed sources. The headlines that dominated included the following words: dismissed; removed; purge in the police; new dismissals expected; chiefs, head and commander dismissed. Only later did the Mol issue a statement saying that the head of the Belgrade Police and the commander of the Gendarmerie were in fact assigned to new duties, instead of being dismissed as the media reported, which – according to the Law on Police – happen to be two different processes involving Mol human resources management.¹⁹⁵

The Politicisation of Police Work

One of the factors involved in state capture is the interference of the executive in police work. The police are not allowed to operate professionally and independently. They are instead used to strengthen political power and ensure the impunity of the ruling political elite and their main allies.¹⁹⁶ The work of the Serbian police largely depends on the interests of political parties, which is why this institution is losing its operational independence while simultaneously allowing political parties to gain political points.

At least three manipulative mechanisms of police use by the ruling party have been identified. The police are used to achieve or gain political power by involving inspectors in solving politically sensitive cases that are beneficial to the ruling party, or through mass arrests made by the police without involving the prosecutor's office. Under pressure from the officials, the police do not solve cases where there are suspicions of involvement of members of the ruling party, or they influence inadequate judicial outcomes by not responding to the requests of prosecutors, causing the absence of judicial epilogues. Data keep "leaking" from the police and are being misused against opponents or critics of the government.

The Serbian Progressive Party came into power in July 2012, on the wings of the fight against corruption and promises of resolution of disputed privatisations.¹⁹⁷ A while later, the Mol established a working group composed of approximately 100 inspectors and tasked it with investigating 24 such privatisations.¹⁹⁸ The final move took place in December 2012, involving the arrest of the owner of company Delta Holding,

195 Nikola Tomić (ed.), *Alarm Report on the Progress of Serbia in Chapters 23 and 24*. PrEUgovor Coalition, Belgrade, September 2018, <http://preugovor.org/Alarm-Reports/1460/Coalition-prEUgovor-Report-on-Progress-of-Serbia.shtml>, p. 60.

196 *State Capture and the Political Manipulation of Criminal Justice Agencies*, Institute for Security Studies, Corruption Watch, April 2019, <https://issafrica.s3.amazonaws.com/site/uploads/2019-06-20-other-zondo-commission-submission.pdf>, 30.4.2020.

197 Siniša Atlagić, "Personalised election campaign topics - The case of Serbia 2012", *Politički život [Political Life]* 5. 6. 2012, pp. 37-45.

198 See: <https://24slucaja.cins.rs/sr>.

Miroslav Mišković, publicly described by politicians as the biggest “tycoon” in the country. However, Mišković was not arrested for corruption, as it was presented in public, but for one of his companies’ illicit business dealings.¹⁹⁹

As expected, this affected the public opinion and citizens supported the executive in its fight against corruption. Significant changes in the population’s assessment of the Government’s success in combating corruption were noted after just six months. In June 2012, 35% of the respondents thought that the Government was not efficient at all, while in December that percentage dropped to just 9%, showing a significant increase of people’s confidence in the then Government’s intentions to curb corruption.²⁰⁰ Since the results were not exactly great, citizens later lowered their expectations.

The Mol working group, whose task was to clarify the situation around the disputed privatisations, was infamously disbanded in October 2014 as a result of alleged abuses of the head of the group. The media wrote extensively about his abuses, but they have not been proven in court to date. One of the main ways of capturing the police, which robs inspectors of motivation to do their job, is to ‘drag’ them through the tabloids in a negative context. That is exactly what happened in this case. The Mol later cited financial reasons as an official explanation for dismissing the working group²⁰¹. As of June 2019, the courts have issued only two convictions and five acquittals regarding the “disputed” privatisations. The prosecution has failed to find elements of crime in as many as 10 cases, while it is still investigating four. Trials are underway in six cases.²⁰²

Announcements of actions and mass arrests are part of the same show. Representatives of the Serbian Progressive Party explained the early elections in 2014 by the need to accelerate reforms in the fight against crime, while simultaneously threatening citizens with the mafia and the return of the old, bad times. Dragoslav Kosmajac, described by the political leadership as the biggest drug boss, was arrested that year.²⁰³ He spent four months in prison and was subjected to temporary confiscation of 18 different properties. He was, however, eventually acquitted of all the charges.

Three days before the 2016 elections, the then President of the Government said that the murderer of singer Jelena Krsmanović Marjanović would be arrested in the following 48 hours (practically on the day of the election).²⁰⁴ This was the culmination of the Serbian Progressive Party’s campaign which was largely based on the fight against crime and corruption. The police arrested the suspect a year and a half after the murder took place, but there has been no court epilogue. Since October 2016, when the Minister of the Interior declared war on the mafia,²⁰⁵ the police had carried out numerous actions involving mass arrests, mainly during periods when there were expectations of early elections.

199 See: www.cins.rs/uploads/useruploads/Documents/optuznica-protiv-miroslava-miskovica.pdf.

200 *Fight against Corruption: Between Norm and Practice 2009-2015*, CeSID, UNDP, Belgrade, 2015, www.rs.undp.org/content/dam/serbia/Publications%20and%20reports/Serbian/DobraUprava/UNDP_SRB_Analiza%20Borba%20protiv%20korupcije%202009%20-%202015_CeSID.pdf, 20.6.2020.

201 “The Mol team in charge of disputed privatisations disbanded”, *Novi magazin*, 25.10.2014, www.novimagazin.rs/vesti/rasformiran-tim-mup-a-koji-se-baviospornim-privatizacijama, 19.11.2019.

202 See: <https://24slucija.cins.rs/sr>

203 “Who is Kosmajac, the biggest drug dealer?”, *B92*, 20.6.2014, www.b92.net/info/vesti/index.php?yyyy=2014&mm=06&dd=20&nav_category=16&nav_id=865021, 20.6.2020.

204 “Vučić: The murderer of Jelena Marjanović will be arrested in the next 48 hours”, *RTS*, 20.4.2016, www.rts.rs/page/stories/sr/story/135/hronika/2290819/vucic-ubica-jelene-marjanovic-bice-uhapsen-u-narednih-48-sati.html, 20.6.2020.

205 “Stefanović: We are declaring a war on mafia”, *RTS*, 14.10.2016, <https://www.rts.rs/page/stories/sr/story/9/politika/2488734/stefanovic-objavljujemo-rat-mafiji.html>, 20.6.2020.

Mass arrests rarely end in court verdicts. For example, 220 people were arrested in a police action that took place in January 2019. Politicians presented the operation as a great success in the fight against organised crime. However, the results of the work of the police were actually extremely poor. Based on 58 of the 84 responses received from the prosecutor's offices, two-thirds of the 140 persons arrested were released. Also, the prosecutor's office decided not to act at all against almost 50 of the arrested persons because the police never filed criminal charges against them. The Prosecutor's Office for Organised Crime was not even involved in any of these actions²⁰⁶.

The influence of politics is also noticeable if one takes a look at politically sensitive cases that are "waiting for the right moment", or those in which formal investigative procedures were not initiated at all. One of the most prominent such cases is the Savamala affair (see below).²⁰⁷ In another instance, the company connected to the father of the Minister of the Interior purchased arms at preferential prices.²⁰⁸ The origin of approximately 205,000 EUR listed in the property and assets report of the Minister of Defence – which amount he used to buy an apartment – was never investigated.²⁰⁹

Poor Parliamentary Oversight of the Police

External oversight of the police is one of the main methods used by democratic societies to prevent police abuse and strengthen the integrity of this institution.²¹⁰ The 2016 Law on Police improved the legal framework for parliamentary oversight of the police introducing new control mechanisms such as the legality control of special investigative techniques.²¹¹ However, in practice, parliamentary oversight of the police was first weakened,²¹² and then it essentially disappeared. As analysed in the text on the capture of the Assembly, the executive dominates over the legislative branch of power. In the past four years, the Assembly has neither fulfilled its role of controller of the executive nor made any statements about scandals connected with police work and politics.

The work of the Committee on Defence and Internal Affairs was marked by *ad hoc* consideration of reports on the work of the MoI. The discussion in the Committee is reduced predominantly to confrontations between the parties and the promotion of positive results of police work. The Committee considered five out of 14 planned reports

206 "Prosecutor's Office for Organised Crime did not participate in the operation against organised crime", *KRIK*, 14.1.2019, www.krik.rs/tuzilastvo-za-organizovani-kriminal-nije-ucestvovalo-u-akciji-protiv-organizovanog-kriminala/, 30.4.2020.

207 "Rodoljub Milović: Some of the associates of the Zemun clan are at the top of the government", *KRIK*, 20.6.2019, www.krik.rs/rodoljub-milovic-u-vrhu-vlasti-ima-saradnika-zemunskog-klana/, 20.6.2020.

208 "Arms trade: Preferential prices for the father of Minister of Police", *Javno.rs*, 19.9.2019, <https://javno.rs/istrzivanje/trgovina-oruzjem-povlascena-cena-za-oca-ministra-policije>, 20.6.2020.

209 "Chronology of the 'Aunt from Canada' case", *KRIK*, 10.5.2018, www.krik.rs/hronologija-slucaja-tetka-iz-kanade/, 20.6.2020.

210 Mario J. Aguja, Hans Born, "Who is Policing the Police? Role of Parliament in Police Governance", in: Mario J. Aguja, Hans Born (ed.) *The Role of Parliament in Police Governance*, DCAF, Geneva, 2017, www.dcaf.ch/role-parliament-police-governance-lessons-learned-asia-and-europe, pp. 1-16.

211 Law on Police, *Official Gazette of the RS*, nos. 6/2016, 24/2018 and 87/2018: Article 222.

212 Vladimir Erceg, *Parliamentary Oversight of the Police*, Belgrade Centre for Security Policy, Belgrade, 20.6.2018, www.bezbednost.org/upload/document/izvetaj-i-preporuke-parlamentarni-nadzor-policije.pdf, 6.4.2020.

on the work of Mol, four out of 7 planned reports on the security situation in Serbia and one out of three reports on the work of the Internal Control Sector.²¹³ Of the 3,840 amendments that were submitted through the Committee, only 115 were adopted – approximately three per cent. The Committee not even once considered a proposed budget for the police,²¹⁴ which is not good for the democratic control of this institution.

The Assembly completely ignored 35 proposals to establish an inquiry committee to investigate the “Savamala” case, i.e. the incident that took place during the election night, on 24/25 April 2016, when a group of several dozens of masked persons occupied Hercegovačka Street in Belgrade. They used force and threats to illegally deprive of liberty several individuals who happened to be present at the scene, confiscate their cell phones and prevent them from moving around. While all this was happening, excavators demolished private, mostly business facilities in the street.²¹⁵ **The police did not intervene although several citizens called and reported the case during the election night, while officers on duty – upon orders that came from “top police echelons” – Instructed citizens to contact the communal police instead.**²¹⁶

Four years after the incident, it is still unknown who had demolished these buildings, or who had organised the demolition, despite promises that no one would be protected and that the truth would come out. The proceeding pending before the First Basic Prosecutor’s Office is still in the pre-investigation phase because the Mol is not responding to the requests of the prosecutor.²¹⁷ All this indicates that the police and the prosecution are either incompetent or that individuals close to the authorities are being protected. After the incident, the then President of the Government stated that demolition was ordered from the “top of the Belgrade government”.²¹⁸ At the same time, the spouse of the then-mayor of Belgrade said that her husband had boasted that it was he who had organised it.²¹⁹

At the same time, the illegally constructed 1,000m² building on Pančić Peak, Mt. Kopaonik, has not been demolished because ‘it was not possible to obtain police assistance’. The pre-investigation procedure concerning suspicions of the origin of funds that were used to finance the illegally constructed building has not moved an inch because,

213 Miloš Novković, Uroš Miladinović, *Parlamentarni nadzor nad sektorom bezbednosti 2016-2019*, prEUgovor koalicija, Belgrade, 27.12.2019, <http://preugovor.org/Infografici/1576/Parlamentarni-nadzor-nad-sektorom-bezbednosti.shtml>, 6.4.2020.

214 *Ibid.*

215 Bojan Elek, “External Oversight of the Police”, in: Saša Đorđević (ed.) *Assessment of Police Integrity in Serbia*, BCSP, Belgrade, 2016, www.bezbednost.org/All-publications/6517/Assessment-of-Police-Integrity-in-Serbia.shtml, pp. 16-17.

216 *The report compiled following the procedure of control of the legality and regularity of the work of the Ministry of the Interior initiated upon the complaints filed by a large number of citizens*, Ombudsman, Belgrade, 9.5.2016, www.ombudsman.rs/attachments/article/4723/savamala.pdf, 18.8.2018, p. 5

217 “Four years without answers to the question on who had demolished buildings in Hercegovačka St. in the middle of the night”, *Insajder*, 24.4.2020, <https://insajder.net/sr/sajt/tema/18084/%C4%8Cetiri-godine-bez-odgovora-ko-je-usred-no%C4%87i-ru%C5%A1io-u-Hercegova%C4%8Dkoj.htm>, 30.4.2020.

218 “Vučić says it was the city government that organised Savamala, but mayor remains silent”, *Radio Free Europe*, 8.6.2016, www.slobodnaevropa.org/a/vucic-iza-rusenja-u-savamali-stoji-vlast-u-beogradu/27786659.html, 30.4.2020.

219 “Marija Mali speaks about her former husband’s business dealings: offshore accounts, hidden assets, Savamala”, *KRIK*, 13.2.2017, www.krik.rs/marija-mali-o-poslovima-bivseg-supru-ga-ofsor-skrivena-imovina-savamala/, 30.4.2020.

for more than a year now, the police have failed to provide the prosecutor's office with the information they requested about the case. Although there is still no credible data on the identity of the investors, there are allegations that they are Zoran Milojević, an important member of the Serbian Progressive Party from northern Kosovo,²²⁰ and Zvonko Veselinović²²¹ described as the leader of a criminal group involved in the drug trade, arms and oil smuggling, loan-sharking and money laundering.²²²

The Assembly also did not have anything to say concerning the case of "Lučani", the event that took place on 16 December 2018. On that occasion, the MoI political leadership took over command of the police during the local elections in the small municipality of Lučani. Although depoliticisation is one of the main statutory principles when it comes to police work,²²³ in this case, the elements of politicisation were quite evident. The then MoI State Secretary and member of the Serbian Progressive Party were present at the local police station on election day, where she obstructed the work of the police when members of the opposition came to the station to inquire about some opposition activists who were arrested that day.²²⁴ The State Secretary communicated with members of the opposition on behalf of the police, in contravention of the law, thus taking on the role of a police officer. According to the Law on Police, MoI state secretaries and cabinet staff are authorised to handle only strategic and administrative affairs, not the operational work of the police. After the incident, Minister of the Interior admitted that State Secretary came to Lučani on his orders, to calm the situation down,²²⁵ which is also contrary to the Law on Police. The Minister is allowed to issue an order to members of the police force to temporarily restrict or prohibit the movement of people to maintain public order and peace. Still, he cannot issue such an order to a state secretary. The Minister later offered his resignation to the President of the Republic,²²⁶ which the President refused even. However, decisions concerning the resignations of members of the Government do not fall within his purview.

The Assembly also did not offer a single comment about the statements of the retired head of the Criminal Police Directorate Rodoljub Milović, who, in an interview, confirmed the long-standing rumours about complex connections between the police, politicians and criminal groups. He spoke about direct ties of the Minister of Health with the Belgrade "Zemun clan" and other criminal groups. The Minister of Health had allegedly injected a deadly mixture into the I.V. line of a Montenegrin mobster in 2002, for which the clan later rewarded him by giving him an apartment.²²⁷ The interview did not provoke any official statements from the prosecution, police or any other government representative. At the same time, the President of the Government only briefly stated that she could not dismiss ministers based on people's claims.

220 "Illegal construction: A restaurant on top of Serbia", *Javno.rs*, 30.11.2017, <https://javno.rs/istrazivanja/divlja-gradnja-kafana-na-vrhu-srbije>, 30.4.2020.

221 "From bridge keeper to international warrant: Who is Zvonko Veselinović?", *BBC in Serbian*, 2.12.2019, www.bbc.com/serbian/lat/srbija-50633650, 30.4.2020.

222 "Veselinović and Radoičić acquitted in the case of illegal digging of gravel", *KRIK*, 5.7.2019, www.krik.rs/veselinovic-i-radoicic-oslobodjeni-za-nelegalno-iskopavanje/, 30.4.2020.

223 Law on Police, *Official Gazette of the RS*, nos. 6/2016, 24/2018 and 87/2018: Article 32.

224 „Alliance for Serbia: What is Dijana Hrkaločić doing in Guča? Hrkaločić: I came to support police officers", *Insajder*, 16.12.2018, <https://insajder.net/sr/sajt/vazno/12876/>, 30.4.2020.

225 "Stefanović: I am ready to offer my resignation, Hrkaločić was in Lučani on my orders", *N1*, 17.12.2018, <http://rs.n1info.com/Vesti/a444718/Stefanovic-o-Hrkalovic-i-Lucanima.html>, 30.4.2020.

226 *Ibid.*

227 "Rodoljub Milović: Some of the associates of the Zemun clan are at the top of the government", *KRIK*, 20.6.2019, www.krik.rs/rodoljub-milovic-u-vrhu-vlasti-ima-saradnika-zemunskog-klana/, 30.4.2020.

However, the former chief of the Criminal Police is not just anyone. He was the head of the Criminal Police Directorate for seven years, holding the second highest position after that of Police Director, and a person who was decorated by the Spanish police for exceptional cooperation in the fight against illegal drug trafficking²²⁸. In June 2014, he was dismissed from the position of Chief of the Criminal Police Directorate. Aleksandar Vučić, the then President of the Government and now President of the Republic, explained Milović's dismissal by claiming that the police had begun to engage in politics. He added that dismissed police officers were "honourable" and that Rodoljub Milović had some important tasks ahead of him. Milović retired two years after he was removed from office. The real reason for his departure from the police force remains unclear.

The case involving the sale of weapons from the "Krušik" factory in Valjevo at preferential prices is still a major political issue in Serbia. Although the Assembly was obliged under the law to initiate the issuance of a conclusion on a possible conflict of interest of the Minister of Interior, or his trade in influence, it has failed to do so.²²⁹ The details of this affair were analysed in the section on state capture through misuse of financial management.

Weak Internal Control of the Police

Internal control of the police includes preventive and repressive actions of a specific organisational unit within the force aimed at ensuring its accountability to the state, laws and citizens.²³⁰ This happens to be one of the requirements for the democratic work of the police.²³¹

Political, functional and operational independence of the Sector is undermined because the Law on Police stipulates that it is the Minister of the Interior who provides the Internal Control Sector with guidelines, issues obligatory instructions for its work (except in actions undertaken as part of pre-investigation and investigation procedures conducted at the request of a competent public prosecutor²³²) prescribes how internal control is to be performed,²³³ controls the work of the Head of the Sector,²³⁴ and selects employees in charge of security vetting the Sector employees²³⁵. Therefore, it should come as no surprise that it is almost impossible for the Sector to conduct investigations involving people from the MoI. They are members of the Serbian Progressive Party.²³⁶

228 "Spanish police decorates Rodoljub Milović and Slaviša Sovtić", *Blic*, 31.10.2013, www.blic.rs/vesti/hronika/spanska-policija-odlikovala-rodoljuba-milovica-i-slavisu-sovtica/vph26ft, 30.4.2020.

229 Law on Police, *Official Gazette of the RS*, nos. 6/2016, 24/2018 and 87/2018: Article 222, paragraph 2, item 7.

230 Kevin Carty, *Guidebook on Democratic Policing*, OSCE, 2017, www.osce.org/secretariat/23804?download=true, 30.4.2020, p. 26.

231 Recommendation Rec(2001)10 of the Committee of Ministers to member states on the European Code of Police Ethics, Council of Europe, 19.9.2001, <https://polis.osce.org/node/4711>, p. 12, 68.

232 Law on Police, *Official Gazette of the RS*, nos. 6/2016, 24/2018 and 87/2018: Article 233.

233 *Ibid*, Article 225.

234 *Ibid*, Article 232.

235 *Ibid*, Article 141, paragraph 10.

236 Interview with an active police officer, 15.12.2019; "Top police echelons against police officers", *Istinomer*, 13. 3. 2019, <https://www.istinomer.rs/analize/policijski-vrh-protiv-policaajaca/>, 30.4.2020.

The influence on the work of the Sector was noted in the investigation of police actions during the demolition of the Belgrade “Savamala” neighbourhood in the night of 24/25 April 2016, regarding which the Ombudsman established that the police did not respond to calls from citizens because of the order that came from the “top police echelons”.²³⁷ The Internal Control Sector submitted a report to the Prosecutor’s Office²³⁸ 14 months after the demolition, after the High Public Prosecutor’s Office dispatched two requests to collect the necessary information. This was not in accordance with the law, according to which the Internal Control Sector was obliged to inform the Prosecutor’s Office about the measures and actions that were undertaken no later than 30 days from the day it had received the request.²³⁹

The Sector employs 124 people. In 2018, they filed 206 criminal charges, which was the largest number since the Sector was established. However, one should be careful with statistics; they do not paint a true picture of corruption and crime in the police, and it is difficult to determine how effective the Sector is when it comes to criminal investigations. There are no credible data on how many of these reports have resulted in criminal proceedings initiated by prosecutors.

It is not possible to determine the exact number of dismissed criminal charges that were filed by the Sector, because the prosecutor’s offices do not keep records on the occupation of that provided replies were incomplete. Based on the replies received from prosecutor’s offices that do keep such records, it was determined that at least 36 criminal charges filed by the Ministry of the Interior against its employees were in fact dismissed. Also, courts do not keep records of the outcomes of criminal proceedings against police officers and other members of the Ministry of the Interior.²⁴⁰

There are no official data on the implementation and effects of the new anti-corruption measures (integrity test, corruption risk analysis, reporting and control of assets). However, three years have passed since officials of the Mol have stated that these would be key instruments in the fight against corruption. Also, the anti-corruption measures are still poorly regulated, especially integrity testing.²⁴¹ Weak and dependent on politics, with results that are not sufficiently tangible, and burdened by the general assumption that certain people are “untouchable”, internal control allows capture of the very part of the police and the Mol that works on the front line, trying to prevent abuse within the force.

237 *The report compiled following the procedure of control of the legality and regularity of the work of the Ministry of the Interior initiated upon the complaints filed by a large number of citizens*, Ombudsman, Belgrade, 9.5.2016, www.ombudsman.rs/attachments/article/4723/savamala.pdf, 18.7.2018, p. 5.

238 “Šabić: The prosecutor’s office must submit the Mol report on the demolition in Savamala”, *Insajder*, 14.9.2017, <https://insajder.net/sr/sajt/vazno/6886/>, 18.8.2018.

239 Criminal Procedure Code, *Official Gazette of the RS*, nos. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013 and 55/2014: Article 282.

240 Saša Djordjević, “The Internal Control Sector of the Ministry of Interior”, in: D. Sabic (ed.), *Institutional Barometer 2.0*. prEUgovor coalition, <http://bit.ly/prEUgovorIB2>, pp. 53-71.

241 Nikola Tomić (ed.), *Alarm Report on the Progress of Serbia in Chapters 23 and 24*. September 2018, op. cit., pp. 46, 52.

Conclusion

By denying the public and the prosecutor's offices information about police work, especially those about the outcomes of politically sensitive cases that involve government officials, the Ministry of the Interior has influenced the impunity of the political elite and their main allies. Although the management of human resources in the Mol seems good and proper at first glance, and the law envisages advancement based on merit, there is still a lot of room left for political officials to hire people without job competitions or select commission members who make decisions concerning promotion or transfer. Examples of unclear staff changes in the Police Directorate are still noticeable. Officials use the police to gain political power through mass arrests that take place without the participation of the prosecutor's office and are promoted through the media. Poor external oversight and weak internal control of the police have led to a situation where "bad apples" within the force have become practically untouchable.

Capturing the Defence Sector

Katarina Đokić and Marija Ignjatijević

The risks of state capture in the defence sector are twofold. First, the defence sector has access to relatively large amounts of money²⁴² and awards lucrative arms procurement contracts that, along with its high degree of non-transparency under the guise of protecting national security, potentially enables “extraction” of public resources. Secondly, certain structures in the defence system, particularly the security services and military police, can be exploited for private purposes, in order to reinforce political positions and intimidate opponents. Therefore, defence sector governance merits particular attention.

In practice, unclear priorities in defence policy, a legally sanctioned deterioration of transparency, informal governance and the fact that certain anti-corruption mechanisms, especially the institution of whistleblowing, remain on the drawing board, has created a climate conducive to using the defence sector to pursue private (as opposed to public) interests. This is reflected in certain scandals that caused public outrage, such as the “Helicopter affair” of March 2015 and the “Tank affair” from August 2019.

Reduced Transparency

Increasing the transparency of defence sector governance is, naturally, a drawn-out process that implies changes to a long-established organisational culture. Nevertheless, over the past two decades, the Ministry of Defence (MoD) has managed to establish a certain level of transparency that does, however, retain significant limitations, particularly when it comes to proactive publication of strategic and planning documents and financial and material management.²⁴³ In recent years, the trend of increasing transparency has been reversed. A fact that has been legalised through amendments to primary and secondary legislation that have practically encouraged decision-makers at the Ministry of Defence to use data secrecy in order to avoid accountability for any possible omissions or unlawful conduct.

The Decision on Determining the Level of Secrecy in the Ministry of Defence and Serbian Armed Forces (hereinafter: the Decision) contains highly problematic appendices detailing the kind of documents and data that should be marked with a given level of secrecy, regardless of their actual contents or whether actual examples of such data and documents would truly harm the interests of the Republic of Serbia were they to be revealed.²⁴⁴ This is contrary to the Law on Data Secrecy – to which the Decision itself refers – which stipulates that [specific] data is marked with a level of secrecy when it is generated or when a public authority initiates an activity that results in the generation

242 Around seven percent of planned expenditure of the Republic of Serbia in 2020 falls on the defence sector (Ministry of Finance Justification of Law on the Budget of Serbia for 2020, b.d, www.mfin.gov.rs/wp-content/uploads/2019/03/Obrazlozenje-budzeta.docx .

243 See chapter on finance and procurement.

244 Odluka o određivanju stepena tajnosti u Ministarstvu odbrane i Vojsci Srbije (*Decision on Determining the Level of Secrecy in the Ministry of Defence and Serbian Armed Forces*), “Official Military Gazette” no. 5/2016. <https://bit.ly/2Vzh0QE>

of classified data, on the basis of estimated harm.²⁴⁵ In this case, the appendices attached to the Decision should, it seems, serve as guidelines for authorised personnel on how to determine the level of secrecy, which could improve the efficacy of administration in the MoD and Serbian Armed Forces (SAF), but at the cost of compromising the right to be informed. This is all the more concerning given the fact that previous BCSP research shows that Ministry of Defence employees were inclined to indiscriminately mark documents as classified on the principle of, “just in case”, even before the Ordinance on Improved Criteria for Determining the Levels of Secrecy “CONFIDENTIAL” and “RESTRICTED”²⁴⁶ and the Decision were adopted.²⁴⁷

Information That Could Indicate Corruption Automatically Classified in the Defence Sector

A particular cause for concern is the Ordinance on Improved Criteria for Determining the Level of Secrecy “CONFIDENTIAL” and “RESTRICTED” within the Ministry of Defence that further elaborates on the Decision, stating that information may be classified as “RESTRICTED” if revealing it would undermine citizens’ trust in the legality and expertise of the Ministry of Defence.²⁴⁸ In practice this makes it possible for this ministry – i.e. the officials working therein – to classify certain information as secret in order to evade being held to account for corruption.²⁴⁹ Among the information and documents that can be classified as secret, the appendix to the Decision includes, amongst others, the following:

- Reports on billable services (commercial services provided by the MoD and SAF to the civilian sector);
- Reports on events and reports on traffic accidents;
- Documents pertaining to complaints made against the conduct of the Military Police;
- Documents pertaining to the evaluation of justifiability and propriety of the use of force;
- Documents that regulate the planning of voluntary military service and documents on reporting.²⁵⁰

With the exception of reports on billable services, all of the other types of document can, according to the Decision, be classified as “CONFIDENTIAL”, which even contravenes the aforementioned ordinance that the Decision cites.

245 Zakon o tajnosti podataka (*Law on Data Secrecy*), “Official Gazette of RS” no. 104/2009, Article. 10

246 Uredba o bližem određivanju kriterijuma za određivanje stepena tajnosti „POVERLJIVO” i „INTERNO” u Ministarstvu odbrane (*Ordinance on Improved Criteria for Determining the Level of Secrecy “CONFIDENTIAL” and “RESTRICTED” within the Ministry of Defence*), “Official Gazette of RS” no. 66/2014.

247 Đokić, K. & V. Erceg. (2014) „Ministry of Defence and Armed Forces of Serbia”, in: Petrović, P. (ed.). *Integrity Assessment in the Security Sector in Serbia*. BCSP, Belgrade, 2014, p. 63, www.bezbednost.org/All-publications/5607/Integrity-Assessment-in-the-Security-Sector-in.shtml.

248 Uredba o bližem određivanju kriterijuma za određivanje stepena tajnosti „POVERLJIVO” i „INTERNO” u Ministarstvu odbrane (*Ordinance on Improved Criteria for Determining the Level of Secrecy “CONFIDENTIAL” and “RESTRICTED” within the Ministry of Defence*), “Official Gazette of RS” no. 66/2014, Article 4.

249 This Ordinance is at odds with Article 3 of the Law on Data Secrecy which states: “Data marked as classified with a view to concealing crime, exceeding authority or abusing office, or with a view to concealing some other illegal act or proceedings of a public authority, shall not be considered classified.” (Zakon o tajnosti podataka (*Law on Data Secrecy*), “Official Gazette of RS” no. 104/2009).

250 Odluka o određivanju stepena tajnosti u Ministarstvu odbrane i Vojsci Srbije (*Decision on Determining the Level of Secrecy in the Ministry of Defence and Serbian Armed Forces*), Appendix 2, pp. 54-56.

After these regulations were adopted, the Law on Defence was amended in 2018, so that it specifies in greater detail which types of data pertaining to the defence system are to be classified.²⁵¹ This includes information and documents “of interest for the national security system, which if revealed to unauthorised persons could result in harm to the interests and aims of the defence sector”²⁵² and information on “measures undertaken, actions and procedures contained in decisions, orders, statements and other acts in the field of national defence, which if revealed could result in harm to the interests of the defence forces”²⁵³. The Commissioner for Information of Public Importance and Personal Data Protection submitted a proposal for the constitutionality of this regulation to be evaluated, having considered it to be contrary to the article of the Constitution that prescribes the right to information. The Commissioner indicated that to all intents and purposes these two provisions exclude the Ministry of Defence and the Serbian Armed Forces from the system of rights that guarantee free access to information of public importance. He also pointed out that Article 102 of the Law on Defence is not in accordance with the article of the Constitution that proclaims that the Serbian Armed Forces are subject to democratic and civilian control, “because it opens up the possibility for curtailing or even excluding rights of the public, beyond the criteria and conditions established by the Law on Free Access to Information and the Law on Data Secrecy”²⁵⁴. In 2019, the Constitutional Court dismissed this proposal.²⁵⁵

Given that the Decision was adopted two years before the amendment of the Law on Defence, the legislation has emulated the negative trends established by internal regulations and practices of the Ministry of Defence. However, the amendments create a legal basis and justification for further exclusion of the public from defence system governance. The only session of the Defence and Internal Affairs Committee, which deliberates on regular information about Ministry of Defence activities, to be held since these legislative changes was closed to the public due to the classified information presented²⁵⁶, even though previous sessions were public.

The transparency of the legislative process has lately not been satisfactory – particularly in terms of the amendments to the Law on Conscription, Labour and Requisition,²⁵⁷ which were passed in 2018 using fast-tracked legislative procedures to bypass public discussion. The Ministry of Defence did not inform the public about the practical

251 Zakon o izmenama i dopunama Zakona o odbrani (*Law on Amendments and Addenda to the Law on Defence*). “Official Gazette of RS” no. 36/2018, Article 23.

252 Zakon o odbrani (*Law on Defence*). “Official Gazette of RS” nos. 116/2007, 88/2009, 88/2009 – state law, 104/2009 – state law, 10/2015 and 36/2018, Article 102, Paragraph 2, Item 1.

253 Ibid., Article 102, Paragraph 2, Item 5.

254 Commissioner for Information of Public Importance and Personal Data Protection (2018), “Commissioner Submits Proposals for Evaluation of Constitutionality of Law on Defence and Law on the BIA”, 14/06/2018. www.poverenik.rs/sr-yu/saopstenja/2881-повереник-поднео-предлоге-за-оцену-уставности-закона-о-одбрани-и-закона-о-биа.html, 20/04/2020.

255 Commissioner for Information of Public Importance and Personal Data Protection (2020), Izveštaj o sprovođenju Zakona o slobodnom pristupu informacijama od javnog značaja i Zakona o zaštiti podataka o ličnosti, za 2019. Godinu (*Report on Implementation of Law on Free Access to Information of Public Importance and Law on Personal Data Protection for 2019*). Belgrade, March 2020, p. 10. www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2019/Izvestajza2019lat.pdf

256 Narodna skupština Republike Srbije (2018). “19. sednica Odbora za odbranu i unutrašnje poslove” (“19th Session of the Defence and Internal Affairs Committee”), 15/10/2018. www.parlament.gov.rs/19_седница_Одбора_за_одбрану.34969.43.html, 20/04/2020.

257 Ignjatijević, M. “Zakonske izmene kao reakcija na odliv kadrova iz sistema odbrane” (“Legislative Changes as a Reaction to Outflow of Personnel from Defence System”), BCSP, March 2020. <http://bezbednost.org/Sve-publikacije/7214/Zakonske-izmene-kao-reakcija-na-odliv-kadrova-iz.shtml>.

consequences of these amendments in a timely manner, even though they introduced military education in schools and obligated men aged over thirty who have not completed their military service to undergo a shortened course of military training. The ministry began informing the public only after the fact²⁵⁸, when the implementation of these amendments had already begun and when the press began reporting on this topic.²⁵⁹

Insufficient Insight into Defence Policy Priorities

It is commendable that in early 2020 the Ministry of Defence published its first Medium-Term Work Plan, including projections of its spending over the coming three years. However, the MoD has yet to publish any document containing clearly defined priorities for its defence policy. The strategic defence review and medium- and long-term development plans are traditionally classified, so the public have no insight into which defence capabilities Serbia plans to develop or which procurement projects are planned in the future. This leaves ample space for opportunism and *ad hoc* decision-making, without appropriate external oversight by the public that could hold decision-makers to account.

Informal Governance Prone to Abuse and Discretionary Decision-Making

Increasing discretionary powers and informal governance makes room for abuses, as it gives functionaries free rein in decision-making, without restraint and without accountability.

- **Military Police**

In 2018, amendments of the Law on the Serbian Armed Forces introduced a provision²⁶⁰ according to which the Minister of Defence has the discretionary right to decide which persons beyond the Ministry of Defence and Serbian Armed Forces can be provided with protection by the Military Police.²⁶¹ The Ministry of Defence has not explained why the Military Police would be tasked with protecting civilians outside the MoD and SAF. Additionally, the granting of such discretionary powers to the minister increases the risk of misuse of the military police to provide what amounts to “private security”. These amendments give the minister a free hand in passing an internal act to determine who the military police will protect, irrespective of whether those persons have ties to the defence system. According to the previous legislative arrangement, the government was empowered to pass ordinances that would determine which persons or buildings could be provided with protection.

258 “Obrana i bezbednost ponovo u srednjoj školi” (“Defence and Security Back in High Schools”), Ministry of Defence, 26/02/2019. <http://www.mod.gov.rs/lat/13671/odbrana-i-bezbednost-ponovo-u-srednjoj-skoli-13671>, 20/04/2020.

259 Tašković, M. “Pozivi rezervistima iz cele Srbije: Počela obuka za one koji nisu služili vojsku” (“Reservists from Across Serbia Called Up: Training for Those Who Haven’t Served”), Blic, 27/02/2019. www.blic.rs/vesti/drustvo/stizu-plave-koverte-rezervisti-poziv-vojska-srbije/1wzd1zn, 20/04/2020.

260 Zakon o odbrani (Law on Defence). “Official Gazette of RS” nos. 116/2007, 88/2009, 88/2009 – state law, 104/2009 – state law, 10/2015 and 36/2018, Article 53.

261 B. Milosavljević, *Nadležnosti i ovlašćenja vojne policije - pravna neuređenost* (Military Police Jurisdiction and Powers – Legal Disorder), Belgrade: BCBP, 2019, p. 9. <http://bezbednost.org/Sve-publikacije/7113/Nadleznosti-i-ovlascenja-vojne-policije-pravna.shtml>.

The introduction of this provision refreshed the public memory about an incident that occurred during the 2014 Pride Parade, when the brother of the then prime minister (and now president), Aleksandar Vučić, and the brother of the then mayor of Belgrade (and now minister of finance), Siniša Mali, who were being guarded by two military police officers from the Cobras (*Kobre*) special forces battalion, had a physical encounter with members of the Gendarmerie who were securing the event.²⁶²

According to the law, the Ministry of Defence – that is, the minister – independently determines the application of policing and police powers by the Military Police,²⁶³ which is not a consequence of the recent amendments but a long-standing problem.²⁶⁴ This enables the minister to regulate a highly sensitive field of activity in a discretionary manner. Certain police measures and powers significantly impact the rights of citizens. For example, among the police measures that can be applied by the Military Police are targeted search measures²⁶⁵. These are not defined by secondary legislation on the Military Police, but by the Law on the Police, where they are equated with special evidentiary activities from the Criminal Procedure Code²⁶⁶, such as covert surveillance of communications and covert monitoring and recording²⁶⁷. Mechanisms for external oversight of the application of these measures are not governed by the law but by an ordinance adopted in 2020 that more closely regulates the powers of the Military Police, which remains vague and does not clearly define the circumstances under which targeted search measures can be applied.²⁶⁸ The only document that requires judicial approval for the application of targeted search measures is the 2010 Rulebook, a regulation that is adopted by the minister themselves. Some of the other police powers granted to the Military Police include detention, temporary detainment of persons, temporary restriction of the right to freedom of movement and the use of means of coercion.²⁶⁹

262 S. Georgiev, “Andrej Vučić i žandarmi: Presuda za tuču na Paradi ponosa” (“*Andrej Vučić and the Gendarmes: Verdict on Fight at Pride Parade*”), *Javno.rs*, 31/01/2020, <https://javno.rs/analiza/andrej-vucic-i-zandarmi-presuda-za-tucu-na-paradi-ponosa>, 20/04/2020.

263 Zakon o Vojsci Srbije (Law on Serbian Armed Forces). “Official Gazette of RS” nos. 116/2007, 88/2009, 101/2010 – state law, 10/2015, 88/2015 – Constitutional Court Decision, 36/2018 and 94/2019, Article 53, Paragraph 2. The Law on the Serbian Armed Forces has never specified the police powers and measures of the Military Police and has instead left this to the government (Article 53, p. 12).

264 Currently the 2010 Rulebook is still in force: *Pravilnik o ovlašćenim službenim licima, načinu primene ovlašćenja i obavljanju zadataka i poslova Vojne policije* (*Rulebook on Authorised Officials, Means of Application of Powers and Execution of Tasks and Activities of the Military Police*). “Official Military Gazette” nos. 16/10-231 and 17/15-481.

265 Uredba o policijskim merama i radnjama i policijskim ovlašćenjima, izdavanju, izgledu, korišćenju i uništavanju službene legitimacije i značke ovlašćenih službenih lica Vojne policije (*Ordinance on Police Measures and Actions and Police Powers, Issuance, Appearance, Use and Disposal of Official ID and Badges of Authorised Officials of the Military Police*). “Official Gazette of RS” no. 17/2020, Article 2, Paragraph 2, Item 10.

266 Zakon o policiji (*Law on the Police*). “Official Gazette of RS” nos. 6/2016, 24/2018 and 87/2018, Article 60, Paragraph 1.

267 “Zakonik o krivičnog postupku” (*Criminal Procedure Code*), *Official Gazette of RS*, nos. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014 and 35/2019: Articles 166 and 171.

268 Uredba o policijskim merama i radnjama i policijskim ovlašćenjima, izdavanju, izgledu, korišćenju i uništavanju službene legitimacije i značke ovlašćenih službenih lica Vojne policije (*Ordinance on Police Measures and Actions and Police Powers, Issuance, Appearance, Use and Disposal of Official ID and Badges of Authorised Officials of the Military Police*). “Official Gazette of RS” no. 17/2020.

269 Ibid., Article 3, Paragraph 2, Items 4, 5 and 15.

- **The Helicopter Scandal**

In March 2015, a Serbian Armed Forces helicopter crashed near Belgrade Airport as it was returning from Raška transporting a baby in a life-threatening condition from Novi Pazar. The crash killed all seven people on board, including the new-born baby.²⁷⁰ Three weeks after the incident, the military published the results of the inquiry. The main cause of the crash was identified as pilot error (inadequate operation of the aircraft in poor weather conditions), while a series of errors in planning, organisation and management of the operation were listed as secondary causes of the crash.²⁷¹ It can be concluded from the report that due to the urgency of the situation the Minister of Defence bypassed the SAF General Staff and ordered the operation to be undertaken, in spite of warnings that this breached protocol. On the basis of the report and transcript, it is also possible to conclude that the crew were informed that the Health Minister and the Minister of Defence were expected to greet the incoming helicopter – as well as the fact that, after insisting to land at the Military Medical Academy or the military airfield at Batajnica, the pilot agreed to be redirected to Belgrade Airport.²⁷²

The Higher Public Prosecutor's Office in Belgrade, that led the pre-investigative proceedings on the crash, determined that it had no grounds for the initiation of criminal proceedings against those who participated in the planning and execution of this operation because no criminal offence had been committed, only breaches of military procedure.²⁷³ The only judicial verdict was passed down seven months after the incident, when the Military Disciplinary Court determined that two generals (Commander of the Air Force, Ranko Živak, and Commander of the 204th Air Brigade, Predrag Bandić) should be prevented from further promotions due to disciplinary offences. This decision was later overturned on appeal. General Živak retired as an air force commander, while general-major Bandić was appointed Head of the Military Representative Office of the Mission of the Republic of Serbia to NATO.²⁷⁴

The event itself, the reactions of the highest state officials and the absence of judicial proceedings raised many questions, to which the Serbian public has yet to receive answers. It remains unclear why the military chain of command was ignored and why the Chief of the General Staff was bypassed when it was decided to launch the rescue operation. It also remains unclear why there was an insistence to land the helicopter at Belgrade Airport in spite of the pilot's request to land at Batajnica or the Military Medical Academy due to bad weather. Finally, prior to reporting on the crash the next day, several pro-government media organisations and the national broadcaster reported that the helicopter had landed at Belgrade Airport and that the baby had been transferred to

270 Cvetković, Lj. "Srbija: Pao helikopter koji je prevozio bebu, nema preživelih" ("Serbia: Helicopter Carrying Baby Crashes, All Aboard Killed"), 14/03/2015. www.slobodnaevropa.org/a/srbija-srusio-se-vojni-helikopter-koji-je-prevozio-bebu/26900610.html, 20/04/2020.

271 "Izveštaj stručne komisije koju je formirao komandant RViPVO" ("Report by Expert Panel Formed by Air Force Commander"), *Radio slobodna Evropa*, 03/04/2015. www.slobodnaevropa.org/a/28608797.html, 20/04/2020.

272 "Radić o slučaju 'helikopter': Izveštaj prstom upire u političare" ("Radić on Helicopter Case: Report Points Finger at Politicians"), *Radio slobodna Evropa*, 07/04/2015. www.slobodnaevropa.org/a/vojni-analitar-radic-izvestaj-prstom-upire-u-politicare/26942979.html, 20/04/2020.

273 "Tužilaštvo neće pokrenuti krivični postupak za pad helikoptera" ("Prosecutors Won't File Charges for Helicopter Crash"), *Insajder*, 30/06/2016, <https://insajder.net/sr/sajt/tema/1181/>, 20/04/2020.

274 Jeremić, V. "Niko još nije odgovarao za pad helikoptera" ("No One Held to Account for Helicopter Crash"), *Danas*, 13/03/2019. www.danas.rs/drustvo/niko-jos-nije-odgovarao-za-pad-helikoptera/, 20/04/2020.

the Institute for Protection of Mother and Child of Serbia in Belgrade.²⁷⁵ This raises the question of whether the political leadership were focused on their own self-promotion, rather than the rescue operation and how much of an effect did breach of procedure due to political pressure impact the outcome of the situation. Political accountability was certainly lacking. The Minister of Defence, Bratislav Gašić, was forced to resign some time later but for sexist comments directed at a journalist,²⁷⁶ only to be appointed director of the BIA in 2017. Health Minister Zlatibor Lončar remains in office.

- **The Tank Scandal**

Recent incidents involving a tank placed in front of the Red Star Belgrade football stadium and the members of the Serbian Armed Forces Guard Unit lining up with footballers of the same club, speak to the abuse of the military for political purposes. Specifically, in September 2019, this elite unit of the Serbian Armed Forces, otherwise tasked with protecting the president and greeting visiting dignitaries, hosted the footballers of Red Star Belgrade.²⁷⁷ Not long before, a decommissioned T-55 tank was placed in front of this club's stadium.²⁷⁸ The tank drew a great deal of media attention, not only in Serbia but also in Croatia, where it was interpreted as a provocation due to allegations that it had been used during the wars of the 1990s.²⁷⁹ The Ministry of Defence stated that the tank was not in their ownership but that it had been demilitarised and decommissioned.²⁸⁰ The police and prosecutors issued a statement to the effect that no criminal offence had been committed and that there was no need for police involvement. What is cause for concern, however, is that military equipment and arms cannot be purchased by anyone but only by legal entities registered for export of such goods abroad, the manufacturers of such goods or legal entities licensed to possess and use weapons for official purposes.²⁸¹ The public still have not been provided with information on how a decommissioned tank came to be in the possession of the supporters of a football club.

275 "Helikopterska tragedija: Dan kada su mediji u Srbiji brutalno lagali javnost" (*"Helicopter Tragedy: Day When Media Brutally Misled Public"*), *Cenzolovka*, 17/03/2015. www.cenzolovka.rs/vesti/helikopterska-tragedija-dan-kada-su-mediji-u-srbiji-brutalno-lagali-javnost/, 20/04/2020.

276 "Gašić: Volim novinarke koje ovako lako kleknu" (*"Gašić: I Love Journalists Who Go Down Easily"*), *N1*, 06/12/2015. <http://rs.n1info.com/Vesti/a115681/Gasic-Volim-novinarke-koje-ovako-lako-kleknu.html>, 20/04/2020.

277 Lukač, D. "U počast Ligi šampiona" (*"In Honour of the Champions League"*), *Vreme*, 19/09/2019, www.vreme.com/cms/view.php?id=1719779, 20/04/2020.

278 "Tenk ispred stadiona Rajko Mitić" (*"Tank in Front of Rajko Mitić Stadium"*), *N1*, 26/08/2019. <http://rs.n1info.com/Vesti/a520748/Tenk-ispred-stadiona-Rajko-Mitic.html>, 20/04/2020.

279 "Morbidna provokacija iz Beograda! Žele u Ligu prvaka, a slave jedan od najtežih zločina Crvena Zvezda ispred Marakane postavila tenk iz Vukovara" (*"Morbid Provocation from Belgrade! They Want Champions League Football But They Celebrate Worst Crimes – Red Star Parks Tank from Vukovar in Front of Marakana"*), *Jutarnji list*, 26/08/2019. <https://sportske.jutarnji.hr/sn/morbidna-provokacija-iz-beograda-zele-u-ligu-prvaka-a-slave-jedan-od-najtežih-zločina-crvena-zvezda-ispred-marakane-postavila-tenk-iz-vukovara-9281585>. "Traktor ispred Maksimira kao odgovor na tenk u Beogradu" (*"Tractor in Front of Maksimir as Response to Tank in Belgrade"*), *Danas*, 22.07.2020. www.danas.rs/drustvo/traktor-ispred-maksimira-kao-odgovor-na-tenk-u-beogradu/, 20/04/2020.

280 "Tenk izložen ispred stadiona Crvene zvezde je maketa" (*"Tank Exhibited in Front of Red Star Stadium is a Model"*), Ministarstvo odbrane, 27/08/2019. www.mod.gov.rs/cir/14318/tenk-izlozen-ispred-stadiona-crvene-zvezde-je-maketa-14318, 20/04/2020.

281 Zakon o proizvodnji i prometu naoružanja i vojne opreme (*Law on Manufacture and Trade in Arms and Military Equipment*). "Official Gazette of RS", no. 36/2018, Articles 70-72.

Human Resources Management

The defence system faces various challenges in terms of human resources management that create space for abuses and contribute to the outflow of personnel, which can have long-term consequences for the system itself and for the security of all citizens. Of particular concern is the appointment of personnel to high-ranking civilian posts at the Ministry of Defence on a provisional basis. This makes these offices more susceptible to political influence and enables appointments to be conducted outside the prescribed criteria. In addition, the treatment of whistleblowers discourages employees who venture to point out irregularities or corruption in the defence system.

Provisional Recruitment for Civilian Jobs at the Ministry of Defence

A significant number of civil service posts and directorships at publically-owned enterprises in Serbia are filled by personnel who are appointed in "acting status" and the Ministry of Defence is no exception. The highest-ranking civilian posts at the ministry are often filled on a provisional basis – this includes assistant ministers, state secretaries and the Inspector General of the military security services.

Champions of Provisionality

The current acting Inspector General of the military security services, Radovan Mitrašinović, has been appointed to this office as many as 19 times since December 2014, while the acting assistant minister for material resources, Nenad Miloradović, has been appointed 15 times since 2015. These appointments are in contravention of the law and are problematic for a number of reasons. The Law on Civil Servants does recognise provisional appointments but only as a temporary arrangement lasting no more than nine months.²⁸² Instead of being used in exceptional circumstances, such appointments have become customary practice at many institutions and state-owned enterprises, including the Ministry of Defence.

This status makes it possible to appoint personnel without a competitive call for candidates, which also makes it possible to bypass the criteria necessary for a given office-holder. Moreover, those appointed in this way are highly susceptible to political pressure, given that appointments and dismissals are discretionary, free from any need to adhere to selection criteria, legal provisions or the requirement to announce a call for candidates. Ultimately, this practice prevents effective reform and defence system governance because party loyalists rather than professionals can be appointed to important posts. The provisional appointment of personnel, therefore, undermines the foundations of the rule of law and results in the politicisation of the very top of the civil service in the defence system.

The Ministry of Defence does occasionally announce calls for candidates for these posts but it seems, however, that these announcements are there only to formally fulfil requirements because once they are concluded the assistant ministers remain in office. For example, a public call was announced for the assistant minister for material resources in November 2019 but, in spite of this, Nenad Miloradović continues to occupy this office as an acting deputy minister, as he has done for more than four years.

282 Zakon o državnim službenicima (Law on Civil Servants), "Official Gazette of RS", nos. 79/2005, 81/2005 - revision, 83/2005 - revision, 64/2007, 67/2007 - revision, 116/2008, 104/2009, 99/2014, 94/2017 and 95/2018, Article 67a.

How Are Whistleblowers Treated by the Defence System

Although the Serbian defence system does, on paper, have well-developed mechanisms for internal whistleblowers and formally ticks all of the legally mandated boxes, in practice there is little or no protection for whistleblowers. Research on human resources management recently conducted by the BCSP indicates that personnel serving in the Serbian Armed Forces or employed at the Ministry of Defence are not encouraged to report corruption or violations of employment rights.²⁸³ In recent years, the defence system has faced a serious outflow of personnel, from professional soldiers to officers and civilians. Over the past five years the defence system has, on average, been losing 166 officers and 66 NCOs per year. The proportion of junior officers in these figures is around 15 percent, while in 2018, as many as one in four were junior officers – among whom the departure of second lieutenants was particularly pronounced. Research conducted by the BCSP has shown that material conditions are not the decisive factor driving the outflow of personnel and that workload and an overabundance of non-military tasks, as well as the unpredictability of career progression and barriers to promotion are more significant factors.²⁸⁴ It is concerning that those working in the defence system would rather leave than try to solve problems and exercise their rights through the available complaints mechanisms within the system. This results from a lack of faith in the complaints procedures, the feeling that nothing can be achieved through the available mechanisms and also from the fear of facing punishment or retaliation for reporting irregularities.

Formally, procedures are in place and a person tasked with receiving information about internal whistleblowing has been appointed.²⁸⁵ According to the Ministry of Defence data, from November 2017 to November 2019, whistleblower data has been received 20 times and 14 proceedings were initiated.²⁸⁶ However, two recent cases that attracted public attention are highly indicative when it comes to the treatment of whistleblowers in the defence system.

283 Đokić, K., Ignjatijević, M. *Why Are People Leaving the Serbian Defence System?* Belgrade Centre for Security Policy, March 2020, <http://www.bezbednost.org/All-publications/7201/Why-Are-People-Leaving-the-Serbian-Defence.shtml>.

284 Ibid.

285 "Pravilnik o postupku unutrašnjeg uzbunjivanja u Ministarstvu odbrane i Vojski Srbije" ("Rulebook on Procedure for Internal Whistleblowers in Ministry of Defence and Serbian Armed Forces"). *Official Military Gazette*, 34/15-890; "Odluka o određivanju lica ovlašćenog za prijem informacije i vođenje postupka u vezi sa unutrašnjim uzbunjivanjem u Ministarstvu odbrane i Vojski Srbije" ("Decision on Determining Person Authorised to Receive Information and Initiate Procedures Pertaining to Internal Whistleblowers in Ministry of Defence and Serbian Armed Forces"). *Official Military Gazette*, 28/17-541

286 Response by Ministry of Defence to BCSP freedom of information request, 10/12/2019; Response by Ministry of Defence to BCSP freedom of information request, 14/06/2018.

Whistleblowers Receive No Protection

In October 2019, public attention was drawn to the case of an officer who refused to carry out orders from the very top of the ministry as they meant ignoring the criteria set out in the call for candidates.²⁸⁷ The officer was a **lieutenant colonel from the personnel service who reported to his superiors that the recruitment commission had received orders “from above” to hire four particular individuals regardless of the outcome of the selection process.** Retaliation ensued and the lieutenant colonel was demoted to a lower rank. The Minister of Defence signed papers for him to be transferred to a post for a major, which was not even appropriate to his military specialisation.²⁸⁸ His immediate superior officer took his side and resisted the transfer but to no avail. The Ministry of Defence has denied all of the allegations made in the press²⁸⁹, while the Military Union claims that the lieutenant colonel took a leave of absence in order to avoid retaliation. However, the outcome of this case is still not known.

The case of a whistleblower from the Krušik Valjevo arms manufacturer caused public uproar and provides insight into the way in which the defence system treats individuals who decide to report high-level corruption. In September 2019, Aleksandar Obradović was arrested at his place of work at the arms factory on suspicion of having revealed commercial secrets because he had sent journalists documentation that shows a company called GIM, represented by Branko Stefanović, the father of the current Minister of Interior, had purchased arms from Krušik at a discounted rate. Following his arrest, Obradović spent three weeks in jail until the public learned of the case and pressured the authorities into releasing him. Information on the case reached the public only on 10 October when the NIN weekly published unofficial indications that Obradović was detained²⁹⁰ and when BIRN published more details on the case a few days later.²⁹¹ Obradović’s arrest came three days after the specialised platform Arms Watch had published investigative reports on the export of arms that had ended up in Yemen²⁹² and one day before BIRN published a story confirming that the company represented by Branko Stefanović had purchased arms at a discounted rate.²⁹³ Following protests and increased media attention on the case, Obradović was transferred to house arrest, where he remained until December.²⁹⁴

287 Zorić, J. “Zašto je smenjen oficir Vojske Srbije” (“Why Was Serbian Army Officer Dismissed”). N1, 16/10/2019. <http://rs.n1info.com/Vesti/a535284/Zasto-je-smenjen-oficir-Vojske-Srbije-ko-ji-je-prijavio-korupciju.html>, 20/04/2020.

288 Lukač, D. “Potpukovnik nema kome da se žali” (“Lieutenant Colonel Has No One to Complain to”). Vreme, 24/10/2019. www.vreme.com/cms/view.php?id=1727242, 20/04/2020.

289 Saopštenje Ministarstva odbrane (Ministry of Defence Statement), 17/10/2019. www.mod.gov.rs/cir/14573/saopstenje-14573, 20/04/2020.

290 Cvijić, Z. Vuk. “Vlast progoni uzbunjivača da sakrije krivca” (“Authorities Persecute Whistleblower to Conceal Perpetrator”). NIN, www.nin.co.rs/pages/article.php?id=102350301, 20/04/2020.

291 Veljković, J. “Hapšenje u Krušiku: Zavera ćutanja u slučaju Branka Stefanovića” (“Arrest in Krušik: Conspiracy of Silence in Branko Stefanović Case”). BIRN, 13/10/2019. <https://javno.rs/vest/hapsenje-u-krusiku-zavera-cutanja-u-slucaju-branka-stefanovica>, 20/04/2020.

292 Gaytandzhieva, D. “Leaked arms dealers’ passports reveal who supplies terrorists in Yemen: Serbia files (Part 3)”, Arms Watch, 15/09/2019. <http://armswatch.com/leaked-arms-dealers-passports-reveal-who-supplies-terrorists-in-yemen-serbia-files-part-3/>, 20/04/2020.

293 Đorđević A., Veljković, J. “Trgovina oružjem: Povlašćena cena za oca ministra policije” (“Arms Trade: Discount for Father of Police Minister”). BIRN, 19/09/2019. <https://javno.rs/istra-zivanja/trgovina-oruzjem-povlascena-cena-za-oca-ministra-policije>, 20/04/2020.

294 “Radnik Krušika ostaje u kućnom pritvoru, tužilac odbio predlog za puštanje na slobodu” (“Krušik Worker Under House Arrest, Prosecutor Proposes Release”). Insajder, 18/10/2019. <https://insajder.net/sr/sajt/vazno/15867/>, 20/04/2020.

Over the following months, investigative journalists published several more stories and documentation linking GIM and the father of the Minister of Interior²⁹⁵ but public prosecutors have not shown an interest in examining the evidence. During the whole case, public prosecutors have dealt primarily with Aleksandar Obradović and not with the potential case of high-level corruption. The message sent by the authorities and the state during this case is extremely concerning, given that their efforts have focused primarily on labelling Obradović as a spy and a traitor, rather than examining the evidence he presented as a whistleblower.

Conclusion

The capture of the defence sector is characterised by declining transparency and also by changes to the legal framework that reduce the possibility of external oversight. Increases in discretionary powers and informal governance creates more space for abuses and gives high-ranking functionaries free rein. Poor human resources management, including the appointment of the politically desirable rather than professionals and the treatment of whistleblowers, contributes to the outflow of personnel from the defence system. This has long-term consequences for the system itself and for citizens' security. Various scandals have exposed the trend of state capture and attempts to cover them up have seriously harmed the integrity of the defence system and will affect trust in the system for a long time to come.

295 Đorđević A., Veljković, J. "Branko Stefanović: Pravni savetnik GIM-a u Saudijskoj Arabiji" ("Branko Stefanović: Legal Advisor for GIM in Saudi Arabia"). *BIRN*, 02/12/2019. <https://javno.rs/istrazivanja/branko-stefanovic-pravni-savetnik-gim-a-u-saudijskoj-arabiji>; "Otac ministra na službenom putu sa vrhom srpske policije" ("Father of Minister on Business Trip with Leadership of Serbian Police"). *BIRN*, 20/12/2019. <https://javno.rs/istrazivanja/otac-ministra-na-sluzbenom-putu-sa-vrhom-srpske-policije->, 20/04/2020.

Factors Contributing to State Capture in Finance and Procurement

Katarina Đokić

Spending in the security sector has traditionally been less transparent and more difficult to oversee than in other public sectors, which is justified by the protection of national and public security. At the same time, the Serbian security sector draws a significant portion of the national budget: around 14 percent of the planned spending for 2020 is earmarked for the categories “public security” and “defence” (by way of comparison, just two percent is planned for healthcare).²⁹⁶ Procurement for this sector can be redirected to satisfy private interests and to broaden clientelist networks (for example, by awarding contracts²⁹⁷). This chapter will, therefore, focus on risks in finance and procurement that can drive processes of state capture.

In Serbia, the main risks are: non-transparent budgeting and expenditure; informal financial governance; lack of competition in procurement and the privileged position of certain companies in the arms trade; and the weakening of external oversight (that should be) conducted by the National Assembly and independent state institutions. These risks have become more pronounced with amendments of the legislative framework that started in 2014 and that have reduced transparency and external oversight, particularly in defence and security procurement.

Reduced Transparency

Budgets and procurement reviews in the security sector institutions have never been at an enviable level in terms of transparency.²⁹⁸ The 2012 Law on Public Procurement introduced more restrictive conditions under which defence or security sector procurement can be partially or wholly exempt from the application of its provisions²⁹⁹ but no government has gone to the effort of publishing how much money is spent on “classified” procurement, even in aggregate. The Ministry of Defence traditionally does not publish any information or responds to journalists’ requests with very brief replies on decommissioned weaponry (who it is sold to, how much profit is made, etc.).³⁰⁰

296 Ministarstvo finansija (Ministry of Finance) – no date. Justification of Budget, www.mfin.gov.rs/wp-content/uploads/2019/03/Obrazlozenje-budzeta.docx, 28/04/2020, p. 16.

297 Up. Mihály Fazekas i István János Toth, “From corruption to state capture: A new analytical framework with empirical applications from Hungary”. *Working Paper Series: CRCB-WP/2014:01*, 2014, www.govtransparency.eu/wp-content/uploads/2015/11/GTI_WP2014_1_Fazekas-Toth_HU-capture_generaljournal_141128.pdf, 28/04/2020, p. 5.

298 Petrović, P. (ed.). *Integrity Assessment in the Security Sector in Serbia*. BCSP, Belgrade, 2014, www.bezbednost.org/All-publications/5607/Integrity-Assessment-in-the-Security-Sector-in.shtml.

299 Zakon o javnim nabavkama (*Law on Public Procurement*), “Official Gazette of RS” nos. 124/2012, 14/2015 and 68/2015, Articles 127-131.

300 A rare release of information about the sale of surplus arms occurred in the summer of 2018, Marko Tašković, “Srbija prodala 29 starih tenkova IZVOZNIKU ORUŽJA” (“Serbia Sells 29 Old Tanks to ARMS TRADER”), *Blic*, 25/07/2018, www.blic.rs/vesti/drustvo/srbija-prodala-29-starih-tenkova-izvozniku-oruzja/px0b30g, 28/04/2020.

A particular problem comes in the form of the dearth of medium- and long-term plans for the development of the defence system – i.e. a failure to publish the priorities on the basis of which budgets are planned. This increases the likelihood of arbitrary and *ad hoc* redirection of funds to certain projects that are not envisaged by the plans, while the public and National Assembly deputies are unable to scrutinise whether the expenditure is expedient.

In recent years, however, there has been a pronounced **trend of a further decline in transparency, which is being systematically ensured through legislative amendments.** Amendments to the Law on the Budget System in 2014 determined that spending by the Security Information Agency would be shown in the budget only in aggregate – i.e. without specific appropriations (e.g. payroll, contracted services, machinery and equipment).³⁰¹ The Ministry of Defence budget has not displayed spending by the Military Intelligence Agency and Military Security Agency since 2013, which the MoD justifies by referring to a Ministry of Finance instruction stating that budget categories that do not exceed a certain percentage do not have to be presented separately.³⁰² Therefore the budgets of the security services have effectively become secret.

The 2018 amendments to the Law on Defence are a significant step backwards. They specify a provision on classified data pertaining to the defence system in such a way that data can be declared secret *a priori*, regardless of whether its content would actually harm national security if disclosed.³⁰³ Also, the new Law on Public Procurement, under the auspices of harmonisation with the legislative framework of the European Union, effectively expands the possibilities for exempting procurement from the application of the law in order to protect, “important national security interests”.³⁰⁴ Whether a particular procurement is exempt is decided on by the government but it remains unclear which criteria are applied to this decision-making process, since “important national security interests” are not sufficiently well defined in any strategic document or law. This leaves room for arbitrariness and abuses, especially when it comes to high-value procurements through which public funds can easily be “extracted”.

In 2017 and 2018 the MoI procured 710 patrol vehicles and 322 cars for the Criminal Police Directorate without applying the then in force Law on Public Procurement.³⁰⁵ This was carried out in accordance with a provision from Article 128 of that law, which the law is not applied to procurements “where application of public procurement procedure would result in disclosure of information deemed as key for security, pursuant to a Government decision”.³⁰⁶ The government has never published a conclusion on the exemption of procurement from the application of the law, nor has it ever explained which information is critical to security and what was being protected, all the more so since

301 Zakon o izmenama i dopunama Zakona o budžetskom sistemu (*Law on Amendments and Addenda to Law on Budget System*), “Official Gazette of RS”, no. 142/2014, Article 6.

302 Đokić, K. & V. Erceg. (2014) „Ministry of Defence and Armed Forces of Serbia”, in: Petrović, P. (ed.). *Integrity Assessment in the Security Sector in Serbia*. BCSP, Belgrade, 2014, p. 60, www.bezbednost.org/All-publications/5607/Integrity-Assessment-in-the-Security-Sector-in-Shtml.

303 For more on this, see chapter on “Capturing Defence”.

304 Uprava za javne nabavke (*Public Procurement Administration*), Primedbe iz javne rasprave, 2019. www.ujn.gov.rs/wp-content/uploads/2019/01/Primedbe-iz-javne-rasprave.pdf, 28/04/2020, p. 27-8.

305 Djurković, Sanja (ed.), *prEUgovor Alarm: Report on Progress of Serbia in Chapters 23 and 24*, prEUgovor coalition, Belgrade, April 2019, <http://preugovor.org/Alarm-Reports/1528/Coalition-prEUgovor-Report-on-Progress-of-Serbia.shtml>, p. 44.

306 Zakon o javnim nabavkama (*Law on Public Procurement*), “Official Gazette of RS” nos. 124/2012, 14/2015 and 68/2015, Article 128, Paragraph 1, Item 5.

even the vehicles for the Criminal Police Directorate will not be used to covertly follow suspects.³⁰⁷ Following public pressure the Prime Minister stated that the procurement of patrol vehicles was classified to conceal their specifications.³⁰⁸ However, even if the specifications contained classified information, the MoI could have processed the procurement in accordance with Article 127 of the Law on Public Procurement and, in so doing, adhere to the legal procedure for procurements but in such a way that the tender documentation remains unpublished and is instead sent to bidders who have been granted security clearance.³⁰⁹ It is particularly concerning that, while this procurement was being completed, it came to light that the company that was awarded the supply contract has links to an SNS functionary. This would indicate that this was a case of public funds being redirected for the private gain of individuals with links to the government – i.e. the expansion of the clientelist network.³¹⁰

Defence and security sector procurement, to which the law is not applied, are characterised by complete arbitrariness by institutions or political decision-makers in determining which information is to be published and when. For example, when it comes to procurement of weapons for the Serbian Armed Forces, the Ministry of Defence does not regularly (for example, annually) publish even the most basic of information on whether, with whom and when contracts were concluded and the total amount of money spent on this type of procurement. Available information on individual contracts often does not come from the ministry, instead they are revealed at press conferences by Aleksandar Vučić, earlier as Prime Minister, now as President. For example, during the handover of the first H145M helicopter to the Serbian Armed Forces in June 2019, Vučić stated that Serbia had procured nine such helicopters and had paid 105 million euros.³¹¹ Prior to this, the Ministry of Defence had refused to reveal to journalists how much the contract, signed in December 2016, was worth – claiming that Airbus had requested that this information be classified.³¹²

307 "MUP nabavio 322 vozila za potrebe KRIMINALISTIČKE POLICIJE" (*"MoI Buys 322 Cars for CRIMINAL POLICE DIRECTORATE"*). *Tanjug/Blic*, 13/11/2018. www.blic.rs/vesti/hronika/mup-nabavio-322-vozila-za-potrebe-kriminalisticke-policije/e303en2, 28/04/2020.

308 "Brnabić: Nabavka 'škoda' za policiju tajna zbog specifikacija" (*"Brnabić: Purchase of Škodas for Police Secret Due to Specifications"*). *Tanjug/RTS*, 28/11/2017. www.rts.rs/page/stories/sr/story/9/politika/2954020/brnabic-nabavka-skoda-za-policiju-tajna-zbog-specifikacija.html, 28/04/2020.

309 It is possible that the MoI attempted to complete a procurement of this kind in 2015 and 2016 but not enough information has been made public for it to be possible to conclude that this is the same procurement. (Nemanja Nenadić, "Promocija umesto informisanja" (*"Promotion Instead of Information"*), *Pešcanik*, 25/09/2017. <https://pescanik.net/promocija-umesto-informisanja/>, 28/04/2020).

310 "Nabavka 710 'škoda' i dalje tajna: Funkcioner SNS-a učestvovao u nabavci?" (*"Purchase of 710 Škodas Still Secret: SNS Functionary Took Part in Procurement?"*). *Insajder*, 29/11/2017, https://insajder.net/sr/sajt/tema/8546/_28/04/2020.

311 Petar Vojinović, "Srbija platila 9 helikoptera H145M 105 miliona evra, Erbas sa MUP-om pričao o konceptu centra za obuku pilota helikoptera" (*"Serbia Paid 109 Million Euros for 9 H145M Helicopters, Airbus Talked with MoI about Regional Pilot Training Centre"*). *Tangosix*, 26/06/2019. https://tangosix.rs/2019/26/06/srbija-platila-9-helikoptera-h145m-105-miliona-evra-erbas-sa-mup-om-pricao-o-konceptu-centra-za-obuku-pilota-helikoptera/_28/4/2020.

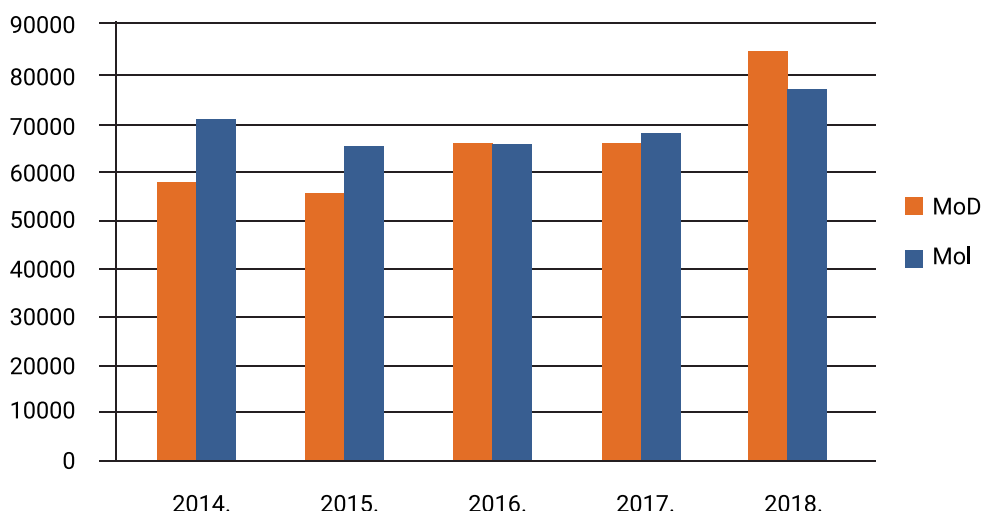
312 Petar Vojinović, "Novi detalji ugovora sa Erbasom: 'Moma Stanojlović' servisni centar regije za Gazele, uskoro konkurs za znavljanje kadra" (*"New Details of Airbus Contract: Moma Stanojlović Regional Service Centre for Gazelles, Soon New Competition for Crew Training"*). *Tangosix*, 20/03/2017. <https://tangosix.rs/2017/20/03/novi-detalji-ugovora-sa-erbasom-moma-stanojlovic-bice-servisni-centar-regije-za-gazele-uskoro-konkurs-za-znavljanje-kadra/>, 28/04/2020.

The Security Information Agency (BIA) does not wish to publish even total annual amounts for its public procurements. As justification, the BIA cites amendments to the Law on the Budget System – i.e. the provision according to which its budget can be presented without citing appropriations.³¹³

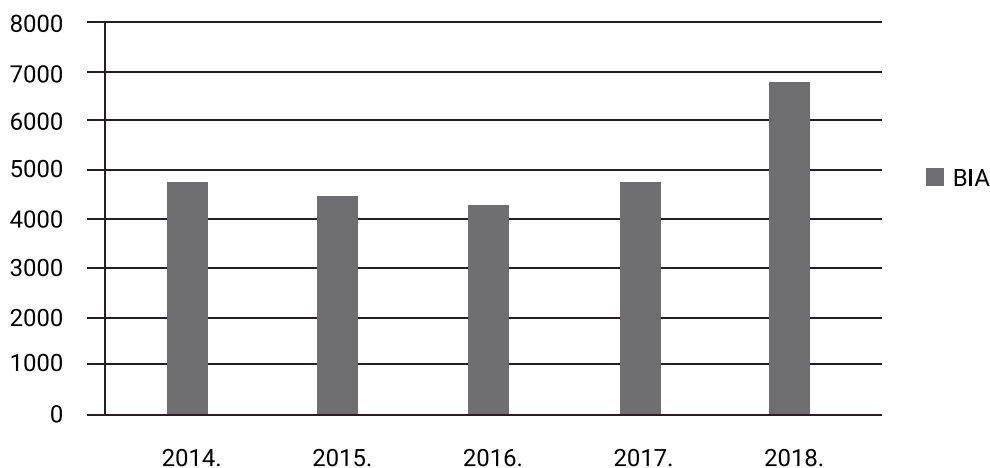
Informal Financial Governance and Discretionary Decision-Making

Spending by security sector institutions has increased significantly. Ministry of Defence spending has been increasing since 2016. Ministry of Interior and Security Information Agency spending increased sharply in 2018.

Graph 1 Ministry of Defence and Ministry of Interior spending, in millions of dinars³¹⁴



Graph 2 Security Information Agency spending, in millions of dinars³¹⁵



313 Bezbednosno-informativna agencija, *Informator o radu Bezbednosno-informativne agencija* (Information Booklet on Security Information Agency), updated 03/01/2020, <https://bia.gov.rs/sites/default/files/2020-01/informator.pdf>, 28/04/2020, p. 47.

314 Author's calculation based on data from the Law on Final Budget of the Republic of Serbia for the years 2014, 2015, 2016 and 2017. All laws available at: www.parlament.gov.rs/акти/донети-закони/донети-закони.45.html, last accessed on 17/04/2020.

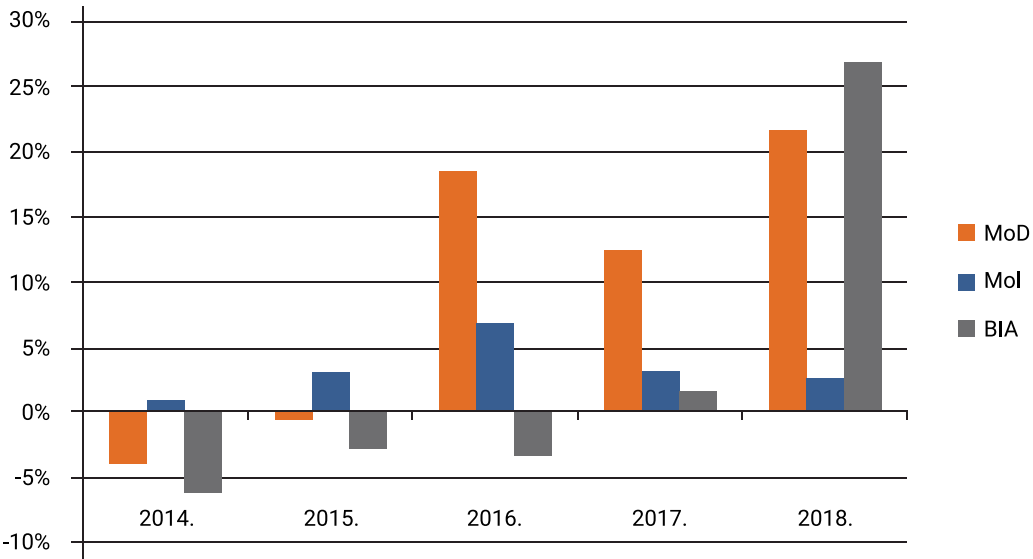
315 Ibid.

Tendencies toward informal financial governance have tracked increases in spending. Above all this is reflected in **reallocations within the national budget, in which additional financial resources are redirected to security sector institutions during the financial year**. According to the law, reallocations of funds between budget users are possible only on the orders of the government. It is increasingly common, however, for security sector institutions to spend more than has been allocated to them in the budget and by decisions on reallocations that the government publishes in the Official Gazette. This suggests that reallocations within the national budget are carried out informally.

Classified Breaches of Budgets by 20 Percent

In terms of percentages, the largest reallocations were recorded by the Security Information Agency in 2018 when its final spending for that year exceeded its budget allocation by 27 percent. In the same year, the Ministry of Defence spent 15.2 billion dinars (around 129 million euros) more than was foreseen by its budget – in other words, it spent 22 percent more than was allocated to it by the national budget. The fact that the Official Gazette for that year contains no decisions on reallocations from current account reserves to either the Ministry of Defence or the Security Information Agency is highly problematic.³¹⁶ The Ministry of Defence responded to a BCSP freedom of information request, stating that the reallocation was approved by a government decision that had been classified as “CONFIDENTIAL”³¹⁷, which is an unusual way for the government to dispose of budgetary funds. In the absence of publically available decisions on reallocations, it is not possible to confirm where the money for these institutions came from, nor what it was used for.

Graph 3 *Differences between expenditure and budgeted funds, in percentage points (reflecting how much was over or under spent)*



316 The exception, when it comes to the BIA, is the Decision on the Use of Current Budget Reserves, 05 no. 401-12957/2018 (“Official Gazette of RS” no. 104/2018), that reallocates 1,000 dinars to the Security Information Agency.
317 Ministry of Defence response to BCSP freedom of information request, no. 183-4/20, Belgrade, 16/03/2020, available on request.

Informal financial governance is particularly pronounced at the Ministry of Defence and pertains mostly to the procurement of equipment for the Serbian Armed Forces. Equipping the military has become a political priority since 2016³¹⁸, but this political decision has not been brought in line with financial planning either at the level of the defence sector or at the national level. When the Ministry of Defence did not have enough funds to complete a purchase of two Mi-17 helicopters, the funds were obtained from outside the budget in the form of donations by Jugoimport and the unified air traffic control agency for Serbia and Montenegro, SMATSA.³¹⁹ In spite of consistent increases to the Ministry of Defence budget during the period from 2016 to 2019, the ministry continued to face funding shortfalls for arms procurement or overhaul; hence this problem was solved through informal budget reallocations. This calls into question the entire planning process at the Ministry of Defence and Serbian Armed Forces, which is, on paper at least, very well developed and suggests that decisions on procurement are made in an *ad hoc* manner. This is officially made possible by the Rulebook on Equipping the Serbian Armed Forces with Weaponry and Military Equipment, which was adopted in 2016. The Rulebook introduces a category for emergency equipment for the Armed Forces, "in order to urgently overcome pronounced differences between existing equipment and the required operational capabilities of the Serbian Armed Forces, when conditions are met or a need arises."³²⁰ Urgent procurement programmes are approved by the Minister of Defence, on the basis of a proposal by the Material Resources Sector of the Ministry of Defence and an opinion by the General Staff.³²¹ This reduces the role of the Armed Forces in planning their own equipment needs and increases the discretionary powers of the minister and the deputy minister for material resources.

Informal financial governance is reflected also in donations received by the ministries from enterprises majority owned by the state or public agencies. In this case there are also indications of extra-budgetary expenditure: for example, according to Ministry of Defence records, in 2017 the ministry received donations from Jugoimport, the Belgrade Business School and the Directorate for Civilian Aviation of the Republic of Serbia amounting to around 51 million dinars (434,000 euros)³²², while for the same year the end of year account for the whole of Serbia recorded just over 11 million dinars under the category for voluntary transfers from individuals to legal entities.³²³ This practice indicates poor planning and the reallocation of resources from state-owned enterprises to cover inadequate budgeting or *ad hoc* projects but also the risk of illegitimate influence by certain individuals or enterprises on the financial operation of the defence system through unofficial donations.

318 When delivering his expose, Aleksandar Vučić, the Prime Minister-designate of the government that formed in 2016, announced the acquisition of new weapons systems and the growth of the procurement budget of the Serbian Armed Forces (Aleksandar Vučić, Programme of the Government of the Republic of Serbia, Belgrade, 09/08/2016, www.istinomer.rs/wp-content/uploads/2020/06/EKSPLOZE-1.pdf, 28/04/2020, p. 16).

319 Rulebook on

320 Pravilnik o opremanju Vojske Srbije naoružanjem i vojnom opremom (*Rulebook on Equipping the Serbian Armed Forces with Weaponry and Military Equipment*), "Official Military Gazette" no. 26/2016, Article 7, Paragraph 2.

321 Ibid., Article 14.

322 Ministry of Defence response to BCSP freedom of information request, no. 183-4/20, Belgrade, 16/03/2020, available on request.

323 Zakon o završnom računu Republike Srbije za 2017. godinu (*Law on Balance Sheet for Republic of Serbia for 2017*), 23 December 2019, www.parlament.gov.rs/upload/archive/files/cir/pdf/zakoni/2019/2366-19.pdf, 28/04/2020, p. 30.

Informal reallocation of funds was **also made to state-owned defence companies**.

Informality in Reallocating Funds to the Arms Industry consists of:

- 1) The government paying out financial assistance without making plans or analyses public so that it can be seen what the money will be spent on;
- 2) There are no publically available government documents on the reallocation of funds from the national budget (including information on where the money was reallocated from) but only officials' statements confirming reallocations took place.

In 2017, for example, the Ministry of Defence announced that the government had decided to allocate almost 50 million euros of investments "for the purpose of modernising and improving the production and refit capacities of Serbia's defence industry". This government decision was not, however, published in the Official Gazette, nor on its official website. All that had been published was a decision by the government to reallocate funds from the budget reserve amounting to a little over a billion dinars (around 8.6 million euros at the then exchange rate) to certain departments of the MoD and VS.³²⁴ There are no publically available documents that would show which part of the budget the funds came from and how much money was transferred to which arms company. The Ministry of Defence later reported to the National Assembly that, on the basis of the "appropriate conclusions" the Government of Serbia had allocated a total of 49,972,580 euros in the form of 1) interest free loans to eight enterprises and the Technical Overhaul Institute in Kragujevac, and 2) reallocations of funds within the national budget for the purpose of increasing the budget of the Ministry of Defence. At the time it was stated that these loans and reallocations were executed on the basis of investment proposals that the MoD had prepared in April 2017.³²⁵ Given that the then Prime Minister, Aleksandar Vučić, had told the press in that same year how much money each enterprise would get, it seems that the Ministry of Defence had little time to prepare an investment proposal and that this was done on orders from "up above". The investment proposal has never been made public.

Judging from these events, similar situations can be expected in 2020 with the Krušik concern, about which it was said in 2017 that it would not receive financial aid since, "it did not request money from the government".³²⁶ During a visit to this factory in 2022, President Vučić announced that: "We will pay everyone everything, so you can obtain new materials and pay for them from new contracts, instead of always being in arrears."³²⁷

324 The following three organisational units are in question: The Technical Test Centre (Decision on the Use of Current Budget Reserves 05 no. 401-5094/2017. "Official Gazette of RS" no. 54/2017), the Moma Stanojlović Aviation Institute (Decision on the Use of Current Budget Reserves 05 no. 401-5678/2017 "Official Gazette of RS" no. 60/2017) and the Technical Overhaul Institute Čačak (Decision on the Use of Current Budget Reserves 05 no. 401-5679/2017. "Official Gazette of RS" no. 60/2017),

325 Ministry of Defence, *Information on Ministry of Defence Activities for Period from April to June 2017*. Submitted to the Defence and Internal Affairs Committee of the National Assembly, 2017, p. 12. Made available to the BCSP by the National Assembly in response to a freedom of information request. Available on request,

326 "Vučić: Vlada u namensku industriju ulaže 43 miliona evra" ("Vučić: Government Investing 43 Million in Defence Industry"), *FoNet/Danas*, 20/04/2017. www.danas.rs/politika/vucic-vlada-u-namensku-industriju-ulaze-43-miliona-evra/, 28/04/2020.

327 Ministry of Defence, "Predsednik i vrhovni komandant Aleksandar Vučić posetio valjevski 'Krušik'" ("*President and Supreme Commander Aleksandar Vučić Visits Krušik Valjevo*"), 09/03/2020. <http://www.mod.gov.rs/lat/tekst/15147/predsednik-i-vrhovni-komandant-aleksandar-vucic-pose-tio-valjevski-krusik-15147>, 28/04/2020.

The budget of the Republic of Serbia for 2020 does not explicitly foresee any funds being made available for this financial aid. Additionally, it is unclear what document or analysis, nor what capacity development programme for the Serbian defence industry (of which Krušik is a part) the government could base its decision on.³²⁸ According to the Law on Manufacture and Trade in Arms and Military Equipment, the government was obligated to adopt both of these documents no later than January 2019.³²⁹

The Privileged Position of Certain Companies

The number of public procurement processes conducted by the Ministry of Defence in an open procedure, but for which only one bidder applies, is on the increase.

The open procedure is consistently applied to over 90 percent of public procurement (not including low-value public procurement or public procurement for the purposes of defence or security), which should foster competition. In practice, however, the reverse is true: In 2017, 66 percent of contracts awarded by the MoD were awarded to the only bidder that applied to the tender.³³⁰ In 2018, this percentage had increased to 70 percent and in 2019, to 77 percent. For the sake of comparison, from mid-2013 to 30 September 2016 only 24 percent of MoD procurement was conducted through an open procedure that attracted only one bidder.³³¹ The increase in the number of procedures that attract only one bidder indicates discriminatory tender conditions – i.e. that the procedure criteria are designed in order to target only one bidder³³² or that other potential bidders decide not to participate because they fear the tender could be “fixed”. On the other hand, it is possible that the MoD conducted their market research poorly and chose the wrong procedure for many procurements, but continuing to make these errors year after year is nonetheless cause for concern.

The MoI has done somewhat better. The Ministry of Interior also regularly conducts more than 90 percent of its procurements through an open procedure and, in 2019, 40 percent of procurements were conducted through an open procedure that attracted only one bidder.³³³ Even so, if the value of this procurement is taken into account, it becomes clear that over 50 percent of funds the Ministry of Interior spent on public procurement that year were spent on contracts awarded through an open procedure that attracted only one bidder. The amount in question is over three billion dinars (217 million euros).³³⁴

The risk of resources being “extracted” is particularly high in the defence industry. All of the largest manufacturers of arms and military equipment in Serbia are publically-owned (by the state, social capital, the National Fund for Pension and Disability Insurance or

328 Uredba o grupaciji Odbrambena industrija Srbije (*Ordinance on the Defence Industry of Serbia Conglomeration*). “Official Gazette of RS” no. 96/2019.

329 Uredba o grupaciji Odbrambena industrija Srbije (*Law on Manufacture and Trade in Arms and Military Equipment*). “Official Gazette of RS” no. 96/2019.

330 Author’s calculation based on data from the Ministry of Defence’s quarterly reports on concluded procurements, available at: mod.gov.rs/cir/4347/informator-o-radu-ministarstva-odbrane-4347, 28/04/2020.

331 Author’s calculation based on data from the “Crvene zastavice” website: www.crvene-zastavice.rs/filters?flags=7, 28/04/2020.

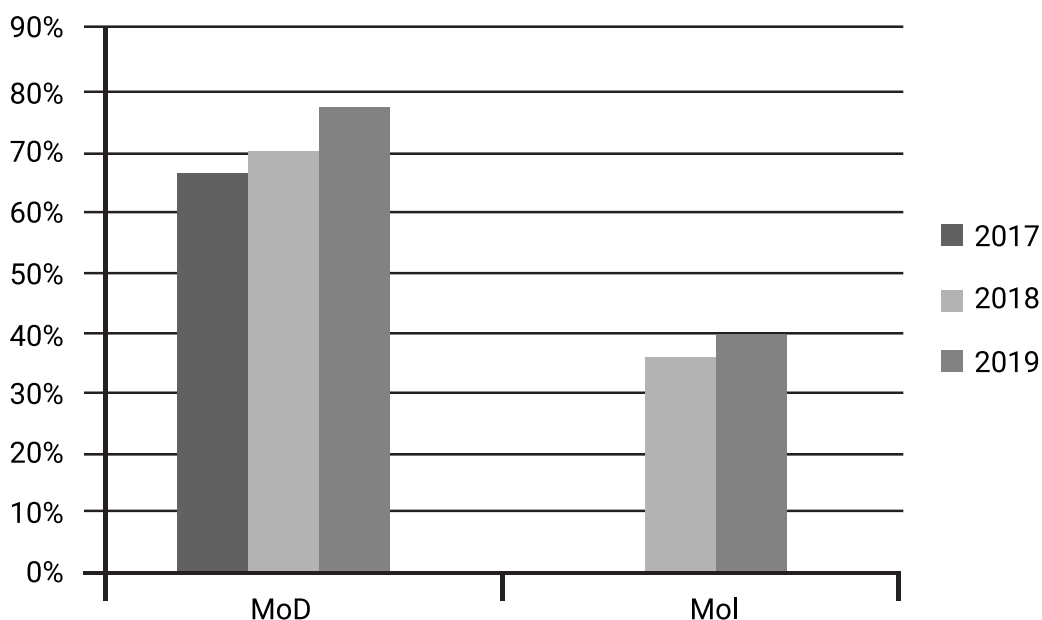
332 Compare: www.crvenezastavice.rs/red-flags.

333 Author’s calculation based on the MoI’s quarterly reports on concluded public procurements, which are available at: <http://mup.gov.rs/wps/portal/sr/finansije/nabavke/Plan+javnih+nabavki>.

334 Ibid.

local authorities).³³⁵ Since January 2020, these enterprises are officially part of the Defence Industry of Serbia conglomeration, which is administered by an inter-departmental government group, in which (as has been the case thus far, when it comes to these enterprises) the lead is taken by the Ministry of Defence. According to *Transparency International*, **direct links between arms manufacturers and political decision-makers make such enterprises vulnerable to illegitimate political influence in their business operations.**³³⁶ In practice, in Serbia this vulnerability attracted public attention when reports surfaced that a company, GIM, with links to the father of the Minister of Interior had purchased arms from the Krušik Holding Corporation at discounted rates and had made large profits from reselling these arms abroad.³³⁷

Graph 4 *Percentage of procurements conducted using open procedures that attracted only one bidder*³³⁸



335 Local authorities and other users of the budget towards which defence sector companies had outstanding debts (for example, for unpaid employer contributions, pension contributions and disability insurance or healthcare contributions) received shares in these companies as part of a debt to capital programme, that was adopted by the government of the day in 2013. (*“Ministry Continues to Resolve the Problems Faced by Zastava Arms”*), *Tanjug/RTS*, 24/04/2020.

336 Transparency International Defence and Security, “Defence Companies Anti-Corruption Index (DCI) 2019: Questionnaire and Model Answers”, 2019, <http://ti-defence.org/wp-content/uploads/2019/06/DCI-2019-final-QMA-published-190625.pdf>, 28/04/2020, p. 41

337 Aleksandar Đorđević and Jelena Veljković, “Trgovina oružjem: Povlašćena cena za oca ministra policije” (*“Arms Trade: Discount for Father of Police Minister”*). *Javno.rs*, 19/09/2019. <https://javno.rs/istrazivanje/trgovina-oruzjem-povlascena-cena-za-oca-ministra-policije>, 28/04/2020.

338 Author’s calculation based on MoD and Mol quarterly reports. Data for the Mol are available at: <https://bit.ly/35CPYwe>, 28/04/2020. Data for Mol for 2017 are incomplete, because the Mol did not publish a report on contracts for the 3rd quarter of that year, neither has, at the time of writing, this document been submitted to the BCSP in response to a freedom of information request.

The DRI Indicates Abuses by Intermediaries in the Arms Trade

In 2018, during an audit of financial reporting by three defence industry companies (HK Krušik Valjevo³³⁹, Sloboda Čačak³⁴⁰ and PPT namenska Trstenik³⁴¹), the State Audit Institution (*Državna revizorska institucija* – DRI) revealed a detailed picture of this problem. All of these companies sell their products abroad via brokers – i.e. middlemen. Contracts between these enterprises as clients and their agents stipulated that the agreed prices, rights and obligations of the contracting parties are in force until the sale of goods is concluded. In no case could they be altered without the written consent of both parties (the client and the commissioning agent).³⁴²

During the audit, several problems were identified. First, several agents failed to submit the invoices that they are obliged to submit to the client according to the Law on Contracts and Torts, so the defence industry enterprises showed income from international sales on the basis of prices from the contracts signed with the agents, rather than the actual prices. Once these agents submitted invoices and accompanying documentation during the audit, it became clear that one of them, GIM, invoiced higher prices to international buyers than those defined in its contracts with defence industry companies.³⁴³ The total difference in prices for all three companies for the two-year period from 2017 to 2018 is 20 million dollars (around 16.7 million euros). Therefore, the clients (the arms companies) not only did not provide written consent for the price change but were not even aware of it when they compiled their annual financial reports.

GIM justified the difference in prices in the accounts it eventually submitted as transportation costs, handling costs and the cost of international intermediaries and all three enterprises signed off on these accounts. The accounts, however, contained additional ‘red flags’:

- 1) The contracts between the three companies and GIM as the commissioning agent do not provide for the engagement of other intermediaries or that this kind of engagement would be recuperated from the sales price.³⁴⁴
- 2) There is no record of the principle according to which GIM allocated intermediary costs to each of the three clients it worked with. For example, GIM concluded a contract with Dubai-based TGT General Trading, according to which this company will act as an intermediary for GIM by finding international buyers and bringing them to Serbia to negotiate sales deals for Serbian defence products. The price of this service is not fixed by the contract but is defined by an annex to

339 Državna revizorska institucija (2019a). Izveštaj o reviziji finansijskih izveštaja Holding korporacije „Krušik” a.d. Valjevo za 2018. godinu (Report on Audit of Financial Reports of the Krušik Valjevo Holding Corporation for 2018). No. 400-912/2019-06/11. Belgrade, 30/12/2019. www.dri.rs/php/document/download/2587/1.

340 Državna revizorska institucija (2019b). Izveštaj o reviziji finansijskih izveštaja kompanije „Sloboda” Akcionarsko Društvo Čačak za 2018. godinu (Report on Audit of Financial Reports of the Sloboda Čačak Public Limited Company for 2018). No. 400-964/2019-06/12. Belgrade, 30 December 2019. <http://dri.rs/php/document/download/2536/1>.

341 Državna revizorska institucija (2019c). Izveštaj o reviziji finansijskih izveštaja Privrednog društva za proizvodnju namenskih proizvoda „PPT-namenska” AD Trstenik, za 2018. godinu (Report on Audit of Financial Reports of PPR Namenska Trstenik Limited Company for 2018). No. 400-1353/2019-06/12. Belgrade, 30 Decembar 2019. www.dri.rs/php/document/download/2534/1.

342 DRI (2019a), p. 71; DRI (2019b), p. 65; DRI (2019c), p. 56.

343 DRI (2019a), p. 73; DRI (2019b), p. 67; DRI (2019c), p. 57.

344 DRI (2019a), p. 77; DRI (2019b), p. 69; DRI (2019c), p. 61.

the contract each time the service is provided. GIM did not submit the annexes of this contract to its clients as part of the documentation accompanying its accounts.³⁴⁵

- 3) The documentation submitted along with the accounts was in any case incomplete. GIM submitted invoices from a company that organised air transport for the exported goods but not invoices from the transport company to the air cargo company³⁴⁶, which would make it possible to ascertain whether the air transport service really cost that much.

The DRI's finding, that the internal financial controls at HK Krušik "do not completely ensure effective management and protection for resources provided by Society", is highly telling.³⁴⁷

GIM attracted particular attention because of its links to the father of the Minister of Interior. Reports by investigative journalists indicate that he was present at numerous meetings as part of the GIM delegation and that he is a co-owner of another company with the owner of GIM³⁴⁸, as well as the fact that he participated in the official delegation of the Ministry of Interior during a visit to Italy's Berretta arms manufacturer.³⁴⁹ This indicates a possible conflict of interests. The situation warrants even greater attention since GIM's income recorded a sharp increase in 2017.³⁵⁰ Also, in recent years, several private companies have an increasingly significant role pertaining to publically-owned Jugoimport and its export of arms and military equipment.³⁵¹ This alone is not necessarily problematic, but for the sake of the integrity of the Defence Industry of Serbia group and for the export of arms and military equipment, it is important to ensure that no intermediary company that works with the **defence industry should have a privileged position, either formally or informally**, and that all stakeholders are equally subjected to controls in accordance with the law.

Undue privilege can also exist for a company when it comes to leasing agricultural land with which the Ministry of Defence disposes and manages through the Morović Military Institution (*Vojna ustanova* – VU). For example, in 2014 the government of Serbia signed a joint investment agreement with Al Rawafed International Investment. According to the terms of the agreement, Al Rawafed Srbija, 80 percent of which is owned by its parent company and 20 percent by Serbia, leases agricultural land managed by VU Morović for periods of 30 years.³⁵² Since the agreement was signed on the basis of an

345 DRI (2019a), p. 77; DRI (2019b), p. 69; DRI (2019c), p. 60.

346 DRI (2019a), p. 76; DRI (2019b), p. 69; DRI (2019c), p. 60.

347 DRI (2019a), p. 4.

348 "NIN: Branko Stefanović napustio zajedničku firmu sa vlasnikom GIM-a" (*"NIN: Branko Stefanović Quits Company Co-Owned with Owner of GIM"*). Beta/N1, 20/11/2019. <http://rs.n1info.com/Vesti/a545559/NIN-Branko-Stefanovic-napustio-zajednicku-firmu-sa-vlasnikom-GIM-a.html>, 28/04/2020.

349 Đorđević, A. "Otac ministra na službenom putu sa vrhom srpske policije" (*"Father of Minister on Business Trip with Serbian Police Leadership"*). Javno.rs, 20/12/2019. <https://javno.rs/istrazivanja/otac-ministra-na-sluzbenom-putu-sa-vrhom-srpske-policije->, 28/04/2020.

350 Đorđević, A. and S. Georgiev. "Otac ministra policije prodaje oružje Saudijcima" (*"Father of Police Minister Selling Arms to Saudis"*). Javno.rs, 22/11/2018. <https://javno.rs/istrazivanja/otac-ministra-policije-prodaje-oruze-saudijcima>, 28/04/2020.

351 Ilić, M. "Krušiku' država zabranila ugovoreni posao, odobrila ga privatnoj firmi" (*"Krušik Contract Cancelled by State and Awarded to Private Company"*). Pištaljka/NUNS, 16/10/2019. <http://www.nuns.rs/info/news/44932/krusiku-drzava-zabranila-ugovoreni-posao-odobrila-ga-privatnoj-firmi.html?print=true>, 28/04/2020.

352 Ugovor o zajedničkom ulaganju između Republike Srbije i Al Rawafed International Investment LLC (*Agreement on Joint Investment by the Republic of Serbia and Al Rawafed International Investment LLC*), 04/07/2014. https://media.srbija.gov.rs/medsrp/dokumenti/ugovor_ulaganje_izmedju_srbije_i_al_rawafed2014.pdf, 28/04/2020.

international agreement, the leasing of this land was not subject to an auction – in other words, the application of relevant regulations was bypassed.

The tenant has undertaken to pay compensation of 250 euros per hectare in the first ten years, as well as to share 20 percent of its profits to the Ministry of Defence. In the following period, however, as the press uncovered, the average price of renting land in the area was 250 euros per hectare.³⁵³ In March 2017, the then Minister of Defence confirmed that this company has yet to pay the ministry any kind of compensation for using the land.³⁵⁴ In 2017, the Ministry of Defence reported to the relevant National Assembly committee that the Abu Dhabi-based owner of Al Rawafed Srbija has proposed that the MoD accept the payment of 100,000 euros for 2015 and 200,000 euros for 2016 as final.³⁵⁵ Given that, according to media reports, the Ministry of Defence leased 3,500 hectares of land³⁵⁶ to Al Rawafed Srbija, this means that **only for 2015 and 2016 the Republic of Serbia would be short 1.47 million euros**, even though the lease was discounted in the first place. The Ministry of Defence also reported to the committee that it had signed an annex to the protocol on defining the guidelines and accounts for profit sharing.³⁵⁷ This document has not been published.

Weakening External Oversight

External oversight of financial governance and procurement as conducted by the National Assembly and independent state institutions has been weakened in three different ways: the overseeing bodies have shown little will to engage in serious oversight, the security sector institutions ignore their obligations to external oversight bodies and amendments to legislation narrow the field for oversight. On the other hand, it is commendable that the State Audit Institution has remained active in oversight of security sector institutions and has completed its first audit of financial reporting by defence industry companies.

The first of these refers primarily to the National Assembly, where a “culture of discretion” traditionally prevails – in other words, there is a consensus between the parties that the financial operations of security sector institutions should not face too much scrutiny and that it does not need to be overly transparent.³⁵⁸ For example, during the 2012-2014 parliament convocation, members of the Security Services Control

353 “Koliko košta zakup zemljišta u vlasništvu Vojne ustanove Morović? - “Al Rawafed” zakupio oranice, prinosi i prihodi nepoznati” (*“How Much Does it Cost to Lease Land from the Morović Military Institution? – Al Rawafed Leases Fields, Profits Unknown”*). eKapija/seebiz.eu, 20/05/2016. www.ekapija.com/news/1443115/koliko-kosta-zakup-zemljista-u-vlasnistvu-vojne-ustanove-morovic-al-rawafed-zakupio, 28/04/2020.

354 Janković, J. “Firma iz UAE dve godine ne plaća zakup zemljišta” (*“UAE Company Hasn’t Paid Rent for Two Years”*). *Insajder*, 01/3/2017. <https://insajder.net/sr/sajt/tema/3221/>, 28/04/2020.

355 Ministry of Defence, *Information on Ministry of Defence Activities for Period from April to June 2017*. Submitted to the Defence and Internal Affairs Committee of the National Assembly, 2017, p. 17. Made available to the BCSP by the National Assembly in response to a freedom of information request. Available on request,

356 Katarina Đokić & Vladimir Erceg, *Parliamentary Oversight and Integrity Building in Security Institutions*, Belgrade Centre for Security Policy, Belgrade, 2014, p. 29, www.bezbednost.org/BCSP/5589/Parliamentary-Oversight-and-Integrity-Building-in.shtml.

357 “Transkript: Čija je zemlja...” (*“Transcript: Who’s Land Is It Anyway”*), *Insajder*, 18/04/2017, <https://insajder.net/sr/sajt/bezograncenja/4263/>, 28/04/2020.

358 Ministarstvo odbrane, *Informacija o radu Ministarstva odbrane za period april - jun 2017. godine* (Information on Ministry of Defence Activities for Period from April to June 2017), p. 29.

Committee agreed that the budgets of the security services should not be displayed as appropriations, lest this reveals information on the operations and functional capacities of the services.³⁵⁹ Among other things, this enabled the aforementioned 2014 amendment to the Law on the Budget System, which limited the financial transparency of the BIA to publishing only the aggregated amount of its annual budget.

When it comes to independent state institutions, there are indications that their authority over the security sector is in decline and that institutions and enterprises from this sector ignore their obligations towards these oversight bodies. When it comes to the Commissioner for Information of Public Importance and Personal Data Protection, this phenomenon of being ignored is evident across the state sector. An indicator for this is a sharp increase in cases where the Commissioner was forced to ask the government to enforce his decisions that occurred in 2016. The Commissioner submits these requests to the government only when all other means at this office's disposal have been exhausted and the institution or publically-owned company continues to refuse to comply with the Commissioner's decisions.

The Security Sector Conceals Financial Data Even From the Commissioner

While the Commissioner was forced to turn to the government for assistance on average 12 times a year in the period from 2010 to 2015, in 2016 he requested enforcement by the government in 61 cases, while a high instance was also recorded in 2017 (43 times), 2018 (65) and 2019 (52).³⁶⁰

Analysis of the Commissioner's annual reports turns up occasional omissions by the security services when it comes to providing information of public importance regarding finances: for example, in 2012, only upon the intervention of the Commissioner did the Ministry of Defence submitted a copy of its report by the budget inspection on the emergency audit at the ministry.³⁶¹ However, in recent years there have been a number of cases in which the Commissioner was unable to access the contested documents in order to confirm whether the requested information on defence sector finances was withheld with good reason. For example, the Minister of Defence did not submit documents pertaining to the procurement of helicopters and planes so that he could decide on the complaint submitted by a journalist whom the MoD refused to inform on the cost of the procurement.³⁶² Also, the publically-owned enterprise, Jugoimport, has

359 Security Services Control Committee, *Izveštaj Odbora za kontrolu službi bezbednosti o izvršenom nadzoru nad radom službi bezbednosti za 2012. godinu* (Report of the Security Services Control Committee on Completed Oversight of the Security Services for 2012), Belgrade, 29/03/2013, p. 9.

360 Data taken from the annual reports of the Commissioner for Information of Public Importance and Personal Data Protection, available at: www.poverenik.rs/sr/izvestaji-poverenika.html, 28/04/2020.

361 Commissioner for Information of Public Importance and Personal Data Protection (2013), *Izveštaj o sprovođenju Zakona o slobodnom pristupu informacijama od javnog značaja i Zakona o zaštiti podataka o ličnosti, za 2012. godinu* (Report on Implementation of Law on Free Access to Information of Public Importance and Law on Personal Data Protection for 2012). Belgrade, March 2013, <https://www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2018/cirGI2018.pdf>, 28/04/2020, pp. 36-7

362 Commissioner for Information of Public Importance and Personal Data Protection (2019), *Izveštaj o sprovođenju Zakona o slobodnom pristupu informacijama od javnog značaja i Zakona o zaštiti podataka o ličnosti, za 2018. godinu* (Report on Implementation of Law on Free Access to Information of Public Importance and Law on Personal Data Protection for 2019). Belgrade, March 2019, <https://www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2018/cirGI2018.pdf>, 28/04/2020, p. 13.

not shared contracts on the donations it made between 01 January 2012 and 26 July 2017.³⁶³ By way of reminder, during this time Jugoimport donated around 20 million euros to the Ministry of Defence, for the purchase of Mi-17 helicopters. This money did not pass through the national budget.

The Public Procurement Administration (*Uprava za javne nabavke* - UJN) had not been receiving regular quarterly reports on concluded public procurements from defence sector institutions.³⁶⁴ In 2018, these institutions also failed to submit reasoned reports to the UJN and DRI on why some bidders were awarded contracts whose value exceeded the estimated value of the procurement.³⁶⁵ It is worth mentioning that between 2017 and 2019, the DRI completed audits of the Ministry of Defence, Security Information Agency, as well as the aforementioned military institutions, the Social Security Fund for Military Insurees, the publically-owned company Jugoimport and six other defence industry companies that are (majority) owned by the state or the public. These audits resulted in a series of important findings and recommendations, and the DRI did not protest that any of the subjects of its audits tried to prevent it from doing its job.

A direct narrowing of space for external oversight of defence and security sector procurement was introduced with the new Law on Public Procurement, which came into force in July 2020. Unlike the previous law, this new iteration does not require procurers to submit annual reports to the National Assembly (or to the relevant National Assembly committee) either on concluded defence or security sector public procurements (to which certain provisions of the law do not apply due to the data being classified) nor on defence or security sector procurement to which the law is not at all applicable. Contracting authorities will not be required to report even to the government, which completely restricts any kind of external oversight of “classified” procurement. The role of the government remains only to decide which procurement procedures the law will not be applicable to, except in specific circumstances determined by the law in which the law will automatically not apply. Unlike its predecessor, this new law does not

363 Commissioner for Information of Public Importance and Personal Data Protection (2018), *Izveštaj o sprovođenju Zakona o slobodnom pristupu informacijama od javnog značaja i Zakona o zaštiti podataka o ličnosti, za 2017. godinu* (Report on Implementation of Law on Free Access to Information of Public Importance and Law on Personal Data Protection for 2019). Belgrade, March 2018, www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2018/cirGI2018.pdf, 28/04/2020, p. 14.

364 The Law on Public Procurement that came into force in July 2020 requires procurers to submit quarterly reports to the Public Procurement Administration on concluded procurements, as well as concluded procurements to which the law was not applicable. (Law on Public Procurement, “Official Gazette of RS”, nos. 124/2012, 14/2015 and 68/2015, Article 132).

365 All of the mentioned obligations stem from the Law on Public Procurement and breaches thereof were established by the DRI through audits of the legality of the business operations of the Beograd military construction company and the Tara and Dedinje military institutions. (State Audit Institution. 2019. *Report on the Legality of the Business Operations of the Beograd Military Construction Company for 2018* in the section on establishing, calculation and payments of payroll, public procurement and the allocation of profits. No. 400-1285/2019-03/11. Beograd, 2.12.2019. www.dri.rs/php/document/download/2389/1, 28/04/2020, p. 3; State Audit Institution. 2019. *Report on the Legality of the Business Operations of the Tara Bajna Bašta Military Institution for 2018* in the section on establishing, calculation and payments of payroll, public procurement and the allocation of profits. No. 400-1287/2019-03/12, Belgrade, 02/12/2019, www.dri.rs/php/document/download/2374/1, 28/04/2020, p. 3; State Audit Institution. 2019. *Report on the Legality of the Business Operations of the Dedinje Beograd Military Institution for 2018* in the section on establishing, calculation and payments of payroll, public procurement and the allocation of profits. No. 400-1287/2019-03/12, Belgrade, 02/12/2019, www.dri.rs/php/document/download/2374/1, 28/04/2020

require the government to decide on classified procurement implementation based on plans submitted by contracting authorities and to report to the appropriate parliamentary committee about such decisions. Instead it gives it completely free rein to regulate the procedures and manner of conducting public procurement of this kind through an act of secondary legislation. In practice, no National Assembly committee has deliberated on any defence or security sector public procurement to which the law applies. A possible explanation for this is that the “old” law was vague about which National Assembly committee is actually responsible for this matter – is it the committee responsible for financial matters or one of the committees tasked with security sector oversight (the Security Services Control Committee or the Defence and Internal Affairs Committee)? What is more, previous research undertaken by the BCSP shows that even in the committees responsible for the security sector not all of the members managed to get security clearance in a timely fashion.³⁶⁶ In practice, this puts the breaks on oversight and the conclusion of procurement in the defence and security sector. Instead of the National Assembly seeking to resolve these practical problems, it passed the new Law on Public Procurement that, on paper, curtails the National Assembly’s ability to oversee this sector.

Conclusion

Spending by security sector institutions has seen a growing trend in recent years but their transparency and external oversight of financial governance have declined in parallel. This is not just about how institutions behave in practice: since 2014 we have seen changes to the legislative framework that have resulted in external oversight institutions being deprived of some of their competencies and that have legalised the use of official secrecy to avoid decision-makers’ accountability. At the same time, informal financial governance is becoming more evident. The competitiveness of public procurement is also in decline. The privileged position of some agents in the arms trade is doing harm to manufacturers of arms and military equipment that are publically-owned (whether it be ownership by the state, the public or local authorities). This means that greater investment in the security sector does not necessarily result in the development of its capabilities or, at the end of the day, improved security for ordinary people. Instead, it increases the risk of public money being diverted to private pockets and the strengthening of clientelist networks.

366 Predrag Petrović, Katarina Đokić. *Slippery Slopes of the Reform of Serbian Security Services*. Belgrade Centre for Security Policy, Belgrade, 2017, p. 23, www.bezbednost.org/All-publications/6584/Slippery-Slopes-of-the-Reform-of-Serbian-Security.shtml.

Capturing the Overseers of the Security Sector – The National Assembly

Marija Ignjatijević

The National Assembly is one of the pillars of democratic civilian control that should stand as a bulwark of democracy and accountability of security sector institutions to prevent their abuse for the purpose of furthering state capture. Even though it is not itself part of the security sector, as the highest representative body, the National Assembly ensures the accountability of security sector actors to citizens and other institutions through its oversight and legislative roles.

However, the last two National Assembly convocations (2014-2016 and 2016-2020) have been characterised by a trend of simulating parliamentary control of the security sector. The role of the National Assembly, and particularly the relevant committees thereof, has been reduced to rubber-stamping decisions already made by the executive. No substantive discussions on current security issues, nor on the planning or expenditure of budgetary resources or other sensitive topics, have been conducted either in the plenary sittings or at committee meetings. The legislative and oversight functions of the Assembly are used to lawfully alter the rules of the game and reduce the level of oversight of security sector abuses. The capture of the National Assembly has two dimensions: a) the obstruction of the work of parliament and the prevention of substantive debate, and b) changes to the content of legislation enabling the capture of the security sector.³⁶⁷ Greater detail on changes to specific laws is available in the sections analysing the capture of individual security sector institutions. This chapter will analyse the ways in which meaningful discussion in plenary sessions and committees has been blocked and how, through the ignoring of mechanisms such as parliamentary questions and inquiry committees, oversight has been prevented.

Obstruction of Discussion in the Legislative Process

The legislative process has been abused to disrupt the work of the Assembly and prevent substantive debate, using mechanisms such as the adoption of numerous laws using fast-tracked legislative procedure, the submission of large volumes of amendments, and similar. During the last convocation (2016-2020), around 35 percent of laws were passed using urgent procedure.³⁶⁸ When it comes to legislation governing the security sector, from early 2016 to late 2019 as many as 14 of 33 laws were passed using accelerated procedures.³⁶⁹ Bearing in mind the nature of the amendments, which did not on the whole require any urgency, this practice leaves the impression that accelerated procedures were used to bypass public discussion. Fast-tracked legislative

367 Kažoka, I. "Monitoring State Capture in Parliament. A Handbook.", *Centre for Public Policy PROVIDUS, Riga*, 2017. http://deputatuzdelnas.lv/assets/upload/userfiles/files/Delna_en.pdf.

368 *Otvoreni parlament*. "Zakoni po hitnom postupku" ("Fast-Tracked Law"), <https://otvoreniparlament.rs/statistika/zakoni-po-hitnom-postupku>, 30/04/2020.

369 Novković, M. and Miladinović, U. "Parlamentarni nadzor nad sektorom bezbednosti" ("Parliamentary Oversight of the Security Sector"), *preUgovor*, 27/12/2019. www.preugovor.org/Infografici/1576/Parlamentarni-nadzor-nad-sektorom-bezbednosti.shtml

procedures hinder discussion in the National Assembly and prevent consultations with various interested parties beyond its chamber – such as civil society, the academic community, the press and the public. For example, in the spring of 2018, urgent procedure was used to pass amendments to the Law on Conscription, Labour and Requisition that enabled the reintroduction of training for reservists who had not completed their military service, as well as the introduction of defence education for high school students. These legislative changes enabled two activities that directly impact on all of Serbia's citizens but any broader, expert-based discussion of this topic was prevented.³⁷⁰

Similarly, in August 2017, amendments and addenda to the Law on the BIA were presented to the Assembly, again using urgent procedure. These amendments introduced greater discretionary powers for the director of the Agency in terms of managing human resources and reduced the scope for oversight, limiting transparency.³⁷¹ The urgency of these amendments was justified with the argument that without them the Agency could not effectively perform its function and protect the constitutional order and security of the country. In spite of this, the proposed amendment was not adopted until several months later in May 2018.³⁷²

Another in the series of abuses used by the MPs of the ruling coalition was **the submission of enormous numbers of amendments** with the same or similar content, in order to reduce the time available for discussion and to prevent opposition MPs from voicing their opinions on various proposals. This practice sprung to life with the adoption of the Draft Law on the Budget in 2018, when hundreds of amendments were affixed to existing items on the agenda, **only to be withdrawn later**.³⁷³ Since February 2019 most opposition MPs (55 out of 88) ceased to take part in the activities of the National Assembly³⁷⁴ due to the abuse of parliamentary procedures and the monopolisation of the Assembly by the ruling coalition.³⁷⁵ Only in late 2019, when most opposition MPs were assuredly boycotting the Assembly, was the Draft Law on the Budget for 2020 deliberated upon in the legally prescribed timeframe. Another mechanism is manipulation with deadlines – that is, deliberately delayed submission of a draft budget, which prevents deputies from preparing for the discussion or proposing amendments. In 2015, 2016 and 2017, for example, deputies had only 8 days' warning, even though the law stipulates that 45 days should be allowed for deliberation on the budget.³⁷⁶

370 Ignjatijević, M. "Zakonske izmene kao reakcija na odliv kadrova iz sistema odbrane" (*"Legislative Changes as a Response to Personnel Outflow"*), *Beogradski centar za bezbednosnu politiku*, March 2020. <http://bezbednost.org/Sve-publikacije/7214/Zakonske-izmene-kao-reakcija-na-odliv-kadrova-iz-shtml>.

371 P. Petrović, „Comments on the Draft Amendments and Supplements to the Law on Security Information Agency (BIA)”, BCSP, 2017, www.bezbednost.org/All-publications/6715/Comments-on-the-Draft-Amendments-and-Supplements.shtml, 20/4/2020.

372 Milenković, M. R. "Direktoru BIA veća ovlašćenja" (*"More Powers for BIA Director"*), *Danas*, 09/05/2018. www.danas.rs/politika/direktoru-bia-veca-ovlascenja/, 28/04/2020.

373 Đurić, M. "Skupština završila rad, "ukradeno" vreme za amandmane" (*"National Assembly Finished, Time for Amendments 'Stolen'"*), *N1*, 13/12/2017. <http://rs.n1info.com/Vesti/a349103/Rasprava-o-budzetu-u-Skupstini.html>, 28/04/2020.

374 Ilić, V. "Bojkot parlamenta i šta posle" (*"Boycot of Parliament, What Next?"*), *Istinomer*, 15/04/2019. www.istinomer.rs/analize/bojkot-parlament-a-i-sta-posle/, 28/04/2020.

375 "Poslanici opozicije bojkotuju sednice parlamenta" (*"Opposition Parliamentarians Boycot Parliament"*), *Danas*, 11/12/2019. www.danas.rs/politika/poslanici-opozicije-bojkotuju-sed-nice-parlament-a/, 28/04/2020.

376 "Budžet – instrument za obračune i podmirivanja" (*"The Budget – Instrument for Settling Scores"*), *Istinomer*, 28/11/2019. www.istinomer.rs/analize/budzet-instrument-za-obracune-i-pod-mirivanja/, 28/04/2020.

Weak Oversight

National Assembly MPs have not been using the mechanisms at their disposal to proactively monitor the work of the security sector, particularly in those areas that are susceptible to abuse, such as public procurement, finance or human resources management. **Parliamentary questions** were inadequately and infrequently utilised during the past convocation. The last Thursday of every month is set aside for deputy questions, however the speaker has the ability to avoid its scheduling if there is a justifiable reason. As a result, parliamentary questions sittings have been scheduled only 14 times in the last four years.³⁷⁷

MPs have also not been effective in reacting to serious incidents and affairs that pertain to the security sector. The National Assembly has not approved the establishment of **inquiry committees** to investigate current events and affairs involving the security sector, even though this has been proposed numerous times. By the end of 2019, proposals for the formation of inquiry committees to investigate the Savamala affair³⁷⁸ were ignored 35 times, 24 times in the case of the Helicopter scandal³⁷⁹ and 13 times for the wiretapping affair.³⁸⁰ These scandals are a clear indicator of state capture and have been covered in greater detail in the chapters focusing on individual security sector actors. Additionally, in July 2019, for the first time in a parliamentary session lasting three years did the National Assembly adopt annual reports submitted by independent state bodies – the Ombudsman of Serbia, the Commissioner for Information of Public Importance and Personal Data Protection (the Commissioner) and the Anti-Corruption Agency – that had earlier pointed out abuses in the security sector.³⁸¹ The adoption of these reports occurred after the European Commission voiced its dissatisfaction but also resulted in changes to the leadership of these institutions.

When it comes to the Defence and Internal Affairs Committee and the Security Services Control Committee, their role has largely been reduced to the adoption of draft laws and international agreements on autopilot and to adoption of reports on the activities of security sector actors in a lackadaisical manner. The minutes from the meetings of these committees, at which draft laws are voted on, abound in phrases such as “with no discussion” or “adopted unanimously”, which indicates that no discussion was to be had. None of these committees has discussed a draft budget for a security sector institution in four years.

By late 2019, 36 of the 39 meetings of the **Defence and Internal Affairs Committee** were open to the public, which is a positive trend in terms of parliamentary transparency. A “culture of discretion” nonetheless came to the fore in 2018, when the Defence and Internal Affairs Committee deliberated on four quarterly Ministry of Defence reports at one meeting, which was closed to the public.³⁸² Given that previous meetings of this

377 National Assembly, “Deputy Questions”, www.parlament.gov.rs/aktivnosti/narodna-skupstina-poslanicka-pitanja.1251.html, 28/04/2020.

378 For more, see the chapter on capturing the police.

379 For more, see the chapter on capturing the defence system.

380 Novković, M. and Miladinović, U. “Parlamentarni nadzor nad sektorom bezbednosti” (“Parliamentary Oversight of the Security Sector”), *preUgovor*, 27/12/2019. www.preugovor.org/Infografici/1576/Parlamentarni-nadzor-nad-sektorom-bezbednosti.shtml

381 “Skupština Srbije usvojila izveštaje nezavisnih institucija” (“Serbian Parliament Adopts Reports of Independent Institutions”), *Danas*, 15/07/2019. www.danas.rs/drustvo/skupstina-srbije-usvojila-izvestaje-nezavisnih-institucija/, 28/04/2020.

382 This was the 19th meeting of the Security Services Control Committee during this parliamentary session, held 15 October 2018. On the occasion, the committee deliberated on quarterly reports from the MO for the last two quarters of 2017 and the first two quarters of 2018, www.parlament.gov.rs/19_sednica_Odbora_za_odbranu.34969.43.html, 28/04/2020.

committee that deliberated on information pertaining to the Ministry of Defence were open to the public and that the ministry's report is available upon the submission of a freedom of information request, the reasons for this change remain unclear.

The duration of the meetings is also an indicator of the quality of debate that takes place at the Defence and Internal Affairs Committee. The average duration of the meetings in the current parliamentary session was 54 minutes, while some meetings lasted only a few minutes. The longest session lasted 245 minutes and the shortest just five. An illustrative example is a meeting held in late 2019 when 28 minutes were spent deliberating drafts of the most important strategic documents – the National Security Strategy and the Defence Strategy, amendments to two laws, an international agreement and a Decision on Deployment of the Serbian Armed Forces to Multinational Operations. All of the proposals were adopted and forwarded to the plenum without discussion.³⁸³

Similarly, the **Security Services Control Committee** adopted amendments to the Law on the BIA in just eight minutes, even though 40 amendments had been submitted, all of which were rejected.³⁸⁴ The meetings of this committee are largely closed to the public, with only three of 37 being open to the public – which is a significant change when compared to previous sessions of parliament. The bulk of this committee's work has been reduced to deliberating on reports on the activities of the security services and the oversight institutions, as well as reports on supervisory visits. The public remained deprived of any more detailed information, given the fact that the reports of this committee's meetings largely contain little more than generalised conclusions and praises for the security services.

It seems that the supervisory visits are only organised in order to tick the relevant boxes, as most are attended only by ruling coalition MPs and the conclusions of the visits found in publically available reports are very vague – including, as they do, phrases such as, “the security services operate in accordance with the law and within their competences and tasks”. On the other hand, over the last year the Committee has been transformed into a body whose primary purpose is to express public support for the leadership of the ruling coalition, particularly the leader of the largest party, Aleksandar Vučić. This can be seen from the reports of some of the Committee's meetings³⁸⁵ and from the fact that the Committee gave out awards to the Minister of Interior, Nebojša Stefanović, the then state secretary of the Mol, Dijana Hrkaloović, the then director of the police, Vladimir Rebić³⁸⁶ and to the Minister of Defence, Aleksandar Vulin.³⁸⁷

383 Narodna skupština. “35. sednica Odbora za kontrolu službi bezbednosti” (“35th Meeting of the Security Services Control Committee”), 31/12/2019. www.parlament.gov.rs/35_sednica_Odbora_za_odbranu_i_unutra%C5%A1nje_poslove.38347.941.html, 28/04/2020.

384 Narodna skupština. “20. sednica Odbora za kontrolu službi bezbednosti” (“20th Meeting of the Security Services Control Committee”), 03/5/2018. www.parlament.gov.rs/20_sednica_Odbora_za_kontrolu_sluzbiBezbednosti.33886.941.html, 28.4.2020.

385 See, for example: statements from 19th and 29th meetings of the Security Services Control Committee dated 30/03/2018 and 23/05/2019, National Assembly of the Republic of Serbia, www.parlament.gov.rs/aktivnosti/narodna-skupstina/radna-tela/odbori-pododbori-radne-grupe.2385.html, 30/04/2020.

386 “Skupštinski odbor dodelio nagrade Stefanoviću, Hrkaloović i Rebiću” (“Parliamentary Committee Hands out Awards to Stefanović, Hrkaloović and Rebić”). N1. 08/04/2019, <http://rs.n1info.com/Vesti/a474581/Skupstinski-odbor-dodelio-nagrade-Stefanovicu-Hrkalovic-i-Rebicu.html>, 18/11/2019.

387 “Ministru Vulinu uručena Plaketa skupštinskog Odbora za bezbednost” (“Minister Vulin Awarded Plaque by Parliamentary Security Committee”). Ministarstvo odbrane Republike Srbije, 19/07/2019, www.mod.gov.rs/lat/14197/ministru-vulinu-urucena-plaketa-skupstinskog-odbora-za-bezbednost-14197, 20/4/2020.

Only a few of the National Assembly members who take part in these committees have the **security clearance** necessary to access classified information and properly perform their oversight function. By 1 June 2017, almost a year after the committee was formed, only seven of 18 members and deputy members of the Security Service Control Committee (all from the ruling coalition) had security clearance.³⁸⁸ According to information received by the BCSP in March 2019, during the current convocation only 29 security clearance certificates had been issued to allow MPs access to classified information.³⁸⁹ However, the National Assembly and the Office of the National Security Council, which approves security clearance certificates, refused to provide the names of the deputies who have security clearance.

Using Parliamentary Discussion to Discredit Other Sector Overseers

The quality of the parliamentary debate has been degraded through the abuse of existing mechanisms but also through the use of sittings for political point scoring, attacks on the opposition, on civil society and on the media. Discussions often deal only with daily politics and not with the items on the agenda. So, a three-day sitting of parliament discussing the new National Security Strategy and Defence Strategy mostly dealt with ongoing events in Montenegro in late 2019 and the interpretation of historical events. Also, sittings are used to attack and discredit critical voices. One MP from the ruling coalition used his time to challenge the right of journalists to investigate security issues, emphasising that their inquiries are tendentious and “aim to destroy the security system of the Republic of Serbia”³⁹⁰. Of great cause for concern is the characterisation of the right to free access to information of public importance as a threat to the security of the state. The podium of the National Assembly is used to attack civil society organisations and individuals who are critical of, for example, amendments to the Constitution or the media who investigate and cover organised crime, corruption and deconstruct fake news and similar phenomena.³⁹¹ In addition to this, sittings of the National Assembly are frequently used to discredit independent state institutions that have pointed out irregularities and abuses in the security sector. In evaluating the legality of conduct by VBA operatives at the 2014 Pride Parade, instead of making use of findings by the Ombudsman, initiating changes to regulations and establishing who is accountable,

388 Predrag Petrović, Katarina Đokić. *Slippery Slopes of the Reform of Serbian Security Services*. Belgrade Centre for Security Policy, Belgrade, 2017, p. 23, www.bezbednost.org/All-publications/6584/Slippery-Slopes-of-the-Reform-of-Serbian-Security.shtml.

389 Novković, M. and Miladinović, U. “Parlamentarni nadzor nad sektorom bezbednosti” (“Parliamentary Oversight of the Security Sector”), *preUgovor*, 27/12/2019. www.preugovor.org/Infografici/1576/Parlamentarni-nadzor-nad-sektorom-bezbednosti.shtml

390 “SNS u skupštini osporava ustavna prava novinara” (“SNS in Parliament Denies Constitutional Rights for Journalists”), N1, 11/07/2019. <http://rs.n1info.com/Vesti/a499047/SNS-u-Skupstini-osporava-ustavna-prava-novinarima-i-NVO.html>

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at a meeting in January 2015 the Committee practically interrogated the Ombudsman and tried to establish his accountability for initiating checks in the wake of the incident.³⁹²

Instead of being the bearers of oversight and advocates of transparency, the MPs of the ruling coalition have contributed to the narratives established by the executive about independent actors being the *enemies of the state*. Such practice enabled labelling and discrediting of critical voices, which has further degraded the oversight of the security sector. The opposition's boycott has certainly had an impact on the quality of discussion. Even though opposition MPs were easily drowned out, before the boycott it was at least possible to hear critical voices in the chamber. Since the boycott began, the ruling coalition uses sittings to attack and discredit the opposition but also civil society and the media, while comprehensive debates on security policy and important events with security implications have been severely lacking.

392 A video recording of a meeting is available at: 13. sednica Odbora za kontrolu službi bezbednosti, 28/01/2015, Narodna skupština, http://www.parlament.gov.rs/13_sednica_Odbora_za_kontrolu_slus%C5%BEbi_bezbednosti.24170.941.html, 15/04/2017.

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