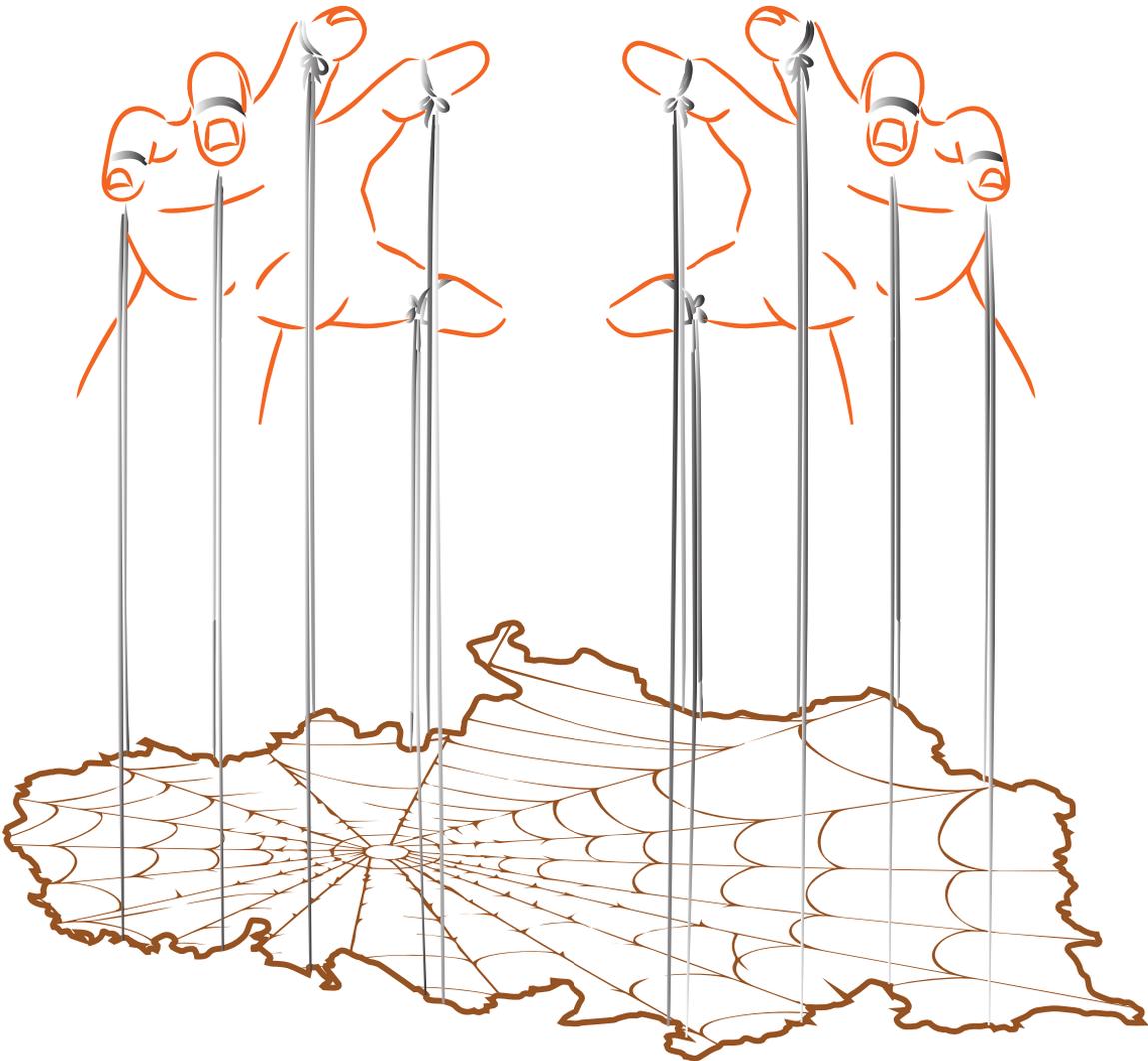


The Security Sector in a Captured State

MAY 2020



Content

- 3** [Introduction](#)
- 5** [Capturing the Parliament](#)
 - Obstruction of Plenary Sessions
 - Obstruction of Parliamentary Committees
- 6** [Capturing the Police](#)
 - Non-Transparency
 - Human Resources – Nepotism and Party Patronage?
 - Political Management
 - Parliament Playing a Bit Part in Police Oversight
 - Internal Control of the Disobedient
- 10** [Capturing the Security Services](#)
 - Party Control of the Services
 - Rendering Oversight Meaningless: Aggrandisement, Obstruction or Silence
- 13** [Capturing the Military](#)
 - Non-Transparency
 - Informal Management and Discretionary Decision Making
 - Human Resources – Interim Civilian Posts at the Ministry of Defence
- 16** [The Driving Factors for Capture of the Security Sector in Finance and Procurement](#)
 - Non-Transparency
 - Informal Financial Management and Discretionary Decision Making
 - Certain Companies Enjoy Positions of Privilege
 - Weakening External Oversight
- 18** [Private Security as an Instrument for Pumping Public Funds out of the State Budget](#)
- 22** [The Krušik Affair – Paradigmatic of a Captured Security Sector](#)

This text briefly presents the main findings of comprehensive research conducted by the BCSP into state capture and the security sector in 2019 and 2020.

This publication was produced with the financial support of National Endowment for Democracy (NED). Responsibility for the content of this publication belongs solely to Belgrade Centre for Security Policy.

Introduction

Two years have passed since the European Commission's EU Enlargement Strategy reaffirmed the European future of the Western Balkans and of Serbia as a, "geostrategic investment in a stable, strong and united Europe based on common values." Nonetheless, the messages European officials then sent to leaders in the region came as a blow to Serbia, which had been considered a regional frontrunner in terms of European integration.

The European Union requested that, following more than ten years of reforms, political leaders in Serbia devote themselves to the rule of law, separation of powers, consistent application of the law and the establishment of institutions that ensure human rights, freedoms and security.

The EU asserted this message concisely in its Strategy by emphasising that the Western Balkans unequivocally display elements of *state capture*. Since then the term *captured state* has become almost universally accepted in local and international expert (and broader) discourse to describe negative socio-political and economic trends in the Western Balkans.

State capture is a process in which individuals and groups (business magnates, politicians, criminals and, in many instances, all of these working in concert) gradually and systematically change the formal *rules of the game*, first in one sector, then in others, in order to pursue their own interests to the detriment of the public good. These interests can include material and financial gain but also accumulating political power and taking control of the levers of state authority. These purposes are commonly intertwined and reinforce one another since acquiring greater political power and authority makes it easier to rewrite the rules and provides more opportunities to redirect public (and private) material and financial resources into the hands of a tight circle of individuals and groups. For example, personal party control of the police and judiciary guarantees immunity from prosecution for individuals engaging in illegal enrichment. In return, it is in the interests of wealthy individuals to keep the politicians who made their ill-gotten gains possible in power. Thus, state capture becomes a giant perpetual motion machine.

This process emerges in various ways, which are often completely legal, at least initially. Most commonly it begins as a combination of changes to primary and secondary legislation, the appointment of loyal party leaders to key offices in the state, the employment of similar personnel across state institutions and the removal of employees from those institutions who could soon become inconvenient witnesses. In the advanced stages of state capture, the separation of powers comes to exist in name only and state institutions cease to provide the citizens with socio-economic, political and other rights, instead functioning completely in the service of a narrow circle of individuals and groups.

From the above it would be reasonable to assume that state capture is not an accidental process – that is, the outcome of a combination of circumstances and the unintended consequences of decisions made by political actors. Precisely the opposite is true. State capture is a deliberate political undertaking in which political actors use the consequences (both real and imagined) of the previous government as justification for the complete capture of the state's institutions. These legitimising narratives are specific to every country and range from fighting crime and corruption, to advancing social justice, preserving national and cultural identities, mythomaniac notions of national origins and so forth. Of course, the narratives can change over time, as evidenced by the example of Serbia, but their essence remains the same: to act as a smokescreen for ever broader and ever deeper capture of the state.

In such an endeavour, security sector institutions are among the first targets of political actors, since by increasing and concentrating their security power they are simultaneously increasing their political power. Some security sectors and institutions are also on the receiving end of significant budgetary outlays (e.g. the defence sector and the police), which makes them potentially significant sources of cash flow for the party leadership and those close to them. Deep-seated control of security institutions also ensures the ruling party leadership can redirect public funds into private pockets unhindered.

Due to the importance and pervasiveness of this phenomenon in Serbia, the BCSP conducted a study the aim of which was to determine the main context, factors, mechanisms and actors of state capture in the country's security sector. This article presents the main findings of this study, illustrated through a number of real world examples, used to show readers the damage that state capture can do to citizens and the state itself. The study covers the following: parliament, the police, the security services, the military, state finance and private security.

The study is just the first step the BCSP has taken towards a better understanding of this problem and towards highlighting how important it is to resolve it in the shortest possible timeframe. Our intention is, therefore, to continue to investigate state capture in Serbia and also to determine the best ways out of this situation.

Capturing the Parliament

Parliamentary oversight of the security sector, both through the chamber and the relevant committees, is one of the pillars of democratic civilian control. As the elected representatives of the people, National Assembly deputies are supposed to craft the legislative framework, approve the budget and control its spending, debate security policy and oversee the activities of security sector actors. In order to achieve this, they need the relevant expertise, access to information, cooperation with the expert community and, ultimately, to have the will to control the work of the executive. Even though parliamentary oversight has not been at an enviable level since the beginning of democratic transition in 2000, not one of the above criteria have been met in the most recent parliamentary term. As a result, the oversight role of the National Assembly has been completely degraded and reduced to nothing more than formal approval of bills and giving the go-ahead to decisions that have already been made.

The trend of simulating parliamentary control of the security sector has been a hallmark of the National Assembly's previous two legislative sessions. The role of the Assembly, and particularly the relevant parliamentary committees, 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 ongoing security topics have been conducted, either in the plenary sessions or at committee hearings. The legislative and oversight functions of the parliament are used to lawfully alter procedures and reduce oversight.

Obstruction of Plenary Sessions

In the most recent legislative session, obstruction of the National Assembly was carried out by the deputies of the ruling coalition in a number of ways. By **constantly changing the agenda** at the last minute and by **merging different items** on the agenda into one, the time available for debate – and thus the quality of the discussion – is restricted. As many as 14 of the 33 laws regulating the security sector was adopted using **urgent legislative procedures** in order to bypass public discussion. The parliamentary majority submitted **huge numbers of amendments** of the same or similar content, so as to reduce the time available for discussion and to prevent opposition politicians from expressing their views on various proposals. The National Assembly has also not yet approved the establishment of inquiry committees that would be tasked with investigating events and controversies linked to the security sector. Assembly sessions for questions by deputies are seldom organised.

Obstruction of Parliamentary Committees

The roles of the Defence and Internal Affairs Committee (*Odbor za odbranu i unutrašnje poslove* – OOUP) and the Security Services Control Committee (*Odbor za kontrolu službi bezbednosti* – OKSB) have largely been reduced to **adopting proposed legislation and international agreements automatically**. Over the past four years, these committees have **not once debated a proposed budget** for a security sector institution. Only **very few National Assembly deputies on these committees** (and even then largely those from the ruling coalition) **have the security clearance certificates** needed to access classified data and to perform their oversight role. The fact that **some sessions of these committees lasted only a few minutes** speaks to the quality of their work. Sessions of the OKSB have for the most part been closed to the public, supervisory visits are perfunctory and the committee has often served for the aggrandisement of ruling party officials.

Parliamentary oversight of the security sector has been usurped and exists only as a façade behind which the government's decisions are merely approved, while the parliamentary majority preserves the inviolability of these decisions by preventing the public and the opposition from performing their corrective function.

Capturing the Police

The security sector, particularly the police and security services, plays a decisive role in the process of state capture. Manipulation of the police by the executive branch secures impunity for the ruling political elite and its principal allies. The police are used to intimidate and coerce political opponents and critics of the administration, as well as employees of the criminal justice system. Finally, those departments of the police that perform a public relations function are used to promote the power of the ruling elite.

The capture of the police can be understood through five indicators, which are in fact the main factors in the development of democratic policing. They are: transparency; human resource management; police work management and decision making; external oversight; and internal control.

Non-Transparency

A captured state is created when there are corrupt relations between the political and economic elite but also when there is a lack of transparency. In terms of reporting about the operations of the police, the Ministry of Interior (*Ministarstvo unutrašnjih poslova* - MUP) is required to publish six different annual reports, however, **the problem lies in the fact that some of these reports are either not available at all or are else not regularly updated**. Furthermore, **a constriction of information available on politically sensitive cases or on the human resources of the MUP has been noted** over the past four years.

In 2019 the Ombudsman requested that the MUP share with a journalist information regarding a traffic accident that involved Zoran Babić, a functionary of the ruling Serbian Progressive Party (Srpska napredna stranka – SNS). Without adhering to the legal deadline for this, the MUP did eventually share the requested information but concealed important aspects of it.

Human Resources – Nepotism and Party Patronage?

Serbia currently has 566 police officers per 100,000 inhabitants, which is almost double the European Union average (318) or the standard recommended by the United Nations (300). More than two thirds of the MUP budget is allocated to employee salaries.

Even though a new Law on the Police was adopted in 2016, which stipulated rules for recruitment and promotions that made it mandatory to hold an open call for vacancies, in line with European Union standards, this law was changed just two years later. This amendment introduced the possibility of the **minister of interior deciding on vacancies outside the regular, competitive procedure**. Additionally, the minister alone passes an act on job classification, decides on sending out calls to fill vacancies and appoints the members the selection committee, who put together a list of candidates from which the minister chooses who will become employed in the police. Moreover, the minister decides how internal calls will be conducted, chooses and appoints members of the selection committee, which chooses candidates for mid- and high-ranking positions within the MUP and signs the ruling on their promotion or transfer. The manner in which the law was adopted and also its endowment of significant discretionary powers to the minister leaves a great deal of room for abuse of powers in terms of favouring certain candidates, party patronage and nepotism.

In practice, cases have come to light indicating that **human resource management is not free of political influence or that it does not function as intended**. There are also serious indications that it is known beforehand who will be successful in an internal Ministry of Interior call for candidates. Consequently, merit-based promotion is rendered completely meaningless.

Political Management

One factor of state capture is the subordination of the police to the executive. The police are not permitted to work professionally or independently, instead they are used to reinforce the political power and impunity of the ruling political elite and their allies. **Police work in Serbia is heavily dependent on the interests of political parties, which is why it is has lost operational independence and, at the same time, serves to help parties win political points.**

In 2012, the now ruling Serbian Progressive Party came to power on the back of a campaign promising a war on corruption and the resolution of controversial privatisations. An MUP working group of some 100 inspectors was quickly formed to investigate 24 disputed privatisations. The most significant event took place in December of that year when the owner of Delta Holding, Miroslav Mišković, was arrested. He had been described by politicians as the main tycoon in Serbia. What is more, Mišković was not arrested for corruption, as the public were led to believe, but for illegal business practices by his company.

This had the expected effect on public opinion and the public largely supported the executive in its fight against corruption. In just six months, public perceptions of the government's success in fighting corruption had shifted significantly. In June 2012, 35 percent of those surveyed thought that the government were not effective at all but by December this figure had dropped to just nine percent, which represents a significant increase in public confidence in the government's intention to reduce corruption.

The MUP's working group was unceremoniously disbanded in 2014. The official MUP justification for this was financial reasons. By June 2019 the courts had issued just two convictions and five acquittals regarding the disputed privatisations. The prosecution failed to find elements of criminality in as many as ten cases, while investigations are ongoing in a four more cases and trials are underway for a further six.

The problem of operational independence of the police has emerged as a decisive factor in Serbia's path towards European integration. It was precisely because the police lack operational autonomy from the MUP that the European Union introduced an "interim benchmark" in order to more clearly monitor progress in police reform and, in so doing, close the particularly sensitive Chapter 24. Among other things, this chapter assesses the institutional readiness of the police and prosecutors to fight corruption and organised crime.

Parliament Playing a Bit Part in Police Oversight

Over the past four years the National Assembly has not been fulfilling its role of balancing the executive branch, nor has it been responding to controversies that have emerged linking the police to the world of politics. Even though the legislative framework regulating parliamentary oversight of the police was improved by the 2016 Law on the Police, in practice parliamentary oversight initially weakened and then all but disappeared. The executive branch dominates the legislative. Parliamentary debate is rendered meaningless since the ruling majority groups a large number of laws into one item on the National Assembly's daily agenda. The work of the Defence and Internal Affairs Committee has been marred by haphazard and merely box-ticking consideration of MUP reports, the record-beating brevity of its meetings and its **failure to react to as many as 72 proposals for the formation of inquiry committees to investigate impropriety in the security sector.**

The National Assembly completely ignored 35 proposals for the formation of an inquiry committee to investigate the Savamala incident. This was an event that occurred on election night, the night between 24 and 25 April 2016. A group of several tens of masked persons occupied Hercegovačka Street in Belgrade, used force and threats to illegally deprive several individuals of their freedom, took away their mobile phones and prevented them from leaving. During this time, bulldozers demolished a group of privately-owned buildings largely used as business premises. In spite of the fact that several citizens called the police and reported the events, the police took no action and the police manning the emergency line redirected the citizens to the communal police, citing orders "from the top".

Four years after these events it is still not known who demolished the buildings or who organised the operation. The case before the First Basic Public Prosecutor's Office is still in the pre-investigative phase because the MUP has failed to respond to the prosecutor's requests. The facts point to this being a product of police incompetence and the incompetence of the prosecutor's office or to the protection of those with close links to the authorities. Following the incident, the then prime minister, Aleksandar Vučić, said that the "highest Belgrade authorities" were behind the demolition and the wife of Siniša Mali, who was the mayor of Belgrade at the time, reported that he had boasted to her about organising the demolition.

Internal Control of the Disobedient

The Sector for Internal Control is the Ministry of Interior department that is tasked with controlling the legality of work conducted by Police Directorate and Ministry of Interior employees; protecting the human rights of citizens in terms of police powers; and fighting police corruption.

The political, functional and operational autonomy of the Sector has, however, been undermined by the fact that the minister of interior has the right to issue it with guidelines and mandatory instructions, to determine how controls will be conducted, to supervise the head of the Sector and so forth. It is, hence, **unsurprising that suggestions have emerged that it is almost impossible for the Sector to investigate those MUP employees who have links with the SNS.**

The ultimate goal of this mistreatment of the police is to increase the control, power and personal enrichment of the ruling elite. This is carried out through the subordination of the police and the abolishment of its autonomy, which makes it possible for those in power and their cronies to illegally settle scores with their opponents, to intimidate citizens and to acquire financial gain.

Capturing the Security Services

In Serbia it has become accepted that the security services *belong to the political leader with the most power*, regardless of their constitutional powers or the office they hold. Clientelism and personal party connections have become a more important regulator of relations between politics and the security services than the Constitution of Serbia or the laws of the land. Those who have proven their loyalty to the leader of the ruling party fill the top posts. They then continue this party patronage at the lower levels. Meanwhile, external and internal control mechanisms serve no function.

Serbia has three security and intelligence services: the civilian Security Information Agency (*Bezbednosno-informativna agencija – BIA*) and two military services – the Military Security Agency (*Vojnobezbednosna agencija – VBA*) and the Military Intelligence Agency (*Vojnoobaveštajna agencija – VOA*). Their power stems from secret and exclusive access to and control of information. This enables them to influence, from the shadows, how most important decisions and trends in society and the state are shaped. The BIA has intelligence, counter-intelligence and security roles that protect the constitutional order of Serbia from various threats. The military services are more focused on protecting the Serbian defence system – the VBA provides security and counter-intelligence protection, while the VOA gathers and analyses information on activities and threats from abroad. In addition to the usual tasks of a security and intelligence service, the **BIA can do what most of its European counterparts cannot – exercise police powers and participate in criminal investigations.**

The significant power of the BIA has not been curbed by any government for the following three reasons. First, in transitional societies large flows of hard cash emerge and travel through criminal channels, flowing into the legal economy. The BIA's police powers make it easier for politicians to influence these flows. Secondly, this is another way to achieve control over criminal prosecution or the avoidance thereof. Thirdly, the BIA makes it possible to monitor and intimidate critics of the regime through special surveillance measures and forcible detentions, which generally do not result in charges being pressed.

Party Control of the Services

One of the most important roles in the security and intelligence system is played by the secretary of the National Security Council. According to the law, the secretary provides support to the members of the National Security Council and the directors of the services through the Security Services Coordination Bureau. In practice, however, it has become accepted that the **secretary is the real head of the Bureau, into which all intelligence pours.**

It is precisely for this reason that upon assuming power in 2012, the SNS amended the Law on the Bases Regulating Security Services using urgent legislative procedure, making it possible for Aleksandar Vučić to hold this office. Vučić switched between various offices of state (deputy prime minister, minister of defence, prime minister) but remained the secretary of the National Security Council until he became the President of the Republic in 2017. His place as secretary of the Council was taken by his party colleague and minister of interior, Nebojša Stefanović.

Parallel coordination mechanisms are being created to control flows of intelligence, bypassing all and any regulations. For example, in 2015 a special command was formed within the Ministry of Defence to provide protection to Vučić, the then prime minister. The command comprised representatives of the VBA and VOA and it collected data pertaining to its purposes from the BIA and the MUP.

In Serbia it has become commonplace for the **political parties** that form the government following each election to **appoint people loyal to themselves to the top posts** (directors, deputy directors, advisors), who then engage in more far-reaching personnel changes. The current administration has, however, gone a step further, since it seems that the most important criteria for the appointment of the BIA director have become personal, friendly relations with the leader of the SNS.

Having appointed party loyalists to key positions, the next step was to **legislatively grant the services greater powers** by broadening the scope for discretionary decision-making and reducing transparency in how the services are managed. For example, there is no mandatory call for candidates when filling vacancies at the BIA; some BIA documents are classified automatically; the Agency's director decides on employment at the agency and on job classification; the director can also refuse to allow personnel back to work if they fail a security check – even if ordered to do so by a court. This in fact places the BIA out of the reach of court decisions and allows it to dismiss unsuitable employees without hindrance. Excessive influence on employment, promotion and discharge from service makes room for political interference in to the operational activities of the Agency and political control of its personnel.

Rendering Oversight Meaningless: Aggrandisement, Obstruction or Silence

The Law on the VBA and VOA gave the internal control departments of these agencies useful powers, however they suffer from a lack of resources, autonomy and integrity that hampers them in being successful. On the other hand, the internal control department of the BIA is not regulated by primary legislation but by secondary legislation approved by the Agency's director. The head of internal control at the BIA answers only to the director, to whom they are to submit regular reports – a fact that significantly increases the legal uncertainty surrounding internal control at the Agency.

Parliament has neither the resources nor the will to control the work of the security services. In the most recent legislative session, the Security Services Control Committee and the chamber served only to simulate debate, to formally approve reports, to conduct *control* visits to the security services and to publically express support for the leaders of the ruling coalition.

When it comes to control by **independent institutions**, the current Ombudsman lacks the will, knowhow and skillset for control of the security services. The Commissioner for Information of Public Importance and Personal Data Protection, who was appointed by the previous administration, has been consistently obstructed and attacked by the current government. The good practices initially established by the State Audit Institution ceased when this body's president changed in 2018.

Judicial control exists, first and foremost, in cases when special measures that temporarily restrict certain human rights are applied. However, the application of these measures is eased by the appointment of judges and prosecutors who are loyal to the ruling party and its leader, Aleksandar Vučić. For example, the president of the Higher Court in Belgrade, the institution responsible for approval of special measures applied for the purpose of protecting national security, is a personal friend of Aleksandar Vučić's, while the prosecutor for organised crime is a friend of the former director of the BIA.

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 pro-government media. Instead of being a clear channel of public oversight of the security sector, these media frequently and illegally publish classified or protected personal data, in the possession of the security institutions, to undermine the credibility of those who are critical of official policies or politicians.

It has been confirmed not only that the BIA secretly followed and recorded Stevan Dojčinović, the editor of the investigative journalism platform, KRIK, but also that it passed those recordings to Informer, a tabloid newspaper with ties to the government. Informer used the information to lead a smear campaign against Dojčinović. In 2016 Dojčinović turned to the Ombudsman, asking this institution to investigate the actions of the BIA, which were uncovered during a suit against Informer, but the Agency has been refusing to submit the requested information for years.

Security services that employ personnel on the basis of personal party loyalty, rather than on the basis of knowledge and ability, cannot be a pillar in the fight against (organised) crime, extremism and terrorism, nor any other risks and threats, particularly those that are new and modern. **Security services such as these either silently observe organised criminal groups with ties to the ruling party or otherwise become their protector.** It is debatable whether they are able to perform one of their main functions – to foresee the course of events in a timely manner and act accordingly.

The Priebe Report, compiled for North Macedonia in 2015 in response to the mass surveillance organised by the political leadership, clearly indicates the danger that lurks behind the concentration of power in one security service – especially if the anticipated oversight mechanisms fail. This case should serve as a warning and the reform of the security and intelligence sector undertaken in North Macedonia should serve as a useful experience from which lessons can be learned.

Capturing the Military

The risks of state capture in the defence sector are twofold. First, the defence sector has large amounts of public money at its disposal and awards lucrative contracts for the procurement of weapons, which – in concert with the low levels of transparency that accompanies the rallying cry of national security – enables the *extraction* of public funds. Secondly, certain structures within the defence system, particularly the military security services and the military police, can be misused for private interests such as reinforcing one’s political position or intimidating opponents. Therefore, management of the defence system deserves special attention.

Non-Transparency

In recent years there has been a trend of progressively decreasing transparency in the defence system. Primary and secondary legislation has been passed that practically encourages decision-makers in the Ministry of Defence to classify information in order to avoid liability for possible mistakes or illegality. According to current statute, the degree of secrecy depends on the type of document or data, rather than on its content – i.e. whether the disclosure thereof would harm the interests of the Republic of Serbia. For example, **a certain degree of secrecy can be assigned to information the disclosure of which would undermine the citizens’ trust in the legality and expertise of the Ministry of Defence.** This practically gives the ministry – or rather its officials – a free hand in deciding which information to classify so as to avoid being called to task for corruption.

The transparency of the legislative process is also not at a satisfactory level. For example, the procedure for amending the Law on Conscription, Compulsory Labour and Requisition was carried through using urgent legislative procedures. In this way, public debate was circumvented and the Ministry of Defence did not inform the public about the practical implications of these amendments in a timely fashion. This in spite of the fact that the amendments introduced military education in schools and a short course of compulsory military training for men aged over 30 who had not completed conscription.

Even though in early 2020 the Ministry of Defence, for the first time ever, published its medium-term action plan and projections of its expenditure for the next three years, none of these documents contains clearly defined defence policy priorities. The ministry's strategic defence review, as well as its long- and medium-term development plans are traditionally classified, which means the public has no insight into which defence capabilities will Serbia develop next or what equipment acquisitions are planned in the near future. This leaves ample room for opportunism and haphazard decision making, without the kind of adequate external public oversight that could hold decision-makers to account.

Informal Management and Discretionary Decision Making

Amendments to legislation enable the minister of defence to make decisions on which civilians the military police will protect, which increases the risk of the military police being used as a *private security company*. In practice, this risk has already come to pass during the incident at the 2014 Pride Parade, when the brothers of high-ranking officeholders received close personal protection from the military police.

In early 2015, the Military Security Agency was involved in a scandal concerning the gathering of data on the activities of certain political parties. The affair left a lot of suspicions about the presence of informal management channels in the VBA because the Agency does not have the powers to conduct these kind of operations.

In March 2015, a Serbian Armed Forces helicopter returning from Raška and transporting a baby with a serious medical condition crashed close to Nikola Tesla Airport in Belgrade. Everyone on board was killed in the crash. Reports by military commissions cite pilot error as the main factor in the accident, as well as a series of errors in planning, organisation and management of the operation. From these reports it can be concluded that, due to the urgency of the situation, the minister of defence sidestepped the General Staff of the Serbian Army and ordered the operation to go ahead, despite receiving warnings that this would violate standard procedure. It can also be concluded that the crew of the helicopter were ordered to land at Nikola Tesla Airport, where they were to be greeted by the ministers of defence and health, even though the pilot wanted to land at the helipad of the Military Medical Academy (Vojnomedicinska akademija - VMA).

The prosecution came to the decision that there were no grounds for the initiation of criminal proceedings against those who participated in the preparation and execution of this operation. Rather than criminality, the prosecutors saw only violations of military procedure. The only ruling made came seven months after the accident, when the Military Disciplinary Court banned two generals from further promotion due to disciplinary offences. This decision was later annulled at appeal.

This event raises multiple questions. It is not clear why the chain of command was ignored and the Chief of the General Staff skirted in launching the rescue mission. It is also not clear why there was an insistence on landing at Nikola Tesla Airport, in spite of the pilot's requests to land at Batajnica airport or the helipad at the VMA. Why did some pro-government media outlets, including the national TV station, run reports that the helicopter had landed at the airport safely and that the sickly child had been taken to hospital, only to quickly withdraw them and replace them with news of the crash? The question is whether the political leadership was focused on its own self-promotion, rather than the rescue operation itself. Also, how much did non-compliance with procedures due to political pressure affect the outcome of the situation? Political responsibility was certainly lacking.

Human Resources – Interim Civilian Posts at the Ministry of Defence

The highest-ranking civilian offices in the Ministry of Defence are most commonly filled on a provisional basis. This practice enables officials to be appointed without a public call, which leaves space for certain criteria necessary for the fulfilment of a certain role to be fudged. Some high-ranking officials, such as the assistant minister and the inspector general, have been appointed to their positions provisionally 15 and 19 times, respectively. Besides this being completely contrary to the law, this practice has two types of consequences. First, since appointments and dismissals are discretionary and subject to political pressures, this practice politicises the very leadership of the defence system. Secondly, constant use of provisional postings makes it impossible to enact effective reform and governance of the defence system, since such postings can be acceptable only to those who are politically suitable, and not to those who are consummate professionals.

How Whistleblowers Fare in the Defence System

Although, on paper, Serbia's defence system does have a developed mechanism for internal whistleblowers, their protection has completely failed in practice. Employees of the Ministry of Defence are not encouraged to report corruption or violations of labour rights and, instead, chose to resign. The cause for this is lack of faith in the complaints system, in the sense that nothing can be achieved through the available mechanisms but also fear of retaliation and punishment if a complaint is submitted.

In October 2019, a case was revealed to the public in which an officer refused an order from the very top of the ministry during an employment procedure because that order required him to ignore the conditions prescribed by the call for candidates. 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 call. Retaliation ensued and the lieutenant colonel was transferred 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 for his military specialisation.

The Driving Factors for Capture of the Security Sector in Finance and Procurement

The spending of money has traditionally been less transparent and less susceptible to oversight in the security sector than it has been in other public sectors. A state of affairs that is often justified by the need to protect national and public security. At the same time, the Serbian security sector is a significant draw on the country's budget: around 14 percent of planned expenditure for 2020 is penned in for "public security" and "defence". On the other hand, these resources can, through procurement, be redirected to serve private interests and expand clientelistic networks. Therefore, this chapter will pay special attention to risks inherent in finance and public procurement during the process of state capture.

Non-Transparency

In recent years, the transparency of the budgets and procurement procedures of the security sector has been at a very low level. For example, BIA spending is shown on the state budget only as a total and the budgets of the VOA and VBA are not shown separately – **the budgets of the security services are, therefore, virtually secret**. In the defence system, information can be declared secret automatically, regardless of its content. On the other hand, the Law on Public Procurement broadens the scope for some procurements to be exempt from the law on the grounds of being important to the protection of *interests essential to national security*, which are not defined by any document. This leaves room for arbitrariness and abuses, especially when it comes to high-value procurements, through which public resources can be *extracted*.

Informal Financial Management and Discretionary Decision Making

Spending by security sector institutions has increased significantly in the last five years and this has been accompanied by increasingly informal financial management. Security Sector institutions have increasingly been spending more money than has been allocated to them through the budget, which suggests that redistribution within the state budget are made in an informal manner. Moreover, in the absence of publically available resolutions on the redistribution of budget funds, it cannot be determined where the money has been taken from in order to be reallocated to these institutions or what the purpose of the transfer was.

Informal financial management is particularly pronounced at the Ministry of Defence and pertains to equipment procured for the Serbian Armed Forces. Although equipping the military has become a political priority, it has emerged that allocated funds have not been sufficient for this – in spite of regular increases to the Ministry of Defence budget – and the authorities have often resorted to seeking donations from public companies. **Amendments to the regulatory**

framework have allowed for *ad hoc* procurements that bypass standard planning procedures, approved by the minister of defence, which increases this office's discretionary powers and also increases the possibility of misusing public funds.

Informal redistribution of money is a practice that has also been applied to state-owned defence industry enterprises. The informality consists of the following: 1) The government providing financial aid without publically available plans or analyses from which it would be possible to see what the aid is for; 2) A complete absence of publically available government documents on the redistribution of funds from the budget (including information about where the money comes from), only the statements of officials that this has taken place.

Certain Companies Enjoy Positions of Privilege

The number of public procurement tenders conducted by the Ministry of Defence using open procurement procedures, but in which only one bidder applies is on the rise. In the period from mid-2013 to 30 September 2016, tenders with only one bidder amounted to 24 percent of all procurements but in 2019 that percentage surged to 77 percent. This trend could indicate discriminatory tender conditions – i.e. that the conditions of the tender are designed to apply to only one bidder or that other bidders are discouraged from participating because they believe the tender to be *rigged*. In this regard, the situation at the Ministry of Interior is somewhat better.

The risk of resource *extraction* is particularly pronounced in the defence industry. All of the large producers of arms or military equipment in Serbia are state-owned and the direct links between defence contractors and political decision-makers makes these companies vulnerable to illegitimate political influence on their business. The cases of three defence sector companies – Krušik, Sloboda and PPT Namenska – illustrate this problem in greater detail.

Each of these companies sell their products on the international market primarily via sales representatives. The contracts between these companies, their clients and their sales agents stipulate that the agreed prices, rights and obligations of the contracting parties are in force until the contract is fulfilled and that they cannot be altered without the written consent of both contracting parties. However, it has emerged that some of these agents did not submit the correct invoices to clients, which resulted in defence sector companies showing revenue from international sales on the basis of contracts with sales agents rather than the proper amounts. Also, it was established that one such sales agent, GIM doo, which is backed by the father of the minister of interior, invoiced international buyers with higher prices than those that were defined in contracts with the defence sector companies. Over a period of two years (2017 and 2018), the total difference in prices between the three contracting parties amounted to 20 million dollars. Therefore, the clients (defence sector companies) did not provide written consent for an alteration of the prices and, indeed, were not even aware of it when compiling their annual financial reports. The GIM case will be covered in greater detail in a dedicated chapter.

Weakening External Oversight

The prevailing **consensus in the National Assembly between parliamentary parties is that the financing of security sector institutions should not be subject to overly rigorous controls** and that they should not be overly transparent. This *culture of discretion* is aptly illustrated by an example from 2018, when the Defence and Internal Affairs Committee deliberated on four quarterly reports from the Ministry of Defence at one session, which was held behind closed doors.

It is also apparent that **institutions and companies ignore their obligations to independent institutions**. Since 2016, there has been a rise in the number of cases in which the Commissioner for Information of Public Importance and Personal Data Protection was forced to ask the government to enforce his decisions because institutions or companies were refusing to act upon his resolutions. The Public Procurement Office does not receive regular quarterly reports on completed public procurements from certain defence system institutions. In 2018, these institutions also failed to provide explanatory reports to the State Audit Institution on why they awarded contracts to individual bidders the value of which was greater than the estimated value of the procurement.

The new Law on Public Procurement directly narrows the field for external oversight of defence and security sector procurement, since it does not oblige contracting authorities to submit annual reports on completed defence and security sector procurements to the National Assembly or government. This completely restricts the scope of any external oversight of *classified* procurement

Private Security as an Instrument for Pumping Public Funds out of the State Budget

In contrast to serious countries that hire private security companies in order to reduce public spending and rationalise resources, in Serbia these companies largely serve to pump money out of the state budget by using political ties to win public sector contracts. This is most evident through the rapid growth in their turnover and profit but also in the number of private security company employees who have close ties to the ruling party or are even (former) party officials. Once a party is no longer in government, most such companies begin to perform poorly and, in many cases, cease to exist altogether because their growth was based on their political connections and not on their success in a competitive market.

According to publically available information, the private security sector in Serbia is worth some 150 million euros per annum, with 50 percent of contracts coming from state institutions. Managers of private security companies estimate that the significance of security contracts with the state continues to rise, while private sector contracts are diminishing and are less stable.

For example, Sistem FTO was a private security company established in 1996 but which saw sudden success in 2006 when it achieved a turnover of 9 million euros – twice as much as in 2005. The company was owned by Milovan Milošević, president of the executive board of the Democratic Party of Serbia until 2014 and its dynamic rise coincided with the time when DSS was the main party in government. When DSS lost power, the company saw a downturn in its business and only found salvation in being bought out by the multinational security company Securitas.

Similar phenomena were apparent when the Democratic Party rose to power. At that time the private detective agency, Protecta, expanded its operations to providing private security. During 2011 alone, the company had to issue advertisements on two occasions calling for new employees “urgently due to an increased volume of work”, ultimately taking on over 700 new employees. According to the Anti-Corruption Agency, Protecta donated 2 million dinars to the DS election campaign in 2011 and 2012.

Following this by now well established pattern, when SNS rose to power in 2012 other private security companies recorded sudden business successes. The most indicative examples are Dobergard (also Dobergard plus) and VIP Security. Although it was founded in 2004, Dobergard only began to grow its business in 2013 and by 2017 its turnover was one billion dinars – around 6.5 million euros. According to the estimates of managers at private security companies, VIP Security has grown so much in recent years that it now employs over 3,000 people.

The reader may ask themselves here what all the fuss is about, since public and state institutions unquestionably need security services and close ties with the ruling party have always been a necessary precondition for obtaining public sector contracts in Serbia. With the change in government comes the consequent change in the private company providing security for a given institution, the security guards stay the same as they know the building and the employees. At the same time, private security contracts are in most cases awarded to the lowest bidder. It seems, therefore, that private security companies are actually benefiting the state because they agree to low prices and the state makes savings by hiring them and that the only problem is being awarded contracts on the basis of political connections – something to which even developed democracies are not immune.

However, a slightly closer analysis of business relations between private security companies and public institutions shows that the state loses out not only financially but in terms of the quality of the service that is provided and also because it is being blocked from improving its own security. To wit, private security companies secure public sector contracts by being the lowest price, which is often so low it would not be possible for the company to cover the most basic taxes and contributions. For example, in its “Analysis of the Unusually Low Price of Physical Protection Services” the Association for Private Security of the Serbian Chamber of Commerce shows that the minimum price per person hour in 2013 should be 250 dinars but that in reality it was only half that amount. So how do public sector contracts pay off for private security companies and why are they so determined to win them?

Over time these companies have developed a whole range of mechanisms for amassing profits at the expense of their employees and at the expense of the quality of the services they provide. It is not uncommon for these companies to hire fewer employees than was contracted and to have one employee cover several locations. It is also not uncommon for employees to work overtime without being compensated for it. Often the travel to work benefit workers get in addition to their salary is actually calculated as part of the gross amount and represents hours worked. As of late, security companies are increasingly hiring retirees but are also (again) turning to undeclared employment – i.e. they are not registering their employees and are hiring those who are not licensed to perform private security work.

Furthermore, many companies that have recorded dizzying growth are also late paying out workers’ salaries and are sometimes six or more months late in doing so. When problems, debts and various lawsuits accumulate, the security company declares bankruptcy and a *new* company is founded, with the same owner, responsible person and address but with a “plus” added after the old name, giving it the status of a *new legal entity*. As a result, workers are unable to make claims against the old company in which they were employed and the *new* company appears to be *clean* for the purpose of participating in tenders. In this business model, workers really are nothing more than numbers. According to the former manager of a large private security company, “everything comes down to excel tables of buildings, workers and their shifts. You don’t know who those workers are. In your head all you see are the targets you have to hit. And you do your best to cope in these Serbian conditions”.

All of these coping strategies on which private security companies rely are possible because no one can (dare) to control companies with close links to the authorities. In many state and public institutions there is (intentionally) no security manager, who should be the first line of any control function because they determine the security needs and the quality of services provided. In the absence of such a role, security needs are copied across from year to year and are (deliberately) dominated by security guard services rather than by the technical aspects of security. Investment in technical security measures is a one-time cost that is more expensive but which pays off in the medium term.

“One camera can work 24 hours a day, that is, it can replace several workers.” However, by reducing the need for security guards, the opportunity to seek out some of the money extraction mechanisms described above, is also reduced. Other external control institutions, such as the labour inspectorate, the tax police or the MUP also fail to conduct proper oversight of private security. A good illustrative example of this is the case of the Tax Administration, which once concluded a contract with a private security company at a price that could not possibly cover the workers’ salaries, all of the necessary taxes and the company’s profits. For that contract to be possible, the private security company had to reach for one of the mechanisms described above and the Tax Administration had to turn a blind eye.

From conversations with private security company employees and managers, it is apparent that employees who are undeclared or who are unlicensed work nights, as a rule, since night time checks are very rare. These same interlocutors point out that the primary purpose of the aforementioned control mechanisms is to discipline companies that do not belong to the same political bloc or to push out competition and make way for companies that are close to the ruling elite. A good example of the absence of controls of security companies is the case of BPS Security, which guards the MUP building. A video recording that has become public shows that this company’s employees do not have readily visible IDs – a legal requirement. To make matters worse, it is the obligation of the Ministry of Interior – i.e. the police – to check whether private security guards possess on their person the necessary identification.

Due to the general lack of control over private security services provided to state and public institutions, one should not fall for the story that a directed and/or agreed increase in the cost of private security services would solve the problems of low wages, undeclared employment or the quality of services provided. In these conditions, one should expect a minimal improvement to working conditions and a maximum increase in the profits of private companies. Here, again, BPS Security provides a good example, whose price per person hour is higher than the market rate but is also higher than the hourly wage of MUP employees. Yet this company, despite its higher prices, does not meet the basic legal requirement of employees having the requisite identification. The state, even now, has numerous control mechanisms at its disposal, the unselective application of which would simultaneously increase wages and the quality of the services provided.

The Krušik Affair – Paradigmatic of a Captured Security Sector

The Krušik affair, which unravelled in 2019, provides a direct insight into the way in which security sector institutions are being misused in order to accumulate political and financial gain for those in power and individuals with close ties to them.

The sale, at preferential rates, of arms manufactured by defence sector company, Krušik, continues to be a major political topic in Serbia. This over indebted state-owned company sold landmines at almost production cost to GIM, a private company that was on several occasions represented by the father of Serbia's minister of interior. GIM subsequently sold the landmines to buyers from abroad at significantly higher rates and made multimillion dollar profits. GIM also exported arms manufactured by Krušik at a price 16.4 million dollars higher than the preferential price it paid to acquire them from Krušik, without submitting a report on this to the state-owned manufacturer. The minister of interior has denied all of these claims and the National Assembly has not initiated even a conclusion on the possible conflict of interests or influence trading the minister is exposed to – something that it is obliged by law to do.

The Krušik affair was revealed when an employee at the company, the whistleblower Aleksandar Obradović, informed the media about abuses in the arms trade and the preferential treatment Krušik doled out to GIM, which was backed by the minister of interior's father. Obradović was quickly arrested whilst at work by BIA agents who immediately asked him, "who do you work for?", "how much are they paying you?" and "which politicians recruited you?". Which raises suspicions that in this case the BIA acted as the ruling party's secret police.

The prosecution first dealt with the whistleblower and not with the possible case of high-level corruption. Even though a multitude of articles and documents have been published that link GIM and the minister's father, the prosecution has not directed its attention to this evidence in any great detail. Obradović was arrested on suspicion of the offence of revealing commercial secrets, while Krušik, as the supposedly injured party, was represented by a law firm established by a former director of the BIA.

The public learned of all this only three weeks after Obradović's arrest. Following protests and media hype, Obradović was transferred to house arrest, where he remained until the end of the year. The message the authorities and the state endeavoured to send throughout this case is exceptionally worrying, considering the fact that their efforts were primarily focused on labelling Obradović as a spy and a traitor, rather than taking into consideration the information he provided as a whistleblower. Ultimately, the case shows how the system deals with individuals who chose to report high-level corruption.