

Philipp Fluri, Viorel Cibotaru (Eds.)

**Defence Institution Building:
Country Profiles and Needs Assessments for Armenia,
Azerbaijan, Georgia and Moldova
Background Materials**

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This present volume gives the view on the questions held by civil society organisations and non-governmental experts in the Former Soviet Union countries (Armenia, Azerbaidjan, Georgia and Moldova).

For the wide range of readers.

Настоящее издание освещает основные проблемы деятельности гражданских общественных и неправительственных организаций в странах бывшего Советского Союза (Армения, Азербайджан, Грузия и Молдова).

Для широкого круга читателей.

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PREFACE

On Partnership for Peace mandates from the Swiss Ministries of Defence and Foreign Affairs, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) organised a series of activities in and for countries from the Former Soviet Union and the Western Balkans during 2006. The activities concerned comprised country profiles and needs assessments and various types of capacity building programmes for governmental and non-governmental experts (for details see the DCAF website at www.dcaf.ch).

Preferential treatment was given to the three Caucasian republics and Moldova. The DCAF programme team, reinforced by a Senior Consultant, Dr. Hari Bucur-Marcu from the Bucharest based NATO Studies Centre, developed a comprehensive methodology for status documentation and identification of further cooperation needs. A two-pronged approach was chosen to solicit data from both governmental and non-governmental sources. Governments of all countries concerned were given the opportunity to comment on the findings before publication of a report on 15 May 2007. This report was published as **Fluri/Bucur-Marcu (Eds.), Partnership Action Plan on Defence Institution Building: Country Profiles and Needs Assessments for Armenia, Azerbaidjan, Georgia and Moldova. Geneva and Bucharest 2007**

This present volume gives the view on the same questions held by civil society organisations and non-governmental experts. As the international community recognises and promotes civil society expertise and public oversight of the defence and security institutions, it is only befitting that civil society should be given the right to comment on questions dealing with defence and security transition in their home countries and regions.

The opinions expressed hereunder are the invited experts' personal opinions and do not represent DCAF's nor the Swiss government's positions.

Thanks go to Melissa George, Laurence Durig and Alison Buchanan for preparing these texts for publication. Svetlana Loboda and her team took care again of all printing aspects of this volume in the DCAF Defence and Security Sector Institution Building series.

Geneva, October 2007

The Editors

INTRODUCTION

The Partnership Action Plan on Defence Institution Building (PAP-DIB) aims at reinforcing efforts to initiate and carry forward reform and restructuring of defence institutions to meet the needs of Partner States of the Euro-Atlantic Partnership Council (EAPC) and the commitments undertaken in the context of the Partnership for Peace (PfP) Framework Document and EAPC Basic Document, as well as the relevant Organisation for Security and Cooperation in Europe (OSCE) documents, including the OSCE Code of Conduct on Politico-Military Aspects of Security.

The PAP-DIB Status and Needs Report project was designed to reveal a picture of the political and conceptual readiness of nations in the Caucasus and the Republic of Moldova to develop and sustain efficient and democratically responsible defence institutions, including armed forces, under democratic and civilian control.

It was also aimed at facilitating the allocation of national resources and international assistance efforts efficiently, through the identification of needs and requirements to ensure the functioning and efficiency of defence institutions and as a means of contributing to the harmonisation of operational cooperation between national and international agencies involved in defence institution building.

The Status and Needs Report project explored the main issues of defence institutionalisation as stated in the PAP-DIB objectives and as agreed to by the Member States of the EAPC at the North Atlantic Treaty Organisation (NATO) Summit in Istanbul in 2004.¹

This assessment was based on data collected from open sources whereby a clearly defined methodology was employed. This exercise aimed to produce an accurate assessment of the current status of different issues related to defence institution building, including gaps, shortfalls, overlaps and other relevant aspects. No qualifications, ratings or comparisons should result from this assessment.

The purpose of this consolidated report is to present the findings resulting from assessment of the following states: Armenia, Azerbaidjan, Georgia and the Republic of Moldova.

¹ NATO On-line Library: NATO Basic Texts: Partnership Action Plan on Defence Institution Building (PAP-DIB), Brussels 7 June 2004, available on-line at <http://www.nato.int/docu/basic/txt/b040607e.htm>

COUNTRY STUDY — ARMENIA

Aghasi Yenokyan, Director, Armenian Centre for Political and International Studies.

Introduction

Since the 1990s, the promotion of security sector governance has become a recognised item on national and international policy agendas. Western democracies began to promote democratic civil-military relations in particular in post-communist Eastern Europe and post-Soviet countries bilaterally, as well as through multilateral security institutions. From an institutional perspective, democratic governance of the security sector includes civilian control over the Ministry of Defence, other security related ministries and the military establishment on the whole. These units are governed by civilian defence ministers and civil servants, who act as policy-makers and carry out management roles. There is a clear division of professional responsibility between civilians and the military. Civilian control is needed essentially to prevent the military, which is an organised body that is legally empowered to use force on behalf of the state from challenging the state's duly constituted political authority and dominant values. It ensures that the armed forces will not endanger the basic liberties, including popular sovereignty, which they are meant to protect. The discourse on this issue builds on the shared principles of civilian direction of the armed forces. These are some of its main features:

- the existence of a clear legal and constitutional framework;
- the hierarchical responsibility of the military to the government through the ministry;
- the significant role of Parliament in legislating on defence;
- the presence of a strong non-governmental expert component within the defence sector;
- the existence of a developed civil society to establish permanent dialogue between concerned groups and military.

At the same time, the establishment of democratic control is not an event, but a process. Because of the previous excessive concern for military secrecy, these issues were simply excluded from public debate in the Soviet system, a legacy that has continued to the present day. The concept of civilian control and political neutrality has not always been correctly understood by the (civilian) politicians of the new independent states. It is crucial that the international democratic community provides competent assistance to states that are in the process of implementing modern models bearing in mind the different historical and sociological realities involved.

The Armenian government signed an Individual Partnership Action Plan (IPAP) with the North Atlantic Treaty Organisation (NATO) in December 2005, by which the most combat-ready military forces in the Caucasian region moved to a new level in their adoption of Euro-Atlantic criteria. The importance of this circumstance is that today only those “criteria” in interaction with internal

democratic governance can ensure effective civil control over military forces. During 15 years of independence, Armenia established an effective security system, which has provided for the security of the state and become a stabilising factor in the region. The country is now taking its first steps in elaborating effective mechanisms for providing civil control of the military sector. While the required legislative and institutional base is already in existence, further development depends on the state's democratisation processes and the vectors of foreign policy.

Legal and constitutional frameworks

In Armenia, the system of regulation and control of security in broad terms and particularly in relation to the defence sector is regulated by the Constitution, state laws and other normative acts. On 27 November 2005, several amendments concerning the defence sector were made to the Constitution. Most of the articles were presented in the chapter on the Republic's President. Though the reformed Constitution established a presidential-parliamentary system of government, the President continued to play a dominant role in foreign and defence policies. The President of the Republic is regarded as the guarantor of the independence, territorial integrity and security of the Republic of Armenia, and as the Commander-in-Chief of the armed forces he coordinates the operations of the government bodies in the area of defence, appoints and dismisses from office the Highest Command of the armed and paramilitary forces.¹ In the event of an armed attack against the Republic, imminent danger or declaration of war, the President has the right to declare martial law, call for a general or partial mobilisation and decide on the use of the armed forces. During periods of war, the President may appoint or dismiss from the office the Highest Commandant. In the amended Constitution, the President also forms and presides over the National Security Council, which has the status of an advisory body. The National Assembly has no constitutional function in the defence sector except the right to declare war.

Under the Constitution, the government has the authority to ensure the implementation of defence, national security and foreign policies. The government exercises this function together with the President. While the Prime Minister convenes and chairs government sittings, the President alone has the right to convene government sittings concerning foreign and defence policies.

With the constitutional amendments, a new article emerged: The fixed special non-political status of the armed forces and its placement under civilian control. Article 29 prescribes the opportunity to restrict the right to freedom of a peaceful and unarmed assembly by the armed forces, police and national security personnel.

The first law dedicated to the defence sector organisation was the "Law On Protection." It generally defines the basis and organisations of the RA protection, the rights and obligations of state and local authorities, enterprises, institutions, organisations, officials and citizens in the sphere of protection, the role and tasks of the armed forces, their structure and management in the sphere

¹ Constitution of the Republic of Armenia, www.concourt.am

of the Republic's protection, the responsibility for legislation breaches in the sphere of protection. According to the law, the organisation of defence includes:

1. establishing military policy
2. the prevention and assessment of military risks
3. legal arrangements in the sphere of protection
4. the establishment of armed forces with the necessary structure and number, equipped with modern armaments and military technology, having military mobilisation high preparedness, as well as the planning of their implementation;
5. carrying out recruitment and including RA citizens in the military service on a contractual basis;
6. international cooperation for the purposes of collective security and joint protection
7. preparation of the population mobilisation, communication means and knots, organisations of enterprises, institutions, state bodies and economy
8. planning and carrying out regional and civil defence activities
9. development of military-industrial complex and military science including the organisation of the military training
10. assurances for the protection of state and official secrets
11. preparing the resources of the armed forces reserve, military trained conscripts as well as the necessary quantity of arms and armaments, technology, foodstuffs and other substances.²

The law, reaffirming the President's authority in the defence sector, details the responsibilities of the government. According to Article 5, the government undertakes the following functions, together with others:

- establishes and approves the main directions of the RA's military policy;
- defines the total number and structure of the armed forces;
- defines the state protective order formation and carries out the monitoring of its expenses;
- organises the monitoring of the import and export of weapons and military technology, strategic materials, modern technology and products of dual significance.

The Ministry of Defence is responsible for the management of the armed forces, whereby the Minister:

- studies and assesses the civil-military situation, the level of military risk and the security of the Republic within its competency;
- participates in working out the main directions of military policy;
- submits a suggestion to the RA Government on the structure, numbers and provisions in the armed forces;

² The Law of the Republic of Armenia on Protection. Official Legislative Bulletin 1997

- carries out joint military-technical policy, is considered to be the state customer of the production, scientific-research, repair and purchase of armaments, military hardware and other equipment;
- organises and monitors the financial technical and provision aspects of the armed forces, its level of preparedness and its fighting ability;
- manages operating provisions, military preparedness and the military-patriotic education;

With respect to the continuing theme of the non-politisation of the armed forces, the law prohibits the organisation and conduct of party meetings and activities. The organisation and exercise of preaching within military enterprises, institutions and organisations or in military educational institutions are prohibited. Furthermore, the law does not restrict the right of military personnel to establish NGOs and be engaged in social activities outside the army.

The military system of Armenia is also regulated by the laws on “Compulsory Military Service”, “Passing to military service”, “Martial Law”, “Internal military rules”, “Internal forces”, “National security bodies” and other related laws.

The President of the Republic of Armenia has the right to declare martial law either on the whole territory of the Republic or only in one part of it. A special session of the National Assembly is called within 24 hours of the declaration. The President addresses the nation and the National Assembly with a message firstly declaring martial law, the territorial borders in which the law is to operate and the date of martial law operations. The National Assembly can stop the regime on the basis of the conclusions of the constitutional court. No special procedure exists for the Constitutional Court to discuss the issue in law.

Armenia has compulsory military service for men who are 18 years of age lasting for a period of two years. The Law on Alternative Military Service derived from Armenian commitments to the Council of Europe and it has been in effect since 1 July 2004. This law emerged after several discussions concerning the readiness and efficiency of the Armed Forces. However, no more than 20 recruits have participated in alternative military service. The law defines two types of alternative service: non-armed service in the military system for a duration of three years and service in social institutions for a duration of 48 months.

The country’s internal forces – its police system and national security bodies – are essential elements of the defence system. Frontier troops act within the mandate of national security organs, and the frontier commander is appointed by the President. National security bodies consist of military units. Contrary to the Law on Protection, the Law on National security Bodies includes an article on control over the system. The President and the Government execute control within their constitutional authority. The National Assembly and its members have the right to obtain information about the activities of national security organs.

The internal forces act within the mandate of the republican police. However, their recruitment process is regulated by the Law on Compulsory Military Service.

The Law on Fighting Terrorism is the most important of the recent documents produced in the area of security. According to the law, the President has the authority to organise permanent headquarters for the coordination of activities undertaken by the security, police and defence forces in the fight against terrorism.

The fact that the legislative base for the defence sector has already been quite codified and the mechanisms of its normative regulation are in existence can be easily established. However, the same cannot be said for the system of civilian control over the defence sector. The Parliamentary Assembly of the Commonwealth of Independent States (CIS) passed the model Law on the Parliamentary Oversight of the State Military Organisation in 2001. However, efforts to localise and pass the law in Armenia have not been made. Civilian control is partially addressed in the Constitution and in the Law on Freedom of Information. The Constitution ensures freedom of speech. Everyone has the right to freedom of expression including freedom to ask for, receive and impart information and ideas by any means regardless of the state frontiers. The freedom of the mass media and other means of mass information are also guaranteed. Everyone has the right to submit letters and recommendations to the authorised public and local self-government bodies for the protection of individual private and public interests and the right to receive appropriate answers in a reasonable time.³

The Law on Freedom of Information creates the legally recognised mechanisms for ensuring the transparent activity of state organisations. State institutions should publicly present documents on their activities at least once a year without request. These documents should particularly include information about price policy in relation to activities, services and supervised information, etc. Despite the existence of legislative mechanisms, discussions on the democratic control of the defence sector are rare. According to a Human Rights Watch press release, Armenian journalists try to avoid the issues of defence governance and human rights in state organisations.⁴ This behaviour is reflective of the way in which the processes involved in the creation of Armenia's military structure and its democratisation have developed over time.

Historical review of civil-military relations

The creation of the armed forces in Armenia essentially differed from similar developments in other post-Soviet countries. In Armenia, the armed forces were established under the extreme conditions associated with the conflict in Artsakh (Nagorno-Karabakh) on the one hand and an economic blockade and earthquake which destroyed 40% of the economy on the other. From 1989 until the beginning of the 1990s and the liberation of the Nagorno Karabakh Republic (NKR), many volunteer groups were formed. There was a general coordination between them and they were subject to a common command. Many of the groups consisted of the Republic's police employees. The police system was the only legal republican force in Soviet Armenia and

³ The Constitution of the Republic of Armenia, www.president.am/laws

⁴ <http://hrw.org/english/docs/2004/08/31/arm15904.htm>

its mission was to protect the state's borders from Azerbaijan and Soviet Union forces during the early stages of the war. An organisation based on these voluntary groups called the "Armenian national army" emerged in 1990.

By regaining independence, the military also entered a new level of institutionalisation. In August of the same year, the Armenian National Movement (ANM) came to power and its leader, Levon Ter-Petrosyan, demanded the demobilisation of all armed forces which were not under state supervision. Despite some fears, the process moved fast and calmly, without any excesses. In 1992, during the most serious period of the war, the Ministry of Defence and the state's internal forces were established. Though most of the volunteer forces joined the official armed forces, it is difficult to speak of an automatic change of format. The complication of the war demanded serious professional regulation of army actions. The potential of having a military commander inside Armenia was not enough. In the early 1990s, many professional military personnel and high commanders moved to independent Armenia from different parts of the Soviet Union. Armenia's military organisation was thus created step-by-step by the vision of these people. Of course, the Soviet Army was taken as a model. NKR liberation and victory over Azerbaijan seriously increased army popularity within society and strengthened the military's role in the political system. Given the conditions of economic collapse and political instability, the establishment of an army was seen as a significant achievement and it represented the main pillar of the young state. In the post-war period, there was widespread public discontent over the military's dominance in politics and the economy. The terms "politician", "patriot", "soldier" and "parliamentarian" became synonymous.

The Minister of Defence, Vazgen Sargsyan, symbolised the power of the army in the 1990s. Sargsyan became the *de facto* second highest ranking state official after the President and his words "if the minister will not interfere in politics the army will do it" became a titular phrase and an implicit policy vision. At the same time, the Minister of Defence was a civilian official and, as such, he was able to play the role of arbiter in relations between the "patriotic" and "professional" elements in the armed forces.

The armed forces headed by the minister played a decisive role in the 1996 presidential elections, by restricting the opposition from an opportunity to succeed and supporting Levon Ter-Petrosyan in his re-election campaign. The NGO "Erkrpah," formed by Karabakh war veterans, became a serious factor in the political life of the state. Erkrpah's mission was to maintain the achievements of war and the state's existing political course. In 1998, tensions emerged between the President and the political-military elite over the Nagorno-Karabakh conflict settlement. As a result, the President resigned. At the same time, the President's resignation was not solely related to his conflict with the Minister of Defence. After the suspicious elections of 1996, the President and his team could no longer rely on public support and, instead, came to rely on the military and administrative structures. 1998 could be considered a triumph of the military paradigm in the political system. Within one week, on the basis of the "Erkrpah" parliamentarian group, a new parliamentary majority was formed.

In the parliamentary elections of 1999, Vazgen Sargsyan formed a block called "Unity," together

with the popular opposition leader, Karen Demirchyan, runner-up in the previous presidential elections. The block gained the majority in the Parliament. The new majority differed from the previous one by allowing for a more diversified composition, but Vazgen Sargsyan's appointment of the Prime Ministers' post was evidence of the victorious military paradigm at work.

Following a terrorist attack on the Parliament, the state's military commanders convinced President Robert Kocharyan to appoint Sargsyan's brother, Aram Sargsyan, to the post of Prime Minister in another demonstration of the military's power. However, within six months the President had formed a new loyal majority inside the Parliament and both the Prime Minister and the Minister of Defence, Vagharshak Harutyunyan, who had a military background, were subsequently dismissed. The President's actions, in some judicial aspects, were outside the jurisdiction of his constitutional authority.⁵ Through these actions the President established informal unity with several of the state's top military commanders, particularly Erkrpahs' Chairman General Manvel Grigoryan. Disloyal groups were dismissed from the governmental structures. Serge Sargsyan, the former National Security Minister, head of the National Security Council and the President's administration and close aide of Kocharyan became the new Minister of Defence. Sargsyan's appointment rebuilt the authority of the political-military tandem and, once again, the Minister of Defence ranked second in the political system.

In 2002, Armenia joined the Council of Europe (CoE) and took on a number of responsibilities concerning the state's further democratisation. The role of the army was not so evident or crucial during the 2003 presidential elections, though Minister S. Sargsyan took two weeks' leave to head the acting President's election campaign.⁶ The role of assistance that was played by the armed forces can be explained by the authorities' desire to conduct the elections in accordance with international democratic criteria and to develop electoral technology. Nonetheless, the Board of the Ministry of Defence made a special announcement after the first election tour whereby the opposition was prohibited from holding a mass meeting, which was considered a violation of electoral rules and deemed unconstitutional. Minister Sargsyan occupied the second row in the electoral list of the Republican Party during the parliamentary elections of 2003. The Republican Party had already been the political platform for the Defence Minister Vazgen Sargsyan in the previous parliamentary elections. The party won the elections, which, according to an assessment by the Organisation for Security and Cooperation in Europe (OSCE), were not run in accordance with international democratic criteria. That year, the Minister officially joined the party and provided an explanation for doing so by making reference to the special attention that the Republican Party required from the army.

Ascertaining the role of the armed forces in almost all the processes which have taken place in Armenia is essential and sometimes even crucial. However, it should be recognised that this role is

⁵ According to the Constitution, the President should consult with the Prime Minister before dismissing a Minister, but Kocharyan did not follow the rules.

⁶ "Aravot" daily//07.02.2003 www.aravot.am

decreasing. Legislative and institutional reforms as well as CoE commitments, particularly those concerning general political and administrative changes, have had an influence on the military sector,⁷ whereby direct intervention by the military in the political life of the country has essentially decreased and this process shows signs of continuation. Yet, in a situation where resolution to the Nagorno-Karabakh conflict remains in doubt and the danger of war still exists, the army continues to be the gerent of the existing stability and more than just a system that provides security for the state. According to the latest sociological reviews, the army is society's most trusted state institution, ahead of both the President and the Parliament.

The decision-making processes of the defence sector

Traditionally, the decision-making process has been conducted within a triangle between the President, the Minister of Defence and other power structures, though it is intending to establish a more formal and regimented construction and involve broader involvement. This is an unequivocally positive process especially when conceptual documents on security strategy are yet to be adopted. The President is authorised to decide on military policy almost absolutely "individually." This derives both from his constitutional authorities and from the specificity of the political system. The President executes his power through his orders, and until the latest constitutional changes he ratified all governmental decisions at his own discretion. The Head of the state also signs all laws and has the right to veto parliamentary decisions. The President's sources of analyses and other information in the area of defence are established by the President's according to his personal preferences. The post of National Security Adviser emerges periodically. Though the main function of adviser is to consult the President about foreign policy, his duties also includes the defence sector. This post has yet to be institutionalised; its functional significance and role in policy creation processes has not been determined. It is worth noting that this post was free from 1997 to 2003. The same can be said for the National Security Council under the President.

During the first years of independence, special committees were created within the Council which served as original forums for different political groups and civil society representatives to express their opinions and generate common attitudes on strategic issues. However, the activities of the Council became more and more restricted. This process moved horizontally with the process of democratic recoil. For a long period, information about the Council's activities and its composition was not released, and essential issues were discussed by the President and government officials.⁸ In 2005, the status of the National Security Council as a permanent advisory structure under the President was reinforced by the Constitution. However, the law on the National Security Council has not been adopted or even elaborated. Despite the fact that the RA's National Security Council is one of the most significant organisations within the Government, there is no example of any Council decision in the database of national legal documents. The most recent information concerning

⁷ As mentioned earlier, the non-political status of the Armed Forces was determined in the Constitution.

⁸ This information was pronounced by Foreign Minister Vartan Oskanyan

the Council's activities was reported in the Armenian press stating that the Council had discussed Armenia's National Security Strategy.

The administration of the President is another source of information. The General Military Superintendent's office in the administration is currently headed by Gourgen Dalibaltayan. Recently, by the initiative of National Security Advisor Garnik Isagulyan, the Centre for Strategic Studies was established within the President's administration. However, there is no comprehensive information about its direct duties and activities.

The government headed by the Prime Minister does not play a significant role in the decision-making processes of the military. The powers mentioned in the previous chapter operate in a formal sense. The government approves defence documents by the same procedure as any other official document. No case has been made when the Armenian government has formed and implemented decisions without input from the President or when the opinion of the Defence Minister has been disregarded. By some reservations, Vazgen Sargsyan's cabinet was such a kind of government, whereby the Prime Minister's influence on the decision-making process held superiority over the President. Since 2003, the Government of Armenia has been formed through an official coalition agreement on the basis of a parliamentary majority. However, foreign and defence ministers are subject to the President. For example, in 2004, the government revoked amendments on the Law on Compulsory Military Service, only when Minister Serge Sargsyan announced that his Ministry had not initiated the changes and had not insisted on their approval. The foreign, finance and justice ministries have some influence on military decisions, particularly when their prerogatives are concerned.

The Prime Minister formed a control agency in the government, which can examine budget spending in the executive branch, but there has not been any auditing of the defence sector. Every year, however, ministers present reports on the activities of their agencies, and the Prime Minister assesses each ministry through a marking system, but a clear system of estimation methods and normative regulation of the process does not exist. It is considered to be a political approach, and the government has not developed mechanisms of self-rating or publicly presenting regulations of self-development.

Up until the present day, the personality of officials has played an important role in the decision-making process. As an influential politician, the Minister of Defence is able to play a dominant role in the defence sector and even monopolise the organisation in decision-making processes.

The Minister of Defence ratifies the documents of the Highest Commandant and his offices. He issues decrees to be introduced in the Parliament after governmental approval and, under his authority, documents are obligatory for all defence structures. The functional separation between the Defence Ministry and the general headquarters has yet to be formalised. However, a separation programme has been designed and is scheduled for implementation in three years time. It may be ascertained that the prerogative for strategic military decision-making has moved from the general headquarters to the Ministry of Defence. While middle-ranked staff should consist mostly

of civil employees (about 70%), the ministry's staff consists almost entirely of persons with a military background. Opportunities in the department depend on professional competence regulated by both the Law on Civil Service and on military subordination. Though reforms have been planned, it is difficult to assert whether or not the existing military personnel will be replaced by civil employees. Such a step requires training, knowledge and skills. The Board of the Ministry of Defence has a duty to provide broad representation and different approaches within the military in decision-making processes. A broad sitting of the Board includes the whole high command of the Republic. In analysing the dynamics related to the issues that are presented during its meetings one can conclude, that this structure will serve to increase its role as a centre of decision-making and organisational participation. The board has evaluated threats, developed strategic tasks and deliberated on the possible implementation of the armed forces and National Security Strategy project. It allows for the generation and sharing of information, offers a platform for internal discussion at the political level and addresses crucial issues, for example, the specific need for recourse.

The military experts in the administration serve as the minister's advisors. The special post of military-political adviser gives information directly to the minister. Within the area of their competence, all offices serve as a source of information in policy formulation. To obtain expert assessments, the ministry also cooperates with different international organisations such as NATO, the OSCE, and the Collective Security Treaty Organisation (CSTO) through their support programmes, as well as Russia and US expert structures. Two years ago, a centre for strategic studies, "DRO", was created within the ministry headed by General Hayk Kotanjyan, the minister's military-political advisor.

The system of supply of the armed forces is undisclosed, but a general supplement system is fully integrated in the government's purchasing system, which is competitive and transparent for all providers. These relations are regulated by the Law on Purchase and several special governmental decisions for the military sector. The law on purchase was elaborated in the context of Armenia's commitments to the World Trade Organisation (WTO) and in accordance with international criteria on public control and transparency. However, the specifics of the defence sector in Armenia do not allow for total execution of the law. Most of the competition for defence purchases is conducted in closed competitions. While not forbidden by law, this is cause for anxiety. The information in this sphere is restricted and the Minister signs all contracts related to the defence system.

The military budget is fully integrated into the state budget; they are composed and introduced to the National Assembly at the same time. In recent years, the defence budget has been developed according to the "Programme of Military Needs," which is also the part of Medium-Term Expenditure Framework. Requests made by the Ministry of Defence are sent to the Ministry of Finance and Economics to correspond to the general budget framework. The distribution of the budget between services, programmes and offices is conducted at the ministerial level. In its essence, the allocation of recourses and the decision-making process operates in a top-down system. Though internal echelons are able to present their needs, they exert little influence on decision-making. A system of planning, programming, budgeting and evaluation is not in existence in the defence sector nor in any

other state structure, but its introduction has been planned in the re-organisation programmes. The separation of financial and military needs within the ministry and an output oriented system are functioning. With regards to the level of competency among the decision-makers in the ministry, officials insist that a priority level is designated to every programme, decision-makers present their intentions, and ‘middle term’ programmes always exist.⁹

Parliamentary oversight and control

It is difficult to derogate the role of parliamentary oversight in the process of democratic control over the armed forces. It can be considered as the heart of democratic control and the precondition for other methods of effective execution through the press and NGOs. As mentioned in DCAF documents, the challenge is to devise a method by which the constitutional role of the legislative process can be exercised in a purposeful and professional manner. If a rigorous method is not formalised, parliamentary control is in danger of becoming political rhetoric, leaving too many opportunities for the bureaucracy and the military to go their own way.¹⁰ The authority of control of the executive usually divides into political, policy and budgetary control areas. Armenia is lacking a law on opposition to regulate the process of political control within the Parliament. There has never been a case of a parliamentary majority impeaching the government. A lot of work is needed to develop the mechanisms and create a tradition of parliamentary oversight in Armenia. It is currently in its earliest stage and there are many reasons for this, the most obvious being:

- An absence of parliamentary traditions in the political system;
- An absence of sufficient knowledge and experience among parliamentarians and staff;
- Restriction or control functions by military personnel only within the executive branch hierarchy and little/no acknowledgment of Parliament’s intensive participation.

The Parliament exercises its control functions through the budget and performance approvals, as well as through the right of representatives to address questions to the government and the right of parties and deputy groups to question the government on any issue.

Only the Standing Committee on Defence, National Security and Internal Affairs specialises in the studied areas of defence, security and internal affairs, the military-industrial complex, military-educational institutions, military service and the police. There are no subcommittees for special areas. On the one hand, there is a lack of professionalism among members of the Committee and, on the other hand, the Committee has the restricted authority to examine problems in the area of defence. The military budget is introduced by one article.¹¹ Some lines of the budget are presented

⁹ From official answers of MoD to DCAF questionnaire.

¹⁰ Oversight and guidance: The relevance of parliamentary oversight for the security sector and its reform. DCAF document No.4, p. 62.

¹¹ Law on State Budget is published in the official reference book. In 2004, the military needs article indicates 82 million USD, in 2005 – 100 million USD, in 2006 – 160 million USD.

at a closed sitting of the Committee and are not publicly disclosed. Under the authorisation of the Prime Minister, the articles, which include state and administrative secrets in the annual budget report are presented at a joint closed sitting of the Defence and Financial Committees in the presence of the Chairman of the Control Chamber of the National Assembly. The Chairman of the Defence Committee presents the Committee's opinion before Parliament in a general sitting prior to the adoption of the budget performance. The National Assembly examines the annual state budget report which is subsequently adopted on the basis of the findings of the National Assembly's Oversight Office.

Interviews with present and previous chairmen have revealed that the role and activities of the Committee increases when conceptual papers appear in the defence sector. The members of the Committee have expressed their satisfied with the level of the Committee's cooperation with the Ministry of Defence. Some members have been included in the interdepartmental Commission of the National Security Strategy creation, which is a rare example of cooperation in the early stages of the decision-making process. The majority of legislative initiatives come from the executive branch. For the most part, parliament members typically initiate laws on issues concerning social problems associated with the military. Therefore, the legislative branch of authority, unlike the executive branch, receives limited information on the status of enforcement structures and does not have the power to implement control or exert its influence.¹²

According to the Constitution, the Parliament has the authority to approve the use of national military forces abroad. The decision to send peacekeeping troops to Iraq was one of most difficult of recent times and it was the focus of many discussions in Parliament, as well as among the expert community and civil society representatives.

The Committee on Defence authorised an investigation into problems demanding special attention. Although the public is well-informed, by the press and other sources, of offences committed by officials and violations of soldiers' rights, Parliament has not used its power to investigate the issues. The problem of human rights abuses in the army can be partially solved by the creation of a military ombudsman institute. Armenia's first ombudsman, Larisa Alaverdyan, insisted on the creation of an ombudsman institute many times. The creation of such a post has been addressed within the framework of the IPAP. The Committee also supported this development but Minister S. Sargsyan has refused to implement the proposal.

The Control Chamber of the National Assembly has become the institutional structure that warrants the observance of financial legislation and discipline, as well as carries out oversight over the effectiveness of the execution of the state budget and its military spending. The activities of the NA Control Chamber are regulated by the RA Law on the Control Chamber of the National Assembly of the Republic of Armenia, adopted on 29 May 1996. The chamber sends its examinations to the National Assembly speaker, who can pass them onto the Prosecutor General.

¹² Bodruk O.S. Society and Army // Strategic Panorama. – 2002 – # 4.

The department of oversight over the budgetary expenditures of defence, national security, judiciary and local self-government is based in the NA Control Chamber. It examines the purchasing processes of the Ministry of Defence.¹³

A group of independent experts work for the Standing Committee on Defence, National Security and Internal Affairs. The committee cooperates with research centres and NGOs, but the main source of information remains the executive branch. The committee works to increase the professional level of its experts and staff. It particularly works with the OSCE Yerevan branch to conduct training courses and seminars on specific issues. Taking into account the importance of competent expertise for upcoming conceptual documents, it should be stated that there is much work yet to be done to increase Parliament's potential to obtain and analyse sources of military information in an independent manner. In general, in the field of parliamentary oversight greater efforts must be made to:

- Improve and perfect the legislative process (the institute of military ombudsman and the Law on the Parliamentary Oversight of the State Military Organisation should be elaborated).
- Strengthen the role of the NA Control Chamber in the civil control system (now similar agencies with the same functions exist under the President and the government which creates some difficulties for the NA Chamber to act in all sectors of public administration).
- Improve the committee's organisational structure (staff retraining, creation of specialised subcommittees).

These measures, in accordance with effective political will, have the capacity to essentially change parliament's role and to become important steps in establishing a real system of democratic control over the military.

Role of the expert community, the media and non-governmental organisations

There are several research centres some of which also specialise in security issues. As a rule, they operate as grant supported non-governmental organisations. A specific independent centre, designed to propose methods of improvement in the area of Armenia's defence organisation, defence policy, or the defence industrial and technology base, is yet to be established. These issues are generally discussed within the broader context of regional security, conflict resolution and political transformation, etc. Permanent and serious cooperation between existing research centres and the state is yet to develop. The activities of the centres are summarised in seminars and conferences according to an international format and they work to assist the general public in understanding issues surrounding the abovementioned issues. The MoD and other state organisation officials, as a rule, participate in and observe these events. The lack of financial resources, however, inhibits opportunities for research centres to become places of alternative

¹³ "Liberty radio station" www.armenialiberty.org/archive

policy and strategy development, although their level of professionalism is increasing. In general, state organisations are open to cooperation, but they do not officially encourage centre activities. The centres are either supported by their own resources or privately by foreign assistance. The state prefers to have its own research institutes, which are budgetary organisations, but can also receive private orders. Such kinds of centres were created under the President's administration and government, (for example, the Noravank Foundation and the "Dro" Strategic Research Centre). This reflects the state's aspiration to move from operational governance to strategic regulations in the area of defence. In conclusion, it might be discerned that the influence of think-tanks on the military sector is minimal. The reasons for this can be found in the scarcity of information on the military, and the indifference of society towards these issues. While the public can request information on military activity from the Ministry of Defence, the bureaucratic process can be lengthy and information may not always be provided.

The situation is different in the case of non-governmental organisations representing civil society. Human rights and social need oriented organisations are the most active in cooperating with the military. At the minister's level, the NGO council discusses problems associated with military regulations and improving living conditions in military units, etc. The members of the council are free to enter military units, monitor the situation and conditions and present proposals to the minister. To heighten the image of the army, the ministry maintains close relations with different groups in society, especially with education and youth organisations. In contrast to the 1990s, the desire to avoid military service has essentially decreased among young men and the Armenian Armed Forces does not suffer from low recruitment levels.

The other aspect of civil society involves charity organisations, which have been created to provide financial assistance for the army and former army personnel. During an interview, Minister Serge Sargsyan stated that it was naive to think that the army functioned only on budgetary resources.¹⁴ One of the legal aid organisations contributing to the armed forces is the "Martik" (soldier) Foundation. While Martik does not contribute to the army's military needs, its objective is to assist in the development of military education and the retraining of officers, to improve the material and technical basis within this field and develop military science.¹⁵ Martik publishes an annual report on its property usage and an inspection commission studies the activities of its executive bodies, audits their financial and budget documentation.

The veterans of the Karabakh war created several organisations to assist the families of war participants and the army in its educational programmes, etc. Some financial aid also comes from the Diaspora.¹⁶

¹⁴ "Aravot" daily www.aravot.am/archive

¹⁵ Now there are two military education institutions: Military institute named by Vazgen Sargsyan, which prepares military cadres in junior rank and Yerevan military aviation engineering school.

¹⁶ For example, the new Centre for Strategic Studies "Dro" was created by US Diaspora donations.

The Government allocates some property for use by ministries not linked directly to the military sphere. Media reports have implied that the military supervises income from some sectors of the economy for its needs, but there is no concrete information to substantiate this.

Generally, the military thematic is not actively discussed in the Armenian mass media at the professional level. The reason is again a lack of information. The only related professional journal is the “Armenian Army,” which is an official organ of the MoD. The military theme is a kind of taboo area for journalists, who try to avoid possible conflicts with powerful generals. One is led to conclude on a lack of efficient control on the part of the mass media over the activities of the “law-enforcement bodies” at least. Many experts argue that even an opposite trend can be observed. Thus, since the mid-1990s a process of mass media freedom restriction has been developing, engineered by those agencies whose activities themselves should be under information control by the media: primarily the Ministry of Defence and the police.

International Dimension

The vector of external cooperation has traditionally been very important for internal processes in Armenia. Participation in international organisations besides the exchange of experience has allowed the country to react to global processes, develop collective mechanisms in response to new challenges and implement advanced methods of management. The reality is that as a newly-independent transitional country Armenia has yet to define its role and place within the international community. A consequence of this has been the establishment of a complementary foreign policy, which has gained maximum results from multi-factor cooperation.

Following the collapse of the Soviet Union, relationships between the former republics were not interrupted immediately. The creation of the CIS facilitated the separation process. Cooperation with Russia allowed some states to fill the security vacuum during the first few years of independence. In the case of Armenia, this cooperation continued.

In the framework of the Commonwealth of Independent States, the CIS Collective Security Treaty (CST) was signed. The treaty came into effect in 1994. Armenia was one of its founders. The CST was set to last for a five-year period unless extended. Accordingly, the treaty members were prohibited from joining other military alliances or other groups of states, and an aggressive act against one signatory was to be perceived as an aggression act against them all. In 1999, most of the treaty members renewed their participation for another five-year period. In 2002, CST changed their format and received the status of a permanent international organisation, and observer to the United Nations (UN) General Assembly.

Some experts say that the Collective Security Treaty Organisation (CSTO) was created to prevent NATO’s further eastward expansion and to keep some CIS countries under Russia’s military protection. During the Yerevan summit in 2002, Russian President Putin stressed that there would be no attempt to «counterbalance» NATO, but Russia would remain the group’s dominant player. An interstate command body, including representatives from each member state, was formed

in 2002 to coordinate military decisions. Russia plays the leading role in the new body, and in exchange Russian arms and equipment are sold to member nations at a substantial discount. Three distinct regional collective security systems are now operating in the Caucasus, western CIS and in Central Asia. The Collective Rapid Reaction Force with 1,500 military personnel is deployed in Kazakhstan, Kyrgyzstan, and Tajikistan. Military groups are continuously created and supplies with munitions.¹⁷ At the same time, there are no efforts to elaborate the general rules and mechanisms of civilian control and oversight over the military within CSTO. In general, ignorance towards the processes of democratisation has the potential to seriously damage perspectives on the organisation in the long term. In 2005, Uzbekistan renewed cooperation with CSTO, after the Ahdijan incidents and subsequent international isolation. The focus on military and geopolitics has raised serious public alarm.

Though Armenia's military cooperation mostly concentrates on CSTO and relations with Russia, cooperation with western organisations and states has also increased since the 1990s and this vector rises year after year. This development has strengthened the country's efforts to establish concrete commitments to the democratisation process and, particularly, democratic control over the military.

Armenia has been a member of the OSCE since 1991 and it works closely with the organisation in many programmes. The OSCE's activities in the field of military reform are twofold. The Forum for Security Co-operation (FSC) provides a framework for dialogue between participating states, leading to politically-binding commitments on military conduct and democratisation of the armed forces. The implementation of these commitments is based on the political goodwill of OSCE-participating states. In this sphere, the OSCE office in Yerevan focuses on the role of the armed forces in a democratic society, combating terrorism, parliamentary oversight of the security sector and the implementation of OSCE and other international military and security related documents. The OSCE has established a partnership with the Armenian authorities to develop a Police Assistance Programme in Armenia. The elimination of rocket fuel (melange) component stocks is a major cross-dimensional project of the OSCE office's in Yerevan, involving military, human and environmental security. The project represents a strong case of military and civil society cooperation, which is very important for creating such traditions. The OSCE is the only organisation which monitors the military policy of Armenia and its corresponding agreement on common weapons in Europe. On occasions, information regarding Armenia's military forces that is typically hidden from the public in Armenia is published by the OSCE and the UN and made accessible to the public.

Relations with NATO have remained stable. They started with the PfP programme and eventually led to the IPAP, which is a complicated programme concerning Armenia's external relations as well as the whole system of government. The partnership programme was presented by NATO and signed by Minister S. Sargsyan. Generally, such documents are elaborated in the Ministry of Defence in coordination with the Ministry of Foreign Affairs and the President's administration. Armenia's commitments under the IPAP with NATO include political, security related,

¹⁷ www.gov.ru.mil/142odkb/srtuc

defence and military issues as well as administration, public information and environment issues, etc. Armenia is particularly determined to continue democratisation, combat corruption, protect human rights and the rule of law, with the aim of conforming fully to internationally recognised standards. In relation to democratic control over the armed forces, the Armenian government aims “to develop and strengthen democratic control and civilian oversight of its armed forces. Armenia also intends to promote civilian participation in the development of defence and security policy. In this regard, Armenia places particular importance on encouraging civil society involvement in defence and security issues and improving the education and training of parliamentarians and their staff.”¹⁸

As a measure of its commitment to implement changes in the defence sector, the Armenian government intends to:

- Optimise the role of the legislature in overseeing defence activities by enhancing the involvement of the Parliamentary Standing Committees on Defence, National Security and Internal Affairs and on Financial-Credit, Budgetary and Economic Affairs.
- Take steps to enhance specific education and training in overseeing defence activities for parliamentary members and their staff.
- Establish rights of representation and appeal.
- Establish an ombudsman system for dealing with complaints from military personnel.
- Review the existing Code of Military Discipline.
- Review current arrangements in the sharing of command and support responsibilities between the Parliament, Head of State, the government, the armed forces and potentially other actors in the field of control of forces.
- Encourage civil society’s involvement in defence and security issues.
- In support of the government plan to transform the armed forces so that it conforms to values inherent in a democratic society, conduct a review of the current chain of command and control procedures within the Ministry of Defence and the General Staff and provide recommendations to the Inter-agency Commission responsible for these reforms.
- As part of this review, identify military posts that could be transferred to civilian manning.
- Develop a National Security Strategy using a revised threat assessment that will address the entire security sector of the Republic of Armenia.
- Organise public debates on the National Security Strategy and a Defence Concept, including the involvement of NGOs.
- The MoD will establish a project organisation which will be entrusted with the coordination and daily management of the Strategic Defence Review (SDR) and the implementation of approved plans. The project team will be supported by expert groups as and when required but should be the organisation providing recommendations to the MoD. The project team will also include representatives from the appropriate ministries or at least those for which the SDR will have an impact.
- The project team also needs to put in place a reporting mechanism to keep the Minister of Defence and the personnel of the armed forces informed of the progress and results

¹⁸ Armenia’s commitments under the Individual Partnership Action Plan (IPAP) with NATO, Yerevan 2006

of the review. It will also educate and train public affairs specialists for duty in the MoD and the General Staff.

- Based on the development of a National Defence Concept, conduct a Strategic Defence Review defining the structure, the infrastructure (bases, airfields, HQs) and tasks of the armed forces to meet the missions established in the Defence Concept taking into account the strategic environment, threat assessments and available resources. The Parliament and the Inter-agency Commission will keep informed of the progress of the defence review.
- The MoD will also develop a public information strategy with the aim of gaining political and public support for reform plans and inform Parliament and the public on the results and the implementation of the Strategic Defence Review.
- As the Strategic Defence Review might recommend reducing personnel and equipment levels, develop expertise to assess the costs of retraining and reinserting redundant personnel to civilian life, base and infrastructure closure and destroying ammunition and equipment.
- Explore different planning and budgeting systems to develop a national system and develop national expertise in this area. The Ministry of Finance will be involved in this process.
- Evaluate planning and budgeting system best fitting the national situation and ensure proper coordination between all ministries and other appropriate government bodies involved in the planning process.
- Establish a defence planning cell responsible for the longer term planning and the development of statement of requirement to substantiate the acquisition of equipment.
- Improve the existing system of fair and transparent evaluation of performance for officer, NGOs, soldiers and civilian personnel as the basis for the selection of those meeting promotion to the subsequent higher rank. This system should convey to each individual what is expected of them and what they need to do to develop their skills.
- Using the result of the Strategic Defence Review (SDR), develop a long term Command, Control & Communication (C3) plan and architecture for the C3 systems (including communication, navigation and identification systems and automated information systems plus their functional services) needed to match the operational requirements identified by the SDR. In support of this objective, Armenia will support the NC3B, NNEC and interoperability sub-committee activities, participate in NATO and coalition CIS interoperability testing activities and seek specialist support from C3.

Thus, the document has passed into the phase of final completion. This document implies Armenia's clear commitment to the NATO IPAP standards regarding almost all aspects of social life in the broader context and particularly in relation to the defence sector. The implementation of such reforms will bring Armenia closer to Europe and the rules of the system – “governance” – in line with western standards. Armenia is a part of Europe and “full integration into European structures and institutions is Armenia's main foreign policy objective.”¹⁹ In fact, this is a political reality that

¹⁹ Ibid

has been clearly promulgated as a high status political dimension. This commitment has the potential to considerably change Armenia's status within the international system.

Conceptual documents of military policy

One of the objectives of IPAP is the development of national security policies and related documents. An Inter-agency Coordination Commission was created by a decision of the President on 15 December, 2005. This commission, supported by the appropriate expert groups, is responsible for producing a National Security Strategy and a Defence Concept. The commission, headed by Secretary of National Security Council S. Sargsyan and his political-military advisor H. Kotanjyan, coordinates its activities. Five parliamentarians and representatives of 22 state structures are members of the commission. The strategic documents will be subsequently submitted to the Security Council for endorsement by the President and to the National Assembly of Armenia for final approval in compliance with the existing procedures. Public debate, including NGO involvement, will take place during this process. The commission has already conducted five meetings, and published 'Directions of National Security Strategy.' The strategy shall be a guide for documents of lower status and programmes in the military and other sectors of governance. The strategy includes treaties, national aims and interests. The document defines national security as the RA's and Armenian society's secure existence within the social state, governed by the rule of law and civilian oversight. National security is ensured by the system, which provides general democratic values, rights and freedoms.²⁰

Based on the National Security Strategy and supported by appropriate experts and representatives from other ministries, the Ministry of Defence is scheduled to develop a Defence Concept in 2007, broadly defining the missions of the armed forces for consideration by the Inter-agency Coordination Commission. The Defence Concept will also define the orientation of the reforms of the armed forces. In the past, Armenia's military system did not produce documents on supplementary strategy, training and preparation doctrines, national defence policy or special policy documents for military education and human resources management, etc. These areas were regulated by the minister's orders and frameworks drawn up by the ministry and general headquarters. The directives of military planning were secret and planned for a one-year period. In the absence of a supplementary strategy, the government approved the system of rear supply census. Information and other policies were to be elaborated in the IPAP.

During this important period of adopting conceptual documents, it is extremely important to ensure society's broad participation in public discussions and in the different stages of decision-making. The non-governmental sector has expressed a willingness to contribute to the development of strategic policies. The attitude of the state is still embryonic: on the one hand, there is a willingness to cooperate and an awareness of the possible benefits that such cooperation would yield. On the other hand, there is a growing belief that the government may lose direct control over the process.

²⁰ Directions of National Security Strategy. www.mil.am

It is obvious that the time is ripe for serious and systematic cooperation with the public, which is convinced of the benefits and strongly supportive of the process of democratic control. There is also a need to target institutions which, being resistant to change, will obviously impede the implementation of IPAP. Their number is not small and they are being exposed at almost all levels: unhealthy competition, faulty elections, corruption, etc. In addition, the dysfunctional and ineffective activities of all those institutions which have been called to contribute to the establishment of democracy in the country must also be addressed.

Problems of democratic culture

Civil-military relations mirror society and the political regime in which they are built. Beside specific constitutional arrangements, civil-military relations are influenced by a country's historical traditions, sociological characteristics and the evolution of the domestic and international environment. Last but not least, the actions and behaviour of governments are shaped by personalities and informal relationships, which might also influence the balance of civil-military relations. We introduced this aspect in the chapter concerning evolution of civil-military relations in Armenia. Now we will try to introduce the cultural roots of such behaviour. Despite 15 years of independence, Soviet observations remain strong especially within military and bureaucratic circles. Communist party control was not the same thing as genuine civilian control, at least not in the sense that the term is used in Western democracies. Communist party direction of the armed forces was neither democratic nor truly civilian but it was real, and in most cases quite effective. There were no clear-cut dividing lines between institutions; the policy decision-making process very often was obscure, informal or hidden. Consequently, it was difficult to identify the respective interests of the groups involved in the decision. In the formulation of defence strategy and the military budget, the real influence of civil politicians was always unclear, as was the input of senior officers. This legacy will only change through reform of the defence sphere. The process of inputting elements of democratic culture in the political elite mentality may take a long time and concerted efforts, but it is crucial to ensure the effective implementation of a legislative framework and institutional changes. To develop democratic control systems is to accumulate experience that, once the domestic political situation has improved, can subsequently lead to forming a new culture of liaison between the authorities and the public, specifically in the area of national security in its broadest sense.

The stereotype, that military control and transparency can damage a country's security may also be considered as an example of existing culture. The unresolved conflict with Azerbaijan on Nagorno-Karabakh makes politicians and military officials in Armenia seek for internal and external aspects of balance on the democratic control issue. The internal aspect undermines the opposing the combat-readiness and level of transparency. The external aspect compares the process of democratic control measurement established in Armenia and Azerbaijan. This comparison comes from a misunderstanding of the meaning and role of democratic control over the military, which is reasoned by an insufficient level of knowledge in this sphere.

There is serious work to be done especially by politicians. Our interviews reaffirmed the previous statement.²¹ Summarising the results of questionnaires in any society is almost impossible. Interviewed experts from research centres and NGOs emphasised the political and mental issues associated with ensuring democratic control and derogating the role of the legislative framework. With respect to the DCAF questionnaire, the documents presented in the questionnaire do not exist in Armenia, so receiving information or opinion about them was impossible. Respondents expressed different opinions about the decision-making process in the defence sector and at the political level. Most of the answers were expressed in the form of an opinion, because respondents were not aware of many of the sector's formal regulations. State officials preferred to answer only those questions which were in the competency of their field. The Ministry of Justice explained that it was not authorised to answer the DCAF questionnaire.

Conclusion

In the final analysis, it must be concluded that the system of democratic control has yet to be established in Armenia principally for the following reasons:

- The delay of the general democratisation process;
- An insufficient level of international cooperation and counsel from those with international experience;
- Gaps in the legislative framework;
- The unresolved condition of the Karabakh conflict, which creates caution in actions and stereotypes in mentalities;
- An insufficiently informed public and incompetence among civil society actors particularly concerning the role and methods of democratic control.

At the same time, the Armenian authorities are open to cooperation, especially with the international community. The counselling, professional knowledge and managerial skills provided by NATO, the OSCE and international NGOs can only be effective when applied through two avenues: the state in its political and administrative parts and civil society. Participation in the preparation of conceptual papers, such as the National Security Strategy, the Defence Concept and the Information Strategy, by civil society and state actors is especially important. It adds to the legitimacy of the process by ultimately setting contemporary strategies apart from the existing laws which have never been fully implemented.

²¹ The author conducted several interviews with the Armenian Atlantic Association, "European Integration" NGO, as well as with former ombudsman Larisa Alaverdyan and with officials in the Ministry of Defence and Foreign Affairs, also with parliamentarians from the Standing Committee on Defence, National Security and Internal Affairs.

DEFENCE INSTITUTION BUILDING IN AZERBAIJAN

Tamara Pataraiia, Tata Makhatadze CIPDD

Introduction

This report will look at how the Republic of Azerbaijan (further referred to in this report as Azerbaijan) has dealt with the challenge of democratising its defence institutions over the past few years and what progress it has achieved in this regard. Azerbaijan decision to join Partnership for Peace [PfP] in May 1994 marked the beginning of closer ties between Azerbaijan and the Euro-Atlantic security structures. Azerbaijan had declared its ambition to integrate into Euro-Atlantic structures and, thus, to embark on the democratic development of its security institutions and policies.

Following this in 1996, Azerbaijan handed over the Presentation Document of the Republic of Azerbaijan to NATO, which outlined the steps which were required to achieve the partnership's objectives. Since then, an annual Individual Partnership Programme (IPP) has been drawn up between NATO and Azerbaijan to meet the goals and objectives which were developed in Azerbaijan's Presentation Document. IPP aims to contribute to the raising of interoperability and practical interaction between the armed forces of Azerbaijan and those of its allies. Under the programme, Azerbaijan participates in a wide variety of events, including military exercises, peacekeeping missions, defence policy development, crisis management, civil emergency planning, etc. According to Azerbaijan's Ministry of Defence, members of the armed forces attend over 300 events annually which are organised by NATO's PfP programme.

Following the NATO/EAPC Summit held in 2002 in Prague, Azerbaijan moved to a new level of cooperation with NATO, as it began negotiations on two new initiatives - the Individual Partnership Action Plan (IPAP) and the Partnership Action Plan against Terrorism. Azerbaijan's President Ilham Aliyev submitted IPAP's Presentation Document to NATO's Secretary-General Jaap de Hoop Scheffer in May 2004.

Cooperation between Azerbaijan and NATO under IPAP has covered wide areas such as border control, civil emergency planning, environmental and scientific issues, public diplomacy, etc. In recent years, Azerbaijan has acted as a host country for many NATO seminars, workshops, conferences and military exercises.

However, it can be argued that Azerbaijan has been far from fully compliant with the principles of democratic governance of the security sector. Problems cited as examples of Azerbaijan's failure to democratise its defence system include:

- The government's attitude towards integration with the Euro-Atlantic structures has been described as "ambivalent" by local experts. Experts say Azerbaijan is reluctant to jeopardise its defence ties with Russia by aspiring too enthusiastically to NATO accession.
- Lack of transparency in the defence and military sphere: many documents related to the defence sphere are not disclosed to the public. One example of this is the IPAP document itself, which the research team found impossible to obtain. As is known in most countries IPAPs are open documents, but Azerbaijan seems to have used its right not to make the document public.

- The most important documents in the defence sphere that the government is expected to draft and pass - the country's security concept and its military doctrine, have not yet been passed. Without these documents, it is impossible for a country to have clear policies that would be likewise comprehensible to its neighbouring and partner countries.
- Azerbaijan's Armed Forces is still widely criticised for its adherence to Soviet military standards in terms of military training, staff management, disciplinary regulations, as well as for its failure to develop civilian control mechanisms.
- The higher echelons of Azerbaijan's Defence Ministry remain staffed with servicemen. The minister, who has a military background, has served in the post for over a decade.
- Most of Azerbaijan's defence-related legislation, which is said to be a copy of Soviet-era legislation, was drafted and passed in the early 1990s, and naturally falls short of meeting Western and democratic defence management standards.
- The defence budget is drafted and submitted to Parliament (Milli Majlis) by the executive government. Although the budget itself has been rapidly increasing over the past three years, it is still quoted in total numbers and does not provide a detailed breakdown of expenditures.

Overall, the attitude of Azerbaijan's authorities to integrate the country into Euro-Atlantic structures is somewhat "equivocal." It has been argued that the authorities, on the one hand maintain an official position that upholds Azerbaijan's aspiration to join these structures, as demonstrated by official declarations and the country's participation in NATO programmes and EU's European Neighbourhood Policy, etc. Nevertheless, experts argue that there is little real evidence to show that Azerbaijan is compelled to meet the obligations and requirements stipulated by the international documents that the country adheres to which require the implementation of democratic reforms, including those in the military sphere.

Constitution: does it contribute to democratic defence institution building?

This section will look at some provisions of Azerbaijan's Constitution which are pertinent to security sector governance.¹ The Constitution of the Republic of Azerbaijan was passed by the Milli Majlis in November 1995. No amendments have been made to the Constitution since then. As a matter of fact, making constitutional amendments is a lengthy and complicated process as it involves holding a referendum (Article 3).

According to Article 7 of the Constitution, the government is divided into three branches: legislative, executive, and judicial. Experts argue that the Constitution violates the principle of the separation of powers among the three branches of government and that the executive power headed by the President has excessive powers. None of the competences of Parliament, Milli Majlis, stipulated in Articles 94 and 95, grant Milli Majlis the right to influence the activities of other branches, namely the executive government.² It is also argued that although the Parliament has set up commissions dealing with individual spheres, such as the parliamentary commission for defence

¹ Some Azerbaijani laws, in particular the laws on defence and security, were available only in Azerbaijani and thus the researchers were unable to analyse them

² Rahman Badalov, Niyazi Mehdi, "Political Institutions of Azerbaijan: A Dichotomy between Text and Reality," 2004

and security, the commission for the rule of law and state-building, it is still debatable as to whether these commissions have sufficient powers to allow for their involvement in the reform process or in the oversight of the implementation of laws. In the majority of cases, the commission for legal reform takes place in the President's Office whereby a law is drafted and then handed to a relevant parliamentary commission. Draft laws generally remain closed to the public until they are passed by Parliament. Neither Parliament nor external experts, including those from academia or independent organisations, are involved in the process of drafting laws. Thus the entire process of law-making becomes the monopoly of the presidential apparatus and, therefore, the independence of the legislative branch in Azerbaijan begs many questions.³

Under the Constitution, the President is the head of the country and the executive government. Article 114 stipulates that the President sets up the Cabinet of Ministers, which is the highest body of the President's executive power. The President appoints and dismisses members of the Cabinet of Ministers (including defence and security ministers), takes a decision on the resignation of the entire Cabinet of Ministers and is entitled to cancel decrees and orders issued by the Cabinet.

The President is also the supreme Commander-in-Chief of Azerbaijan's Armed Forces, and appoints and dismisses high-rank officers and commanders of the Azerbaijan's army {Article 109}. Article 109 states that the President takes decisions on calling up citizens to urgent military service, announces the state of emergency and martial law and forms special security bodies. The article also stipulates that the President submits recommendations to Milli Majlis for its consent to use the armed forces to conduct duties other than their normal duties. This latter statement is quite unclear and may give rise to different interpretations.

The legislative power is vested in the legislative body of Azerbaijan, Milli Majlis. According to the Constitution, Milli Majlis has the right to dismiss the President by way of impeachment based on the recommendation of the constitutional court (Article 95) and can take a decision on the vote of confidence in the Cabinet of Ministers. Milli Majlis takes a decision concerning candidates for the post of Prime Minister, submitted by the President, within one week from the day of submission. If candidates proposed by the President are rejected by Milli Majlis three times then the President may appoint the Prime Minister without Milli Majlis's approval (Article 118). This latter provision once again points to the excessive powers of the President and his unilateral role in appointing heads of security structures.

Article 95 stipulates that based on the recommendations of the President, Milli Majlis gives its consent to the enlistment of the armed forces for operations other than their normal duties. Based on the President's recommendations Milli Majlis gives consent to announce war and conclude peace. Article 56 is worth examining as it stipulates that military personnel may be prevented from voting. The restriction of servicemen's participation in elections may be regarded as violation of soldiers' civil rights.⁴

The procedures and rules for defence and security activities, as well as military service are

³ ibid

⁴ <http://www.nato.int/acad/fello/97-99/alapishvili.pdf>

determined by Milli Majlis. It is also responsible for approving the military doctrine and the military budget submitted to it by the President. According to the Constitution, the state of emergency and the martial law are approved by Milli Majlis and announced by the President (Articles 94, 95, 109).

The Constitution fails to equip Milli Majlis with any real powers to control the executive branch. The President and the ministers are not obligated to be accountable before Parliament. Milli Majlis cannot investigate cases of violations of the law. Despite the requirement set forth in Article 95 of the Constitution, the President has not yet submitted to the Parliament the national military doctrine, and the Parliament has not put the issue on the agenda.⁵

Articles 95 and 109 are worth analysing in terms of their relevance to parliamentary control of the armed forces. Although Parliament approves the President's candidate to the post of Prime Minister, the President can appoint government ministers independently, including defence and security ministers. Ministers are accountable only to the President and the Cabinet of Ministers. In such conditions, the only way for Parliament to control the executive government and individual ministers is to take a no-confidence vote in the Cabinet of Ministers. It is also important that the President, as the supreme Commander-in-Chief of the Armed Forces, has the power to appoint members of the National Security Council and appoint/dismiss senior military officers.

Under the Constitution, the President sets up the National Security Council and appoints its members (Article 109). The Security Council in Azerbaijan was set up by presidential decree as the President's consultative body in 1996. The Chairman of the Council is the President himself. The actual implementation of presidential instructions is carried out by the secretary of the council, Ramiz Mehdiyev, who is also the head of the Presidential Executive Staff. Members of the council are the Prime Minister, parliament speaker, defence minister, interior minister, minister of national security, chairman of the Supreme Court, chairman of the Constitutional Court, prosecutor general and the head of the Baku city administration. The list illustrates that the majority of Security Council members are civilian. Nonetheless, they have full control over the power-wielding ministries. As a result, it has been argued that the independence of the power-wielding structure as a political force is debatable.⁶

Outdated legislative base: acknowledging the need for new laws

Most of Azerbaijan's defence and security-related legislation was drafted and passed in the early 1990s, before the adoption of the 1995 Constitution, and naturally falls short of meeting today's standards of Western and democratic defence management. For instance, the Law on Defence was passed as early as November 1993.

However, recently, high-ranking officials and MPs have increasingly been admitting that Azerbaijan's laws, in particular, laws pertaining to the security and defence spheres, are outdated. The first vice speaker of Parliament and head of the parliamentary Commission for Defence and Security, Zyafat Azkerov, stated in an interview this year that the laws relating to military and

⁵ Hikmet Gaji-Zade, "Civilian oversight over the Armed Forces of Azerbaijan," *Civilian Control over National Security Policy: Experience of CIS States*, Moscow, 2004

⁶ Ibid

defence issues no longer met the present requirements and standards as they were passed in the early 1990s and therefore needed to be updated.⁷ In the same interview, Azkerov said that it was too early for Azerbaijan to set up a professional army.

Azerbaijan's Law on State Secrecy was passed in November 1996 and it clearly articulates provisions for protecting information pertaining to the military sphere. Article 1 of the law defines state secrets as information pertaining to military, foreign policy, economic, scientific, intelligence, counterintelligence and operational search activities, the dissemination of which may cause damage to the security of the Republic of Azerbaijan.

Article 4 lists the types of information that may be regarded as a state secret. Issues pertaining to the military sphere that are considered as state secrets include, *inter alia*, information on:

- strategic and operational plans; tactical documents on the preparation and conduct of operational and strategic deployment of troops;
- the development of weapons and military hardware, the results of targeted programmes, scientific and experimental works, the aim of which is to create and modernise weapons and military hardware;
- numbers and technology of the production of special weapons; methods of protection against their unsanctioned use;
- tactical and technical characteristics and capabilities of weapons and military hardware, technology of the production of new substances of military designation;
- the deployment, designation and the degree of preparedness of facilities of high significance, their design and construction;
- the deployment, present name, organisational structure and number of weapons and troops in the armed forces of the Republic of Azerbaijan.

At present, the Parliament's Standing Commission for Defence and Security is holding deliberations on draft amendments to the Law on State Secrecy. The aim of making amendments is to reduce the categories of information that are considered state secrets and to make more information publicly available. In September 2006, the head of the commission, Zyfat Askerov, stated that after amendments were made to the law, foreign countries and international organisations would be given access to information that was previously undisclosed. The deputy head of the same commission, Zahid Oruj, said that the original document had been copied from a similar Russian law and that it was high time to correct this flaw now that the degree of freedom and democracy in countries was measured against levels of openness and civil society's access to information. Another deputy head of the same commission, Aydin Mirzazadeh said that only those categories of information which did not pose any threat to the national security of Azerbaijan would be released. Mirzazadeh explained this by the fact that at a time when 20 per cent of Azerbaijan's territory was occupied, Azerbaijan would still have to conceal more information, in particular, information pertaining to the military sphere, than other countries.⁸

⁷Trend news agency, 20 March 2006

⁸Gazeta.KZ, 19 September 2006

Absence of conceptual documents in the security sphere

It has been argued that, in Azerbaijan, there is a serious problem with civilian control over defence institutions. Control over the army by civilian institutions is opposed by the authorities who argue that it would harm Azerbaijan's security. Likewise, the government is against the establishment of a civilian defence ministry or civilian participation in the defence ministry's higher echelons. Azerbaijan's defence minister is from the military and has served as a defence minister for more than a decade, since early February 1995, which makes him the longest serving defence minister in the entire CIS.

Azerbaijan has not as yet developed its security concept or military doctrine. Despite its pledge as early as 2005 that its security concept and military doctrine would be ready, the documents remain incomplete. The Constitution sets forth the requirement that the country's military doctrine should have been delineated. Article 109 of the Constitution states that the President submits Azerbaijan's military doctrine to Milli Majlis for approval.

A group of visiting NATO experts in September 2006 recommended strongly that Azerbaijan adopt its national security concept and military doctrine.⁹ These experts are now involved in drafting Azerbaijan's defence documents.

Some experts say that the government has been reluctant to adopt these fundamental blueprints because such documents, as a rule, spell out a country's position towards other countries, and define which countries are regarded as strategic partners and which are mere neighbours. If such documents existed then the government would have to spell out its stand towards Armenia, or Iran, or would need to define what kind of conflict resolution is expected in Karabakh, etc. These documents would need to set forth required institutional changes within the existing system, which may not suit the government. The security concept for instance will have to touch on such components as economic security, energy security, financial security, etc., and all of these are part of the system. It is the systemic nature of the conceptual documents that the government may be fighting against. Experts say that the government has been reluctant to detail any of its approaches whereas these conceptual documents are expected to be detailed. Accordingly, it is much safer for the government to resort to infrastructure rehabilitation projects under bilateral or multilateral cooperation programmes.¹⁰

There are other views too. It has recently been argued that Azerbaijan has not adopted a military doctrine because it has not yet chosen a foreign partner in the military sphere.¹¹ The *Baki Xabar* newspaper wrote in July 2006 that Azerbaijan's authorities were cooperating with both NATO and Russia in the military sphere almost at the same level and that with the adoption of the military doctrine, cooperation with NATO may take prevalence, which would definitely conflict with the interests of Russia. It is believed that the authorities will avoid any potential conflict with Russia until the Karabakh conflict is resolved.

⁹ Ayna newspaper, 21 September 2006

¹⁰ Interview in Baku, 5 August 2006

¹¹ Baki Xabar newspaper, 6 July 2006

A number of officials have recently noted that the military doctrine may be deliberated by Milli Majlis at its autumn session. Aydin Mirzazadeh, deputy head of the permanent parliamentary Commission for Security and Defence has said that Milli Majlis was working on such a document. Mirzazadeh was quoted as saying that despite the lack of a military doctrine, Azerbaijan had its declared principles, one of which was the formation of the army according to NATO standards.

Azerbaijan has also undertaken a commitment to pass a law on alternative military service before the Council of Europe (CoE) as this was one of the conditions the CoE had set for Azerbaijan before its accession. Azerbaijan's Constitution too sets forth that: "If the beliefs of citizens come into conflict with service in the army then in some cases envisaged by legislation alternative service instead of regular army service is permitted" (Article 76). Deliberations in Parliament on the law on alternative service started in 2001 under the pressure of the CoE.¹² For the past four years, the leading media, politicians, and the military have been discussing what the alternative service should be like and what benefit it may bring to Azerbaijan.

As early as 2004, Milli Majlis prepared a draft law defining organisational and legal foundations of the execution of alternative service by citizens of Azerbaijan who have reached the age of 18 and who do not wish to serve in the army. The draft law is said to draw on similar laws in other countries, including Ukraine, Moldova, as well as Germany, France and Denmark. It is again expected that the draft law will be deliberated on by Milli Majlis at its autumn parliamentary session.¹³

Nonetheless, Azerbaijan is still playing safe. The deputy head of the parliamentary Commission for Defence and Security, Zahid Oruj, has said that Azerbaijan indeed has taken a commitment before the CoE that it would pass such a law and it was going to do so. However, he said the law should be such that would not allow for its "abuse." Oruj said that Azerbaijan was in a state of war and that the law could influence, in a certain way, the country's policy of army building and the staffing of the army.¹⁴

Increased military spending and delayed professionalisation of the army

When speaking about the defence system of Azerbaijan, or on reforms in this sphere, one important factor that needs to be taken into account is the Azerbaijan-Armenian conflict over Karabakh. As a result of the Karabakh conflict, Azerbaijan has lost 16% of its territory and received hundreds of thousands of refugees and internally-displaced persons. High-ranking officials often refer to regaining Karabakh when speaking about increasing the military budget and raising the army's combat readiness. Experts argue that much of Azerbaijan's present foreign policy decision-making stem from Baku's estimations as to how a certain decision will affect the Karabakh issue.

The professionalisation of Azerbaijan's Armed Forces seems to be a slow process. Military experts argue that there is an urgent need to professionalise the armed forces, that Azerbaijan is a small country and that it does not need more than a 30,000 – 35,000-strong army, even if there is

¹²Hikmet Gaji-Zade, "Civilian Oversight over the Armed Forces of Azerbaijan," from Civilian Control over National Security Policy: Experience of CIS States, Moscow, 2004

¹³ Armeyskoye Zerkalo, 22 July 2006

¹⁴ Trend news agency, 28 July 2006

a war in Karabakh. They have suggested that a mixed army of professionals and contractors be set up, similar to that which exists in Turkey.

The professionalisation of the armed forces in Azerbaijan boils down to an increase in army salaries and an increased military budget. The Minister of Defence, Safar Abiyev, recently stated that a number of steps have been taken to professionalise the armed forces. Among these, Abiyev named the increase of army salaries, due to which, he expressed the hope that former experienced servicemen might be encouraged to return to the army. He also said that the military budget was increasing and that necessary weapons and equipment were being procured for the army.¹⁵ During a graduation ceremony at the Geydar Aliyev military school in Baku, Azerbaijan's President Aliyev said that the military spending of the country had increased fourfold in the past three years and that army salaries had increased threefold.¹⁶

Defence Minister Abiyev said at a meeting of the Council of CIS Defence Ministers in Baku that Azerbaijan's military budget had doubled in 2006 in comparison with previous years and the tendency would continue. President Aliyev, in his address to the second congress of Azeris held in Baku on 16 March, said that Azerbaijan's military expenditure would equal Armenia's entire budget and that he saw this as his duty.

However, given the long history of corruption within the Defence Ministry, where and how the money is spent gains more significance than the increase in total military spending.

The government has recently been criticised for misusing the military budget and spending additional funds allocated to the military on construction, repair work and on the purchase of military hardware instead of improving the army's defence capability.¹⁷ The government has also been criticised for purchasing outdated equipment and hardware. The *Gun* newspaper wrote that most of the arms and military hardware that the government had purchased from abroad had been produced in the 1950s and 1960s. According to the newspaper article, while, under the quota, Georgia, Armenia and Azerbaijan have 220 tanks each, Georgia bought T-72-II and T-72-III tanks whereas Azerbaijan acquired the older T-72-I tanks.

Human rights organisations and NGOs have alleged in the past few years that corruption, inefficiency and human right violations continue to plague Azerbaijan's army and that the figures for desertion and deaths in the army are high.

Under the Treaty on Conventional Armed Forces in Europe (CFE), Azerbaijan's authorities, like all other member countries, are obliged to publicise information on their troop and hardware numbers, particularly their number of conventional arms. However, experts say that when they approach the ministry and ask for information about the strength of the army or a breakdown of the budget, their requests for information are denied.¹⁸ A paradox, these experts say, is that the authorities

¹⁵ APA news agency, 31 August 2006

¹⁶ APA news agency, 23 June 2006

¹⁷ *Gun* newspaper, 29 July 2006

¹⁸ Interview, Baku, 4 August 2006

refuse to disclose even such information which is available for anyone from publications by foreign research organisations.

Two new ministries that will have to deal with defence-related issues have been set up recently in the country. One is the Defence Industry Ministry which was set up by presidential decree in December 2005 on the basis of the State Committee for Special Machinery. Several departments which are currently part of the Defence Ministry, such as the military industry department and the armaments department will become branches of the new ministry. The main goal of setting up this ministry is to increase the country's potential to produce weapons locally. The Minister of the Defence Industry, Yavar Camalov, said that the aim of its establishment was to reduce Azerbaijan's reliance on foreign-made defence products. The ministry's budget for 2006 is approximately 21M USD. The ministry currently has 13 plants which employ some 3,000 people. The Defence Ministry's repair plants are expected to be handed over to the new ministry. The government hopes that if Azerbaijan develops the capacity to produce small arms in the future, Georgia, the Central Asian states and Turkey may be potential customers.¹⁹

Another new agency is the Emergencies Ministry, which will be responsible for dealing with disasters and accidents, establishing a single agency to oversee relevant government bodies on rescue and rehabilitation work, and organising civil defence activities. The Emergencies Ministry is expected to have armed units.

Parliamentary control over budget

One of the essential competences of Milli Majlis is the approval of the budget, as by doing so, Milli Majlis is in a position to influence the executive branch and control the activities of the latter. However, the political reality of Azerbaijan today is such that Milli Majlis obediently approves any budget submitted to it by the executive authorities, let alone subsequent control over its execution. Azerbaijan's Parliament does not capitalize on the expertise of legal specialists from academic circles or independent law organisations, whereas it is precisely these groups that should be identifying the need for new laws in the relevant fields and conducting analyses on newly-drafted laws. Laws in Azerbaijan are said to be modelled on the laws of other countries, in particular, those of Russia. In a few cases, recommendations by the Venice Commission or other structures of the CoE are taken into consideration. Parliament's dependence on and its subordination to the executive government is made obvious in its deliberations on new laws, which is perfunctory. The lobbying of laws is not practiced. Nor are there any strong public interest groups in existence to openly fight for parliamentary interests.²⁰

The Cabinet of Ministers prepares the draft state budget of Azerbaijan and submits it to the President (Article 119, the Constitution of the Republic of Azerbaijan) and implements the state budget. Based on recommendation from the President, Milli Majlis approves the state budget of Azerbaijan and exercises control over its execution (Article 95). The drafting of the state budget and its submission to Milli Majlis for approval is a responsibility of the Cabinet of Ministers and the President, while its approval is the prerogative of Parliament.

¹⁹ ANS TV, 4 August 2006

²⁰ Rahman Badalov, Niyazi Mehdi, "Political Institutions of Azerbaijan: A Dichotomy between Text and Reality," 2004

Since the President is not permitted to intervene in the budgetary process and only Parliament and the government are responsible for drafting, approving and executing the budget, the above clause, which highlights the fact that the President approves the budget and makes recommendations to Milli Majlis, is yet another indication of the President's excessive powers.

Institutional mechanisms that have been established to control the budget are envisaged by the Law on the Budget. Under the law, control over the execution of the budget is conducted by the parliamentary commission for budget control. This effectively means that the control function is exercised by Parliament itself, which with the help of the commission on budget arrangements controls the spending of budgetary resources (including those allocated for military purposes).

Experts interviewed for the purposes of this report stated that Parliament had not even made minor changes to the budget in the past, to the best of their knowledge. Rather, everything has been decided by the presidential administration and the Ministry of Finance.²¹

The Chamber of Accounts is responsible for the supervision and budgetary control issues. It is noteworthy that, in Azerbaijan, the Chamber of Accounts functions within the Parliament. The very fact that it is not an independent body may raise questions as to whether it can duly exercise control over the spending by executive agencies.

The chamber's activities are regulated by the law on Chamber of Accounts, to which amendments were made in December 2001. Article 1 of the law states that, «the Chamber of Accounts is a full-time state budget and finance supervising body, which reports to Milli Majlis. The article states that the Chamber of Accounts has organisational and functional independence.

The law states that the Chamber of Accounts shall supervise the approval and execution of the state budget, the management of state property and issuance of orders with respect to such property, the inflow of funds to be generated from the privatisation of state property into the state budget, and the purposeful use of funds to be allocated from the state budget for legal entities and municipalities (Article 1).

Article 2 lists the main functions of the Chamber of Accounts. These include, *inter alia*:

- to express opinion on draft state budgets and extra-budgetary state funds;
- to supervise the volume, the structure, as well as the timely and targeted execution of the state budget;
- to express opinion on the annual state budget's execution report and appropriate draft laws;
- to analyse whether budget execution is carried out in accordance with the approved state budget; and to advise Milli Majlis regarding the elimination of digressions and the improvement of the budgeting process in general;
- to inform Milli Majlis on a quarterly basis about the execution of the state budget;
- to conduct financial expertise of draft laws on the state budget and extra-budgetary state funds;
- to analyse and inform Milli Majlis as to whether state budget funds are entered into the

²¹ Interviews in Baku, 4-5 August

treasury's account and used in conformity with targets established in an approved state budget;

- to inform Milli Majlis about any relevant violations of the law.

The Chamber of Accounts, according to its internal charter, draws up conclusions about the implementation of the state budget and relevant laws. The Chamber of Accounts is responsible for auditing budget revenues and expenses. Milli Majlis discusses submitted documents and approves the law on the implementation of the previous year's state budget.

The Law on the Budget stipulates that reports submitted by the Chamber of Accounts and approved by Parliament shall then be published. However, in practice, the availability of such documents to the public are still restricted which again raises questions about the proper control of budget expenditure in Azerbaijan.

The military budgeting process in Azerbaijan

Since 2000, the South Caucasus region has been characterised by a significant military build-up which may be ascribed to the security dilemma and conflicting interests existing among the states of the region, and which has been reflected in the increased military budgets of all three states, Azerbaijan, Armenia and Georgia. This trend has been particularly noticeable in the past few years. Azerbaijan has increased its spending by 51.1%.²² It is argued that Azerbaijan's military build-up is as much driven by the fact that it can afford it, owing to high oil and gas revenues, as by the search for greater leverage in negotiations with Armenia over disputed territories.²³ Evidence of this are the recent steady increases in its state budget. For instance, in 2000, it was 808m [new Azeri] manats,²⁴ in 2005 it increased to 2b manats²⁵ and, in 2006, the state budget reached 3.6b manats.²⁶

In 2000, defence expenses totalled 98.8m manats²⁷ which represented 12.2% of the total state budget. Although the defence budget in 2005 rose to 242m manats, that is 2.5 times, its share of the total budget remained about the same, 12.1%. The defence budget for 2006 totalled at 549m manats, which constitutes 15.2% of 2006's state budget.

In 2000, military spending constituted 2.1% of the gross domestic product and in 2004 it was even less, 1.8%.²⁸ In 2003, when Azerbaijan's GDP was 6.4b manats [7.1b dollars], defence

²² SIPRI Yearbook 2006, Armaments, Disarmaments and International Security, p 321

²³ SIPRI Yearbook 2006, Armaments, Disarmaments and International Security, p 321

²⁴ 2000 Azerbaijan budget law

²⁵ 2005 Azerbaijan budget law

²⁶ 2006 Azerbaijan budget law

²⁷ 2000 Azerbaijan budget law

²⁸ SIPRI Yearbook 2006, Armaments, Disarmaments and International Security, p 347

spending [135m dollars] again constituted 2.1 per cent of GDP, and in 2004, the share was 2.6 per cent of GDP [9.4b manats].

Evidently, defence budget figures have gradually increased since 2000. However, given that the state income in Azerbaijan has been steadily increasing since 2000 due to the realisation of the country's energy potential and the Baku-Tbilisi-Ceyhan oil pipeline operation, it can be argued that the defence budget has been increasing proportionally to the state budget and thus, may not be predicated on certain political decisions by the government. Consequently, it should be noted that a 12 per cent defence budget share in itself would be high for any NATO member state. An explanation might be that Azerbaijan still considers itself in a state of war with Armenia and aims to restore international law in the region by reclaiming the breakaway Karabakh and returning the displaced population to their homes.

On the one hand, the increase in its defence budget is evidence of Azerbaijan's willingness to strengthen the capacity of its military institutions. However, on the other hand, at a policy level, there is lack of documentation spelling out such intentions and defining Azerbaijan's path to achieving this objective.

It is common knowledge that Azerbaijan's security system needs to be reformed in order to increase its effectiveness and heighten the combat readiness of its armed forces. Indeed, the old Soviet-style military structure could not ensure maximum efficiency of resource management and proper budgetary planning.

Azerbaijan's Law on the Budget states that for the purpose of maintaining uniformity of the national budget system, a uniform classification method is applied. Classifications are carried out according to functional, economic, organisational and other principles. When it drafts the defence budget, the Defence Ministry, which is the main body governing defence expenses, applies those general economic principles which are set out in the law and used by all other agencies. This effectively means that the defence budget submitted to parliament cannot take into consideration the specifics of defence spending and is not broken down and itemised.

It can be argued that, at present, the budgeting process and, in particular, defence budgeting in Azerbaijan is very different from the procedures established in Western democratic countries. Moreover, it is not yet known whether or not Azerbaijan's government intends to change the principles of defence budgeting and to introduce programme budgeting as is practiced by NATO member states and other democratic countries.

In order to enhance the effectiveness and control of resource management, reform of the defence resource management system and the introduction of new planning, programming and budgeting processes are imperative. This has been the case with NATO's new member states.

Such a system may function well in a country where there is an effective system of expenditure control in place. If one considers that the control mechanisms which are applied in Azerbaijan are based on the old Soviet-type system and that no significant violation in this regard has been publicised, it remains clear that the present auditing system is ineffective and in need of further improvement.

International Cooperation

Azerbaijan actively cooperates on a bilateral basis with NATO member states and maintains close ties with NATO structures.

Bilateral ties

Independent experts argue that although Azerbaijan formally participates in NATO and EU programmes and dutifully carries out activities under these programmes, Azerbaijan still seems reluctant to unequivocally take one path, the Western path in its development of defence policies, as there is an apprehension that this may lead to the deterioration of its relations with Russia. Azerbaijan has been trying to lead a cautious policy with the West in an effort not to irritate Russia. One argument is that Azerbaijan has strong economic ties with Russia and it would not want to jeopardise the future of these ties. It is also noteworthy that some two million Azerbaijanis live and work in Russia at present.

This may account for Azerbaijan's choice to opt for more intense bilateral relations and cooperation, in order not to upset Russia by publicising its close ties with NATO. It is argued that NATO in Azerbaijan is represented by the US.

Azerbaijan has developed strong ties of military cooperation with the US, which has been modernising Azerbaijan's Armed Forces and restoring its infrastructure, including its naval infrastructure and airfields, as well as its roads for use by NATO. Military analysts argue that this support is provided under the guise of helping Azerbaijan to provide security to the Baku-Ceyhan pipeline or protect the borders. Internationally supported infrastructure projects are widespread with numerous airfield reconstruction projects taking place in Azerbaijan's small towns. Experts say such projects may be associated with the global fight against terrorism.

Azerbaijan's Constitution does not allow the presence of other country's servicemen on Azerbaijan territory.²⁹ However, the US is at present patrolling two (some experts have named four) radar stations in Azerbaijan, one on the Iranian border and the other on the Russian border. The authorities deny US presence claiming that these are mobile units protecting the pipeline, not the stations. Azerbaijan's Foreign Minister, Elmar Mammadyarov, has said that these radar stations are not military bases, and that they are there simply to help Azerbaijani border guards in their work.³⁰

Incidentally, Russia too has maintained its military presence in Azerbaijan. Although officially there are no Russian bases in Azerbaijan, experts say that the Darial radar station located in Gabala resembles a Russian base. The station used to employ some 2,000 staff. Evidence of this is that during the recent presidential elections in Russia, some 2,300 Russian citizens voted in Azerbaijan. Of these, 300 were embassy staff and employees of some other agencies, while up to 2,000 Russian citizens were employed at the Darial station. The number is said to have been reduced to 800 people.³¹

²⁹ Interview in Baku, 5 August 2006

³⁰ ANS TV, 14 November 2005

³¹ Interview in Baku, 4 August 2006

Since 2002, US-funded assistance programmes have focused on economic reforms, counter-terrorism, NATO interoperability, border security, law enforcement, and efforts to combat corruption and human trafficking. The US has been providing significant assistance in the form of maritime security training and operations in the Caspian Sea, counter-proliferation efforts in the south along Azerbaijan's border with Iran and a programme to enhance border security along Azerbaijan's northern border with Dagestan. Since 2000, the US has contributed more than 13.3 million dollars to de-mining programmes.³² In 2005, the US Department of State authorised the exportation of defence articles and services valued at 4,218,011 USD to Azerbaijan.³³

According to the US State Department website, in 2007, US security assistance will continue to support projects initiated in previous years, upgrade the regional military airbase, equipment and training for a National Crisis Management Centre provide training for a peacekeeping brigade and equip maritime and coastal security services. The US will also continue to provide English language training programmes and professional military education in an effort to modernise and strengthen the interoperability of Azerbaijan's Armed Forces.

Another country with whom Azerbaijan closely cooperates in the military sphere is Turkey. Azerbaijan's young officers study at military schools in Turkey. Their number at the moment is believed to be approximately 400. Turkish consultants are stationed in or travel to Azerbaijan to provide advice on military issues. The modernisation of Azerbaijan's armed forces according to NATO standards has been carried out with the help of Turkey and according to the Turkish model. The army's marching procedures and uniforms are similar to those of the Turkish army.³⁴

Cooperation with NATO

On 8 June 2006, Azerbaijan's Defence Minister Abiyev stated at an EAPC Council meeting that Azerbaijan, as a NATO partner state, was ready to contribute to NATO's fight against terrorism and participate in joint operations with NATO forces in the Balkans and Afghanistan. "Azerbaijan actively uses the existing PfP tools and mechanisms that remarkably have increased the level of interoperability of our troops with the Allied Forces and facilitates the conduct of defence and security reforms. We are committed to do more in this regard, broadly utilising the extensive PARP (PfP Planning and Review Process) and IPAP frameworks," he said.

At a meeting of defence ministers at the EAPC Council, the Minister of Defence stated that Azerbaijan had already begun the process of transforming its armed forces according to NATO standards.³⁵ According to the minister, a brigade had already been set up in Azerbaijan within which a mobile battalion operates which is to be organised and trained through the Operation Capabilities Concept (OCC) Evaluation and Feedback activities in order to meet the requirements

³² www.state.gov

³³ Ibid

³⁴ Ibid

³⁵ <http://www.nato.int/docu/speech/2006/s060608i.htm>

for modern military operations. The minister also said that the main stage of the reforms will begin with structural changes in the Defence Ministry and the General Staff in 2007-2008.

The minister pledged that within the framework of NATO's Partnership Action Plan against Terrorism Azerbaijan would develop bilateral cooperation with both the alliance members and its partners. In July 2006, Azerbaijan hosted an EAPC workshop on terrorism, which focused on the partners' contribution to NATO operations to combat terrorism and further improve the integration of counter-terrorism aspects in training and exercises.

Every year in the framework of the Individual Partnership Programme (IPP) between NATO and Azerbaijan, Azerbaijani representatives participate in a variety of events in the fields of defence policy and strategy, air defence, crisis management, civil emergency planning, language training, military exercises, peacekeeping, public diplomacy, etc.

For instance, since 2001, under NATO's IPP, the staff of Azerbaijan's State Border Guard Service participated in more than 70 seminars and exercises. In the framework of PARP cooperation with NATO on border security issues, the Border Guard Service has achieved significant successes in upgrading the border protection infrastructure, transforming gradually the military body into a law-enforcing structure, modernising information and communication infrastructure and improving border protection from the sea.

Under IPAP, work has started to bring the legislative base of the Border Guard Department in line with international standards, simplify border control procedures, create modern and transparent budget management and participate actively in the work of an interagency working group to define the main goals of the National Security Concept. The agency is planning to finalise its gradual transformation into a law-enforcement structure by the end of 2015. To this end, a three-stage development concept has been worked out which envisages improving legislation and bringing it in line with international standards, expanding international ties, improving capabilities for applying air and sea border control, search and rescue operations and transparent planning and budgeting.³⁶

Azerbaijan cooperates with NATO in civil emergency planning. The Defence Ministry's search and rescue platoon has been equipped with supplies for search and rescue operations at the international level. It has participated in NATO's disaster response exercises.

On a regular basis, Azerbaijani scientists participate in NATO's Science Programme Fellowships and study and conduct research in NATO countries. A number of research projects on environmental issues have been supported by NATO's Science for Peace Programme.

The "Virtual Silk Highway" Project is being conducted under the Security Through Science Programme. The project aims to link the three South Caucasus countries and five countries of Central Asia: Uzbekistan, Turkmenistan, Kyrgyzstan, Kazakhstan and Tajikistan through the Internet by means of advanced satellite technologies. The project aims to organise data exchange among research and education institutions of these countries with the world information community.

³⁶ Armeyskoye Zerkalo, 22 July 2006

Under the PfP Trust Fund Policy, a project on the clearance and destruction of unexploded ordnances has been implemented on the territory of a former Soviet military warehouse in the village of Saloglu in Azerbaijan's western Agstafa District.

NATO, within its public diplomacy policy, supports summer schools aimed at bringing together students, academics, government officials and representatives from various NGOs to discuss NATO-related issues and gain a better understanding and knowledge of the global security environment. In July 2006, Azerbaijan hosted a NATO week in Baku, during which a number of events aimed at raising public awareness of NATO policies were organised with the support of NATO's Public Diplomacy Division. The NATO week included four major events: the annual NATO summer school which brought together young people from NATO member and partner countries; an inauguration ceremony of the Melange project, which is funded under NATO's scientific and environmental programme for partner countries, and which is to assist Azerbaijan in destroying 1,200 tonnes of rocket fuel oxidizer left over from Soviet times; the opening of the first Euro-Atlantic Centre in the South Caucasus which aims to help expand relations between NATO and Azerbaijan; and a workshop on fighting terrorism under the auspices of EAPC, which brought together experts and policy makers from NATO member and partner countries with the aim of examining ways for further cooperation on counter-terrorism.

Participation in peacekeeping missions

Azerbaijan has been supporting the efforts of the international community in global peacekeeping activities. In 1997, peacekeeping troops were established within Azerbaijan's in order to contribute to global peacekeeping operations.

Cooperation with NATO through the PfP Programme to a greater extent has helped to enhance the peacekeeping capabilities of these forces, to train them in accordance with NATO standards and to increase the level of interoperability with the allied forces.

Currently, more than 200 Azerbaijani peacekeepers are serving in three different international peacekeeping operations. Since September 1999, the peacekeeping platoon of Azerbaijan's Armed Forces numbered at 34 personnel as part of the Turkish peacekeeping battalion serving in Kosovo under the command of NATO.

Azerbaijan's determination to participate closely in the anti-terrorist coalition was reinforced by its decision to unite its peacekeeping platoon with the International Security Assistance Forces (ISAF) in Afghanistan, which consisted of 23 servicemen in November 2002.

In August 2003, a 151-strong peacekeeping contingent of Azerbaijan's Armed Forces was sent to Iraq to participate in coalition force led operations aimed at the restoration of security and stability in Iraq. In Iraq, Azeris are deployed near sacred places, primarily because it is safer and also because they are Moslems. The population too is well-disposed to them.

In total, 213 Azerbaijani peacekeepers are serving in Kosovo, Afghanistan and Iraq. In late August - early September 2006, the sending of a limited military contingent to Lebanon was widely

discussed in the media. It was said that the first group of 120 peacekeepers would be sent to Lebanon as part of the UN peacekeeping mission (UNIFIL -UN Interim Force in Lebanon).³⁷ There were discussions as to whether Azerbaijan should participate in the mission in Lebanon. Critics said Azerbaijan should not get involved in the operations, while others argued that the country would lose out from a geopolitical standpoint if Azerbaijan, which has joined the peacekeeping operations in Kosovo, Afghanistan and Iraq as part of NATO's PfP programme, completely sidelined itself from the developments in Lebanon.

However, Defence Minister Abiyev later denied these rumours, stating that Azerbaijan had been made no proposals to dispatch a peacekeeping contingent to Lebanon.³⁸ The Foreign Ministry also denied the reports, reiterating that the issue of sending troops to Lebanon was not on the agenda.³⁹

Conclusion

Azerbaijan was among the first post-Soviet countries to express its desire to cooperate with Euro-Atlantic structures in the 1990s. The country has entered into agreements and programmes to this end. Nevertheless, it can be argued that the process which started over a decade ago has been quite slow and has not yielded tangible results in terms of democratising Azerbaijan's defence institutions.

One of the main reasons for this might be explained by Azerbaijan's failure to democratise the state governance system, without which the democratisation of defence institutions remains out of the question. Azerbaijan stood in the first tier of the post-Soviet countries which declared their intention to separate from the communist past, to close Soviet military bases on their territory and the need to fully dismantle the existing political system. For over a decade, Azerbaijan has made significant advances in its social and economic development, promoted its national and international interests in the formulation of its foreign policy, signed a large number of international agreements and has taken steps to integrate into the global community. Nevertheless, until now, there remains a large division, a "dichotomy" between the language of democracy that is spoken by the authorities and the reality of democracy-building.⁴⁰

Experts argue that the dichotomy between the text, the language on the one hand and the reality on the other is one sign indicating that Azerbaijan can be described as a country which is not openly dictatorial, yet nor resolutely moving in the direction of democracy, rather a country which found itself in a "grey zone," which is characterised by the questionable legitimacy of elections, frequent abuse of the law by officials, lack of public confidence in government institutions, limited political space provided for opposition political parties, a weak civil society, and low institutional

³⁷ *Ekspress* newspaper, 30 August 2006

³⁸ *Ekspress* newspaper, 31 August 2006

³⁹ *Ekspress* newspaper, 19 September 2006

⁴⁰ Rahman Badalov, Niyazi Mehdi, "Political Institutions of Azerbaijan: A Dichotomy between Text and Reality," 2004

efficiency of the state.⁴¹ Against such a political background, it is not surprising that defence institution building has been a slow process.

Military experts, as well as international institutions, have highlighted Azerbaijan's reluctance to join Euro-Atlantic structures. NATO Assistant Secretary-General Jean Fournet, who visited Baku as part of NATO's summer school in July 2006, said that NATO was concerned that the South Caucasus countries, except Georgia, had not yet applied for NATO membership and that Azerbaijan preferred to cooperate with NATO as a partner country.⁴²

One of the main hindrances to democratic defence institution building is the state organisation in Azerbaijan. The strong powers of the President and the executive government and weak competences of Parliament, the basis of which is the Constitution itself, hampers and will continue to hamper the practice of democratic civilian oversight of defence institutions.

Another hampering factor is the country's outdated legislation. As previously noted, Azerbaijan's legislation was modelled on Soviet legislation. Much of it was passed in the early and mid-1990s and thus does not match to the present needs and standards practiced in democratic countries. In addition to the urgency to update the old legislation, there is also a need to pass new laws which Azerbaijan has pledged to introduce, including a law on alternative military service. Although discussions of the law and the need for its adoption began as early as 2001, it has still not been passed.

There is a lack of transparency in the defence sphere in general. Documents pertaining to the defence and military spheres are not open for public scrutiny. The research team found it impossible to get hold of a copy of the IPAP document for Azerbaijan, whereas in Georgia IPAP is open for public consumption. Azerbaijan's government has recently pledged that it would soon discuss amendments to the Law on State Secrecy, under which more information would be made publicly available. However, they have also made reservations to the effect that Azerbaijan would still have to refrain from publicising certain categories of information, such as those pertaining to defence, as the country considers itself to be in a state of war with neighbouring Armenia over breakaway Karabakh.

Azerbaijan has yet failed to develop two main blueprints in the defence sphere - the national security concept and the military doctrine. The development of such documents is of utmost importance for Azerbaijan to officially declare its principles with regard to defence and security policies. Despite the government's pledge, the development of the documents and their discussion in Parliament has been delayed. Azerbaijan's authorities recently pledged to discuss the drafts of these two blueprints as well as the draft law on alternative service at the autumn session of Milli Majlis.

Azerbaijan's Defence Ministry continues to be staffed by military personnel. Azerbaijan's army is still widely criticised for adhering to Soviet military standards with regard to military training

⁴¹ *ibid*

⁴² Ekspress newspaper, 5 July 2006

and staff management, as well as for its failure to develop civilian control mechanisms. However, it should be noted that some structures of the Ministry of Defence, namely, the Border Guard Service, has started to transform into a law-enforcement structure and this process is expected to be finalised by 2015.

Azerbaijan's military budgeting process has been criticised for its lack of democratic procedures and transparency. There is an urgent need for the budgeting process to apply Western standards of military budgeting whereby itemised budgets would be readily available for public scrutiny. There is also a need to increase Parliament's role in the budgeting process both during the drafting of the budget and in the control of expenditures. One point that should be made is that although Azerbaijan's increased budget has caused concern among internal and external observers and although the share of military spending in the country's total budget remains high according to Western democratic standards, the research team has observed a tendency that reveals increases in the military budget proportional to increases in the total budget, which is likely to be linked to increased revenues in the country. Due to these tendencies, it is likely that the budget, including the military budget, will continue to increase in the future. In this regard, it is essential that reforms are undertaken in the defence resource management system and the defence budgeting is carried out on the basis of a long-term resource planning system.

Overall, Azerbaijan's security structure reform efforts, in particular in the defence structure, are likely to improve the country's relations with its neighbours and create a more secure environment in the region. Therefore, it is essential that Azerbaijan's neighbours also deal successfully with democratic reform which will contribute to the improvement of relations between neighbouring countries in the South Caucasus. Azerbaijan is unlikely to contribute to the development of regional security and improve its relations with its neighbours until the conflict with neighbouring Armenia is resolved. On the other hand, for the peaceful settlement of the conflict, it is essential that Western approaches are established in the Armenian security system as well. The third South Caucasus country, Georgia, whose state institutions are undergoing proactive reforms and which officially announced its intention to join NATO, has its own problems in its relations with neighbouring Russia over its two unresolved internal conflicts. Accordingly, against this backdrop, it is difficult to speak of the establishment of a stable security environment in the region unless liberal values and democratic governance principles prevail in all three South Caucasus states. The near future will reveal whether or not these states will succeed in their efforts to join the Western democratic community.

DEFENCE INSTITUTION BUILDING IN GEORGIA

Tamara Pataraiia

Introduction

Since 1997, Georgia has intensified its activities and expanded cooperation with Euro-Atlantic security structures, particularly, within the NATO Partnership for Peace (PFP) framework. At the end of the 1990s, top government officials made the first public statements about the need to reform the country's old Soviet-style security sector and develop closer cooperation with NATO. However, the security sector reforms were rather slow and lacked a general national strategy and an action plan.

On the one hand, this happened because security sector reforms received weak political support from the country's leadership.¹ On the other hand, some other, equally significant factors impeded the progress of defence sector reform in Georgia, including the fact that the government and society were ill-prepared for the establishment of democratic principles in the defence system and, also, lacking human resources in the political institutions of the defence and security sectors, capable of streamlining the reforms.

Accordingly, despite the continuous efforts of the Georgian government to reform the defence sector from 1998-2003, it became very difficult to create a new functional defence system based on the principles of accountability and transparency (the situation in other spheres was the same), and to strengthen democratic control over the armed forces, mainly due to the absence of a clear strategy and a plan of action. Foreign military assistance programmes in Georgia also appeared not to be enough.

Bilateral cooperation programmes between Georgia and NATO member states conducted during the same period provided Georgian officers with a military education abroad, invited foreign experts to propagate the ideas of democratic control in society and start restructuring national defence institutions. Germany, Turkey and the UK were involved in the assistance programmes. The largest assistance programme was carried out by the US but the scale and intensity of those programmes did not ensure success in the defence sector reform process.

The most effective programme among them provided Georgian officers with an opportunity to receive a military education in NATO countries. It helped expand and intensify participation of local cadre in the defence sector reforms, though other structures sometimes lagged behind. In 2001, for instance, with the help of US experts, the Ministry of Defence (MoD) attempted to bring to the Parliament the country's first-ever programme-based defence budget, which was designed to ensure proper defence spending and transparency of the expenditure. However, the attempt to introduce innovative approaches in the budgeting process in one particular governmental agency

¹ By 1999, the International Security Advisory Board - ISAB (created in 1998) members assessed the defence sector reforms in Georgia as too slow and prepared recommendations for the Government on how to modernise the country's national security system but the Georgian leadership abstained from revising the ISAB advice and using it as a basis for the development of a national security concept as an official political document. Instead, the ISAB guidance with minor changes was titled "Georgia and the World: Vision and Strategy for the Future," assigned with no official status, issued in 2001 and made available only to a limited number of professionals.

failed. The Ministry of Finance refused to approve the programme components of the proposed defence budget.

Another example relates to the amendments to the law on defence, which were made in 2001. These amendments are seen as one of the most important steps in the defence sector reform process. Under the amendments, the functions of the General Staff and MoD were separated from each other and structural departments of both bodies were renamed. However, because of vagueness, the amendments did not lead to a redistribution of responsibilities and competencies between the two services and an increase of civilian personnel in the MoD. Until 2003, there was only one civilian deputy Defence Minister, who was responsible for foreign relations, planning and policy, and had several civilian subordinates.

Consequently, in 2003, the Georgian defence system still contained elements that were typical of a non-reformed security sector.² It was obvious that the need for intense reforms remained urgent in the country. At that time, the defence system was characterised by the following features:

- A lack of transparency and rampant corruption, especially in the fields of procurement and trade; a bulky and inefficient organisational structure and a meagre defence budget, an absence of civilian control over defence spending;
- An unmotivated, underpaid and frustrated officer corps with no opportunities for promotion or a professional career, and with low prestige in the society;
- A lack of military professionalism and poor military training; promotion based on nepotism rather than professionalism;
- An unaccountable bureaucracy unwilling to take risks and accept reforms; an old organisational structure irrelevant to new challenges;
- Widespread public perception of the national military service as a mere waste of time; conscripts were often used by their commanders as cheap labour for personal benefit or interest; bullying of conscripts.

This report describes Georgia's defence sector reforms after 2004, in the aftermath of its signing of the Individual Partnership Action Plan (IPAP) with NATO. The document advocates measures, which are essential for the institutional development of the defence system and aim at elevating the level of the country's national security. Objectives defined under the IPAP uphold the establishment of democracy, the rule of law and the promotion of human rights standards in Georgia.

The Action Plan was approved by NATO member states, and endorsed by members of the Euro-Atlantic Partnership Council on 28 June, 2005, and it soon became clear for Georgian authorities that its success was directly connected to the fulfilment of Georgia's other international obligations to such organisations as the EU, the OSCE, the CoE and the UN.

Therefore, the assessments made in the report reflect current tendencies in Georgia's defence institution building, including gaps and shortfalls, and are based on the objectives stated in the Partnership Action Plan on Defence Institution Building (PAP-DIB), which reflects "Allies' and

² Oversight and Guidance: The relevance of Parliamentary Oversight for the Security Sector and its reforms, DCAF Document No. 4, Brussels/Geneva 2003, p. 4

Partners' common views on modern and democratically responsible defence institutions,"³ as well as relevant international instruments supporting democratic governance in transition countries.

1. Post-2003 defence sector reform in Georgia – the legislation on democratic control of the armed forces

The November 2003 revolution, after which the new Georgian government came to power, facilitated significant changes in the country's national legislation in the fields of defence and national security at both the constitutional level and the level of legal regulations. These changes made a respective impact on the Georgian system of democratic control of the armed forces.

Constitutional amendments adopted on 6 February 2004, completely altered the power-sharing model and, respectively, the system of governance in Georgia.

These amendments considerably weakened the parliament's authority and, at the same time, expanded the presidential powers. They also introduced a new post in the government, the Prime Minister, and removed the Public Prosecutor's Office from the judicial system.

While the President had no right to dismiss the Parliament beforehand, he/she is now able to do so in cases whereby the Parliament has three successive failures in approving his nominations of the Prime Minister and members of the government. In such cases, the President is empowered to appoint the Prime Minister and dismiss the Parliament.

Besides, the President has the right to sack the entire government, or only the interior and defence ministers without dismissing others (Article 73.1g). So the amended Constitution gives the Georgian President the exclusive power to supervise and control the interior and defence ministers without the need to consult or inform the Prime Minister.

This provision of the Georgian Constitution may create the problem of double subordination for the MoD, as well as other force structures of the country, because the President and the Prime Minister both have the right to fire the heads of these agencies. Under Article 79.5 of the Constitution, the Prime Minister is authorised to dismiss members of the government. According to foreign experts, Articles 79.5 and 73.1g partly contradict each other, since they empower both the President and the Prime Minister (formally) to sack the interior and defence ministers.⁴

Under the new Constitution, the President is formally no longer the head of executive power, though he continues to "govern and implement the country's domestic and foreign policy" (Article 69). At the same time, the Constitution defines similar responsibilities for the Government: The "government holds executive power and ensures implementation of the country's domestic and foreign policy. The government is accountable to the President and Parliament" (Article 78). In the budgetary process, too, the President's and the government's competencies and responsibilities overlap each other.

³ Susan Pond, "Partnership Action Plan on Defence Institution Building: Concept and Implementation," NATO international staff, PFP and co-operation programmes.

⁴ Jonathan Whitley, "The Process of Constitutional-Political Reforms in Georgia: Political Elite and People's Voices," Notes of the Venice Commission, 2004, p. 40

According to Article 73.1g, the government can present a draft state budget of Georgia to Parliament only with the President's approval. Foreign experts argue, however, that the President should not intervene in the budgetary process and only the Parliament and the government must be responsible for the issue. In the European context, it is very unusual for a president to issue decrees about taxes and budgets.⁵

Although the President does not represent the country's executive power, he/she still has a voice in the appropriation of budgetary funds and assumes responsibility for calculating the defence budget and defining the place of defence expenditure in the list of national priorities, as well as the relevance of the defence spending to the country's goals and economic resources (these issues are also reflected in the new legislation – the National Security Strategy and the Defence Strategy).

The above-specified constitutional clauses emphasise that the President is responsible for every decision made by the government. Taking into consideration that the President and the government have the right to take legislative initiative, while the President also holds the veto power, it is clear that the President's position is even stronger, with the government and Parliament being under his/her full control.

Under the current Georgian legislation, effective control of the armed forces is a responsibility of the presidential institution, since the President chairs the National Security Council (NSC) and holds the position of Supreme Commander-in-Chief of the Armed Forces.

In terms of democratic control, it is important to ensure that a top military commander and the head of the Chiefs of Staff are controlled by a top civilian official. According to the Georgian Constitution (Article 73.4), the President is Supreme Commander-in-Chief of the Armed Forces. The President has the power to appoint members of the NSC and appoint/dismiss the head of the Chiefs of Staff and other senior military commanders.

The President maintains the right to appoint the Chiefs of Staff of the armed forces, puts the top military commander under his direct subordination, and gives him an opportunity to take military advice directly without a civilian mediator – Defence Minister. This makes the system less balanced. However, it is too early yet to assess the effectiveness of the system in terms of democratic control of the armed forces.

In accordance with the law on defence of Georgia, the structure of the country's armed forces and military regulations, are subject to presidential approval. The President is entitled to request other countries to deploy, use and re-deploy their troops on Georgian territory, in order to reinforce national defence, and should inform the Parliament immediately about such decisions. The President also present military doctrines to the Parliament for approval, army-building and mobilisation plans, and rules of engagement for the army; and orders military operations. State programmes for the development of armaments and military equipment should also be approved by the President.

Amendments to the law on the defence of Georgia, adopted in December 2004, strengthened mechanisms of civilian control over the armed forces and brought them in line with NATO standards,

⁵ Jonathan Whitley, comments on the White Papers, p. 38

inasmuch as the executive power functions of the MoD were separated from those of the Joint Chiefs of Staff.

Under the amended law on defence, the defence minister is a political figure, who performs his/her duties with the help of the MoD's civilian staff. Civilian functions of the MoD include management and implementation of defence policy and the programmes of combat efficiency and development of the armed forces; participation in the development of legislation regulating defence issues; and political leadership of the armed forces. The MoD also prepares foreign military-political cooperation programmes and projects, defines and oversees the intelligence policy, defines the principles and regulations of the country's reserve force, facilitates civil-military relations, develops social protection mechanisms for servicemen and their families, and manages the country's defence resources. The functions of the MoD staff greatly differ from those of the Joint Chiefs of Staff, which were limited to the military-operational responsibilities (2004 amendments of the law).

According to the law, the Joint Staff HQ is responsible for the combat training of the armed forces, the development of the management system, and the preparation of the national defence and mobilisation plans. It directs and commands the armed forces and the border police during military operations.

When looking into the role and responsibility of the Georgian executive power, it is important to note that the civil sector management and military-political competencies have been already separated from one another. As a result, the MoD was actually divided into a civilian and military sections – Joint Staff and MoD (General Staff was formally transformed into Joint Chiefs of Staff in July 2006, and the Constitution was amended accordingly).

In order to ensure the development, planning and implementation of defence policy, a responsibility of the MoD, the new law on defence planning was adopted by the Parliament in 2006, which came into force on 28 April 2006.

According to the law, defence planning, viewed as part of defence policy, should facilitate Georgia's integration with Euro-Atlantic structures. It is noteworthy that the given provision of the law creates a legal basis for Georgia's intention to become a NATO member. Besides, the law reflects Georgia's obligations in the framework of IPAP, namely the requirement to separate the roles of the state and the public in defence and security policy planning.

The law on defence planning states that defence arrangements are based on respective strategic level legal acts and agency level legal documents. Strategic legal acts on defence planning are approved by the President or the Parliament, while agency level legal documents are approved by the Minister of Defence.

According to the law, the National Security Concept is a strategic legal document. It is signed by the Georgian President and should be approved by the Parliament. Other strategic acts include the Threats Assessment Paper and the National Military Strategy.

Under the law (Article 8), the MoD plays the leading role in the defence planning process. Other state institutions have to assist the MoD in developing and implementing the defence planning process within their competence.

The law provides for cooperation between various government agencies in the preparation of strategic documents. For instance, the MoD is required to draw up the threats assessment paper in close cooperation with other structures, review the current strategic environment from the long-term perspective, and define threats and challenges to the country. The threats assessment paper must be endorsed by the President. An Interagency Committee has been created in order to develop a threat assessment document; it includes some other ministries apart from the MoD, such as, the Ministry for Environmental Protection and the Ministry of Energy.

Besides, to achieve objectives of the National Security Concept, the law stipulates that respective structural units of the MoD shall work out a national military strategy for Georgia, which must be endorsed by the President. The law clearly specifies the officials responsible for its implementation. The law on defence planning states that respective units of the MoD shall prepare major long-term army building programmes on the basis of the defence planning guidebook. Long-term army building programmes are signed by the defence minister.

Agency level defence planning documents are approved by the defence minister. Defence Planning Guidance and major programmes of military development of specific spheres - planned activities to build up, modernise, train, equip, maintain logistic support, etc. are prepared at the MoD and approved by the minister. To accomplish the tasks and objectives of the national military strategy, the MoD develops annual programmes after which the defence budget is drawn up.

2. The defence policy planning process in Georgia: from the national security concept to the development of force planning.

In addition to adopting the new laws, which made NATO and EU membership Georgia's main foreign policy goals, the new Georgian government has also stepped up the pace of reforms.

Soon after the government came into force, the National Security Council initiated the development of the national security strategy, in close cooperation with other respective governmental structures, such as the Ministry of Foreign Affairs (MFA), Internal Affairs (MIA), Defence (MoD), Economic Development, Finance, Public Health Care and Social Security, and Environmental Protection. The strategy was signed by the President and approved by the Parliament on 8 July 2005. It is noteworthy that Georgia has little experience in the creation of such documents. The only unofficial strategic document – Georgia and the World: Vision and Strategy for the Future – was prepared by the International Security Advisory Board (ISAB) in 2001. The document mainly focused on the Georgian Government's measures to facilitate security sector reform, highlighted the weaknesses of the central coordination and control mechanisms of the security sector and crisis management, and offered some recommendations.⁶ The authors of the document noted that the country could not implement the security sector reforms and improve the efficiency of its security institutions without fulfilling these recommendations.

In its next report, issued four years later, in 2005, the ISAB emphasised that the new Georgian government had completed the following reforms in the security sector:

- Interior Troops of the MIA were merged with National Guards, MoD;

⁶ Georgia and the World: Vision and Strategy for the Future, 2001

- State Border Defence Department became a structural unit of the MIA;
- The structure of State Intelligence Department was optimised;
- The status of the Ministry of State Security was downgraded to that of department and it was merged with MIA.

Thus, according to the ISAB report, by 2005, the military forces of Georgia were structured into three elements, (MOD, MIA and the Special State Guard Service) easing coordination and preventing functions from overlapping. However, some recommendations of the ISAB were not implemented. For example, the strength of the armed forces was not reduced, despite the ISAB's advice. Plans to increase the number of brigades to four and increase the size of the reserve force (to about 6,000 active reserve troops) was inconsistent with the previous figures agreed to during the IPAP negotiations. Foreign experts say that these trends “represent an increase of 25-30 percent of the figures envisaged in the original IPAP and raise the question of affordability.”⁷

The 2005 National Security Concept's final version defined Georgia's fundamental national values and interests, and threats to the country's national interests posed by internal or external political actors. It filled up the gaps left by the previous document. According to the National Security Concept, the country faces the following threats:

- Infringement of the territorial integrity of Georgia;
- Spill-over of conflicts from neighbouring countries;
- Military intervention;
- International terrorism;
- Trafficking and trans-national organised crime, corruption and inefficient government.

The Russian military presence in Georgia, namely the deployment of Russian military bases on Georgian territory, is defined as a risk in the National Security Concept. Besides, according to the document, the country faces economic, social, energy, information, and environmental challenges.

Apart from the security issues, in the final version of the document corruption and government inefficiency were also defined as threats. According to the advice of experts, it would have been better, however, to place these problems at the top of the threats' list, since the document points out that corruption has posed a serious danger to national security in recent years, embezzling resources, compromising democratic values and institutions in the eyes of the public, and hampering economic progress. Corruption finally led to a revolution that toppled the government.

Along with corruption, the inefficient state management system is another serious threat to Georgian national security, because it is one of the reasons why the urgent economic problems of the country remain unresolved – unemployment, underdevelopment of the private sector, growing inflation. At the same time, the state institutional system is still rather unstable. Quick changes in the laws make undermine their effectively implementation. A change of leadership in some institutions often results in a change of functions (additional functions may be assumed or, to the contrary, some functions may be dropped). These tendencies may be illustrated by changes in the functions of National Security Council after October 2005, when a new Secretary was appointed. According to the Presidential Decree No. 847 from October 2005 some executive functions have been removed from the responsibility of the NSC

⁷ International Security Advisory Board, ISAB REPORT 2005

and transferred to the executive structure, particularly the MoD, which seriously decreased the influence of the former on the decision-making process in security issues.

Thus, in 2005, Georgia adopted its first National Security Concept since the regaining of independence. The document clearly defined all problems hampering the development of Georgia and outlined political directions towards the creation of a democratic, independent, peaceful and strong state.

Following the National Security Concept, Georgia endorsed another policy document of strategic importance, the Threats Assessment Paper 2005 (signed by the President on 1 November 2005; its original text is classified and not available for public)⁸ and Military Strategy.

The Threats Assessment Paper is to be reviewed and adjusted to the new realities annually. Currently, the Interagency Commission is developing the second 2006 edition of the Threats Assessment Paper. The following agencies participate in this process: MoD and the General Staff of Georgian Armed Forces, also the Ministry of Environmental Protection and Natural Resources, the Ministry of Economic Development and the Office of the State Minister on European and Euro-Atlantic Integration. Each agency will assign two experts to the process of the development of Threats Assessment Paper. According to the decree of the President of Georgia, interagency work must be coordinated by members of the Threats Assessment Interagency Commission.⁹

In contrast to the threats assessment document, the national military strategy gives only general description of the strategic environment and specifies only those threats that the government deems suitable for the public eye.

The national military strategy provides for measures to increase the efficiency of defence planning until 2010, and defines short-term and middle-term missions and functions of the armed forces. The strategy makes it clear that the missions, structure and requirements of the armed forces stem from the threats assessment document, and that the threats and their likely consequences are analysed in depth in this document.

The military strategy specifies immediate military threats that Georgia will have to deal with in the near future on its own. It underlines that the main objective of the Georgian defence policy is to defend the country from direct aggression and achieve compatibility with NATO. The document also includes the assessment of the strategic environment in terms of regional and international security.¹⁰

Like the National Security Concept, the military strategy argues that despite frozen conflicts and hotbeds of potential tensions in the region, direct aggression against Georgia is highly unlikely. Besides, the National Security Concept and Military Strategy contain some conflicting clauses. Threats defined in the military strategy differ from those specified in the National Security Concept. According to the national military strategy, for instance, Georgia faces the following threats:

- Separatist regimes on Georgian territory;

⁸ Interview, MoD official, 18 September 2006.

⁹ Accessible at : <<http://www.mod.gov.ge/?l=E&m=13&id=328>>

¹⁰ SDR, Progress Review, MOD, May x2, 2006, Tbilisi, Georgia

- Russian military bases and peacekeeping troops within Georgia's territory (which are likely to support the separatist regimes until they are pulled out of the country);
- Vulnerability of key economic projects/infrastructure to subversive and terrorist activities;
- The proximity of such an unstable region as the Middle East.
- Thus, the military strategy and the national security concept look at the threats facing the country in a different way. While the latter evaluates the deployment of Russian military bases in Georgia as a risk, the former considers the entire Russian military presence in the country, i.e. Russian military bases and Russian peacekeeping troops on Georgian territory, as a threat. The difference might be caused by the dynamic of political processes – attempts by the government and the Parliament to involve other international players in the conflict resolution process and intensification of Georgia-NATO cooperation, which contributed to the development of cooperative relations between Georgia and NATO member states and dealt a severe blow to the Russian positions in the region.¹¹ These tendencies led to the increased tensions and discords between Georgian and Russian governments. Consequently, Georgia, in its turn, pushed hard for the replacement of the Russian-led peacekeeping mission with an international force (parliamentary resolutions on 11 October 2005, 16 February 2006, and later on 18 July 2006). The comparative analysis of the two documents, Security Concept and Military Strategy shows that the dynamic of the Georgian security environment tends to turn typical risk factors into threats.

For the first time, a Georgian political document – the National Military Strategy - specified the proximity of the Middle East as a threat, maybe because Georgia has considerably enlarged its contribution to peacekeeping missions in other countries, namely in Iraq since 2005. Approximately 1000 Georgian servicemen take part in peacekeeping operations overseas nowadays (850 in Iraq and 150 in KFOR - Kosovo), and the number is unlikely to decrease in the near future. According to the military strategy, in the coming five years Georgian armed forces will not only carry out operations on Georgian territory, but will also take part in international stabilisation or anti-terrorist missions in other countries, which could make Georgia a potential target of international terrorist groups. Accordingly, the National Military Strategy has made as its main priority compatibility and inter-operability with partner countries and a “readiness for asymmetric warfare, without a distinctive front-line.”

Georgia's National Military Strategy also acknowledges that the country will not face the danger of a large-scale war in the near future and, therefore, its armed forces should concentrate on middle and low-intensity military operations. At the same time, however, the document admits that Georgia's armed forces lack training, modern technical equipment, and an effective control and management system, and, therefore, are unable to respond adequately to existing and potential threats.

The creation of an all-volunteer professional army is recognised as a main tool to improve the combat capabilities of the armed forces. Respectively, the military strategy highlights the full professionalisation of the armed forces as one of Georgia's strategic objectives and states that this process should be completed by 2010. However, the National Military Strategy says nothing about the concrete strength of the proposed professional army.

¹¹ In May 2005, the agreement was reached between Georgian and Russian Foreign Ministers on the withdrawal of Russian military bases from Georgian territory by the end of 2008

Top government officials also made it clear in 2006 that the Georgian government had planned to increase significantly the strength of the reserve forces, whereby the number of active reserve troops is expected to reach 6,000 servicemen (18 battalions, 350 personnel in each). The active reserve system is supposed to replace conscription in the near future, but the final decision has yet to be made.

According to the law on the strength of the military forces, which was brought forward by the President and approved by the Parliament in December 2005, Georgia's military forces numbered at 26,050 servicemen (including 5,868 border guards) in 2006,¹² an increase of 5,000 in one year. This shows that in the coming years Georgia's professional forces and active reservists will number at 20,000.

As the likely short-term changes in the size of the armed forces are unclear in the political document, nobody has assessed the resources needed for the maintenance of the proposed number of professional and reserve forces of the country. Besides, the National Military Strategy does not reflect or regulate the possible future enlargement of the Georgian armed forces in general. One may only wonder what level the total strength of the professional military, reserve and the conscription-based army may reach in the coming five years.

It is also impossible to predict the 2010 state budget of Georgia or the share of defence expenditure within it. Respectively speaking, it remains to be seen whether the annual growth of the GDP will meet the requirements of a professional army and measures to achieve/maintain its combat efficiency, if the defence expenditure does not exceed the limit set by the government – 2% of the GDP. (According to government sources, in 2005 the defence spending totalled 3% of the GDP and will not exceed 2% in the future).

It is also unclear whether the required defence resources specified in the document have been agreed to by other civilian structures, the Prime Minister's Office, and the Finance Ministry, and, on the whole, whether they are consistent with the general strategy of the country's development. Furthermore, one should wait to see whether the Georgian state budget will be able to meet the country's increased defence requirements in the near future.

“Until our country becomes a NATO member and gets much better security guarantees, it will have to rely primarily on its own armed forces capable of carrying out various missions” – the military strategy states. In cases of military aggression against Georgia, the country will have to mobilise and manage its resources on its own. That is why it is important to determine what kinds of means are necessary to achieve national military goals.

In general, the development of the country's strategic document in 2005-2006 shows that in such an unstable security environment, fuelled by unresolved conflicts, tense relations between neighbouring states and the volatility of the regional dynamics, the Georgian political elite's and public's threat perceptions have been continuously changing. On the one hand, the security predicament has led to the emergence of new threats to Georgian security. On the other hand, these changes are reflected in the strategic documents which have raised hopes that the government

¹² Border Guard figure from Law on Georgian State Budget 2006

has not formally examined the documents and, tried to adjust them to the new realities to make them more functional.¹³

The MoD is currently developing a Strategic Defence Review (SDR), the objective of which is to provide the leadership of Georgia with a realistic assessment of all aspects of the armed forces, outline a strategy to meet the threats to national security and analyse the cost of that strategy.

According to the SDR progress report (the presentation of which was organised by the MoD in Tbilisi, Georgia, on 2 May, 2006), an interagency group for the elaboration of SDR was created in September 2004 by presidential decree and a MoD SDR working group was set up in October 2004 to elaborate the document. To date, the working group has successfully facilitated the following tasks: 1) an inventory of the military equipment, facilities and personnel, and assessment of the combat capability; 2) the development of key strategic documents (National Security Concept, National Military Strategy, Threat Assessment Paper, Minister's Vision, Law on Defence Planning, Military Doctrine for Ground Forces, Navy, Air Force, Logistical Service, Reserve, Resources and Personnel Management); 3) the development of the future force structure with estimates the necessary costs. The accomplishment of the third objective is still in progress. According to the SDR progress report, agency-level defence planning documents are to be elaborated throughout 2007. Other policy documents, including the Minister's Vision, were prepared for the first time in 2005 and published in 2006.

Special attention in the policy development process should be paid to public participation. Public involvement in Georgia's policy-making process, specifically on the issues of security and defence, is lacking, particularly in terms of regularity, openness and transparency. Nonetheless, there have been some positive examples of cooperation between the government and civil society on security affairs.

The process of the elaboration of the National Security Concept and Military Strategy was marked with partial transparency and openness, particularly in procedural terms. Before the final version of the Security Concept had been agreed to, its draft text was handed out to some NGOs and independent experts and was reviewed at a meeting of government officials, NGO representatives, academics and independent experts. The participants of the meeting discussed the achievements and shortcomings of the draft policy paper. After a slight revision of the document, it was signed by the President and authorised by the Parliament in June 2005. It should be mentioned that the involvement of the public in the development of Georgia's security policy was at some stage regulated, as the number of experts was limited. Journalists and media representatives were excluded from participating in the forum.

The same procedures were observed while working on the National Military Strategy. Subsequently, several Georgian NGOs participated in a discussion of the military strategy, with the

¹³ For example, on 7 September, 2006, the Parliament made a decision to change No. 1895 resolution from 8 July 2005 on a National Security Concept and adopt amendments to the concept. The amendment changed the country's territorial defence principle into a total and unconditional defence system, mainly underling increased threats to Georgian security and a sense of urgency to establish a new mobilisation system of Georgia. "In the event of any external aggression directed to the nation, Georgia will be guided by the principle of Total and Unconditional Defence, which implies the full mobilisation and coordinated actions of state agencies. To that end, the compulsory reserve service system is created and its control and management mechanisms will be developed" –the MoD statement says at: <http://www.mod.gov.ge/?l=E&m=13&sm=0&id=318>

involvement of local independent experts, government officials and foreign advisors during September-October 2005. Finally, the Military Strategy was signed by the President and presented to the public at the beginning of 2006.

Currently, state security and defence institutions continue their cooperation with several NGO but, at the same time, the process of interaction and insurance of free information flows between the public and government have not been institutionalised. This is especially true in the security field.

The level of civilian engagement in security and military policy-making is low by Western standards. The reason for this might be the lack of clear procedures and regulations promoting democratic governance in the country, as well as, the weak capacities of society in the policy-making sphere, particularly in the security field. Even though civil society in Georgia is perceived to be more active than in other former Soviet Union countries, it still remains weak, and shows a low level of interest and expertise in security issues.

Nonetheless, there are a number of influential Tbilisi-based NGOs that do cooperate closely with the government on security and civil-military issues, both through formal institutional mechanisms and on a personal basis. For example, a number of organisations initiated the establishment of a 'Civil Council on Defence and Security' which has met regularly with officials from the Ministry of Defence in order to support and promote defence and security sector reform in Georgia.¹⁴ The Council was founded in 2005 by four leading Georgian NGOs.

3. Parliamentary control

Georgian legislation defines the role and functions of the Parliament in implementing civilian control over the military. Under the law on defence planning, parliamentary oversight of defence planning is implemented by the Parliament and the parliamentary Defence and Security Committee. Every international agreement or treaty signed by the government in security/military spheres is subject to parliamentary ratification. The President, as the supreme Commander-in-Chief of the Armed Forces, cannot order the armed forces to act in emergency situations or to implement the country's international obligations without parliamentary approval. The President's decision to deploy, use and re-deploy foreign troops on Georgian territory must also be approved by the Parliament.

The Parliament also defines the strength of the armed forces. Georgia's armed forces have been involved in various international missions in recent times. The law adopted in 1999 created the legal basis for the participation of Georgian servicemen in international peacekeeping and stabilisation operations, and other peace initiatives. Each case is subject to the government's close scrutiny in order to decide whether participation of the armed forces in each particular operation is appropriate.

Under the law, Georgian peacekeeping troops cannot be sent overseas to take part in international peacekeeping and stabilisation operations without parliamentary approval. The President makes a decision on the participation of servicemen or civilian volunteers in such operations on the basis of recommendations of the defence and foreign ministries, after respective agreements are signed.

In addition, the defence and foreign ministries shall report to the Parliament at least once a

¹⁴ Accessible at: <http://osgf.ge/ccds/index.html>

year on the participation of the armed forces in international peacekeeping operations. According to Paragraph 2 of the Article 8, Georgian peacekeeping troops are funded by the state within the limits of the defence budget, and may also receive funds from other sources. Given the fact that the army-building process in Georgia gets substantial financial assistance from NATO member states, “other sources” must refer to financial aid from western countries, part of which may be used to finance Georgian peacekeepers.

Since 2000, the armed forces have been actively involved in peacekeeping operations in the Balkans and the Persian Gulf. According to the MoD, Georgia’s peacekeeping troops are manned entirely with professional servicemen. Their participation in international peacekeeping operations, which is voluntary and lasts six months, is deemed to improve interoperability of Georgian troops with NATO and other partner countries.

The peacekeeping mission in Iraq illustrates the Parliament’s involvement in sending Georgian troops to peacekeeping operations in other countries. In Spring 2003, with the escalation of hostilities in Iraq, the Georgian government announced that it was prepared to send a peacekeeping unit to Iraq, pending parliamentary approval. The Parliament passed a resolution on 7 May 2003 that the Georgian government should work out an action plan for Georgia’s participation in the post-war peacekeeping and reconstruction mission in Iraq. The Parliament debated the respective Georgia-Kuwait agreement in June and ratified the document on 16 July 2003.

The agreement provided a legal basis for the participation of Georgian servicemen in the peacekeeping operation in Iraq. Kuwait signed the document as a transit country. The agreement was partly similar to the Georgian-US military cooperation agreement, ratified by the Georgian Parliament on 21 March 2003, which allowed the US to deploy its civilian personnel and servicemen, as well as transport vehicles and aircraft, on the mutually-agreed territories and premises of Georgia. On the basis of this legislation, 850 Georgian peacekeepers are currently in Iraq, and some 150 troops serve in KFOR.

In general, parliamentary oversight of Georgia’s defence institutions is also regulated by the Constitution of Georgia and the Law on Parliamentary Committees. The parliamentary Defence and Security Committee plays a leading role in parliamentary control. It is actively involved in the preparation of and debates on bills, draft parliamentary resolutions, and other documents. The committee has the right to take legislative initiative, which strengthens its capacity for active participation in the army-building process. A number of other parliamentary committees also provide certain control over security issues: The Committee on European Integration, the Legislative Committee, and the Foreign Affairs Committee.

The Defence and Security Committee is also entitled to look into respective chapters and sections of a draft budget and prepare recommendations for parliamentary debates. It is noteworthy that the Parliament has no right to either review detailed defence budgets during the session or committee meetings, or amend a draft state budget prepared and submitted by the President and the government. Only a small group of MPs, known as the “group of confidence,” is authorised to examine the breakdown of defence expenditure. These regulations show that the Parliament’s real role in the budgeting process is rather limited. In contrast to a widely used practice in democratic countries, the Georgian Parliament does not have the power to examine and debate the procurement policy of the country’s force structures. The government is not legally bound to report on arms transfers either to the Parliament or the committee, unless it is invited to special parliamentary hearings.

The committee can oblige government officials to submit documents, resolutions and other materials (including classified information for the group of confidence); to testify before the committee, and attend committee hearings.

The committee is made up of 25 members. The chairman of the committee and two deputy chairmen represent the parliamentary majority. Due to the current balance of forces in the Georgian Parliament between the parliamentary majority and their opponents, opposition parties are under represented in the committee, while the group of confidence does not have any opposition representatives at all.

According to the Law on the Group of Confidence, members of the Defence and Security Committee of the Georgian Parliament set up a group of confidence to exercise budgetary control over special and secret programmes/activities of the Georgian government's bodies.

The group consists of five members. As a rule, one of them is the chairman, while the rest represent various parliamentary groups and factions. Candidates for the membership of the group of confidence must be reviewed to gain access to classified information, as required by the National Secret Information Act. There are only four members in the group of confidence at present, since opposition parties have refused to participate, claiming that they would not have much say in the committee's decision-making process.

Georgia's government's bodies are required to report to the group of confidence at least once a year on the expenditure of their special and secret programmes/activities, and to submit any kind of materials at the group's request.

Since 2003, the MoD has only once discussed the breakdown of defence expenditure with the group of confidence. The discussion took place in 2005 and was focused on the 2004 defence budget expenditures. After the discussion, members of the group of confidence publicly praised the government. It must be mentioned, however, that the lawmakers, who participated in the discussion, belonged to the parliamentary majority. That is why the discussion was unable to win public confidence, since it occurred behind closed doors and failed to answer questions raised by the public.

According to the laws, if any violations are revealed, the group of confidence can inform the country's leadership about them or even make them public, if necessary. The group of confidence can appeal to the President or request the Parliament to set up an ad hoc commission to probe into specific cases.

The above described aspects demonstrate that the group of confidence is unable to control executive bodies by itself or gather information from independent sources, when it deems that government agencies have abused office or breached the law. In such cases, the group can only request to set up a parliamentary commission to investigate the issue and collect respective evidence. However, the group of confidence has full access to classified information.

The Parliament is also entitled to decide what kind of information should be classified and how it must be protected (Article 4). According to the National Secret Information Act (1996), the Parliament is responsible for developing state policy on national secrets, while the Ministry of Interior, as a government agency, has to enforce the policy and oversee its implementation. (Article 3)

Under Article 7 of the Act, the following defence-related information is classified: operational

and strategic plans, combat readiness, and research and development (R&D) programmes. The list of government officials empowered to authorise access to classified information should be endorsed by the President. On the one hand, this provision may be viewed as a ban on detailed defence expenditure information, since apart from operational plans, the list of classified information includes R&D programmes, which shows that the acting regulations are characterised by some shortfalls and vagueness. With the help of this law, it is easy for the government to classify information about the cost and scale of any defence-related programmes, including military upgrade plans and procurement policies. So, the Georgian government can use the Act as a tool to keep certain aspects and problems of the army-building process away from the public eye.

Georgian legislation pays special attention to the issue of NATO-related classified information. On 13 December, 2005, the Georgian MoD was declared by law to be responsible for the protection of NATO-related classified information, while the defence minister was given the power to authorise access to this information. This means that the MoD has become the leading institution in dealing with the country's relationship and integration process with NATO.

4. The Defence Resource Management System in Georgia

With respect to budgetary planning, under the current procedure, the first outline of a draft defence budget is prepared by the defence resources management department of the MoD, which translates the requirements into the costs.

Several years ago, the MoD began to develop a new system of planning, programming and budgeting. In 2006, the process is still being developed. According to the Georgia SDR Progress Review (MoD, May 2, 2006, Tbilisi, Georgia), the system will be up and running in 2007. It is supposed to improve the efficiency of defence resources management and the long-term planning of forces. It is worthwhile mentioning that, in 2007, the government is planning to establish a programme-based planning system for all state institutions – each agency will be asked to submit a programme-based budget to the Ministry of Finance in May 2007. Only time will show how successful this initiative is. At present, government agencies are preparing internal regulations adequate to this new approach.

Until the programme, budgeting mechanisms are installed in the MoD. The budget is calculated through the classification of functional and organisational costs. The draft budget is based on the general data and policy papers of the government, and applies major parameters specified in the finance ministry's budgetary circular, which include the personnel and costs ceilings. The financial management department is also involved in drafting the defence budget, calculating its figures on the basis of respective requirements of the MoD and General Staff.

In previous years (mainly until 2003) requirements of the MoD usually exceeded the limits defined by the finance ministry and requests by the military were often ignored. Since 2004, the finance ministry has mainly satisfied the requirements of the MoD. In President Eduard Shevardnadze's time, conflicts between the finance and defence ministries were not uncommon, and the confrontation was often reflected in parliamentary debates. The situation has changed dramatically. As a rule, the Parliament tends to approve draft defence budgets submitted by the MoD.

Parliamentary debates: According to Article 93 of the Constitution, the government shall prepare a budget bill for the Parliament, with the President's approval, three months before the start of the next fiscal year. The Parliament usually begins to debate a budget bill in October (the

fiscal year begins in January). If the document is not approved, it is sent back to the government for amendment. The legislators can either vote in favour of the budget bill as a whole or turn down the entire document. The government can amend the bill on the basis of Parliament's recommendations or leave it unchanged. Afterwards, the bill is sent to Parliament once again.

At this stage, interests of the national defence are lobbied by the parliamentary Defence and Security Committee and the group of confidence. By and large, parliamentary debate on the budget bill take a great deal of time, is marked by long delays and sometimes lasts until the beginning of the following year. If the Parliament fails to approve the budget in time, the finance ministry has to allocate monthly funds in accordance with the previous year's budget, approximately 1/12th of the budget, until the new budget is adopted.

In 2004 and 2005, the Parliament debated the major economic parameters of the defence budget, just as in 2003, which usually do not exceed one page. The main priorities of the development of defence policy involve the Defence and Security Committee, and Parliament in general, to facilitate reforms in the resources management system of national security and defence, and step up efforts to introduce programme-based budgeting in the MoD.

Implementation of the budget: The next stage of the budgeting process relates to the efficiency of executive bodies in the field of national defence and mechanisms of civil control over the defence expenditure.

There is a big difference between the pre-2003 and post-2003 appropriation of budgetary funds in the defence system.

Earlier, due to the weakness of the country's financial system, defence funds were rarely allocated in time, i.e. instalments were transferred chaotically and with great delays. As a result, efficiency and lawfulness of the defence spending were hard to assess (the situation in other spheres was the same due to a huge budget deficit in the country).

This situation reflected a deep crisis in the system of state management and led to disastrous consequences some time later: the defence system weakened dramatically and became extremely ineffective. There were no longer any mechanisms to control efficiency of the defence system, since MoD was funded irregularly, and the lack of funds could be used as a perfect excuse for poor management and inefficient operations.

Since 1998, because of meagre budgets, the MoD has received few funds for capital expenditure and procurement. The lack of budgetary funds for capital expenditure stemmed from the financial crisis and the absence of long-term planning. On the other hand, however, the potential benefits of the development and improvement of Georgia's military infrastructure, let alone procurement-related problems, were obvious. Having adopted a pro-Western political course, Georgia undertook a certain responsibility for national defence, which implied fundamental military reform aiming, among other things, at a substantial build-up of the armed forces.

Since 2004, Georgia's defence budget has increased manifold. However, as mentioned above, the Parliament approves the budget without looking into the detailed defence expenditure and classification of defence funds which usually fills in only one page of the whole defence budget.

Respectively, the Parliament's role and resources in budgetary control are limited. For instance, the 2004 and 2005 budgets gave a very general description of defence funds. Besides, while the budget was hard to implement in previous years, since 2005, the defence expenditure has been increasing significantly throughout the year, and additional funds were appropriated for procurement and capital expenditure.

The budget was enlarged twice in 2005. It reached 314.47 GEL in April, up from 139 ml GEL, and grew by other 86.9 ml GEL in late May. It is noteworthy that, while at the beginning of 2005, Georgia's state budget amounted to 1.9 billion GEL, it increased by 446 ml GEL in April and received an additional 86 ml GEL on May 20. This budgetary growth was attributed to the country's ongoing privatisation process. Most of the extra funds were allocated to national defence. Consequently, with additional resources and strong support of the country's political establishment, the MoD purchased tanks from Ukraine and munitions, and made some capital investments.¹⁵ Over the last two years, Georgian military bases and installations have been reconstructed, infrastructure has been created, and conditions in the barracks have significantly improved.

Similar processes have developed in 2006. 392.5 ml GEL have been allocated to national defence (the 2006 state budget totals 3.2 billion GEL), including 172.9 ml GEL (44%) for military personnel, 83.4 ml GEL (21%) for operational costs, and 136.2 ml GEL (35%) for capital expenditure.

On June 23, the Parliament voted to increase the budget by 77 ml GEL, including 17 ml for the MoD. According to the Georgian press, the government resolved on 23 May (the decision was approved at an extraordinary session in July) to increase the country's defence budget by 200 ml GEL. However, officials said nothing about how these funds would be appropriated.

Georgian and foreign experts are greatly concerned with such a rapid growth of defence funds, most of which are allocated to the procurement of armaments and munitions (according to high-ranking officers of the MoD). The public is also interested in understanding how the MoD is appropriating defence funds and whether its procurement policy and procedures are legal. In May 2006, the MoD issued a document¹⁶, which stated that the Parliament would soon pass a new legislation on long-term procurement planning and interoperability of the military and civil services. The legislation is supposed to improve the procurement policy of the MoD and make it more efficient and transparent. It is also likely to strengthen parliamentary oversight of national defence.

MoD officials have explained the increasing capital expenditure in the defence system by the fact that, before 2004, few defence funds were allocated to the repair/reconstruction of military sites and modernisation/procurement of military equipment. Furthermore, training programmes for military personnel were heavily under-funded in previous years.

According to government officials, spending larger amounts of money on defence procurement at this stage is justified by the urgency of strengthening the capacity of the armed forces. It is viewed as an investment for the future. In their words, the threats and risks facing Georgia today

¹⁵ Georgian press report, 2005

¹⁶ Georgia SDR Progress Review, MoD conference, May 2, 2006, Tbilisi, Georgia

are predicated by the imbalance of forces in the South Caucasus, and on Georgian territory in particular.¹⁷

According to Georgian officials, Georgia has 92 tanks, including 20 T-72, but only nine of them were operational before 2005.¹⁸ None of them had a complete load of munitions. Consequently, the Georgian MoD bought new tanks in 2005 as replacements. The MoD also justified the spiralling defence spending by the country's preparation for NATO membership.

Civilian control bodies: If Georgia had an efficient and functional state audit system, the above-described tendencies in the defence budgeting process could be spared from criticism. From 2003 – 2006, the State Audit Chamber (SAC), one of the government's control bodies, was rather passive – its reports were not scrutinised or debated by Parliament and its activities attracted little interest from the public, raising doubts about its efficiency.

Two state structures control the MoD in Georgia: the general inspectorate, the MoD's internal control body, and the SAC. The SAC audits the MoD's books, while the general inspectorate is responsible for financial control of the MoD's structural units and the investigation of violations and irregularities committed by the MoD's military and civilian personnel.

The SAC examines whether actual defence spending is consistent with the approved defence budget. The breakdown of defence expenditure is classified and not debated in Parliament. At the same time, the lack of funding and instability make it difficult to check whether defence funds are appropriated properly, especially funds for planning, structural reorganisation, and training. As a result, civil control of the armed forces remains rather weak.

5. Arms Export-Import Control System

Several examples demonstrate the weakness of parliamentary oversight in Georgia. One of the questionable issues relates to the functioning of the arms transfer control system. It should be mentioned that the system itself has been operational in Georgia since 1997-1998, when the first presidential decree and legal act were introduced regulating the arms export control system in the country.¹⁹ International cooperation played an important role at that time for introducing control over the transfer of arms and dual-use materials – US assistance greatly contributed to the fast adoption of new regulations and laws by the Parliament.

According to the law on the export of arms, military equipment and dual-use goods, the Parliament is responsible for defining the state's policy on transfer (export/import) control; creating and developing the system of transfer control; identifying the list of states which should be subject to export/import restrictions by the customs of Georgia. However, the Georgian President played a far more significant role in developing and implementing the arms transfer system than the Parliament. The President initiates new regulations regarding arms transfer control, authorises the

¹⁷ National Security Concept of Georgia, 2005

¹⁸ Civil-Military Council meeting, September 2005

¹⁹ Presidential Decree No. 582 (October 1997), "Law on Export and Import Control of Arms, Military Equipment and Dual-Use Materials", (adopted on 28 April 1998, amended in May 2003, June 2004, November 2005, June 2006).

Military Technical Commission's recommendations for arms transfers, approves the list of products subject to arms transfer control, supervises activities of respective state structures, and approves the control list of production subject to export/import control.²⁰

In addition to the above-mentioned issues, international experts examining the current export-import control regime in Georgia are concerned with the President's exclusive powers to authorise exports of "strategic military production", "services connected with the military production" and "transits of special cargo."²¹ Experts argue that these three categories are not clearly defined in the present legislation, which leaves the extent of the presidential decision-making powers unclear and may politicise the decision-making process.²²

Since 1998, the role of the Ministry of Defence in arms transfer control has significantly increased, raising additional questions about the efficiency of the system as a whole. At first, the interagency Military Technical Commission (MTC), which was set up within the National Security Council and consisted of the top governmental officials (ministers) from different spheres of governance (Ministries of Foreign Affairs, Interior, Defence, Justice, Economic Development) was defined as the main body with the power to authorise every arms transfer deal. Functions of the MTC were supported by a panel of experts, which also represented different executive agencies. Presidential decree No. 847, signed on 24 October 2005, made the MTC subordinate to the MoD, significantly strengthening the role of the defence establishment in the import/export control on arms and dual-use materials, as the MTC is no longer an interagency commission and its members represent only MoD and Joint Staff. Although the decision-making process in the MTC is still assisted by the panel of experts representing different state agencies, it is clear that the present level cannot ensure adequate cooperation between various government agencies in arms export/import issues.

After the new regulations came into force (2005) the same agency (the MoD) gained the power to submit applications for arms transfers and make decisions on this issue. The MTC, staffed by MoD representatives and chaired by the defence minister, became solely responsible for preparing recommendations on the ministry's arms procurement policy, without the involvement of any other agency in the decision-making process. The new law on licences and permits (June 2005) further strengthened the MoD's authority in this field. The MoD no longer needs permission from the Ministry of Justice or the Ministry of Economic Development for transfers of military equipment and dual-use materials (the permission was obligatory in the past) which clearly limits access to information on arms transfers for agencies other than the MoD. It should be mentioned that the scant attention paid to these issues by the IPAP document gives the Georgian government little incentive to improve the country's arms transfer control system in the near future.

On the other hand, the Georgian government has recently focused its attention on some other problems apart from the implementation of IPAP, which underscore Georgia's role in combating global threats and its contribution to international security. Today, Georgia is prepared to sign the

²⁰ Article 6, 7, Law on Export and Import Control of Arms, Military Equipment and Dual-Use Materials (adopted on 28 April 1998, amended in May 2003, June 2004, November 2005, June 2006).

²¹ Article 6, Law on Export and Import Control of Arms, Military Equipment and Dual-Use Materials (adopted on 28 April 1998, amended in May 2003, June 2004, November 2005, June 2006).

²² "Taking Stock: Small Arms and Human Security in Georgia", D. Wood, D. Hiscock, CIPDD and Saferworld, 2006, p. 81

EU-Georgia Action Plan with the European Commission, in the framework of the European Neighbourhood Policy. The document is to be endorsed in early October 2006. According to the Action Plan, Georgia intends to expand its co-operation with the EU in dealing with common security threats, including problems related to the proliferation of WMD (weapons of mass destruction) and illegal arms exports/imports. In the framework of the European Neighbourhood Policy, the EU and Georgia have agreed:²³

- to cooperate in developing an effective national system of export control over transits of WMD and related materials, and sanctions for breaching export control;
- to bring national Georgian legislation in line with the EU Code of Conduct on Arms Exports.

The above-discussed documents suggest that it is very important for Georgia to adapt its legislation to EU standards and eliminate loopholes in its laws, to increase standards of arms transfer control and the level of interagency cooperation, clearly define decision-making procedures and responsibilities, and come closer to the European practice with respect to the transparency of the arms transfer control system.

The current arms transfer control regime in Georgia needs to be further improved in order to rule out different interpretations of laws and ensure that shortages of the system will be addressed. In particular, it is necessary:

- to strengthen the international arms transfer regulations and requirements for issuing licenses and recommendations, and amend respective laws; to ensure that respective criteria comply with the EU code of conduct for arms exports;
- to ensure interagency cooperation in arms transfer control, including re-establishment of an interagency military-technical commission with the power to issue recommendations on arms import/export control; the commission should be manned with representatives from the Ministries of Foreign Affairs, Interior, Defence, Economic Development and Justice; Customs and Border Departments.
- to increase the level of accountability of executive structures to the Parliament in the field of arms transfers, and to ensure transparency in licensing and permission procedures for the legislators;
- to fully exercise parliamentary responsibility for determining the state's policy on transfer (export/import) controls;
- to ensure full and timely reporting on arms transfers to relevant international agencies, such as the UNDDA, the UN Register of Conventional Arms and the OSCE.

Proper management of Georgia's arms transfer control regime will contribute to the establishment of a stable and secure environment in the South Caucasus region. Georgia's western partners closely observe dynamics in this direction and try to promote better fulfilment of Georgia's international obligations.

²³ Revised version of the draft EU-Georgia ENP action plan discussed at the consultation meeting, agreed to distribute among Georgia NGO community by the Georgian government and the European, Commission in March 2006

6. International Cooperation and Good Neighbourhood Relations

Since Saakashvili's government came into power, Georgia's Euro-Atlantic integration has become the main long term policy goal, which was reflected in the institutional structures of the state's administrative and legislative systems (setting up the position of State Minister for Euro-Atlantic Integration and the establishment of a standing parliamentary committee for European Integration). This issue was also reflected in the main policy documents and legal acts adopted in 2005-2006 (National Security Concept, Military Strategy, Threat Assessment Paper, Law on Defence Planning etc).

Because of the government's unequivocal commitment to NATO integration the overall volume and intensity of foreign military assistance has increased since 2003. It also became more targeted and was incorporated into a wider defence sector reform programme implemented under the framework of IPAP. The pace of defence reform has yielded benefits – at the meeting of NATO Foreign Ministers in New York, 21 September, the NATO Secretary General announced the decision to offer Intensified Dialogue to Georgia. According to the official report, Georgia will continue to implement its IPAP with NATO which will remain the key programme of defence and institutional reform in Georgia.

At the same time, NATO countries will continue to assess Georgia's progress in the implementation of the objectives set out in the IPAP. NATO members have expressed concern mainly in relation to the rule of law and adherence to basic human rights in the country. These objectives cannot be achieved without appropriate legislative and structural changes in the judicial system. There is also a need to develop force planning and resource management systems, ensuring adequate human resources for defence and the promotion of military education and training systems, etc.

It is assumed that with the start of Intensified Dialogue (ID), Georgia has taken the next step toward NATO membership and commenced a new phase in NATO-Georgia cooperation, particularly in light of the fact that NATO typically intensifies its dialogue with nations that aspire to NATO membership. Currently the ID phase does not have any clear format of cooperation, even though Georgian leadership is planning to elaborate the Intensified Dialogue Paper (IDP) which will be formulated around the IPAP's unattained goals.

According to the authorities, at the given stage, the ID framework obviously requires the identification of a clear set of objectives, which will be transformed in the IDP in the near future. Nowadays, MoD has engaged in consultations with NATO in order to achieve three major goals:²⁴ to integrate into NATO and achieve interoperability with NATO structures, to complete structural reforms in the Joint Chiefs of Staff and MoD, and to increase the combat capability of Georgia's armed forces. The MoD also pledged that Georgia's armed forces will continue participation in international peacekeeping operations and "can be deployed wherever NATO needs." These statements demonstrate that Georgia is determined to continue its institutional development of national defence on the basis of close cooperation with NATO countries.

During the IPAP implementation stage, NATO allies initiated numerous assistance programmes to help reinforce Georgia's defence sector. For instance, MoD hosts the CUBIC programme, set

²⁴ Available: <http://www.mod.gov.ge/?l=E&id=329>

up and managed by US advisers; the US has continued SSOP, the most intensive military assistance programme to Georgia's armed forces; Netherlands, the UK, France, Germany and Turkey are carrying out their own programmes; the new NATO members – Bulgaria, Romania, Latvia, Lithuania, and Estonia – have been involved in bilateral cooperation programmes and are sharing their experiences of NATO integration with Georgia.

The most intensive military assistance programme is run by the US government. In March 2005, Georgia and the US signed an agreement and formally launched the Sustainability and Stability Operations Programme (SSOP) in Georgia, which is the second large-scale US-funded military assistance programme for Georgia, allowing for their continued support for Operation Iraqi Freedom. In the fiscal year 2005, the US government allocated USD 60.5 ml for SSOP. Earlier, in 2002-2004, the US allocated USD 64 ml to help train approximately 2,400 Georgian troops in the framework of the Georgia Train-and-Equip Programme (GTEP).

According to the SDR's progress review, the MoD has benefited greatly from the foreign advice and assistance programmes. The following contributions have been particularly helpful to the reforms:²⁵ assessment of Georgian maritime capabilities, by NATO IS/DPP (FPD) and IS/DPP (LOG) (October 2004); US European Command Defence Assessment of Georgia (September 2005); assessment of the Georgian Navy Report, by the UK and Latvia (2004); expert advice from Romania on budgeting systems and cost analyses (2006); training programme in budgeting and cost analysis by the Netherlands (2006);²⁶ training for Georgian battalions in Germany to prepare them for the peacekeeping mission in Kosovo.²⁷ In 2006, the joint NATO-Georgia demilitarisation project was successfully completed within the framework of the NATO Trust Fund – a group of 12 allies led by Luxembourg disposed of and destroyed the remaining stock of weapons in former Soviet military bases. According to the SDR progress review, Joint Staff personnel were trained to conduct effective command and control under the JTEP; the newly-created Ground Forces HQ is undergoing SSOP training and will be fully operational and ready to command and control its subordinate units in 2006; the Air Force and Navy HQ need to continue education and training for staff personnel and adopt NATO standards.

Bilateral military assistance programmes with NATO countries strengthened Georgia's military capabilities and promoted its defence reforms. However, they were not as effective in contributing to the building of good relations between Georgia and its neighbours, especially with its closest and most powerful neighbour Russia. Neither Georgia nor other South Caucasus countries succeeded in establishing a viable regional security system.

Military-political relations between the region's countries and their relations with foreign powers are not cohesive. Being preoccupied by strengthening their own military forces, the South Caucasus states rapidly created the potential for the securing of political and military issues. By aiming to build efficient national security systems, these countries are keen to join different regional security institutions and secure assistance and support from different military powers. It became very difficult

²⁵ SDR Progress Review, May 2, 2006, MOD, Tbilisi, Georgia

²⁶ SDR Progress Review, May 2, 2006, MOD, Tbilisi, Georgia

²⁷ IMEDI TV report, 28 September 2006

for the South Caucasus countries to overcome rival attitudes in favour of collective efforts. In 2006, the situation has more or less stabilised, but the development of reliable guarantees for regional security, and the region's fast and sustainable development are still hampered by unresolved conflicts and increased external threats to the area.

In terms of regional tensions, Georgia's role cannot be neglected. Its aspiration to join the Western 'club of nations,' (NATO and the EU), develop as a democratic state and strengthen the state security guarantees, irritates and upsets its northern neighbour. Georgian officials believe that Russia is trying to harm Georgia's state-building process and limit its national sovereignty by supporting separatist movements in the country. It is also believed that Moscow is trying to influence Georgia through the following leverages: maintaining military bases and control over conflict zones, and imposing economic sanctions and energy blockades on Georgia.

Other South Caucasus countries have their own bone of contention – the Karabakh conflict, which does not contribute to the development of regional cooperation and neighbourly relations. The existing reality is probably well understood by Western partners, as they are not insisting on regionalisation in the framework of the South Caucasus alone. They are quite flexible in finding new approaches and building confidence between the regional states.

In her speech on 28 August, 2006, the European Commissioner for External Relations and European Neighbourhood Policy, Benita Ferrero-Waldner, pointed out that “spiralling defence expenditure and inflammatory rhetoric cannot be good policy-making in a region (South Caucasus) and contribute to the lowering of the threshold for war... However, rather than expending effort on developing new or legally binding set-ups – which our Eastern neighbours do not necessarily want or need – such as creating an institutional structure for our eastern neighbours, we should, rather, focus on strengthening existing cooperation frameworks such as Black Sea cooperation. This is of direct interest and use for our Southern Caucasus partners and others here today.”

Along with the NATO partnership, the EU also provides the guiding framework for the modernisation of the Georgian security sector through the European Neighbourhood Policy (ENP) process. On 2 October 2006, Georgia is going to sign the ENP Action Plan with the EU, which obliges Georgia to take measures to promote dialogue on regional and international issues, including implementation of European security strategy, in the framework of the CoE, the OSCE, and the UN; to cooperate in developing effective systems of national export control, and controlling exports and transits of WMD-related materials; to cooperate in implementing the provisions of the OSCE document on arms control issues; to bring national legislation in line with the EU Code of Conduct on Arms Exports.

Thus, the ENP Action Plan appears set to become another tool in the hands of the Western community to promote democratic civilian control in Georgia and help the country become a reliable partner for its neighbours, as it acknowledges the need “to promote regional co-operation in the South-Caucasus and in the Black Sea regions.” In the document, Georgia pledges to develop good, neighbourly and constructive relations with all its neighbours. This provision can be viewed as a prerequisite for further improvement of regional security, taking into account that all three states are supposed to sign ENP action plans with the EU.

Among regional initiatives to be promoted by the Action Plan, it is necessary to highlight the development of cooperation in the Black Sea region, including the South Caucasus, in the fields of environmental security, education and science, border defence management, as well as in the parliamentary dimension. Special attention is given to the improvement of relations with Russia: adoption/implementation of a bilateral friendship treaty; cooperation in the conflict-resolution process; border delimitation and cooperation in border defence management; and promotion of stable economic cooperation, which will surely contribute to the accomplishment of Euro-Atlantic Partnership Council (EAPC) goals in Georgia.

Conclusion

NATO-Georgian cooperation, and particularly IPAP implementation, played a crucial role in encouraging Georgia to make efforts to build effective and efficient national defence institutions under civilian and democratic control. The goals defined in the framework of IPAP are closely related to the objectives of the Partnership Action Plan (PAP), which were developed within the EAPC.

As a NATO partner country, Georgia has set out to develop “effective and transparent arrangements for the democratic control of defence activities,” adapt defence legislation to the standards and requirements of NATO, ensure democratic oversight of defence institutions, and clearly define functions of the legislative and executive branches of government. Although some recently adopted security policy documents and declarations are quite compliant with democratic norms, shortfalls still remain in Georgian legislation, including a stark contrast between strong presidential and weak legislative powers, which does not correspond to the best practices applied in NATO countries.

The Georgian government has failed so far to develop concrete formal procedures to promote civil participation in the decision-making process. Given the government’s poor experience in establishing good communication between decision-makers and civil society, it might be more appropriate for Georgia’s executive officials to develop clear procedures for civil participation in the decision-making process, ensure civil participation in open government sessions, and create civil advisory boards in all ministries, particularly in the security ministry. The Georgian public does not have a say in legislative activities. Civil participation in parliamentary committee hearings and preparation of state development strategies and action plans is quite limited by western standards. Free access to information and unrestricted information exchange between state institutions and civil society would contribute to better accountability and transparency of the state institutions.

One of the reasons for Georgia’s underdeveloped system of civilian oversight over the security sector may relate to the fact that while civil society played a decisive role in the Rose Revolution, it has remained rather weak. Few civil institutions are actively involved in dealing with security and defence issues nowadays. Georgia’s civil society institutions need to strengthen their capacity in this sphere and intensify networking activities and practices in working group actions.

Ongoing defence sector reform aims at improving the management of defence institutions and ensuring compliance with internationally accepted norms and practices. It is difficult to predict how successfully the reform process will be accomplished, as it remains far from over. However, some elements of the process and its general direction give enough ground for optimism. The defence

resource management system is nearing Western standards and the programme-based budgeting system will be established in every Georgian executive structure, paving the way for better controlled and more efficient budgetary spending. The current resource management practice lacks transparency and public control mechanisms.

With regards to the problem of export control on defence technology and military equipment, Georgia still needs to develop an effective system of national export control to regulate and manage exports and the transit of arms and related goods, including WMD end-use control on dual-use materials and technologies; improve overall co-ordination in the non-proliferation area, which can strengthen regional security; and bring national legislation in line with the EU Code of Conduct on Arms Exports.

Today, it is also urgently necessary for Georgia to develop and introduce a national strategy in the various areas of arms control, and ensure high-level interagency cooperation for the implementation of international agreements on arms export/control issues. Besides, it is essential to address the lack of co-ordination between various governmental structures and agencies responsible for tackling Georgia's arms control problems, at the level of both policy and operations; develop effective and transparent arrangements and procedures to ensure compliance with international defence-related norms and practices; and create efficient and transparent arrangements for successful international co-operation and good neighbourly relations in defence and security matters.

Finally, Georgia still needs to improve the level of international cooperation and develop good neighbourly relations in defence and security matters.

Due to the specifics of the South Caucasus region, strong doubts have been expressed by the experts' community as to whether the South Caucasus can be considered a separate region. Because of conflicting national interests, there are no initiatives for economic, military or political cooperation between the South Caucasus countries. Bilateral cooperation has not been very successful to date. From this viewpoint, Azerbaijani-Georgian cooperation in the fields of energy and transport represents a remarkable example, though there is still huge unexploited potential. Besides, the three South Caucasus countries remain under the strong influence – political, economic, and military – of various great powers. This aspect also impedes effective regional cooperation.

Given the above-specified factors, the potential for efficient regional cooperation remains rather weak in the South Caucasus and the issue remains largely dependent on external mediation. Europe can contribute to the regional cooperation of the South Caucasus in several ways. For instance, it can encourage larger regional cooperation programmes between the South Caucasus republics and the Black Sea countries, such as economic and business cooperation projects, environmental initiatives and infrastructure development projects, joint border defence and counter-terrorism efforts. Taking into account that three states on the Black Sea coastline are NATO members, and all regional countries, including Armenia, Azerbaijan and Russia, participate in the Black Sea cooperation forums, Georgia can use this opportunity more effectively in the future and establish “fully-fledged partnership within the framework of the organisation,”²⁸ as proposed in Georgia's Foreign Policy Strategy 2006-2009.

²⁸ Georgia's Foreign Policy Strategy, 2006-2009, MFA, Georgia, 2006. Accessible: www.mfa.gov.ge

DEFENCE REFORM IN MOLDOVA

Dr Viorel Cibotaru

Introduction

The lack of security and stability are the major obstacles to the democratic stabilisation of Moldova. Instability has already had negative consequences for individuals, groups and the state as a whole. The rapid geopolitical changes, the proliferation of new risks and dangers, especially of a non-military character, as well as the unsettled and frozen conflict with the Trans-Dniester separatists have already had a direct impact on security and stability in the South Eastern part of the European continent.

The weakness of Moldova as a transitional state on one side, and the post-imperial syndrome in Russia's policy reflected in the so-called "nearest abroad" on the other, creates a dangerous mixture and has the potential to generate permanent instability and growing risks. Maintaining "constitutional neutrality" has helped the country avoid participation in the collective security and defence structure within the Commonwealth of Independent States (CIS), which is dominated by Russia. There is clear understanding that this kind of policy can lead to the country's isolation and should be compensated by an active foreign policy that is focused on building a closer relationship with the European Union (EU).

Moldova stretches for over 500 kilometres along the new Euro-Atlantic border in Eastern Europe. This has been the North Atlantic Treaty Organisation's (NATO) border for more than two years, and it will soon be the EU's border as well. NATO and the EU need to promote a political, economic, and security order in Moldova that is consistent with Euro-Atlantic interests. Yet there is no indication of this being done or seriously planned. Moldova remains undoubtedly the least known, least researched, indeed the most ignored country in Europe. With little international notice and even less action, the situation in Moldova has fragmented to the point whereby the security interests and democratic values of the enlarged Euro-Atlantic community are being challenged.

NATO and the EU cannot be excluded from the region's security arrangements by accepting Russia's primacy in its own sphere of influence. Therefore, estimating how the enlargement processes might involve Moldova and its neighbouring countries, examining what a changing security environment implies for them and what kind of security and defence arrangements are on offer are of vital importance.

The process of EU and NATO eastward enlargement has brought the western border of Moldova closer to the eastern border of the Euro-Atlantic community of states. The emerging European security order requires more efficient actions and efforts to address the new risks and threats, facilitate closer cooperation with Moldova and ensure efficient assistance in the stabilisation of the new EU border area.

1. Security Sector Reform (SSR) in Moldova

I will start with a quotation from Safeworld/University of Bradford paper, “Security Sector Reform in developing countries: an EU perspective,” which states: “*The security sector is taken to mean all those organisations which have authority to use, or order the use of, force, or the threat of force, to protect the state and its citizens, as well as those civil structures that are responsible for their management and oversight. It includes: (a) military and paramilitary forces; (b) intelligence services; (c) police forces, border guards and customs services; (d) judicial and penal systems; (e) civil structures that are responsible for the management and oversight of the above.*”

Lack of security, for the state and/or for its citizens, is a major obstacle to development in many ... countries. If states are to create the conditions in which they can escape from a downward spiral wherein insecurity, criminalisation and underdevelopment are mutually reinforcing, socio-economic, governance and security dimensions must be tackled simultaneously. An integrated approach to conflict prevention and to development is much more likely to succeed than one that seeks to pursue different dimensions in isolation.”¹

Moreover, DCAF Document No.4 from 2003 stipulates that: “*Security Sector Reform is the reform of the Military (Army, Navy, Air Force), Intelligence, Border Guard, Paramilitary institutions in order to create systematic accountability and transparency on the premise of increased, substantive and systematic **democratic** control.”²*

These statements are relevant to the situation and efforts in Moldova. They are gaining even more relevance in the new security environment after the events of 9/11, as well as particular relevance in light of the rapid enlargement of the EU and NATO.

It is well known that the Republic of Moldova is a neutral state and, as defined in its Constitution, cannot participate in any defence/security arrangements. However, the issue of NATO enlargement, which is a defence and, to a certain extent, a security arrangement, has an impact on SSR in our country, together with the EU enlargement process.

The outbreak of the Transnistrian conflict in the eastern region of the country had an impact on the effective evolution of SSR in Moldova. The issue of the withdrawal and subsequent developments in the resolution of the Transnistrian conflict are directly related to the future development of the country’s armed forces, police and other security structures. NATO and the EU have already paid sufficient attention to this situation. Both NATO and the EU are supporting the efforts of the Organisation for Security and Cooperation in Europe (OSCE), particularly in relation to political settlement and financial and political withdrawal. EU and NATO countries are contributing to the OSCE’s Voluntary Fund for withdrawal. Political involvement was seen at NATO’s Prague Summit and at the Joint Consultative Group on the Conventional Armed Forces in Europe (CFE) Treaty in Vienna, where NATO members and those adhering to it, declared that together with the Republic

¹ Safeworld/University of Bradford paper, “*Security Sector Reform in developing countries: an EU perspective*”, Executive Summary, January 2000, <http://www.saferworld.org.uk/pubsecu.htm>

² DCAF Document No.4 of 2003 (Bruxelles/Geneva), Glossary, p.262

of Moldova they would not ratify the Agreement on the Adaptation of the CFE Treaty unless all withdrawal commitments taken by our Russian partners in Istanbul and Porto regarding Moldova and Georgia (which faces similar problems) were met.

However, at this stage, the situation that derives from the Transnistrian conflict, which is categorised as a “frozen conflict,” reflects this labelling. Negotiations are focusing on such issues as political agreement and, subsequently, on future state structures, including the Army and other security forces. Even some separate opinions regarding the demilitarisation of the region or entire country are in circulation. However, as it was noted, the negotiations are not producing at this point in time real results, since the separatist leaders still insist on a union of two states or a confederation, which they call a “federation on a contractual basis,” with unconnected and independent structures, a stance that works against the internationally and internally agreed principles of building a re-integrated Moldova.

In these circumstances, an important number of elements related to the future of the nation’s security sector remain uncertain.

Since independence, Moldovan society has gained experience in democratising the military as part of the SSR process. From one point of view, the institutional and legislative issues, such as the drafting and approval of new normative acts and re-definition of the lines of responsibility of the power structures, have been successfully accomplished. Moldova, like the majority of the region’s newly-independent states, has recognisable democratic structures in place. However, in comparison to the more formal institutional and legal aspects, attitudinal changes appear to be taking place over a longer period of time. By acquiring shared norms and values and raising the level military awareness of the existing and verified principles of countries with established democratic experience effective SSR can be ensured.

Irrespective of the country’s aspirations to accede to the EU or NATO, the Republic of Moldova is still facing big challenges to do away with a Soviet heritage and shape its security sector accordingly. The past decade has witnessed the ongoing contradictory and non-uniform transition from authoritarian governments and centrally planned economies, to pluralist democracies and free markets. The country tries to adapt itself to the new situation and geopolitical realities but faces problems in identifying its new geopolitical identity and strategic partners. There is also a growing understanding in civil society that the success of the democratic reform process is crucial for the future of the country and for its stabilisation.

Moldova, like many other Eastern European nations, found it exceptionally difficult to develop a successful SSR model, reducing *de facto* this process to the periodic downsizing of the armed forces and to the redistribution of tasks among the institutions and organisations responsible for national security. The difficulties in assessing the commonly accepted definition of SSR derive also from the fact that the sector itself is, at the same time, the building block of strategy and a tool driving democracy in the field of security and defence. The absence of establishing a common and clear understanding of the goals and instruments of SSR has already produced certain confusion concerning the functions and role of the armed forces and law enforcing agencies in ensuring defence and security of the state.

2. Defence and SSR Initiatives

On 26 July 2002, the Parliament of the Republic of Moldova approved the final Concept of the Military Reform. It will be carried out over a 12-year period (2002-2014) and will consist of three stages (stage I: 2002-2004, stage II: 2005-2008, stage III: 2009-2014). The legislative initiative belongs to the Ministry of Defence (MoD) and the Presidency and is explained by the necessity to solve a range of problems confronting the armed forces. The Concept provides cardinal changes in the structure of defence planning, funding, administration and organisation. It refers not only to components of the armed forces, but to other elements as well, such as: state military leadership, the national mobilisation system and military infrastructure. The Concept also emphasises modifications in defence budgetary allocations, taking the GDP as the basis and providing an increase in the defence budget from 0.7% to 2.5% of the GDP during the above-mentioned period.

Reform of the military security system is explained by the following factors:

- the changing geopolitical situation that generates new realities and risks, as well as new opportunities for international cooperation in the field of defence and security;
- imperfection of the state's existing defence and military security system as a whole, low defence potential of the armed forces and insufficient military capacities of the country;
- the declared permanent neutrality of the Republic of Moldova and the need to adjust the country's defence and foreign policy to this basic principle;
- the intention to correlate the defence and security system with the real financial and material resources and possibilities of the state.

The objective of the reform process is to establish an efficient and flexible system of military security which is capable of guaranteeing territorial defence, unity, sovereignty, independence, and the integrity of the state.

The Concept highlights that Moldova does not have enemies and, therefore, the probability of a major military threat is unlikely for the time being. Regional instability and the emergence of an extensive range of non-military risks are listed as the main threats. Among the trans national risks, organised crime as well as the smuggling and trafficking of illegal drugs, weapons and strategic materials have been listed for the first time.

The main regional risks have been listed in terms of their importance:

- the strategic imbalances of the military potential in the region;
- politico-military rivalries between newly-formed states as a result of the existence of certain degrees of military tension and conflicts that have the potential to spread;
- territorial separatism and the internal political, social and economic conditions which can have a negative impact on the military potential and are capable of diminishing the power and authority of the public administration;
- the possible dysfunction in the financial, informational, communication and telecommunication systems of states;

According to the Concept, the MoD is supposed to play the key role in the National Security System. Within this framework, military forces will become a key aspect of SSR. The Law on National Defence which was adopted by the Parliament strengthens the leading role of the army through the creation of the Special General Headquarters with its inter-agency co-ordinating functions and the appointment of the deputy minister of defence as its head. Another key priority of the SSR

process is to ensure that military forces are oriented exclusively towards the implementation of tasks for which they are most appropriate.

The challenges of SSR refer basically to the national armed forces and the broader security sector in order to transform them according to the following principles:

- affordable in light of other priorities of a society in transition and taking into consideration the real risks and dangers;
- appropriate to the strategic circumstances and the dynamics of the geopolitical changes at continental and regional levels;
- acceptable to society at large which is neglecting the role and functions of the armed forces in the new circumstances;
- efficient democratic oversight of the security sector and accountability to the democratically elected institutions of the representative power.

A number of amendments are being made to the existing legal framework in an effort to facilitate the implementation of the Defence Planning, Programming, and Budgeting System. The aim is to ensure that in light of Moldova's economic and financial potential, the armed forces is equipped to address existing military threats. The armed forces, its objectives and programmes are being adjusted to accommodate existing and potential risks and threats.

Given the exclusive role the National Army maintains within Moldova's security system there is a risk that the ministry will try to pursue its own corporate interests without sufficiently co-operating with the other power and law enforcement structures which are involved in the process of SSR. At the same time, without clear mechanisms for democratic accountability, armed forces subordinate to the head of state could potentially constitute a threat to democratic governance and consume more resources than other institutions and structures in the security sector.

Despite the fact that it encompasses political, economic and foreign policy considerations in conjunction with democratically designed security strategies, the Concept fails to explicitly stipulate the new role and functions of the civilian and military components of Moldova's security arrangements, which would, in effect, promote further modernisation of the national security system. Unfortunately, the objective that is needed to ensure democratic accountability of the country's armed forces as well as equitable and efficient inter-agency co-operation is not at the centre of discussions. A coherent strategy is needed to improve the current structures and institutions which are responsible for national security.

The impartial analysis of the current state of democratisation of the national army in general and civil-military relations in particular within the framework of SSR is important for further actions aimed at the democratic stabilisation of the country. The willingness of the political elite and the government to reintegrate the country into Europe and to conclude as quickly as possible the process of transition towards democracy and the establishment of market economy create the necessary pre-conditions to reach these objectives.

In this respect, it is noteworthy that Moldova's neighbours have consolidated their partnerships, in one form or another, with NATO, either by becoming member states (such as Romania), cultivating special relations with the organisation or declaring their desire to join the Alliance (as in the case of Ukraine). In this respect, Moldova's efforts to strengthen its relationship within the Partnership for

Peace (PfP) programme are understandable and appropriate. Furthermore, at the NATO Prague Summit, a decision was taken to adapt the PfP to new realities and the needs of participating countries. This decision was supported by Moldova and other partner states. Moldova's President appealed to NATO countries to become more involved in finding a resolution to the conflict, ensuring security along its eastern border and supporting projects related to the effects of the stationing of the Soviet Army in Moldova through the PfP Trust Fund. Thus, both NATO and Moldova are endeavouring to cooperate more closely within the framework of the PfP, not only for mutual benefit, but also for the benefit of peace and stability in the region. Furthermore, Moldova should consider initiating an Individual Partnership Action Plan (IPAP), particularly given the IPAP's comprehensive approach to SSR.

Moldova's Planning and Review Process (PARP) negotiations should also be mentioned. During the negotiations, it became clear that Moldova's reform process, particularly its reform of the armed forces, was based on the 1995 Concept of National Security, which does not reflect the new risks and threats. As a result, the reform process needs to be revisited and reviewed. The paper stipulates that the percentage from the national budget dedicated to the army would increase from 2.5% to 4-5% per year. At the same time, discussions revealed that such an increase would not be possible. Experts also emphasised that for the reform process to be successful, the involvement of approximately 12 ministries and departments was required. In these circumstances when SSR presumes not only the changes in the Army, but also in the involvement of other institutions, it became more evident that additional budgeting is necessary and an improvement in this sense would only be possible if an increase of external cooperation could take place. In this regard, both national and international experts realised that the IPAP provides such opportunities.

The eastward enlargement of the Euro-Atlantic community of nations inevitably has to deal with the problem of securing and integrating its immediate perimeter. The existing "grey" areas of Eastern Europe undermine the region's capacity to ensure long lasting security and stability. The eastern borders of the Alliance and the EU meet the western borders of Moldova which is effectively bringing the country closer to the most influential Euro-Atlantic and European multilateral organisations.

NATO and the EU offer the Republic of Moldova the advantage of being placed in the priority interest area of the Euro-Atlantic community of states. Therefore, Moldova, as a part of the new European "borderland," cannot be left without assistance in its search for reliable guarantees for secure and stable development. At the same time, the Moldovan government should be encouraged to do its best to resolve the problems of security and stability by mobilising its own resources and potential.

International institutions should launch a broad-based effort to stabilise the "new vicinity" in the form of economic integration, preventive diplomacy and collective security. The active involvement of the region in international institutions and initiatives would be the best means to that end.

Regional and global institutions need to urgently coordinate their efforts in Central Europe to prevent inefficient redundancies and contradictory policies. To that end, collaborative mechanisms between the EU, NATO, the Stability Pact for South Eastern Europe, the OSCE, and international financial institutions can be efficient tools.

Security and stability alongside the new EU and NATO borders are directly connected to economic development and the growth of democratic institutions in neighbouring countries. Making greater resources available to Moldova, Ukraine and Belarus combined with adequate reform

strategies and responsible governance, would allow the frontier region to attain a measure of economic and social stability and dampen violent impulses. In turn, increased prosperity would make it possible to cultivate democracy in these newly independent states.

The EU's commitment to integrate Moldova, as a country of South Eastern Europe, into the European mainstream through the Stabilisation and Association Process (SAP) might be the most efficient way of facilitating democratic change.

For its part, the EU needs democratic, well-governed, European-oriented, prosperous neighbours in what is now the West's "near abroad." At the practical level, the West will, therefore, have to substitute the structures that local states cannot provide. Failure to do so will simply mean that the resources that have been and are being invested - material, moral, human - will be wasted or, at best, policy will have unintended and undesired consequences.

For Europe's borderland countries, there are at least three goals – economic reconstruction, political democratisation and democratic stabilisation. All these are mutually connected - to neglect one means the others will deteriorate automatically. In that sense, the implementation of stability in the region will remain incomplete if it is politically and economically behind the times.

Defence System

The Constitution of the Republic of Moldova, which was adopted on 29 July 1994, proclaimed a status of permanent neutrality. The National Security Concept and the Military Doctrine of the Republic of Moldova, which were elaborated and adopted in 1995, addressed the inclusion of the country's military forces in an adequate constitutional framework.

The main objective of these legal acts was the legitimisation of military policy pursued by the Republic of Moldova, as well as the unification of all military forces – the National Army, the Border Guards, and the Gendarmerie – within a system aiming to protect national security.

The political and military efforts of the country at the external level were stipulated in the Foreign Policy Concept of the Republic of Moldova, which defined priorities, principles, primary directions and strategic objectives. The Concept focused on the country's participation in the edification of a new Europe, its integration as an equal partner within new European security structures, the creation of a system of relationships that would ensure stability and the future of the relationships between the Republic of Moldova and other countries.

The military policy of the Republic of Moldova, as an organic part of the policy of the state, is based on the provisions of the Constitution, Military Doctrine and the constitutionally proclaimed status of permanent neutrality.

The consolidation of the sovereignty and independence of the Republic of Moldova has been and is permanently accompanied by a series of general problems, one of the most important being the guarantee of stability and security for the country.

An important aspect of national security is military security; the protection of the state against internal or external military threats through measures and actions that would ensure the capacity of

the state to prevent and respond to military aggression, as well as to prevent, localise, and liquidate military conflicts of any kind at its borders and/or within the country's territory.

Military security is developed in accordance with the Constitution, legislation of the Republic of Moldova and the Moldovan Foreign Policy Concept. It is based on the readiness of the population, territory, national economy, state institutions and also on the ability of the armed forces to guarantee military defence of the country and protection of its constitutional regime.

The fundamental measures and actions that are undertaken and promoted by the Republic of Moldova in the field of military security are established in the Military Doctrine which was adopted by the Parliament on 6 June 1995. This document represents a system of official visions and priorities with respect to the military and security policies that have been endorsed by the state and its leadership. It reflects the conditions under which consolidation of the country's statehood is possible.

Considering the aforementioned facts, the Military Doctrine establishes the priorities of the state's military policy and determines the actions which are needed to ensure military security at the global, regional and national levels. The status of the Republic of Moldova as a neutral country, the aspirations of the leadership in the creation of a non-violent world based on civilised relations among countries, as well as mutual trust and co-operation form the basis of these priorities.

Such a solution for national security problems is normal for any democratic country; it does not contravene the international duties of a country with the goal of maintaining peace and stability and corresponds to the norms of international law and the UN Charter.

All these points reflect the fundamental interests of the people and state. The technical and military aspects determine the foundation of the military structure of the Republic of Moldova, possible military actions and the use of the armed forces.

The military organisation of the state is based on the following principles:

- Existence of the necessary military infrastructure and regular military forces which have been reduced in number and remain professional as a rule, and whose equipment and preparedness will be determined by the nature of the potential military threat. They will not exceed nor be insufficient for the ensuring of an effective defence of the country;
- The existence of a reserve force for mobilisation as an element of the armed forces and its command structure;
- Defensive orientation of military training and use of the armed forces: the ability of military units to confront and resolve offensive issues that are limited in defensive terms;
- The simultaneous organisation of territorial defence in a particular area or on the whole territory of the country;
- The complex use of the entire military structures of the state: the National Army, Border Guards, the Carabinieri in combat actions under the sole leadership of the Commander-in-Chief of the Armed Forces – the President of the Republic;
- De-politicisation of the armed forces.

The military security of the country is guaranteed through the effective combination of external political and military behaviour with internal technical and military action.

The document is quite specific and stipulates in a concentrated manner practically all aspects involving the direction of activities of the armed forces. Of course, these aspects require clear interpretations on behalf of those in the military and government who are involved in guaranteeing the military security of the country.

The general provisions of the Military Doctrine declare that the Doctrine is determined by the domestic and foreign policy of the state, by the constitutionally proclaimed status of permanent neutrality, according to its exclusively defensive character, and is based on the following priorities:

The political sphere: the peaceful solution of disagreements that emerge between states and the exclusion of military confrontations through the common efforts of countries according to the principles and norms of international law, as well as the establishment of political, economic and military relationships as long as they do not violate the sovereignty and independence of the state;

The military sphere: maintenance of the state's defensive capacity at a level that is capable of ensuring military security, the building of confidence, mutually advantageous military co-operation based on principles which respect the sovereignty and independence of other states, as well as non-interference in the domestic affairs of other states. It should be noted that, at the present time, any inter-state co-operation essentially loses its efficiency if it is not accompanied by active co-operation in the military field. The Doctrine identifies the fundamental measures which are undertaken by the state to achieve these priorities at the global, regional and national levels;

At the global level: participation in the activities of the global community regarding the prevention of wars and military conflicts and the peaceful solution of problems, creation of conditions that would guarantee, in case of an external military threat, the conditions required for the attainment of assistance from international organisations; active participation in the construction of a unique international system of security (the UN, the Council of Europe (CoE), the OSCE, the Euro-Atlantic Partnership Council and the PfP, etc.);

At the regional level: establishment of bilateral and multilateral relations with the countries of the region to build a high level of mutual trust and transparency in the military sphere (for example, nine bilateral military co-operation agreements signed by Belarus, Bulgaria, France, Hungary, Poland, Romania, the Russian Federation, Ukraine, and the United States, as well as the intention expressed by President Petru Lucinschi in Sarajevo to adhere to the Stability Pact, etc.);

At the national level: creation of a military potential that sufficiently guarantees the military security of the state.

Finally, the political and military aspect of the Doctrine defines certain specific actions for the achievement of the planned political and military objectives, through which the Republic of Moldova:

- will never be the first to start military actions against other countries;
- will not have territorial claims regarding other countries;
- will not accept territorial claims on behalf of other countries;
- will not consider any state as being its enemy;
- will assure its military security without negative impacts to the security of other states;

- will not allow the use of its territory for aggressive actions against other states and the stationing of foreign troops (with the exception of the cases stipulated by international agreements regarding the stationing of peacekeeping forces);
- will not allow the stationing, transit and/or storage of weapons of mass destruction belonging to other states on its territory;
- will not produce, store or purchase weapons of mass destruction;
- will accept only those military activities, weapons and military technologies that do not harm the ecologic equilibrium.

Thus, the priorities, measures and actions of the state at the political and military levels are defined by a set of laws and fundamental normative acts that effectively demonstrate the Republic's desire to build a civilised, democratic and non-violent society, to strictly respect its duties according to international law and to promote a foreign policy based on peace and co-operation.

The Military Doctrine determines the fundamental tasks of the National Army:

- defence of sovereignty, independence, territorial integrity and other vital interests of the country;
- localisation and liquidation of armed conflicts, as well as other acts of military violence within the country;
- preservation of state neutrality;

The structure of any army is determined not only by the economic and financial possibilities of the state; it is determined by the state's defence needs. The preparedness of the military to counteract any possible military threats must be ensured. Here are the possible threats listed in the Military Doctrine:

- territorial claims by other states;
- attempts of interference in the domestic affairs of the country, the destabilisation of the internal political situation;
- stationing of foreign troops on the territory of the country;
- activity of separatist organisations and the undermining of the territorial integrity of the Republic by the armed forces;
- existence of illegal military structures.

In its present structure, the National Army as a fundamental element of the armed forces is designed to guarantee the military security of the state in the existing conditions. The structure, as well as the training system of the National Army, is determined by the existent threats which are stipulated in the Military Doctrine.

The Military Doctrine establishes that the units and sub-units of the National Army are required to support the Border Guards and Carabinieri for the purpose of strengthening the defence of state borders, protecting the population against violent actions, identifying and blockading areas of conflict, protecting and defending objects of vital importance, as well as providing the necessary support for structures of civil protection in conditions established by legislation.

The foreign and security policy of the Republic of Moldova is based on its national interests which stem from universal and national human values, ensure the social and economic development of the country, the protection of its citizens and the stability and continuity of the state. At present,

Moldovan authorities are enhancing their efforts to defend and promote these interests and to achieve the following objectives:

- Resolution of the Transnistrian conflict and reintegration of the country, the unconditioned withdrawal of Russian troops and ammunition, consolidation of the Republic of Moldova's independence and sovereignty;
- Integration of the country into the EU;
- Anchoring the Republic of Moldova to the Euro-Atlantic security space;
- Consolidation of the rule of law and constitutional order, as well as of the democratic mechanisms specific to a modern society;
- Strengthening the legality of the state border regime;
- Economic revival of the country: ensuring conditions for sustainable economic and social development in order to gradually establish living standards that are comparable to those in the EU countries;
- Guaranteeing the fundamental rights and freedoms of the country's citizens;
- Mobilising the demographic resources of the country; enhancing its intellectual potential by introducing high standards in education and professional training; creating an efficient system of social guarantees; ensuring the free movement of people and appropriate protection for citizens of the country and for those abroad;
- Further strengthening of the national identity of the Moldovan people;
- Consolidation of all dimensions of national security, including energy security and integration of the Moldovan energy system into the European system;
- Developing and implementing an efficient environment and natural resources policy.

A number of factors influence the accomplishment of these objectives, such as: globalisation, inherent processes in the aftermath of the Cold War, as well as processes within the Euro-Atlantic realm, the EU and the post-Soviet space. The Republic of Moldova continues to be exposed to frozen conventional threats at the sub-regional level, which regenerate and facilitate new risks. The asymmetric and non-conventional threats at the global level add to the above-mentioned challenges.

Supremacy of the principles of international law, observance of the institutionalised international system, and promotion of political dialogue and cooperation are the main principles upholding the political behaviour of the Republic of Moldova at the international level.

To defend and promote its national interests within the country and abroad, the country's political leadership has identified the following priority tasks for the public administration:

- Implement the commitments assumed in the EU – the Republic of Moldova Action Plan;
- Intensify political dialogue and practical cooperation with NATO;
- Enhance bilateral relations, especially with the EU countries, the United States and other Allies, as well as with the countries in the region, with a focus on those with firm aspirations for NATO and EU membership;
- Promote a policy of strong regional cooperation;
- Preserve and develop multilateral cooperation, based on national interests harmonised with the interests of the EU, the United States, other Allies, and regional countries with similar strategic objectives – the Republic of Moldova's strategic partners;
- Actively participate in international cooperation against terrorism, organised crime, corruption and other anti-social cross-border phenomena, as well as to improve related institutional and operational capacities;

- Resolve the Transnistrian conflict while preserving the Republic of Moldova's independence, sovereignty and territorial integrity and eliminating, with international community assistance, the factors that breach widely-accepted democratic norms and favour aggressive separatism, the proliferation of arms and international terrorism;
- Full, irreversible and unconditioned withdrawal of Russian troops and ammunition from the Republic of Moldova's territory, in compliance with the OSCE commitments of the Russian Federation;
- Establish efficient border control along the entire state border and harmonise related legal and institutional arrangements with those of the EU;
- Reform defence and public order institutions, modernise and increase their efficiency, gradually implement NATO standards in the defence and security system of the country;
- Implement the Strategy for Economic Growth and Poverty Reduction, to reduce unemployment, eliminate income gaps and ensure social balance;
- Consolidate the country's market economy mechanisms in order to fulfil the criteria required for EU membership;
- Reform the public administration in accordance with European standards;
- Strengthen the rule of law and democratic institutions, as well as the country's observance of human rights; further harmonise inter-ethnic relations to attain the required political criteria for EU membership;
- Enhance energy and environmental security;
- Build efficient health and child protection systems;
- Develop education, cultural and scientific research institutions;
- Bolster civil society and its capacity to contribute to the resolution of problems of interest for society as a whole, and to ensure democratic monitoring of state activities.

To achieve these objectives, the Republic of Moldova has to undertake the following measures without delay: update foreign and security policy concepts and elaborate the National Security Strategy. These documents will form the basis of the country's relationship with NATO and guide IPAP implementation.

In the National Security Concept, which was adopted by parliamentary decision no.445-XIII on 5 May 1996, four pillars form the basis of the country's national security system:

1. security of the state;
2. public security;
3. military security;
4. civil protection.

The national security system operates through an institutional mechanism which is based on the interaction of the following institutions:

- The Supreme Security Council;
- The Ministry of Foreign Affairs and European Integration;
- The Security and Intelligence Service;
- The Ministry of Internal Affairs;
- The Ministry of Defence;
- The Department of Civil Protection and Emergency Situations (part of the Ministry of the Internal Affairs)
- The Protection and Safeguarding Service.

The Supreme Security Council (SSC) is the President's consultative body. The main function of the Council is to develop recommendations to ensure state security. If a state of siege or war is declared, the SSC becomes the Supreme Defence Council. The SSC consists of: the President of the Republic of Moldova – Chairperson of the Council, the Prime Minister – Deputy Chair of the Council, Minister of Foreign Affairs and European Integration, Minister of Defence, Minister of Interiors, Minister of Finance, Director of Information and Security Service, as well as other officials appointed by the Head of State.

The institutional framework of state security

State security is ensured by the structures and subunits of the Security and Intelligence Service of the Republic of Moldova, in cooperation with relevant bodies of the Ministry of Foreign Affairs and European Integration and the Ministry of Internal Affairs. The President of the Republic and the government are responsible for the overall coordination of the state's security system.

According to the Law on State Security No. 618-XIII of 31 October 1995, the system of state security institutions comprises the Security and Intelligence System, the Border Guards Service, as well as related education and non-military institutions.

Public Security

The basic public security structures include the justice courts, prosecutors' offices, as well as state security, defence, transportation, environmental protection organisations.

The internal affairs system, which is managed by the Ministry of Internal Affairs, comprises: management structures, police units, Carabineer Troops, logistic subdivisions, and related education units.

Following a recent administrative reform, the Ministry of Internal Affairs took over the Department of Emergency Situations, thus ensuring direct coordination of civil protection activities.

Military Security (the Armed Forces of the Republic of Moldova)

The armed forces encompasses: 1) the National Army, 2) the Border Guard Troops and 3) the Carabineer Troops. The forces of the national defence system are established in accordance with the principle of defensive sufficiency.

According to Law No. 345-XV of 25.07.2003 on national defence, in war and during peacetime, the leadership of the armed forces is ensured by the Supreme Commandment and led by the President of the Republic of Moldova as Commander-in-Chief. The Supreme Commandment also includes the Minister of Defence, the Joint Chief of Staff, the Commanders of the Border Guards and Carabineer Troops. The National Defence Law of Moldova does not integrate a unique legislative concept and provides only some aspects related to the tasks and competences of the central public authorities in the organisation of defence planning. At the same time, it does not describe the correlation between the concept, the resources and the final objective, an essential element which is necessary for the building of a comprehensive national security strategy.

Table 1 – Structure of General Government Decision Making on Defence Policy

Topic of Document	Title of Document	Issuing Authority	Endorsing Authority	Frequency	Status
				Time span	
National Defence Policy	<ul style="list-style-type: none"> Military Doctrine 	MoD	approved by Parliament decision no.482-XIII on 06.06.1995		Modified by a government decision on 08.10.2003; document was finally revoked by the Parliament
	<ul style="list-style-type: none"> Military Reform Concept 	MoD	approved by Parliament decision no.1315-XV on 26.07.2002		In use
	<ul style="list-style-type: none"> Action Plan on realisation of the Conception of Military Reform 	Approved by MoD on 20.01.2003	approved by the government on 23.12.2002		In use
National Security Strategy or Concept	National Security Concept	MoD	approved by Parliament decision no. 445-XIII on 05.05.1995		The new project for the National Security Concept has been sent to Parliament for ratification
National Defence Strategy or Concept	The Law on National Defence	MoD	approved by Parliament decision no. 345-XV on 25.07.2003		In use
Other national level defence policy documents	<ul style="list-style-type: none"> Concept of the National Army: its reorganisation and modernisation - 2014 	MoD	approved by the President on 13.05.2004		In use
	<ul style="list-style-type: none"> State Plan of the Armed Forces Construction and Development 2005 – 2008 	MoD	approved by the President on 23.03.2005		In use
	<ul style="list-style-type: none"> Current Plans of the Armed Forces Construction and Development 	MoD	approved by the MoD		
White paper	-				
Procurement Strategy					
Defence Planning Directive	The Law on Defence Planning	MoD			Ratification process
Defence Budget					

Table 2 – Structure of Decision Making on Defence Policy at the Defence Sector Level

Topic of Document	Title of Document	Issuing Authority	Endorsing Authority	Frequency	Status
				Time span	
Procurement policy	In accordance with general government laws				
Personnel policy	Regulation concerning military service	MoD	Govt		Recently approved
Military education policy	Concept of military-patriotic education	MoD	Govt		Approved in 1998
	Concept of education of the personnel of the NA	MoD	Minister of Defence		Approved in 2004
Public information policy					
Other defence policy documents					
National Defence Strategy or Concept	The Law on National Defence	MoD	approved by Parliament decision no. 345-XV on 25.07.2003		In use
Force planning directives	Regulation on Force planning				
Training doctrine					

Reform of the armed forces is the essence of military reform. It is a complex of interdependent economic, social and political measures that condition one another, the aim of which is to develop the armed forces in such a way that prevents aggression and guarantees the armed defence of the

country. In order to realise the provisions of the Military Reform Concept, *The State Action Plan to Build and Develop the Armed Forces for 2005-2008* (SAPBD), is being initiated.

National Army

The Concept of Restructuring and the Modernisation of the National Army - 2014 was approved by the Supreme Security Council in May 2004 and developed in accordance with the Military Reform Concept. This paper established a conceptual basis for the development and implementation of state defence programmes and plans. In order to develop the above-mentioned document, *National Army Building and Development Action Plan for 2005-2008 (NAAPBD)*, a SAPBD component, has also been initiated.

Both papers provide the legal grounds to initiate and develop programmes which are aimed at the restructuring, modernisation and development of the National Army. The programmes will be implemented during the final stage of reform with the aim of achieving general action goals (levels, standards, capacities) and special tasks in conjunction with integrated resource management capacities. The National Army has set the following strategic reform tasks:

- a) *Implement a sufficient defensive capability*, by establishing and permanently maintaining credible forces, quantitatively sufficient, trained according to modern standards, and capable of reacting to the existing and potential risks and threats in an adequate way;
- b) *Restructure and modernise the country's military force*, by:
 - 1 Re-sizing and establishing a new structure for the armed forces; ensuring that personnel are trained according to professional standards;
 - 2 Maintaining the functional capacities of existing armaments and equipment; increasing the quality of equipment by modernising existing parts and purchasing modern pieces;
- c) *Realise the gradual interoperability of the National Army and the armies of Allied states.*

The modernisation of the armed forces is based on three main elements: *force restructuring*, *force professionalisation* and *the purchasing of armaments and military equipment*. It should also be kept in mind that there is a need to ensure adequate social protection of personnel, as well as the efficient management of equipment, armaments and infrastructure. At present, the restructuring of the Ministry of Defence and the Main Staff of the National Army (J-system) is being finalised. Moreover, the Structure of the 22nd Peacekeeping Battalion is compatible with NATO's. Judging by the mission and structure established in the National Military Strategy and taking into account the results of the Strategic Defence Review (SDR), the Republic of Moldova is effectively restructuring its National Army.

The NAAPBD is reorganising the National Army from five large units to two (one of them will be in reserve) and the reorganisation of the others into military units (institutions). Two commands have also been created: a Rapid Reaction Force Command (responsible for Special Forces Battalion and Peacekeeping Battalion) and an Air Force Command.

During the reform process, special attention is being paid to the issue of personnel management. Following the adoption of the Law on the Status of Military Personnel and the Military Career Guide, a new military career management system will come into force. This system, which is compatible with Euro-Atlantic standards, will adjust itself to the actual needs of the National Army.

This system promotes transparency, equal opportunity and fairness, particularly with respect to the promotion of officers and non-commissioned officers (NCOs), by applying two essential tools: the Military Career Guide and attestation committees.

International experts from the Postgraduate Naval School in Monterey (United States), as well as civil and military advisors from NATO and its partner states are assisting the Republic of Moldova in its reform efforts.

The final goal of the reform process is to effectively transform the National Army and to have established a more compact, well-trained, efficient, flexible, compatible and interoperable force by 2015.

The National Army is funded by the public finance system, which is part of the central budget. The Economic Growth and Poverty Reduction Strategy Paper (EGPRSP) defines the principles of the Medium Term Expenditure Framework. This system endeavours to consolidate the management of public finance. The Law on the Budgetary System and Budgeting provides for an annual allocation of funds according to the unified budgeting classification system.

A breakdown of defence spending and the means to strategically allocate funds are detailed in the Implementation of a National Action Plan to Develop and Build the National Army (2014). Funding is reserved for priority programmes and the Action Plan does not support inefficient expenditures. At the same time, implementation of the Plan requires a gradual allocation of additional budgetary resources to reach an amount of 2.5% by 2014.

The reform process is ultimately aimed at improving the way in which funds are allocated. A new system, based on performance programmes and indexes, will be implemented. The Medium Term Expenditure Framework will serve as a guide for the development of sector (branch) programmes. The new system aims to preserve the present level of flexibility while enhancing the accountability process whereby the grounds for financial resource allocation must be established.

The Republic of Moldova's Relationship with NATO

The Republic of Moldova became a PfP member on 16 March 1994. Since then, the country has been an active member, using PfP instruments to enhance its relationship with the Alliance in all domains, including the consolidation of its military capabilities. Moldova is benefiting from NATO assistance, particularly in terms of developing its armed forces. The aim is to increase the interoperable nature of its forces with those of NATO and other PfP countries and to be able to participate in multinational peacekeeping and crisis management operations. Moldova views the PfP as an important mechanism for political dialogue and political–military cooperation, which has the potential to strengthen its security and foster stability and security in the Euro-Atlantic region and in the world.

The PfP Programme provides an extraordinary opportunity to enhance cooperation in defence and planning. The Republic of Moldova appreciates the fact that it has been given the possibility to determine areas of cooperation in accordance with the country's needs and priorities. The Individual Partnership Programme (IPP), elaborated in 1995, has established the following priorities which are to be fulfilled by Moldova in cooperation with NATO: disarmament and arms control, civil

protection, crisis prevention and management, planning and peacekeeping operations (PKO), personnel training and other military activities. Moldova's Ministry of Defence appointed a permanent representative to the PfP Coordination Cell in an effort to facilitate and speed up IPP activities.

With regards to the political–military aspects of PfP, the Republic of Moldova is hoping to strengthen cooperation with the Alliance by supporting committee and working group arrangements, especially the Political Military Steering Committee (PMSC) and the Ad-hoc Working Group for Small Arms, Light Weapons and Land Mines (AHWG/SALW).

Moldova has a special interest in the PARP process, the Clearing House mechanism and the Trust Fund policy which is managed by the PMSC. The national military assistance programmes, which operate at a bilateral and multilateral level, were presented to the PMSC in June 2004. These programmes advance the defence reform and military site re-conversion process.

The significance of Moldova's participation in the AHWG/SALW stems, on the one hand, from the coordinated NATO/EAPC contribution to the implementation of the UN Action Plan for preventing, combating and disrupting the illicit trafficking of small arms and light weapons which the Republic of Moldova subscribes to. On the other hand, its value derives from NATO/PfP cooperation and the Stability Pact for Southeast Europe, which the Republic of Moldova is also part of.

11 years have passed since the Republic of Moldova signed the EAPC Framework Document and, accordingly, analysis of the country's participation in the EAPC political dialogue and PfP activities is needed. Recommendations for making more thorough use of the advantages of cooperation with NATO should be made. A review of this nature should also identify the ways in which the Republic of Moldova might take part in the resolution of security and stability issues in the Euro-Atlantic region. This process will allow the country to better define its priorities and adapt them both to its real needs and the EAPC objectives, as well as to the instruments and mechanisms which are being developed as a result of NATO's transformation process.

The priority objectives of the Republic of Moldova's cooperation within the PfP:

- Expand political dialogue and practical cooperation with NATO in an effort to strengthen national and regional security;
- Modernise the defence and security system in accordance with Euro-Atlantic standards;
- Improve the national defence planning process;
- Enhance national capacities for participation in peacekeeping operations, as well as in crisis prevention and management operations under the UN/OSCE mandate;
- Improve the planning system for civil emergencies, humanitarian, search & rescue operations;
- Augment cooperation in the areas of research and environmental protection to further consolidate national security;
- Strengthen democratic control of the armed forces;
- Increase awareness among the Moldovan public about Euro-Atlantic values, NATO's role in safeguarding international security and the benefits of cooperation with NATO.

The Republic of Moldova is contributing to the building of a new international security system through its active participation in the PfP Programme, its contribution to international PKO, its

efforts to combat international terrorism and its support for the non-proliferation of weapons of mass destruction.

The country's decision to participate in these operations follow from fundamental interests and the international engagements of our country. Those principles are: (1) conduct international PKOs under the UN or OSCE mandate after determining the status of the international PKF; (2) exclude direct participation of Moldova in PKOs. Upon making any decision in this respect Moldovan authorities will be guided in particular by the following key points: a) the conflicting parties agree to receive a multi-national peacekeeping force; b) there is an agreement between the conflicting parties to stop fire; c) there is a clear and applicable international mandate.

The partnership system is also an important aspect of the country's European integration policy. Through the PfP Programme, Moldova is strengthening dialogue and military cooperation with the EU and neighbouring states.

The National Army is intending to increase levels of interoperability with NATO forces. Its aim is to develop efficient, mobile and modern structures. The process of military reform and increased levels of interoperability with Euro-Atlantic structures will undoubtedly contribute to the consolidation of national security and facilitate Moldova's integration into Euro-Atlantic security structures.

Moldova's involvement in the PfP Programme and its relationship with its Allies, especially the United States, has bolstered the country's capacity to make practical contributions to international stability and security. Moldovan officers are now participating in PKOs: (Iraq - 54 units of military personnel, including three officers in the Coalition Force's Main Staff, Bosnia and Herzegovina – eight military personnel units, UN and OSCE missions – 26 officers, CENTCOM Command, United States – two officers).

NATO procedures and standards are being introduced into the country's military education and training strategies. The professional training and development of military personnel is therefore being administered in accordance with NATO guidelines.

In order to enhance the operational capacities of the National Army and to increase its interoperability with NATO forces, the Republic of Moldova intends to contribute to the Operational Capacities Concept (OCC), which would facilitate improvements in military training methods in accordance with NATO standards.

The Republic of Moldova believes that the PfP's Personnel Elements Concept is an important instrument in the context of increasing military interoperability and promoting active participation in the planning and execution of PfP activities. Moldova is examining the possibility of sending one or two officers to fill positions that are offered to NATO member states in the PSE concept.

In order to strengthen dialogue and cooperation and to increase the exchange of information between the Ministry of Defence and NATO military structures, Moldovan authorities intend to send a Military Representative from the Mission of the Republic of Moldova to work with NATO.

THE REPUBLIC OF MOLDOVA

Oazu Nantoi, Programme Director, Institute for Public Policy

Basic Intelligence Management Laws and Regulations

According to Art. 11 of the Constitution (passed on 29.07.1994) Moldova declares its permanent neutrality and does not permit the stationing of military troops from other states on its territory. Art. 108 states that the armed forces are subordinate to civilian democratic control and citizenry and therefore guarantee the sovereignty, independence, unity, constitutional democracy and territorial integrity of the country. Furthermore, according to the abovementioned article, the organic law establishes the structure of the national defence system.

The following laws regulate the structure and obligations of all government entities involved in formulating and implementing defence policies:

The Law on Security Bodies of the State (619-XIII passed on 31.10.95, published on 13.02.1997) regulates the legal framework of the activity of the state's security bodies, the principles of the activity and organisation of the state's security bodies, the methods of control over their activity. According to the abovementioned law, the security system includes the: Information and Security Service (ISS) of the Republic of Moldova, State Guard Service, Border Guard Troops, Customs Department, State Guard Service, as well as education and other non-military organisations and institutions, as prescribed by Art. 13 of Law 619-XIII.

The Law on Information and the Security Service of Moldova No. 753 passed in 1999 regulates the activities, rights and obligations of the Security Service as well as issues concerning international and domestic cooperation.

Government Decision No.844 on the structure, the number of staff and regulations of the Ministry of Internal Affairs: According to the mentioned document (Annex 2), the Ministry of Internal Affairs is a central specialised body designed to protect the lives, physical integrity, laws and liberties of the country's citizenry, all forms of property, as well as the interests of the state and citizens against criminal offences and other illegal actions. The Ministry is also responsible for maintaining public order, security and state supervision in the field of civil protection.

The Law on Police No.416-XII passed on 18.12.90. According to Article 12 (6), police personnel have the authority to use all necessary measures to prevent offences, to identify and pursue an individual that has committed an offence or is in hiding in an effort to avoid a court hearing or legal punishment. The police are also permitted to use all necessary measures to search for individuals that are missing, in accordance with the legislation.

The Law on National Defence, No.345-XV passed on 25.07.2003. The present law regulates the national defence system, as well as the duties and responsibilities of the public authorities in the field of defence. Leadership, organisational aspects and the stationing of the armed forces are discussed in Art. 1 of the law. In Art.8. – the leadership of the national defence system is described as an exclusive attribute and inalienable of the constitutional authorities of the state. The Parliament, the President of the Republic of Moldova, the Government, the Ministry of Defence and other public authorities with duties in the national security field are endowed with leadership roles within

the limits that are established by the Constitution and other normative acts. Article 9 of the abovementioned document stipulates that the forces destined to play a role in national defence are the armed forces, which is composed of the National Army, Border Guard Troops and the Carabineer troops.

The Law on the State Border of the Republic of Moldova No.108-XIII passed on 17.05.94 also stipulates the duties of the Border Guard Service. According to Art 6, the Border Guard Troops represent a special armed formation destined to guard and, if necessary, protect the state border. Article 27(1 c) regulates the duties of the Border Guard Troops (referring to intelligence activity only): the Border Guard Service guards the state borders on the ground, on water and at state crossing points. In this respect, the Border Guard Troops conduct military and intelligence activities as well as any other nature of activity necessary to protect the borders of the state.

The Law on Customs Bodies No.1150-XIV passed on 20.07.2000

Law No. 45- XIII on Intelligence Activity passed on 12.04.94

Laws of a general nature with direct application to intelligence governance:

Law No. 982-XIV on Information Access passed on 11.05 2000: (According to Article 1): a) the relation between the information provider and the natural body or legal entity in the process of exercising the constitutional right of access to information. b) The principles and the ways and means of gaining access to official information, possessed by the information providers. c) Aspects of accessibility to personal information or protection when resolving problems related to access to information d) The right of persons who request information including those who request personal information e) Obligations of the information providers when issuing official information f) Defending the right of access to information. According to Art. 4 of the law – everyone has the right to search, receive and make public official information. Article 7 states that access to information cannot be limited d) information referring to intelligence activity and law enforcement bodies, but only in cases when disclosing information could influence (i.e. harm) law enforcement activity, a trial, or deprive one's right to a fair and impartial trial, or danger one's life or security.

The Law on State Secrets, NR 106-XIII, passed on 17.05.1994

Government decision no. 863 adopted on 01.08.2006 “On the establishment of salary increases for public servants with permanent access to state secrets” stipulates the amount that is to be added to the salaries of public servants that have the right to access information at the corresponding level.

The Law on budget (it is adopted every year)

Key laws referring solely to the various services:

The Law on Information and Security Service of Moldova No. 753 passed in 1999

The Law on Police No. 416-XII passed on 18.12.90

The Law on National Defence, No. 345-XV passed on 25.07.2003

The Law on the State Border of the Republic of Moldova No.108-XIII passed on 17.05.94

The Law on the Centre for Fighting Economic Crime and Corruption, No. 1104-XV passed on 06.06.2002

Political documents stating the role of intelligence within defence and security policy:

On 5 May 1995 the Parliament adopted a decision on the National Security Concept of the Republic of Moldova. However, it is considered a failure because it does not depict a flexible framework or conceive the sectional approach in the field of security.

Intelligence planning documents made public or with unrestricted access

Intelligence planning is subject to classified information.

Coverage and Co-ordination

According to Law No. 45- XIII (Art 11) on intelligence activity passed on 12.04.94, the following institutions have the right to conduct intelligence activity.

Information and the Security Service of Moldova,(A) The service elaborates, in terms of its competencies, a system of measures orientated towards discovering, preventing and fighting the following actions, that are considered under the national legislation as capable of jeopardising state, public or individual security:

- Intelligence activities;
- Counterintelligence;
- Fighting some offences and criminal activities (specified in the legislation).

Border Guard Service (B) The Border Guard Service – is a central branch public administration body, which is included in the system of state security. Its role is to implement the state border policy. The Border Service protects the state border interests of the Republic of Moldova, is responsible for the frontier service and the lawfulness of border crossing in the established passing places. The Border Guard Service is responsible for abiding by international agreements and legislation.

Ministry of Defence (C) is the public central authority that coordinates, organises and conducts activities in the field of defence. The Ministry is responsible for the development of the National Army. The main responsibilities with regard to intelligence are as follows:

- Elaborates policies and initiates intelligence operations;
- Processes strategic information
- Provides public authorities with strategic information
- Evaluates efficiency in the field of national defence

Ministry of Interior (D) the Ministry of Internal Affairs: Forms and administers the country's databases and records of information; is responsible for regulating the exchange of information between other states.

Custom Control Department within the Ministry of Finance (E) - No details could be found

Centre for Fighting Economic Crime and Corruption (CFECC) (F) is a body specialised in fighting financial and economic crime and corruption.

Department of Penitentiary Institutions within the Ministry of Justice (G) Order No. 183 dated 14.04.2004 establishes the Regulation G: According to the document, “the Department of penitentiary institutions is a structural, independent division of the Ministry of Justice apparatus, which assures the execution of the penal sanctions as arrest, imprisonment, life imprisonment, or preventive arrest.” The Department works in cooperation with other law enforcement bodies. According to Art. 7 of the abovementioned document, the duties of the Department are: to perform intelligence activity in order to find escaped convicts, register and maintain a register of convicted and/or arrested persons.

State Guard Department (H) no data found

Have there been any changes to this institutional structure in the past decade or so: new forces, services or agencies established or old ones disbanded? Have there been any significant alterations to “size and function”: new responsibilities assumed, old ones relinquished or redefined?

Which body co-ordinates the different forces, services and agencies?

ISS, a directorate whose head is appointed directly by the Parliament, has direct contact with the Government.

In Law No.1104-XV on the Centre for Fighting Economic Crime and Corruption, which was passed on 06.06.2002, Art 8 stipulates that the head (director) of the Centre is appointed (by the government) for a period of four years. The director has the right to participate in government sessions. The centre establishes its activities and work programmes independently and can be heard in the Parliament.

Other institutions are also subordinate to the government either directly or indirectly.

What are the constitutional provisions and/or legislation and/or framework of regulations that authorise the existence of these various organisations and define their roles and responsibilities?

The Law on Information and Security Service of Moldova No. 753 passed in 1999

The Law on Police No.416-XII passed on 18.12.90

The Law on National Defence, No.345-XV passed on 25.07.2003

The Law on the State Border of the Republic of Moldova NO.108-XIII passed on 17.05.94, also stipulates the duties of the Border Guard Service.

The Law No.1104-XV passed on 06.06.2002 on Centre for Fighting Economic Crime and Corruption

2. Accountability

As some of the bodies are part of the Cabinet of Ministers (Ministry of Interior, Ministry of Defence) they are directly accountable to the Prime Minister, the Border Guard Service and the Centre for Fighting Economic Crime and Corruption. These are administrative authorities within the government.

How do you assess the extent to which these formal arrangements work in practice?

What are the modalities of accountability to the executive?

Can the forces, services and agencies evade their obligations in this respect?

No

- to elected representatives

All state bodies are accountable to the Parliament, to the plenary sessions and to the Standing Committee for National Security and Defence. On 22 July 2005, Law No. 179-XVI modified parliamentary regulations by creating a new sub-committee for the control of ISS, headed by an opposition Member of Parliament (MP) (Mr. Iuire Rosca). The MP has the authority to request a parliamentary hearing (by government officials or the presidency): this includes the country's security bodies.

For the most part, parliamentary control of these bodies is established by inviting representatives from security sector bodies to attend plenary sessions. These parliamentary hearings tend to become debates between the opposition and the majority party rather than constructive discussions. There are cases whereby the heads of security sector institutions, rather than officials responsible for economic or social issues, have appeared in Parliament.

The forces cannot avoid their obligations in this respect.

- to other institutions

Do any of the following institutions have specific powers in relation to police forces, other internal security forces, security services and intelligence agencies in your country?

- The courts - none
- Human rights commissioners - none
- Municipal authorities - none
- A specific intelligence/security service - none
- Internal boards (internal accountability)

- to the media and society at large

All bodies have a website where information on the activities of any given organisation is published as well as information on the structure and/or the legal framework that regulates activity. Contact details should also be provided. According to the Law on Access to Information, all citizens have the right to access information that is not considered under the law as a state secret, i.e., classified. (Law No. 982-XIV on Information Access passed on 11.05 2000).

Under the Law on Press No. 243-XIII, passed on 26.10.1994, Art. 18 stipulates that, “The periodical editions and press agencies do not have the right to reveal the information source or the pseudonym of the author without his/her approval. The information source or the pseudonym of the author can be revealed only if the published material contains elements of an offence and only following a court decision.”

For the most part, the authorities fail to acknowledge the journalist’s right to protect his/her sources.

A national Ombudsman is empowered to receive and investigate complaints from citizens. However, unfortunately, such activity is almost impalpable in the Republic of Moldova. Most services have established hotlines for complaints.

Most news articles and media broadcasts fail to reflect the activities of the security sector. Material related to the police force or other security services within the country is mostly based on information that is provided by representatives from security institutions. Very little investigative work on the security sector is undertaken by journalists. Investigative reports are typically published in newspapers with a limited readership. There are two television stations which broadcast across the whole territory of the country: the Government (TV Moldova 1/ National TV station or the so-called “Public TV station” and NIT. Neither of these television networks dares to criticise the government.

Do you know of any poll and/or data on public attitudes to security services and intelligence agencies with particular reference to accountability?

No

2. Transparency

In Law No.39-XIII, on the status of Members of Parliament, passed on 07.04.94, Art.20. (1) states: Upon the decision of Parliament and its bodies, the Member of Parliament (MP) participates in the implementation of legislation by stakeholders and civilian institutions. He has the right to access the documents necessary to fulfil this right. The MP informs the Parliament on his decision. If needed, he will propose punishments for the responsible authorities/officials who have broken the law.

Stakeholders and officials are obliged to provide the necessary support to perform inquiries, to present upon the request of the MP or inquiry committee, without any obstacles, the data and documents necessary for objective examination of a case. Nobody has the right to evade this responsibility.

All bodies have their websites that include the structure, legal framework as well as information regarding their activity (with the exception of the National Security Council - some contact details could be found on the website of the President’s Office.

[Border Guards – www.border.gov.md](http://www.border.gov.md)

[Ministry of Defence – www.army.gov.md](http://www.army.gov.md)

[Ministry of Interior – www.mai.gov.md](http://www.mai.gov.md)

[Information and Security Service of Moldova – www.sis.md](http://www.sis.md)

[Centre for Fighting Economic Crimes and Corruption – www.cceec.gov.md](http://www.cceec.gov.md)

[Customs Service – www.customs.gov.md](http://www.customs.gov.md)

According to the Law on State Secrets, different types of personnel within different bodies have different access to classified information. Information can also be requested from the responsible bodies.

Government Decision No. 844 adopted on 30.07.98 on the structure, the number of personnel and the regulations of the Ministry of Internal Affairs establishes the number of personnel for the departments of the abovementioned institution.

The information is considered to be classified when related to the Ministry of Defence and the ISS. Other structures within the security system of the Republic of Moldova can provide this information.

The sum for financing the activities of these bodies is established by the Law on Budget, without mentioning the exact fields of expenditures. The Ministry of Finance is authorised to make requests for information on the necessary sums to cover different fields of activity. In the past eight years, the ISS has covered 40% of the necessary sum (alleged). This formula applies to all bodies within the government.

This information is described in general terms due to the sensitivity of the subject. Most of these issues are considered to be classified information.

The strategic outlook of the services is described in general terms referring mostly to “maintaining national security and defending national interests.” The detailed version is considered classified.

The information regarding planning in those services is described in general terms due to the sensitivity of the subject, also most of these issues are considered to be classified information.

According to the Law on State Secrets, No. 106-XIII, passed on 17.05.1994, Article 8 defines, “The method of attributing information as a state secret”

(1) Attributing information as a state secret is developed by the heads of stakeholders according to the registry of persons with responsible functions empowered to attribute information as a state secret.

(2) Motivation to attribute information as a state secret accordingly is attributed to stakeholders, companies, institutions and organisations which have received (elaborated) the information.

(3) In order to promote a unique state policy in the field of making information a state secret, the government sets up an interdepartmental for protecting state secrets. The committee establishes a registry of the information that is made a state secret. This is approved by the President, published and revised if needed. The registry contains a list of those state bodies which have the right to access this information.

(4) The stakeholder heads are empowered with the right to attribute information as a state secret. They establish detailed registries which contain the list of information that is to become a state secret. These registers are approved. They are not published.

None of the services publish activity reports, with the exception of the Centre for Fighting Economic Crime and Corruption.

General statistical data is published in the media. The press bureau also releases information. Some information can also be found on the official website of the body (e.g., the number of crimes in a given period).

Are there any regular publications that do not fall into any of the preceding categories (3.7 - 3.9) of which we should be aware?

None

Could you list all official publications relating to these bodies, of whatever sort, that appeared in 2005 (or in a typical year, if 2005 was in some way unusual)?

The Ministry of Defence has a newspaper "Oastea Moldovei" (the Army of Moldova), a monthly edition with regards to the activity of the institution and "Politia," which is the Ministry of Interior's newspaper. "Curierul Vamal" is a paper that is issued by the Customs Service.

Part B: Questions on the Specificities of Oversight and Guidance

In reference to intelligence, please provide the latest available data on the government's decision-making process: what are the documents required by law or national-level regulations to be issued by the head of state, the head of government, the minister of defence/interior, the Parliament, with what frequency; what higher authority is obligated to endorse each of them, and what is the current status of such documents.

In the Law on State Security (No.618-XIII on 31.10.95) Art.10 stipulates that the President of the Republic of Moldova is responsible for the overall management of state's security organs and is responsible for the security of the state within the limits of his competencies as established by the law.

The Law on the Information and Security Service of the Republic of Moldova stipulates in Art.1 (2) that the activity of the Service is co-ordinated with that of the President of Moldova, within the limits of his powers and subject to the Parliament.

What is the role of the Parliament in endorsing intelligence policy decisions?

Not explicitly defined in the Constitution or the relevant legislation.

The Constitution of the Republic of Moldova does not refer to the competencies or responsibilities of the Parliament in relation to the country's intelligence services. According to the legislation, (the Law on State Security No.618-XIII passed on 31.10.95), the Parliament is responsible for approving the National Security Concept (this does not yet exist).

What is the role of the Parliament in endorsing intelligence policy decisions?

Not explicitly defined in the Constitution or the relevant legislation.

Specific decisions of the intelligence services are beyond Parliament's competencies. At the same time, every MP can refer to the interpellation when necessary. Each year, the Parliament passes a Law on the State Budget, wherein reference is made to the intelligence services of the country.

THE REPUBLIC OF MOLDOVA

LAW ENFORCEMENT AND POLICING

*Iurie Pinte*a, *Institute for Public Policies*

The law enforcement system

The law enforcement system in the Republic of Moldova (RM) is composed of the various Prosecutor's agencies which include: the General Prosecutor's Office, regional prosecutor offices, special prosecutor offices (military, transport, anti-corruption, etc.), the Information and Security Service (ISS), the Centre for Fighting Economic Crimes and Corruption (CFECC) and the Customs Service (CS). It is also supported by a complex system of agencies and institutions which are subordinate to the Minister of Internal Affairs.

1. The Prosecutor's Office (Law regarding the Prosecutor's Office, passed on 14 March, 2003).

According to the Constitution of the RM, the mandate of the Prosecutor's Office is to: represent the overall interests of the state and society by applying justice and the rule of law; to protect, the rights and liberties of citizens and to lead criminal trials.

The Prosecutor's Office is the main body responsible for coordinating the work of all agencies that are authorised to undertake criminal pursuits and investigations. Accordingly, the Prosecutor's Office authorizes, controls, checks, suspends and cancels criminal investigations which are undertaken by the CFECC, the Ministry of Internal Affairs and their various subdivisions. Moreover, the Prosecutor's Office leads the criminal investigation process and has the right to intervene at any stage and also to verify the legality of procedures and actions of the law enforcement officers.

Control and accountability: the General Prosecutor submits a report to the Parliament reflecting the state of law in the country and the actions undertaken accordingly on an annual basis. The General Prosecutor's Office is headed by the General Prosecutor who in turn is appointed by the Parliament to serve a five-year mandate.

2. The Centre for Fighting Economic Crimes and Corruption (CFECC)

The Centre for Fighting Economic Crimes and Corruption (CFECC) is the law enforcement agency specialised in fighting economic, financial and fiscal (taxes) offences in particular as well as corruption in general. The CFECC's Director is appointed by the government to serve a four-year term.

The CFECC was established in February 2002 following the restructuring of the Financial Guard (fiscal inspectorate of the Ministry of Finance), the Department of Financial Control and Revision (independent) and the Economic Police within the Ministry of Internal Affairs.

Control and accountability: In terms of law observance, the CFECC is supervised by the Prosecutor's Office. In terms of budget observance and financial discipline, the CFECC is

accountable to the Financial Court (*Curtea de Conturi*). The activity plans of the CFECC are not subject to governmental review or approval. Its structure is approved by the government.

3. The Information and Security Service (ISS)

The Information and Security Service (ISS) is a specialised institution with a mandate to guarantee the security of the state. The Law on Information and the Security Service was passed on 23 December 1999.

The activity of the ISS is overseen by the President of the Republic. The ISS structure and number of personnel is determined by the Parliament. The ISS Director is appointed by the Parliament to serve a five-year term upon the request of the President.

According to Art.5.1 of the Law on ISS “citizens are informed about ISS activity through the mass media and other forms determined by the law.” According to Art.5.3 of the same law “it is forbidden to make public the information that is considered state secret, military secret, service or commercial secret, as well as confidential information which might prejudice the security of the state, honour and dignity of individuals, their rights and liberties, except in cases that are specified by law.”

According to Art.6.3 of the Law on ISS “Documents and files containing information regarding ISS personnel, individuals who are working undercover, as well as data regarding organisations, tactics, methods and techniques used during the investigation process should remain a state secret and thus kept in the Service archive.”

According to Art.20 of the Law on ISS:

1. The activity of the ISS is subject to parliamentary control and that of the Prosecutor’s Office, and courts each according to their competencies.
2. The ISS submits its activity reports to the Parliament, the President and the government.
3. Parliamentary control of ISS activity is exerted by the Standing Committee on National Security.
4. Financial control is exercised by the Financial Court (*Curtea de Conturi*).”

According to Art.21 of the Law on ISS:

1. Observance of the Law by the ISS is overseen by the General Prosecutor’s Office.
2. The activity of undercover agents is overseen by the General Prosecutor or a prosecutor who is specially appointed by the General Prosecutor.
3. Information regarding the ISS organisation, tactics, methods and techniques are not subject to Prosecutor supervision or control.”

4. The Customs Service

The Customs Service (CS) is a specialised state service which administers customs control, tax levies and criminal investigations. Its activity is governed by the provisions of the Law on Customs

Services which was passed on 20 July, 2000; the Customs Code was passed on 20 July, 2000; the Fiscal Code was passed on 24 April, 1997, and the Criminal Code was passed on 14 March, 2003. Criminal investigations are limited to violations of the Customs Code.

According to the Customs Service Regulations, which was approved by government decision on 7 June, 2005, the CS structure and personnel number is determined by the government. The General Director and the deputy directors of the CS are also appointed by the government.

The main objectives of the CS are “to ensure, within the limits of its competencies, the economic security of the state and the observance of custom laws.” The CS also coordinates activities within the “border control zone.”

5. The Ministry of Internal Affairs

The Ministry of Internal Affairs (MIA) is a specialised central state institution with the mandate to protect the life, physical integrity, rights and liberties of citizens, all forms of ownership, interests of society and state against criminal offences and other illegal actions, to maintain law and order and public security, as well as to exercise state supervision in the field of civil protection and to ensure protection against fires over the entire territory of the country. (Regulation of the MIA, 30 July, 1998)

The legal framework of the MIA’s activity is based on the following: the Constitution of the Republic of Moldova, the Laws “On Government”, “On Police”, “On Carabineer Troops (Internal Troops) of the Ministry of Internal Affairs”, Presidential decrees, parliamentary and government decisions, other normative acts, international treaties and agreements signed by the Republic of Moldova, as well as the MIA’s internal regulations.

According to the MIA’s regulations (30 July, 1998), the main tasks of the Ministry are as follows:

- Participation in the development and implementation of state policy in terms of defending citizens’ rights and liberties; ensuring the implementation of the rule of law and fighting crime;
- Development of preparatory activities for the population, economic entities and civil protection forces during exceptional (emergency) situations, fires, as well as rescue activities;
- Elaboration, promotion and implementation of state policy on migration and asylum;
- Ensuring order and legality in the activity of internal affairs agencies, institutions and Carabineer Troops as well as the professional training of MIA personnel;
- Ensuring the legal and social protection of personnel;
- The planning and development of activities and presenting the necessary information to national defence organisations.

The Minister of Internal Affairs is appointed by the President of the Republic of Moldova. The deputy ministers are approved by the government. The majority of MIA subdivisions undertake their activities according to the regulations adopted by the Minister of Internal Affairs.

6. The National Police

The **National Police** is part of the MIA. Its purpose is to guarantee respect for and implementation of the law by all citizens residing within the territory of RM. Its activity is based on the Constitution, laws, regulations and Ministerial Orders.

According to the Art.1 of the Law on Police (adopted on 18 December, 1990) the Police “is an armed institution of public authority (an armed law enforcement public authority), within the Ministry of Internal Affairs with the mandate to defend, on the basis of law, the life, the health and liberties of citizens, the interest of society and the state against criminal offences and illegal actions.”

According to the law, the main tasks of the police are as follows:

1. To defend life, health, honour, dignity, rights, liberties, interests and property of citizens against criminal offences and other illegal attacks;
2. To prevent and counteract crimes and other violations;
3. To find and detect infringements and pursue persons who have committed such acts;
4. To maintain public order and to ensure public security;
5. According to the law, to help citizens, public administration authorities, enterprises, institutions and organisations for the purpose of protecting their rights;
6. To apply state protection measures to persons who need assistance in the penal process, according to the legislation in force.

The involvement of the police in issues that, according to the law, do not fall within its jurisdiction is prohibited. No-one has the right to interfere with police activities related to the exercise of their duties (Art.2, Law on Police, adopted on 18 December 1990).

According to the law a “police collaborator is the person in function within a police institution, invested with the responsibilities and rights accordingly, with a special grade. The list of special grades of police collaborators is established by the Parliament and the procedure of conferment is determined by the government.”

Article 6. Involving personnel of other internal affairs bodies and servicemen of the internal troops in the exercise of police tasks.

“Internal affairs personnel, servicemen of internal troops (*Carabineer Troops*), students and non-credit students of the Ministry of Internal Affairs’ academic institutions can be involved in carrying out police tasks according to the guidelines established by the Ministry of Internal Affairs. Under this arrangement, they become entitled to the legal status of police, established by this present law.”

The Law does not provide more details to distinguish between police and other forces, agencies, or subdivisions of the MIA.

Structure and administration of police

As a public law enforcement authority, the police of the RM is divided into state and municipal police. The state police exercises its authority over the entire territory of RM while the municipal police exercises its authority within the territory of the respective administrative unit.

The organisational structure and personnel number of the state police is approved by the government upon the request of the Minister of Internal Affairs.

The organisational structure and personnel number of the municipal police is approved jointly by the local public administration authorities and by the Minister of Internal Affairs, upon the request of the district (regional) police commissary.

In the various activities it undertakes, the state police is subordinate to the MIA. The municipal police is subordinate simultaneously to the MIA and the local public administration authorities.

Control over state police activities is exercised by the MIA, while the municipal police is controlled by local public administration authorities.

Cooperation within the police system:

State and municipal police exert their authority in close collaboration with each other. When receiving information about criminal behaviour, the municipal police has to take the necessary actions to prevent, counteract and investigate the crime; to establish and register criminal evidence and proof; to protect the crime scene and promptly inform the state police and subsequently supply the available data and records.

During investigations and the detention of suspects, state police officers have authority over the municipal police. According to the Law on Police, the municipal police provide support to the state police during operative investigations in addition to other activities. On the other hand, the state police provides the municipal police with methodological assistance, advice and support at various levels.

The Prosecutor's Office ensures that the police observe the law in the activities they undertake.

The responsibilities of the MIA with regards to police activities are as follows:

1. Participate in the development of state programmes for fighting crime and maintaining public order and ensuring the performance of these programmes;
2. Contribute to the development and implementation of state protection measures on behalf of offended parties, witnesses and other persons, who help in the detection, counteraction, investigation and exposure of crimes;
3. Coordinate state police activities with that of the municipal police;
4. Manage the police forces financially and logistically during actions at the state level
5. Lead the specialised subunits in fighting organised crime;
6. Lead and supervise police activity with regards to the prevention, detection, counteraction, exposure of crimes, pursuit of suspects, search for missing persons in accordance with the law;
7. Organise the activity of the judicial police;

8. Lead the activities directed towards the maintenance of public order and security;
9. Cooperate with foreign law enforcement agencies and international organisations on issues related to fighting crime and the protection of public order;
10. Organise financial and technical support to the police and its protection;
11. Reinforce measures for improving the legal support system for police activity;
12. Ensure that the efforts undertaken are in line with the relevant legislation, the general norms, conditions and rules of service, as well as rules for the personnel and staff;
13. Organise train and re-train police personnel and oversee the education and training institutions within the MIA;
14. Establish and manage the funds and databases, organise and ensure the exchange of information with internal affairs bodies from other states;
15. Organise and ensure road traffic security.
16. Provide state police assistance to the municipal police.

During exceptional circumstances including natural disasters, catastrophes and riots, the municipal police, by order of the Minister of Internal Affairs, can be temporarily used (deployed) outside the territory of its region or administrative/territorial unit.

Within the police system, the Labour Code and other legislative acts are applied to the extent that they do not interfere with the Law on Police. Police employees are not permitted to suspend their work or strike as a means to collectively settle labour disputes. Furthermore, any activity pertaining to political parties and other social/political associations of citizens is not permitted.

The main changes in the law enforcement system since 1991

Since 1991, significant changes have been undertaken within the law enforcement system:

1. In 1994, the Department for Emergency Situations was transferred from the Ministry of Defence to the MIA.
2. Until 1994, the Prosecutor's Office was authorised to supervise all state agencies and institutions, public and private entities. Since 1994, this mission has been removed from the Prosecutor Office set responsibilities.
3. In 1995, the Department of Penitentiary Institutions was transferred from the MIA to the Ministry of Justice.
4. In 1999, the Ministry of National Security (MNS) was restructured and organised within the Information and Security Service (ISS); the Border Guards Department was removed from its structure and became independent and thus became subordinate to the government.
5. In June 1999, the Border Police was created as a subdivision to the MIA. It was deployed at the various border crossing checkpoints. This event was connected to the MNS restructuring process. According to the Law No. 474-XIV (adopted on 25 June 1999), the Border Police mission was (1) to ensure the special juridical regime and public order at border checkpoints, and (2) to carry out the necessary investigations to prevent, detect and stop all types of delinquencies. The Border Police Department existed between June, 1999 and July 2000. In July 2000, the responsibility of maintaining the special juridical regime at border checkpoints was transferred to the Border Guards.
6. In 2000, the Department of Public Information and Registration of Vehicles was removed from the MIA structure and transferred to the Department of Informational Technologies (since 2005, it has been called the Ministry for Informational Development).

7. Significant changes occurred after a newly enacted Criminal Code came into force in 2003. Thereby none of the MIA agencies endowed with the authority to fulfil criminal pursuit functions could adopt procedural decisions on criminal causes (initiate, suspend or close criminal pursuit). These decisions subsequently became exclusively entrusted to the Prosecutor's Office. Accordingly, MIA agencies could only undertake criminal investigations.
8. In August 2005, the criminal pursuit (criminal investigations) functions of the ISS and the Border Guard Department were annulled.
9. In February 2005, the Customs Service Department was included in the list of state institutions that ensure state security. The Department was described as "a specialised state agency which contributes to the economic security of the state and strives to combat international terrorism, smuggling, the illegal trafficking of drugs, arms and ammunition" (Law No. 11-XV adopted on 17 February 2005)
10. In 1999, the police subunits delegated by the MIA to the courts were integrated into the Judicial Police and subordinated to the Ministry of Justice. This arrangement remained in force until 2002, when the Judicial Police was reintegrated into the MIA structures under the General Division for Public Order Police.

Another major reform plan was put on the political agenda by the EU-RM Action Plan. This plan has been under discussion over the past two years and it explores the necessity to reform (reorganise) the Border Guards Service. In this respect, several options and ideas have been discussed. They include:

- Demilitarisation,
- The creation of the Border Police within the Ministry of Interior or as an independent institution;
- Extending the responsibilities of the Border Guards (Border Police) to that of a law enforcement agency.

Basic Police Management laws and regulations ¹

The Constitution of RM, adopted on 29 July 1994 provides the basic principles for state functioning, citizens' rights, liberties and duties, and public authority structures and relationships (Parliament, President, Government, Public Administration, Justice and the Constitutional Court).

The legal framework for law enforcement and policing:

- The Constitution of Moldova. Adopted on 29 July 1994.
- The Criminal Code. Adopted on 14 March 2003.
- The Code on Administrative Contraventions. Adopted on 29 March 1985.
- The Law regarding Operative Investigation Activities. Passed on 12 March 1994.
- The Law on State Security Institutions. Passed on 31 October 1995.

¹ All Moldovan laws are published in the Official Gazette (*Monitorul oficial al Republicii Moldova*) in two languages – Moldovan and Russian. No official English translations for Moldovan laws could be identified.

- The Law regarding the Security of the State. Passed on 31 October 1995. Published on 13 February 1997.
- The Law regarding the Prosecutor's Office. Passed on 14 March 2003.
- The Law on judges, courts and organisation of justice. Passed on 6 July 1995.
- The Law on military judges, courts and justice. Passed on 17 May 1996.
- The Law on Information and the Security Service. Passed on 23 December 1999.
- The Law regarding the Centre for Fighting Economic Crimes and Corruption. Passed on 6 June 2002.
- The Law on Police. Passed on 18 December 1990.
- The Law on the Carabineers Troops of the Ministry of Internal Affairs. Passed on 12 December 1991.
- The Law on Civil Defence. Passed on 09 November 1994.
- Law on State Border. Passed on 17 May 1994.
- Law on Popular Guards. Passed on 02 February 1997.
- Law on Combating Corruption and Protectionism. Passed on 27 June 1996.
- Decision of the Parliament of RM regarding the number of personnel within the Informational and Security Service. Adopted on 2 February 2000.
- Regulation regarding the MIA. Approved by a governmental decision on 30 July 1998.
- Regulation on State Guard Service. Approved by a governmental decision on 2 February 1999.
- Regulation on National Security Council. Approved by a presidential decree on 8 October 1997.
- Other laws and regulations referred to specific missions of enforcement agencies and institutions that are subordinate to the government.
- Internal institutional orders pertaining to the General Prosecutor and the Minister of Internal Affairs.

According to security policy documents, among the law enforcement agencies and police forces only the Carabineer Troops have legally established missions within the defence sector (see comments below).

Parliamentary Control

Art. 66 (f) of the Constitution establishes the parliamentary authorities that are defined in the Constitution. These authorities are established by Art. 104 (the parliamentary report); Art. 105 (Questions and Interpellations); Art. 106 (Motion of distrust). Moreover, these authorities are further developed by Parliament's regulations.

During regular parliamentary hearings, the government presents to the Parliament various reports concerning its activity. The Standing Bureau of the Parliament can initiate other hearings concerning issues of major public interest (Art. 112/1 of Parliament's regulations).

The missions of the Parliamentary Standing Committee are as follows: to approve drafts and legislative proposals; to undertake parliamentary investigations; to consult public administration bodies and other institutions and to issue advisory notices or recommendations (Art. 27 of Parliament's regulations).

1. The Standing Committee for National Security, Defence and Public Order has 11 members. It covers the following areas of activity:
2. Issues pertaining to national security and the military service within the specialised institutions of the executive branch with the mandate to protect national security;
3. Combating crime, corruption and terrorism, ensuring public order and road traffic security; state border guard and regime, central public and regional authorities' mandates on state border protection.
4. Reform of the armed forces (national army; border guards troops, carabineer troops); managing military and alternative service; social and juridical protection of military personnel; service organisation within the Customs Department; supervising the Penitentiary Institutions Department and the Emergency Situations Department; observance of state secrets; providing citizens with identity documents.

Supreme Security Council:

The regulations associated with the Supreme Security Council (SSC) were approved by a presidential decree on 10 October 1997. According to Art.1 of the Regulation, the Supreme Security Council is a “consultative body which analyses the activity of ministries and departments in the sphere of national security and accordingly formulates and presents recommendations concerning the state’s internal and external policy issues to the President of the RM.”

According to Art.6 of the Regulation (adopted on 10 October 1997) the statutory members of the SSC are as follows: the Prime Minister, the Minister of Defence, the Minister of Foreign Affairs, the Minister of Internal Affairs, the General Director of the Informational and Security Service, the Minister of Finance, the Head of the Armed Forces General Staff, the Head of Civil Security and Emergency Situations Department and Secretary of the Supreme Security Council. The President can designate Council members and other officials.

According to the presidential decree of 30 May 2005 the SSC members are as follows: the President of the RM, the SSC Secretary, the Prime Minister, the Chairman of the Parliamentarian Standing Committee for National Security, Defence and Public Order, the Director of the Information and Security Services, the General Prosecutor, Minister of Foreign Affairs, the Minister of Economy and Trade, the Minister of Internal Affairs, the Minister of Defence, the Governor of the National Bank, the Governor of Gaguzia, the Chairman of the Academy of Sciences, the Chief of the Main Staff of National Army and the Director of the Centre for Fighting against Economic Crimes and Corruption.

According to the national security’s legal framework and its Regulations, the Council emphasises the importance of the national security and armed forces issues. Thus, issues regarding the Carabineers Troops, armaments, emergency situations, activity of the MIA in some areas naturally fall within the jurisdiction of the CSS and its competencies. Nevertheless, in the period from 2001-2006, the SSC addressed, although sometimes sporadically, some specific law enforcement or police related issues, such as initiating a proposal to establish the Centre for Fighting against Economic Crimes and Corruption (2002) including human trafficking and the fight against organised crime.

In fact, the overall activity of the SSC in RM, as well as its membership and agenda, are totally subject to the President’s will and his agenda.

Police planning and political documents made public or with unrestricted access:

The planning system within the Ministry of Interior is in accordance with the best practices within the government and includes annual, quarterly and monthly plans and evaluations. These internal plans are not made public except for a few summaries or implementation results which are discussed or published in the media and on the MIA website.

1. On the MIA website, there is a one-page document called “**MIA strategy.**” It explains the missions that are established by the state administration and the Government Activity Programme in the period 2001-2005 such as the “Economy Revival/Revival of Country,” the State Programme on fighting criminality and corruption and other legal documents. According to this Strategy, the MIA will focus its activity on issues such as: oil, alcohol, smuggling of goods, drugs, medicines, human trafficking, migration, transport services, consumer protection, interstate cooperation, juvenile crime prevention, prophylaxis, public order and police personnel.

2. The Economic Growth and Poverty Reduction Strategy Paper is **another highly important government document establishing the objectives and missions for all the ministries and governmental agencies, including the MIA.**

(<http://gov.md/content/en/0000049.pdf>)

3. The **National Strategy for Preventing and Combating Corruption** and the Action Plan for the Implementation of the National Strategy for Preventing and Combating Corruption were approved by the Parliament on 16 December 2004.

4. The **EU-Moldova Action Plan** is considered to be the most important political document establishing agendas at the national level and thus having a significant influence on all ministerial (departmental) plans and agendas. It addresses the following issues with particular emphasis on law enforcement and police institutions:

Migration issues (legal and illegal migration, readmission, visa and asylum, etc)

- Assess the scale of illegal immigration to, via and from RM and monitor migratory movements.
- Support the efficient management of migration flows to increase the professional level of staff.
- Harmonise the Moldovan legislation on asylum and refugees in accordance with EU norms and standards.
- Improve cooperation regarding the efficient management of migration flows, readmission of own nationals and persons without nationality and third country nationals.
- Pursue dialogue and negotiations with regards to cooperation on improving the visa policy.

Border management:

- Develop a system of efficient, comprehensive state border management.
- Intensify and facilitate cross-border cooperation.
- Ratify and implement international instruments to combat organised crime.

- Reinforce the fight against human trafficking, including the use of methods to prevent trafficking and reinsert the victims of this type of trafficking.

Drugs

- Further strengthen the fight against drug trafficking, including a clampdown on essential chemicals and precursors used for drugs.

Money laundering, financial and economic crime

- Make measurable and convincing progress in an effort to establish and implement a comprehensive anti-money laundering regime.

Police and judicial cooperation

- Adopt and efficiently implement legislation and measures, under which judicial cooperation can be offered to and obtained from other states.
- Strengthen cooperation between Moldova and EU Member States' judicial and law enforcement authorities.

Another important document is the **National Strategy for Preventing and Fighting Corruption**. The aim of the strategy is to reduce corruption in RM in order to protect the rule of law and democracy and to reduce any hindrances to the economic growth and social development of the country. In order to achieve its stated objectives, the strategy focuses on the following issues:

- Ensure the application of the rule of law (identifying domains affected by corruption and conditions that allow corruption, preventing corruption and strengthening the system of measures for identifying and fighting corruption);
- Respect the principle of separation of powers within the state structure and the (legislative, executive and judicial) collaboration within these powers within a rigorous constitutional and legislative framework;
- Improve the legislative framework according to international legislation standards;
- Ensure transparency in the activity of the public institutions, free access to information and promote ethical standards;
- Encourage the participation of civil society and the private sector in corruption prevention and the creation of an atmosphere that helps reduce corruption.

Within the context of the *National Strategy for Preventing and Fighting Corruption*, a Steering Group was created. It includes representatives from the following public authorities:

- The Centre for Fighting Economic Crime and Corruption
- The Ministry of Justice
- The Ministry of Internal Affairs
- The Border Guard Service

The Centre for Fighting Economic Crime and Corruption acts as the secretary for the Steering Group and ensures the day-to-day implementation of the Action Plan.

During the process of the implementation of the National *Strategy for Preventing and Fighting Corruption*, the following activities have to be implemented:

Centre for Fighting Economic Crimes and Corruption

- Draft legislative acts that aim to facilitate corruption prevention and fighting.
- Bring external financial help in form of technical assistance, grants or donations in order to improving anti-corruption activities.
- Negotiate and sign intergovernmental agreements in the field of mutual assistance in combating corruption on the international level between the RM and Central and Western European countries, as well as with other countries.
- Cooperate with the European Union (EU) in the framework of the Partnership and Cooperation Agreement (PCA), request that the EU include the RM in its programmes and projects in the anti-corruption field, provided that RM is eligible for such projects.
- Include the RM in actions, initiatives and projects on corruption prevention and fighting (GRECO, SPAI etc.).
- Promote educational materials within all curricula that explain the negative effects of corruption on all aspects of human life and development.
- Organise roundtable discussions that are facilitated by representatives from anti-corruption bodies; arrange conferences that deal with issues related to the fight against corruption. This would facilitate the exchange of information between experts in various fields and the implementation of corruption eradication methods.
- Help organise meetings either by the government or civil society and discuss issues pertaining to anti-corruption, arrange seminars, television and radio shows, prepare publications, launch contests aiming to raise public awareness and to promote an attitude of intolerance towards corruption, and promote values of conformity to ethical norms.
- Publish the results of anti-corruption activities and continuously disseminate in the media various cases of corruption.
- Regularly organise press conferences and briefings in order to familiarise the general public with accomplishments in the field of anti-corruption.
- Raise public awareness with regards to the corruption phenomenon and the activities of the competent bodies in the field of corruption prevention.
- Elaborate and publish informative materials regarding the legislative framework of anti-corruption actions.
- Provide the reports that are published by the specialised anti-corruption bodies with regards to their activities,
- Analyse the implementation of Law No. 633-XV of 15 November 2001, and improve its implementation mechanism, where necessary, with regards to money laundering and the improvement of the legislative framework in this field and adjust it to international standards accordingly.
- Endow the various bodies that are involved in fighting corruption with the appropriate financial means, the modern technical and forensic equipment, the means of transportation and telecommunication and ensure the social protection of their staff.

The Ministry of Internal Affairs

- Solicit and acquire external financial help in the form of technical assistance, grants or donations to improve anti-corruption activity

- Request the assistance of concerned and relevant international institutions for expertise on normative acts and develop the activities of anti-corruption efforts.
- Negotiate and sign intergovernmental agreements in the field of mutual assistance in combating corruption on an international level between the RM and Central and Western European countries, as well as with other countries.
- Cooperate with the EU in the framework of the Partnership and Cooperation Agreement (PCA), request that the EU include the RM in its programmes and projects in the field of anti—corruption.
- Include the RM in actions, initiatives and projects on corruption prevention and fighting (GRECO, SPAI etc.).
- Promote educational materials within all curricula to explain the negative effects of corruption on all aspects of human life and development..
- Organise roundtable discussions that are facilitated by representatives from anti-corruption bodies; arrange conferences that deal with issues related to the fight against corruption. This would facilitate the exchange of information between experts in various fields and the implementation of corruption eradication methods.
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- Endow the various bodies that are involved in fighting corruption with the appropriate financial means, the modern technical and forensic equipment, the means of transportation and telecommunication and ensure the social protection of their staff.

The Ministry of Justice

- Draft legislative acts that facilitate anti-corruption activities.
- Promote educational materials within all curricula to explain the negative effects of corruption on all aspects of human life and development.
- Organise roundtable discussions that are facilitated by representatives from anti-corruption bodies; arrange conferences that deal with issues related to the fight against corruption. This would facilitate the exchange of information between experts in various fields and the implementation of corruption eradication methods,
- Elaborate and publish informative materials regarding the anti-corruption legislative framework.

- Analyse the implementation of Law No. 633-XV of 15 November 2001, and improve its implementation mechanism, where necessary, with regards to money laundering and the improvement of the legislative framework in this field and adjust it to international standards accordingly.

Border Guard Service

- Organise roundtable discussions that are facilitated by representatives from anti-corruption bodies; arrange conferences that deal with issues related to the fight against corruption. This would facilitate the exchange of information between experts in various fields and the implementation of corruption eradication methods.
- Endow the various bodies that are involved in fighting corruption with the appropriate financial means, the modern technical and forensic equipment, the means of transportation and telecommunication and ensure the social protection of their staff

The main goal of the *National Plan of Actions in the field of Human Rights for 2004-2008* is to improve the human rights situation in RM by achieving the following main objectives:

- Transferring international standards in the human rights field to the national legislation and practice;
- Improve the legislation, ensuring the application of the rule of law and consolidate the independence of the judiciary;
- Strengthen civil society institutions;
- Ensure the appropriate protection of the political, civil, economic, social and cultural rights of citizens;
- Encourage the introduction of a human rights monitoring system in RM;
- Improve the national mechanisms for human rights protection;
- Ensure transparency in the process of National Plan's implementation by public administration authorities;
- Implement special programmes, which are aimed at guaranteeing the rights of the marginalised categories of population (children, persons with disabilities, retired and unemployed persons).

The National Plan of Actions in the field of Human Rights for 2004-2008 addresses the following main objectives for the law enforcement and police institutions:

The Ministry of Internal Affairs

- The harmonisation of the national legislative framework in the field of human rights with international norms and standards.
- Improvements in the legislative framework dealing with migrants and the rights of refugees; making it compatible to international standards.
- Improvement of the social welfare system in general particularly in terms of consolidating the rights of migrant workers.
- Ensuring the protection of the social rights of refugees.
- Promoting and raising awareness with regards to the rights of defence, the rights of the suspect, of the accused and of the victim
- Ensuring the protection of the rights of detained, arrested or convicted persons.
- Improving the professional training, cultural, moral and disciplinary preparedness of future policemen and other law enforcement bodies.

- Preventing human trafficking.
- Ensuring the respect of international agreed minimum standards regarding detention, arrest or conviction of individuals.

The Ministry of Justice

- Respecting reasonable terms in the process of justice.
- Ensuring free and equal access to justice.
- Optimising the system of enforcement of judicial decisions.
- Ensuring a high level of professionalism among judges, prosecutors and lawyers.
- Raising the level of staff professionalism in courts.
- Ensuring the efficient functioning of the Centre for Human Rights.
- Raising the efficiency of human rights advocacy activities.
- Raising public awareness with regards to the current human rights situation.
- Implementing the provisions of the European Convention on Human Rights concerning the rights to information and freedom of expression
- Ensuring free and equal access to information.
- Ensuring the independence of the media.
- Harmonising the national human rights legislation with international norms and standards.
- Ensuring the respect for current obligations by ratifying international conventions in the field of human rights.
- Promoting and raising awareness on the rights of defence, the rights of the suspect, the accused and the victim.
- Ensuring respect for the internationally agreed minimum standards regarding the rights of persons detained or arrested. .

The Penitentiary Department of the Ministry of Justice

- Ensuring detention conditions conform to minimum standards.
- Reducing overcrowding in police headquarters, pre-trial detention facilities and prisons
- Improving treatment for TB and other diseases in prisons.
- Encouraging the involvement of convicted persons in various types of activities and work within the prison facility.
- Ensuring adequate security protection levels for prisoners and staff.
- Ensuring a smooth process of social reinsertion for the convicted persons.
- Increasing the responsibilities and qualifications of staff within the Department of Penitentiary Institutions.
- Ensuring the protection of special rights for children and women in detention.

The Ministry of Defence and the Border Guard Service:

- Development of the legislative framework to ensure the rights of the military.
- Evaluation of the degree of respect of the Army's military rights.
- Ensuring the rights to life, physical and mental integrity of the military.
- Ensuring that the National Army is informed on all matters pertaining to human rights.

On 4 December, 2003 the Parliament of RM approved the Concept *on the Republic of*

Moldova State Border Guard. The mandate of the State Frontier Guard is to ensure the respect and protection of the RM's national, personal, society and state security interests along the frontier area; the unconditional fulfilment of treaties and agreements signed with neighbouring countries and other states in matters related to state frontiers; the creation of favourable conditions for economic, commercial and cultural relations with neighbouring countries and other states.

The main responsibility for implementing this concept belongs to the Border Guard Service, which, together with other state authorities, ensures its practical implementation. According to the Concept, the Border Guard Service has the following tasks in the field of state border security:

- Maintaining the state border regime, preventing or combating illegal passage across such borders;
- Maintaining the regime at the state border crossing points and simplifying the procedure of crossing by persons, means of transportation and cargo by means of facilitating and improving the border, customs, sanitary, phyto-sanitary, veterinary and other types of control;
- Modernising operational methods which aim to make a timely prognosis of conditions that have a negative influence on border security and adopt adequate measures to neutralise these;
- Combating illegal actions in the state border area particularly in areas that are considered more dangerous. Such actions could include international terrorism, drug trafficking and illegal immigration;
- Improving the mechanisms of collaboration and data exchange with similar authorities from neighbouring countries according to international agreements and normative acts;
- Developing the border infrastructure, mainly along the unequipped sectors of the Moldovan-Ukrainian state border;
- Creating a single and unified control system for entry and exit of foreign citizens and other persons from the RM;
- Improving the interaction between the Border Guard Service and the Ministry of Defence's anti-aircraft defence services;

The Ministry of internal affairs (Structure, Roles and Missions) MIA Structure

Central Apparatus (CA):

- General Direction of Human Resources (GDHR).
- General Division for Organisation and Inspection (GDOI).
- Division for Internal Security (DIS).
- Division for Economic and Financial Issues (DEFI).

Operative Services Department (OSD):

- Division for Combating Organised Crime (DCOC).
- Criminal Police Division (CPD).
- Anti-Drug Division (DAG).
- Division for Trans-border and Information Crimes (DTIC)
- Section for Analysis, Planning and Control (SAPC).

General Division for Criminal Investigation (GDCl):

- Division for Criminal Investigation.
- Division for Analysis and Planning.

General Division of the Public Order Police (GDPOP):

- Division for Public Security (Section for Patrolling and Guards, Section for Controlling Private Security Companies and Private Detectives, Section for Controlling Arms-SALW)
- Division for Prophylaxis (Section for Minors and Moral)
- Division for Judicial Police.
- Division for Road Police.

General Division for State Guard

General Division for Logistics, Administration and Development

Carbineer Troops Department

Department for Emergency Situations

National Bureau Interpol

Division for Transport Police

Technical and Criminal Division

Division for Information and Operative Records

Division for International Relations and European Integration

Juridical Division

Medical Division

Special Destination Police Brigade «Fulger»: Lightning

Centre for Combating Human Trafficking

Police Academy «Stefan cel Mare»

SECI/GUAM Virtual National Centre

Migration bureau

Sport Centre “Dinamo”

Press Centre

Regional Commissariats

Roles and Missions:

The General Direction of Human Resources (GDHR)

The GDHR is the main MIA structure responsible for the management of human resources policy. GDHR coordinate the activity of MIA agencies and subdivisions in the following areas: selection and recruitment of candidates for vacancies, professional training, enrolling, evaluation, professional development, promoting, sanctioning, transfer and dismissal of employees. The GDHR is directly subordinated to the minister and the deputy minister.

General Division for Organisation and Inspection (GDOI)

The GDOI is responsible for the organisation, analysis, planning and inspection of the activity of the

subdivisions of the central apparatus of the MIA, as well as of the territorial agencies, on issues related to combating crime and maintaining public order.

The organisational structure of the above General Division comprises:

- Division for Inspection and Supervision,
- Division for Organisation, Planning and Control;
- Division for Operative Reaction (Ad-hoc missions)

The division has a staff of 32 employees, including 30 high-ranking police officers and two civil servants.

General Division for Organisation and Planning carries out the following tasks:

- Complex analyses of the criminal and law enforcement conditions in the whole of the country;
- Planning activities for the Ministry of Internal Affairs;
- Supervising the execution of the regulations provisions; Collegium's decisions, internal orders, action programmes and plans of the MIA;
- General management of the day-to-day activities of the central subdivisions of the MIA;
- Supervising the activities of the guard units within the MIA agencies and subdivisions;
- Undertaking methodical guidance for analyses, planning and control offices of the MIA.

The activity of the General Division is focused on the following:

- Analytical/informative activities: thorough study and assessment of criminality and legal order, efficiency in the use of means and forces to reduce negative tendencies;
- Planning activities: development of current and future projects and programmes;
- Inspections: organise and execute general, special and ad-hoc inspections of MIA's central and regional subdivisions and agencies; activities efficiency analysis; verification of the normative acts and regulations execution, control of the results; special inspections of guard units regarding capacities to react to crimes, fire alarms, calamities, catastrophes, emergency situations, etc.
- Methodical reporting of the activities within the unit by summarising and disseminating the acquired experience and best practices, etc.

The Division for Internal Security (DIS)

The DIS is subordinate to the Minister of Internal Affairs and it is authorised to prevent, detect and combat illegal actions and violations committed by MIA personnel.

DIS activities are focused on the following areas:

- Supervise the legality of MIA actions and its personnel and employees;
- Protect MIA personnel and their families against illegal threats;
- Prevent suspicions individuals from enrolling in the internal affairs agencies.
- Detect, investigate, prevent and stop breaches of the law, administrative violations, administrative contraventions and disciplinary offences that are committed by MIA personnel;
- Supervise the information security of the MIA.

The DIS develops its activities through the ad-hoc inspections of the MIA central, regional and local subdivisions, or in response to citizens' requests or information. The Regulations of the Division for Internal Security were approved on 12 July 2005 by the order of the Ministers of Internal Affairs (No. 213).

The Division for Economic and Financial Issues (DEFI)

DEFI has the following objectives:

The planning and organisation of economic and financial activities within the MIA, ensuring financial and economic accountability and efficiency; the inspection and control of subordinate agencies and institutions, etc.

The Division for Combating Organised Crime (DCOC)

On 14 March 1997, the DCOC was established to implement the state policy in combating organised crime, corruption and protectionism. Since 1997, the Department has undergone many changes. Currently, the main task of the DCOC is "to detect, neutralize and liquidate criminal groups and communities."

According to its key functions, the DCOC undertakes actions to combat: coercion when taking organs and tissues for transplants; human trafficking; slavery; forced labour; theft; robbery; child trafficking; dealing in illegal narcotics and psychotropic substances; issuing or circulating false money; smuggling; terrorism; criminal organisations; illegal arms and ammunition; passive and active corruption; traffic of influence; abuse of power and other types of infringements.

The Criminal Police Division (DCP)

The DCP has been restructured many times since 1990. Currently, it has four sections: the Planning, Organisation and Control Section; the Section for Combating Offences against Patrimony, the Section dealing with Homicide, the Section for Criminal Pursuit and Special Interventions;

The Division for Trans-border and Information Crimes (DTIC)

DTIC succeeded the former «Division for combating the embezzlement of socialist property.» Its main objective is to combat corruption and protectionism, the smuggling of goods, financial crimes, etc.

With the establishment in 2002 of the (independent) Centre for Combating Economic Crimes and Corruption, similar subdivisions within the MIA, such as the Division of Economic-Financial Police, were either abolished or reintegrated... Thus, a new special service (agency), DTIC, was established in April 2002 within the MIA and its territorial subdivisions. Its mandate is to prevent and combat economic crimes, particularly those with high social resonance and also to maximum recovery of the material damage caused by crimes.

The main tasks of DTIC are as follows: combating contraband, illicit trafficking of goods and money laundering; protecting consumers and local producers; combating corruption; supervision of budgetary institutions and the financial-banking system, etc. The specific task of DTIC is to combat crimes across the national borders of RM which also represent a danger to neighbouring countries such as Ukraine, Romania and Russia. The service was restructured in such a way that

allows it to interact with the legal bodies of neighbouring countries and to study and put into practice their experiences.

The General Division for Criminal Investigation (GDCI)

The GDCI, as a branch of activity within the Internal Affairs Agencies, was set up in 2003, as a result of the Preliminary Investigation Service reform process which was established in 1963.

Criminal investigation agencies constitute a system of police subunits established within the MIA in accordance with the Criminal Code.

The following are criminal investigation agencies within the MIA: the General Division for Criminal Investigation, the Criminal Investigation Section of Gagauz Yery the Internal Affairs Division, the Criminal Investigation Section of Transport Police Division, the Criminal Investigation Section of the General Police Commissariat of Chisinau municipality and Balti municipality, the Criminal Investigation Section of the Regional Commissariats and the Criminal Investigation Offices of the Transport Police Commissariats.

The General Division for Public Order Police (GDPOP)

The GDPOP is a key structural subdivision of the MIA. Its functions consist of the organisation, management, supervision, and control of the activity of MIA subdivisions and the maintenance of public order. The organisational structure of the Division comprises many special components:

- Analysis and Planning Section
- Division for Public Security (Section for Patrolling and Guards, Section for Controlling Private Security Companies and Private Detectives, Section for Controlling Arms-SALW)
- Division for Prophylaxes: Sector Inspection Section, Minors and Morals Section
- Division for Judicial Police: Section for the Execution of Court Decisions, Section for Judicial Process and Security (security of judges, witnesses, offenders, etc).
- Road Police Division: Section for road organisation, information and education; Section for the systematisation of road circulation; Commission for road circulation security, Road Patrolling Battalion and 39 territorial subdivisions (785 employees - 334 officers and 451 sub-officers).
- Division for Combating Illegal Migration: Section for Combating Illegal Migration, Record and Documentation Service.
- Centre for the Temporary Placement of Foreigners.

General Division for State Guard (GDSG)

The GDSG was established in 1952, as a special guard subdivision of the MIA. The State Guard currently includes 35 subdivisions located on the whole territory of the country with more than 5000 employees.

The responsibilities of the State Guard have been expanded over the past ten years. Thus, according to the Regulation approved through a government decision on 2 February 1999, the State Guard Service is required to undertake the following tasks: to guard the institutions of major importance such as banking institutions, objects of vital importance; to protect other kinds of property; to ensure the personal security of citizens, to maintain security and public order in places

where Service subunits are deployed; to prevent crimes near guarded objects; to discover crimes; to control the activity of private security companies; to design, install, regulate and maintain protective warning systems; to provide other services related to the protection of legal entities and individuals on a contractual basis.

As of 2006 the State Guard Service supervised approximately 20 000 objects and institutions, including 10 000 private apartments. The SSGS protects highly important institutions, where precious materials, financial resources, ammunition, explosive materials and toxic substances are stored. The Service also protects institutions which are of vital national importance, such as: the «Teleradio-Moldova» Company, «Apa-Canal» SA (water supply); over 2 000 commercial enterprises and 200 banking institutions including their branches.

The Department of Carabineer Troops

The Carabineer Troops of the RM were created pursuant to the “Law on Carabineer Troops (internal troops) of the Ministry of Internal Affairs» which was passed on 12 December, 1991.

The activity of Carabineer Troops is designed to secure, in cooperation with the police or independently, public order; to protect citizens’ rights and liberties whether it is private or state property; to guard the embassies and other foreign countries’ diplomatic missions that are accredited on the territory of the country and to guard state institutions. Carabineers are involved either through special missions or joint carabineer and police operations in maintaining public order at the request of local public administrations.

The organisational structure of the Carabineer Troops is based on military principles. The structure, staff and deployment of troops is authorised by presidential decree. According to the Law on National Defence, which was passed on 25 July 2003, the Carabineer Troops are part of the Armed Forces (together with National Army and Border Guards). In this respect, the Carabineers Troops are considered military personnel and, accordingly, have a military status. The Carabineers Troops employ both professional personnel (under contract) and conscripts (12 month obligatory service).

Among the law enforcement agencies, only the Carabineers Troops have legally attributed and established missions within defence and security policy documents.

Thus, according to the Law on National Defence, passed on 25 July, 2003:

“Art.9. - (1) The forces for national defence are the Armed Forces composed of the National Army, Border Guards Troops and the Carabineers Troops.

Art.30. - (1) During peace and wartime, the main body ensuring the Supreme Commandment, with planning, organisation, command, and control of the Armed Forces is the General Staff of Armed Forces led by the Chief of Main Staff of the National Army.

(3) The Chief of the Border Guards and the Chief of the Carabineer Troops are members of the General Staff of the Armed Forces.

Art.31 - (1) The Department of the Border Guards and the Department of the Carabineer Troops exercise control over subordinate troops to accomplish missions according to the Law on State Border and Law on Carabineer Troops and ensure training of these troops for country defence purposes according to the Armed Forces Action Plan.

(2) During wartime or siege, Border Guards and Carabineers Troops participate in defence operations (actions) under the command of the General Staff of the Armed Forces.

According to The Concept of Military Reform, adopted by the Parliament on 26 July 2002, “The Carabineers Troops ensure the military security of the state by maintaining constitutional order and rule of law, guarding vital (important) objectives (infrastructures, plants, etc.) and by preparing troops for combat actions according to the Armed Forces Action Plan... When wartime or a state of siege is declared, the Carabineers Troops work under the operational command of the General Staff of Armed Forces to guard and defend highly important state installations (civilian and military), prevent attacks on the constitutional order and combat enemy saboteurs and assault groups.

The Department for Emergency Situations

In 1991, following a presidential decree, all institutions and civil defence military units of the ex-USSR were transferred to the jurisdiction of the RM and were initially administered by the Ministry of Defence which subsequently led to the creation of the Department for Civil Defence and Emergency Situations. In 1996, the Department for Civil Defence and Emergency Situations became independent and further included Firemen and the Rescuers Service, which was previously under the MIA.

On 23 April 2005 and, as a result of governmental restructuring, the Department for Emergency Situations became part of the MIA. The general administration of civil defence is carried out by the government and the Prime Minister who, in turn, is the chairman of the Emergency Situations Commission of RM.

The Department for Emergency Situations has as its mandate to guide the activity of ministries, the central and local public administration authorities, the economic entities on civil defence and fire prevention issues.

The Central National Bureau Interpol

The RM joined the International Organisation of Criminal Police (OICP) on 28 September 1994. The Central National Bureau is responsible for gathering, processing, registering and transferring information on crimes and criminals.

The Transport Police Division

The Transport Police Division manages the activities of police on the country’s railways and at its airports, which ensures the security of passengers and goods, railway and airport infrastructure and maintains public order. According to a government decision, which was passed on 1 August 2002, airport police are mandated to carry out special security control of passengers and loads.

The Technical and Criminal Division (TCD)

The TCD has as its objective to support the efficiency of investigations and penal prosecution actions through technical-scientific methods and means. Since its foundation, TCD has undergone several structural and name changes (it was called the Criminal Expertise Section in 1990, the

Centre for Criminal Expertise and Examination in 1993, the Criminal Centre in 1995 and, finally, the Technical and Criminal Division as of 1999).

The basic missions of TCS are as follows:

- To direct technical-scientific investigative activities.
- To participate in the process of revealing, recording and collecting proof.
- To use its expertise (dactylic, document technical expertise, graphic expertise, ballistics and portrait, chemical, radiological, etc.) and provide technical-scientific conclusions accordingly.
- To maintain and manage the database on finger prints, bullets and cartridge cases, money and false valuable papers, etc.

The Division for Information and Operative Records (DIOR)

This Service was founded in 1975, when the first computerised service was organised at the MIA. The Integrated Criminological System (ICS), which connects all local databases regarding offences, trials and criminals, was created in 1992. Since 2002, the Customs Department, the Information and Security Service and the Centre for Fighting Economic Crimes and Corruption have all been connected to the ICS.

DIOR is responsible for collecting, processing, analysing and storing information about crimes and criminals; developing and maintaining informational criminology systems for investigative agencies, courts and jails; maintaining and managing the central database. The main functions of the Information and Records Management Service are stipulated in the “Law on Automated Integrated Information Recording System of Law Offences, Penal Cases and Offenders» which was passed on 29 May 2003.

At present, the System integrates three subsystems, including information on notifications of offences, penal causes, lawbreakers, legal sentences, data on punishments, stolen and found vehicles and goods, etc.

The information is available to authorised law enforcement agencies throughout the country. The exchange of criminal information on persons, vehicles, arms and goods under search on the territory of RM is also established for CIS countries through the General Analytical-Informational Centre of the Ministry of Internal Affairs of the Russian Federation, which allows access to similar information of CIS member countries.

The Juridical Division

The Juridical Division has the following objectives:

- Analysing the legal framework of the MIA system
- Drafting laws and other normative acts characteristic of MIA activity
- Drafting internal regulations for the MIA
- Representing MIA interests in court

According to the information provided by JD in recent years there have been increasing numbers of cases where MIA actual or former employees and pensioners have appealed to the court in reference to salary debts, the cancelling of disciplinary punishments, etc. In appeals cases, the Juridical Division represents the MIA.

The Special Destination Police Brigade «Fulger»/Lightning» (SDPB)

The SDPB was created on 1 December 1991. It is a unit for special interventions (actions) and includes within its structure two quick-reaction and special action subunits, one special mission detachment and a command and logistics division. The basic activities of the SDPB are as follows:

- Responding to criminal attacks;
- Arresting armed criminals;
- Participating in operative raids;
- Riot control
- Evacuation and rescue of persons in exceptional situations
- Hostage rescue
- Anti-terror operations

The Patrol and Sentry Regiment «Scut»

«Scut» was created with the purpose of maintaining public order in Chisinau. The Regiment is subordinate to Chisinau's General Commissariat of Police. Its six companies are assigned to corresponding police commissariat services within the different municipality sectors.

The Centre for Combating Human Trafficking

The Division for Combating Human Trafficking was established on 24 April 2002 to respond to the requirements stipulated in the National Action Plan for Combating Human Trafficking. At a later date, it was reintegrated into the Centre for Combating Human Trafficking.

The SECI/GUAM Virtual National Centre (VNC)

The SECI Regional Centre, with its headquarters in Bucuresti, was established in 1999 following the launching of the Southeast European Cooperative Initiative. SECI National Focal Point was initially an independent subdivision within the MIA. In 2001, it became the joint responsibility of MIA and the Customs Department.

On January 2006, and based on a governmental decision, the SECI/GUAM Virtual National Centre was created. It was intended to connect Southeast Europe and GUAM vectors in an effort to enhance trans-border cooperation in fighting crime. Under the leadership of the MIA, the following national institutions participate in this Centre: Customs Service, Information and Security Service, Border Guards Service, Centre for fighting Economic Crimes and Corruption.

The main missions of the VNC are as follows:

- To ensure the organisational framework necessary for the cooperation and development at national and international levels of activities aimed at preventing and fighting trans-border criminality within SECI and GUAM member states.
- To exchange operative information with law enforcement agencies from SECI and GUAM member states with the aim of preventing and combating trans-border criminality
- To analyse and use accumulated data to investigate, combat and prevent trans-border crime.

SOME DATA ON MIA PERSONNEL *

DEPARTMENT	Number of personnel
MIA Central Departments and Police Commissariats	9,796
Police Commissariats	9048
General Division for Logistics, Administration and Development	207
Technical and Criminal Division	40
Road Traffic Police Division	784
Operative Services Department	161 (central board) 412 - total
General Division for Criminal Investigation	37 (central board) 733 - total
Division for Trans-border and Information Crimes	26 + 251 in regional commissariats
Transport Police Division	467
'Fulger' Brigade	388
State Guard Service	1,676 MIA service personnel (4517 total)
Carabineer	2,705
Fire Service and Rescue personnel	1,100
Civilians (within MIA agencies and institutions)	6,700
TOTAL	22,365

* The data has been selected from a wide range of sources

THE REPUBLIC OF MOLDOVA

Questionnaire

The rationale for conducting this project is that, in contrast to the military sphere, relatively little research has been conducted on the subject of law enforcement, specifically border management and border guard issues. Looking into these matters is therefore useful, particularly since so many changes have been taking place in the accountability and transparency of these non-military forces and services in recent years (e.g. new tasks, greater openness, increasing internationalisation and, of course, 9/11).

The aim of the study is:

- (1) to describe the nature and effectiveness of provisions for the executive direction and legislative oversight of border management agencies in selected countries (the accountability aspect of this research);
- (2) to describe the institutional arrangements and current practices that cover the provision of information with respect to the organisation, planning, budgeting, administration and operations of these forces, services and agencies in the selected countries (transparency aspect);
- (3) to undertake a comparative evaluation of the material thus generated in order to highlight “good practice” - as a basis for provisional conclusions about “best practice” - in controlling these non-military security sector bodies.

QUESTIONS FOR CORRESPONDENTS

Please read this document in its entirety, before you write your responses. (Similar questions occur in different sections. An initial overview will help you to decide what information goes where.)

Basic Border Management Laws and Regulations

Documents or references for these documents should be provided as a background to this survey. Official English translations would be preferred. However, if other translations are available, they would be welcomed.

Government Structure, Reporting and Management Relationships

- The Constitution.
- Laws regulating the terms of reference, mission statements, structures and obligations for all government entities involved in formulating, implementing, reporting and overseeing defence policies.
- Laws of a general nature with direct application to border management governance (such as budgeting, protection of classified information, public information, statutes for civil servants and dignitaries, procurement, etc.)
 - *Legea RM cu privire la apararea nationala (Law of the RM on National Defence) Nr. 345-XV din 25.07.2003*
 - *Legea RM cu privire la Guvern (Law on the Government) Nr.64-XII din 31.05.90*
 - *Legea RM privind activitatea operativa de investigatii (Law of the RM on Investigative Operational Activity) Nr.45-XIII din 12.04.94*
 - *Legea RM cu privire la pregatirea cetatenilor pentru apararea Patriei (Law of the RM on Preparing the Citizen for Homeland Defence) Nr.1245-XV din 18.07.2002*

- *Legea RM cu privire la securitatea statului (Law of the RM on State Security) Nr:618-XIII din 31.10.95*

Border Management Services

- Key laws referring solely to the (various) service(s)
 - (i) *The Law on the State Border No.108-XIII from 17.05.94*
 - (ii) *Parliament Decision on the application of the Law on the State Border of the Republic of Moldova No.109-XIII from 17.05.94*
 - (iii) *Government Decision on the Interaction of the Services, Regulation of Payment for Services and Facilitation of Evidence System and Control at the Border Checkpoints of the Republic of Moldova No. 808 from 09.08.2000*
 - (iv) *Government Decision on the approval of the Concept and Regulation on the Automated Information System of Tracking and Control of Persons, Vehicles and Goods (cargo), which pass the State Border and/or Customs Border "FRONTIERA" No. 1126 from 28.08.2002*
 - (v) *Parliament Decision on the approval of the Concept of the State Border Guarding of the Republic of Moldova No. 479-XV from 04.12.2003*
 - (vi) *Governmental Decision on the approval of Form, Dimensions and Colours of the Border Signs No. 1096 from 19.08.2002*
 - (vii) *Governmental Decision on the State Border Guarding No.1316 from 29.12.2000*
 - (viii) *Regulation on the Customs Service adopted through the Governmental Decision No. 547 from 07.06.2005.*
 - (ix) *Regulation on the Ministry of Foreign Affairs and European Integration adopted through the Governmental Decision No. 1156 from 04.11.2005.*
- Political documents stating the role of border management within defence and security policy (government programme, national security strategy or concept, white papers on security and defence, etc.)
 - (i) *State Security Concept*
 - (ii) *The Law on Government*
 - (iii) *Government Programme 2005-2009*
 - (iv) *Constitution of the Republic of Moldova*
- Border management planning documents made public or with unrestricted access (Border management strategy, doctrines, planning directives, budgets, programmes, etc.)
 - (i) *The Law on the State Budget*
 - (ii) *Concept of the State Border Guarding of the Republic of Moldova*
 - (iii) *Comment: The budget of the Border Guards Department is classified; the budgets of other agencies with competencies on border control are, in principle, open documents; but receiving copies of those documents takes a great deal of time, sometime through courts decisions based on the Law on Access to Information.*

1. Coverage and Co-ordination

- Please enumerate the country's *national* border management agencies – that is to say all border management bodies including the military – and briefly describe the role and function of each.

The Border Guard Service (BGS)

The BGS is part of the Government of the Republic of Moldova. According to Article 24 of the Law on Government No. 64-XII from 31.05.1990, with the subsequent modifications, the BGS is part of the central apparatus of the government.

The BGS is a central specialised state body, which is part of the state security system. It is responsible for exercising border guard policy, protecting the interests of the Republic of Moldova at the state's border, managing the border guard service, the frontier and the established control points.

Under the abovementioned provisions, the BGS is a military force which obeys the rules applicable to the military forces of the Republic of Moldova.

In accordance with Article 27 of the Law on the State Frontier, the BGS has the following powers:

- (i)* Guarantees the absence of any implications to illegally change the line of the state frontier on land;
- (ii)* Manages the military, operative, tracing and any other activity in the interests of the state border control;
- (iii)* Organises border research and operations, if necessary;
- (iv)* Rejects actions by military groups on the territory of Moldova, eliminates armed provocations on the state frontier, protects the local population and property from criminal actions;
- (v)* Prevents and stop any illegal trespassing of the state border by people and vehicles, identifies and arrests illegal border crossers;
- (vi)* Stops, within the provisions of the law, the smuggling of narcotics, psychotropic and strong effect substances, toxic, radioactive, explosive and hazardous materials, armaments, explosive devices, firearms and munitions, objects with cultural or historical value/significance, as well as other objects which are prohibited from transportation in or out of the country, except at specially designed places for border crossing, where these activities are performed by customs service officers. The BGS undertakes these actions at the border checkpoints if the customs representatives ask for such intervention or in exceptional cases.
- (vii)* Ensures the implementation of obligations that derive out of the international treaties which the Republic of Moldova has signed with neighbouring countries on issues of border status and other common actions at the border; ensures that guarding and maintenance is conducted in good conditions.
- (viii)* Authorises the legal passage of persons at border checkpoints;
- (ix)* Prepares minutes on administrative misdemeanours and processes them accordingly;
- (x)* Investigates cases which lie within the BGS' competence;
- (xi)* In regions where the BGS conducts its duties, offers the necessary support to preserve natural resources, respect fishing rules, wood-cutting and other forest products and protect the environment from pollution;
- (xii)* Prevents administrative misdemeanours which fall within its competence;
- (xiii)* Presents to the MI the file, adopted accordingly, on the entrance and departure (from Moldova) of foreign citizens and stateless persons who are from countries with high risks of migration.

The Customs Service (CS)

The CS is part of the central apparatus of the government. The CS is, among other public institutions, responsible for protecting the interests of the Republic of Moldova along the state border.

The CS is a law enforcement agency, which promotes the customs policy and administers customs activity in the Republic of Moldova.

The CS is primarily responsible for the implementation of customs policy, the control of vehicles, as well as persons and goods crossing the state border and entering the customs zone of the Republic of Moldova.

Customs units are composed of three levels – national, regional and local, which are incorporated into a single and autonomous administration as part of the government.

A double layer customs system is currently being implemented, firstly at the frontier and, secondly, at the internal customs area. Such a practice is used within the European Union (EU) and contributes to the efficiency of the system and provides for a more rigorous examination of goods.

The Ministry of Foreign Affairs and European Integration (MFAEI)

The MFAEI is the main central administrative body specialised in promoting and achieving the external policy of the state. According to Article 23 of the Law on the State Frontier, the MFAEI, following the senior public authorities, conducts negotiations with neighbouring countries on the establishment and legal status of the state frontier through international treaties and the setting of its status; ensures state frontier guarding in accordance with external policy norms and international law; issues documents to foreign citizens and stateless persons on the right to enter and exit the Republic of Moldova, within the limits prescribed by the law; settles unresolved problems and incidents related to the state frontier: in other words, conflicts that need to be resolved through diplomatic means.

The Information and Security Service (ISS)

According to Article 23 of the Law on the State Frontier, the ISS evaluates and makes prognoses on the political, social, economic and criminal situation at the border regions, on international trafficking sources, as well as crisis situations in neighbouring countries, which threaten the security of the Republic of Moldova at the border; collects information in this regard; leads the investigation activities of the security bodies with respect to the identification, prevention and elimination of illegal actions at the border from the special services and foreign organisations, criminal groups and individuals; cooperates with the special services of other states to support the Border Guard Service; ensures border security during periods of unrest.

The Ministry of Defence (MoD)

As part of the border management service, according to Article 23 of the Law on the State Frontier, the MoD is responsible for protecting the state border. The MoD ensures the participation of the National Armed Forces in the guarding of the state frontier on land and frontier waters in accordance and within the limits of the law; settles, within its competence, with the border representatives of the Republic of Moldova, incidents related to the violation of the state border regime; supports the BGS with resources needed to guard the border, in accordance with the law and inter-departmental agreements.

The Ministry of Interior (MoI)

As part of the border management service, the MoI, in accordance with Article 23 of the law on the State Frontier, provides assistance to the BGS in performing its border guard duties as well as the prevention of any illegal border crossings; conducts criminal investigations and expels persons who have violated the state border regime, public order or the border checkpoints; clarifies and verifies the circumstances under which the crimes or misdemeanours have been committed by foreign citizens; informs the BGS on the level of law enforcement at the border regions, on illegal actions, on criminal groups and identifies persons with illegal intentions.

The MoI also ensures the participation of internal affairs bodies on the border and control checkpoint regimes, within their limits provided by the Law on Police; following the proposals of the BGS, ensures the limited or restricted access of citizens within certain administrative units or objects situated near the border during investigation activities for border violations, prevention of armed incursions or the serious trespassing of neighbouring country citizens on the territory of the Republic of Moldova; ensures public order during large border activities or within the border regions.

According to Article 23 of the Law on the State Frontier, other ministries and government agencies participate in border control activities, among which are the Road Police, Veterinary Service, Phyto-Sanitary Service, Sanitary-Epidemiologic Service and the State Environmental Service.

- Please give the correct official designation of each of the forces, services and agencies – in the approved English-language and/or local language.
 - *Border Guard Service - Serviciul de Graniceri*
 - *Customs Service - Serviciul Vamal*
 - *Ministry of Foreign Affairs and European Integration – Ministerul afacerilor externe si al Integrarii Europene*
 - *The Information and Security Service – Serviciul de Informatii si Securitate*
 - *Ministry of Defence – Ministerul Apararii*
 - *Ministry of Interior – Ministerul de interne*
 - *Road police – Inspectoria auto*
 - *Veterinary service – Serviciul veterinar*
 - *Phytosanitary service – Serviciul fitosanitar*
 - *Sanitary-Epidemiologic Service – Serviciul sanitar-epidemiologic*
 - *State Environmental Service – Serviciul ecologic de stat*
- Have there been any changes to this institutional structure in the past decade or so: new forces, services or agencies established or old ones disbanded? Have there been any significant alterations to “size and function”: new responsibilities assumed, old ones relinquished or redefined?

The BGS was created as a result of a Government Decision on the formation of the BGS of the Republic of Moldova No. 400 (15.06.1992), which stated that “the BGS is being established with a personnel of 3000 people, including 210 officers, and an administrative apparatus of 65 units, including 45 officers, that are subordinate to the Ministry of National Security.” The competence

of the BGS covered the western border of the Republic of Moldova. The common border with Ukraine was controlled by the Border Police, which was part of the Ministry of Interior. As of 1 May 2001 and following the approval of Government Decision No. 1316 of 29.12.2000 on State Border Control, the BGS undertook under its jurisdiction from the Ministry of Interior control of the eastern border of the country, i.e., the common border with Ukraine.

- Which body co-ordinates the different forces, services and agencies?

All bodies with border control competencies are subordinate to the government. The Customs Service is responsible for coordinating the role of all border services at the checkpoints.

- What are the constitutional provisions and/or legislation and/or framework of regulations which authorise the existence of these various organisations and define their several roles and responsibilities?
 - (i) *Constitution , Art. 3, Art. 57*
 - (ii) *The Law on the State Border No.108-XIII (17.05.94)*
 - (iii) *Government Decision on the Interaction of the Services, Regulation of Payment for Services and Facilitation of Evidence System and Control at the Border Checkpoints of the Republic of Moldova No. 808 (09.08.2000)*
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 - (ix) *Regulation on the Ministry of Foreign Affairs and European Integration adopted through Government Decision No. 1156 (04.11.2005).*

3. Accountability

- to the executive

- Please specify to which executive organs of the state the various organisations are formally accountable (answerable) for what they do and what they spend (policy and operational accountability, financial accountability) – Head of State (Presidency), Head of Government (Prime Minister), National Defence and Security Council, Council of Ministers (Cabinet), designated Government Department, inter-departmental or special Commission – and which of these is empowered to provide executive direction.

All organisations with competencies at the border are directly accountable to the government. The President is permitted to participate in government meetings. During the reform process in 2000, the President was not endowed with many competencies. However, in effect, the President controls the Parliament, the executive and the judiciary. The National Security Council only retains consultative functions.

- Have there been any significant changes to these arrangements in the past decade or so?

A significant change occurred in 2000 when the Constitution was amended. As a result, the roles of the Parliament and the President were altered and the political system was transformed from a semi-parliamentary republic into a parliamentary one.

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