

POLICY REPORT



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Comparative analysis of regional practices for parliamentary financial oversight of intelligence services



Comparative analysis of regional practices for parliamentary financial oversight of intelligence services

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This report was developed within the “Framework Project - Fostering Parliamentary Oversight of the Security Sector in the Western Balkans,” implemented by the Geneva Centre for Democratic Control of Armed Forces, DCAF (www.dcaf.ch) with funding from the Norwegian Ministry of Foreign Affairs. The author of the paper is a Research Fellow at Analytica think tank (www.analyticamk.org), an Associated Implementation Partner organization for the project in the Republic of Macedonia.

The views and opinions expressed within this report are those of the author and do not necessarily reflect those of the Geneva Centre for the Democratic Control of Armed Force.

Skopje, 2013

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List of abbreviations

CSO – Civil Society Organization

DSCI – Directorate for Security and Counterintelligence

IA – Intelligence Agency

MoI – Ministry of Interior

MoD – Ministry of Defense

MP – Member of Parliament

PIFC – Public internal financial control

SAO – State Audit Office

SOVA - Slovene Intelligence and Security Agency

SOA – Security and Intelligence Agency of Croatia

OCNS – Office of the Council for National Security

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Introduction

In democratic countries parliaments play an essential role in deploying the resources coming from the state budget. As the representative body of citizens, parliament discusses, approves, modifies, supplements and adopts the budget of each state institution, including those having intelligence and counterintelligence as primary activities. Furthermore, the legislature is empowered to oversee and scrutinize the execution of the approved budgets, thus encouraging accountability and responsibility.

The aim of this study is to identify the best practices from the region for conducting parliamentary oversight of the intelligence services, especially in the process of ensuring legality and legitimacy of their financial operations. In order to simplify the text and considering the different organizational structures in different states, the term “intelligence services” will be used to refer both to the intelligence and counter-intelligence services, regardless of their status as independent state bodies or agencies within respective ministries.

This paper will give an account of the mechanisms available to the Macedonian Parliament to conduct parliamentary oversight of the intelligence services, particularly those within the jurisdiction of the specialized parliamentary committees. It will then examine cases from other states in the region and look for practices and legal solutions that they have established in order to encourage financial accountability of their intelligence services. As former Yugoslav republics, during the last two decades these states were facing the challenges of transition and building democratic, transparent and accountable institutions. However, not all of them have progressed at the same pace. The best practices are elaborated in two case-studies – Slovenia and Croatia, both members of the European Union. Furthermore, their oversight systems differ at many levels, having been created and developed according to each country’s specific processes and needs. They should serve as examples to better understand the role of parliaments in ensuring the accountability of intelligence services in the implementation of programs and projects financed with state money. Thereby, the case-study sections provide a brief overview of the formal intelligence services and authorized bodies for their oversight. The focus is put on the role of the parliament (directly or indirectly through parliamentary committees) throughout the four phases of the budgetary cycle: planning, adoption, implementation and audit.

The paper also outlines good practices from other countries in the region, such Montenegro and Kosovo. Finally, best practices and lessons learned are presented in the form of practical, applicable solutions.

Data included in this paper was gathered from open sources, including legal acts, reports from national and international organizations, and media articles amongst others. For the case study approach two field visits were conducted, in Slovenia and Croatia, where qualitative interviews with relevant actors took place.

Why is financial oversight of intelligence services important?

There are several reasons why it is important for parliamentary democratic oversight over the financial resources of intelligence services to exist. First and foremost, common democratic principles require the scrutiny and accountability of the use of public money. Secondly, the risks that arise from the confidential nature of the work of intelligence services lends support to the argument for having a specialized external body that is able to access confidential data. Moreover, examining the financial performance means having an insight into the performance of the services, which is also a function of independent oversight.¹

The nature of intelligence services, which imposes strict confidentiality in their work, including the allocation of financial resources, limits the information that can be obtained by the wider public and, therefore, the number of people who are able to question the spending of public money. This creates a number of financial risks, including misuse of finances coming from the state budget. Unlike other state institutions, there is rather limited oversight by the media and citizens, and the laws on public procurement do not apply to significant parts of procurements by intelligence services. As such, there is a need for external oversight institutions, such as the parliament and supreme audit institutions, which have access to classified information and verify that public funds are not being misused.

Financial records also serve as indicators for behavior and performance of the intelligence services.² In addition to revealing the misuse of funds, financial oversight of intelligence services may also be an indicator of illegal activities, such as: secret financing of political parties, funds for illegal secret detention centers, unusually large amounts of money spent on certain actions or departments without reasonable explanation. Furthermore, increased expenditure on specific aspects of intelligence work might suggest need for increased oversight of certain activities.

Good governance and democratic principles imply that the key role in approval of financial resources allocated to government departments should belong to the Parliament, as the institution representing the interests and will of the citizens. The funds deployed by the legislature to the government should be subject to oversight and control in order to keep institutions accountable and ensure that money is spent in a legal and legitimate way, in accordance with the agreed budget. Although sometimes underestimated, independent bodies such as Supreme Audit Institutions, which report to parliament, can also play an important role in the financial oversight of intelligence services.

¹ More on the importance of the financial oversight of intelligence services and other aspects of parliamentary oversight can be found in : Hans Born and Aiden Wills (editors) *Overseeing Intelligence Services – A Toolkit*, DCAF Geneva, 2012

² *Ibid.*

Oversight of the intelligence services in the Republic of Macedonia

This section addresses the different financial aspects of the work of the intelligence services in Macedonia, as well as the legislative framework. Comprehensive information about the actors entitled to oversee intelligence spending is provided, especially with regard to the role of the Parliament. It also outlines the mechanism of public internal financial control (PIFC).

Legal framework and budgets

The current legal framework regulating the work of intelligence services does not contain any specific provisions referring to financial oversight. Still, the Law on the Intelligence Agency³ and the Law on Internal Affairs,⁴ which regulates the work of the Directorate for Security and Counterintelligence (DSCI) envisage oversight from an authorized parliamentary committee, in this case the Committee for Supervising the Work of the Security and Counter-Intelligence Directorate and the Intelligence Agency (hereafter, the committee supervising the intelligence services). According to article 11 from the Law on the Intelligence Agency, “the director is responsible to enable insight and to provide all the information and data from the scope of work of the Committee”. The same is envisaged in article 42 paragraph 1 of the Law on Internal Affairs, where it is stated that “On demand of the parliamentary Committee, the Directorate will enable insight and provide the necessary reporting, information and data to the Committee, which are relevant to its work”. Although a strict provision on financial parliamentary oversight does not exist, it is evident that the data pertaining to financial performance are not excluded from the documentation that the committees have access to. The intelligence services are obliged to submit an annual report to the committee supervising the intelligence services, which would be incomplete if it did not contain information on the financial aspects of their work.

The work of the committees responsible for oversight of the intelligence services is not fully regulated through primary legislation. Regulations relevant to the oversight can be found within several laws (Law on the Intelligence Agency, Law on Internal Affairs, Law on communication interception), but all provide little information about the authority of the committees and specific mechanisms at their disposal to conduct oversight. This is subject to regulation provided by their Rules of Procedure.

The data about the total amount of funds allocated to the Macedonian intelligence services are publicly available, but more detailed information on their spending is limited. Certain difficulties

³ Law on the Intelligence Agency, *Official Gazette of the Republic of Macedonia* No.92/2009

⁴ Law on Internal Affairs, *Official Gazette of the Republic of Macedonia* NO.92/2009

occur if one tries to calculate the budget of the DSCI and the Directorate for Military Intelligence, since those agencies are placed within the MoI and the MoD respectively and receive a portion of the overall budget intended for their parent ministry. It is interesting to note that there is an evident disproportion between the budgets of the two agencies for civil intelligence - the funds allocated to the IA are rather modest compared with those intended for the DSCI.⁵

The role of the Parliament

Intelligence services are subject to internal, as well as external, oversight and control of their finances. While external bodies with oversight authority are the Parliament and the SAO, the functioning of PIFC, as an internal mechanism designated to guarantee proper use of the financial resources should not be underestimated.

The Parliament, as a body representing the citizens' will, has several mechanisms at its disposal through which it can influence the financial accountability of the intelligence services and oversee the spending of their funds. The most important mechanisms for oversight are the parliamentary committees – the committee supervising the intelligence services, as well as the Committee for the Supervision of the Application of the Communication Interception Techniques by the Ministry of the Interior and the Ministry of Defense (hereafter, committee supervising communication interceptions).

As is common in democratic states, the Parliament has “the power of the purse”, meaning that it has the final word when it comes to money allocation, that is to say, the adoption of the budget. However, the only committee that discusses the draft budget from a security perspective is the Committee on Defense and Security. The committee supervising the intelligence services and the committee supervising communication interceptions do not have a say in this process. For those two committees, the option to submit additional amendments to the state budget remains. The Finance and Budget Committee plays a certain role in the discussion of the draft budget for all institutions financed by the state budget.

Bearing in mind the specific aspects of work of the intelligence services and the confidentiality of data related to them, priority should be given to committee meetings instead of plenary sessions when discussing their finances. In practice, financial aspects are only discussed by committees when reports from the intelligence services are on the agenda.

⁵ Information on the allocated budgets is available at the webpage of the Ministry of Finance: <http://finance.gov.mk/view/budget2013>

Chapter Five of the Law on the Parliament,⁶ entitled ‘Parliamentary oversight,’ envisages oversight hearings conducted by the relevant working body of the Parliament in order to obtain information and expert opinions related to its area of competence. The parliamentary body can invite authorized representatives from the Government and other state bodies and request information and clarification from them regarding the subject of the oversight hearing.⁷ The invited authorized representatives have an obligation to be present at the meeting.⁸ Other persons can be also invited and attend the oversight-related discussion if they can offer relevant information on the subject. The initiative for an oversight hearing can be instigated by any member of the relevant committee and the decision is made by a majority of votes from the present members. In cases where 15 MPs file written requests through the Speaker of the Parliament to the chairman of the committee, the chairman of the committee has an obligation to immediately convene a hearing.⁹

Every last Thursday of the month is reserved for parliamentary questions. However, this mechanism has limited applicability when it comes to financial work of intelligence services, due to the fact that classified information is requested. Nevertheless, if an MP holds a security clearance, he or she can receive a written response, which will also be classified at the necessary level. Members of both committees responsible for conducting intelligence oversight hold security clearances. As such, in cases where representatives from the institutions do not attend committee sessions or their committee has not convened for any reason, there remains the possibility to perform oversight functions in the form of parliamentary questions.

Another mechanism that the Parliament has is the establishment of ad hoc committees for specific issues of investigation, possible for all subjects and any issue of public interest. A motion to form such a committee must come from at least twenty MPs. However, for the ability to call oversight hearings, ad hoc committees are yet to be recognized as successful tools for holding state institutions accountable.

State Audit Office (SAO)

The most important institution when it comes to ensuring financial accountability of intelligence services is the SAO. This independent state institution consists of professionals specialized in detecting financial irregularities and benefits from access to classified information.

⁶ Law on the Parliament of the Republic of Macedonia *Official Gazette of the Republic of Macedonia* No. 104/2009

⁷ *Ibid.* article 20, paragraph 2

⁸ *Ibid.* paragraph 3

⁹ *Ibid.*, article 21.

The relations between the Parliament and SAO are regulated by the Law on the State Audit¹⁰. The head and deputy head of the SAO are elected by the Parliament for a period of 9 years. The yearly program of the SAO is submitted to the Parliament, solely for the purpose of information.¹¹ The SAO also submits individual reports on performed audits and the yearly report for its work, but only the yearly report is subject to debate in the Parliament.

The SAO does not conduct audits of each public institution annually, except for the state budget. Audits are done according to the annual program prepared by the SAO itself. The SAO carried out an external audit of the IA in 2007 for the financial statements from 2006. The SAO stated that “the financial statements on the regular operations of the Agency for 2006, truthfully and fairly present the financial position and the results of any financial activity, considering the current legal framework. In our opinion, the IA has lawfully and properly used the funds in the financial transactions, which represent state expenditures for 2006.”¹² Certain irregularities have been found, such as the inexistence of internal acts to regulate the work of the entity (account for regular operations) as well as disbursed funds without reasonable purpose and without credible documentation.¹³ For the Ministry of Interior, an audit took place in 2008 during which some irregularities were detected, but there is no available information specifically on the DSCI as an integral part of the MoI. However, individual reports on the performed audit in the intelligence services are not discussed by the relevant committees supervising their work.

Access to the documentation of the intelligence services is limited for other institutions and the general public; consequently, the possibility of discovering any kind of misuse is also limited. As such, it is important that the SAO pays attention to the financial reports of the intelligence services and the audit, and starts conducting regular audits at shorter time intervals. Strengthened communication between the Parliament and SAO would also contribute to enhancing financial accountability.

Public Internal Financial Control (PIFC)

PIFC¹⁴ is an essential tool for ensuring that public money is spent in the most appropriate and efficient way. According to the Law on Public Internal Financial Control, all budgetary users

¹⁰ Official Gazette of Republic of Macedonia, no. 66/10

¹¹ Law on State Audit, *Official Gazette of Republic of Macedonia*, article 23

¹² Final report of the authorized State Auditor No. 1003-656/6 available at:

<http://www.dzr.mk/Uploads/2006%20-%20Agen%20za%20razuznavanje-Budzet.pdf>

¹³ Annual report of the State Audit Office for 2007, available at:

<http://www.dzr.mk/Uploads/MIJALCO%20-%20Godisen%20izvestaj%20za%20WEB%20-%20FINALE.pdf>

¹⁴ Public Internal Financial Control is term used by the European Commission in the Chapter 32 Financial Control. PIFC represents fully consolidated management, monitoring, control and audit system for the national public funds and EU funds established by the Government. The PIFC system is composed of the following:

(1) Financial Management and Control system;

have an obligation to establish a unit for financial affairs and an internal audit unit, and to appoint a person responsible for informing on irregularities. Analytica's research has shown that all efforts up to now have been directed towards the adoption and improvement of the legal framework (consisting of the Law on Public Internal Financial Control and a multitude of bylaws), but additional efforts are needed to better put the legal provisions into practice.

However, the IA, the MoI and the MoD (as institutions that deal with intelligence and counterintelligence) have undertaken all necessary activities to establish organizational units for financial affairs and internal audit and have appointed a person responsible for reporting irregularities, which is not the case for all of the state institutions at a central level. Although the features imposed by the law have been established in these institutions, PIFC is not fully implemented in all intelligence services. For example, the IA and the MoI do not have sufficient human resources to perform internal audits, which might hamper the frequency and the quality of performed audits.¹⁵

Role of the media and civil society

The media and civil society should encourage public debate, raising questions on different aspects from the work of intelligence services. The media usually address the intelligence services when a scandal comes to the surface or when the committee supervising the intelligence services discusses the reports submitted by the services. The reporters were especially interested in the budget of DSCI in 2008, when the rebalance of the budget in July the same year indicated that the budget of this service was multiplied by thirty-two, without explanation.¹⁶

Civil society in Macedonia is mostly concerned with general democratic oversight of intelligence services and the violation of human rights and freedoms. The financial aspects of the work of this part of the state apparatus are often not the focus of attention for CSOs.

(2) Internal Audit; and

(3) Harmonization of internal control and internal audit.

¹⁵ More on the system of PIFC in the security sector can be found in: Andreja Bogdanovski and Magdalena Lembovska- *Towards 2nd generation of the security sector in reform in Macedonia, Skopje* 2012, available at: <http://analyticamk.org/images/stories/books/pub-ssr-web.pdf>

¹⁶ Globus weekly *Тајната полиција тајно ќе троши 25 милиони евра* [The secret service will secretly spend 25 million Euros], available at: <http://www.globusmagazin.com.mk/?ItemID=CC73D07EE4E7354BA099566AFDB5EF77>

Case study 1- Financial oversight of intelligence services in Slovenia

Intelligence services

While Macedonia has two different civil agencies dealing with intelligence and counterintelligence separately, the intelligence and counterintelligence activities in Slovenia are united into one civil service - Slovene Intelligence and Security Agency (SOVA). SOVA is an independent governmental institution, and performs its duties according to priorities set by the Government, which originate from the National Security Program adopted by the National Assembly. The law that regulates the work of the SOVA itself foresees enactment of a Law on parliamentary oversight. At the same time it also highlights the obligations of SOVA towards the parliamentary committee, for example: to submit a program and reports, to permit inspection of the documentation and technical devices and facilities being used, etc.¹⁷

Military intelligence, meanwhile, is placed within the MoD, as a separate intelligence and security service. Apart from SOVA and the military intelligence, special authorities (such as secret observation) are assigned to the police, which is also subject to parliamentary oversight. In fact, the police use such authorities for crime intelligence within the criminal police department.

Oversight and the role of the Parliament

The Committee for the Supervision of Intelligence and Security Services, a body within the National Assembly plays a principal role in parliamentary oversight. What differentiates this committee from its counterparts in the region is the existence of a specialized law on parliamentary oversight,¹⁸ created in 2003, presenting its functions in detail. Contrary on the Macedonian case, the rules of procedure of this Committee are not adopted by the Committee itself, but by the plenary.

The Committee performs oversight of the intelligence and security services, including: SOVA, the intelligence service within the MoD and the security service within the MoI. In addition to performing oversight of the compliance of their activities with the Constitution, laws and national security policy, the Law on Parliamentary Oversight explicitly states that this committee has the authority to discuss the reports on the work and financial operations of the intelligence

¹⁷ Slovene Intelligence and Security Agency Act - consolidated version (ZSOVA-UPV2) R.S. *Official Gazette No.81/06* article 49

¹⁸ The Parliamentary control of Intelligence and Security Services Act *Official Gazette of the RS, No. 26/03 – ZPNOVS*

services, as well as to discuss the draft annual budget and other draft acts related to the financing of the intelligence services.¹⁹

Once a year, the Committee submits an annual report on its work and general findings of the oversight activities to the National Assembly. It also proposes the adoption of positions and decisions with regard to control.²⁰

Along with this Committee, the role of the Committee for Public Finance Control also holds some importance. It controls the implementation of the state budget, reviews the yearly financial reports of the budget and discusses the financial reports of the Auditory Court (the supreme auditory institution, corresponding to the SAO). The Committee submits reports to the National Assembly about the preformed control and recommends necessary actions. The chairmen of both committees always come from the opposition, which strengthens their position and enables a higher level of independence.

In the following text the focus will be put on the Committee for the Supervision of Intelligence and Security Services (hereafter, the Supervising Committee or Committee) and its role in each phase of the budgetary cycle: planning, adoption, implementation and audit.

Budget Formulation

The annual budget is prepared by the Government and submitted to the Parliament.²¹ The Supervising Committee reviews the draft budget of the intelligence services, as well as other draft regulations which refer to the financing of the intelligence services.²² Reports and draft budgets are structured in the same way as the governmental budget, with the addition of so called “special funds”, which are legally established for use only by the services with special powers. The same accounting rules apply for special funds as for public expenditure, but are kept secret. Furthermore, the expenditure of special funds is not subject to taxation. All the documents, which are detailed in a separate account (konto), are classified.²³ Every January, the Government submits a separate yearly program for each service.

The budget of SOVA, a publically available document, contains information on funds intended for national security, defense and foreign affairs, internal affairs and national security. It contains data detailing the specific amounts in the spending plan for gathering information via technical means (SIGINT) or by using modern information-telecommunication system, as well as the

¹⁹ Ibid, article 13

²⁰ Ibid. article 34

²¹ Public Finance Act, Official Gazette of RS No. 79/1999

²² The Parliamentary control of Intelligence and Security Services Act *Official Gazette of the RS, No. 26/03 – ZPNOVS.* article 13

²³ Interview with Andrej Rupnik- former director of the SOVA

percentage that will be allocated for gathering information by human intelligence (HUMINT) or information gained through international cooperation.

Adoption of the Budget

When discussing the draft budget for the following year, the Supervising Committee would support it if it is sufficiently detailed and can be justified by the heads of the intelligence services, referring to how and what the money will be spent on. The Supervising Committee might even propose to allocate additional funds, as long as it perceives a need for it.

The Supervising Committee is the first filter before the budget is actually adopted. Then, the budgets of the intelligence services, as portions of the state budget, are adopted in a plenary session.

Budget Execution

The lawmakers were careful to provide the Supervising Committee with multiple mechanisms for conducting oversight over the spending of public finances by intelligence services– from discussing services' reports, through to the summoning of intelligence service officials, and authorized field visits to their facilities.

Every four months, but more frequently if necessary, the intelligence services submit reports on their work. During the year, the Committee can ask the Government to submit a report on the financial operations of the security-intelligence services,²⁴ which contains information on the exact amount and purpose of the financial means for the completion of a certain assignment.

Once a year (in February) the Government submits an overall report on the work and financial operations of each intelligence service for the previous year.²⁵ This report includes detailed information about important activities for national security, as well as on the amount and intended use of financial resources for carrying out individual tasks²⁶.

The reports contain general information on financial issues, meaning the amount of funds that were spent and for which general purposes (travel, lodging, special purchasing, payments to the sources, etc.). However, there is a difference between the police and the intelligence services: the police only report on expenditures while performing special investigative measures (stated in the Criminal Procedure Law), while the intelligence services inform on the complete financial

²⁴ The Parliamentary control of Intelligence and Security Services Act *Official Gazette of the RS, No. 26/03* – ZPNOVS, Article 18

²⁵ Ibid. Article 16

²⁶ Ibid. Article 21

situation and all aspects of expenditures - salaries, other work-related expenses, investments, functional costs, including the costs of covered intelligence and security work.²⁷ According to the law, the Supervising Committee may also request detailed data on financial operations with allocated resources.²⁸

Upon demand of the Supervising Committee, the head of the service must orally present any of the submitted reports at a Committee meeting, as well as answer questions from Committee members. The right to refuse to testify or answer a particular question is allowed in specific cases regulated by the Criminal Procedure Act. This means that a person summoned “shall not be obliged to incriminate himself or his next of kin, nor to confess guilt”.²⁹ After the discussion, the summoned official leaves the session and the MPs comment on his responses in his absence.³⁰ The Supervising Committee may also call upon any of the employees in the service to attend the Committee meeting and to provide explanations and answer questions. But, at the same time, the Supervising Committee should make sure that his/her identity is kept secret. For suspicions regarding any irregularities, the employees can inform the Committee at any time.

Another mechanism introduced by the Law on parliamentary oversight is the right of announced and unannounced visits to the premises of the intelligence services by an authorized group of the Supervising Committee. The Committee never pays a visit in its full composition, but forms a group of at least three members, where there should always be at least one member from the ruling coalition and one from the opposition. In this way, the legislators tried to avoid abuse and devaluation of this mechanism, which would be more likely if only members from a single party performed the field-visit. If at least three members of the Supervising Committee suggest a visit to any of the services, the visit must be conducted. Such a rule is a significant tool that prevents the will of the majority from being able to constrain the power to conduct oversight. According to Mate Dragutin, chair of the Committee for the Supervision of Intelligence and Security Services, the Committee visits some of the services once a month. It also has the authority to inspect documents and other materials and data of the controlled service related to its powers and tasks.³¹ However, finances are not the main point of interest for MPs; instead the main focus is often the protection of the right of privacy and the protection of human rights.³² It is not clear what determines the focus of oversight, given the fact that sound oversight incorporates many aspects of the work of the intelligence services, including financial performance.

²⁷ Interview with Andrej Rupnik, former director of SOVA

²⁸ The Parliamentary control of Intelligence and Security Services Act *Official Gazette of the RS, No. 26/03 – ZPNOVS* Article 21, paragraph 3

²⁹ Criminal Procedure Act, *Official Gazette of the Republic of Slovenia* 8/2006, available at: <http://www.policija.si/eng/images/stories/Legislation/pdf/CriminalProcedureAct2007.pdf>

³⁰ Interview with Mate Dragutin, member of the Committee for Supervision of Intelligence and Security Services

³¹ The Parliamentary control of Intelligence and Security Services Act *Official Gazette of the RS, No. 26/03 – ZPNOVS*, Article 25

³² Interview with Mate Dragutin

Documents related to an ongoing mission, or that risk revealing the identity of agents within the service, are exempted from Committee scrutiny. There is precise regulation of the procedure whereby the head of the service denies access to some documentation. If this happens during a field visit by the Supervising Committee, the Head of the service has a deadline of one hour to make a proposal to the Government in order for the access to be denied. Even if the Government supports the head of the service in his or her decision, the Supervising Committee can still decide to reject that decision and request the document.³³ This can be done only with a two thirds majority on a motion from the Committee chairman.

Budget audit

The Court of Auditors, an independent auditory body, plays a central role in ensuring the financial accountability of the intelligence services. This institution played the key role in 2007 when a whistleblower from SOVA informed the Government of abuse of the IAs budget. Afterwards, financial experts from the Court of Auditors spent one year working on the case and confirmed that the financial resources had not been spent legally. In this case, the Committee for the Supervision of Intelligence and Security Services had failed to recognize the misuse.

The audit of SOVA is performed in the same manner as in any other public institution, and the same legal provisions apply. The Court of Auditors decides independently which institutions will be subject to audit, but also accepts proposals. The proposal may come from the National Assembly, the Government, ministries, municipalities' administration, citizens, CSOs and the media. The Court of Auditors is obliged to adopt and to implement in at least five proposals from the National Assembly in its yearly program (from which two should come from the opposition and at least two from working bodies).³⁴ This way, the Court of Auditors gains a clear picture regarding the Parliament's areas of attention, but is still able decide independently which proposals to adopt.

The reports from the audit performed in the intelligence services, which are marked as classified, are discussed at the meetings of the Committee for the Supervision of Intelligence and Security Services. A general report, which is also a subject of discussion, is submitted to the Committee for Public Finance Control. This Committee, on the basis of its discussions, can propose any individual report to be included in the agenda at a plenary session and propose certain measures to be implemented. In a case where irregularities are detected by the Court of Auditors, it is obligatory that the report is discussed at the plenary level.

³³ Poslovnik Komisije za nadzor obveščalnih in varnostnih služb [Rules of Procedures for oversight over the security-intelligence agencies] art.23 paragraph 2

³⁴ Zakon o računskem sodišču [Law on the Court of Auditors] *Uradnem listu RS št. 11/01* article 25

The Committee for Public Finance Control has frequent cooperation with the Court of Auditors. It can suggest an audit in any institution to be done and every two months it gathers information regarding the audits that are in progress. During the Committee's meetings, a representative from the institution that was audited is summoned to answer questions. The expert service of the Committee keeps a copy of each approved decision by the Committee and its implementation. Once a year, the Committee discusses the report for the implementation of the approved decisions. The subjects that have not implemented the decisions from the Committee can be called again by the Committee in order to do so.

In addition to this, the Court of Auditors collaborates frequently with the internal auditors of the institutions, and also with the Commission for budget audit, internal body of the Ministry of Finance. Activities include frequent meetings and attending various events, amongst others. Even though this may not appear to be connected with the Parliament, it creates an environment of accountability and responsibility, ensuring sound management of financial resources, including ones that have the national security in their remit.

Administrative and management capacities

The Committee for the Supervision of Intelligence and Security Services is composed of nine members,³⁵ including the chairman of the Committee and the deputy. The majority of members, as well as the chairman, belong to opposition parties. All of the members are proposed by their parliamentary groups and appointed by the National Assembly by a majority vote. The National Assembly also elects the chairman of the Committee. Due to the nature of their job, if any member is absent, he or she cannot be replaced. If a political party wants to change some of its members or any member wants to cancel his or her participation during the mandate, this is discussed at a plenary level and the decision is adopted by majority voting from all members of the Parliament. In this way the legislators have tried to prevent possible manipulations from the political parties in case they want to dismiss or appoint a certain person in the Committee in a certain period.

The members of the Supervising Committee do not undergo a vetting process. Despite this, once they are appointed, they receive unlimited access to all data within their scope of work, no matter what the level of classification.

The Supervising Committee has a separate facility in the National Assembly for its meetings. The room provides all the conditions for undisturbed work with classified information, and mobile phones are not allowed during the meetings. The National Assembly's driving vehicles have to be available to the members of the Committee at any moment, if they decide to visit any

³⁵ According to art.10 of the Law on Parliamentary Oversight, the Committee can have nine members at most

of the security-intelligence agencies that they are overseeing.³⁶ When the Supervising Committee is formed for the first time in the new mandate, an informative visit is made to each controlled service in order familiarize members with the services and their work. The members receive a collection of documents detailing the regulations concerning parliamentary oversight along with a description of particular legal provisions.

The Committee's work is assisted by a secretary who is an expert in the field. In addition to their administrative work, he or she also plays a role in the authorized visits to the services. However, this Supervising Committee lacks expertise and additional training in financial oversight. In the current Committee (formed in 2011) none of the members have education or professional experience in finance.

The Supervising Committee works behind closed doors, but on a proposal from the chairman or the vice chairman, with a two-thirds majority vote, all or part of the session may be open to the public. However, this cannot happen when reports of the intelligence services are discussed. The Committee is also allowed to invite experts and professionals to attend certain meeting and to express their views and opinions.

³⁶ Interview with Mate Dragutin

Case study 2 – Financial oversight of the intelligence services in Croatia

Intelligence services

Similar to the case of Slovenia, the Republic of Croatia has one civil intelligence agency that unites intelligence and counterintelligence - the Security-Intelligence Agency (SOA). Military intelligence and counterintelligence is placed within the MoD as a Military Security-Intelligence Service. Although the Police within the MoI have special authorizations, including the use of special investigative measures, it is not subject to parliamentary oversight.

In contrast to Slovenia, where parliamentary oversight of intelligence services was subject to regulation in separate laws, Croatian legislators have decided on a different approach. All regulations for security-intelligence system are systemized in one law, the Law on the Security-Intelligence System in the Republic of Croatia. This act details the position of every key actor from the field, including the role of the Parliament.

Oversight and role of the Parliament

Oversight over the intelligence agencies is organized at three levels: civilian, parliamentary and expert.

Civilian oversight is a practice that has not been found in other countries in the region and it is a step further towards ensuring the accountability and responsibility of intelligence services. In Croatia, this type of oversight is conducted by the Council for Civilian Oversight over Security and Intelligence Agencies, composed of six members and a president appointed by the Parliament and responsible to it. The Council supervises the compliance of security-intelligence agencies with the legal provisions where focus is placed on the implementation of measures for secret data collection that could limit the rights and freedoms guaranteed by the Constitution. The oversight of finances is not a subject of interest to this body.

Expert oversight is done by the Office of the National Security Council. This Office performs the expert and administrative work of the National Security Council³⁷ and the Council for Coordination of the Security-Intelligence Agencies. The professional oversight consists of

³⁷ The National Security Council is composed of: the president of the country, the prime minister, the member of the government responsible for national security, the minister for foreign affairs, the minister for justice, the president's councilor for national security, the chief of the general staff of the armed forces, the director of SOA, the director of the military security-intelligence agency and the head of the office of the National Security Council. In the work of the National Security Council the president of the parliament also participates.

monitoring and controlling the legality of work, the effectiveness and utility of the work, the measures for secret collection of data, and control over the use of financial resources.

Parliamentary oversight, according to the Law on Security-Intelligence System, oversight is done directly by the Parliament or through the parliamentary committee responsible for national security³⁸ In this case the Committee for Domestic Policy and National Security. However, this Committee not only specializes in oversight, but also is the parent committee for all matters pertaining to:³⁹

- the structure and authority of state administration in the field of domestic policy;
- citizenship and personal status of citizens;
- public and state security, traffic safety, protection from fires and natural disasters;
- reports from the Central Auditing Office, the financial police and criminal investigations police in that field pertaining to irregularities in the financial operations of state bodies,
- other questions from the internal politics, national securities and defense.

The Rules of Procedure of the Croatian Parliament state that the Committee performs oversight of the security-intelligence agencies, especially in relation to the protection of human rights and freedoms guaranteed by the Constitution. It is worth mentioning that this Committee plays a role in the appointment of the head of SOA and the head of the military intelligence. In fact, before their appointment, the Committee interviews the candidates and reports its opinion to the Parliament. As the parent body for all matters regarding domestic policy and national security, the work of this Committee covers a wide spectrum, which may be considered a limiting factor for the appropriate performance of financial oversight.

Budget formulation

The funds for the intelligence agencies are provided by the annual national budget of the Republic of Croatia. According to the Law on the Security Intelligence System of Croatia⁴⁰ the Parliament is not involved in this formulation stage, but the amount of funds that will be allocated to the services is decided by the National Security Council⁴¹ (composed of the highest state officials and the heads of the security and intelligence agencies). The resources for the work of security intelligence agencies include special resources for working premises, technical equipment, special abilities in the performance of the intelligence and counterintelligence

³⁸ Article 104

³⁹ Poslovnik Hrvatskoga Sabora (Rules of Procedures of the Croatian Parliament) art.63

⁴⁰ Law on the Security Intelligence System of Croatia, *Official Gazette of Republic of Croatia*, no.79/06

⁴¹ Ibid. Article 3

functions, education, instruction and training of employees of security intelligence agencies, and for measures of concealment.⁴²

However, according to the above mentioned law, the data for the budgets of the security-intelligence agencies is not publicly available. Looking at the annual budget of the Republic of Croatia, one will notice that the budget is very transparent when it concerns other state institutions and shows the purpose of the finds in detail; when it comes to SOA, however, only the total amount that is annually allocated for the work of this agency is publicly available. That means the public has no information regarding the detailed spending of the budget funds and therefore oversight from appointed institutions, including the Parliament as a representative of the citizens, is very important.

The public in Croatia has sometimes reacted against the lack of transparency of the intelligence agencies' budgets and the amount of funds that are set aside for them. The media reacted to the construction of the new SOA's building in the summer of 2012 stating that the state budget is compromised damaged. The media succeeded in having the classification of the construction cost removed.⁴³

Adoption of the budget

The Committee for Domestic Policy and National Security is actively involved in the process of budget adoption. According to article 140 from the Rules of Procedures of the Parliament, the Committee takes the budget proposal into consideration according to a standard procedure for any law. Scanning through the Croatian Parliament's website, there is evidence that the Committee for Domestic Policy and National Security has been revising the proposed annual budget for the last years in the presence of representatives of the affected authorities (MoI, MoD, Security-Intelligence Agency, Military Security-Intelligence Agency, Operational and Technical Center for Interception of Telecommunication, Institute for Information System Security, State Directorate for Protection and Rescue).

During this review, committees have all means put at their disposal by law. This means they can ask authorized personnel from ministries and other state agencies to take part in their sessions and explain all issues of interest to the committees, which in practice they do quite eagerly... parliament can scrutinize proposed budgets, change them, send them back for review, and decide on the nominal amounts and structure of every specific budget. This

⁴² Ibid. Article 115

⁴³ Index, 2012, Darko Petričić: Na izgradnji nove zgrade SOA-e država je oštećena za 40 milijuna eura (Darko Petricic: From the construction of the new SOA building the state is damaged for 40 million euros) available on: <http://www.index.hr/vijesti/clanak/darko-petricic-na-izgradnji-nove-zgrade-soae-drzava-je-ostecena-za-40-milijuna-eura/627440.aspx>

happens regularly and results sometimes in hundreds of amendments to the final budget text.
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The budget of the intelligence agencies, as part of the annual state budget is adopted by plenary session in the Parliament.

Budget execution

The Committee for Domestic Policy and National Security has many mechanisms at its disposal that enable oversight of the implementation of the budget by the intelligence agencies, helping to ensure that public money is spent in a legal and legitimate way.

However, the case of Croatia is specific and it differs from other practices in the region. The Committee for Domestic Policy and National Security performs oversight indirectly, mostly through the Office of the Council for National Security (OCNS). The Committee can ask OCNS to give a report or information regarding the work of the services or it can ask OCNS to carry out a professional inspection of the security and intelligence services. The Law on Security-Intelligence System clearly stipulates that, among other things, OCNS oversees the use of financial resources. This way, proactive work by the parliamentary Committee is enabled and inspections can be done when MPs consider it necessary. Moreover, it is ensured that the inspection is done from a professional body, which overcomes the issue of a shortage of expertise among parliamentarians.

If OCNS finds a violation of legal provisions, the head of the OCNS must undertake measures to immediately remove the detected irregularities, and inform thereafter the President, the Prime Minister and the Speaker of the Parliament in cases where the inspection was performed at the request of the Committee for Domestic Policy and National Security.⁴⁵ Such measures are closely determined by the regulations of the Government, with previous consent from the President of the Republic.

Having expert oversight is a significant strength that can mitigate the lack of capacity among MPs who cannot be expected to become experts in financial issues, data protection or human rights protection. Moreover, OCNS provides expert and administrative support for the National Security Council and the Council for the Coordination of Security and Intelligence services; this means that OCNS employees may have much easier and fluid communication with the services. They possess a track record of the services' activities and have a better overview in terms of 'what to look for' when performing oversight. Having a separate body that performs oversight

⁴⁴ Dr. Sandro Knezovich and Zvonimir Mahechic, *Chapter 3-Croatia*, in the *Almanac for oversight of security sector in Western Balkans*, Belgrade 2012, available at: http://analyticamk.org/images/stories/files/almanac_mac.pdf

⁴⁵ Zakon o sigurnosno-obavjestajnom sustavu [Law for security-intelligence system] Article 109

means that communication between that body and the parliamentary committee tasked for performing oversight is important. However, there is a lack of regular communication between OCNS and the Committee for Domestic Policy and National Security. OCNS does not regularly submit its reports on the performed oversight, but only after a request by the Committee. Furthermore, OCNS is not an independent body, but acts on behalf of the President and the Prime Minister; the head of OCNS is appointed by a decision co-signed by the President and the Prime Minister.

In cases where the Committee wants to check the work of the intelligence agencies and does not want to entrust them to OCNS, it can decide to exercise direct control over their work. In this case, the legal regulations for OCNS are applicable to the Committee. This means that the reports and other documents that belong to the intelligence services are accessible, and there is an opportunity to talk with the head of the service and with employees in the services. This is available on a basis of a detailed request.⁴⁶ Just as in the case of Slovenia, the Croatian parliamentary committee also has the possibility to summon employees of the intelligence services to be present at a committee meeting and answer particular questions. However, this possibility does not function in practice. According to the representative from the Committee for Domestic Policy and National Security interviewed for the purpose of this study, the Committee is constantly observed by the media, so the identity of the employee would not remain protected.

If the budget needs to be rebalanced during the year, the Committee will discuss the proposal at a Committee meeting.

Budget audit

The external state audit in the Republic of Croatia is done by the SAO (Državni ured za reviziju) which is an independent autonomous institution accountable to the Parliament. The SAO plans and implements the audit in accordance with the annual program and work plan, but also upon request from the Croatian Parliament if the Auditor General decides that the request is justified.⁴⁷ For its work and performed audits, the SAO submits a report once a year to the Parliament, and afterwards the reports are published on their website. The principle of the functioning of the supreme audit body is supposedly very similar to that of the SAO in the Republic of Macedonia. In the Rules of Procedures of the Parliament of the Republic of Croatia, where all working committees within the Parliament are specified along with their competences, it is clearly stated that this Committee for Domestic Policy and National Security revises the reports of the state audit and the criminal police concerning parts connected with irregularities in financial

⁴⁶ Ibid. Article 107

⁴⁷ Law on the State Audit Office, article 12

operations (article 63). The Committee revises the reports of the State Audit in the presence of representatives from the SAO.⁴⁸ However, due to the classification of information, there is no publically available information on the audits that have been done so far or how they have influenced the work of the parliamentary committee in relation to overseeing the budget cycle of the intelligence agencies.

Administrative and management capacities

The Committee for Domestic Policy and National Security has a president, vice president and eleven members. The chairman always comes from the opposition, but the ruling party (or coalition) has a majority of members. However, this Committee does not have support and expertise on specific issues in the scope of national security, and especially concerning their finances.⁴⁹ As professional support, the Committee has a secretary, advisor and one other secretary shared with another Committee.

The Parliament of Croatia customarily involves outside experts in the work of the parliamentary committees and has a special budget for that purpose. In this way it enables wider participation of civil society in the work of parliamentarians, which could contribute to raising quality of discussions. However, the Committee for Domestic Policy and National Security does not include such practices, because it considers that the Council for civilian oversight over the security-intelligence services plays that role.⁵⁰ The Council for civilian oversight is composed of six members plus a president, chosen through a public call announced by the Committee for Domestic Policy and National Security. Council members should have university diplomas and at least one member will have a degree in law, one in political sciences and one in electrical engineering. The members that perform this function are prominent and well known experts in Croatia. However, this body has no authority in relation to the finances of the intelligence agencies. On the one hand, it can be concluded that appropriate professional support for the Committee on financial aspects is not directly provided. On the other hand, the intelligence agencies in Croatia are subject to professional oversight from the OCNS and the Committee can ask this body to perform a professional inspection which indicates efforts to overcome the lack of “know-how” among MPs.

⁴⁸ The data is obtained according to the reports of the Committee for Domestic Policy and National Security published on the website of the Croatian Parliament.

⁴⁹ Interview with with Prof. Dr. Miroslav Tudzman, President of the Committee for Domestic Policy and National Security

⁵⁰ Ibid.

Positive experiences from other countries in the region

Montenegro

In Montenegro, an authorized parliamentary body for oversight over the security-intelligence agencies is the Committee for Defense and Security. A law on parliamentary oversight, which specifies the mechanisms available to the Committee to perform oversight, was adopted in December 2010. This law also establishes the relationship between the Committee and the institutions that are subject to oversight (Agency for National Security, Ministry of the Interior, Police Administration, Ministry of Defense and other bodies and institutions that perform duties relevant for the security).

The Law on Parliamentary Oversight of the Security and Defense Sector represents legal bases for three substantial mechanisms: consultative hearing, control hearing and parliamentary investigation.

- Consultative hearing refers to inviting representatives from the state institutions, non-governmental organizations and experts prior to adopting legal acts or the selection of candidates. The law allows the engagement of external experts as consultants that are paid by the Parliament. In a time when one of the biggest weaknesses of the parliamentary committees is a lack of expertise, inviting external experts is a very useful tool that helps MPs better perform oversight. Even when there is no special budget for that purpose, gathering all interested parties in one place where they can discuss a particular topic can be very beneficial for committee members.
- Control hearings are conducted in cases of contentious issues and where there is a necessity for further explanations and clarifications regarding certain actions or policies. The Committee decides to conduct a control hearing by way of a majority vote. In practice, the Committee conducts a control hearing once or twice a year where it adopts conclusions and recommends measures to be implemented.
- Consultative or control hearings could result in a decision to start a parliamentary investigation when there is a necessity for collecting further information or where there is a basis for considering the political responsibility of public officials.

Among other competences⁵¹, the Law on Parliamentary Oversight clearly states that this Committee has the competence to consider information with regard to the budget of the security and intelligence services including discussing the draft budget, the implementation of the budget and audit reports by the State Audit Institution. In addition, the Committee provides suggestions

⁵¹ The competences are listed in Article 7 from the Law on Parliamentary Oversight

and proposals during the preparation of the state budget, with regard to the sections dedicated to the security and intelligence institutions. In practice, the Committee does utilize those competencies and its meetings are attended by representatives of the institutions that are subject to oversight, as well as representatives from the Ministry of Finance (when discussing the budget-proposal) and State Audit Institution (when discussing the audit reports and final account for the previous year). The Committee provides suggestions and opinions on those documents, but it is suggested that submitting amendments on the draft budget would be a better option to influence the resources provided for the institutions.⁵² This example could serve as a lesson learned that is relevant for other parliaments in the region.

In addition, the Committee demonstrated a proactive approach in 2011 when asking the institutions under scrutiny for detailed analytical reports on the efficiency and effectiveness of spending of allocated budget funds. The National Security Agency submitted such a report in 2012 concerning the previous year (2011), but without a satisfying level of quality.⁵³ The same applies to the MoI. Only the MoD responded with detailed explanations. It can be concluded, therefore, that oversight is a two-way street and does not depend only on the Committee's approach, but also on the responses by the institutions that are subject to oversight.

The Law on Parliamentary Oversight has been adopted only recently and as such time is a limiting factor for making any kind of conclusions regarding the practices of financial oversight of intelligence services in Montenegro and the influence that the adaptation of this separate law might have on the work of parliamentary bodies. However, experience so far shows that the new law served as a catalyst for encouraging a more pro-active approach by MPs. Increased oversight of the budget goes hand in hand with implementing trainings on budget oversight provided to the professional service of the Committee. It is important to note that the Committee prepares a yearly plan for parliamentary oversight which serves as guideline for its activities throughout the year.

As a guarantee for implementation of the Law on Parliamentary Oversight of Security and Defense Sector, policy makers included penal provisions for the institutions and their employees in cases where they do not attend committee meetings, do not submit requested information or do not allow parliamentary oversight.

⁵² Institute Alternativa, Law on Parliamentary Oversight in the area of security and defense – 2nd year of implementation, available at: <http://media.institut-alternativa.org/2013/03/zakon-o-parlamentarnom-nadzoru-u-oblasti-bezbjednosti-i-odbrane.pdf>

⁵³ According to the monitoring report by Institute Alternativa, the reports by the National Security Agency and the MoI “do not go beyond the formal patterns and typical cash flow statements”.

Kosovo

The Kosovo security and intelligence sector was established only recently as was, consequently, the practice of parliamentary oversight. As such, it is difficult to draft conclusions for any good or bad practices in performance. Nevertheless, it seems that the Parliament of Kosovo emphasizes the importance of the oversight function and therefore has developed a Manual for the Oversight Function of the Parliament.⁵⁴ This manual is a universal guide applicable to all parliamentary bodies and it contains instructions for the planning of oversight activities, involving civil society in oversight activities, oversight over the implementation of laws and also the relationship with independent institutions that perform oversight. This Manual contains a separate chapter for the budget oversight of national institutions.

In addition to this, there is a Manual for External Expertise in the Parliamentary Committees.⁵⁵ The Manual details the role of external experts in parliamentary work, the procedure for engaging individual experts and the benefit of expertise provided by think tank organizations and non-governmental organizations. It also contains all the forms and standardized documents necessary for collaboration. Each committee has its own budget that can be used for engaging external expertise, organizing oversight hearings and so on.

The website of the Parliament of Kosovo has a space in which CSOs that are interested in the work of the Parliament can register and provide information about their work and fields of expertise. The organizations should leave their contact information and state which aspects of the work of Parliament or parliamentary committees they are interested in. This information is available to all MPs and employees in the Parliament so that they can identify potential participants and experts for public hearings, consultations, study visits and other activities. This is an excellent opportunity for those parliamentarians who have limited knowledge in a certain area, as they can easily find organizations that have expertise in the field.

However, these are newly introduced mechanisms and their usage or impact on the work of the parliamentary committees has yet to be assessed. In any case, it is a positive sign that the

⁵⁴ This manual is available in English through the following link:

<http://www.kuvendikosoves.org/common/docs/SOM%20Funkcioni%20mbikqyres%20i%20komisioneve%20parlamentare-Eng.pdf>

The manual is also available in Albanian:

[http://www.kuvendikosoves.org/common/docs/SOM_Funkcioni%20mbikqyres%20i%20komisioneve%20parlamentare-Alb%20\(2\).pdf](http://www.kuvendikosoves.org/common/docs/SOM_Funkcioni%20mbikqyres%20i%20komisioneve%20parlamentare-Alb%20(2).pdf)

⁵⁵ This manual is available in English through the following link:

<http://www.kuvendikosoves.org/common/docs/Doracak%20-%20Ekspertiza%20e%20Jashtme%20-%20ENG.pdf>

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oversight function of the Parliament is highlighted and that there is room for cooperation with civil society.

Conclusion

This paper aimed to identify best practices in conducting parliamentary financial oversight of the intelligence agencies as well as highlighting common challenges. The case studies included in this research showed that there is no single model of “good practice” in this specific area, but that each country has developed its own design according to their specific needs while progressing towards better accountability and transparency.

While Slovenia has one parliamentary committee dedicated exclusively to intelligence oversight, covering every aspect of the work of the intelligence services, Croatia has developed a more complex model encompassing parliamentary, expert and civilian bodies intertwining and complementing each other. They have one parliamentary committee for Domestic Policy and National Security that is specialized not only in oversight, but is also the parent committee for all security related and internal affairs issues. Macedonia has also designed its own mechanism that divides responsibilities among three different parliamentary committees, where one tackles the security and defense policies and the others are concerned with overseeing intelligence.

When it comes to the legal framework, different models have also been developed – the existence of a special law for intelligence/security oversight (Slovenia and Montenegro); a single act that regulates the security and intelligence system as a whole, determining all stakeholders including the role of the Parliament (Croatia), or dispersed provisions in several different laws (Macedonia). However, what matters most is having well-defined and clear legal provisions which provide a clear mandate for parliamentary committees and defines mechanisms that could be used by MPs in conducting their oversight activities.

Considering activities during the budget cycle, experiences from the region show that the involvement of parliamentary committees in the planning stage is still very limited. But committees do have influence in the phase of adoption through amendment interventions. Good practices include discussing the draft budget at a committee meeting in the presence of representatives from the intelligence agencies and/or the Ministry of Finance. In this way MPs could better understand the needs of the intelligence agencies and obtain additional financial resources when needed, in light of the fact that they are part of the legislative power that actually adopts the national budget.

As for competencies, Macedonian MPs have more or less the same mechanisms as their colleagues from the region – unlimited access to information regardless of the level of

classification (in general, exceptions exist in cases related to an ongoing mission or where there is risk for the human resources of the agencies to be exposed, which fully complies with the international standards). Furthermore, they are able to conduct field visits as well as discuss reports of the agencies in the presence of representatives of the services. However, those abilities need further regulation in the Macedonian case in order to prevent misinterpretation. For example, there seems to be an absence of consensus as to whether committees have a right to conduct unannounced visits and what the composition of the working group should be, concerning the ratio between MPs coming from different parties. Another important mechanism is the ability to hold public consultations and oversight hearings. However, in the case of Macedonia, that mechanism is not unique to the security and intelligence related committees, but is available for any parliamentary committee and is regulated with the Rules of Procedure of the Parliament. The Montenegrin experience showed that introducing and accommodating these abilities in the legal provisions that regulate the work of the oversight bodies might have a positive influence in terms of increased motivation for their usage.

Furthermore, parliamentary committees consider annual reports by the agencies that incorporate information regarding their financial performance. These reports are an important tool for the evaluation of the work of the agencies and could further serve as a good basis for discussing lessons learned and future needs. Macedonian committees need to develop better communication with the SAO and to discuss the audit reports when such audits are conducted in the intelligence agencies.

One of the biggest drawbacks for all parliamentary committees is the lack of administrative capacities and “know-how” to deal with specific financial issues. They have all identified the need for additional support and expertise. Politicization is recognized as another common challenge and Slovenia is a country that is the most advanced when it comes to setting specific mechanisms for avoiding disruption of committee’s work due to party interests of the MPs.

Alongside external oversight and control, internal controlling mechanisms and management of the services also play an important role. It is necessary to devise strict internal rules and constant control over the incidences where the “zero tolerance” policy will be applied and abuses will be prevented, researched and punished.

Recommendations

- The legal framework should be developed further in order to regulate the mandate of the parliamentary committees and to define the mechanisms at their disposal in a clear and precise manner. This includes establishing the relationship with the services, further regulating field visits to the intelligence services (should they be announced or unannounced? Composition of the working group and so on) and introducing oversight hearings. In addition, the ability to ask for specific reports or information throughout the year should also be regulated, establishing the procedure for requesting additional information and deadlines for the services to provide what has been requested. While some of these regulations demand changes in primary legislation, many of them could be simply inserted into the Rules of Procedures of the Committees.
- As the research showed, there is a lack of communication among the Macedonian committees and agencies that are subject to oversight compared with other countries in the region. It could, therefore, be useful for MPs to follow the Slovenian example when forming this parliamentary body for the first time in a new mandate and pay a visit to the agencies. This way they will “break the ice” and familiarize themselves with the work of the agencies.
- The committees should have a role in each phase of the budget cycle (planning, adoption, implementation and revision). They should discuss the annual budget proposal as a separate line item of the agenda in the presence of representatives from the agencies and/or Ministry of Finance as budget-proposer. Members of the committees enjoy access to all data and documents necessary for effective oversight and as such, budgets should be comprehensive and include all aspects of the intelligence services’ work.
- The committees should strengthen their relationship with the SAO. The employees in the supreme audit institution are professionals in the area of finance and, consequently, can provide detailed analysis on spending. Furthermore, the audit process should be repeated on a regular basis within a specific time period. The supreme audit institution has the necessary knowledge, abilities and experience for financial control and, at the same time, it protects the secrecy of classified information. The parliamentary committees should review the reports from the performed audit and enforce the implementation of their recommendations.
- When proposing members of the oversight committees, political parties should be aware of their personal affinities, and consider their knowledge, experience and capabilities for performing the duties. The political will and the individual’s will and ability are important factors affecting the performance of adequate oversight. Moreover, stricter procedures for regulating cases when committee members can be replaced are needed. The composition of the oversight committees should not be changed by the political parties without reasonable explanation and special procedure.

- As the committees have insufficient human and technical resources to enable sound financial oversight, they should have access to external expertise in order to understand specific aspects of the financial work. In cases when it is not possible, due to limited financial resources, the committees should consider holding public hearings where they would invite experts, representatives from CSOs and academia. In addition, representatives from the Ministry of Finance and the SAO could also contribute their expertise.

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POLICY REPORT

Comparative analysis of regional practices for parliamentary financial oversight of intelligence services

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