



Security Matters then and now - editorial

SECURITY MATTERS

Security Sector Oversight in Albania, Kosovo, and North Macedonia

Editorial

Old name, new design

In the first issue of *Security Matters*, in October 1999, we characterised CESS' work as 'designing and delivering research, education and training programmes', and expressed our intention of 'helping legislatures learn how to exercise democratic oversight of defence structures'. More than two decades later, our focus remains the same. The way we go about our work, however, has changed drastically.

Back then, we organised conferences and roundtables in Central and Eastern Europe. We visited countries that had, only a few years earlier, been part of the Warsaw Pact, and were aspiring to become liberal democracies with a market economy. We built networks and exchanged experiences. Back then, we started by explaining how things worked at our end, focusing on accountability and transparency of defence and security policy. At CESS, extensive 'Harmonie Papers' were produced on civil military relations, security sector reform, and NATO enlargement. The papers were distributed by mail to our followers (then subscribers) around Europe.

Today, conferences have been mostly replaced by smaller training sessions, and publications have become concise 'Policy Briefs'. The main switch from working offline (fax, mail, and conferences) to online (email, Skype) was progressive, and went mostly unnoticed throughout the years, but has greatly accelerated since the onset of the Covid-19 pandemic. As every NGO and think tank, we also had to adapt to new circumstances. We were able to move training online, while doing our best to continue to share experiences and to network in a virtual environment. While, overall, this is working well, there is also a feeling that part of the in-country training experience gets lost, particularly synergies amongst trainees, and between trainers and trainees, which come about in conversations during breaks, informal post-evaluations or visits abroad. Whereas now more time and attention can be dedicated to research, which is positive as we deepen our knowledge and strengthen our output, there is less opportunity to do field work and, like it happens with training, we must get by without in-person interaction.

If we compare our 1999 *Security Matters* and the current issue, there are similarities regarding the projects being implemented. Back then, we were working on a civil-military relations project with counterparts from Bulgaria, the Czech Republic, Hungary, Romania, Slovakia, and Ukraine (the PROGRES project). Today, we have embarked on a new venture of security oversight cultures, cooperation, and capacities, with partners from Albania, Kosovo, and North Macedonia (the DECOS project). In 1999, CESS had its European Fellowship Programme (EFP), in which experts from Central, East and South-East Europe visited the Centre to do research and experience working in another environment. Today, we host fellows from Central Asia (in-person before Covid-19; now online) through our EUCAM programme, providing them with the opportunity to research European Union-Central Asia relations and strengthen their writing and outreach skills.

With this current issue, we aim to revamp the CESS *Security Matters* newsletter series. *Security Matters* will appear less regularly than in the past; the newsletter will be linked to a specific project – the DECOS project and the Western Balkans in this and the following two issues. Moreover, the restyled *Security Matters* will focus less on ‘news’ and more on a specific theme, which will be presented through an editorial, a commentary by one of our partners or associates, and a couple of interviews with experts and practitioners.

For this *Security Matters*, focused on the broader theme of security and oversight, we have asked the directors of our partner organisations in Albania, Kosovo, and North Macedonia to comment on the evolution of security sector oversight in their respective countries. The commentary for this issue was drafted by Alban Dafa from the Institute for Democracy and Mediation (IDM) in Albania. It centres on the growing use of normative acts in Albania that seek to respond to national security needs but which lack proper parliamentary oversight. At the end of the newsletter, you will find some news on DECOS events and publications, as well as other CESS activities.

Thank you for reading us!

The CESS Team

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Commentary

Albania: The unsubstantiated urgency and use of normative acts to respond to national security needs

Alban Dafa, Researcher on Governance and Security, Institute for Democracy and Mediation (IDM), Albania

Normative acts are, in essence, decrees issued by the Council of Ministers and which have the power of law for 45 days, unless approved by the Albanian Assembly before their expiration. If approved, they gain permanent legal power. According to the Albanian Constitution, the government may issue normative acts in urgent cases, but the term 'urgency' has not been defined. There are concerns over their use, particularly regarding legal initiatives that affect the country's national security. Instead of responding to urgent needs, the use of normative acts has demonstrated the lack of government planning and has undermined the Albanian Constitution and the legislative process.

In 2020, there were two important normative acts issued by the Albanian Government that impacted national security. The first, issued on 31 January, sought to strengthen the government's fight against organised crime; the second, issued on 11 March, amended the Law on the Prevention of Infectious Diseases to establish curfews and fines, and enable the deployment of the Albanian Armed Forces to enforce such measures. Government officials failed to justify their claims for the urgency of the conditions that led them to install such measures whilst seeking parliamentary support in the hearings of the Committee for National Security.

In the first case, they maintained that the changes enacted were needed to strengthen the fight against organised crime, without explaining the urgency to issue a normative act instead of submitting a bill to the Assembly through regular legislative proceedings. While organised crime is truly a significant national security threat, the main obstacles to combatting it in recent years have been political, not legal. The legal tools to empower law enforcement agencies are largely in place and ongoing arrests of criminal gangs and investigations into their activities have been effective. But the corruption in the judiciary and prosecution proceedings, as well as ties between politicians and organised crime groups, have typically led to short sentences or impunity.

Ignoring these fundamental obstacles in the fight against organised crime, the normative act sought to vest the Albanian State Police with extraordinary powers to confiscate assets without a court order, although the confiscation request would be subsequently forwarded to the court for approval. Attempting to respond to an unclear urgent threat, it also established a task force led by the Ministry of Interior, making other independent

institutions – such as the Special Prosecution Office – subordinate to the ministry. This apparent constitutional infringement could not be examined by the Constitutional Court because eight of its nine judges had been dismissed by the so-called vetting of the judiciary and had not yet been replaced.

The Law on the Prevention of Infectious Diseases, which enabled the deployment of the Albanian military to enforce anti-Covid-19 measures, also challenged the constitution. Had the government not dismissed the looming threat of Covid-19, even after the World Health Organisation declared it a pandemic in January, they would not have needed to issue decisions that violate constitutional and legal provisions under the purported urgency to contain the spread of the virus. Such provisions establish that, before deploying the Armed Forces, a state of natural disaster needs to be declared and an Inter-ministerial Committee of Civil Emergencies established. The state of natural disaster was declared on 24 March, 11 days after the military was already on the streets enforcing Covid-19 movement restriction measures.

In addition to the government's lack of planning and apparent violation of constitutional and legal provisions, the position of the members of the Albanian Assembly towards the government measures is also of serious concern. There was no debate in the Committee for National Security on these normative acts. They were smoothly approved, despite the lack of argumentation for their urgency and the apparent violations that had already taken place by the time the normative acts were submitted to the Assembly for permanent legal approval. The Committee not only failed to begin an inquiry into their implementation, but it also made no efforts to – at least – introduce amendments.

The use of normative acts cannot be a substitute for diligent planning and effective institutional coordination to respond to national security needs. These two cases suggest that attempting to deploy quick-fix solutions to complex problems undermines Albania's democratic foundations and achieves few concrete results. The growing use of normative acts to respond not only to national security needs but also other perceived urgencies will continue to undermine democratic governance and will breed incompetence due to the lack of parliamentary oversight.

Interview

Democractic oversight of security in Albania

Afrim Krasniqi, Executive Director, Institute for Political Studies (ISP), Albania

How would you describe the development of democratic oversight of the security sector in the past decade in Albania?

Overall, there have been positive developments in the oversight of the security sector,

foremost the maturation of institutions combined with the enhancement of the rule of law. Albania's integration into NATO and the prioritisation of its EU integration agenda have played a pivotal role in pushing this process forward. As a result, the legal framework supporting democratic oversight of the security sector is both richer and more complete; new monitoring parliamentary instruments have been established, including those created by civil actors and independent institutions; and the law on the right on information (2014) has helped foster transparency. In addition, the sector has experienced a gradual reduction of political interference, including in the intelligence services, which, combined with oversight by independent institutions, enhances public trust in the sector and fosters effectiveness and accountability. However, this does not mean that all is well and more work is still needed on this front.

Does the Assembly play a leading role in the process of oversight of government policy and spending, also in relation to working together with other oversight actors?

The Assembly is active in the oversight process, and through the issuance of internal acts, it has created a coordination system on annual reporting with actors involved in civil oversight of the security sector. On the one hand, the Parliament of Albania leads in legislative and structural terms in providing oversight and embodying democracy. On the other hand, Albania's democracy remains fragile. The Assembly is still highly dependent on its political composition and on developments such as political crises and boycotts, as well as its relationship with the executive, all of which affects the quality of oversight on government policy and spending.

Despite some positive developments, the Assembly will be unable to fully play its oversight role unless it manages to incorporate new MPs who have an enhanced understanding of their representative responsibilities and oversight capabilities.

Can you think of a recent example in your country where oversight of security stood central in public attention?

One example is the largely passive role of the Assembly during the Covid-19 pandemic in 2020, and its merely formal exercise of control over the executive. Another is the 'cannabisation' of the country in 2016-7, during which Albania experienced an unprecedented rise in cannabis cultivation, thanks in part to the involvement of elements from law enforcement and a lack of oversight by the legislature.

Positive examples include the rejection of a draft law by the Assembly in 2020, which, if passed unchanged, would have enabled the government to obtain competencies over security institutions. According to the draft law, the powers of the state police would have been expanded to include investigation and surveillance, which are currently competencies of the prosecution. Another example is the 2016 justice reform that provides for the vetting of officials at all levels, including those working in security. As a result of this reform, a high number of judges, prosecutors and police directors were dismissed under allegations of corruption.

What lessons can be drawn from other countries in the Western Balkans that are relevant or applicable to Albania when it comes to security sector oversight?

In regional terms, there are lessons to be drawn from other countries' experiences given the similarities in the challenges faced. Among the issues that Albania should take note of are Kosovo's practice of dialogue and active cooperation between parliament and civil society; the establishment of the Parliamentary Institute to aid the legislative's oversight functions in North Macedonia; and the expansion of regional interaction in the form of a forum on security issues initiated by Serbia.

Meanwhile, EU member states in the Balkans such as Croatia or Romania also have a wealth of experiences to share on issues such as public involvement in policy-making oversight and anti-corruption.

Albania also has some experiences of its own which could serve as a model for other countries. Chief among these is the positive impact of the justice reform on the security sector; the harmonious inter-religious dialogue; or its legislation on the right to information.

Interview

Democratic oversight of security in Kosovo

Lulzim Peci, Executive Director, Kosovar Institute for Policy and Research and Development (KIPRED)

How would you describe the development of democratic oversight of the security sector in the past decade in Kosovo?

The development of democratic oversight of the security sector was introduced in parallel with the hand-over of policing competencies from the United Nations Administration in Kosovo (UNMIK) to national authorities, and the creation of new security institutions such as the Kosovo Intelligence Agency (KIA), Kosovo's Security Forces (KSF) and the Ministry of KSF which, two years ago, became the Ministry of Defence. Nevertheless, in the past ten years, Kosovo has seen four government and legislature changes, which have hampered parliamentary oversight of the security sector due to changes in the membership of parliamentary committees with each new legislature. On the other hand, a good institutional memory has been accumulated within the support staff of the respective parliamentary committees, which has enabled a smooth functioning and transition from the composition of one parliamentary committee to another.

Does the Assembly play a leading role in the process of oversight of government policy and spending, also in relation to working together with other oversight actors?

Despite some limitations caused by the lack of infrastructure and civilian staff, Kosovo's

Assembly plays a leading and irreplaceable role in the oversight of government policy and spending, as oversight of policy formulation and execution and of budget planning and spending of the security sector falls within the mandates of the respective parliamentary committees. In conducting these tasks, the Assembly works closely with the Office of the General Audit, civil society organisations and the Ombudsperson.

Can you think of a recent example in your country where oversight of security stood central in public attention?

The case of six Turkish citizens, accused of being Gulenists by the authorities of Ankara and who were deported from Kosovo to Turkey in March 2018 in a joint operation of Kosovo's Intelligence Agency and the Kosovo Police with the Turkish Intelligence Agency, stood central in Kosovo's public attention. As a consequence, the Minister of Interior and the Head of Kosovo's Intelligence Agency relinquished their duties, and an investigatory parliamentary committee was established. The report of the committee was deposited in 2019 in the Office of the General Prosecutor of Kosovo.

What lessons can be drawn from other countries in the Western Balkans that are relevant or applicable to Kosovo when it comes to security sector oversight?

Regarding democratic oversight of intelligence services, lessons can be drawn from the Croatian example concerning public transparency and proactive communication with the relevant oversight institutions and the public.

Interview

Democractic oversight of security in North Macedonia

Marko Trosanovski, President, Institute for Democracy 'Societas Civilis' Skopje (IDSCS), North Macedonia

How would you describe the development of democratic oversight of the security sector in the past decade in North Macedonia?

Democratic oversight is crucial for democratic development, especially in vulnerable new democracies that are developing their institutions. In the case of North Macedonia, democratic oversight in general, but especially of the security sector, has been lacking. This became apparent in 2015 during a big wiretapping scandal that had a long aftermath. In order to address the low level of public trust in the security and intelligence sectors, especially after civil society and journalists fell victim to illegal wiretapping, in 2018 a new Law on Interception of Communications established another layer of intelligence oversight, through a civil body mandated to supervise the legality of communications interceptions.

However, these reforms, although aiming to strengthen democratic oversight, have only been successful to some extent, as the civil body remains largely inactive.

Does the Assembly play a leading role in the process of oversight of government policy and spending, also in relation to working together with other oversight actors?

There have been some positive developments, with the Assembly becoming a bit more pro-active in organising oversight hearings on different topics. Moreover, with North Macedonia's NATO membership, the Assembly will hopefully lead a more structured process of oversight of security.

Unfortunately, however, during the Covid-19 pandemic the Assembly took a backseat, as the country underwent elections and the legislature was dissolved. This was a setback in terms of democratic oversight, as the executive remained unsupervised.

Can you think of a recent example in your country where oversight of security stood central in public attention?

North Macedonia was certainly on the world map with the wiretapping scandal of 2015. More than 20,000 citizens, including journalists, civil society actors and political opponents, among others, found out that they were being tapped illegally by the intelligence services. More than 90 people were charged, including senior officials. Moreover, a former intelligence chief was convicted in absentia of tampering with evidence. The case of the illegal wiretapping put the security and intelligence community and its oversight in the limelight of public attention, leading to changes and a reform of the security sector in recent years.

What lessons can be drawn from other countries in the Western Balkans that are relevant or applicable to North Macedonia when it comes to security sector oversight?

Unfortunately, our experience has taught us that adopting outside 'solutions' without first adapting them to the national political context often backfires. But there are exceptions: North Macedonia has been working on developing measures of democratic oversight using the example of Croatia in establishing a Citizens Supervision Council. Sharing experiences is good, but in the end, I do believe that Western Balkan countries need to work harder in developing their own tailored-made solutions regarding the lack of democratic oversight.

CESS News

DECOS online working groups

Our 'Developing Capacity, Cooperation and Culture in Overseeing the Security Sectors of Albania, Kosovo and North Macedonia' (DECOS) project envisages a series of regional training courses for oversight actors. Due to lockdowns and travel restrictions, in 2020-21 these regional gatherings will take the form of online working groups. A small group of nine participants from parliaments, ombudsmen, and audit institutions, as well as civil society, meet several times with CESS staff and external experts to discuss a topical issue. Each working group is concluded with the drafting of a policy brief (see publications below) to which participants and external experts contribute through word and writing. The first group (September-October 2020) looked into the impact of Covid-19 on governance and democratic oversight. The second group (November-December 2020) discussed oversight of intelligence services. A third group (February-March 2021) will focus on the 'information position' of parliaments.

DECOS online coaching

On 27 October 2020, CESS organised an online workshop for members of the Committee for the Oversight of the Kosovo Intelligence Agency of the Kosovar Assembly. MPs were welcomed by the chair of the Committee and the Dutch Ambassador in Pristina. During the two-hour session, a speaker from the Dutch Parliament explained the Dutch practice of oversight of intelligence and discussed different options and practices with the elected Kosovar representatives.

DECOS assessment missions

Just before Europe went into lockdown, CESS undertook three assessment missions to Albania, Kosovo, and North Macedonia (January-February 2020). CESS Director Merijn Hartog, Programme Manager Erik Sportel and CESS board member Peter Vanhoutte visited the Assemblies in all three countries, spoke with audit and ombudsman representatives and discussed with civil society actors. The meetings helped us to form a better picture of the state of security sector oversight in each country. The missions also intended to inform training and coaching activities. The latter, however, have had to be partially moved to an online environment.

CESS Interns

CESS hosted three interns between 2020 and the first months of 2021. Theoni Stamatopoulou, Enea Shehaj and (currently) Denitsa Nikolova helped us out with managing EUCAM and doing lots of background research on DECOS: Great talent – excellent input. Unfortunately,

their internships with CESS had to be online and they could not meet in person with Merijn, Erik, Brigitte, Jos and Seth at the Groningen office

Latest Publications

CESS (www.cess.org)

Albania: Democratic Oversight of Security

Kosovo: Democratic Oversight of Security

North Macedonia: Democratic Oversight of Security

CESS Backgrounders No. 1-3, March 2021

Jos Boonstra, Enea Shehaj, Theoni Stamatopoulou

Strengthening oversight of intelligence in Albania, Kosovo, and North Macedonia

CESS Policy Brief No. 4, February 2021

Merijn Hartog & Erik Sportel (ed.)

The impact of Covid-19 on governance and democratic oversight. The cases of Albania, Kosovo, and North Macedonia

CESS Policy Brief No. 3, November 2020

Jos Boonstra (ed.)

Building institutional oversight capacity of the security sector in Ukraine

CESS Policy Brief No. 2, February 2020

Jos Boonstra

Building civil society oversight capacity of the security sector in Ukraine

CESS Policy Brief No. 1, December 2019

Jos Boonstra

EUCAM programme (www.eucentralasia.eu)

Central Asian views on Eurasia's turbulent 2020 events

EUCAM Watch, No. 23, December 2020

Jos Boonstra (ed.)

Out of the frying pan and into the fire: Kyrgyz women abroad

EUCAM Commentary No. 44, January 2021

Aizhan Erisheva

Not safe at home: Covid-19 in Kyrgyzstan

EUCAM Commentary No. 43, January 2021

Irina Kulikova

Emancipation or back to the kitchen? Gender and civil society in

Kyrgyzstan

EUCAM commentary No. 42, January 2021

Begimai Bekbolotova

About the DECOS project

The 'Developing Capacity, Cooperation and Culture in Overseeing the Security Sectors of Albania, Kosovo and North Macedonia' project (2019-22) seeks to empower democratic institutions and actors in their function of democratic oversight of security. It does so by increasing *capacities*, enhancing *cooperation*, and fostering a *culture* of oversight of the security sectors of Albania, Kosovo, and North Macedonia. DECOS consists of a *capacity building* and a *research component* that are directed at democratic oversight actors – parliaments, independent institutions, and advisory bodies; and civil society organisations – in Albania, Kosovo, and North Macedonia.

Because of the Covid-19 pandemic, most DECOS research, training and coaching activities are currently taking place online through interactive regional working groups that include lectures, training sessions and opportunities for debate and exchange of views and experiences.

The Centre for European Security Studies (CESS) collaborates in DECOS with the Albanian Institute for Political Studies (IPS), the Institute for Democracy and Mediation (IDM) from Albania, the Kosovar Institute for Policy Research and Development (KIPRED), and the Institute for Democracy 'Societas Civilis' Skopje (IDSCS) from North Macedonia. DECOS is funded by the Netherlands Ministry of Foreign Affairs.



CESS

The Centre for European Security Studies (CESS) is an independent institute for research and training, based in Groningen, the Netherlands. CESS seeks to advance security, development, democracy and human rights by helping governments and civil society face their respective challenges. CESS is an international, multidisciplinary and inclusive institute. Its work is part of the European quest for stability and prosperity, both within and outside Europe. CESS encourages informed debate, empowers individuals, fosters mutual understanding on matters of governance, and promotes democratic structures and processes.