

The Status of Serbia's Intelligence Reform and its Challenges

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Introduction

During the past decades the intelligence/security agencies of Serbia and various incarnations of former Yugoslavia have been the key tool of autocratic governments, helping them to remain in power at any cost. It is important to shed just a bit more light on that in order to understand the challenges that the reform of the intelligence/security sector has been facing and still faces in Serbia of today.

So-called “secret services” have always had links reaching to the other side of law. However, the nineties in Serbia saw an unprecedented “pact” between the secret services, autocratic and corrupted politicians, and organized crime.

This pact was sealed during the time of international sanctions, when the governments of Serbia, Yugoslavia and Montenegro have asked respective services to supply the country with strategic goods (oil, above all) through illegal channels – the only ones available. Once established, these secret ventures resisted closure even after the “state reason” for their existence terminated. In fact, they expanded to accommodate additional goods – stolen cars, trafficked persons, cigarettes, even chewing-gums. The symbiosis of corrupted politicians, perverted services and organised crime slowly but overwhelmingly shook the country, annulling the rule of law, destroying the economy, suspending democracy and wiping away every aspect of human security. They became the prosecutor, the judge and the executor to those who jeopardised their interests.

There are numerous examples to support this thesis; in fact it is hard to find a significant crime scene in Serbia of the nineties which was left

without fingerprints of some of the several existing secret services, or “at least” the police, and which does not link to the political or economic interests of the corrupted “elite”. To mention some - the murder of the former Serbian President, once a boss and a rival of Slobodan Milosevic, – Mr. Ivan Stambolic; the two unsuccessful murder attempts against Vuk Draskovic – at the time the most prominent opposition leader; the assassination of the owner of an opposition-biased newspaper and former state security employee Slavko Curuvija; the murder of the infamous “king” of the Serbian underground Zeljko Raznatovic – Arkan, and hopefully the last stroke of the dying beast, the murder of the Serbian Prime Minister Zoran Djindjic in 2003. Not long before Djindjic was killed, the former state security paramilitary unit, the “Red Berets”, was on strike. In an incident probably unprecedented in history, men belonging to the state security service blocked the main traffic route of the country’s capital, wearing camouflage suits and arms, protesting against their “abuse” by politicians for having them arrest indicted war criminals!

Some of the mentioned events happened years after 5 October 2000, when the democratic change in Serbia happened. A surprising and important fact is that neither the head of Milosevic’s state security, nor the police or army chiefs were removed from their offices for at least 12 months following October 2000.

This introduction was to remind of the brutal past and deep, dark legacy of today’s Serbian services. This is only one of the reasons why it was considered, and still is, that the continued reform of the intelligence/security services is the crucial condition for democratic progress of Serbia, and not only a result of democratisation.

The Changes

It was not until 2002 when the changes began. The reform started to unfold when the Serbian Government realised that it didn’t know that its Deputy Prime Minister was under surveillance until the federal, military counter/intelligence service arrested him for espionage!

Within several months, in June 2002, the law on the security services of the Federal Republic of Yugoslavia was adopted in the Federal Assembly, establishing four federal intelligence and security services and laying down detailed provisions to enable their effective parliamentary control. The law removed the military secret service from the auspices of the Army General Headquarters for the very first time in its history, divided the service into two (security and intelligence service), and subordinated the two directly to the Federal Government.

Also in 2002, the Serbian Parliament adopted the Law on the Security-Information Agency of the Republic of Serbia (BIA). The law shut down the state security department of the Ministry of Interior and established BIA as an independent agency, directly subordinated to the Government. However, the law on BIA was heavily moderated by the former state security to meet only the minimal demands of the moment. These demands were limited to the separation of the service from the police.

As a successor of the State Union of Serbia and Montenegro, Serbia has “inherited” the four former federal services (six months after the dissolution of the State Union, this process is legally still unfinished). Serbia thus entered the second half of 2006 without an intelligence and security system, but with remains of the systems of previous incarnations of Yugoslavia and its own republican intelligence/security agency. From the State Union Serbia inherited the Military Intelligence Agency (Vojno-obaveštajna agencija – VOA) and the Military Security Agency (Vojno-bezbednosna agencija – VBA), both organised in the Ministry of Defence (MoD), and the Service for Research and Documentation (SID) and the Security Service (SB), both organised within the Ministry of Foreign Affairs. Two of those are of a foreign intelligence, and the remaining two of an internal security type. The republican BIA is a merged service, in charge for both foreign and internal, or security intelligence. In terms of manpower, BIA is the strongest agency in Serbia – its current staff counting more than 2,000 members.

The competencies of the former federal services and BIA were written for the different levels of state organisation. Consequently, the transfer

of the federal services to the republican level resulted with considerable overlaps.

Out of the five services that now exist in Serbia, only BIA and VBA are authorised to collect intelligence by intercepting communications, after obtaining a warrant from the court. All five services use methods such as infiltration, secret obtaining of documents, concealed identity, and others.

Coordination and Control by the Executive

Serbia does not have a special governmental body charged with directing, overseeing or coordinating services and other institutions with a stake in national security. The lack and need of coordination has become especially obvious due to the problems in apprehending the most wanted fugitive escaping the trial before the International Criminal Tribunal for the former Yugoslavia (ICTY), Ratko Mladic. The Serbian Government has adopted the “action plan” to facilitate his arrest by removing this coordination gap. However, as one of the co-coordinators of the action plan stated, the plan, which has not been made public, has no ambition to dig into the foundations of the intelligence/security system, but only to produce single arrests.

Parliamentary Control

To be able to ensure democratic and efficient control over intelligence-security services, a parliament needs to meet a number of prerequisites well described in the theory of parliamentary control. Where does the Serbian Parliament stand in this regard? The Serbian parliamentary Defence and Security Committee has relatively broad authorities. Its 17-member composition is proportionate to the strength of parliamentary parties; its president and vice-president belong to the two largest opposition parties. However, the Committee obviously lacks specialisation – it covers the issues of internal affairs, defence and intelligence-security services, and there are no sub-committees for these rather different tasks. The Committee’s meetings are open to the public even when it discusses the reports of BIA, and the Committee doesn’t

have its own rules of procedure or work plan. The Committee's support staff is seriously undermanned, and the Committee has never commissioned a research to any governmental or independent think tank.

The grave obstacle that contributes to its inefficiency in the parliamentary control is the lack of a precise regulation on exactly what kind of information handled by BIA the Committee is authorised to have – neither the parliamentarians know what they are entitled to ask, nor the Agency knows what it should and must give to them! As a result of that, and not only that, the Committee did not excel in informing citizens on the work of the Agency, nor was it successful in ensuring the public that it has BIA under efficient control. The Committee also did not invest a real effort to establish a public image of itself as the guarantor of the Agency's political neutrality.

In short, the parliamentary control of the intelligence and security sector in Serbia fairly reflects the “maturing” stage of the Serbian Parliament as a democratic institution, as well as numerous compromises that characterise the current political moment in Serbia.

Serbia has no special control institutions such as an inspector general for the security services or an ombudsperson. The inspector general for the security services foreseen by the former federal law on services was never appointed.

The Reform of BIA

Hardly a surprise, BIA is undergoing its reform more silently than most of the other institutions caught in the wheels of Serbian transition.

The Agency is no doubt torn between a burden from the past and the demanding requirements of the present. The latter combine the general transition difficulties with a “tailored action plan”, which includes tracing down Mladic and providing support to foreign and internal Serbian policy efforts on Kosovo – the exercise described as “ensuring the stable security environment for the negotiation talks”.

However, regardless of how much its reform is important for the overall democratic progress of the country, BIA was mostly left alone to reform itself, not unlike the military or the police.

At its beginning, although BIA took over the material assets of the former State Security Department, the staff of the old organisation was not admitted in automatically. Out of between 2,600 and 3,000 employees of the former State Security, 600 could not continue their engagement in BIA due to their ties with the criminal circles, or for failing to pass the security background checks. Furthermore, internal review commissions have been set up to analyse cases of unauthorised phone taping and other abuses, resulting in additional discharges from the service. Since 2002, around 400 members of BIA have been retired, and 120 young professionals hired after a public job advertisement. In total, almost 50% of the former State Security staff is now replaced in BIA.

In further efforts to distance itself from skeletons in its closet, BIA has decided not to participate in any investigation involving members of the former State Security as suspects, and it released its members from the duty to keep secret if they are requested to provide information in these cases.

In 2004, the 3rd Directorate of the State Security Service, in charge of so-called “internal enemy”, was disbanded, and files older than 30 years have started to be transferred to the public archives (except those on persons involved in espionage, terrorism and organised crime).

All of BIA’s current operational and analytical staff have university degrees, and overall more than 40% of its members have university diploma. Since 2002 BIA has been re-organised several times. The latest re-organisation included changes such as grouping of directorates into two clusters – operational and logistical – and releasing the staff of the logistical cluster from all special powers.

BIA is an observer in the Middle Europe Conference (MEC), a consultative partnership of services of Central European countries and

several Western European services. It has a liaison officer in Moscow, and expects to send one soon to in Washington, Brussels, Berlin and few other capitals.

The Agency leadership seems to be very well aware that the supremacy of civilian democratic authorities, the rule of law and democratic civilian control are principles which must not be questioned. However, it is less certain to what extent the Agency's lower ranks know what these principles actually mean in practice, what their consequences and values are. When the Agency does not get a clear signal about that from its "controllers", it is difficult to expect that its own ranks will come up with proper solutions in drawing the lines separating the state from party politics, the national from state security, the discipline from blind obedience; nor will they be easily ready to protect the rule of law against abuse without any institutional protection provided for the whistleblowers.

Instead of a Conclusion

Caught between two steps, with overlapping and entangled competences of services and unclear or non-existing lines of direction, control and coordination, the Serbian intelligence-security system is flawed and left without a protection against the universal tendency of services to overstep their authorities and escape scrutiny. Fortunately, it seems that the existing balance of political powers in the country, and the genuinely adopted principle of civilian supremacy and democratic civilian control among the highest politicians and services' ranks are holding the system together without major turbulences for the time being. The momentum should, of course, be used to redesign the system and come up with a set-up that meets the well-known requirements of a democratic society - the one that facilitates and ensures respect of the rule of law; enhances efficiency in providing information relevant to the security and development of the country, fits well in the scissors of needs and possibilities, and respects and protects human rights and other fundamental democratic values. Such a system could truly provide security to all Serbian citizens, promote their national interests,

contribute to security in the region and assist Serbia in its wish to fully integrate into the international security community.