

MEMORY OF NATIONS

Democratic Transition Guide

[The Argentine Experience]



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DISMANTLING THE STATE SECURITY APPARATUS

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INTRODUCTION

In Argentina, there were six (6) coups d'état between 1930 and 1976. However, the use of violence to resolve political conflicts in the country can be traced back to the years after the War of Independence (1810–1824). Indeed, the constitutive process of a “violent normality”¹ has its roots in a way of doing politics legitimized by the social and political actors, military and civil, during the process of building the National State.

The use of violence to modify a correlation of political forces continued beyond the approval of the National Constitution in 1853. In the following years, Bartolomé Mitre carried out “the first coup d'état” against the government of President Santiago Derqui (1860–1861) in 1861, the same politician took up arms in 1874 when he considered that he had lost the presidential elections fraudulently. The governor of the Buenos Aires Province, Carlos Tejedor, rebelled against the national government in 1880 for the same reasons. This situation also continued during the radical “failed coups” of 1890, 1893 and 1905 that demanded compulsory, universal and secret voting in order to put an end to electoral fraud. All the political “families” in Argentina used violence as a method of doing politics.

In this context, the formation of the Argentine Armed Forces was not without contradictions and setbacks in line with the process of building the National State.² The first steps towards the professionalization of the Armed Forces were taken by President Domingo Faustino Sarmiento (1868–1874), motivated by the Paraguayan War (1865–1870) and the experience gained by him during his diplomatic activity in Europe and the United States (USA). In this sense, the creation of the National Military College (1869) and the Military Naval School (1872) are noteworthy. Finally, when the rebellion led by the governor of the Buenos Aires Province, Carlos Tejedor, was defeated in 1880, Law No. 1.072 was passed, prohibiting the provinces from forming military bodies under any name, guaranteeing the legitimate monopoly of violence to the National State.

Towards the end of the second decade of the 20th century, on the one hand, these professional Armed Forces considered themselves to have the legitimate right to intervene in the political contest and, on the other, political actors continued to validate the use of violence, resorting to the military to change the political results that were adverse to them.³ This self-assigned, society-validated “function” gradually mutated to its peak with the last dictatorship between 1976 and 1983. While the first coups were made to make “corrections” (tutelary functions) in the political system (1930, 1943, 1955 and 1962), those of 1966 and 1976 were made without a plan to call for elections. That is to say, they intended to remain in power *sine die*: the Armed Forces were constituted as a “military party”⁴; seeking to produce fundamental transformations in the social, political and economic life of Argentina.

In this context, the design of the Armed Forces was based on the hypotheses of conflict with Brazil and Chile and on

the tradition of using the military in tasks of “internal security.” For example, during the imposition of the political and economic model of Buenos Aires on the rest of the provinces (1820–1862); the struggle against the native peoples (1878–1919); in the repression of social protests such as the Tragic Week (1919) and the Rebel Patagonia (1920–1921); and the protests of radicals, anarchists, socialists and trade unionists between 1890–1955.

The practices listed in the preceding paragraph were fuelled by the incorporation of the French and American counterinsurgency doctrines in the context of Argentina's accession to the Western bloc during the Cold War (1947–1991).⁵ In fact, in that country this doctrine was first reflected in the “Plan Continentes” (1959), which consisted of using the Armed Forces⁶ and the security forces to repress the “internal ideological enemy”: mainly Peronist and leftist militants, but also any opponent of the political project of the Armed Forces.⁷ Argentina ascribed to the National Security Doctrine that was “founded on a hypothesis of permanent internal war on different fronts” in which the Armed Forces should not only defend territorial integrity but, fundamentally, “the ideological frontiers that separated, within each community, the supporters of the Western and Christian bloc from the adherents to the communist world.”⁸ This doctrine was in force until well into the 1980s in Latin America.⁹

In this context, the future dictator Juan Carlos Onganía (1966–1970) implemented the last relevant military reform in the Army between 1963 and 1966.¹⁰ The deployment, the organizational structure and the doctrine were designed for the Armed

1 Luis Alberto Romero, “La violencia en la historia argentina reciente: un estado de la cuestión”, paper presented at the Workshop Historicizing a troubled and living past in memory: Argentina, Chile, Perú, London: Institute of Latin American Studies, London University, 2003.

2 For more details, see Oscar Oszlak, *La formación del Estado argentino*, Buenos Aires: Planeta, 1997.

3 Alain Rouquié, *Poder militar y sociedad política en la Argentina. Tomo I*, Buenos Aires: Hyspamérica, 1986.

4 Mario Rapoport, Claudio Spiguel, *Política exterior argentina. Poder y conflictos internos (1880–2001)*, Buenos Aires: Capital Intelectual, 2005, 43.

5 Ernesto López, La introducción de la Doctrina de la Seguridad Nacional en el Ejército Argentino, in Oscar Moreno (Coord.), *La construcción de la Nación Argentina. El rol de las fuerzas armadas. Debates históricos en el marco del Bicentenario 1810/2010*, Buenos Aires: Ministerio de Defensa, 2010.

6 Formulated during the government of Juan Domingo Perón in 1954 and applied by Arturo Frondizi (Decreets No. 9880/58 and 2628/60). Sergio Eissa, *¿La irrelevancia de los Estados Unidos? La política de defensa argentina (1983–2010)*, Buenos Aires: Arte y Parte: 2015.

7 Mario Rapoport, Claudio Spiguel, op. cit., 2005, 52.

8 Mario Rapoport, *Historia económica, política y social de la Argentina (1880–2000)*, Buenos Aires: Ediciones Macchi, 2000, 631.

9 Sergio Eissa, op. cit., 2015.

10 Subsequently, partial adjustments were made due to budget reductions, such as the dissolution of the Army Corps. See Guillermo Lafferriere & Germán Soprano, *El Ejército y la política de defensa en la Argentina del Siglo XXI*, Buenos Aires: Protohistoria Ediciones, 2015, 39.

Forces to face inter-state conflicts (Chile and Brazil) and internal political groups, of an insurgent nature or simply opposed to government policies.¹¹

SITUATION DURING THE COUP AND FALL OF THE DICTATORSHIP

Unlike the previous coups, the Armed Forces decided to avoid the personalities of the past. To this end, as of March 24, 1976, they established that the supreme organ of the state should be a Military Junta (JM) composed of the heads of each force and that it should be responsible for appointing the president.¹² They also decided to divide the positions in the state structure into thirds (33 % for each). This rule produced parallel policies and distortions in state action, while “the military officials appointed in the different areas of the state placed their first loyalties, according to the most elementary military logic, in their respective forces and not in the military authorities [who were their immediate superiors] or of those in charge of the government.”¹³ Although this agreement was followed in the formation of the Legislative Council (CAL) and in the Ministries, the Army always held the presidency and retained the main ministries; as well as “the so-called institutional presidency, comprised of the Presidential Secretariats, whose main activity is the management of the political coordination of the presidency”, among them the General Secretariat and the Secretariat of State Intelligence (SIDE).

This force also dominated the distribution of provincial governorships: twelve (12) for the Army, five (5) for the Navy and two (2) for the Argentine Air Force.¹⁴

As for the structure through which the illegal repression was exercised, the Argentine Army had control over the entire territory through the Army Corps¹⁵ divided into zones, subzones and areas:¹⁶

a/ Army Corps I

Zone 1: Autonomous City of Buenos Aires (Federal Capital) and the municipalities of the southeast, center and northwest of the province of Buenos Aires. Until the end of 1979 it also covered the entire province of La Pampa.

In the Federal Capital Subzone, Area IIIA was in charge of the Argentine Navy and where the Naval School of Mechanical Engineering (ESMA) operated as a Clandestine Detention Center (CCD) or Meeting Place for Detainees (LRD).

Subzone 16, which included the municipalities of Merlo, Morón and Moreno, was placed under the Directorate of the Argentine Air Force.

b/ Army Corps II

Zone 2: provinces of Santa Fe, Entre Ríos, Corrientes, Misiones, Chaco and Formosa.

c/ Army Corps III

Zone 3: provinces of Córdoba, San Luis, Mendoza, San Juan, Catamarca, Santiago del Estero, Tucumán, Salta and Jujuy.

d/ Commander of the Military Institutes (Campo de Mayo)

Zone 4: covered the northern municipalities of the Buenos Aires Province.

e/ V Army Corps

Zone 5: south and southwest of the province of Buenos Aires, and the provinces of Neuquén, Río Negro, Chubut, Santa Cruz and the National Territory of Tierra del Fuego.

This organization was intended to conduct defensive and offensive military operations. The former concerned population control and the prevention of “subversive” activities. These were carried out by the areas, which also provided support to the Task Forces (TF); who were responsible for carrying out the offensive actions, i.e. kidnapping the victims. These TF depended on the services of the intelligence headquarters in each area and were composed of officers and non-commissioned officers from the relevant areas. Once the person was abducted, he or she was transferred to a CCD until it was decided whether he or she would be killed, passed to the National Executive or the Judiciary (launched) or released.

Sixty-one (61) CCDs depended on zone commanders;¹⁷ although some unofficial sources claim that there were 610 CCDs (LRDs and Transitional Sites (LTs)) in 1976, stabilizing at around 364 in 1977.¹⁸

Likewise, Directive No. 1/75 of the National Defense Council “Fight against Subversion”, issued pursuant to Decrees Nos. 261, 2770, 2771 and 2772 of 1975 [presidency of María Estela Martínez de Perón (1974–1976)], established that the Army should have operational control of the provincial prison police and services; the Federal Police; and the National Penitentiary Service.

In addition, it had functional control over SIDE. The Navy was in charge of the operational control of the police of the National Territory of Tierra del Fuego. While the Argentine Air Force would have control of the provincial police and prison services, it would have to agree with the Argentine Army.¹⁹

Little information is available on the members of the Task Forces that participated in state terrorism, which immediately resulted in the disappearance of 30,000 Argentines and the theft of half a thousand babies. For this reason, in order to have an estimated size of the repressive apparatus, we will mention, firstly, that spending on the Armed Forces increased by 450 % (see Graph 1); taking 1951 as a base year.

Secondly, the Task Forces were composed of staff (officers and non-commissioned officers only) of the Armed Forces (Army, Navy and Air Force), the Security Forces (Gendarmerie

11 Germán Montenegro, “El marco normativo y doctrinario de la defensa nacional”, in *Revista de la Defensa Nacional*, 2007, (1), Buenos Aires: Ministerio de Defensa, 17.

12 Roberto Russell, El proceso de toma de decisiones en la política exterior argentina (1976–1983), in Roberto Russell, *Política exterior y toma de decisiones en América Latina*, Buenos Aires: Grupo Editor Latinoamericano, 1990, 14. The figure of the fourth man exacerbated inter-force and inter-force bids in the government, as did the 33 % quote. Paula Canelo, *La política secreta de la última dictadura argentina (1976–1983)*, Buenos Aires: Edhasa, 2016.

13 Roberto Russell, *op. cit.*, 1990, 15.

14 Paula Canelo, *op. cit.*, 2016, 57.

15 *Ibid.*, 58–59.

16 See <http://www.desaparecidos.org/nuncamas/web/zonas/zonas.htm> and Case No. 1261–1268 “Olivera Róvere, Jorge Carlos y otros s/homicidio, privación ilegítima de la libertad, tormentos y otros delitos del Código Penal”, Buenos Aires: Tribunal Oral en lo Criminal Federal No. 5, December 2009.

17 *Ibid.* and National Commission on the Disappearance of Persons (2017 [1984]), *Nunca Más. Report of the National Commission on the Disappearance of Persons*, Buenos Aires: Eudeba.

18 María Seoane, *El dictador*, Buenos Aires: Sudamericana, 2001, 227–228.

19 See <http://www.desaparecidos.org/nuncamas/web/document/document.htm> and Causa No. 1261–1268 “Olivera Róvere, Jorge Carlos y otros s/homicidio, privación ilegítima de la libertad, tormentos y otros delitos del Código Penal”, Buenos Aires: Tribunal Oral en lo Criminal Federal No. 5, December 10, 2009.

TABLE NO. 1: TROOPS OF THE ARMED FORCES, SECURITY AND INTELLIGENCE IN 1977

	Army	Navy	Air Force	Gendarmerie	Naval Prefecture	Federal Police	SIDE
Troops	80,000	32,900	17,000	11,000	9,000	22,000	
Reserve	250,000						
Intelligence ²⁰	4,867	712	1,200				2,200

Fuente: International Institute for Strategic Studies, "Balance Militar" in Ejército. Revista de las Armas y los Servicios, XXXIX (461), Madrid: Ejército de Tierra, 1978 y Revista Veintitrés, Buenos Aires, no data.

and Prefecture, which were part of the Army and Navy, respectively, until 1984), the Federal Police, the 23 provincial police and the Secretariat of State Intelligence (SIDE).

The approximate number of troops was: *See Table No. 1*

Currently, provincial police represent 62 %²¹ of the federal police system. If that proportion had been the same in 1977, the provincial police forces would have totalled approximately 25,000.

It should be noted that "during 1975 the subversive gangs were defeated in all the major large-scale actions undertaken, and although their actions had not been annihilated, the military and security operations initiated had begun to achieve the objectives set."²²

With regard to legal regulations (see table 2), it should be emphasized that the democratic government of María Estela Martínez de Perón (1974–1976)

had given the Armed Forces and the Security Forces the necessary legislation and normative instruments to deal with the subversive problem, but there was no reason to justify the illegal and clandestine actions carried out by the military government, and in this sense it should be stressed that "the coup d'état of March 24, 1976 did not mean a substantial change in the legal provisions in force at that date regarding the fight against subversion. (...) the prevailing system only authorized the suspect to be detained, to be housed occasionally and temporarily in a prison or military unit, and to be immediately released or brought before the civil or military courts or the executive branch (...) However, it is clear from the analysis carried out (...) that what happened was radically different.

Although the operational structure continued to function in the same way, the personnel subordinated to the accused detained a large number of people, illegally housed them in military units or in places under the control of the Armed Forces, interrogated them under the torture method, held them in captivity under inhuman conditions of life and accommodation and, finally, either legalized them by placing them at the disposal of the courts or the National Executive Power, released them or physically eliminated them."²³

In conclusion, despite the fact that "the legislative policy applied to the subversive phenomenon by the constitutional government did not undergo substantial changes after its overthrow, [instead of] making full use of such legal powers, the military government preferred to implement a clandestine mode of repression."²⁴ The coup d'état did not aim to annihilate and/or eliminate subversion,²⁵ but rather to bring about a political and economic change in Argentine society that required the elimination of all forms of opposition to the authoritarian regime.²⁶

The defeat in the Malvinas/Falkland war (1982) will highlight the lack of professionalization of the Argentine Armed Forces to face a traditional conflict – the first since the Paraguay War (1865–1870) – in which, beyond the heroism demonstrated by the officers, non-commissioned officers and soldiers of the three Forces, the lack of preparation, the lack of means, the individual actions of each Force in the face of the need for joint action and the political factionalism in which the military instrument had been submerged was exposed.

The Armed Forces were an autonomous actor of political power for much of the 20th century and, despite defeat in the Malvinas/Falkland war and the "transition due to collapse", the military – together with their civil allies – retained an important veto power during the government of Raúl Alfonsín (1983–1989) and bureaucratic autonomy to try to define their mission and roles from the 1990s onwards.²⁷

ACTIONS TO STRENGTHEN DEMOCRACY DURING THE CONSOLIDATION PROCESS

In order to transform the security and military apparatus inherited from the dictatorship, the democratic government faced, with varying success, four courses of action during the democratic consolidation:

20 It is not clear from the sources whether such personnel are also included in the totals for each force.

21 Facundo Salles Kobilanski, "La política de las reformas policiales a nivel subnacional en Argentina: algunas contribuciones y lecciones desde la ciencia política", in *Cuadernos de Seguridad*, Buenos Aires: Ministerio de Seguridad, no data, 2, http://www.minseg.gob.ar/sites/default/files/cuadernos/14_Kobilanski.pdf

22 Causa No. 1261–1268 "Olivera Róvere, Jorge Carlos y otros s/homicidio, privación ilegítima de la libertad, tormentos y otros delitos del Código Penal", Buenos Aires: Tribunal Oral en lo Criminal Federal No. 5, December 10, 2009, 610.

23 Ibid., 610–611.

24 Ibid., 610.

25 The Secret Order of December 17, 1976 eliminated the order to "neutralize and/or annihilate subversive actions" (as instructed by the so-called annihilation decrees of 1975, including No. 261/1975). The Armed Forces themselves, therefore, believed that "subversion" no longer existed militarily. However, the Secret Order states that from then on "subversive criminals must be annihilated". In fact, the 1976 directive states: "Operations against subversive elements (R-C-9-1) (...) 4003 i): Apply fighting power with maximum violence to annihilate subversive criminals wherever they are. Military action is always violent and bloody (...) The subversive criminal who wields arms must be annihilated, since when the Armed Forces enter into operations they must not interrupt the combat or accept surrender (...) 4008: the attack will be executed: a) By locating and annihilating subversive activists."

26 Mario Rapoport, Claudio Spiguel, *op. cit.*, 2005, 52.

27 Sergio Eissa, *op. cit.*, 2015.

TABLE NO. 2: LEGAL FRAMEWORK FOR REPRESSION	
Type and number of standard	Content
Decree-Law No. 16.970/1966	National Defense – National Security Doctrine
Decree-Law No. 16.896/1966	It authorizes searches and detentions of persons for up to ten days before they are brought to justice.
Law No. 20.642 (1974)	Increases penalties under the Penal Code.
Law No. 20.840 (1974)	“Anti-subversive”.
Decree No. 1368/1974	State of siege.
Decree No. 261/1975	It orders the Argentine Army to execute operations to neutralize and/or annihilate the subversion.
Directive of Commander-in-Chief of the armed forces No. 333 and 334	Operations against subversion in Tucumán.
Decree No. 2770, 2771 y 2772 de 1975	They created, respectively, the Defense Council (CD); signed agreements with the provinces to place the police and provincial prison services under the operational control of the CD; and ordered the annihilation of the actions of the subversive elements.
Defense Council Directive No. 1/75	“Fight against subversion”.
Directive No. 404/75 “Fight against subversion” (Commander-in-Chief of the Argentine Army)	It established the priority fight zones, divided the strategic maneuver into phases and maintained the pre-existing territorial organization – composed of defense zones, sub-zones, areas and sub-areas – in accordance with the 1972 Capabilities Plan.
Anti-subversive Directive No. 1/75 Secret of the Argentine Navy that approved “Capabilities Plan –PLACINTARA 75-.”	
“Orientation-Updating of the 1975 Internal Framework Capability Plan” of the Argentine Air Force.	
Statute for the National Reorganization Process.	
Partial Order No. 405/76	Restructuring of jurisdictions to intensify operations.
Directive of the Commander in Chief of the Army No. 504/77.	
“Final Document” of the Military Junta of 28 April, 1983.	

Source: own creation from public documents.²⁸

1. THE ROLE OF FOREIGN POLICY

While Raúl Alfonsín’s foreign policy (1983–1989) clearly had “the protection and consolidation of democracy”²⁹; as its ordering axis; that of Carlos Menem (1989–1999) cannot be explained solely from the change in economic policy, but also on the basis of the government’s diagnosis of the post-Cold War international scene, which had its roots in the theoretical development of Carlos Escudé, known as Peripheral Realism.³⁰ However, both governments bet, one in political terms and the other in economic terms, on regional integration.

In effect, the deactivation of the conflict hypothesis with Chile and Brazil³¹ contributed to the military subordination, while the Armed Forces could not justify their budget in terms of either the same or the internal ideological enemy. To this end, Raúl Alfonsín (UCR) began the process of regional integration through the signing of the Program for Economic Integration and Cooperation (PICE) with Brazil, to which Uruguay later joined, as well as the referendum and the subsequent approval of the Treaty of Peace and Friendship with the Republic of Chile in 1984.

Moreover, the position taken in the face of the Central American crisis sought not only to place Argentina as a protagonist on the regional stage, defending the principle of non-intervention and legal equality of states, but also to “prevent the conflict from evolving in a way that would put the [new] democratic governments at a disadvantage”³².

28 See <http://www.desaparecidos.org/nuncamas/web/document/document.htm> y Causa No. 1261-1268 “Olivera Róvere, Jorge Carlos y otros s/homicidio, privación ilegítima de la libertad, tormentos y otros delitos del Código Penal”, Buenos Aires: Tribunal Oral en lo Criminal Federal No. 5, December 10, 2009.

29 Roberto Russell, *Políticas exteriores: hacia una política común*, in Mario Rapoport (Comp.), *Argentina y Brasil en el MERCOSUR. Políticas comunes y alianzas regionales*, Buenos Aires: Grupo Editor Latinoamericano, 1995, 35.

30 Carlos Escudé, *Realismo periférico. Fundamentos para la nueva política exterior argentina*, Buenos Aires: Planeta, 1992.

31 The distention with Brazil began with the signing of the Multilateral Agreement on Corpus-Itaipu in 1979.

32 José Paradiso, *Debates y trayectorias de la política exterior argentina*, Buenos Aires: Grupo Editor Latinoamericano, 1993, 187.

The Justicialist president³³ Carlos Menem (PJ) deepened this strategy of regional integration. MERCOSUR, comprising Argentina, Brazil, Paraguay and Uruguay, was launched on 26 March 1991 and continued the work of PICE. Finally, and almost simultaneously, Brazil and Argentina formally ended their respective conflict scenarios in 1996.³⁴ As for Chile, after a long process that began in 1992, on December 29, 1998, the Argentine Congress approved the treaty that put an end to the demarcation of some twenty points that had not yet been demarcated on the border with that country. Among them, the most important were Laguna del Desierto, resolved through Latin American arbitration, and Hielos Continentales.³⁵

2. THE ROLE OF ECONOMIC POLICY

Raúl Alfonsín reduced the defense budget to its historical level of 2 % of the GDP, not only because of economic austerity, but also to contribute to the subordination of the Armed Forces to civil power³⁶ (see Graph 3). Carlos Menem, for his part, disinterested himself in national defense after consolidating civilian control of the Armed Forces in 1990. As a result, the budget sank to 0.9 % of GDP³⁷ until the first decade of the 21st century.

3. TRIAL OF THOSE RESPONSIBLE FOR STATE TERRORISM

From 1983 to the present day, the Argentine government, with advances and setbacks, faced the trial of those responsible for the state terrorism that caused the disappearance of thirty thousand (30,000) people and of half a thousand newborns.

The first phase of this trial was addressed by the radical government (UCR) between 1983 and 1989. While Raúl Alfonsín “philosopher” thought that

*Coups d'état have always been civil-military. The undoubtedly military responsibility for its operational aspect must not make us forget the heavy civil responsibility of its ideological programming and feeding. The coup has always reflected a loss of the legal sense of society and not just a loss of the legal sense of the military. Therefore, it would be absurd, to expect that overcoming the coup would come from military self-criticism or from civil society action on the military. Overcoming the coup can only come from a global reflection of Argentine society on itself.*³⁸

Raúl Alfonsín, a statesman and politician, considered that the military had carried out a “strategic withdrawal”, leaving the country in a deep economic crisis; in an international scenario where the Cold War (1947–1991) in which the arrival of Ronald Reagan (1981–1989) had faced what would be the final offensive against the Soviet Union; where he had also begun the involvement of his armed forces in the so-called War on Drugs in Latin America (first with Richard Nixon in 1971 and Ronald Reagan in 1986); and in a country where the last military dictatorship (1976–1983) “enjoyed the tacit consent of a significant part of Argentine society”.³⁹ For this reason, years later, he argued

it was absolutely unthinkable to prosecute thousands of members of the armed and security forces (most of them active) who participated in one way or another in the illegal repression [...]. Our aim could not be to try and convict all those who had violated human rights in one way or another, because this was

unattainable, but to achieve an exemplary punishment that would prevent the repetition of similar events in the future [...] it would have been absolutely irresponsible to claim such a far-reaching universe of judgment when the consequences of that action, far from preventing future crimes, could promote them again or cause greater harm to the still incipient democracy [...]. Did anyone seriously believe and still believe that, at that time, with a democracy that was just emerging from years of military dictatorship, it was possible to arrest and try 1,500 or 2,000 active officers of the armed forces? Not only was it tactically impossible, but the Argentinians had not voted in that direction [...] it would have been absolutely irresponsible to claim such a far-reaching universe of judgment when the consequences of that action, far from preventing future crimes, could promote them again or cause greater harm to the still incipient democracy.⁴⁰

Indeed, despite the fact that society and human rights organizations thought otherwise, Raúl Alfonsín had argued during the election campaign that he would declare self-amnesty null and void and that

*we're not going to go backwards looking with a sense of revenge either. We will not build the country of the future in this way [...]. Here, there are different responsibilities: there is a responsibility of those who took the decision to act as it was done, there is a different responsibility of those who committed excesses in the repression, and there is a different responsibility of those who did nothing other than, in a framework of extreme confusion, to comply with orders.*⁴¹

Thus, the president, tense between his convictions and that of fulfilling his maximum objective, which was to hand over the government to another democratically elected ruler, promoted the trial of the Military Juntas – the only one in the world if Nuremberg is not taken into account – but he had to retreat because of errors in the implementation of the reforms of the Code of Military Justice and because the military issue was exacerbated by the irresolution of the government.

Already in two different socio-political contexts, President Carlos Menem opted to put an end to the military issue by pardoning those responsible for state terrorism, while Presidents Néstor Kirchner (2003–2007) and Cristina Fernández de Kirchner (2007–2015), with the support of human rights organizations, opted to promote the reopening of the trial.

33 The expressions Justicialist Party or Peronism shall be used interchangeably in the text.

34 Rosendo Fraga, El concepto de las hipótesis de conflicto, in Andrés Cisneros (Comp.), *Política exterior argentina 1989–1999. Historia de un éxito*, Buenos Aires: Nuevo Hacer. Grupo Editor Latinoamericano, 1998.

35 Sergio Eissa, *Hielos Continentales. Las variables domésticas en la política exterior argentina*, Buenos Aires: Fundación Síntesis, 2005.

36 David Pion-Berlin (Ed.), Civil-Military Circumvention. How Argentine State institutions compensate for a weakened chain of command, in David Pion-Berlin (Ed.), *Civil-military relations in Latin America. New Analytical Perspectives*, Carolina del Norte: The University of North Carolina Press, 2001.

37 Sergio Eissa, *op. cit.*, 2015.

38 Raúl Alfonsín, *Memoria política*, Buenos Aires: Fondo de Cultura Económica, 2009, 255.

39 *Ibid.*, 33.

40 *Ibid.*, 45 and 47–48.

41 Horacio Jaunarena, *La casa está en orden. Memoria de la transición*, Buenos Aires: TAEDA, 2011, 32.

4. REFORMS IN THE NATIONAL DEFENSE, SECURITY AND INTELLIGENCE SYSTEM

The process of reform of the national defense system lasted from 1983 to 2006, while in police agencies it can be argued that the reforms only began in 1997 with advances and setbacks, without significant progress having been made to date. On the other hand, although the Intelligence System was reached by two laws, both the former SIDE and the current Federal Intelligence Agency (AFI) continue to be questioned by political and social actors for their lack of transparency and for the lack of control by the Legislative Power.

Although this analytical separation is carried out, the three systems (defense, internal security and intelligence) are considered to constitute a “systemic construct” that contributes to Argentina’s strategic security.

Synthetically, the construction of the “basic consensus”⁴² took place in three (3) stages: a) the executive between 1983 and 1985, b) the legislative between 1987 and 2001 and c) the executive between 2005 and 2010.

During the first stage, reforms were implemented at the doctrinal and organic functional level, aimed at strengthening the subordination of the Armed Forces to the new constitutional government. It had already been agreed with the last de facto president, Reynaldo Bignone, to abolish the three posts of commander-in-chief of the Armed Forces, thus concentrating “the functions that until then had been held by those in the President of the Republic” and it was established that the headquarters of the General Staff of each Force would constitute the highest echelon of the military hierarchy through Decree-Law No. 23,023/83.⁴³

Subsequently, other measures were defined to modernize the National Defense System and strengthen the role of the Ministry of Defense⁴⁴ and the Joint Chiefs of Staff, it should be noted:⁴⁵

- the strengthening of the role of the Joint Chiefs of Staff of the Armed Forces, insofar as it was conceived by the government as “the greatest link in establishing routines and institutional traditions in accordance with a democratic government”. To this end, the head of the Joint Chiefs of Staff became the highest ranking active officer and provided him with a structure that should be supplemented by the best personnel each force could offer. This was no longer regarded as a career punishment;⁴⁶
- the transfer of the “share package, public limited companies with majority state participation, state limited companies, public limited companies and mixed companies whose ownership, possession or holding is the responsibility of the armed forces” to the Ministry of Defense (Decree No. 280/83);⁴⁷
- the delegation to the Ministry of Defense of the power to appoint and reassign senior officers of the three Forces, “as well as decisions on the dismissal and withdrawal of officers from that hierarchy” (Decree No. 436/84).⁴⁸ One of the first steps taken was to reduce the number of senior officers by almost 50 %;⁴⁹
- the transfer of the National Gendarmerie and the Argentine Naval Prefecture from the Argentine Army and Navy respectively,⁵⁰ to the Ministry of Defense;
- strengthening the Ministry in budgeting; and
- the reduction of the budget from 4.7 % of GDP to 2.3 %, “which represented approximately the historic level of defense expenditure”.⁵¹

Although a Defense Bill was sent to Congress in 1985, which departed from the platform of the ruling party and was drafted by advisers to the Ministry and the Joint Chiefs of Staff,⁵² the reformist impetus ended with the death of Defense Minister Raúl Borrás in May 1985.⁵³

After the first military uprising and the electoral defeat of radicalism in 1987, it agreed with the Justicialist Party (PJ) on a legislative agenda that included the submission of a National Defense Bill.

The radical and renovating Peronist deputies⁵⁴ agreed not to discuss the project coming from the government and sought to “solve the urgent need for a defense law, through a shared effort of conceptual compatibility and proposals of the different aspects of national political thought”.⁵⁵

First, the adoption of a new Defense Law was considered urgent for at least two (2) reasons. On the one hand, it was necessary to promote a strong institutionalization in this area, which would mean closing any door to a new military intervention. On the other hand, it was considered necessary to promote a doctrinal change that would extirpate from the military sector the National Security Doctrine, on the basis of which military intervention in internal security matters and the execution of a brutal repression that led to massive violations of human rights had been justified. Such a bill would then have to agree on a definition of national defense among the different political and social actors. This convergence was achieved in 1988 and is what has been called the “basic consensus”⁵⁶ (see graph 2).

On the one hand, some Peronist advisers promoted a total rejection of the National Security Doctrine and a return to

42 The concept belongs to Marcelo Saín. Other works by this author include Marcelo Saín, *Los votos y las botas. Estudios sobre la defensa nacional and las relaciones civil-militares en la democracia argentina*, Buenos Aires: Prometeo, 2010.

43 Ernesto López, *Ni la ceniza ni la gloria. Actores, sistema político y cuestión militar en los años de Alfonsín*, Quilmes: Universidad Nacional de Quilmes, 1994, 73.

44 Horacio Jaunarena, *op. cit.*, 2011, 48 and 50.

45 Ernesto López, *op. cit.*, 1994, 74.

46 Herbert Huser, *Argentine Civil-Military Relations. From Alfonsín to Menem*, Washington DC: National Defense University Press, 2002, 58–59.

47 See also Sergio Eissa, *op. cit.*, 2015 and Horacio Jaunarena, *op. cit.*, 2011, 48.

48 The use of this decree was recovered by the Minister of Defense Nilda Garré in December 2005 and repealed by President Mauricio Macri (2015 to present) in 2016.

49 Horacio Jaunarena, *op. cit.*, 2011, 52 and 62.

50 *Ibid.*, 53. Gendarmerie was transferred in July 1984 and Prefecture in October 1984. Both came under the Ministry of the Interior in 1996 and the newly created Ministry of Security in 2010. The National Aeronautical Police was removed from the Argentine Air Force in 2005 and became the Airport Security Police under the Ministry of the Interior in 2006 and since 2010 under the Ministry of Security.

51 Horacio Jaunarena, *op. cit.*, 2011, 53.

52 Sergio Eissa, *op. cit.*, 2015.

53 Gustavo Druetta, “Herencia militar y lucha parlamentaria”, *Nuevo Proyecto*, (5–6), Buenos Aires: Centro de Estudios Para el Proyecto Nacional, 1989 and Varas, Augusto, “Democratización y reforma militar en Argentina”, paper presented at the International Seminar “Autonomización castrense y democracia: dinámica del armamentismo y del militarismo en América Latina”, CLACSO-FLACSO-SERC, Santiago de Chile, 1985.

54 It was an internal line within Peronism in the 1980s that displaced in 1985 the so-called “orthodox” who sought to maintain alignment with former President María Estela Martínez de Perón.

55 Gustavo Druetta, *op. cit.*, 1989, 194 and 199.

56 A good description of how the agreement was reached is provided by Gustavo Druetta, *op. cit.*, 1989.

the National Defense Doctrine, in force during the first and second of Perón's governments. Some of these ideas had been worked out in the final stage of the magazine *Estrategia*, by General Guglielmelli and some of the colonels of the 33 Orientals.⁵⁷ Within the Army, this thought was accompanied by the most nationalist sector and professionals "not intoxicated by pro-Yankee liberalism", being "the workhorse" of the generation of lieutenants Licastro and Fernández Valoni, among others, during the 1970s. This group was accompanied by a sector of classical Peronism and the renovators, and was certain that "military participation in internal affairs was harmful both to the military and to democracy, since it implied a confusion of roles with the police for which the military mentality was not prepared."⁵⁸ The latter facilitated the agreement with sectors of radicalism, whether they were balbinists (José Manuel Ugarte, Andrés Fontana and Yuyo Gauna) or alfonsinists (Dante Giadone, Jesús Rodríguez, Federico Storani and Eduardo Estévez). The certainty that the military had to be removed from internal affairs because it was harmful to both defense and democracy, and the intention not to return to the past, also implied "the construction of a system of political leadership of internal security."⁵⁹

However, it was not only a question of preventing the recent history of Argentines from repeating itself. The advisers of both parties were well aware of the experience of the *Posse Comitatus Act*, in force in the United States since 1878, which prohibited the military from enforcing internal security (*law enforcement*), and of other countries, such as Spain and Germany – in particular, the concept of *Innere Führung*.⁶⁰ The case studies had convinced them that it was not only a question of subordinating the Armed Forces to civilian power, but also of making progress in the design of a defense policy and a military instrument in accordance with the democratic regime and the new regional reality.⁶¹ Finally, the national defense law was adopted on April 13, 1988.

In the face of the attempted guerrilla takeover of the army barracks in the town of La Tablada in the summer of 1989, the legal vacuum left by the National Defense Law became evident: who should act in the event of an attack on a military unit?

Although work had been done on this bill during Raúl Alfonsín's presidency in 1989, the events of La Tablada put an end to any attempt to move forward with it. Once Carlos Menem took over the presidency, a draft was sent to the Minister for consideration and then sent to the Chamber of Deputies. Despite the pressure from the Armed Forces and the legislators of the UCeDe, so that they could act in matters of internal security (*law enforcement*), the actors of the "basic consensus" insisted that the wording be expressly limited to situations in which the Armed Forces could intervene in internal security, regulating a power that the president had by himself, in accordance with the National Constitution. Law No. 24.059 on internal security was finally adopted on 18 December, 1991.⁶²

Also, during the administration of President Carlos Menem, one of the most important structural and symbolic changes in the Armed Forces took place. In September 1994, Law No. 24.429 on Voluntary Military Service was passed, as a consequence of the assassination of the conscript Omar Carasco in March of that year in the Army's Artillery Group 161, in the city of Zapala, province of Neuquén. Although the government had no plans to end the compulsory conscription, and the opposition did not request it either, the criminal act accelerated some analyses that were already being studied

in the Ministry of Defense, due to the increase in desertion, the lessons of the Malvinas/Falkland war and the strategic defensive stance adopted by the country.⁶³

The third key rule was Law 24.948, which established the fundamental political, organic and functional bases for the restructuring of the Armed Forces. This was the result, firstly, of a project drawn up by the Restructuring Commission of the Armed Forces with representatives of the forces. Secondly, the former Minister of Defense, and then deputy for the Radical Civic Union Horacio Jaunarena, presented a project to restructure the Armed Forces, which was advised by some military personnel.⁶⁴ Thirdly, a series of public hearings were held to discuss national defense issues between 1995 and 1999. National government officials, especially from the Ministry of Defense and Economy, national deputies and senators, foreign guests, renowned national and foreign academics, and active and retired military personnel were present. These hearings had at least two effects: a) the National Senate approved a project of communication to the Executive Power to issue a National Defense Directive establishing the guidelines on defense matters, which materialized in Decree No. 1116/1996⁶⁵ which approved the first Defense Directive of Argentina; b) the consensus reached for the approval of the Defense and Internal Security laws on "a common body of ideas, built up over 15 years of democracy", facilitated the debate on a common project for the restructuring of the Armed Forces.⁶⁶ This was approved in 1998, but due to the recession that began that year, which did not allow the defense budget to be increased, and some definitions of the deployment and organizational structure, to which the military was opposed, the law was not regulated and, therefore, is not operational.⁶⁷

While Argentina became the leading country in the region in terms of the implementation of rules establishing civilian control of the Armed Forces, in terms of intelligence, our country was in arrears, mainly due to the opposition of the SIDE. Since the arrival of the radical Fernando de la Rúa in the government (1999–2001), the radical, Peronist and FREPASO advisers have agreed on a bill with this body. The idea was to replicate, in the first instance, the basic agreement reflected in the National Defense and Internal Security laws: to separate external

57 Peronist-inspired militants who opposed the 1976 coup d'état and played an important role in building the "basic consensus". See Clarín, "Los '33 orientales', hombres clave para las leyes de defensa", in *Clarín*, December 31, 2007, https://www.clarin.com/ediciones-antiores/33-orientales-hombres-clave-leyes-defensa_0_HkNeJtC0aYl.html

58 Sergio Eissa, *op. cit.*, 2015.

59 Ibid.

60 It is a concept developed in Germany after the Second World War to apply principles of democratic law to the armed forces. One of the main ideas is that the military are citizens who exercise the profession of arms.

61 Sergio Eissa, *op. cit.*, 2015.

62 Ibid.

63 Oscar Camilión, *Memorias políticas. De Frondizi a Menem (1956–1996)*, Buenos Aires: Planeta, 2000, 341–342.

64 A few months later the deputy of the FREPASO (center-left), Juan Pablo Cafiero, also presented his own project. Gloria Cecilia Manzotti, "Reestructuración de las FF.AA.: hacia la consolidación de una política de defensa y una cuestión presupuestaria", paper presented at the IV National Congress of Political Science, Sociedad Argentina de Análisis Político (SAAP), Rosario, 2003, 4, 8, 10.

65 This rule was repealed by Decree No. 1691/2006.

66 Pablo Martínez, *La reestructuración de las FF.AA. y el rol del Congreso. La experiencia argentina*, La Paz: Centro de Estudios Hemisféricos de Defensa, 2002, 122.

67 Sergio Eissa, *op. cit.*, 2015.

intelligence from internal intelligence. Despite the resistance of SIDE, the Ministry of Defense and the Armed Forces, Law No. 25.520 on National Intelligence was unanimously approved at the end of 2001.⁶⁸ In 2014, SIDE was dissolved and the Federal Intelligence Agency (AFI) was created by Law No. 27.126. Immediately after, a purge of the organization was initiated and, months later, Decree No. 1311/2015 was approved, which sought to modify the Argentine intelligence doctrine, professionalize the AFI as the governing body of the National Intelligence System and make it an institution capable of meeting the challenges of the 21st century in terms of the collection and analysis of strategic information for security and defense. This reform was interrupted when President Mauricio Macri (2015 to present) reincorporated the expelled spies and re-established the old model of functioning through the enactment of Decree No. 656/2016. To date, this intelligence agency remains a source of mistrust for society and human rights organizations, both because of its lack of transparency and its ineffectiveness. For example, SIDE was unable to alert the Israeli Embassy and the Argentine Israelite Mutual Association (AMIA) to the terrorist attacks that took place in 1992 and 1994, respectively.⁶⁹

From 2005 onwards, not only were the regulations approved in previous years,⁷⁰ made operational, but the institutional framework of the defense system was also completed, not to strengthen the civilian control of the Armed Forces, but rather to make the exercise of civilian defense government more effective.⁷¹ To this end, the Defense Law was regulated by Decree No. 727/2006; the Directive on the Organization and Functioning of the Armed Forces was approved by Decree No. 1691/2006, which made operational some of the provisions of Law No. 24.948; Decree No. 1729/2007, which established the “Defense Planning Cycle”; which launched the cycle and concluded with the adoption of the 2009 National Defense Policy Directive (Decree No. 1714/2009); and the Military Capacities Plan (PLANCAMIL 2011). Civilian functions, such as the National Meteorological Service, the Naval Hydrographic Service and air traffic control, were also demilitarized.

POLICE REFORMS

Regarding the police agencies, the authoritarian legacy is not limited to the last dictatorship either, but also to the formation of the Nation State.⁷² The design of the police in Argentina followed the so-called “French or continental model”, where the police emerged as part of the Armed Forces or militias, which depend hierarchically on the government and are not accountable to their respective communities. The main task of this police force is to “watch” over the enemies of the state. For example, the Argentine Federal Police (PFA) emerged as a necessity of the federal government to subordinate the provincial governments.⁷³ The rest of the current federal security forces (National Gendarmerie, Argentine Naval Prefecture and Airport Security Police) originated in the Armed Forces (Army, Navy and Air Force respectively), and were designed with a centralized and militarized structure; a feature that is still up to date in the National Gendarmerie. On the other hand, it can be argued that the provincial police were designed to monitor the population and the political opposition. The militarization and control tasks of the population and the political opposition were accentuated during the first half of the 20th century, especially during the first two governments of

Juan Domingo Perón (1946–1955).⁷⁴ Consequently, the legacy of the dictatorship was not to be reversed, but to become a long authoritarian tradition.

During the democratic consolidation between 1983 and 1990, the leadership of the provincial police was returned to the democratically elected governors. However,

the provincial governments had no incentive to make themselves devote political resources to the development of security as a public policy domain, especially since the attention of public opinion was clearly focused on the strengthening of civilian control over the military (...) For this reason, during the first democratic administrations, the provincial police forces maintained the organizational principles that had characterized them structurally since their emergence: corporatism and collusion with the political power in turn.⁷⁵

This is what Marcelo Saín has called “police self-government”⁷⁶ for the federal security forces; a concept that we consider applicable to provincial police forces.

Police reforms entered the public and governmental agenda based on two facts: the resolution of the military issue and the significant increase in the crime rate since 1991 in the Autonomous City of Buenos Aires and in the municipalities surrounding the city that make up the Buenos Aires Metropolitan Area. The trigger was the murder of the photographer and journalist José Luis Cabezas in 1997, who kicked off a series of reforms aimed mainly at the police of the Buenos Aires Province.⁷⁷ This police agency was reformed between 1997 and 1999 and between 2004 and 2007, but these reforms were reversed or paralyzed between 1999 and 2004 and from 2007 to the present date. The police in the province of Mendoza were reformed in 1998, the police in the province of Córdoba from 1995 onwards, while the police in the provinces of Santa Fe and Río Negro carried out partial

68 Pablo Martínez, Norberto Pascale, El parlamento y la defensa en la Argentina, in Gilda Follietti, Luis Tibiletti (Eds.), *Parlamento y defensa en América Latina. El papel de las comisiones. Volumen 1: Argentina, Brasil, Chile y Uruguay*, Buenos Aires: Red de Seguridad y Defensa de América Latina (RESDAL), 2004.

69 See Gerardo Young, *Side. La Argentina secreta*, Buenos Aires: Planeta, 2006; Gerardo Young, *Código Stiuso*, Buenos Aires: Planeta, 2015; and Marcelo Saín, *La Casa que no cesa. Infortunios y desafíos en el proceso de reforma de la ex SIDE*, Buenos Aires: Editorial October, 2016.

70 The National Defense Law passed in 1988 was only regulated in 2006. In Argentine law, such an administrative act means making a law operational. Except for Law No. 24,948 on the restructuring of the Armed Forces, which remains unregulated to date (2018).

71 Germán Montenegro, *op. cit.*, 2007. The concept of civilian leadership or civilian government of defense belongs to Marcelo Saín and implies the effective exercise of the political and strategic leadership of the Armed Forces. It is not limited to control and involves the implementation of third generation reforms. See Marcelo Saín, *op. cit.*, 2010 y Sergio Eissa, *op. cit.*, 2015.

72 Facundo Salles Kobilanski, *op. cit.*, no data, 8.

73 Laura Kalmanowiecki, Policing the people, building the state. The police-military Nexus in Argentina 1880–1945, in Diane Davis, Anthony Pereira (Ed.), *Irregular armed forces and their role in politics and state formation*, Cambridge: Cambridge University Press, 2008, 211 and 2013.

74 Laura Kalmanowiecki, *op. cit.*, 2008, 224.

75 Facundo Salles Kobilanski, *op. cit.*, no data, 2.

76 Marcelo Saín, *Seguridad, democracia y reforma del sistema policial en la Argentina*, Buenos Aires: Fondo de Cultura Económica, 2002.

77 This is the largest provincial police force in the country. While in 2004 it had 45,000 personnel, in 2015 it totalled 90,000. In 2014, the police force rate in Argentina was 749.9 per 100,000 inhabitants.

reforms.⁷⁸ The reforms had a common matrix: incorporating precepts related to the Community Policing Model. In opposition, the counter-reforms redirected the police towards a militarized, hierarchical model with the emphasis on saturation and repression, rather than on criminal intelligence and prevention.

Regarding the Federal Security Forces, both the National Gendarmerie and the Naval Prefecture have not undergone any reform processes and, in fact, their organic laws date back to the 1950s. As for the Airport Security Police, it was created as a fully civilian agency in 2006 by Law No. 26.102, based on the structure of the National Aeronautical Police, which depended on the Argentine Air Force. Finally, the responsibilities, structures and personnel of the Argentine Federal Police (PFA) in the Autonomous City of Buenos Aires were transferred to that jurisdiction in 2016; the City Police Force was set up on 1 January 2017. The remainder of the PFA would be transformed into an investigative police force in the manner of the *Federal Bureau of Investigation* (FBI); but no progress has been made by 2018.⁷⁹

CITIZENS' CONTRIBUTIONS TO THE TRANSFORMATION

Citizens contributed through specialized Foundations and NGOs that made their voices heard in Congress, which played a key role between 1987 and 2001. In a second phase, specialists from these civil society institutions, who had also set up research groups at universities, joined the Ministry of Defense between 2005 and 2010.

In the field of civil society, the debate about the mission of the Armed Forces and the need for military reform that would distance them from the National Security Doctrine was, as we said, rather limited. Some books were published in 1985 that sought to leave aside the National Security Doctrine and achieve the full insertion of the Armed Forces in a democratic society. Likewise, the Arturo Illia Foundation for Democracy and Peace initiated a series of publications in the mid-1980s, in which different issues related to defense policy and the armed forces were discussed.

On November 15, 1984, a group of ex-military personnel created the (Military Center for Argentine Democracy (CEMIDA) and in April 1987, they argued that “international conflicts – potential or real – that affect the Argentine Nation, constitute the exclusive and exclusionary subject of national defense. Other types of conflicts are alien to its essence, and their prevention and overcoming are matters that have nothing to do with it.”⁸⁰

For its part, the Argentine Association for Research on Armed Forces and Society, the Center for the Study of the National Project, the Arturo Illia Foundation for Democracy and Peace and the Latin American Faculty of Social Sciences held a Conference on the Armed Forces, the State, Defense and Society from October 26 to 28, 1988. At the Conference, civilians and the military discussed various aspects of defense policy. The debates were reflected in a book edited by Gustavo Druetta, Eduardo Estévez, Ernesto López and José Miguens in 1990.

The motivation of the conference was “the importance for our country of having professionally trained Armed Forces for their specific function, which is foreign defense.”⁸¹

The Center for Legal and Social Studies (CELS), founded in 1979 to promote and defend human rights, also played an important role in the debates that took place in the National Congress

and in the control of military promotions in the National Congress, especially since 2003, a task that continues to this day.

There were also positions against the “Basic Consensus” from civil society. For example, the political analyst Rosendo Fraga argued, through the Center for Studies for the New Majority, that “the defense bill limits the constitutional powers of the president of the Nation, which expressly empower him to use the Armed Forces for cases of internal commotion.”⁸²

For the above reasons, and as mentioned above, the Argentine Congress played an important role in defining key defense policy issues, not only because of the proactive attitude of some legislators and advisers, but also thanks to the contribution of the aforementioned civil society organizations. This process blocked, during the 1990s, proposals to re-engage the Armed Forces in issues of internal security and “new threats.” These actors, whether radical or Peronist, defended the basic consensus. To this end, they coalesced in the debates on the subsequent norms during that decade and/or through media interventions to amplify these attempts to militarize internal security on the public agenda.

When Dr. Nilda Garré became Minister of Defense in December 2005, she immediately formed a team comprised of defense specialists, most of whom came from the University of Quilmes, where the Research Programme on the Armed Forces and Society (PIFAS), directed by Ernesto López and co-directed by Marcelo Saín, had been working for several years, with Germán Montenegro and Sabina Frederic, among others, as researchers.

RESISTANCE TO REFORMS AND POLITICAL CHANGES

These were produced in two stages (1983–1987 and 1987–1990) and two different levels: public and clandestine.

Between 1983 and 1987, numerous opinions were heard from civilians and military personnel, both active and retired, who claimed that state terrorism was a crime and requested that those responsible for it be brought to justice. For example, the head of the Navy, Ramón Arosa, stated that “the war against subversion, which was neither sought nor provoked by the Armed Forces,

78 Eduardo Estévez, “Reforma de sistemas de seguridad pública e investigaciones judiciales: tres experiencias en la Argentina”, paper presented at the International Conference Crimen y Violencia: causas y políticas de prevención, Bogotá: Banco Mundial y Universidad de los Andes, 2000.

79 The Argentine Federal Police was created in December 1943 (from the structure of the Police of the Capital that operated between 1880 and 1944 in the city of Buenos Aires) and its organic norm is Decree-Law No. 333/58. Its personnel regime was established during the last dictatorship through Decree-Law No. 21.965 of 1979 and regulated in 1983. The Argentine National Gendarmerie was created by Law No. 12.367 of 28 July, 1938 and its current organizational norm is Decree-Law No. 19.349/1971. The Argentine Naval Prefecture was re-established in 1862 as Port Authority. It was renamed Maritime Prefecture in 1882 and finally under its present name from Decree-Law No. 18.398/1969. In 1970, the dictatorship of the time (1966–1973) sanctioned Decree-Law No. 18,711 which determined the missions, functions and jurisdictions of the National Gendarmerie, the Argentine Naval Prefecture and the Federal Police.

80 José García, Horacio Ballester, Augusto Rattenbach, Carlos Gascón, *Fuerzas Armadas Argentinas. El cambio necesario: bases políticas y técnicas para una reforma militar*, Buenos Aires: Galerna, 1987, 119–120.

81 Gustavo Druetta, Eduardo Estévez, Ernesto López, José Miguens, *Defensa y Democracia. Un debate entre civiles y militares*, Buenos Aires: Puntosur, 1990, 9.

82 Rosendo Fraga, *La cuestión militar 1987–1989*, Buenos Aires: Editorial del Centro de Estudios para la Nueva Mayoría, 1989, 99.

had made it possible to continue living in a free country and not in one subjugated by ideologies alien to our nationality.”⁸³ Days later, in January 1984, retired General Luciano Benjamin Menendez stated that “we are being bombarded by the voices of the rearguard of the subversion, the mothers and relatives of those who were defeated by the Armed Forces and rejected by the Argentine people.”⁸⁴ Deputy Álvaro Alsogaray, of the Union of the Democratic Center (UCeDé), demanded an amnesty and denounced that the Mothers of Plaza de Mayo were supported by international Marxism. On the other hand, the Archbishop of La Plata, Antonio Plaza, called the trials “subversive revenge”, practically inciting a coup.⁸⁵

In the background, it should be noted that the so-called “unemployed labour force,”⁸⁶ which was part of the Task Forces during the last dictatorship, was responsible for bomb threats, kidnappings and threats to political and social leaders between 1983 and 1987.⁸⁷

During the second phase there were four (4) military uprisings against the governments of Alfonsín and Menem. The first took place in April 1987 in reaction to the ongoing trials, but also as a result of a confrontation between the senior officers and army chiefs and between the nationalist and liberal faction of that force. This uprising was led by Lieutenant Colonel Aldo Rico and they called themselves “carapintadas.”⁸⁸

This first military uprising crystallized a deep division within the Army, between the nationalists, who mostly responded to the “carapintadas”, and the “liberals” who were senior officers who occupied the leadership of the Force; and the “professionals” who sought greater efficiency in the Army through restructuring.⁸⁹

As a result, the Ministry of Defense and the new Army Chief⁹⁰ began to purge the strength of the members and/or supporters of the “carapintadas”, although they agreed that the army should claim state terrorism, while continuing to hear pressure to end the trials.

On 17 May 1987, Admiral Arosa insisted that a definitive solution be sought “that will dispel forever the ghosts of bloody confrontations.”⁹¹ Months later, retired General Ramón Camps maintained that “the national being is today under attack from a powerful enemy. That enemy is called Raul Alfonsín and the Coordinator.”⁹² On the other hand, middle-level army officials transmitted that “the Alfonsinist leadership is the continuation of the anarchist-student movement, of the reformist and destructive cubism lacking in projects, illuminated by the French, ideological sons of the Marxist pairing and of European socialism”. In October 1987, Priest Manuel Beltrán declared that “the military saved us from Marxism” and that the anti-military campaign had been “carried out in all parts of the country”, very well organized by “Marxism and Zionist Masonry”. In December 1987, retired General Diaz Bessone wrote that “the revolutionary, inspired by Marxist ideology, continues in Argentina, waiting for the opportunity to seize power [...]. For Christians, and for non-Communists in general, there are only two options: turn the other cheek and accept martyrdom and slavery, or fight or still combat.” In the first quarter of 1988, the retired general, Luciano Benjamin Menendez, argued that “subversion has not disappeared in our homeland [...] especially in the areas of education (to enter the minds of young people) and culture and the press (to influence the thinking of all) [...] to destroy our religious convictions [...] to distance ourselves from the West and to unite ourselves to the communist countries.”⁹³

The second uprising began as a result of the purges that had been carried out by the army chief, by order of President Alfonsín. On December 28, Caridi summoned Rico and asked him to apply for his retirement pass, which Rico refused to accept. Faced with this refusal, the Minister of Defense decided to “play the rest” and asked General Caridi to speed up the situation, so he “ordered the military judge Beltramino to turn Rico’s preventive pressure from attenuated to rigorous.”⁹⁴ As a result of the events reported, on Saturday, January 16, 1988, Aldo Rico led a new uprising carapintada. Unlike Easter Week, the mobilization of loyal troops made Rico’s situation unsustainable.⁹⁵ Finally, the troops gathered in Monte Caseros by Caridi, provoked the surrender of Rico. This fact ended up crystallizing that relationship of forces, unfavourable to the carapintadas and favourable to the liberal sector. At the end of 1988, about a hundred officers and non-commissioned officers were excluded from the army for “administrative reasons, not counting those who were under trial for the successive uprisings.”⁹⁶

83 Ramón Arosa, *De Constitución a Retiro. Reseña y reflexiones del Jefe de la Armada 1984-1989*, Buenos Aires: Instituto de Publicaciones Navales, 2008, 31 and 40.

84 Patrice McSherry, *op. cit.*, 2008, 126.

85 Guido Braslavsky, *Enemigos íntimos. Los militares y Kirchner. De la purga a los juicios. Crónica de una confrontación (2003-2008)*, Buenos Aires: Sudamericana, 2009, 259.

86 Some emblematic cases were those of Raúl Guglielminetti, Aníbal Gordon and Arquímides Puccio.

87 Sergio Eissa, *op. cit.*, 2015.

88 It is a mistake to think that the law of Due Obedience was the consequence of this uprising. Brigadier Panzardi recalls the events of that day, practically, as described by Alfonsín. He maintains that Aldo Rico treated Alfonsín as president of the Nation at all times. The first one related the reasons for the uprising and Alfonsín told him what had been done and what was going on, including the withdrawal of Ríos Ereñú and the submission of the Due Obedience Law bill. Alfonsín also informed them that they would be punished. In those days, Alfonsín sought at all times to avoid bloodshed and that the chain of command would not be further deteriorated. On the other hand, Gustavo Breide Obeid argues that there was no negotiation and that the attitude towards the commander in chief of the Armed Forces who had listened to his demands was simply put aside, because the generals had been lying to them, and because of the thousands of people who were on the street supporting democracy. This statement was reiterated in 2010, in a television program on America TV with journalist Mónica Gutiérrez. Sergio Eissa, *op. cit.*, 2015, 244 y Horacio Jaunarena, *op. cit.*, 2011, 166.

89 Ernesto López, *op. cit.*, 1994, 62-67.

90 General Ríos Ereñú was replaced by General Caridi, an opponent of the “carapintadas”, which also shows that there was no negotiation between President Alfonsín and the carapintada leader Aldo Rico.

91 Ramón Arosa, *op. cit.*, 2008, p. 236 y Raúl Alfonsín, *op. cit.*, 2009, 77.

92 The National Coordinating Board (JCN) was a center-left radical youth organization created in 1968 that approached the Movement for Renewal and Change of Raúl Alfonsín between 1971 and 1972. The Franja Morada (FM), created in 1967, is the university expression of the UCR. It is suggested to read the interview with one of the founders of JC and FM in Marcelo Larraquy, “La UCR y la década del ’70: Cuando decíamos “elecciones libres, sin proscripciones ni condicionamientos”, se nos cagaban de risa”, in *Infobae*, April 16, 2018, <https://www.infobae.com/politica/2018/04/16/la-ucr-y-la-decada-del-70-cuando-deciamos-elecciones-libres-sin-proscripciones-ni-condicionamientos-se-nos-cagaban-de-risa/>

93 Sergio Eissa, *op. cit.*, 2015, 247 and 248.

94 Horacio Jaunarena, *op. cit.*, 2011, 229-231.

95 *Ibid.*, 223.

96 Ernesto López does not agree with this statement, since he understands that, unlike the previous uprising, the surrender modified the power relations within the army, which the government was unable to take advantage of. He insisted with his alliance with the liberal sector, which ended up provoking a new reaction in December 1988. Ernesto López, *op. cit.*, 1994 y Raúl Alfonsín, *op. cit.*, 2009, 91.

Another wave of bomb threats occurred in 1988, this time in public places such as theaters, embassies, supermarkets, churches and hospitals, among others.⁹⁷

In early December 1988, while Alfonsín was on tour in the United States, the Minister of Defense received confirmation that a prefectural command group, “Albatros”, had abandoned their unit with weapons and combat clothing. On the night of 2 December, the President was informed that Mohamed Ali Seineldin had risen in Villa Martelli. Alfonsín ordered Jaunarena not to negotiate and to repress the government.⁹⁸ The trigger seems to have been that the Army leadership would not have proposed Seineldin for promotion to general,⁹⁹ thus losing the last carapintada hope of placing one of their own in the generalate. The uprising persisted for almost a week both because of the attrition of the carapintadas, who already felt they had nothing to lose, and because of the inability of the Army’s leadership to re-establish discipline. To this must be added the profound attrition of the government, due to the electoral defeat and the growing deterioration of the economic situation. General Cáceres, in charge of the repression, contacted Seineldín – with the knowledge of the army chief – to try to reach an agreement.¹⁰⁰ The Pact of Villa Martelli, agreed between the leadership of the force and the “carapintada” leader, demanded “the anti-subversive struggle”, called for the resignation of Caridi and the restoration of the discipline and unity of the Force. Before resigning, the Army chief said that “it was absolutely reprehensible and unfair to accuse the members of the Armed Forces of being genocidal, since it was thanks to them that today there was democracy”.¹⁰¹ The government appointed General Gassino as head of the force, confirming that it would not accept the appointment of a similar officer to the Carapintadas.

In March 1990, President Carlos Menem and his Defense Minister Humberto Romero had appointed Generals Martín Bonnet and Martín Balza, respectively, to chief and deputy chief of the Army, with a view to a future uprising (both of whom had a harsh discourse against the “carapintadas”), despite the pre-electoral presidential promise to appoint Seineldín as army chief. On 28 November, the head of SIDE informed President Menem that a new military uprising would take place. On Monday, December 3, the “carapintadas” entered the 1st Patrician Regiment in Palermo, but the plan began to fail that same morning. On the one hand, Seineldin could not escape from San Martín de los Andes and, on the other hand, two loyal officers were killed in the 1st Patrician Regiment. Menem declared a state of siege and ordered the head of the General Staff of the Army to “completely extinguish” the uprising.¹⁰² The rebellion was defeated in less than 24 hours, resulting in 14 deaths (including four loyalists and three rebels) and numerous injuries.¹⁰³

LEGAL AND POLITICAL FRAMEWORK FOR CHANGES IN THE SECURITY APPARATUS TODAY¹⁰⁴

The convergence of interests and belief systems among the actors that make up the “basic consensus” allowed it to crystallize into three essential laws over three governments and thirteen years. We refer to Law No. 23.554 on National Defense, adopted in 1988; Law No. 24.059 on Internal Security, of 1992; and Law No. 25.520 on National Intelligence, adopted in 2001 and amended in 2014.

These rules are articulated around three basic principles that we consider to be introductory. These principles are:

- a/ The suppression of the hypotheses of conflict with neighboring countries that require the use of the Armed Forces;
- b/ The organic and functional separation between national defense and internal security; and
- c/ The civilian government of defense policy.

These principles are translated into a set of guidelines that guide national defense in Argentina.

Firstly, article 2 of Law No. 23.554 defines national defense as “the integration and coordinated action of all the forces of the nation to resolve conflicts that require the use of the Armed Forces, in a dissuasive or effective manner, to confront aggressions of external origin”. In this regard, regulatory decree No. 727/2006 of this Defense Law specifies in its first article that “the Armed Forces, a military instrument of national defense, shall be used against aggressions of external origin perpetrated by Armed Forces belonging to another state or states (...) against the sovereignty, territorial integrity or political independence of our country, or in any other way that is incompatible with the Charter of the United Nations.”

Secondly, article 4 of Law 23.554 on National Defense states that “the fundamental difference between National Defense and Internal Security must be taken into account at all times.”¹⁰⁵

Thirdly, the Directive on the Organization and Functioning of the Armed Forces (Decree No. 1691/2006) states that “the main mission of the Armed Forces, the National Defense Military Instrument, is to prevent and repel any external state military aggression, in order to guarantee and permanently safeguard the vital interests of the Nation”. Later, he adds that the following should be considered subsidiary missions of the military instrument:

- “Participation of the Armed Forces in the framework of the multilateral operations of the United Nations;
- participation of the Armed Forces in internal security operations provided for by the Internal Security Law No. 24.059;
- participation of the Armed Forces in operations to support the national community or friendly countries;
- participation of the Armed Forces in the construction of a Sub-regional Defense System”;

97 Sergio Eissa, *op. cit.*, 2015.

98 Sergio Eissa, *op. cit.*, 2015 and Raúl Alfonsín, *op. cit.*, 2009, 95.

99 “This man, who we promoted to colonel, knew that at that time in December ‘88 we were not going to promote him to general; that is, he knew that his military career was reaching its culmination”. Horacio Jaunarena, *op. cit.*, 2011, 241.

100 Raúl Alfonsín, *op. cit.*, 2009, 100.

101 Eduardo Estévez, “Las Fuerzas Armadas en la transición argentina”, *Perfiles Liberales*, Bogotá: Fundación Friedrich Naumann, (17), 1990, 17.

102 Sergio Eissa, *op. cit.*, 2015.

103 Ibid.

104 July 1, 2018. Please, note that Decree No. 683 of July 23, 2018 altered the “Basic Consensus”. This change will allow the Armed Forces to participate in homeland security operations, such as the war against drug trafficking.

105 For this reason, regulatory decree No. 727/2006 states in its recitals that: “the defense system must be structurally and organizationally oriented towards the prevention of situations of external aggression perpetrated by Armed Forces of another state, in accordance with the provisions of Resolution 3314 (1974) of the United Nations (...) For this reason, all those conceptions that seek to extend the use of the military instrument towards functions totally unrelated to defense, usually known under the name of new threats, the responsibility of other state agencies organized and prepared for this purpose, must be emphatically rejected; since regular intervention in such activities would involve a severe and inexorable crisis in the doctrine, organization and functioning of a tool functionally prepared to assume responsibilities other than those typically associated with the police.”

- “participation of the Armed Forces in the planning, direction and execution of Antarctic logistic activity, in accordance with the National Antarctic Policy defined by the Ministry of Foreign Affairs and Worship; contributing to the sovereign presence of our country in that continent; and;
- participation of the Armed Forces in community assistance tasks and in coordination with other agencies of the National, Provincial, and Municipal State and/or of the Autonomous City of Buenos Aires.”¹⁰⁶

Titles V and VI of the Internal Security Law No. 24.059 are relevant. Article 27 establishes that the Ministry of Defense shall, at the request of the Crisis Committee, provide that “the Armed Forces shall support internal security operations by means of the affectation (...) of their stockpile, intendancy, health, veterinary, construction and transport services, as well as engineering and communications elements, for which purpose a representative of the Joint Chiefs of Staff shall be permanently posted in the Planning and Control Center of the Undersecretariat for Internal Security”. Let’s observe how the legislator has wanted to expressly write that “Armed Forces services” can be used in internal security operations, excluding the combat units of the three forces.

Articles 28, 29 and 30 refer to potential attacks on military units in peacetime. They establish that an attack on a military jurisdiction is a matter of internal security, clarifying that it is the primary obligation of the Armed Forces to preserve said jurisdiction and “the restoration of order within the aforementioned jurisdiction”, in accordance with the legislation in force.

Title VI specifically refers to “the subsidiary use of combat elements of the Armed Forces in internal security operations”. Article 31 establishes that, without prejudice to the provisions of article 27, “the Armed Forces shall be employed in the restoration of internal security within the national territory in those exceptional cases in which the system of internal security described in this law is insufficient in the opinion of the President of the Nation for the fulfilment of the objectives established in article 2”. In order for the President to make use of the powers granted to him by the National Constitution in article 86, paragraph 17, he must first declare a state of siege.

The legislator also wanted to establish, in article 32, that the use of the Armed Forces will be in accordance with the following guidelines:

- a/ The leadership of the Armed Forces, national and provincial security and police forces is the responsibility of the President of the Nation, advised by the crisis committees of the Law 23.554
- b/ An operational commander of the Armed Forces shall be appointed and all other security and police forces shall be subordinate to him/her exclusively within the territorial scope defined for that command;
- c/ Since the one referred to in this article is an exceptional form of employment that will only be developed in extremely serious situations, it will not affect the doctrine, organization, equipment and training of the Armed Forces, which will maintain the characteristics derived from the application of Law 23.554.

This implies that those primarily responsible for safety (*law enforcement*) lies with the governors, their provincial police and the provincial justice system. If the crimes are federal in nature (drug trafficking, human trafficking, terrorism, among others), the responsibility lies with the Federal Security Forces (the National Gendarmerie, the Argentine Naval Prefecture and the Airport Security Police), the Argentine Federal Police – which are conducted by the Ministry of Security – and the federal justice

system. But the Federal Security Forces, referred to in the theory as “intermediate forces,” collaborate in national defense in times of war and come to the aid of provincial governments to re-establish internal security. The Armed Forces act within the Internal Security System only in the three cases described above.

Fourthly, Law No. 24.948 states that a strategy of deterrence and self-defense is adopted, in accordance with article 51 of the Charter of the United Nations. The 2009 National Defense Policy Directive (NDDP) also rejects “unilateral procedures, interventionist practices and any international conduct that does not comply with the criteria of peace and security established by the United Nations Charter”. Within this context, a defensive strategic position and attitude is adopted as “an essential and authoritative criterion on which the entire defense system of the Argentine state is structured”. Furthermore, our country conceives its defense policy in a double dimension: autonomous and cooperative.

Fifthly, the Organization Directive (Decree No. 1691/2006) states that the Argentine Military Instrument must be structured doctrinaire, organically and functionally according to its main mission, “which is to conjure up and repel all external aggression perpetrated by the Armed Forces of another state.” Therefore, “the main mission of the Armed Forces must be (...) the main orientation of their entire force design, whereas any subsidiary mission of the military instrument must not affect the capabilities required for the fulfilment of that primary and essential mission”. Only multilateral operations within the framework of the United Nations and a Sub-regional Defense System will be considered in the design of both the minimum standards required for multilateral operations. This Directive also establishes that the design of forces will be carried out on the basis of the capability planning method, replacing the model based on conflict hypotheses.

Finally, the same standard considers that the Military Instrument will be suitable only if it is conceived as an integrated instrument “that is, as a joint action, even in those cases in which, due to the scope in which it is developed and/or to the characteristics of the operation in question, it must be executed by a specific force on an exclusive basis.” This standard defines joint action as “the coherent, coordinated and systematic use of all the means and resources at the disposal of each armed force in a specific manner”. It also provides that “the Operational Command shall be the body responsible for the execution of joint training, for the control of joint exercises, for the preparation of strategic operational planning and its corresponding execution and for military operations” and that the Army, the Navy and the Air Force shall only enlist, train and support the means made available to them. In this sense, regulatory decree No. 727/2006 also establishes that the Joint Chiefs of Staff of the Armed Forces “shall have functional control over the Armed Forces, with authority to issue orders, and may have such means at their disposal”.

LESSONS LEARNT AND RECOMMENDATIONS

The type of transition to democracy and its socio-political context influence the limits and scope of transformations.

Although the transition collapsed, the lack of agreement among the main political parties did not allow for a rapid resolution of the trial of those responsible for state terrorism in the military and

¹⁰⁶ The last two complementary missions were incorporated by the National Defense Directive 2014 (Decree No. 2645/2014).

for progress and setbacks in this area. Furthermore, this prevented the civilians involved in the dictatorship from being brought to justice and retaining a significant amount of power, allowing them to undermine the political power of the presidents, mainly Raúl Alfonsín and Cristina Fernández de Kirchner.

The economic course was also not agreed by the big parties in order to resolve the crisis inherited from the dictatorship. This provoked the economic and political crises from 1987 to 1989, and also allowed the policies of deindustrialization, financial valorization and indebtedness to be adopted again during democratic governments, producing the second most important economic depression since 1930, at the end of 2001.

The military rebellions were the result of the errors in the implementation of the trial of those responsible for state terrorism, but they were also the result of the factionalism introduced during the Dictatorship between the forces and, especially, in the army, and the defeat in the Falkland Islands. The military ceased to be a factor of power in 1990 due to the purging of the “carapintadas” during the Alfonsín government and the pardons and repression of the last military rebellion carried out by Carlos Menem.

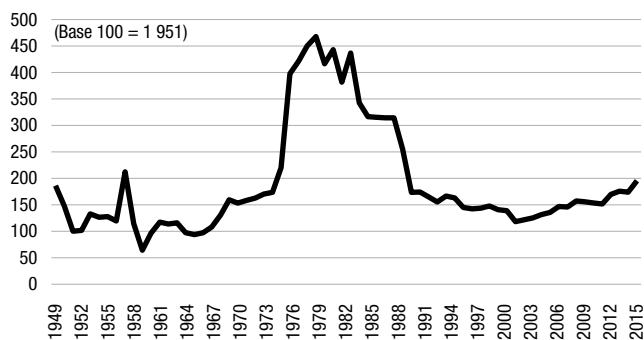
The only agreement reached between the majority parties is the so-called “Basic Consensus”. This was facilitated by three factors: a) the defeat of radicalism in 1987, b) the renewal within the Justicialist party and c) the “carapintada” rebellion of 1987. In this context, and based on the lessons of Argentine history and the historical experiences of the United States, Germany and Spain, it was decided to separate the military from the tasks of internal security. This agreement was made through a set of

laws through four (4) different governments and over a period of twenty (20) years. However, the political leadership and society as a whole are highly disinterested in defense and armed forces issues. This leads to undefined doctrines, deployment and design adaptation to the mission of preventing and repelling external state military aggressions, in addition to the absence of a correct budgetary allocation. This disinterest allows the Armed Forces to assign themselves missions, supported by the United States Southern Command, which violates current regulations; that is, the adoption of the so-called “New Threats” as a hypothesis for the use of the Armed Forces. All this despite the fact that international experience and the characteristics of problems such as drug trafficking and terrorism clearly demonstrate the futility of the use of military power. There were only serious attempts to adapt the Armed Forces to this mission between 1983 and 1985 and 2005 and 2013, although in such cases, for different reasons, the redesign was not accompanied by budgetary resources.

Finally, three debts to be taken into account in other processes of democratic transition persist in Argentina. Despite the enactment of two (2) intelligence laws, intelligence agencies remain without parliamentary control. Secondly, the Judiciary continues to function not only as it did during the Dictatorship – and with some officials of that time – but also as it did in 1862, although the 1853 Constitution ordered the implementation of an accusatory model with jury trials. Finally, the police continue to organize themselves under the logic of population control, repression and saturation, not criminal intelligence, crime prevention and citizen security.

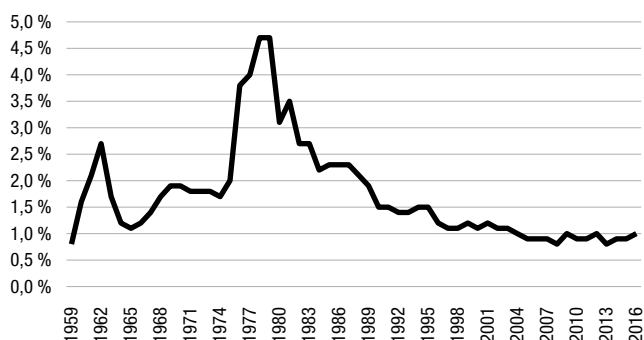
ANNEX 1: GRAPHS

GRAPH NO. 1: EVOLUTION OF DEFENSE SPENDING



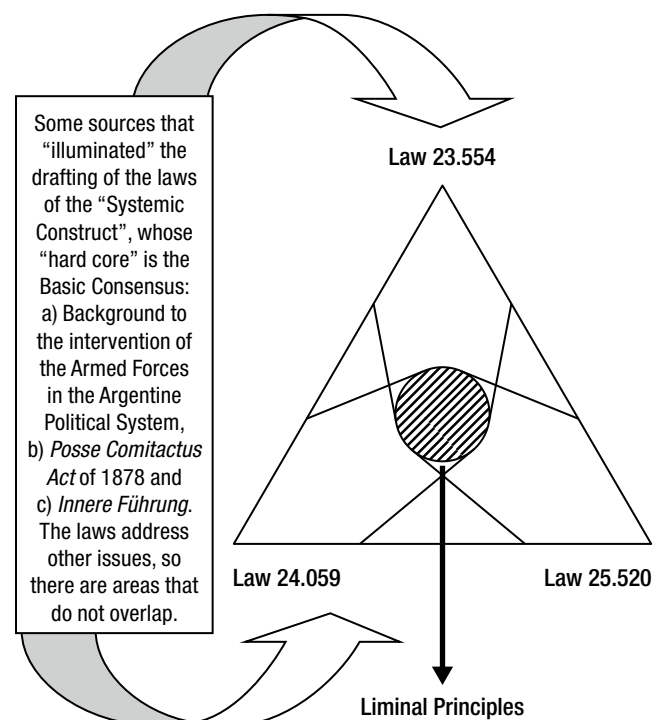
Source: (SIPRI: 2017). Year 1951: U\$S 3.153 million.

GRAPH NO. 3: DEFENSE EXPENDITURE AS % OF GDP



Source: Prepared by the authors on the basis of SIPRI data (2017).

GRAPH NO. 2: BASIC CONSENSUS



Fuente: own creation.

ANNEX 2: PRE- AND POST-DICTATORSHIP PRESIDENTS

Years	Presidents	Parties/Fronts
1973	Héctor Cámpora	Justicialist Liberation Front (PJ, People's Conservative, MID and a faction of Christian democracy)
1973	Raúl Lastiri (interim for resignation of the former – president of the Chamber of Deputies)	PJ
1973–1974	Juan Domingo Perón (3rd presidency)	Justicialist Liberation Front (PJ, People's Conservative, MID and a faction of Christian democracy)
1974–1976	María Estela Martínez de Perón (Vice-president in charge of the Executive due to the death of the president)	Justicialist Liberation Front (PJ, People's Conservative, MID and a faction of Christian democracy)
1976	Junta Militar	Dictatorship
1976–1981	Jorge Videla	
1981	Roberto Viola	
1981	Carlos Alberto Lacoste	
1981–1982	Leopoldo Galtieri	
1982	Alfredo Oscar Saint-Jean	
1982–1983	Reynaldo Bignone	
1983–1989	Raúl Ricardo Alfonsín	UCR
1989	Carlos Saúl Menem (completes term of office due to early resignation of the former)	Justicialist Liberation Front (PJ, PI, PDC and others)
1989–1995	Carlos Saúl Menem	Justicialist Liberation Front (PJ, PI, PDC and others)
1995–1999	Carlos Saúl Menem	Justicialist Liberation Front (PJ, PI, PDC and others)
1999–2001	Fernando de la Rúa	Alliance (UCR, FREPASO and PS)
2001	Francisco Ramón Puerta (interim for early resignation of the former and in the absence of a vice-president – president of the Chamber of Senators)	PJ
2001	Adolfo Rodríguez Saá (appointed by the Congress of the Nation to complete the previous term of office)	PJ
2001	Eduardo Camaño (interim for resignation of the former – president of the Chamber of Deputies)	PJ
2002–2003	Eduardo Alberto Duhalde (appointed by the National Congress to complete the term of office until 10/12/2003)	PJ
2003	Néstor Carlos Kirchner (completes term of office due to early resignation of the former)	Front for Victory (PJ, People's Conservative, Broad Front, PCCE, PI, PH, PDC and others)
2003–2007	Néstor Carlos Kirchner	Front for Victory (PJ, People's Conservative, Broad Front, PCCE, PI, PH, PDC and others)
2007–2011	Cristina Elizabeth Fernández de Kirchner	Concertation (Front for Victory, joined by former socialists and former radicals)
2011–2015	Cristina Elizabeth Fernández de Kirchner	Front for Victory joined by the Communist Party, former radicals and former socialists)
2015	Federico Pinedo (interim)	Cambiamos (PRO – UCR – CC – UceDé – People's Conservative)
2015 to date	Mauricio Macri	Cambiamos (PRO – UCR – CC – UCeDé – People's Conservative)

ANNEX 3: REFERENCES FOR READING

- Although the War of Independence ended in Argentina in 1820, the fall of Spanish power in South America occurred at the Battle of Ayacucho on December 9, 1824 in the current territory of Peru. Argentine troops participated in it.
- The term “security apparatus” should be understood as being made up of the National Defense System and the Homeland Security System, which both contribute to Argentina’s National or Strategic Security. The Internal Security System is made up of the Federal Security Forces or Intermediate Forces (Gendarmerie, Prefecture, Airport Security Police), the Argentine Federal Police and the provincial police. The National Defense System is made up of the Argentine Air Force, Army and Navy.
- Decrees/laws: these are rules dictated by the dictatorships in Argentina that have the status of law. Firstly, the legitimacy of the Argentine dictatorships was validated by the Supreme Court of Justice through the Agreed Statement of September 10, 1930, after the first coup d’état. Secondly, on 22 August, 1947, the Supreme Court of Justice established in the “Enrique Arlandini” case that “to the extent that it is necessary to legislate to govern a government it has legislative powers (...) The decree-laws issued by the de facto government are valid by reason of their origin and since they have the value of laws, they subsist even if they have not been ratified by Congress, as long as they are not repealed in the only way that they can be ratified, that is, by other laws.”
- CC: The Civic Coalition is heir to the Affirmation for an Equal Republic (ARI) party and was founded by Elisa Carrió in 2002 (changed its name in 2009), as a detachment from the UCR. It is a center party of social and liberal ideology.
- Popular Conservative: it is a center party that was founded in 1958 as a detachment of the National Democratic Party (1931–1955), which in turn was heir to the Conservative Party (1916–1930) and the historic National Autonomist Party (1874–1916). The latter were located in the center right of the Argentine political spectrum and is of a conservative tendency.
- FREPASO: It was an alliance between the PAIS (1994) and the Broad Front (1993) parties, both of which detached from the PJ in the face of the neoliberal orientation it had adopted between 1989 and 1999, and the PDC, the Democratic Socialist Party (PSD) and the Popular Socialist Party (PSP). It was located in the center-left of the political spectrum and is of a social-democratic and social-liberal ideology.
- MID: The Integration and Development Movement was founded by former President Arturo Frondizi, a former radical, in 1963. It is a center party with a social-liberal tendency.
- PCCE: The Communist Party of Extraordinary Congress was founded in 1996 as a detachment of the Communist Party (PC) which was founded in Argentina in 1918.
- PDC: The Christian Democratic Party was founded by Horacio Sueldo and Guido Di Tella, among others, in 1954. It is a center party with a social-Christian tendency.
- PH: The Humanist Party was founded in 1984 by Mario Luis Rodríguez Cobos and declares itself to be non-Marxist on the left.
- PI: The Intransigent Party was founded by former radical leader Oscar Alende in 1972, as a detachment from the MID. It is a center-left party of social democratic ideology.
- PJ: The Justicialist Party was founded on January 15, 1947 by Juan Domingo Peron. It is considered a “movement” and not a party. At least three ideological currents can be distinguished in its midst until 2015: popular conservatism, social Christianity and national left (non-Marxist).
- PRO: The Republican Proposal party is heir to the Commitment to Change party and was founded by Mauricio Macri on 5 August 2005 (name change on 3 June 2010). It is a center-right party with a conservative tendency. This is a traditional ideology in Argentina, which ruled that country between 1874 and 1916 (National Autonomy Party) and 1932–1943 (National Democratic Party), mainly. Between 1955 and 1983, some of the politicians who adhered to this ideology were officials of the dictatorships.
- PS: The Socialist Party was founded by Juan B. Justo and Alfredo Palacios, among others, on June 28, 1896. It is affiliated to the Second Socialist International. It suffered several divisions, the main ones between the PSD and the PSP until the unification produced in 2002.
- UCeDé: The Union of the Democratic Center was founded in 1982 by Alvaro Alzogaray, former U.S. ambassador to the 1963–1966 dictatorship. Center-right conservative-liberal party.
- UCR: The Radical Civic Union was founded by Leandro Alem and Hipólito Yrigoyen, among others, on June 26, 1891. It is a liberal party with a social democratic faction. Throughout its history it has been divided several times, the main ones being in 1928, 1957, 2001 and 2007.

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CEVRO

CONSOLIDATING THE STATE SECURITY APPARATUS

KOSAL PATH

POSITION AND STRUCTURE OF THE STATE SECURITY APPARATUS PRIOR TO THE TRANSFORMATION

When the Vietnamese invaded Cambodia in December 1978, 180,000 Khmer Rouge forces fled to seek refuge in camps in Thailand, and remobilized to wage war against the Vietnamese occupying forces and the pro-Vietnam People's Republic of Kampuchea (PRK). In post-genocide nation building in Cambodia, the Vietnamese Communist Party (VCP) and Government immensely assisted the PRK in building the structure and foundation of its security forces and training PRK officers. The Vietnamese government established four special committees to oversee the building of the PRK government, namely B68 (in charge of building political bodies of the party and machinery of the government), A40 (economic advisers), Unit 478 (military experts), and K79 (public security experts). The PRK security apparatus was controlled by military officers, some of whom were former Khmer Rouge cadres. The current state security apparatus of the Royal Government of Cambodia mainly consists of the national gendarmerie, the national police, the prime minister body-guard unit, and the intelligence and counter-terrorism units of the Ministry of Defense.

THE ROYAL KHMER GENDARMERIE

The establishment of the gendarmerie as a militarized policing force with jurisdiction over both civilians and military personnel was envisaged in the July 1993 government decree, encouraged by the United Nations Transitional Authority in Cambodia (UNTAC), supported by King Norodom Sihanouk, and largely financed by France. However, Prime Minister Hun Sen managed to transform the supposedly politically neutral gendarmerie into the CPP-controlled armed forces. As a unit of the PRK security forces, Regiment 70 was military police and had jurisdiction only over military personnel, while civilian policing was under the jurisdiction of the Ministry of Interior. The Royal Khmer Gendarmerie (GRK) has institutional origins in Regiment 70, which was dissolved in October 1991 at the time of the Paris Peace Accords (PPA). The GRK was formally inaugurated in November 1993, under the command of General Keo Samuon, with General Sao Sokha as his sole deputy. In May 1994, former Regiment 70 commander Kieng Savut, who also served as Deputy Chief of Military Council's Political Department and Head of the Phnom Penh Military Command during the PRK, replaced Keo Samuon as the head of the gendarmerie. A government sub-decree issued in December 1994 widened its jurisdiction to cover crimes committed by military personnel and civilians alike. The 2007 Criminal Procedure Code of the Royal Government of Cambodia reaffirmed the GRK's powerful authority over civilian and military matters nationwide. In May

1999, General Sao Sokha, a close ally of Prime Minister Hun Sen, was appointed head of the national GRK and has built the national gendarmerie into a powerful 10,000-member security force spreading across the country.

PRIME MINISTER BODY GUARD UNIT

In October 1994, a year after the first democratic general election sponsored by the United Nations, an elite body guard unit, also formerly known as Brigade 70, was set up to protect the country's political leadership in addition to national defense duties. In its early stage, Brigade 70 consisted of five units including a light-armored squadron, totaling 2,262 men under the command of Lieutenant General Mao Sophan.

POLICING FORCES

As Vietnam completed its withdrawal of Vietnamese troops from Cambodia in 1988, the police fell under the expanded jurisdiction of the Ministry of Interior under the control of Party secretary Chea Sim and his brother-in-law Sar Kheng. By the mid-1980s, there were more than 10,000 police officers, and increased to 36,038 officers in 1986. In 1991 when the Paris Peace Accords was signed, which paved the way for the first democratically elected government in 1993, the Ministry of Interior oversaw the "defense of political security" all over the country with a total force of 70,000 nationwide. The total police force was reduced to, according to Minister of Interior Sar Kheng, 54,700 members in 2001 and the government planned to cut a total of 24,000 [ghost] police posts. In 2005, the police force only slightly dropped to 44,000. In 2007, Cambodia's national police had a combined force of 52,000 officers. Ever since, the police's expansion of its force has been steady. Just before the July 29, 2018 elections, the Cambodian government claimed to deploy 80,000 security forces. This figure marked a notable rise from the 50,000 personnel deployed in the commune elections and 70,000 personnel deployed in the 2013 national assembly elections.

Of the 80,000 security personnel deployed to provide public security at the July 2018 polling stations across the country, 20,000 are citizen guards (*pro-chea ka-pea* in Khmer), a new addition to the state security forces. These citizen guards are actually village guards; they fall under the framework of the Ministry of the Interior, but officially they are not part of the state security forces and not in the government payroll. They are just citizen volunteers from their villages or communes who are chosen by the local council to help monitor security. In reality, these citizen guards receive selective gifts from the ruling Cambodian People's Party (CPP), and are used by the ruling party to address a twin problem of beefing up local security in the absence of active and competent local state police and monitoring political opposition's activities without

the appearance of intimidation. While providing village security against thefts more effectively than the state police, these citizen guards units can act as the eyes and ears of party leaders in charge of those districts.

REACTION TO THE POLITICAL CHANGES

In response to the growing threat his political rival Prince Norodom Ranariddh's security force buildup posed to his power, Hun Sen built up his own personal security forces under the command of his most reliable allies within the CPP-controlled security apparatus in the mid-1990s. In July 1997, Hun Sen's loyal generals mounted a successful coup against the royalist FUNCINPEC headed by Prince Norodom Ranariddh. The reluctant party president Chea Sim, who was Hun Sen's political rival within the CPP, was sidelined during the coup. Simultaneously, through his trusted generals, secret negotiations with the outlawed Khmer Rouge commanders under Hun Sen's "Win-Win Policy" – an amnesty-for-peace strategy – were also fruitful. Hun Sen's "the Win-Win Policy" guaranteed Khmer Rouge guerrilla personal security, employment, and ownership for their defection. As much as this policy ended the civil war between the government and the Khmer Rouge rebels, it also enabled Hun Sen to undercut Prince Ranariddh's plot to lure the 40,000–50,000-strong Khmer Rouge soldiers and integrate them under the command of FUNCINPEC military wing.

The rise of Hun Sen's generals to the top of the security force pyramid today can be traced back to Hun Sen's three-pronged victory in 1997–98, which paved the way for his consolidation of power – that is, defeated the Khmer Rouge outlaw, clipped the military wing of the FUNCINPEC political opponents, and neutralized his intimate political rival, the Chea Sim faction, within the ruling CPP. The coup in July 1997 marks a critical turning point in Cambodia's security apparatus – thanks to Hun Sen's decisive victory over the Royalist FUNCINPEC. Hun Sen then elevated his loyalists, who put their life on the line to help Hun Sen stage the coup against Prince Ranariddh's faction, to the upper echelon of the state security apparatus, while purging all security commanders loyal to the prince. In the military, in 1996–97, Co-Defense Minister Tea Banh, General Pol Saroeun, and General Sao Sokha outmaneuvered FUNCINPEC generals in striking a peace deal with the Khmer Rouge rebels; they played a key role in conducting negotiations with Khmer Rouge commanders and convincing them to integrate with the Royal Cambodian Armed Forces (RCAF) under Hun Sen's "Win-Win Policy." These generals significantly helped Hun Sen put an end to the Khmer Rouge political and military organization by 1998, while bringing the majority of Khmer Rouge armed forces under Hun Sen's control.

Since the July 1997 coup, the Ministry of Interior has been under the control of Sar Kheng as deputy prime minister and minister. However, the national police chiefs have always been under the command of Prime Minister Hun Sen's loyalists and family members, General Hok Lungdy, who was appointed National Police Supreme Director in August 1999, and General Neth Savoeun, who replaced Lundy after he died in a helicopter crash in November 2008. Neth Savoeun, who is Hun Sen's nephew-in-law and one of Hun Sen's ardent loyalists within the police force, is currently national police chief; his deputy is General Dy Vichea, who is Lundy's son and Hun Sen's son-in-law; Dy is married to Hun Sen's eldest daughter Hun Mana. In July 1994, Neth

Savoeun played a key role in foiling an attempted coup against Hun Sen by CPP elements dissatisfied with his domination of the party. According to Human Rights Watch, through Neth Savoeun and Hok Lundy, Hun Sen subverted the formal national police chain of command, almost totally bypassing FUNCINPEC police officers and also marginalizing CPP Minister of Interior Sar Kheng, his party rival who had been implicated in the failed coup in the mid-1990s.

Today the official police chain of operation command over municipal, provincial and other local police formations had been short-circuited to bypass Sar Kheng. Instead, the chain of command goes from Hun Sen as prime minister to these forces via a designated secretary of state at the ministry. Sar Keng's authority is largely reduced to oversight of government at the provincial level. This account is corroborated by Sar Kheng's own statement. In 2001, he told a *Phnom Penh Post* reporter in an interview: "My major responsibility is to control administration of authority at the provincial, district, and commune level in pursuit of the decentralization policy. I am also involved in drafting the law about the control of the provinces, the districts and the commune level decentralization." By his own statement, he did not fail to take direction from Hun Sen. When asked about his work consultation with the Prime Minister, Sar Kheng replied, "I share some of the Prime Minister's workload by handling certain documents, I cannot tell you how many times I call the Prime Minister – some days I call him 10 times. My relationship with the Prime Minister is conducted in three main ways: first by letter, second by telephone, and third by face-to-face discussion."

A December 1993 RGC sub-degree (an official order that has the force of law) restructured the security forces at the Ministry of Interior, creating a Supreme Directorate of National Police, which exercised considerable authority over a number of Central Directorates. One of these was the General Information Unit, placed under the Security Central Directorate. This unit name was then changed back to Intelligence Directorate under the command of General Sok Phal. According to HRW, Sok Phal's directorate was one of the most powerful center-level security force units in Cambodia. Hun Sen used it to assert his authority over not only FUNCINPEC, but also the CPP Minister of Interior Sar Kheng, whom Hun Sen did not trust. On July 11, 2003, Hun Sen promoted Sok Phal to be Chairman of the Security Central Directorate. In 2005, he was awarded another top police position as a Deputy Supreme Commissioner of National Police, and joined the CPP Central Committee at the same time as other Hun Sen's top security force commanders like Kun Kim and Neth Saveoun.

Thus far Prime Minister Hun Sen has successfully coopted Minister of Interior Sar Kheng. Speaking at a ceremony on May 16, 2016 to mark the 71st anniversary of the national police, Kheng toed Hun Sen's call on the leaders of state security forces to preempt the "color revolution", referring to massive popular uprising, staged by the opposition. In January 2018, Dy Vichea, Hun Sen's son-in-law, was promoted to deputy National Police chief after already replacing Sok Phal as Chairman of the Interior Ministry's powerful Central Security Directorate in August 2014. In a National Police document dated February 28, 2018, Dy Vichea's security portfolio was further expanded and now he is in charge of central security and combatting money laundering and terrorism financing. As part of an inter-clan arrangement, Sar Thet, Interior Minister Sar Kheng's nephew, was promoted to be in charge of the order police, a national-level unit that focuses on anti-demonstration activities.

FORMS OF TRANSFORMATION OF THE SECURITY APPARATUS

At present, the entire security apparatus is controlled by the ruling Cambodian People's Party (CPP), and in turn the CPP is dominated by Prime Minister Hun Sen's family. Notably heads of these security agencies are members of the CPP Central Committee and close allies of Prime Minister Hun Sen, who also serves as the head of the CPP. In February 2015, the ruling CPP added at least 80 commanders and senior officers from the country's security forces to its expanded Central Committee consisting of 545 members. At the January 2018 CPP Congress, 64 military officers were added into the Central Committee.

Within the security apparatus, the prime minister bodyguard unit, officially known as the Bodyguard Headquarters (BHQ), with a force of at least 3,000 soldiers and 100 tanks is Hun Sen's most trusted security force. Hun Sen's two sons and son-in-law sit atop of spy agencies, armed forces, and the national police. As of 2014, the total number of police in Cambodia was officially said to be 52,000. In February 2016, Hun Sen ordered the recruitment of 4,500 new police officers to replace those who left the police force in 2014, citing the need to "keep public order" and for "society's security." As of 2017, the official figure for police nation-wide was 58,198, of whom 17,897 were center-level.

In 2018, Cambodia's defense and internal security expense makes up approximately 16 percent of the national budget, at close to US\$ 973 million, and has risen with an annual 15 percent in the past three years, according to the Cambodian Finance Ministry figures. China now is the main source of military aid to Cambodia; one month before the controversial elections on July 29, 2018, China pledged US\$100 million during Chinese defense minister Wei Fenghe's visit to Cambodia in June. In May, just a month earlier, Chinese public security minister Zhao Kezi visited Cambodia, according to Prime Minister Hun Sen's personal secretary Eang Sophalleth, to "strengthen cooperation on law enforcement and security" between China and Cambodia. During Zhao's visit, China and Cambodia signed an MoU on fighting terrorism and cybercrimes within the broader goal of close cooperation in matter of law enforcement and internal security. Kezi also met with General Hing Bun Heang, the commander of the Prime Minister's Bodyguard Unit, but the content of that meeting is not revealed to the public. China has been more assertive in ensuring the survival of its ironclad ally, the CPP. Since the dissolution of the main opposition party in Cambodia, there has been closer cooperation between the CCP-controlled security apparatus and China's Ministry of Public Security.

LEGAL AND POLITICAL FRAMEWORK OF THE CHANGES OF THE SECURITY APPARATUS

Since his takeover as the sole prime minister of the Cambodian government in 1998, plots to assassinate Hun Sen and "color revolutions" – popular uprising – to overthrow the Hun Sen's regime has been the main driving force for the Prime Minister's decision to build up personal security forces under his direct control. On August 23, 1998, a crowd of 10,000 people from the capital and the countryside attended the opposition-organized protest against the results of the July 26 elections allegedly rigged in favor of the CPP. On September 7, 1998, three grenades were thrown at Hun Sen's unoccupied former residence in central Phnom Penh.

According to the UN's assessment, the attack was likely orchestrated by national police chief Hok Lundy, Hun Sen's reliable ally, in order to create a pretext for suppressing opposition protest and back up Hun Sen's narrative of the opposition attempting a "real revolution or coup." In a speech to security forces in February 2011, Hun Sen stressed: "Peace, security, social order and stability are fragile, and can become chaotic at any time without an advanced prediction." Hun Sen's paranoia and fear of losing power is central to his decision to continue to build up his personal security forces.

Prime Minister Bodyguard Unit (BHQ) has been under the Prime Minister Hun Sen's direct control since its creation in 1995. It was formed as a distinct force from Brigade 70, but a government directive in September 2009 moved it out of Brigade 70. This special force unit has the duty to protect the safety of the government's top leaders and institutions and follow the policies of the legal government that was created by the election. However, its commander General Hing Bun Heang, a senior CPP military official who earned Hun Sen's trust for his role in the July 1997 coup, has long pledged his loyalty to Hun Sen. And the Prime Minister has the authority to order the Ministry of Defense to recruit and train more security personnel to expand the PMBU. For instance, a decree signed by the Prime Minister on July 21, 2016 instructed the Ministry of Defense to recruit 500 soldiers, of which 350 designated as personnel for the PMBU.

By the controversial elections in July 2018, Cambodia is a new one-party dominant state backed by the CPP-controlled security forces, and sitting atop of this power pyramid is the Hun family. General Hun Manith, Prime Minister Hun Sen's second son, was promoted in 2015 to be Director of the Military Intelligence Department under the Ministry of Defense; under his leadership, this spy agency has grown rapidly powerful in terms of its human resources and broad jurisdiction over national security affairs. In October 2017, Hun Manith was promoted to a three-star general continuing his rise through the ranks of the armed forces and ruling party. He is widely believed to have played a key role in generating the "evidence" of the CNRP's conspiracy to plot a "color revolution" against the government, which provided the legal basis for the Supreme Court's dissolution of the main opposition on November 16, 2017. With Manith in charge of the nation's top spy agency, Hun Sen can exercise close surveillance of hostile forces, domestic and foreign, and enable him to monitor his top generals' activities.

Emerging as a national hero after commanding Cambodian troops in the battle with Thai army over Preah Vihear Temple in 2010–2011, Prime Minister Hun Sen's eldest son, Hun Manet, was on a rapid rise to become one of the top military commanders and his father designated successor after the July election of 2018. In July 2018, just two weeks before the elections, Lieutenant General Hun Manet was promoted to a four-star General and Deputy Commander-in-Chief of the Royal Cambodian Armed Forces. Two months later, in September, the 41-year-old Hun Manet was promoted again to the rank of Commander of the RCAF – the second most powerful position in the Kingdom's military. In October, Prime Minister Hun Sen openly spoke of General Hun Manet as his potential successor

REACTION OF THE CITIZENS TO THE TRANSFORMATION

Cambodian citizens are divided along partisan lines, with pro-CPP voters seeing the CPP-controlled security forces as

a necessary bulwark against hostile domestic and foreign forces and the guarantor of political stability, which is crucial to continued economic development. Supporters of the ruling CPP believe in the singularity of truth that only their party has the human resources, institutional capabilities, and the vision to lead the Cambodian nation to greater prosperity, a modern version of national salvation built on its legacy of liberating Cambodian people from the Pol Pot genocidal regime in January 1979. This unique “truth,” they believe, can be attained by steering Cambodian youth into a conscious accord with the CPP’s continued rule. CPP supporters who refuse to bow to the party line risk being labelled vacillators or deviationists.

On the contrary, the pro-change population has come to see these CPP-controlled forces merely as repressive tools of the ruling party to prolong their rule in Cambodia, as well as a major obstacle to the promotion of democracy, rule of law, and social justice. CNRP supporters were either suppressed or forced to exercise self-censorship before the July 2018 elections. While repeated threats of violent crackdown on popular uprising by Hun Sen’s security forces have succeeded in striking terror into the heart of the opposition, the ruling party’s economic achievement have given renewed hope for a better future. Fear and hope has offered Hun Sen’s flawed victory a refuge after the July 2018 elections, and prevented mass protests.

LESSONS LEARNT

First, the underlying socialist client-patron networks which structured the security apparatus during the PRK and SOC (1978–1992) was not dismantled by UNTAC, which hindered the formation of

a robust and impartial security institution for the post-1993 election government. Partisan use of security forces sowed the seeds of later conflict between the CPP and FUNCINPEC, which won the 1993 elections but failed to build an independent state security apparatus. Revolutionary leaders like Hun Sen rely on highly disciplined and loyal security force commanders to cling on to power and it is more likely to develop a strong, cohesive, and loyal security organization during their sustained struggles against their political enemies. The resultant use of partisan and personalized state security by the Hun Sen faction to maintain political domination significantly spoiled the democratic process after the historic UN-sponsored free and fair elections in 1993.

Second, since the 1993 election, the CPP elites, especially Prime Minister Hun Sen, believed that the West is more interested in removing Hun Sen from power than pursuing a balanced and fair approach to both the CPP and CNRP. When the media in the West keeps demonizing Hun Sen and his generals for human rights abuses, Hun Sen’s security organization became even more cohesive as all of its members depend on the organizational unity for survival. While some of Hun Sen’s top generals are rights abusers, they helped Hun Sen end the civil war with the Khmer Rouge, bring peace, and avert all political dangers for Hun Sen and CPP. It is this strong bond of comradeship forged during war and political crises that makes Hun Sen’s security organization coherent as it is.

Third, without clear mechanisms of succession of power that would allow the losers to enter into office, and genuine reconciliation and mutual trust between political opponents in the post-war transition, incumbent leaders fear political reprisal and rely even more on personal security forces as Hun Sen has done since 1994.

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DISMANTLING THE STATE SECURITY APPARATUS

CLAUDIO FUENTES S.

INTRODUCTION

This paper examines the process of adaptation and reform of the armed forces and public order following the political transition in Chile in 1990. The case is particularly noteworthy because the Chilean political transition is usually considered to be “successful” in terms of the peaceful process by which the transfer of power from military to civilian authorities occurred, in addition to the way in which the armed forces were accommodated into the democratic process. In the case of Chile, it was an agreed transition, in which the military regime imposed the rules of the constitutional game and established a series of privileges for the armed forces, and where minimum conditions were negotiated by the opponents of the regime.¹

This chapter analyzes the political and institutional conditions that favoured such an outcome. It will be argued that the transition process involved the acceptance by the civilian political elite of a number of conditions for military autonomy. In addition, a gradual process of institutional-legal reform was initiated, which gradually reduced the room for military autonomy. Usually these changes occurred due to corruption scandals that weakened the negotiating capacity of the military and police with respect to civilian authority.

POLITICAL-INSTITUTIONAL CONTEXT OF THE MILITARY REGIME

The military dictatorship in Chile (1973–1990) was established by a coup d'état against the constitutionally elected regime of Salvador Allende (1970–1973). The three branches of the armed forces and the uniformed police, the Carabineros,² assumed total control of the country by establishing a military government junta. Early on, Army General Augusto Pinochet took over the leadership of this military junta, establishing a mechanism to concentrate the executive actions of the regime in Pinochet and the function of issuing regulations and decrees in the military junta composed of the military heads of the three armed branches and the director of the Carabineros. The regime established a commission that proposed a new constitution, which was promulgated in 1980. The Constitution itself established an itinerary that considered a plebiscite to ratify the permanence of the regime, which took place in October 1988.

Unlike other countries in Latin America, the Chilean military regime was characterized by: (a) single-member power concentrated in the figure of General Pinochet with respect to the regime; (b) the institutionalization of the regime on the basis of a series of constitutional norms and other bodies of law and order that would endure over time after the political transition; and (c) the establishment of alliances with civilian political and economic groups—mainly right-wing political parties and businessmen—who supported the regime from the beginning until the handover of power in March 1990.³ In addition, (d), from the point of view of public opinion, from March 1990 onwards, there was increasing

support for the professional role of the armed forces in addition to an increasing rejection of the figure of General Pinochet and the violation of human rights.

The military regime maintained its political itinerary for the holding of a plebiscite in 1988, where civil society would be consulted on whether or not to accept the continuity of the regime for another eight years. The opposition agreed to participate in this plebiscite but requested some conditions, such as the existence of electoral rolls, the possibility for the opposition to use the media and allowing the presence of international observers.⁴

Pinochet's narrow defeat at the polls in 1988 opened up the possibility of negotiating some constitutional reforms. Although the opposition rejected the 1980 Constitution, it agreed to abide by it and called for a series of reforms to the regime. Some of these proposals were submitted to a new plebiscite in July 1989. The reforms affected some minimal, though relevant, aspects of the Constitution. For example, the original version of the 1980 Constitution established a National Security Council that had broad powers and was composed of four uniformed members and only three civilian members. The proposal approved in the 1989 plebiscite incorporated another civilian, leaving a composition of 4 to 4. In addition, an article was removed from the Constitution that excluded the Communist Party from participating in the political system.

Subsequently, in December 1989, presidential and congressional elections were held, and Patricio Aylwin (55.2 %) was elected, representing a coalition of moderate centre-left parties. Consequently, before the transfer of power, the military regime approved, within the military junta, a series of laws of a constitutionally organic nature (with a qualified quorum of $\frac{4}{7}$ for their approval), with the aim of protecting some of the legal prerogatives, and room for military autonomy, including military justice and what it says about military careers.

The military regime designed a new framework for the insertion of the armed forces into the state apparatus, combining high political-institutional interference with a high level of autonomy in their own management. These regulations were not affected by the process of the transition to democracy or by the reforms of 1989. Therefore, the Chilean transition had this particular condition for the transfer of power from the military regime to the civilian authority, while they remained relevant actors from

1 Cristóbal Rovira, “Chile: transición pactada y débil autodeterminación colectiva de la sociedad”, in *Revista Mexicana de Sociología*, 2007, Vol. 69, No. 2, 243–372.

2 In the case of Chile, the armed forces are considered to be the Army, Navy and Air Force. The forces of law and order are considered to be the uniformed police, which has the structure of a military nature (Carabineros), and the investigative or civilian police (Investigaciones). We usually talk about the armed forces and security.

3 Carlos Huneeus, *The Pinochet Regime*, Santiago: Editorial Sudamericana, 2001.

4 The plebiscite was held on October 5, 1988 and the option “Yes” for Pinochet lost against the “No” vote (44 % vs. 56 % respectively). The foregoing compromised the holding of free elections the following year, which were held in December 1989.

the institutional and, as we will see later, the political point of view. The legal framework at the beginning of the transition established the following conditions:⁵

a/ High political-institutional interference. The armed and security forces participated through the National Security Council in the designation of authorities; they could bring to the attention of the civil authority their concerns on any subject that in their opinion affected or constituted a risk to the institutions, since they were, according to the Constitution, “guarantors of the institutions”. This council was composed of 4 uniformed and 4 civilian members and participated in the appointment of some members of the Constitutional Court and the members of the Senate. There were 9 senators in total, representing 19 % of the upper house, of which 4 were to be former members of the armed forces and law enforcement agencies, and the rest were appointed by the regime.

In addition, a provision was established in the Constitution that former presidents could serve as senators for life, thus allowing General Pinochet to serve for eight years as Commander in Chief of the Army (until 1998) and later as a senator for life.

b/ Civilian control of appointments and removals. The civilian authorities would have limited control over the appointment and recommendation of uniformed personnel, since the Constitution established that the Commander-in-Chief of the Armed Forces and the General Director of the Carabineros were irremovable. In addition, promotions and retirements of officers were to be proposed by the military authority to the civilian authority, with no possibility for civilians to remove them.

c/ Civilian control over institutional management. The armed and police institutions were linked through the Ministry of Defence to the presidential authority. The Ministry of Defence did not have the capacity to control the institutional management of arms, since it only exercised administrative control.

d/ Control over the intelligence apparatus. Autonomy also extended to the intelligence services that depended directly on the military chiefs and there was no capacity for civilian legal control by either the executive or the legislative branch. Nor was there a civilian intelligence agency to coordinate intelligence efforts.

e/ Control over the military budget. In the case of the military budget, a minimum floor was established for the regular expenditure of the armed forces and of internal security agencies, which was set at the equivalent of the year 1989, with a mechanism for updating it according to inflation; the same equivalent was established for a minimum floor for reserved resources that were transferred to the commanders in chief of the armed forces and to the heads of the police for expenses that did not require accountability; and it was established that 10 % of the foreign sales of the state-owned copper company CODELCO would be allocated annually to the armed forces for the acquisition of armaments. This fund also had a minimum floor equivalent to US\$ 180 million per year. Legal and operational capacities for civilian control over military spending were non-existent at the beginning of the transition.

f/ Control over education systems. Legally, the armed forces and the Carabineros had full autonomy to define their educational plans and programs. It was also established by law that armed institutions could issue professional titles within their armed institutes.

g/ Control over social protection systems. The armed and security forces have their own social security system, which includes a social welfare system for their members, where the State is responsible for the pension costs of its members, and a health system is also defined for the armed institutions themselves.

h/ Control over military justice. Finally, the armed institutions have a military justice system that allows for any violation of the law committed by a member of the military to be tried by military courts, regardless of whether the violation occurs during the exercise of military duties or whether the incident is of a civilian nature.

ACCOMMODATION AND INTERACTION AT THE BEGINNING OF THE TRANSITION

From a political point of view, the first and second governments of the transition (Aylwin 1990–1994 and Frei 1994–2000) did not advance any institutional reforms in relation to the armed forces. These governments decided not to open up an area of conflict with the armed forces or security agencies since they favoured other reforms associated with the economy, social policies and the re-establishment of cooperative relations at an international level.

The main tensions in the relationship to the armed forces and internal security agencies occurred in relation to General Augusto Pinochet, who was in charge of the Army. The Chamber of Deputies in the first year of government began a parliamentary investigation into possible irregularities in the sale of weapons by the Army. In December 1990, General Pinochet pressured the government into hastily closing this investigation by calling for a quartering to barracks of the armed forces. There was an agreement between the government and the Army that ended up closing the case in the Chamber of Deputies without clarifying responsibilities. A new quartering to barracks took place in 1993 when the same case started to be investigated by an independent state body (the Comptroller General’s Office), which began the study of the irregular sale of arms in which General Pinochet’s son was involved.⁶

Subsequently, in 1995, a new incident occurred when the Justice Department decided to prosecute the retired Army General Manuel Contreras, who was in charge of the National Intelligence Directorate of the military regime (DINA). On this occasion, the Army negotiated with the government the establishment of a special prison for those military personnel who were eventually prosecuted and sentenced for human rights violations.

The centre-left governments did not have a legislative majority in the Senate. The military regime appointed senators for 8 years (1990–1998) which meant there was a right-wing majority. In addition, in the future, at least 3 appointments had to be former military personnel. Added to which, General Pinochet could be appointed for life as a senator and the National Security Council, where the armed forces represented 50 % of the council, could appoint 3 other senators. Therefore, the governments of the ruling coalition (Concertación) opted for the pragmatic policy of using the few mechanisms it had to reduce the influence of the military and contain conflicts with the military.

5 Claudio Fuentes, *El Pacto*, Santiago: Universidad Diego Portales, 2012

6 Claudio Fuentes, *La Transición de los Militares*, Santiago: LOM ediciones, 2006

Another issue that caused great tension was the new government's approach to human rights. The first government's political decision to establish a Truth and Reconciliation Commission that would compile a report (1991) on human rights violations that had occurred in Chile between 1973 and 1990 provoked strong tensions with the military, who publicly questioned the results and submitted an alternative report. The government also had a relatively limited policy in this area (see Cath Collins' chapter on human rights).

INITIAL REFORMS (1990–2000)

The main changes in the first decade after the transition were linked to increased staffing and resources for the police, reform of the intelligence structure and some changes associated with the operational dimensions of the armed forces.

The democratic government progressively increased the number of Carabineros and Investigative Police. During the military regime, priority was given to increasing the size of the armed forces, while from 1990 onwards the resources and facilities of the police were increased. In addition, citizen security plans were established that sought to rationalize resources, establish institutional objectives, and link the Carabineros to the communities in which the police stations operated.⁷ It should be mentioned that the police institution in Chile is centralized and depends directly on the central government. There are no police forces dependent on regional authority, so all public security activities are organized centrally.

As for the intelligence system, as a result of the assassination of the right-wing Senator Jaime Guzmán⁸ by extreme left-wing groups at the beginning of the political transition, the government established (1991) a Public Security Coordination Council. It was an entity dependent on the Ministry of the Interior whose objective was to propose policies associated with public security. Criticism of this body by human rights organizations for its infiltration of left-wing groups led to its replacement by a Public Security and Information Directorate (1993). This new body sought to coordinate intelligence measures and propose plans and programs for the government in matters of internal public security. An Advisory Committee on Intelligence was also set up with representatives from the Ministry of the Interior, the Ministry of Defence, the Ministry of Foreign Affairs and the armed forces and the Carabineros. This body only fulfilled the function of seeking to coordinate efforts, but not of establishing a national intelligence system.

In relation to defence policies, the most relevant policies referred to promoting measures for the strengthening of mutual trust with Argentina, encouraging the participation of the armed forces in United Nations peace operations, and promoting policies of transparency of defence definitions through defence white papers. The first of these was published in 1997 and since then, this tradition has been maintained by publishing them relatively regularly.⁹

SECOND CYCLE OF REFORMS (2000–2018).

In 1999, the third presidential election since the return of democracy took place, and again the centre-left coalition, this time led by Ricardo Lagos (2000–2006) of the Socialist Party (PS), won.

A very significant fact affected the political scene and said relationship with the armed forces. In October 1998, the then Senator for life Augusto Pinochet, who had recently left the army's command, was arrested in London during a private visit he was making. Pinochet was arrested on a warrant issued by a judge in Spain to Interpol. The Spanish justice system argued that the conditions were not in place in Chile to prosecute General Pinochet for the execution of Spanish citizens killed by the dictatorship in Chile. Pinochet would be returned to Chile in March 2000, after being held under house arrest in London for 18 months. As a result, between August 1999 and June 2000, the civil authorities convened a dialogue table for dialogue between the police and the military in order to find out the whereabouts of the bodies of those who had been detained and consequently disappeared.

The case had three direct effects on civil-military relations in Chile: 1) General Pinochet would lose popular and right-wing political party support, particularly after allegations of corruption became known, 2) there was an increase in the number of complaints filed against him for human rights violations that kept him under house arrest until the day of his death in December 2006, and 3) the Lagos government would initiate a political dialogue with the opposition to carry out reforms to the Constitution to eliminate various clauses granting autonomy to the armed forces.

Three relevant institutional reforms were introduced during the government of Ricardo Lagos. In 2004, a new regulation was approved (Law 19.987), relating to the Investigative Police, which established, among other things, the obligation for the director of this police force to be an officer of that institution and not designated from outside it, as used to be the case. In addition, internal regulations were approved that established development goals and an institutional development plan. A few years earlier, the government had approved a reform to Chile's justice system, which established a public prosecutor's office, which would take over the investigative function in judicial proceedings. In the previous model, the judge had investigative and punitive functions. This reform involved modernizing the functioning of the Investigative Police to adapt it to a more demanding and professional system of judicial investigation. As a result, the training plan for this police force was modernized and institutional facilities and resources were increased.

That same year, 2004, a law was passed establishing the National Intelligence Agency (ANI), which attempts to coordinate the action of military and police intelligence within a democratic framework. This institution was created to process information and produce intelligence, generate reports, propose standards and procedures for the country's information systems, and request information from the country's police and military agencies regarding the actions of possible terrorist and/or transnational criminal groups. It is a relatively small institution with less than

7 Lucía Dammert, De la seguridad nacional a la seguridad ciudadana. Chile 1973–2003, in Lucía Dammert, John Bailey, *Seguridad y reforma policial en las Américas*, Santiago: FLACSO Chile y Siglo Veintiuno editores, 2005. In 1998, the number of Carabineros reached 34,000, and by 2018 it had reached 52,000, which represents a rate of one police officer per 339 inhabitants, ranking 37th from 148 countries. See: <https://www.pauta.cl/cronica/laduda-resuelta-cuantos-carabineros-hay-en-chile>.

8 Jaime Guzmán was a lawyer who participated in the creation of the 1980 Constitution and is considered one of the political ideologues of the regime.

9 He was killed in broad daylight after leaving classes at a university campus. Claudio Fuentes, *Militares en Chile: ni completa autonomía ni total subordinación*, in *Chile 96. Análisis y Opiniones*, Santiago: Nueva Serie FLACSO, 1997.

150 staff members who perform analytical but not operational duties (Law 19.974)

The most relevant change at this stage occurred in 2005 when a political agreement was reached between the government and the opposition to reform the Constitution. Among other things, the functions of the National Security Council were reduced, leaving it as an advisory body to the President. Its functions associated with appointing members of the Senate and the Constitutional Court were eliminated, and another civilian authority was added to give it civilian supremacy over the military, and it was established that it could be convened only by the President of the Republic and not at the request of the military, as had previously been the case. In addition, it was established that the President could remove the commanders-in-chief of the armed forces from their duties by informing Congress of the decision. In addition, appointed senators and senators for life were eliminated, allowing all representatives in Congress to be democratically elected by the citizens.

From the point of view of the institutional structure, the two most relevant reforms carried out to date have been the reform of the Ministry of Defence (2010) and the reform of the Ministry of the Interior (2011). In the first case, it was a relevant reform because since its consolidation in 1932, the Ministry of Defence had not undergone very significant changes. Before the reform, it was organized around five under-secretaries (Army, Navy, Aviation, Carabineros, Investigations), who played an essentially bureaucratic-administrative role in the link between the armed institutions and the State. The defence and public security forces depended administratively on the same Minister of Defence. There was no planning or policy making capacity.¹⁰

In 2010, a new organizational chart was established for the Ministry of Defence (Law 20.424). It was structured around a minister who had two undersecretaries (of Defence and of the Armed Forces), a joint general staff, and a board of commanders in chief who assumed an advisory role to the minister. The Undersecretary of Defence is in charge of preparing defence policy, military policy, international defence relations, proposals on acquisitions of the armed forces, and participating in the preparation of the annual budget of the ministry and its evaluation. The divisions of plans and policies, pre-project evaluation, international relations and technological development and industry were structured in this sub-secretariat. For its part, the Undersecretariat for the Armed Forces is the body that manages the administrative affairs of the armed institutions, in addition to its functions of coordinating sectoral policies, proposing recruitment policies, and participating in the financial and budgetary programming of the sector. This undersecretariat has the divisions of institutional affairs, administrative, legal, budget and finance, and audit. Finally, the Joint Chiefs of Staff is the advisory body to the minister in charge of issues associated with the preparation and joint employment of the armed forces.

A few months later, the Ministry of the Interior was reformed (Law 20.502), defining that the forces of public order (Carabineros and the Investigative Police) will depend on this ministry and not on the Ministry of Defence, as used to be the case. In addition, the Undersecretariat for Crime Prevention was established to develop and coordinate public policies aimed at preventing crime and rehabilitating offenders. Finally, the obligation to define a National Public Safety Policy was established at the regional, provincial and municipal levels, which is executed in coordination with each city council.

TOPICS UNDER DISCUSSION

A number of issues are part of the current political discussion in Chile and are related to the security sector. The main issues under discussion are as follows:

- **The role of the armed forces: professional vs. multipurpose.** The large amount of resources invested in national defence, the fact of having a relatively stable neighbourhood, and with the resolution of border conflicts through diplomatic channels, has raised a debate on the use of the armed forces. The current right-wing government authorities (Piñera, 2018–2022), have maintained that the armed institutions should contribute to solving emergencies or natural disasters, and help in times of peace in terms of social policies and control of drug trafficking. A particularly sensitive issue for the public and politicians is the participation of the armed forces in public security operations (anti-drug policies, social protest control) which has been raised by some political actors.
- **Professional career of the armed forces and the Carabineros.** Another issue concerns the modernization of careers in the military and Carabineros. As careers in the military and Carabineros last approximately 25 years, retirement of personnel occurs when they are just over 50 years of age. To this, we must add the high cost to the State of the pension system since uniformed personnel receive a pension, which is similar to their last salary, something that does not happen in the civil sector. Thus, the political system has become concerned. A bill is currently being discussed to extend the length of a military career, and to seek more flexible mechanisms to allow for the hiring of professionals for more limited time spans. The debate on promotion on merit (by virtue of their achievements within their career) vs. on seniority (by virtue of their time in the institution) has also arisen.
- **Women's involvement in military careers and the prevention of abuse.** The inclusion of women in armed institutions has also been considered. Although the armed forces and public security forces have progressively incorporated women into their institutions over the last few decades. Pending issues in this area relate to their incorporation into functions beyond administrative matters, their greater incorporation into the line of command and the development of policies associated with the prevention of abuse and gender violence.
- **Abuses in the recruitment system.** Another relevant issue relates to the reporting of abuse by officers and non-commissioned officers with respect to conscripts, which has led to some allegations being made public.
- **Corruption control mechanisms in the armed forces and public security.** In recent years, judicial investigations have been initiated in relation to the misuse of public resources. Corruption scandals have mainly affected the Army and Carabineros. The *modus operandi* is of a pyramidal structure of operation involving generals, colonels and lower-ranking personnel. This has encouraged the revision of rules associated with the control of fiscal resources, the establishment of external and internal audits and the reformulation of some divisions within the armed and law enforcement institutions.
- **Reform of the financing of the armed forces.** The most significant change being discussed by the National Congress is

¹⁰ Report on the Security Sector in Latin America and the Caribbean, Santiago: FLACSO-Chile, 2007

the revision of the armed forces financing system. The institutional conditions for financing the armed forces were defined on the basis of the following conditions, which have not changed to date:¹¹

i/ General activities budget floor. It was established that for the expenditure of the armed forces, which would be considered in the budget law to be approved annually, “a contribution in national and foreign currency not less than that assigned in the budget law approved and executed for the year 1989, corrected by the factor resulting from dividing the value of the average consumer price index for the year in which the budget law applies and the average for the year 1989” (art. 96, Law 18.948). This floor is only granted to the armed forces, making the budget of the entire public apparatus in Chile exceptional.

ii/ Reserved copper grade for military procurement. It was established that 10 % of the income in foreign currency from the sale of copper production abroad, including the by-products of the state-owned company CODELCO, should be transferred to an account to be used for the purchase of weapons, which will be supervised by the Superior Council of National Defence.¹² This contribution also has a minimum contribution floor of US\$ 180 million per year.¹³

Since the return to democracy, cases of economic corruption have been revealed. The cases with the greatest impact were those discovered in 2015 where a media outlet revealed the existence of a network of members of the Army who used funds derived from the reserved Copper Law for the purchase of weapons for their own benefit, amounting to millions. The purchase of war materials was falsified, and the money was used for personal purposes in an ongoing investigation, although it is estimated that the amount defrauded exceeded US\$ 8 million.

Since 2009, several governments have presented proposals to reform the financing of the armed forces. The National Congress is currently discussing a project that aims to: (a) eliminate the reserved copper law, (b) establish a multi-year fund for military procurement, (c) establish a multi-annual fund for military acquisitions, (d) improve the control systems of the Ministry of Defence, the National Congress and the Comptroller General’s Office to authorize and control military purchases, and (e) establish another contingency fund for possible damage resulting from natural disasters.

OUTSTANDING ISSUES IN THE FIELD OF DEFENCE AND PUBLIC SECURITY.

A number of issues have not been addressed or are pending on the institutional reform agenda in relation to the security sector (see Varas, Fuentes and Agüero 2017). These include:

- **Civilian professionalization of the Ministry of Defence and Public Security.** Neither in the defence sector nor in the public security sector has a professional capacity been generated to establish civilian human resources capable of designing, evaluating and leading these sectors. In general, civilian training programs have been sporadic, based on short courses, and existing programs have been associated with the military institutions themselves, which propose excessively conventional programs with a traditional security perspective.
- **Institutional capacities of the Ministry of Defence.** One problem with the institutionalization of the Ministry of Defence is that divisions are understaffed, and military or ex-military

personnel are usually called upon to perform these functions. No technical civilian staff has been created to lead the defence sector by the management of the Ministry of Defence, nor is there any capacity to generate information to contribute to decision making.

- **Institutional capacities of the Ministry of the Interior.** No institutional capacity has been developed to address the issue of public security in the Ministry of the Interior, either in terms of human resources or with respect to the gathering of information for decision-making. These two aspects are fundamental for providing guidance and generating sectoral policies. The weakness at the central level generates a dependence on public security institutions in terms of the incidence and trend of crime in policy definitions.
- **Joint Staff of the armed forces.** Although in the reform of the Ministry of Defence, a strengthening of the Joint Staff was considered, in practice today a relatively independent scheme of institutional development of the three branches is maintained.
- **Purchasing and accountability system.** Although the Ministry of Defence has made progress in controlling what should be authorized for purchase, the procedure for managing purchases continues to be the responsibility of the armed institutions and the Carabineros, which implies a serious vulnerability to possible cases of corruption due to illegal commissions that could become evident in the process of linking up with suppliers and developing tenders and contracts.
- **Coordination of defence and foreign policy.** Another area requiring attention concerns the need to establish more effective coordination between defence policy and foreign policy. Institutional definitions have tended to evolve in isolation, without much effective coordination. To solve this problem, some governments established the practice of appointing an official from the Foreign Ministry on a permanent basis in the Ministry of Defence. However, this is clearly not enough.
- **Education and training programs.** At present, the design and implementation of training and education programs are, by law, exclusively the responsibility of the armed institutions and the police. The programs developed in the democratic period have had a limited scope. This means that the State, through the Ministry of Education, cannot influence the curriculum taught in the training schools of these institutions. This is a pending issue since it is essential to develop a new curriculum that responds to the needs of the 21st century and that also meets the requirements of a democratic state.
- **Social security system.** As we indicated above, the social security system of the armed forces and the Carabineros (pensions and health system) burdens the State with a high expenditure because the early retirement conditions of the members of the armed institutions increase these costs, but also because the resources received once retired are favourable for them, in relation to what the rest of the society, who enroll in a different social security system, receives.
- **Militarization of social conflicts.** The strong militarization of social conflicts has been criticized, particularly in

11 Claudio Fuentes, Un enclave duro de eliminar: reforma al financiamiento de las fuerzas armadas, in *Piñera II. ¿Una segunda transición?. Barómetro de política y Equidad*, Santiago: Ediciones Sur, 2018, 47–64.

12 In February 2010, the institution was eliminated and replaced by the Ministry of National Defence

13 Mauricio Weibel, *Traición a la Patria*, Santiago: Aguilar, 2006

the Araucanía region where indigenous Mapuche community members have held protests seeking to recover their territory. The response of the political authorities has been to increase the police presence, which has used military tactics to deal with these protests, exacerbating the confrontation with the indigenous groups.

LESSONS LEARNED AND RECOMMENDATIONS

A/ CORPORATE RESISTANCE TO CHANGING THE *STATUS QUO*

One of the characteristics of the Chilean case has been the corporate resistance of the armed forces and public order forces to changes that would involve reducing their powers and authority. At the beginning of the transition, such resistance was openly expressed through public demonstrations of force and insubordination to political authority. However, as they lost political support as a result of Pinochet's arrest and also as a result of more recent corruption scandals, expressions of resistance to change have been less forthcoming.

In this regard, the armed forces in particular have used more informal channels of advocacy in the political process to make their views known. Usually, expressions of institutional discontent have been targeted at the issue of human rights and through, for example, the association of former generals of the armed forces. Recently an informal space was established for former commanders in chief of the armed forces who have made their apprehensions known on some issues—particularly those related to human rights.

In the case of the uniformed police of the Carabineros, no explicit expressions of insubordination have been generated. Usually the demands of the Carabineros have been targeted directly through the higher command. As the Carabineros exercise a crucial crime control function, civil authorities have tended to act very cautiously in their dealings with this police institution, anticipating that a conflict with the Carabineros could have very serious consequences for crime control.¹⁴ Hence, institutional changes in civil control have not been as significant.

Thus, the generation of a broad political consensus on the direction of a reform reduces the ability of the armed institutions to oppose changes that reduce their power.

B/ INSTITUTIONAL CONSTRAINTS LIMIT BUT DO NOT INHIBIT ACTION BY DEMOCRATIC GOVERNMENTS

The case of Chile is peculiar in Latin America because the rules of the game established under the dictatorship tended to endure for many years after the reestablishment of democracy. These institutional restrictions or limitations did not inhibit the action of the democratic governments. The first two post-transition governments opted to establish policies and programs aimed at setting career development goals for the forces. While legally the armed institutions and the police continued to enjoy high levels of autonomy, operationally the civilian authorities sought to encourage schemes that would help foster a greater control over them. The political authorities also encouraged symbolic manifestations of civilian control to reinforce their power in the face of possible military manifestations (subjective subordination).

C/ MAKE REFORMS WITH ARMED INSTITUTIONS, NOT AGAINST THEM

The level of legal autonomy of the armed forces and the Carabineros in Chile is extremely high compared to other Latin American countries.¹⁵ For the same reason, any initiative for change could hardly be imposed by the civil authority. The materialization of reforms such as the new Ministry of Defence, the new intelligence system or the new Undersecretary of Public Security and Crime could not have been done through imposition. In all these projects, the opinion of the armed branches themselves was included so that they felt that their requirements were heard and addressed. The option of seeking allies in the armed forces and Carabineros themselves to design and generate relevant transformations is vital.

D/ GRADUALISM. IDENTIFY PRIORITY AREAS

In the case of Chile, power balance conditions made it difficult to establish significant structural reform at the beginning of the transition. Therefore, when such a limitation became evident, a gradual strategy of reforms was chosen that took advantage of any windows of opportunity that presented themselves. Even, with a favourable balance to the *pro-status quo* political forces, the change of context helped to install important reforms regarding civilian supremacy over the military. This implied having a clear objective and the availability of policy proposals or alternatives.

E/ WHAT TO REFORM? LEVELS OF REFORM

There are three levels of reform in both the armed forces and the police:

- Those reforms that are related to **civilian supremacy** over the armed forces and police and that include regulations on the subordination of the armed forces and the Carabineros at the constitutional level, the appointment and removal of military and police chiefs, and regulations on Security Advisory Councils, among others.
- Those reforms that are related to **institutional management and planning** and that consider the structure of the Ministry of Defence and Ministries of the Interior or Public Security, definitions of strategic objectives in white papers, definitions that clearly distinguish and separate military functions from public security functions, among others.
- Those referring to **process controls** that consider definitions of process control mechanisms, internal and external control and accountability, among others.

Although it will be very complex and unlikely to establish simultaneous changes in all these areas, the important thing is to draw up a vision that one wants to have of the armed forces and the forces of law and order in terms of adequate civilian supremacy, the institutional design that stems from this principle, and the process control mechanisms that will guarantee that such supremacy materializes.

14 Claudio Fuentes, *Contesting the Iron Fist. Advocacy Networks and Police violence in Argentina and Chile*, New York & London: Routledge, 2004

15 *Report on the Security Sector in Latin America and the Caribbean*, Santiago: FLACSO-Chile, 2007

F/ PRIORITY AREAS FOR REFORM

Although in each case an agenda of priorities must be structured that is contingent on the specific needs of each country, there are certain central critical nodes that are obvious in the case of Chile. We will mention those that are vital in our opinion (not in order of preference):

- Civilian supremacy over the armed institutions and the police. This is a key area. In the case of Chile, the legal-institutional starting point allowed for very high levels of autonomy of the armed institutions and the police with respect to civil authority. Restoring levels of effective supremacy (in legal and practical terms) has been a central issue and one that even, almost 30 years after the return of democracy, has not been fully achieved.
- The reform of the intelligence apparatus is a critical element that needs to be addressed by civil authorities. A second central area or critical element concerns the regulation, reform or structuring under civilian authority of a democratic intelligence system. In the case of Chile, it has been a very gradual reform that still lacks strong control and operational management. However, this area seems crucial because of the role that the armed forces themselves had during the previous regime, but also because the generation of intelligence is a relevant source of power that must be supervised democratically.
- Strengthening accountability systems. Another relevant dimension relates to accountability systems. The high corporatization of military and police institutions historically made it difficult to generate control mechanisms. In addition, the nature of the institutions means that special emphasis is placed on the secrecy and confidentiality of the decision-making process. This opacity generated important gaps that were not addressed early on in Chile. If there is one lesson learned from this case, it is the need to implement control systems over the management of the resources of the armed forces and the police. This implies creating internal control and audit systems, establishing external control mechanisms, and promoting the strengthening of the control capacities of Congress over the institutions of Defence and Public Security.
- A fourth area relates to the way in which defence and public security resources are managed, which are often characterized by their opacity. Encouraging transparency and control procedures is fundamental for the adaptation of the armed institutions to the democratic framework. But also, the discussion on *how much to spend* forces decision makers to define *what to spend on*, which implies targeting resources to strategic objectives.
- A fifth area relates to human rights abuses committed by military institutions and the security services in the past and extending to the present. Chile's experience is that it is not possible to restore trust between society and the armed forces and public order, nor is it possible to generate conditions of political stability, if the issue of truth, justice, reparation and the reconstruction of historical memory is not addressed.

G/ DIVISION OF DEFENCE AND PUBLIC SECURITY TASKS

A fundamental question is to distinguish clearly between the functions of defence, as an institutions in charge of border protection and international projection, in matters of defence, and what concerns the internal security of the police. In Latin America, there has been a tendency to involve the armed forces

in tasks that are not related to defence and that directly relate to issues of internal security, which includes disaster assistance roles, social programs, and control of drug trafficking, among others. While the involvement of the armed forces in disaster situations is relevant, it should be considered the exception rather than the rule.

H/ INSTITUTIONALIZATION REQUIRES HUMAN CAPITAL FORMATION.

Security sector reforms require institutional capacities, which implies the formation of a civilian contingent capable of generating knowledge, systematizing information and producing relevant knowledge for the implementation of policies in this sector. One of the problems that the case of Chile has faced is the lack of concern of the political elites for generating this human capital that is vital to give continuity to the policies that are implemented. At the beginning of the transition in Chile there was interest, accumulated knowledge and a certain amount of human capital that was motivated to generate ideas and contribute to the generation of policies. Over time and as other issues became more relevant, there was a clear reduction in interest in these topics. There are few institutions that deal with issues associated with defence and public security. In the university system there is even less interest in developing these topics.

I/ THE INTERNATIONAL CONTEXT AS AN OPTION FOR REFORM

Another issue is related to the relevance that the international context acquires in generating standards to which the country aspires; the agreements signed with neighbouring countries that make reform options viable in the defence sector in particular; and the international trends that favour "importing" good practices to local contexts. In the case of Chile, for example, the cooperation agreements established with Argentina in the 1990s were very relevant, which included a series of measures of mutual trust between the armed forces that stimulated organizational and logistical changes in the forces themselves. In the 2000s, Chile became a member of the OECD, which stimulated the generation of international standards on transparency, which helped to generate state awareness of transparency. Finally, certain ideas such as the "white books" were replicated in Chile in the Ministries of Defence and Foreign Affairs, which also stimulated discussions and the need to specify the objectives of the defence policy that were reflected in such official documents.

J/ CIVIL SOCIETY AND MANAGEMENT CONTROL IN THE SECURITY SECTOR

Another of the lessons from the Chilean case refers to the relevance of civil society proposing options and controlling the action of armed and public security institutions. This has been particularly relevant in the case of the defence of human rights; and perhaps something more significant in terms of generating systems of transparency and control. The case of Chile shows a greater weakness of this civil society in more technical but also relevant issues associated with the control of military spending, peace initiatives and international cooperation, and policy recommendations in matters associated with the "institutionality" of the sector.

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MEMORY OF NATIONS

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DISMANTLING THE STATE SECURITY APPARATUS

PAVEL ŽÁČEK

POSITION AND STRUCTURE OF THE STATE SECURITY APPARATUS PRIOR TO THE TRANSFORMATION

The last major reorganization of the communist security apparatus pertaining to the Federal Ministry of the Interior of the Czechoslovak Socialist Republic (ČSSR) took place in August 1988. The State Security, the secret police was part of the National Security Corps (*Sbor národní bezpečnosti*, hence the abbreviation *SNB*), and formed a conspiratorial part of the Federal Ministry of the Interior but it was also present in the regional and district administrations (and borough administrations in cities) of the National Security Corps. The central security services staff number peaked in that year: altogether, there were 16,783 personnel assigned to the ministry, 5,345 of which belonged to the State Security units, 5,358 to the Border Guards and the rest to the Public Police (*Veřejná bezpečnost*, hence the abbreviation *VB*) and to other units governed by the Federal Ministry of the Interior.¹ In total and including educational facilities, military conscripts and civil employees, there were 18,107 personnel in November 1989.²

The State Security structure within its headquarters was as follows:

- Main Intelligence Directorate (1th SNB Administration),
- Main Counter-intelligence Directorate (2nd SNB Administration),
- Main Military Counter-intelligence Directorate (3rd SNB Administration),
- Surveillance Directorate (4th SNB Administration),
- Directorate for the Protection of Party and Constitutional Officials (5th SNB Administration),
- Directorate for Intelligence Technology (6th SNB Administration),
- Counter-intelligence Directorate in Bratislava (12th SNB Administration),
- Special Directorate (13th SNB Administration), for radio intelligence and radio counter-intelligence,
- State Security Investigations Directorate and the
- SNB Passport and Visa Directorate.

At the beginning of 1989, the SNB Directorate for the Development of Automation became another State Security Directorate. As far as the National Security Corps Academy is concerned, the State Security Faculty functioned as its first faculty.

At the end of April 1989, Lieutenant General František Kincl, the Minister of the Interior of the Czechoslovak Socialist Republic was managing the 1th and 5th SNB Administration of the State Security units, and furthermore – he was in charge of the statistical records department he operated via the Internal and Organizational Directorate of the Federal Ministry of the Interior (State Security Operational Archive); Lt. Gen. Alois Lorenc, the first Deputy Minister was governing the 2nd, 3rd, 4th, 12th SNB Administration; and the SNB Passport and Visa Directorate; Deputy Minister of the Interior Colonel Stanislav Nezval was in

charge of the 6th, 13th SNB Administration, the SNB Directorate for the Development of Automation and the National Security Corps Academy; and Deputy Minister Colonel Otta Sedlák was ruling the State Security Investigation Directorate. Thus, the State Security was divided into several entities with the intelligence administration being divided between counterintelligence administration, the intelligence technology directorate and the investigation section.³

For the State Security, the most effective means to control the selected social groups or the respective objects was the network of confidants which consisted of secret collaborators of various categories (agent, resident, holder of a conspiratorial flat), collaborators (confidants),⁴ furthermore, there was a section responsible for the surveillance of people and objects⁵ and for the deployment of special technical means (eavesdropping, correspondence control etc.).⁶ The operational documentation from individual activities was stored in the form of files in the operational archives pertaining to the individual directorates' archives or it was stored at the statistical records department (section), which archived the counterintelligence agenda. This was done following the termination of a secret collaboration, or after the surveillance of a selected person had ended.

The Main Intelligence Directorate within the SNB, for example, had the following operative file categories in its operational archive (55th department): object-related files (order "1" files), archive-type files (order "2" files), cadre members' personal files (order "3" files), secret collaborators' personal files (order "4" files), conspiratorial flats and borrowed flats' files (order "7" files), operational correspondence files (order "8" files), active measures files (order "9" files).⁷ Counterintelligence units deposited the archived files at the statistical records department (at the regional directorates of the department) into the so-called fonds: Special Fond (Z), Secret Collaborators Fond (TS), Counterintelligence Work Fond (KR), Object-Related Files Fond (OB),

1 Jan Kalous, Milan Bárta, Jeruš Sivoš, Pavel Žáček, Několic poznámek k vývoji organizační struktury Ministerstva vnitra a Ministerstva národní bezpečnosti Československé (socialistické) republiky v letech 1945–1989, in Jan Kalous a spol., eds., *Biografický slovník představitelů ministerstva vnitra v letech 1948–1989. Ministři a jejich náměstci*, Praha: ÚSTR, 2009, 36.

2 Pavel Žáček, *V čele ŠtB. Pád režimu v záznamech důstojníka tajnej policie*, Bratislava: ÚPN, 2006, 153.

3 Pavel Žáček, ed., *Nástroj triedneho štátu. Organizácia ministerstiev vnútra a bezpečnostných zborov 1953–1990*, Bratislava: ÚPN, 2005, 197–199, 207–208.

4 Pavel Žáček: "Ostrá zbraň" Státní bezpečnosti. Spolupracovníci StB ve směrnicích pro agenturně operativní práci 1947–1989, in Petr Blažek, ed., *Opozice a odpor proti komunistickému režimu v Československu 1968–1989*, Praha: ÚČD FFUK, Dokořán, 2005, 212–215.

5 Miroslav Urbánek, "Správa sledování Ministerstva vnitra v letech 1948–89 (Stručný nástin organizačního vývoje)", in *Sborník Archivu Ministerstva vnitra*, 2005, (3), 209–213.

6 Radek Schovánek, "Organizační vývoj technických složek MV 1964–1989 II", in *Securitas Imperii*, 1994, (2), 69.

7 Pavel Žáček, "Registrace, vedení a archivace svazků ve směrnicích čs. komunistické rozvědky", in *Památ národa*, 2006, (2), 66.

Tactical Fond (T), Old Documents Fond (S), Investigation Files Fond (V) and into the Historical Fond (H).⁸

Until the student demonstration of November 17th 1989 that launched the fall of the Communist regime in Czechoslovakia, but also shortly afterwards, the Federal Ministry of the Interior including the State Security governed by it worked as a stable pillar of power the totalitarian regime was able to rely on. Minister Kincl, who first collapsed on November 29th and who was removed on December 3rd was the first one to leave the Ministry, the First Deputy Lorenc was removed on December 22nd, Deputy Minister Sedlák on December 31st 1989 and Nezval as late as on January 18th 1990. From the middle of December, the organizational structure within the Ministry of the Interior started to disintegrate. Following that, František Pinc was appointed and became Minister of the Interior for just a few days and afterwards, as no successor had been named – the Ministry of the Interior started to be led by the triumvirate composed of the Prime Minister, the Communist Marián Čalfa, the Deputy Prime Minister and dissident Ján Čarnogurský and the Deputy Ivan Průša.⁹

Being under pressure, the Federal Parliament changed the leading role of the Communist Party of Czechoslovakia that had been hitherto vested in the Constitution, also abolishing the leading role of the bodies of this party, abolishing Marxism-Leninism as the state ideology as well. The Communist Party of Czechoslovakia's organizations and the political structures within the Ministry were abolished as a reaction to this development.¹⁰

REACTION TO THE POLITICAL CHANGES

During the last days in November of 1989, the management within the federal Ministry of the Interior started addressing the issue during its meetings of how to deal with the compromising documents in the agency-related operational files of the State Security. On December 1st 1989, the First Deputy Minister, Lieutenant General Lorenc issued a top-secret instruction for amending the current work in the archives and in relation to the file agenda; this meant that the State Security units were ordered to sort out the so-called active operational files, the counterintelligence work files and the records of technical activities.

Based on this instruction, the 2nd SNB Administration as well as other central units within the State Security started to selectively liquidate the file and document agenda. The units for the fight against the “enemy from the exterior” (1st–4th departments) and the economic news unit (5th–8th departments) for example, sorted out operational documents shredding them with the aid of the statistical records department. In contrast to this, the internal intelligence section (9th–12th departments) started sorting out the personal files of secret collaborators in political parties ending with the liquidation of almost the entire file agenda relating to the fight against the “enemy within”.

Officially, the mass liquidation of agency-related operational files ended on December 8th 1989 due to the pressure exerted by the students' movement and the People's Forum. The last large-scale and nationwide action made it impossible to reveal the entire scope of the unlawful activities committed by the last Communist police top-level members, including their agency network and the cooperation with the Soviet KGB units.¹¹

According to incomplete data, the following percentage of documents were shredded or burnt in the offices of the 2nd SNB Administration and its subordinate counterintelligence State

Security units in paperwork, in the Federal Ministry of the Interior's objects and in the accommodation facilities of the Central Group of Soviet Forces in Czechoslovakia: 99 % of personal files on hostile persons (i.e. 7,193), 75 % of personal files (195), 67 % of signal files (528), 67 % of confidant files (8,632), 55 % of files on checked persons (4,701), 44 % of agency files (5,179), 41 % of resident agent files (54), 37 % of object-related files (1,275) and 36 % of the personal files on candidates for the post of secret collaborator.¹² But the information systems and the registration protocols or archive protocols which included the records of the file agenda were preserved in a relatively complete scope.¹³

FORMS OF TRANSFORMATION OF THE SECURITY APPARATUS

After Václav Havel had been elected president, the first non-Communist Minister of the Interior, Richard Sacher was appointed and in the middle of January 1990, he definitively terminated the activities of the so-called State Security internal intelligence. Following this, he abolished the Federal Ministry of the Interior's units, including the State Security itself on January 15th 1990 as there was pressure exerted by the public. The Main Military Counterintelligence Directorate and the SNB Directorate for the Development of Automation became an exception to a certain extent. The latter was shifted and became a section within the Ministry for National Defense, or rather – it still had not been detected as having been part of the political police. The subsequent development of the Federal Ministry of the Interior under democratic conditions was still characterized by personnel changes, reorganization, competence disputes and fierce political conflicts regarding the proper shape.

On January 10th 1990, the leaders in the Federal Ministry of the Interior presented a document to the federal government leadership. This document addressed the direction the Federal Ministry of the Interior including its sections was heading in during the period when the government of national understanding was in office. Within this document, the Ministry committed itself to carrying out democratic processes, to the Czechoslovak Socialist Republic's international commitments especially as far as human rights were concerned and also in relation to the concept of a constitutional state.

The consistent termination of the repressive bodies' activities within the State Security in the field of the fight against the “enemy within” was listed as the most important task. This was meant to prevent these forces being misused against the citizens and

8 Pavel Žáček, “Administrativa písemností kontrarozvědné povahy II. Jednotný evidenční, statistický a archivní systém StB v letech 1978–1989”, in: *Sborník Archivu bezpečnostních složek*, 2013, (11), 207.

9 Kalous, Bárta, Sivoš, Žáček, *Několik poznámek k vývoji organizační struktury*, 37–38.

10 Pavel Žáček, “Třídni boj po 17. listopadu 1989 v dokumentech politického aparátu ČSLA”, in: *Historie a vojenství*, 2005, (1), 110; Pavel Žáček, “Demontáž a očista bezpečnostních struktur. Počátek roku 1990 z pohledu federálního ministerstva vnitra”, in: *Paměť a dějiny*, 2010, (1), 74.

11 Pavel Žáček: “‘Můžou přijít, jsme hotovi...’ Tzv. Lorencova ‘skartace’ v dokumentech”, in: *Paměť národa*, 2004, (0), 28–41; Pavel Žáček, “Zamětaní stop v prosinci 1989. Vytřídování svazkové agendy na centrále Státní bezpečnosti”, in: *Sborník Archivu bezpečnostních složek*, 2015, (13), 268.

12 Pavel Žáček, *Boje o minulost*, Brno: Barrister & Principal, 2000, 42.

13 For comparison, see Petr Rendek, “EZO – Evidence zájmových osob”, in: *Sborník Archivu bezpečnostních složek*, 2012, (10), 285–287.

to please the public at the same time. Thus, the Federal Ministry of the Interior decided that mainly members from the Public Police (*Veřejná bezpečnost*) would be appointed to the offices of the chiefs of regional and district SNB Directorates.

Furthermore, checking commissions were to be established in order to give proposals to the respective chiefs whether State Security members would be fired or remain in service. Civic Commissions were to be established and to operate as a controlling and initiative body. These commissions would be composed of representatives from the public and from political forces and the commissions would serve to cooperate with the respective chiefs in solving current issues arising from the performance of the security service. Furthermore, there were proposals being made for the establishment of the Ministry of the Interior of the Czechoslovak Socialist Republic specialist commissions – both within the Federal Ministry of the Interior and in the regional administrations. These commissions would be mainly composed of former security forces members who left following the occupation in 1968 or of those who were forced to leave due to their political opinion. Apart from their controlling function, these commissions were to actively contribute to reevaluating the security forces' activities.

It was indispensable to defend the constitutional basis of the republic, its sovereignty, economic stability, to fight against terrorism, drug consumption, to protect the country's borders etc. in order to protect the new democratic principles the country was built upon and to safeguard its national interests. Taking into consideration the previous negative experience, it was necessary to legally amend the role and the powers given to the security forces, which especially referred to defining the scope of entities entitled to make use of intelligence-technical means (eavesdropping etc.), to exhaustively define the reasons for the application of these methods, to condition the use thereof by an approval granted by the territorially responsible prosecutor, or the territorially responsible court, and to declaring any other use of the information that would be collected via intelligence methods as unlawful. A parliamentary committee was to be entrusted with controlling the intelligence activities.

Purifying the National Security Corps of people who had discredited themselves through misusing their power was declared to be the immediate task. Furthermore, the requirements for the selection and the hiring of new National Security Corps members were to become more rigid, paying particular attention to their moral qualities, integrity and expertise. Furthermore, being part of the Federal Ministry of the Interior or of the security forces precluded any type of political activity. In order to provide for the government of national understanding's policy line being put through, there were – among others – proposals being made to establish a new operational concept for the intelligence and also for other security forces serving the protection of the constitutional basis and the republic's democratic regime.¹⁴

Two days later, Minister Sacher terminated the activities of the internal intelligence section of the State Security, which meant halting the activities of the respective departments and sections within the Main Counterintelligence Directorate (2nd SNB Administration), within the Counterintelligence Directorate in Bratislava (12th SNB Administration), within the regional State Security administration and the subordinate district or borough organizational units. Furthermore, the posts for political police personnel within this section were abolished, the agency-related operational activities of the abolished units were stopped,

the documents and aids of the abolished units were to be immediately stored, locked and sealed and the service weapons were to be locked in arsenals.

The next day hosted a meeting of the chiefs of the central units of the National Security Corps' regional and district administrations *which served for negotiating the activities performed by the Federal Ministry of the Interior and the National Security Corps during the period when the government of national understanding was in office*. Minister Sacher informed the leading representatives of the security forces about the most important principles, highlighting especially *that any political activity within the Federal Ministry of the Interior including all of its units represented a reason for exclusion; the security policy within our Ministry is going to be a security policy that's not going to be governed by a party – by any party – but this security policy shall be the security policy driven by the government*.¹⁵

Also Josef Kuracina, a former State Security member and one of Minister Sacher's advisors, stated that undoubtedly, the State Security's activity discredited itself to such an extent *that even pronouncing this title literally repels the public*, while adding at the same time that not a single state can work without the basic functions the Communist political police had been performing, if such a state consistently protects its own national sovereignty.¹⁶

Yet neither the public nor the Civic Forum representatives would regard it as sufficient that parts of the State Security ceased to exist. Minister Sacher kept on vainly convincing the public that any units that were focusing – to use the former regime's wording – on “the fight against the enemy within”, which means those that were focusing “on counterintelligence activities or the protection of churches, on anti-socialist groups, on ideodiverse centers and on emigrant groupings, on controlling the youth, science, education, the mass-media, healthcare and sports had been abolished.” *Until this date, all members of the State Security were dismissed from managing posts in the headquarters, in the regional and in the district administrations. Their further development following the checks will be taken care of by newly appointed workers from the Police staff (Veřejná bezpečnost)*.¹⁷

In January 1990, Zdeněk Jodas, a former member of the intelligence services recommended that the Federal Ministry of the Interior leadership carry out further decisive steps as the pressure from the public was growing. *There will be individuals coming from the [security] apparatus who are going to organize active measures for nurturing the atmosphere of uncertainty and as fear among the people will grow, the public will become more prone to believe that rumors regarding the threat which the apparatus represents are true and the public will even be prone to augment the rumor that the apparatus actually is dangerous, which in turn won't improve political stability*. Undoubtedly, the structures within the Ministry of the Interior were still linked to the Communist Party apparatus. It was presupposed that Post-Communist political powers would use disinformation applying their knowledge about the State Security for scandalizing new personalities in the political spectrum.

Although he was convinced that the former political police staff leaving on a mass scale would not happen, he proposed not

14 Žáček, “Demontáž a očista bezpečnostních struktur”, 61–63.

15 Pavel Žáček, “Sachergate. První lustrační aféra. Nesnáze postkomunistické elity (nejen) se svazky Státní bezpečnosti”, in *Paměť a dějiny*, 2007, (1), 51.

16 Žáček, “Demontáž a očista bezpečnostních struktur”, 66.

17 Žáček, “Sachergate”, 52.

to behave naively and to demonstrate the necessary determination and hardness as far as the key units of the State Security were concerned. *It is necessary for the public to feel that the government is keeping the situation entirely under control and that there are no reasons for fear as the State Security apparatus has been neutralized entirely.* According to him the main threat was that a significant volume of information was concentrated in the State Security files, and also in the hands of individual members, and he also regarded as a threat that the connections to the ideological agency network and the links to the old Communist Party of Czechoslovakia were being upheld.

Apart from removing all chiefs within the State Security and apart from dissolving the internal intelligence working against the opposition, he proposed to entirely disarm all intelligence forces, to prohibit activities led against embassies of Western democratic countries, and to prohibit any surveillance activities or eavesdropping without the prior consent granted by the new leadership in the Federal Ministry of the Interior. Surveillance measures were to be made use of also against removed State Security functionaries in order to become aware of activities that could lead to anti-government actions; additionally, an overview of the conspiratorial flats was to be kept and the locks to these flats were to be exchanged in order to prevent the agents meeting the informers.

Colonel Jodas stressed that removing the chiefs created the conditions for dismantling the State Security apparatus: *losing their commander always leads to the fact that any inhibitions the workers perceive fall away and the workers start accusing each other, (...) the compact structures disintegrating into competing groups creates conditions for detecting workers that will be useful and usable within the new apparatus. Furthermore, it will become possible to gather the latest information on the State Security, in spite of the materials on this issue having been destroyed in December 1989. As far as this phase was concerned, he counted on a certain percentage of the State Security members being taken over by the criminal police – he regarded this as a way leading to weakening possible hatred directed against the new political system and to preventing these people committing hostile activities.*

The preparation for establishing a new secret service model for the protection of the constitution was to be carried out as a parallel process. The basic outline was to become evident by the end of March, yet it was clear that the actual construction of this new secret service would begin only after the elections in June 1990.¹⁸

Within the next memorandum, Colonel Jodas addressed the Main Intelligence Directorate (I. SNB Administration), which was much more linked to the foreign policy and foreign trade policy promoted by the state leadership. *The consequences of each piece of information leaking through intentionally or unintentionally, each piece of information about an operational agency, each piece of disinformation sent through the information channels, each cadre member's emigration (...), actually anything one could interpret as the continuation of work led against the countries with whom we intend to cooperate both on the political and economic level, can have serious consequences.* According to him it was no problem triggering an anti-Czechoslovak campaign at the most inconvenient moment. He proposed a fundamental solution: the prohibition of operational work abroad, under the threat of criminal sanctions. *Thus, the responsibility is to be shifted to the old governmental and security structures. These facts are to*

be taken seriously even after the date when the new intelligence service starts working. According to him, anything old was potentially dangerous.

Until the date of the elections, the intelligence service was to be neutralized, i.e. disarmed, its operational activities both at home and abroad were to be stopped, and the members were to be gradually and selectively dismissed. Only a very small core consisting of the most qualified personnel was to be preserved. He proposed to complete the dismantling process by the end of 1990.

During this period, the model of a new service would be created that wasn't to be constructed on the debris of the old one but parallel to it. *Evaluate the people, methods, objects, the agency, the information system during the dismantling process and do so from the point of view of evaluating the options whether it is possible to preserve them within the new apparatus.* Preserve a maximum "amount of information", but preserve the agency network only to a small extent, select several people from the apparatus by the election date and start the cautious recruitment of new personnel.¹⁹

On January 30th 1990, the Specialist Committee set up by the Minister of the Interior of Czechoslovakia was established, having vast initiative powers and controlling powers, including the option of establishing analogous institutions at the medium level within the security apparatus administration. Among others, this committee's task was to be the evaluation and the presentation of proposals *for the establishment of a new system for state security and state protection*, the control as to *whether the orders and instructions that will have been handed out were consistently fulfilled and implemented.* This service was chaired by the former First Deputy Minister of the Interior from 1968, Colonel Stanislav Padrůněk.

LEGAL AND POLITICAL FRAMEWORK OF THE CHANGES OF THE SECURITY APPARATUS

On the last day in January 1990, the Minister of the Interior, Sacher, finally abolished virtually all State Security units: the Main Intelligence Directorate, the Main Counter-intelligence Directorate, the Surveillance Directorate, the Directorate for the Protection of Party and Constitutional Officials, the Directorate for Intelligence Technology, the Counter-intelligence Directorate in Bratislava, the Special Directorate, the State Security Investigations Department (which had been the State Security Investigations Directorate until December 29th 1989), the Passport and Visa Directorate. At the same time, new units were established instead of the above-mentioned ones:

- 1/ Intelligence Service of the Federal Ministry of the Interior,
- 2/ Office of the Federal Ministry of the Interior for the Protection of the Constitution and for the Protection of Democracy,
- 3/ Office of the Federal Ministry of the Interior for the Protection of Institutional Officials,
- 4/ Office of the Federal Ministry of the Interior for the Investigation of Unconstitutional Activities,
- 5/ Office of the Federal Ministry of the Interior for Passport and Aliens Service.

The Intelligence Service replaced the 1th SNB Administration, thus becoming the new intelligence service, uncovering and

18 Žáček, "Demontáž a očista bezpečnostních struktur", 66–67.

19 Ibid, 67–69.

disabling *hostile activity led from other countries*. As part of its counterintelligence activities, the Office for the Protection of the Constitution and of Democracy was to *fight against other intelligence services on the national territory*, also with international terrorists, it was to reveal *attempts aiming at violently enforcing a change or the disturbing of the constitutional order*, it was also to reveal unlawful limitations posed to the work carried out by constitutional bodies, to reveal unconstitutional activities led against the country's unity, against nationalities, races or the religious belief of citizens of the Czechoslovak Socialist Republic. Thus, this newly established body virtually carried on the activities that had hitherto been performed by the 2nd and 12th SNB Administration. Furthermore, its tasks were the surveillance of people, intelligence activities, radio-intelligence and radio-counterintelligence. In other words, it took over the powers formerly vested in the 4th, 6th and 13th SNB Administration. The 5th SNB Administration, the State Security Investigation Directorate and the Passport and Visa Directorate of the National Security Corps were transformed into the Office for the Protection of Institutional Officials, into the Office for the Investigation of Unconstitutional Activities and into the Office of the Federal Ministry of the Interior for Passport and Aliens Service respectively.²⁰

The Main Military Counterintelligence Directorate (3rd SNB Administration) avoided being abolished, as it had been decided at the beginning of the month by the federal government leadership that this section would be incorporated into the Federal Ministry of National Defense, and also the SNB Directorate for the Development of Automation wasn't abolished – apparently, people didn't know that this directorate had become part of the State Security during the final year of the Communist dictatorship's existence.

The order not merely defined new names for the components of the intelligence and security forces that were being established and subordinate to the Federal Ministry of the Interior, but also named those units that remained untouched by the changes. The next order issued on February 15th 1990 led to the abolition of the territorial units of the Communist political police which were replaced on the next day by the Offices of the Federal Ministry of the Interior for the Protection of the Constitution and for the Protection of Democracy based in Prague, České Budějovice, Plzeň, Ústí nad Labem, Hradec Králové, Brno, Ostrava, Bratislava, Banská Bystrica and Košice. The operational archives of the statistic records departments that pertained to the abolished State Security Directorates were now organized by the newly established regional offices (in contrast to the statistical record department incorporated into the structure of the internal and organizational administration of the Federal Ministry of the Interior).

CONTRIBUTION OF CITIZENS TO THE TRANSFORMATION

The checking committees and Civic Committees became a source of information for the supreme bodies within the Civic Forum and subsequently for the national defense and security committees. On March 13th 1990, an expert commission completed the crucial document addressed to the Minister of the Interior where it criticized the slow pace of the changes carried out within the Federal Ministry of the Interior.

According to the authors, the typical situation was that the old functionaries and cadres remained virtually untouched in their

posts, and their apparatus as well. *Former State Security members are remaining in service incl[uding] the responsible chiefs. [...] Available information reveals that these people keep on meeting each other upholding contacts with former functionaries from the Communist Party of Czechoslovakia. Doing this, they rely on leading functionaries within the Federal Ministry of the Interior who still remain in the ministry and frequently, they even uphold contacts with these functionaries further on. The purification of the apparatus from people compromised by unlawful activities is not happening.* The commission members accused the units in charge – i.e. the minister's inspection, the human resources and education administration as well as other units of not showing independent initiative. *They are relying on the checks solving the whole purification issue. Given this state of affairs, establishing a counterintelligence apparatus [...] remains somewhat far off. Yet the security situation within the country urgently requires the counterintelligence apparatus to start working as soon as possible. Nevertheless, hitherto we have only a restricted knowledge of what is going on in our country.* According to the expert committee, the Federal Ministry of the Interior thus remained a significant exception as far as the movement within the society of our country is concerned. *The Ministry does not help in moving forward, but even frequently hinders the development.*

Furthermore, the committee members informed the minister that the Ministry of the Interior has documents within its operational archives that prove the totalitarian regime's activity. *Hitherto, there has been no work done with these documents and consequently, they haven't been made use of within the political struggle. These materials mainly report about unjust enrichment, corruption, provocation by the former State Security, about activities led against civic initiatives including attempts to crush the democratization process.*

During a work meeting of the Civic and Checking Committees that took place on March 17th 1990 the situation radicalized. A resolution was adopted demanding the rapid adoption of an act that would enable the immediate dismissal of former State Security members, *and to dismiss all of them by an order issued by the Federal Minister of the Interior, as the unlawfulness of the State Security's activities in general had been proven and because it is not necessary that the State Security members be employees of the Federal Ministry of the Interior in order to check their activities.* Another part of the critique was directed against the nomenclature cadres of the Communist Party of Czechoslovakia that was in charge of the Inspection of the Ministry of the Interior and of the Cadre and Education Administration. *These people, and also other persons are complicating the checking committees' work and are slowing down the State Security purification process. (...) That's why we require that all former State Security members be immediately dismissed from their posts at the Federal Ministry of the Interior and that criminal prosecution against them be commenced immediately, if there are proofs of their guilt. There cannot be any orderly state in any lower-level National Security Corps unit until order has been created at the Federal Ministry of the Interior.*²¹

At the end of March, the Deputy Minister of the Interior Ivan Průša stated that the security apparatus *is an apparatus consisting of old structures created by force*. Nevertheless, he differentiated between people in this apparatus as there were both people waiting to see how the situation develops, and servile people who put

20 Žáček, ed., *Nástroj triedneho štátu*, 213–215.

21 Žáček, "Sachergate", 57–59.

away their party ID-card and are working 16 hours a day chasing their subordinates. *Of course, even the apparatus changes and differentiates. (...) These people are dangerous because they are afraid of informing the new leadership about negative impacts resulting from the leadership decisions which in turn multiplies the mistakes.* Unfortunately, the new Ministry was overloaded with new issues to such an extent that it didn't focus on personal issues sufficiently.

He regarded the fact that the country's counterintelligence protection had been entirely paralyzed as an issue of the utmost importance. The leadership at the Ministry of the Interior neither had information of sufficient quality about internal relations, about what was emerging, where it was emerging and whether such a development could pose a threat to the state, nor did the leadership have information of sufficient quality about where the former State Security power structures were meeting former People's Militia functionaries, nor about who had contacts to the Soviet occupation forces.²²

Political affairs prior to the first free elections made it virtually impossible to find any practical solution.²³ Also the civic and checking committees' activity was complicated by several problematic issues, especially by the fact that former State Security members infiltrated into these committees, which limited their work and later on led to the results of these committees' work being subject to doubts. Furthermore, the committees' activity was limited by some documents not being accessible, especially as far as agency-related operational files were concerned and sometimes, even the different approach of individual chiefs complicated the situation.²⁴ The aim of these checks was to classify the State Security members into three groups: *a group that may go on working in the secret service sector; another group that would be assigned to police work and the last group which would have to leave entirely. Due to the fact that the civic and checking committees were working "each on their own", on an entirely decentralized principle, without management and without methodological instruction, the results were extremely diverse and highly unreliable as far as details were concerned.* In spite of this, it appears to have been the only viable step which was also necessary.²⁵

Altogether, 7,694 State Security members were checked, 3,973 of which were nominated to work in the new security service that was being created. In spite of all the insufficiencies in the Civic Commissions' work, the intelligence service purification was far more profound than in the neighboring countries of Poland or Hungary.²⁶

In the middle of 1990, most of the members in the authority were former State Security members that had been checked. To be more precise, there were 2,308 former State Security members that had been checked and who then worked in the Office of the Federal Ministry of the Interior for the Protection of the Constitution and for the Protection of Democracy, 40 new personnel who hitherto hadn't been working in intelligence services, and 38 reactivated State Security officers who had been dismissed in 1968. Newly hired people especially occupied managing posts in the service's headquarters and there were also some individuals in the regional offices' management.²⁷

The new authority was to be organized according to the territorial principle with the USA, Western European countries (especially Germany) and the neighboring countries in the Central European region remaining its main tasks. A new section – the Soviet Union was then newly added to this structure that basically corresponded to the former State Security structure.

According to this concept, the Counterintelligence was to have 6,000 employees.

Yet the dissidents opposed this, especially after Jan Ruml became Deputy Minister of the Interior and Leader of the Office for the Protection of the Constitution and for the Protection of Democracy in April 1990. *I was facing a difficult task: purifying the ministry of its old structures, establishing a new police force and laying down the foundations for new intelligence services. Basically, this meant creating a usual centralized authority for public power based on the democratic principles of a constitutional state; this meant – among other things – placing these services under both parliamentary and public control.*²⁸ In contrast to the State Security, the new service was not to have executive powers, but was to become an unpolitical institution controlled by the parliament and the role as well as the powers of this institution were to be laid down by an act. The whole security section was to be composed of new people entirely. During the transition period, it was possible to make use of former State Security members that had been checked upon and who had been working in external intelligence, or former Border Guard members that had been checked upon, former criminal police members that had been checked upon and also some reactivated or new personnel.²⁹

According to the Civic Committee at the Federal Ministry of the Interior, 2,745 former National Security Corps members left the Ministry (including people who left upon their own request, or who retired). 1,834 personnel were dismissed upon the Civic Committee's decision that they were unsuitable for remaining in service. Another 155 members were to go or to leave within a few weeks.³⁰

The Intelligence Service of the Federal Ministry of the Interior became the successor organization of the Communist intelligence service. This new intelligence service was to temporarily remain part of the Ministry of the Interior which was also perceived as a guarantee for its purification and sufficient control. Lieutenant Colonel Přemysl Holan who had been a member of the I. Administration and dismissed following the Soviet occupation of 1968, was appointed to become the first head of this institution – he brought along a group of former State Security members from the sixties who had been reactivated. Within the following two years, the new leadership of the Intelligence Service of the Federal Ministry of the Interior had the task of entirely reforming the organization and establishing it with completely new people. Yet the first task was mapping the communist predecessor institution's activity led against Western democratic countries that gradually became allies.

Just as had happened in the Office for the Protection of the Constitution and for the Protection of Democracy, the purification in the intelligence service that was being established was

22 Žáček, "Demontáž a očista bezpečnostních struktur", 72–73.

23 Žáček, "Sachergate", 78–80.

24 Karel Zetocha, *Zpravodajské služby v nové demokracii*. Česká republika, Brno: Barrister & Principal, 2009, 50.

25 Petr Zeman, *Transformace zpravodajských služeb*, in *Zkušenosti české transformace*, Praha: X crossing, Praha, b.d., 70.

26 Zetocha, *Zpravodajské služby v nové demokracii*, 51–52.

27 Ibid, 59.

28 Jan Ruml, *Moje působení na ministerstvu vnitra*, in *Zkušenosti české transformace*, 66.

29 Zetocha, *Zpravodajské služby v nové demokracii*, 54, 56.

30 Ibid, 48.

also carried out with the aid of Civic Committees who checked individual cases and decided whether further assignment was possible. Many older members retired making use of all the benefits provided for their retirement and they had done so before any investigation started.³¹

When Jan Ruml became Deputy Minister of the Interior, Colonel Bohumil Kubík became the leader of the Intelligence Service of the Federal Ministry of the Interior, who had been replaced again for a short period by Holan after the elections. Finally, in September 1990, the long-term political prisoner Radovan Procházka was appointed to office.

Dismantling the agency network within the 1th SNB Administration started right after February 1990 when Holan, the manager in charge, immediately ordered the so-called foreign residencas (structures residing abroad) to stop all of their activities and to take an inventory of their financial assets. The cooperation with 300 agents abroad was gradually loosened, as their commanding officers were not in direct contact with them on a daily basis. Terminating the cooperation with the so-called illegals, i.e. agents or members living abroad permanently and using a false identity took almost two years.³²

In November 1990, the Office of the Federal Ministry of the Interior for Foreign Relations and Information was founded replacing the Intelligence Service of the Federal Ministry of the Interior. The staff number was reduced from the initial 1,300 to approximately one half. Thus, almost eighty percent of the members left the intelligence service during the first transformation year. Within the following years, this fundamental change was completed which not only led to the establishment of a new organizational structure, to defining its new direction, but also personnel continuity was disrupted. Thus, the break with the State Security was almost completed which was a unique approach among the post-communist countries.³³

RECOMMENDATIONS

After a security apparatus is paralyzed in the course of political changes, it is necessary to prevent (if possible) a mass-scale destruction of the secret police's operational documents, to disarm its members and to depoliticize the secret police structures. Within the next phase, after the chiefs of the central units are changed, it is necessary to individually assess the members one by one. This process actually decides upon who remains in service and who will be dismissed.

If serious crime is revealed, it's appropriate to start criminal proceedings against these individual security apparatus members.

At the same time, a system for carrying out the control of the security apparatus is to be created, bills have to be formulated and adopted to become acts on the security forces' activity (police, intelligence services) and on the specific application of intelligence means (i.e. the limitations of the right for the protection of personal rights).

In the case of Czechoslovakia, transforming the State Security into a standard counterintelligence service proved to be entirely successful, also bearing in mind the extraordinarily beneficial

foreign policy and domestic policy situation. *Within the chaos and the disintegration of leadership structures prevailing at that time, the Soviet secret services only managed to provide intelligence coverage for the retreat of the Central Group of Soviet Forces in Czechoslovakia as they didn't have enough time, means and will or opportunities to do anything beyond that. It was possible to scatter the State Security and to start establishing a service consisting of new people.*³⁴ As far as the Czechoslovak (Czech) conditions are concerned, the military secret service represented a certain exception because – at first – *it hadn't overcome its crisis of identity and didn't finish its transformation.*³⁵

After the assumption of power, the former regime's secret police needs to be abolished as soon as possible. *Yet it isn't effective to throw its members into a hopeless social situation. (...) It is necessary to differentiate between individual units of the old secret service – as some of them have been doing what the new service is going to perform as well.* Following the collapse of totalitarian regimes, the best option appears to be to establish the new service from scratch. *Yet right at the initial stage, it is hardly possible to manage this without the aid of former members from the collapsed regime. It is necessary to offer these members e.g. a 5-year grace period and (at the latest) after such a period they shall be replaced and paid off generously; of course, this promise has to be guaranteed and one has to fulfill the promise.* After the initial phase of destroying the old services and the rapid establishment of new ones – and it's necessary to mention that the whole process shouldn't consume more than one year or two – the new constitutional officials have to define the tasks and limits for these services' activities.³⁶

One of the post-revolution heads of the Czech secret service sums up: *Secret services have their own mission and aim, which is why apart from a short period directly after the assumption of power when it's necessary to provide for the archives' and the assets' safety, they shouldn't fulfill the task of institutions wiping out communism. If there's political will and the proper atmosphere in society to start the documentation and, possibly, criminal reappraisal of the former regime, then this task has to be taken care of by newly established institutions. Clashes between opposing, yet at the same time legitimate interests on both sides are going to occur among these institutions. It is not an easy task to balance these interests...*³⁷

Last but not least, an indispensable task consists of informing the public about the intelligence services' tasks and powers within the democratic system (for example – by highlighting the difference towards the executive and repressive function these services had been given by the previous regime), including an effective control mechanism, and trying to improve the intelligence services' image following their having been misused by the totalitarian regime.

31 Ibid, 128–129.

32 Ibid, 129–130.

33 Ibid, 131.

34 Jan Frolík, *Transformace ministerstva vnitra a bezpečnostních složek, in Zkušenosti české transformace*, 64.

35 Zeman, *Transformace zpravodajských služeb*, 69.

36 Ibid, 75.

37 Ibid, 73.

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MEMORY OF NATIONS

Democratic Transition Guide

[The Estonian Experience]



DISMANTLING THE STATE SECURITY APPARATUS

MEELIS SAUEAUK

INTRODUCTION

The Soviet Union's Committee for State Security (USSR KGB) and its predecessors (VeCHEKA – OGPU – NKVD – NKGB – MGB) were of the world's largest and most powerful intelligence and security services; created in 1917 and initially evolved under the conditions of the "Red Terror". Under orders from the higher-ranking Communist Party organs, it was the primary instrument of terror. The KGB identified enemies of the Soviet regime both within the Soviet Union as well as abroad. In the so-called socialist countries, the KGB was the "older brother" of the secret services of those countries, which similarly called themselves "Chekists" according to the KGB's example.

Thanks to historical KGB foreign intelligence documents preserved at the Estonian National Archives, we can trace the interests and activities of this service in Estonia through 1924–1940. From that time, the existence of several parallel structures that operated with the same objective, yet competed against each other in a state rivalry, which already characterised the so-called "state security organs" or "security organs". The functions of the state security organs are traditionally delineated, as they had evolved during the KGB era. These include foreign intelligence, counterintelligence, military counterintelligence and security; the struggle against "anti-Soviet elements" (political police) and against the hostile activity of religious organisations, safeguarding state security in the fields of transportation and the state economy, guarding the state's borders, protection of the leaders of the state and the Communist Party, and other such tasks.

As has been mentioned above, the state security organs were already engaged in foreign intelligence in Estonia during its pre-war period of independence. After the mutual assistance pact forced on Estonia by the Soviet Union at the start of the Second World War, Red Army bases were established in Estonia, bringing with them the army's special Chekist departments. After Estonia's annexation and incorporation into the Soviet Union in 1940, a subordinate office of the KGB's predecessor of that time – the People's Commissariat for Internal Affairs (NKVD) – was also formed in Estonia (respectively in the Estonian Soviet Socialist Republic – the ESSR). The structure of the ESSR NKVD corresponded to that of the USSR NKVD, the lines of work of their subunits overlapped. That is how it remained in the future as well – the ESSR's state security organs emulated the USSR-wide organisation in terms of its structure, only in a scaled-down form.

The Criminal Code of the Russian SFSR was put into effect in Estonia during the final months of 1940, including the notorious articles concerning "counterrevolutionary crimes" (58-1a, etc.), on the basis of which the security organs set about sending Estonian citizens into imprisonment in the territory of the Soviet Union. Yet the true Red Terror was launched in 1941 immediately prior to the start of the war between Germany and the Soviet Union, and in the course of the ensuing warfare. The mass deportation carried out in 1941, where about 10,000 people, including entire families, were taken from Estonia to the Soviet Union's internal oblasts, the bloodshed carried out by the NKVD's wartime

so-called destruction battalions, and the mass murders connected with the deportation of imprisoned persons assured the state security organs of a frightening reputation that they could not shake until the end of their operational existence.

DESCRIPTION OF THE DEFAULT SITUATION

At the end of 1943, when planning the recapture of Estonia, Latvia and Lithuania, subunits of the state security organs for these countries were formed again in the rear area in the Soviet Union. Upon the recapture of these countries, these state security organ subunits were responsible for taking control in these countries, establishing themselves and setting about executing their assignments. Since the population still remembered the Terror of 1941 very well, the Germans occupying Estonia and their henchmen did not have to go to a great deal of trouble to frighten people with the horrors of the Soviet regime. Unfortunately, this undertaking in frightening the population proved to be not merely a propaganda lie, rather the terror and mass arrests began in Estonia again, and these were most extensive, precisely in 1945. It was also not long until mass deportation was carried out once again – in March of 1949, over 20,000 people, again including entire families, were taken all at once to the Soviet Union's "most distant regions" (primarily the region extending from the Southern Ural mountains to Lake Baikal, including areas of Kazakhstan, which were not far from the Semipalatinsk [Nuclear] Test Site). The struggle waged by the state security organs against freedom fighters hiding in the woods, who were either imprisoned or murdered on the spot, was topical until the mid-1950s. All this created an overall atmosphere of terror and violence where nobody could feel secure.

The only institution in the Estonian SSR, which at least theoretically, was authorised to control the state security organs, was the party apparatus of the local branch of the Communist Party of the Soviet Union (CPSU) – the Estonian Communist Party (ECP). Yet even the Party apparatus operated in Estonia in accordance with the dictates of the Soviet leadership. As a rule, a division of tasks was in effect between these two institutions, where the former suppressed resistance using terror, and the latter dealt with agitation and propaganda aimed at suppressing resistance. As a rule, the Chairman of the ESSR KGB also belonged to the ECP's leading council – the Bureau of the Central Committee of the ECP. The leadership of the ECP never had the kind of power over the state security organs as did the leadership of the CPSU.

The state security organs achieved their largest size as an organisation at the outset of the 1950s when the militia (which was the equivalent of uniformed police force of Western countries), the internal security troops (i.e. military force), etc., which had all traditionally been part of the administrative field of the Ministry of Internal Affairs, were combined with the Ministry of State Security (MGB). According to some sources, the personnel of the USSR MGB had grown to a number between 200,000 and 207,000 (not including the border guards) by 1952. In 1949,

the staff of the central apparatus of the ESSR MGB and its peripheral organs (a total of 15 municipal and county departments) numbered a total of 1,292 positions, including 711 operational staff positions that were directly involved in operational work or in the running of such work. As of 31 December 1949, 636 operational staff positions (89.5 %) and 493 non-operational staff positions (84.5 %) of that total number were staffed with employees. Thus the ESSR MGB had a total number of 1,129 employees on staff at that time. About a quarter of these employees were ethnic Estonian and this relative proportion remained the same until the termination of the KGB's activity. After a brief period that followed the death of the Soviet dictator Joseph Stalin, when the MGB was placed under the jurisdiction of the Ministry of Internal Affairs (1953–1954), the Committee for State Security was formed under the jurisdiction of the USSR Council of Ministers and similarly, its subordinate institution was also formed in Estonia: the Committee for State Security under the Estonian SSR Council of Ministers. The status of the Committee was strengthened somewhat in 1978 and it became simply the USSR KGB (correspondingly the ESSR KGB in Estonia). The KGB distanced itself from the mass terror of the Stalinist era during its initial years and at the same time, the number of its personnel was significantly reduced. A new Estonian SSR Criminal Code was put in effect in 1961.

The more important departments of the central apparatus of the Estonian SSR KGB were:

- 1st Department – dealt with foreign intelligence
- 2nd Department – dealt with counterintelligence
- 4th Department – counterintelligence and security in the field of transportation and communications
- 5th Department – department for combating “ideological sabotage”
- 7th Department – covert surveillance
- Investigation Department – dealt with investigating criminal cases.

Smaller subunits and units for technical and administrative support operated in addition to the above-mentioned units.

In the context of Estonia, the most central unit was the ESSR KGB 5th Department, the task of which consisted of the complete suppression of all manner of dissidence and manifestations interpreted as being anti-Soviet. The department's spheres of work covered all the more important public objects.¹ At the end of the 1980s, about a thousand people worked in the ESSR KGB, about half of which were operational agents.

Its so-called operational departments functioned by the use of secret collaborators; the main categories of which were the agent, the resident, and the tenant of the secret apartment or apartment for covert meetings. The number of operational agents in Estonia during the final years of the KGB's activity has been estimated at between 2,500 and 3,000.

DESCRIPTION OF THE TRANSITION

In 1988/89, when Estonia directed its course towards seceding from the Soviet Union, Estonia's leadership faced a dilemma – what to do with the KGB. One of the first plans was to take over the KGB's functions and to distribute them among different institutions. On 13 April 1989, an ESSR governmental committee was formed for reorganising the ESSR KGB. The committee's proposals, nevertheless, were not implemented. The committee

also criticised the draft bill of the USSR State Security Organs Act. Changing times also brought a change in ESSR KGB personnel, when Rein Sillar, a KGB cadre officer who was born and raised in Estonia, was appointed Chairman of the Committee for State Security in March of 1990 (persons of non-Estonian origin had formerly been preferred for positions in the leadership of the ESSR state security organs, excluding a few exceptions). It is believed that the reorganisation of the KGB and its partial subordination to the government of the Estonian SSR would actually have come to pass, if the August putsch of 1991 had not taken place.

The government made the decision to do away with the KGB in Estonia a few days after the restoration of independence in August of 1991. A government order issued on 26 August 1991 instructed the Chairman of the ESSR KGB, R. Sillar, to halt the work of the organ under his leadership, on that very same day, until the government issues a special order, and to form a joint committee consisting of authorised representatives of the Republic of Estonia and representatives of the ESSR KGB to resolve issues associated with the KGB. The Ministry of Internal Affairs issued an order for closing off and sealing the workrooms of the ESSR KGB. For its own part, the government pledged to guarantee the human rights of KGB employees and the inviolability of their personal liberty on an equal footing with other inhabitants of Estonia. Regardless of the resoluteness of this document, almost no measures whatsoever followed from it. The KGB continued to operate in its buildings (except for its local departments) until the end of 1991.

The fact that a corresponding agreement had already been reached on 4 September 1991 with Vadim Bakatin, who had risen to the position of heading the USSR KGB, indicated that conditions were favourable for achieving an agreement with the new leadership of the USSR KGB. The agreement was in accordance with the principles of the latter, the most important of which was doing away with the KGB as such, and the distribution of its functions among different institutions.²

In Moscow on 4 September 1991, the Chairman of the Government of the Republic of Estonia Edgar Savisaar, the Chairman of the USSR KGB, V. Bakatin, and the Chairman of the ESSR KGB, R. Sillar signed the protocol “Concerning the mutual obligations of the Republic of Estonia, the USSR KGB, and the Estonian KGB”, which prescribed the establishment of a trilateral committee of experts (the Government of the Republic of Estonia, the USSR KGB, and the ESSR KGB), which was to present a list of issues that needed to be solved, first of all, together with draft agreements for implementing the provisions of the protocol. Thus, this protocol took the termination of the KGB's activity back to its starting point. Both the KGB and the Government of the Republic of Estonia accepted different obligations, among which the KGB itself was to be responsible for the preservation of its property and archives, while the Government of the Republic of Estonia, on the other hand, was responsible for securing the social, political and personal rights of KGB employees, pensioners and the members of their families, and was obligated to continue financing the KGB and to provide for its economic upkeep (excluding employment pay, which the USSR KGB was

1 Concerning the 5th Department of the ESSR KGB and other structural information, see for instance: Harri Mägi, *ENSV KGB tegevuse lõpetamine*, Tallinn: Varrak, 2012, 47–54.

2 Вадим Викторович Бакатин, *Избавление от КГБ*, Москва: “Новости”, 1992, 77.

supposed to provide). Only the KGB's local departments were to be shut down.³

On 9 October 1991, E. Savisaar, V. Bakatin, and R. Sillar signed the protocol "Concerning the implementation of practical measures connected to terminating the activity of the ESSR KGB". The protocol prescribed that:

- a trilateral committee of experts was to be formed for inventorying the KGB's real estate and movable property, technical means, and weaponry located in the territory of the Republic of Estonia, and for preparing separate protocols for handing buildings, special equipment, means of transportation, weaponry and other tangible assets over to the Republic of Estonia. The handing over of information detailing the structure of the ESSR KGB and lists of its personnel was also prescribed;
- a certain portion of the ESSR KGB archives was to be handed over to the Republic of Estonia.

The USSR KGB was prepared to hand over to Estonia the agent-operational materials of the ESSR KGB in the event that the Republic of Estonia would provide certain legal guarantees (see the chapter "Regime Archives"). In actuality, it was the archives, in particular, that practically were the only object of agreement of any permanent value.

- The Republic of Estonia took upon itself the obligation to guarantee the social, political and personal rights of the ESSR KGB's former employees, pensioners and the members of their families in accordance with generally recognised norms of international law, the laws of the Republic of Estonia, and bilateral and multilateral agreements with the Soviet Union. Even more so, the USSR KGB and the Government of the Republic of Estonia were required to submit proposals on the issues of the legal and social protection of the ESSR KGB's former employees, pensioners and the members of their families, and of providing them with pensions and housing, in order to sign the corresponding agreements at the international level.⁴

The following working groups were formed for the takeover by order of the Government of the Republic of Estonia:

- 1/ working group for issues concerning real estate and movable property;
- 2/ working group for issues concerning weapons, special equipment, and other such matters;
- 3/ working group for issues concerning archives and documentation, and
- 4/ working group for issues concerning governmental communications, private communications, and other such matters.

The takeover of the local state security departments took place first of all. Unfortunately, the entire documentation of the work of those departments had already been removed from almost all of the departments prior to their takeover. Buildings and their furnishings were handed over mostly in undamaged condition. A statement in the protocol was signed on 25 October, according to which weapons and ammunition were handed over to the Estonian side: about 200 Kalashnikov assault rifles, over 1,400 pistols, about 600 hand grenades, over 300,000 cartridges, etc.

The handover of KGB property and the termination of the institution were completed in December, when the "Final act concerning the termination of the activity of the ESSR Committee for State Security" was signed on 18 December 1991. It was signed by the Minister of State of the Republic of Estonia Raivo Vare, the fully authorised representative of the Federal State Security Service,⁵ Vyacheslav Shironin, and the former Chairman of the ESSR KGB, Rein Sillar.

According to the act, the measures connected to terminating the activity of the ESSR KGB had been implemented and the KGB's personnel had been removed from their posts or transferred to continue their service outside of the Republic of Estonia (with the exception of 25 people); buildings, property, means for automobile transportation, special equipment, weaponry and ammunition were handed over to the Republic of Estonia to the agreed extent, in accordance with agreements, archival collections and other materials were handed over to the Estonian Police Bureau; additionally, an agreement was prepared concerning the provision of former KGB employees and pensioners with legal and social protection, pension insurance and housing. The provisions of this agreement were to be followed until the conclusion of an agreement at the international level.⁶

CURRENT STATUS

Although the termination of the KGB in Estonia could have been considered completed at that point in time, an important development later came to light, as along with the final act, an agreement concerning social guarantees for former KGB employees and their families had also been signed. The public only found out about this in 2000 when a copy of this document was presented as evidence in court. This induced the Riigikogu (Estonian parliament) to form a Riigikogu committee of inquiry (its chairman was member of the Riigikogu Aimar Altosaar) as late as 2001 for investigating the termination of the KGB, but primarily for ascertaining the facts and circumstances of the signing of the agreement.⁷

The so-called social guarantees agreement bears the date 18 December 1991 and the title "Agreement concerning guaranteeing legal and social protection, pensions and housing for former ESSR KGB co-workers and pensioners, and the members of their families". The agreement bears the signatures of R. Vare and V. Shironin; although it had been drawn up and worded to be signed by the head of the Federal State Security Service, V. Bakatin, and the Chairman of the Government of the Republic of Estonia, E. Savisaar.

Pursuant to the agreement, the Government of the Republic of Estonia undertook the obligation to:

- guarantee the social, political and personal rights of former KGB co-workers, pensioners and the members of their families and not to permit the restriction of their rights and liberties, their punishment pursuant to criminal procedure, and bringing them to justice in other ways, for their preceding

3 Протокол о взаимных обязательствах Правительства Эстонской Республики, КГБ СССР и КГБ Эстонии, 4 September 1991, Estonian National Archives, ERA.R-1.5.1236, 207–210.

4 Протокол о реализации практических мер, связанных с прекращением деятельности КГБ Эстонской ССР, 9 October 1991, Estonian National Archives, ERA.R-1.5.1236, 211–215.

5 USSR legislation of 3 December 1991 reorganised the USSR KGB as the Federal State Security Service.

6 Final act concerning the termination of the activity of the ESSR Committee for State Security, 8 December 1991, Estonian National Archives, ERA.R-1.5.1236, 18–20.

7 Riigikogu decision to form a committee of inquiry to ascertain the facts and circumstances associated with the termination of the activity of the former Estonian SSR Committee for State Security. Passed on 16 January 2001 – *Riigi Teataja*, <https://www.riigiteataja.ee/akt/72639> (cited on 25 July 2017).

service or work in the state security organs, if their activity was in accordance with legislation that was in effect;

- guarantee the payment of pensions, benefits and compensations deriving from Russia to the KGB's military pensioners and the members of their families who remain living in Estonia;
- carry out the exchange of residential premises of former KGB co-workers and the members of their families who are leaving Estonia and the shipping of their property out of the country pursuant to the laws of the Republic of Estonia;
- recognise documents verifying graduation from USSR KGB institutions of education on an equal footing with the diplomas of other USSR institutions of higher education.

It had been judged that the actual conclusion of this agreement would have either ruled out or significantly hampered the conduct of the lustration process.

The lustration process as a whole in Estonia focused on the elimination of the effect of the KGB and of persons associated with it in independent Estonia.⁸ One of the driving forces in this process was the formation of an ad hoc committee in 1993 for investigating the activity of the security and intelligence organs of the Soviet Union and of other countries in Estonia (the committee chairman was the member of the Riigikogu and former political prisoner Enn Tarto).⁹ This committee was formed for investigating matters connected with the activity and termination of the above-mentioned organs and also the ESSR KGB, and for working out a legal mechanism for using relevant materials. The committee was charged with the task of submitting draft legislation concerning the procedure for the public disclosure of activities, employees, and networks of agents of the security and intelligence organs of the Soviet Union and other countries. The committee was obligated to pass the relevant materials on to investigative and court organs, or to the Chancellor of Justice in the event that it discovered violation of law, and also if facts and circumstances came to light casting doubt on the oath of conscience of any particular individual.

The ad hoc committee worked out rules and legislation for the preservation and use of the KGB archives that had been taken over.¹⁰ The committee also tried, but failed to achieve the return from Russia of documents that had been taken away.

The most important accomplishment of the ad hoc committee was working out draft legislation for registering KGB employees and individuals who had collaborated with it (along with the employees and collaborators of other intelligence and security services of the Soviet Union and Nazi Germany). The legislation that went into effect in March of 1995 specified the services (including the KGB), the employees of which had to register themselves with the Estonian Internal Security Service within one year, meaning that such individuals had to confess their cooperation with such services. Individuals (agents, residents, confidants, etc.) who had collaborated with these services were also subject to the same requirement. Such confessions were considered state secrets. Collaborators who did not confess were to be publicly disclosed in the *Riigi Teataja*.¹¹ This registration legislation has been assessed positively because, on the one hand, it enabled the state to obtain information about individuals who had cooperated with secret services and, on the other hand, it enabled those individuals to establish relations of loyalty to the Republic of Estonia and to safeguard themselves against blackmail by a foreign country. Of those who have not registered themselves, so far, the identity of over 600 former KGB operatives has been publicly disclosed.

The ad hoc committee also dealt with starting up the research of international crimes with no statute of limitations¹² and assessed the work of the governmental committee that terminated the activity of the KGB. In the opinion of the committee, the governmental committee for terminating the activity of the KGB did not have a clear and coordinated position in relation to the objectives of its work. The committee concluded that the work of the termination committee cannot be considered satisfactory and its actions cannot be considered the termination of the KGB, but rather, at best, the formal ending of the activities of the KGB.

LESSONS LEARNT

It is practical to lay open the experiences gained in Estonia from the termination of the KGB, on the basis of the final report of the committee of inquiry formed in 2001, to investigate the termination. The final report of the Committee of Inquiry into the Termination of the Activity of the Former ESSR Committee for State Security, completed in 2002, viewed the termination of the KGB in Estonia in a quite critical light.¹³ The committee's main conclusions were as follows:

- 1/ The committee expressed approval of the choice made by the Government of the Republic of Estonia, at that time, to terminate the ESSR Committee for State Security, and of the fact that the KGB's legal activity in Estonia was halted.
- 2/ In the opinion of the committee, the Government of the Republic of Estonia was not sufficiently consistent and demanding in the fulfilment of many of the points agreed upon in the protocols of 4 September and 9 October 1991, and in demanding their fulfilment (first and foremost in matters concerning the archives):
 - a/ the demand for the return of operational files and files on networks of agents was not seen through to the end. The Government of the Republic of Estonia should have initiated legislation in the Supreme Council to work out

8 See the chapter "Lustration".

9 Riigikogu decision to form an ad hoc committee to investigate the activities of the security and intelligence organs of the Soviet Union and other countries in Estonia. Passed on 18 May 1993 – *Riigi Teataja*, <https://www.riigiteataja.ee/akt/13094339> (cited on 25 July 2017).

10 See the chapter "Regime archives" and the legislation Procedure for Collection, Registration, Preservation and Use of Materials of Security and Intelligence Organisations of Other Countries which have Operated in Estonia Act, passed on 10 March 1994 – *Riigi Teataja*, <https://www.riigiteataja.ee/en/eli/522042014002/consolide> (cited on 1 April 2017).

11 Procedure for Registration and Disclosure of Persons who Have Served in or Co-operated with Security Organisations or Intelligence or Counterintelligence Organisations of Armed Forces of States which have Occupied Estonia Act, passed on 6 February 1995 – *Riigi Teataja*, <https://www.riigiteataja.ee/en/eli/524042014001/consolide> (cited on 1 April 2017).

12 See the chapter "Investigation and Prosecution of the Crimes of the Regime".

13 Final report on the termination of the activity of the former ESSR Committee for State Security (part I: *Eesti Päevaleht*, 10 April 2002, <http://epl.delfi.ee/news/eesti/endise-ensv-riikliku-julgeoleku-komitee-tegevuse-lopetamise-lopparuanne-i-osa?id=50920257>; part II: <http://epl.delfi.ee/news/eesti/endise-ensv-riikliku-julgeoleku-komitee-tegevuse-lopetamise-lopparuanne-ii-osa?id=50920258>; part III: <http://epl.delfi.ee/news/eesti/endise-ensv-riikliku-julgeoleku-komitee-tegevuse-lopetamise-lopparuanne-iii-osa?id=50920259> (cited on 20 July 2017).

legislative guarantees that the USSR KGB was pursuing that would have satisfied both sides;¹⁴

b/ the return of KGB archival files concerning other Estonian citizens that the USSR KGB pledged to comply with within the space of one year was not demanded (For this reason, Estonia was left without thousands of investigation and filtration files);

3/ The government was not decisive and consistent enough in halting or obstructing the activity of the KGB, including its local departments. At the same time, it should have been explicitly stated in the protocols that the preservation of all documentation must be guaranteed and that its destruction was prohibited. This, however, was not done.

4/ The process of terminating the ESSR KGB was not sufficiently open in the opinion of the committee, although even the protocol of 4 September 1991 prescribed that the public would be periodically informed of the negotiations concerning the termination and of the agreements arrived at. The committee of inquiry felt that the KGB would not have had advantages under conditions of greater publicity.

5/ The control of the Government of the Republic of Estonia over the activity of the governmental committee was insufficient.

6/ In the opinion of the committee, the conduct of business in terminating the KGB was faulty. The minutes of meetings were not recorded (at least such minutes have not survived, similarly no correspondence, rough drafts, final report, and other such material have been preserved).

The committee of inquiry focused its attention on which problems remained or are still to this day topical for the Estonian state:

1/ The Estonian side did not obtain the lists of KGB personnel in the course of its termination.

2/ Materials connected with the KGB's networks of agents and its operational materials, and thousands of other KGB archival files concerning Estonian citizens remain in Russia. The committee noted that, on the one hand, this has an aspect related to state security for the Estonian state because those thousands of people who on the basis of the law have not confessed before the Republic of Estonia their cooperation with the repressive organ of the occupying regime are the potential objects of foreign influence. On the other hand, the aspect of the protection of the rights and interests of Estonian citizens, which the Estonian state is obligated to stand for, is also important. This is manifested by the fact that information concerning Estonian citizens gathered by the ESSR KGB in the course of its operational work is at the disposal of a foreign country, as well as by the fact that criminal, filtration or other files that could serve as the basis for resolving people's pension issues are deposited in Russia. Historical and cultural history aspects also cannot go unmentioned, since thousands of files deposited in and at the disposal of a foreign country concerning the ESSR KGB's networks of agents, operational work, and other such material are indispensable sources for researching that totalitarian regime, its organs of repression, and the period of occupation.

3/ The alleged disappearance of the "foreign travel files" (files containing background checks of individuals who wished to visit capitalist countries).

4/ The disappearance of the so-called agreement protecting the social guarantees of KGB personnel bearing the signatures of R. Vare and V. Shironin (18 December 1991). Although this document was judged to be invalid in the course of legal proceedings, and the members of the Government of the Republic of Estonia, of that time, also did not verify the conclusion of this agreement, it was assumed that matters associated with this agreement could cause headaches for the Estonian state in the future as well.

In summary, the Riigikogu committee of inquiry expressed approval that the activity of the ESSR KGB was halted. By taking over the KGB, the Estonian state acquired a significant quantity of weapons and archival documents. Beyond that, special means of communication and many different kinds of equipment needed by special services were acquired that at that time still had practical value. Broadly speaking, the committee of inquiry felt that it was justified to assess the process of terminating the ESSR KGB as having been satisfactory.

RECOMMENDATIONS

Based on the above, we can also formulate a few recommendations relating to the termination of the activities of secret services of a former regime. Here it must be taken into account that in every specific case, the tactics and results depend primarily on the political situation and on how strong a political agreement for lustration is succeeded in achieving. In an ideal situation (which as we know almost does not exist in reality), recommendations could be as follows:

1/ The governmental committee that is authorised to carry out the termination of the secret service should have firm objectives, a comprehensive approach and a clear plan for taking over the property of the service and for determining their future ownership;

2/ The affairs of the committee must be managed properly and its activity must be documented;

3/ The activity of the committee and the problems that arise should be as public as possible and under the control of parliament;

4/ Advisors and informers with inside information on the situation in the secret service should be involved in the work of the committee;

5/ In the event of taking over property, the protocols of inventories from previous years should be requested on a compulsory basis in order to compare them to the quantity of property that is actually handed over.

14 Concerning taking over documentation and the archives, see the chapter "Regime archives" for further information.

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MEMORY OF NATIONS

Democratic Transition Guide

[The Georgian Experience]



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DISMANTLING THE STATE SECURITY APPARATUS

IRAKLI KHVADAGIANI

INTRODUCTION

After the collapse of Soviet rule in Georgia and along the way of several phases of failed transitions, breakdowns, stagnation, revolutions and regime changes, there was never any call for civil initiatives for the investigation of the crimes of the communist state security, scientific research of the structure, or the everyday activities and history of the special operations of the KGB of the Georgian SSR.¹ Due to a lack of information of the history of the communist state security organs in Georgia, their behavior during last years of Soviet regime, and short transition time, the history is still totally forgotten. During last year of Soviet rule, there were attempts from protest movement representatives and political parties to block KGB buildings and compel them to break away from the central organs, at the same time the Georgian KGB had internal fragmentation towards the nationalistic agenda of the protest movement and separating from the central organs. All of this was behind the walls of KGB and was staying private, in the same way, the final step of the transformation from the Georgian SSR KGB to state security of independent Georgian state was also private.

Since 1991, especially after 2004–2005, when the former archive of Georgian SSR KGB began to be accessible to society and researchers, state officials have always claimed that all the documents and funds, related to operative activities of the KGB, personal cases, and the database of secret informers were destroyed² during fire in KGB building in December of 1991. At the same time, after the 1990's Central archives of the former KGB of USSR was closed to Georgian researchers as well as for Russians. As a result, due to the lack of information, it is impossible to understand the situation based on the few, unverified sources from Russian media-platforms and research papers.

POSITION AND STRUCTURE OF THE STATE SECURITY APPARATUS PRIOR TO THE TRANSFORMATION

After “Perestroika”, the structure of the Georgian KGB seemed like the standard Republican KGB in the USSR:

- Directorate – Chief of staff, Deputy of chief, Head of party committee
- Secretariat
- I division – Foreign intelligence
- II division – Counterintelligence
- IV division – Counterintelligence responsible for transport and communications
- VI division – Economic counterintelligence
- VII division – Surveillance
- VII division – Coding and encoding
- IX division – Security of Party and state leaders

- X division – Archive
- Division Z – Security of constitutional order (former V division – against “ideological diversions”)
- Division OP – Organized crime issues (former III division – counterintelligence assistance of MVD)
- Operative-technical division
- Investigative division
- Inspection division
- HR
- Division of mobilisation
- Assistance division³

Besides the Central organs of the KGB in the Georgian SSR, there was the KGB of Autonomous republics of Abkhazia and Adjara, and the Division of the KGB of South-Ossetian autonomous district.

As far as we know⁴ all the republican systems of the Georgian KGB was structured like this:

- Regional (“Raion”) divisions:
 - “Gareubani” (suburban, Tbilisi)
 - Gardabani
 - Mtskheta
 - Sighnaghi
 - Lagodekhi
 - Kvareli
 - Tianeti
 - Akhmeta
 - Tetrtskaro
 - Tsalka
 - Gori
 - Aspindza
 - Tskhakaia (Khoni)
 - Samtredia
 - Tsageri
 - Mestia
 - Makharadze (Ozurgeti)
- City “Apparatus”:
 - Zugdidi
 - Poti
- City Divisions:
 - Rustavi
 - Chiatura
 - Kutaisi (?)
- “Special representative”:
 - Akhalkalaki
- Railway station office:
 - Khashuri

1 Committee for State Security of the Georgian Soviet Socialist Republic

2 See a list of funds of the Georgian KGB archive at the old official web-page of the MIA archive, http://archive.security.gov.ge/OLD_SITE_TEMP/saarqivo_fondebi.php

3 See the structure and personnel of the KGB of the Georgian SSR, http://shieldandsword.mozohin.ru/kgb5491/terr_org/respublik/georgia.htm.

4 Based on sources of the Georgian MIA archive; according to analyses of the KGB party organizations’ structures.

■ In the capital – Tbilisi, as far as we know, there were two city district divisions:

- Stalin Raion division
- Kalinin Raion division

As official version claims, all the sources on personnel of the Georgian SSR KGB central and their regional structures were destroyed. According to this disposition, we can't calculate the number of official members of Soviet Georgians state security system. Also, it is almost impossible to determine the number of secret informers in central and regional levels. As some secondary sources claim, in the 1980's, the number of secret informers was around 22,000 persons.

Between 1953–1955, which were the most crucial times of the internal war in the Communist Party of USSR, and after the death of Stalin, when Lavrenti Beria lost his positions, and life, the state security apparatus was cleaned up. In the Georgian SSR the state security system lived in peace and prosperity under the rule of the former military officer, Aleksi Inauri, who was the chief of the Georgian KGB until 1988. The Georgian SSR was a border country with NATO (Turkey) and a strategic area for the Soviet Union's Near East policy, the everyday life of the Georgian KGB was not stressful, and the routine of special operations was hunting citizens trying to escape over Turkey's border, hunting "contrabandists" and underground businessman (so-called "Delets"), surveillance of foreign state officials and tourists. There were very few (generally known) facts when a situation went out of control and citizens were witnesses of "excesses": for example, terrorist attacks (Vladimer Zhvania's case), split and robbery in Georgian orthodox church (Keratishvili's case), torture and humiliation in prison (Tsirekidze's case), countermeasures for blocking Jews repatriation in Israel (Goldstein brothers' case), the famous hijacking of a plane (so-called Airplane boys' case).

In the internal battles in Georgian Communist Party, during 1970–1980's, the KGB was not active and until 1988–1990, it was strictly loyal to the center apparatus and their directors. There are some stories remaining on the level of folktales of how the Georgian KGB chief was keeping its power based on holding incriminating evidence over Georgian Communist Party leaders, and at the same time staying neutral in the political battles of the Georgian SSR.

At the same time, the majority of citizens did not feel the "Iron hand" of the KGB in everyday life, and they were loyal and peaceful Soviet citizens. The Georgian KGB, as all Soviet state security systems, strictly observed the "Dissident movement", but in Georgian's case, the number of such groups and individuals was not high enough to create a wide sense of oppression in society.

TRANSITION PERIOD

The changes in Georgian SSR KGB began in 1989. On April 9, 1989, Soviet internal troops and Special Forces suppressed an Anti-Soviet demonstration in Tbilisi.⁵ 21 citizens were killed, hundreds were injured, and there were a variety of physical traumas by chemical gas. This tragedy deeply affected society and initiated the radical change and the rise of loathing against Soviet rule. Many citizens demonstratively left the Communist Party. Accompanied by the general crisis in Soviet Union and the liberalization of the media, due to Gorbachev's "Perestroika" and "glasnost" (publicity), during 1989 and at the beginning of 1990 the first cracks started to be visible in Georgian KGB system. The first stage, at the beginning of 1990, a hint of upcoming changes was

noticed in an open appeal to the Georgian KGB in the communist press about consultations and the strategic planning in the KGB around the difficult political challenges in the republic. KGB officials were announcing that they understood the Communist Party agenda, and the peaceful coexistence of different nationalities in Georgia, ensuring them the sovereignty of the Georgian republic. At the same time the KGB was promising to be very sensitive and was responding to ethnic tensions in regions. It also expressed a deep concern that some groups of society were slandering the KGB and promised to have direct contact with society and be open to honest dialogue.⁶

At a later time, anonymous officers of the KGB were claiming, that in reality, in late 1988 there were protest in central apparatus of Georgian KGB, demanding liberation from the dictate of the center (Moscow central KGB), de-politicization, and liberation from the Communist Party dictate, and transformation of the KGB to a standard state security service. The same kinds of petitions were made internally in April and May of 1989, but with no success. At the same time, after 9 of April 1989, some officers of the KGB left the system as a sign of protest. Some KGB officers expressed indignation regarding the suppression of the demonstration, Georgian KGB involvement in the "disinformation" of the central authority, leading them to use extreme measures against the demonstrators and stopping the Georgian KGB from acting before the 9th of April demonstration became a tragedy, and finally, their wish not to be involved in the operations of suppression against the demonstrations, which was perceived as a sign of mistrust from political center.

In September 1990, close to the first multiparty elections of the supreme council of the Georgian SSR, a group of KGB employees openly expressed their protest against Soviet rule, sending a declaration to the opposition press edition,⁷ blaming the center KGB of a destructive agenda, insisting on depoliticization and asking the support of the future supreme council of Georgia for a peaceful transition of the Georgian KGB to the state security service of an independent republic of Georgia. This action was based on the common sense of the upcoming changes, and at the same time it was a signal from the center government for the depoliticization of the state defense and internal security organs;⁸ the editor of the newspaper preferred not to publish the names of protester officers' group.

At the same time, in September, during demonstrations on Rustaveli avenue (in front of governments house), close to KGB headquarter, a group of protesters rushed into the KGB building trying to occupy it. The KGB guards quickly neutralized the action. As former officers claimed, this fact was used by high-ranking KGB officials to illustrate the danger against the security of the KGB information bases and began evacuation of the archive sources to the Smolensk repository of the KGB.⁹

5 The demonstrations started as a protest against movement for separation from the Georgian SSR in Abkhazian ASSR, but very soon it transformed into an anti-Soviet protest, demanding the independence of the Georgian state.

6 "In Georgian KGB", in *Communist* #20 (20657), 13. 1. 1990, 2.

7 "Declaration of One Group of Employees of the KGB of the Georgian SSR", in *Tbilisi* #217 (11336), 22. 9. 1990, 4.

8 Order of President of USSR, about reforming of political organs of armed forces of USSR, armed forces of KGB of USSR, armed forces of MVD of USSR and armed forces of railway, Moscow, Kremlin, 3. 9. 1990. M. Gorbachev, in *Communist* #205 (20951), 6. 9. 1990.

9 Documentary "Lost History" [*Dakarguli Istorია*], 2014, <https://www.youtube.com/watch?v=5vYIB0xhBJ4>

Before the election and after, when the main opposition alliance won election and the new supreme council declared a transitional process leading to the restoration of independence, such changes naturally reflected the situation in the KGB. Officers who were neutralized as pro-nationalists came back into leading positions. The Georgian KGB started a media campaign to demonstrate the nature of the changes and opened communication with society,¹⁰ promising transparency of the historical KGB archives. High-ranking officials started discussions with journalists for the future plans of the transformation. According to the content-analysis of the interviews, we can see obvious tension between the Georgian KGB and the Central USSR KGB around subordination; Georgian officers, were trying to persuade society that a strong state security system was necessary for any kind of state, and at the same time were trying to split from the central USSR KGB, and that Georgian state security would be able to be successful in the foreign intelligence field.

After the 9th of April 1991, re-establishing independence in Georgia, in the short difficult failed transition was marred by the radicalization of political life and open confrontation between the radical opposition and the Government of Zviad Gamsakhurdia. Reform of state security system was forgotten. Furthermore, during escalation of conflict, the newborn Georgian Ministry of State Security (based on the Georgian KGB) started to be a self-isolated and out of control body, refusing to give information to the president of republic about secret informers of the KGB and blocking lustration attempts. Later, former high rank officials were proudly remembering this experience, as sign of professional ethic.¹¹

After the coup d'état in Tbilisi (December 1991, January 1992), in May 1992, the Ministry of State Security of Georgia (formally renamed KGB) was formally abandoned, and the new state security office, "Informative-intelligence service" was founded, but, very soon, in October 1993 the Ministry of State Security was re-established.

It is an interesting fact that until 1998–1999 there was not any law, regulating the activities of state security and establishing basic principles of its work.¹²

CURRENT STATUS AND LESSONS LEARNT

After the 2003 "Rose revolution", until now, the Georgian state security system has experienced several restructurations and revitalizations, but it has always stayed non-transparent and an immune from strong civil and parliamentary control.¹³

Looking back to the crucial times of the changes in Soviet Georgia – 1990–1991, the analyses of how the state security system tried to react to political transformation, how society considered the importance of the transformation of the state security service, and the responsibility of the KGB, as a guard of the communist regime, it gives us a chance to see bitter lessons, which shows a real degree of readiness for changes in our society.

Non-transparency – In the transition time, the KGB system was a "black box" for society. The lack of information about the activism of officers who were trying to transform the KGB from inside, the fragmented focus of the media on KGB transformation challenges, the one-side communication (the media was covering KGB life, when they were invited by the system to talk, not asking painful questions from the outside), and the absolute unprofessional attitude of journalists around state security issues,

all gave the KGB apparatus the opportunity to be a leading actor, giving input to media, not having their structure in the spotlight, and not responding painful questions.

Empty rhetoric in society – In the late 1980's, and especially in 1990–1991, being a member of the KGB was a stigma in society, and worst kind of ostracism was to be accused of being a "spy of KGB". However, open questions and demonization of the KGB and its crimes always stayed at the level of rhetoric. There was no real incentive, during the mass protest movement against Soviet rule, to be focused on blocking the KGB network, occupying their archive infrastructure, and the reconfiguration of the personnel of KGB. The complex political and social crises in 1990–1991 always distracted the focus of society from essential, but very specific issues such as dismantling of the communist type state security system and rise of questions of responsibilities of officers.

Nationalistic sentiments – As in 1989–1990 the Communist Party realized that one of the main engines of the protest movement in Georgia was the nationalistic agenda, they started to try to implement its own surrogate of a nationalist project, talking about "national sovereignty" etc. Based on the problem of non-transparency, there is a strong suspicion that the Georgian KGB started to use the same tactic, trying to transform tension in society against them, from a system level to a nationalistic level, blaming the Russian deputy chief of the KGB and his group of being "governors from center" and designing responsibilities of the Georgian KGB as a problem of the Center-Republic conflict, and domination of Moscow rule. Later, after a short peaceful transition time, 1990–1991, after being transformed to the Ministry of State Security of Georgia, former high-ranking officials of the KGB were positioning themselves as "Georgian patriots" trying to argue against lustration based on "national stability", and protecting the prestige of national heroes and famous historical figures of XX century Georgian history.

Now, after 27 years since the end of Soviet rule in Georgia, society is informed about the everyday life and actions of state security service, almost as it was in Soviet times; there is absolute zero knowledge and memory about the processes which took place in the Georgian KGB system during the transition time of 1989–1991. Question about legal responsibilities regarding Soviet crimes against KGB officers has never risen up, attempts of lustration has been blocked several times during the 1990–2000's, and it is always focused on "KGB spies". Officers of Soviet state security were always in the background. Moreover, the last surrogate of lustration the "Freedom Charter", adopted in 2011, was strictly against those employees of the KGB, who had not continued to working in system after the re-establishment of Georgian independence on the 9th of April 1991. Because of the non-transparency of the former KGB archive, and the current state security

10 Kote Gurgenidze, "Georgian KGB is changing its agenda; is KGB anyway - KGB?!", Interview with Tamaz Adamia, in *Republic* #31, 11. 12. 1990, 4.

11 Sandro Aleksidze, "Those, what happened secretly", in *Sakartvelos Respublika* #163 (7808), 2. 9. 2015, 7.

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13 Vakhtang Menabde, Tamar Papashvili, Nino Kashakashvili, Giorgi Kekenadze, Ana Beridze, *Twenty years without parliamentary control, supervision from side of supreme representative power to services of state security, internal affairs and foreign intelligence of Georgia*, Tbilisi: OSGE, 2017.

service archives, there is no chance to identify all personnel of the Georgian KGB system and no one has a chance to even think about the possibilities, how currently former officers of Soviet KGB are still defining state security issues.

RECOMMENDATIONS

Based on best experience of Central and Eastern Europe mixed with the local character of events in the Georgian SSR in 1990–1991, we can make several recommendations about the transition period in state security system of totalitarian states:

Sustainable focus of media on state security apparatus – Active input from different kinds of media, asking essential and painful question about the system of security and individuals, around the responsibilities for crimes of the regime, the fortune of the victims, and the transparency of sources, should be part of main agenda of a protest movement and society should always be the initiator of communication, and not depend on a reverence about the state security's side.

Mobilization of speakers familiar with issues of state security institution – It's absolutely necessary to have a resource of people who are familiar of behind the scene activity of the state security organs of everyday life, who have fundamental knowledge about structure, attitudes and the personnel of state security institutions, and can be a generator of the main questions and accents to the media, who can identify counter-propaganda and disinformation from state security or actors planning policies for infiltration from state security officers, ensuring that they be

more active and transparent and an ally to changes in structures of power.

Transparency – It's crucial to keep all processes completely transparent, and not to give representatives of the state security institution the power, or the chance, to plan a long-term manipulative agenda, and play the card of loyalty, and of positioning themselves as patriots and internal oppositionists.

Blocking archives – As the history of Georgia proves, in transitional time, state security officers try to destroy archive documents, which illustrate their crimes against political parties and the movement in order to win the battle for power and ensure the safety of their positions, and avoid legal responsibilities.¹⁴ It's strategically important to block any activities of the state security service to either destroy, or hide documents, or using disinformation to society about the amount and meaning of the archive data, and as soon as it is possible to hand the processing and administration of the former security archives to a civil, representative body.

Complex agenda towards responsibility of state security institutions of totalitarian state – And finally, it's necessary to include all important activities to a general, wide political agenda towards the transition of a political system, and to strengthen the line of reform and restructuring of the state security service, with a clear political will for change, and combine these activities with the process of lustration, and a real legal framework of the investigation of crimes of the totalitarian state.

¹⁴ For example, in the 1917 February revolution in the Russian empire, the Tsarist state security - "Okhranka"s and Gendarmerie officers started to burn archive files in Kutaisi and Tbilisi.

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MEMORY OF NATIONS

Democratic Transition Guide

[The German Experience]



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DISMANTLING THE STATE SECURITY APPARATUS

HANS ALTENDORF

INTRODUCTION

The process of dismantling the Stasi within the GDR as described within this chapter is to be understood within the context of a preliminary remark that adds up to the preliminary remark from the Chapter “Transformation of the political system”:

On the one hand and due to its structure, the operating methods and its function within the state, the GDR secret police resembled the secret police forces in the other countries under Soviet influence.

On the other hand, the whole post-revolutionary activities, dissolving the Stasi and the transformation into democratic structures is influenced by the very rare framework conditions of German reunification following the date when the GDR entered into the area where the German Grundgesetz (*which is de facto the equivalent to another country's constitution*) applied that was in force within the Federal Republic of Germany. This accession took place on October 3rd 1990. That's why, apart from an attempt which lasted merely a few weeks prior to the accession, there was no Stasi successor organization. The new federal states in the former GDR territory witnessed the establishment of new structures that corresponded to those within the other Federal Republic of Germany's states. In this sense, Germany's transition process differs from that of many other countries that overcame communist dictatorships.

THE STASI'S MEANING AND FUNCTION WITHIN THE GERMAN DEMOCRATIC REPUBLIC PRIOR TO THE PEACEFUL REVOLUTION

The Socialist Unity Party of Germany (*Sozialistische Einheitspartei Deutschlands*, hence the German abbreviation *SED*) governed in the German Democratic Republic. Yet this government had never been legitimated by democratic, free elections. The SED's power had been upheld through a massive security apparatus. The Ministry for State Security (*Ministerium für Staatssicherheit*, hence the German abbreviation *MfS*), the Stasi played a key role in safeguarding these power structures. The Stasi perceived itself as the “Shield and sword” of the Party. It had been constructed according to direct instructions by the Soviet secret service. The accumulation of power was characteristic: The Stasi was a secret police within the country itself, it operated as an intelligence service abroad and was a police investigation authority, it had remand prisons and armed forces. This was one of the most influential institutions within the GDR. This institution was merely controlled by the SED party leadership and within the first years of the Stasi's existence, by the Soviet KGB.

Within the first years of the GDR's existence, the Ministry of State Security went about their business with offensive power and brutality. Physical violence, arbitrary arrests and kidnapping from the West figured among its methods; The Ministry of State Security, furthermore, controlled show trials led against

unwanted political powers and provided for stiff sentences within these trials.

From the 1970s onwards, the Ministry of State Security increasingly relied on “silent” methods. Persecution and repression were to be veiled. At the same time, the interest in preventing unadapted, system-critical, oppositional behavior further prevailed including the monitoring of such behavior. To be able to do so, the Ministry of State Security had access to all areas of life within the GDR. This included monitoring, eavesdropping, spying on, arresting and interrogating. In doing so, it relied on its close cooperation with the Peoples Police (*Volkspolizei*), the customs authorities and other GDR institutions. It was able to gather almost any information and documents.

STASI STRUCTURE AND PERSONNEL

The Ministry for State Security was organized in a military-like and strongly centralized way.

Basically, the territorial structure consisted of (apart from several facility-specific offices) the 209 locally operating district offices. Depending upon the conditions within each region, these were structured differently and mostly had up to 50 employees. Their tasks ranged from controlling state institutions and societal areas, to monitoring certain people and to carrying out security checks.

According to the GDR administration structure, there was a medium level with 14 regional administrations. Their internal structure corresponded to that of the Headquarters: they were organized according to the line principle, they were significantly larger than the district offices and had far more specialization branches. The regional administrations are described as the actual backbone of the Ministry for State Security's operative work.

The headquarters of this ministry were in East Berlin and from 1957 until 1989, Erich Mielke was the Minister for State Security.

The “Feliks Dzierzynski” guard regiment was part of the Ministry for State Security, with its foremost task being to guard the party's and the state's objects as well as to provide for the leading GDR representatives' safety and the safety of its guests

The Ministry of State Security had been continuously growing since its establishment and in 1989, it had 91,000 main employment staff: More than 36,000 within the Berlin headquarters, over 43,000 in the regional and district offices and more than 11,000 in the guard regiment. The Ministry for State Security grew most rapidly during the 1970s: In the light of the détente policy and a rising number of contacts between the West and East, the state leadership feared that it would be massively threatened by “hostile influences”. Monitoring and surveillance measures were highly intensified.

Usually, the Unofficial Collaborators (*Inoffizielle Mitarbeiter* in German, hence the abbreviation *IM*) of the Ministry for State Security committed themselves via a written declaration to cooperate in a conspirative way with the Stasi. They were deployed in all parts of society, the economy, administration and within

the military. They reported from opposition movements, from family circles or from groups of friends or about classmates. They contributed with information of a very varied nature – ranging from moods within cooperatives, to banal issues and up to the most intimate personal details. There were Unofficial Collaborators of various types. A small percentage of the Unofficial Collaborators were abroad, mostly located within the Federal Republic of Germany. In 1989 the Ministry of State Security had 189,000 Unofficial Collaborators on its list.

THE STASI AND THE PEACEFUL REVOLUTION OF 1989 (REACTION TO THE POLITICAL SHIFTS / THE TRANSITION PROCESS UNTIL THE DISSOLUTION)

The Ministry of State Security was already aware of the high level of discontent within the country before the events of autumn 1989. From the domestic policy point of view, the emigration movement and the refugee wave going over to Hungary was regarded as the main problem. The international situation gave rise to worries. The liberalization process in Poland, Hungary and especially within the Soviet Union caused anxiety that similar tendencies might develop within the Socialist Unity Party as well. The civil movement which was perceived as relatively marginal and also believed to be under control caused fewer worries.

On October 7th 1989, the Stasi still reacted towards demonstrations linked to the 40th anniversary of the GDR foundation with repressions, using police batons, water cannons and arrests. The Minister for State Security Erich Mielke's orders of October 8th were directed at preparing sharper conflicts and stronger repressions.

Yet, the development was entirely different than the rulers had expected. Within this context, we can regard the Monday demonstration of Oct. 9th 1989 in Leipzig as the decisive event, when tens of thousands gathered to protest and the state bodies didn't intervene in spite of having carried out the proper preparations. The Stasi, the Volkspolizei and the army, that were prepared for such an intervention would have been able to suppress this civil protest with violence. The fact that there was the threat that a civil war like situation might arise – in combination with a threatened international isolation –, important SED-functionaries on the local level were willing to have a dialogue and an erosion of the top SED leadership level that had already taken place to a significant extent were the most important reasons why repressive intervention against the civil rights movement that had become powerful didn't follow. Furthermore, it was clear that in contrast to 1953, the Soviet Union was not willing to deploy its troops stationed in the GDR – and there were actually approximately 400,000 soldiers – to suppress the protests. The Stasi leadership thought that it was necessary to change the head of the SED and within the following days, it supported the fall of the SED General Secretary Erich Honecker on October 18th, who had been in office for many years, replacing him with Egon Krenz as his successor. Rejecting open repression was intended to regain the political initiative and provide for the Party's power. This in turn was meant to be taken care after by stronger surveillance and an undermining of the opposition movement, also making use of the Unofficial Collaborators.

The newly-elected SED General Secretary promised to carry out the reform steps and explicitly declared that it was possible to solve all societal problems politically. This was to be understood as a no to police-state repressions.

The crisis at the top level of both the Party and the Stasi was mirrored by disorientation, an uncertainty regarding the future development and the role that the Ministry for State Security was to play and that it was actually able to fulfill. A sign of this uncertainty was the Minister of State Security's ordinance of November 6th to move important documents from the Ministry of State Security's District Offices that were regarded as especially endangered to the better protected Regional Administrations. It was at the latest at this point when the document destruction carried out by the Ministry of State Security started. (for further information on the document destruction in relation to the dissolution process, see the Chapter "Regime Archives")

The long-standing head of the Stasi, Erich Mielke resigned with the whole GDR government on November 7th. His last appearance in the Volkskammer parliament on November 13th remained in people's memories due to his last helpless attempt at rescue where he said "he actually loved all people". Within the strongly uncertain Stasi organization, this was regarded as a clear sign of the leadership having failed.

From the end of October onwards, the dissolution of the Stasi became one of the civil movement's key demands; demonstrations in the district and regional capitals were directly focused on the Stasi offices.

On November 18th, Erich Mielke's term of office ended. The Volkskammer renamed the Ministry for State Security (i.e. *Ministerium für Staatssicherheit*) to the Office for National Security (*Amt für Nationale Sicherheit* in German, hence the abbreviation AfNS). According to a government declaration, the new office was to demonstrate "a new way of thinking regarding public order and security" and downscale its apparatus. The details were to be laid down in an act, yet such an act was never adopted.

The new leader informed his employees about the "redefinition of tasks, responsibilities and structures of the Office for National Security"; the renewal process was to be unconditionally supported. A staff reduction of 10 % in the first step and later by 50 % was announced. Many service rules were annulled.

At the beginning of December, the file destruction came into the opposition's focus. It became public that the Ministry of State Security had started to destroy documents on a large scale. From December 4th, the civil rights movement didn't confine itself to merely demonstrating in front of the Stasi offices but actually forced its way into the district and regional offices in order to stop the file destruction. There were so called "Security partnerships" (*Sicherheitspartnerschaften*) consisting of state and civil movement representatives being founded in many places, which was an ambivalent issue that on the one hand contributed to a non-violent process, yet on the other hand, this virtually enabled the Ministry for State Security to go on destroying files.

Within the following days, the AfNS collegium resigned, the heads of most of the central departments and regional offices within the Office for National Security were dismissed.

On December 7th, the Central Round Table (*Zentraler Runder Tisch in German*) demanded the AfNS be dissolved with SED delegate votes also opting for this.

On December 14th, the Ministerial Council decided to dissolve the AfNS. There were meant to be two successor organizations: a GDR foreign intelligence service as a more or less continued

foreign espionage department (the so-called “Hauptverwaltung A”) from the Ministry for State Security with approximately 4,000 employees and a “GDR Constitutional Protection Service” (in German: *Verfassungsschutz der DDR*) with approximately 10,000 employees in charge of internal security issues. There were no former leadership cadres to be absorbed into the “Constitutional Protection Service”.

Yet these resolutions didn’t survive too long. Civil protests were even directed against planning the successor organizations, the Central Round Table rejected this plan following a fierce discussion. Finally, the Ministerial Council decided on January 13th 1990 to abolish the AfNS without any substitution and “in all its aspects”. On January 15th, thousands of people occupied the AfNS headquarters in Berlin-Lichtenberg as part of the regional civil committee’s initiative to add weight to the dissolution. On January 18th, the government decided to put the Stasi dissolution under public control and to create a “State Committee for the Dissolution of the former Office for National Security” (*Staatliches Komitee zur Auflösung des ehemaligen Amtes für Nationale Sicherheit*).

Stasi full time-employees had already started to be dismissed in November 1989. In the middle of January, most of the employees (approximately 60,000) were still in service, yet they were all dismissed by March 31st 1990, with the following exceptions. The exceptions were the approximately 200 employees of the Main Directorate for Intelligence (HVA – i.e. the above-mentioned Hauptverwaltung A), which was allowed to dissolve itself; these people were employed for a further three months. A specific group remaining was the “Officers in special services” (in German: *Offiziere im besonderen Einsatz*) that were actually covertly operating within the state apparatus and in the economic sphere. Here, the dismissals took longer, approximately until autumn 1990. Officially, the Ministry for State Security was declared as entirely dissolved on June 30th 1990.

There hasn’t been any systematic survey regarding the former Ministry for State Security’s former employees in the future Federal Republic of Germany. We know that approximately 1,500 personnel, former full-time employees at the passport control or personal protection were employed by the federal or state police units. Also the office of the so-called special commissioner and the future federal commissioner for Stasi-documents, employed approximately 100 former employees from the Ministry for State Security, predominantly in the building protection service that was responsible for the security of the buildings or they were employed as drivers of the office. A smaller number were entrusted with specialist tasks – which was especially the case in the 1990s. The first Federal Commissioner, Joachim Gauck, who was later elected Federal President, has always described the employment of former full-time employees within the difficult rebuilding process as necessary and defended it against the criticism that had emerged against this situation right from the beginning. Actually, it hasn’t been revealed that these employees neglected their duties – they performed their tasks loyally. Nevertheless, critical voices regarded it as unbearable that an office serving the reappraisal of the Stasi’s activity employs former secret police employees. Meanwhile, only a very small number of these employees are still working in this office – and for a very long time, it’s only been in the building protection service.

From autumn 1989, the Unofficial Collaborators were successively switched off, the last via an order from January 12th 1990. It was as late as on March 8th 1990 that the government decided

to free the Unofficial Collaborators from their commitments to remain discreet that they had agreed upon.

A specific Chapter that is retroactively being regarded as critical with respect to the Ministry of State Security dissolution is the Main Directorate for Intelligence i.e. the foreign espionage department. Following the Round Table’s consent, the HVA was allowed to dissolve itself by June 30th 1990. Yet the Central Round Table had been deceived as far as the character of this department was concerned: The Ministry for State Security declared that the HVA was a normal foreign secret service as is run by any country. Furthermore, it declared that it was necessary to repatriate the agents from abroad, to provide for their protection and proper CV in order not to expose them to threats. At this point, hardly anybody knew that the HVA was also directly participating in persecuting and fighting against political enemies, i.e. that it had been an integral part of the secret police. The result of the consent towards the self-dissolution was that almost all the documents from this department were destroyed.

Although today, there are vast amounts of data regarding the Ministry of State Security’s work stored at the Archive of the Federal Commissioner for Stasi Records (*das Archiv des Bundesbeauftragten für die Stasi-Unterlagen*, hence the abbreviation *BStU-Archiv*) available for the legally defined purposes, we still have to state that the Ministry of State Security itself destroyed large volumes of files in order to conceal its own activities and to protect its full-time employees and Unofficial Collaborators. The approximately 15,000 sacks of torn documents that were seized demonstrate the destruction which hadn’t been completed. There are neither reliable data regarding the overall amount of the destruction nor are there reliable estimates. Furthermore, it’s not merely about the scope but also about the quality of the destroyed documents so that quantitative estimates do say very little about the content.

Again, it was the Central Round Table that approved the special documents be destroyed: All magnetic tapes (10,000), 5,000 discs and 500 removable disc storage devices at the Ministry for State Security were destroyed. The official argument was that these documents were not to be worked with again. The Ministry for State Security declared that these documents were present in writing as well. Later, it actually came out that this declaration was wrong. Later on, people succeeded in reconstructing parts of these electronically stored documents that had been destroyed.

For further details regarding the files and the discussion about their future use, see the Chapter “Regime Archives”.

CITIZENS PARTICIPATING IN THE TRANSITION PROCESS

The citizens participating in the transition process is a broad topic: It ranges from the innumerable demonstrations and manifestations to the cooperation in the newly founded committees and initiatives at a local, regional and central level. Here, we shall outline merely the most significant aspects.

- The Peaceful Revolution within the GDR that took place in autumn 1989 and the subsequent transition process towards democracy would have been unthinkable without a brave and powerful **civil movement**. During the 1980s, a varied opposition emerged. Although it had been rather small-scale at first, mostly linked to the Evangelic Church activities, the number of male and female citizens expressing their protest against

the state and party leadership and in favour of democratization rose enormously throughout the revolutionary year. In autumn 1989 something happened that would have been unthinkable some months before: hundreds of thousands of demonstrators in small and larger cities across the GDR went to the streets in spite of the country's armed forces.

Apart from these dynamics emerging from the population, important framework conditions are to be listed that became important for the Peaceful Revolution and the successful transition process from a dictatorship to a democratic state: the international situation, the dramatic reform processes in the Soviet Union led by Mikhail Gorbachev in the late 1980s, the USSR virtually retreating as far as its troops presence for the GDR's purposes were concerned, the USA's support for a united Germany and on the other hand, the GDR ruling system's visible decay both on the political and economic level.

The East German population's awakening represents a key condition for the success of the revolution autumn of 1989 and the overall successful transformation process. Even an ailing regime would neither have resigned just like that or collapsed, as it had ruled for at least 40 years; the civil movement had been a rather weak and a marginal phenomenon until 1989. In contrast to other Central and Eastern European countries, the emigrations into the Federal Republic of Germany and state-enforced expatriations into this country weakened the opposition's potential or at least reduced the number of discontented citizens remaining in the country. Nevertheless, during the summer and in the autumn of 1989, protests within the population emerged on an unimaginable scale. This development was also reflected in the citizens participating in the Stasi dissolution.

- To be more precise, we can already detect during the autumn **demonstrations** that the Stasi and its operations were being focused on. The demands expressed during demonstrations and manifestations across the country referred to free elections, speaking about the electoral frauds in public, freedom to travel and other democratic rights; and also the Stasi's dissolution or at least its downsizing was the protesting citizens' declared target everywhere. **Occupying** the regional Stasi offices from December 1989 and finally, the seizure of the Ministry of State Security's headquarters on January 15th 1990 clearly express this development. Yet what was being called an "occupation" didn't mean that the civil movement took these offices entirely under its control. This was rather a continuous process of limiting the actual exertion of power and only partially an effective interference into the procedures within the apparatus. Not even the occupations were able to entirely stop the files being destroyed during this phase. Surely, the knowledge about the ruling as well as the apparatus that had hitherto still been working in general was being used – as it had been the case in the subsequent formalized participations of the citizens – in order to monitor the interests of the system that had not yet been changed. During this phase, active citizens were actually also lay people in handling the secret service apparatus.
- Following several local precursors, from December 1989, the **Central Round Table** in Berlin became a location where the rulers negotiated with representatives of the stronger opposition in equal representation about the shape of the transition process. The fact that such a round table had been established clearly demonstrated that the democratization process

was irreversible from now on which thus meant the end for the Socialist Unity of Germany party's reign – it was forced to publicly negotiate with the declared enemies. Dissolving the Stasi was a key issue of these negotiations.

Hundreds of cities and municipalities followed this Central Round Table example, establishing local or regional Round Tables. It was relatively frequent that the Round Tables built thematic work groups that often focused on security issues or on the Stasi dissolution. There were no unified Round Table procedural rules.

The Round Tables manifested that the Socialist Unity Party regime handed over power and the opposition's institutionalization; they may be regarded as an important though not decisive factor contributing to an orderly and non-violent system change. They were important locations where consensus-oriented talks took place. Yet their lacking democratic legitimization as well as the frequent deception within the Round Tables by false information from the state bodies was criticized.

- **Civil committees** were constituted from December 4th onwards in Erfurt in all GDR district capitals and in many regional capitals. These committees occupied the Stasi offices and were primarily focused on halting the Stasi file destruction. Opposition members and active citizens were members of these committees. The civil committee in Berlin was founded, but late on, on January 15th 1990. This came in connection with the mass demonstration that took place in front of the Stasi headquarters and the occupation thereof.
- Civil committees were not composed according to any specific rules.
- **The Security partnerships** of state institutions (the People's Police, prosecuting offices) and citizens active in the civil movement occurred in many places in order to prevent escalations and the emergence of violence. As important as this might be for safeguarding the non-violent character of this revolutionary process, it was, on the other hand also the rulers' last opportunity to put through their interests at various levels, albeit with restrictions. As far as the civil movement is concerned, which couldn't have had any insider knowledge, this was the ticket to the spheres of state power that had hitherto been top secret.
- The **State Committee for the Ministry of State Security dissolution** (formal expression: Office for National Security) was established in February 1990 through a GDR government resolution. It was meant to create a civil control for the dissolution process. Three commissioners, with two of them being from the civil movement, were vested with governing power to control this process.
- Further citizen participation phenomena were – to some extent, together with the previously mentioned institutions – work groups, investigation commissions, commissions composed of equal numbers of representatives, consulting groups and dialogue forums.

LESSONS LEARNT

POSITIVE

- Although the political opposition within the GDR in the 1980s was relatively weak and internally split, it was able to get a response from a vast group of inhabitants during 1989 in relation

to the democratization process. This large-scale participation of citizens in cities and within rural areas can be regarded as one of the key conditions for the success of the revolution process.

- It was neither Germany's unity that became effective on October 3rd 1990, nor was it the decision taken by the first and only freely elected GDR parliament in March 1990: the decision to dissolve the State Security without any substitution had already been taken in December 1989/January 1990. Given all the problems linked with the transition, the rulers didn't even manage to establish small successor organizations. This clear step was surely linked to the reunification that was already on the horizon, yet due to the significant pressure from the civil movement, it already occurred during a phase when these perspectives hadn't yet become clear and when the decision powers hadn't yet been redistributed.
- The different forms in which opposition citizens participated in the change process (especially the Round Tables and the Civil Committees) can be regarded as an important precondition for the revolution's peaceful course. The fact that a transition process which was shaped this way left time for the old rulers to put through their interests (e.g. wiping out any traces by destroying files) is not a counterargument serving against a peaceful transformation which prefers talks and political negotiations.
- People managed to prevent large-scale file destruction. The Archive of the Federal Commissioner for the Records of the State Security Service with its large stock bears witness to this. It is the civil movement's achievement that the destruction was detected and made public and that powerful attempts were made to counterbalance the destruction or to limit it.
- It is to be positively valued that parts of the old system (albeit only small ones) supported the transition process by providing the civil movement, and later the democratically legitimized institutions, with their insider knowledge about the apparatus' mode of operation. Until today, this has remained a controversially discussed issue. For sure, it's a very sensitive one. Yet as far as the highly complex transition processes of this kind are concerned, it hardly appears to be dispensable relying on constructive and expert powers from the old system, albeit for a limited period of time. Within this context, clarifying the preconditions and conditions for such participation is important (honestly meant breakup with the past, indispensability of the expertise, transparent participation, close following/control of the activity, fixed-term activity within sensitive areas).

NEGATIVE

- It was not possible to prevent the Stasi destroying documents entirely or partially on a large scale that would have been of significant importance for reconciling with the past. These file destructions partially took place during a period in 1989 when the course of the revolution had not yet become clear, i.e. these activities couldn't be controlled from the outside. It's the civil movement's achievement having vitally disturbed this process by occupying the Stasi offices from December 1989 onwards and having made it a publicly perceived problem. Nevertheless, an effective or comprehensive prevention or at least monitoring of the destroyed files was not provided due to this. Thus, documents were destroyed in a not precisely definable scope which would have documented the Stasi's activities and listed the people collaborating with the Stasi.

Nevertheless, what is positive and needs to be stressed is that in spite of the file destruction, there have been vast amounts of Stasi documents preserved – which was quite contrary to the situation in any previously collapsed state. These documents enabled a comprehensive analysis of the Stasi's activities. Based upon law, they have been made accessible since 1991 for historical reappraisal with the dictatorship in general, for personal perusal of the files as well as for prosecution purposes, for vetting, for rehabilitating victims, for research, for the media and other purposes – under the condition of protecting the personality rights of the affected persons.

- The Central Round Table approved the Stasi's foreign espionage department, the Main Department for Intelligence (*Hauptverwaltung Aufklärung*) dissolving itself. This self-dissolution caused an almost full-scale destruction of the working documents from this field. The state leaders achieved the approval through deceiving the opposition. As it later came out, the HVA was not “merely” a foreign intelligence service but represented an integral part of the suppression apparatus also within the country.
- Destroying the Ministry for State Security's electronic data carriers was also done with the Central Round Table's approval. Also in this case, deception paved the way to approval: the claim that there was a written copy of all the electronically stored information was proven as false later on.
- Due to the fact that a vast amount of the Stasi documents were already opened in the early 90s, an imbalanced situation occurred that did not correspond to the relation of the Stasi's and the Socialist Unity Party's balance of power. While the sight was almost lost of the governing party and its responsible persons – with some rare exceptions – there were public discussions against Stasi collaborators even in less important cases which had labor law consequences for these people. Irrespective of how important coming to terms with the secret police work and the Stasi was and still is, the Socialist Unity Party's leading role needs to be respected also in relation to the Stasi.

Altogether we can state regarding the negative or critical dimensions that on the one hand, there was a dramatic erosion at the state and party leadership level, but both apparatuses didn't entirely lose their function. And on the other hand, the civil movement and opposition gained importance and power, yet the latter suffered so much from internal disputes, were not ready to take over power jointly and didn't have enough expertise regarding the mode of operation of the bureaucratic apparatus. Thus, it wasn't possible to omit adverse accompanying effects in spite of a highly successful process.

RECOMMENDATIONS

The end of a secret police, of a collapsing and finally also legally ending dictatorship is a complex process if we do not intend to restrict this to the correct but rather bold call for entire dissolution. Each affected country had to find its own ways; this shall apply to the future as well as the respective political and societal context and the very specific power relations within the transition process were and still are of decisive importance. As far as the GDR's collapse is concerned, the specific German-German history and the prospect of uniting both German countries

formed – as has already been mentioned – important framework conditions.

Nevertheless, some general recommendations can be noted down:

- Saving the legacy, preventing file destruction

This recommendation is meant to provide for the material substance being kept that can serve as an information source as comprehensively as possible and inform about the secret police's activity. Democratically legitimized institutions and bodies do have to decide upon the orderly access to these documents from the constitutional state point of view (see below). Although it is not clear yet how the approach to this heritage shall be shaped in detail later on, one has to strive to save the existing sources.

- Do not allow yourself to be deceived, create as extensive controls as possible

The "logic" of a secret police is – on the one hand – to preserve as much information as long as possible – which means so long as the deprivation of power may possibly be prevented. On the other hand, this "logic" also bears the growing probability to such an extent that files will be destroyed by the officers (still) in service as the probability of the regime's collapse grows. It's about wiping out traces, protecting collaborators and destroying all that could serve as evidence against these people later on. Also changes, counterfeits of existing documents can figure among these services' tactics during the transition process. Although the transition should be carried out in cooperation, in a non-violent and as consensual way as possible – for good reason – mistrust of the still active organizations and their activities is apt at this moment and strict controls are necessary. This also applies to situations where the secret police that is to be deprived of power cooperates, as such a situation does not make the above-mentioned "logic" invalid.

- No access to the files without constitutional state regulation

Secret service documents are most sensitive documents. They bear testimony to an intervention into frequently very personal and intimate spheres of people without paying respect to the rules applicable in a constitutional state. The personal rights of all people within a constitutional state deserve high protection. Providing this protection is a priority when overcoming the dictatorship. It's precisely here where the difference of a system that disrespects the fundamental rights of individuals becomes apparent. That's why discussing the rules about the access to these files is of the utmost importance. Carefulness is of more importance than speed, yet it is to be necessary that no unauthorized access occurs during the clarification phase. One has to strive for as large a consensus within the new legal system as possible regarding the document usage; this can prevent an everlasting quarrel about this issue also preventing repeated legal uncertainties or at least diminishing them.

- Inviting external experts to participate in the file access discussion

With all due respect to a national decision – it is advisable that representatives of other countries or possibly international institutions join the discussion about constitutional state governed access to the files. Both positive and less positive experiences should be mentioned just as the legal dimensions should – as this is actually a complex constitutional law, and data protection as well as an archive-legal issue. A path well

paved by constitutional law and the access to the highly sensitive files is to counterbalance the tensions between the interest for reappraising the dictatorship on the one hand and paying due respect to the personal rights of the affected persons on the other – irrespective of whether they are victims or perpetrators – as they are both persons entitled to fundamental rights to an equal extent in a constitutional state.

- Critically reflecting the focus on the secret police

As important as coming to terms with the secret police activities undoubtedly is, it's also important to reflect their role within the dictatorship. In the case of the GDR, it can be taken for granted that the Stasi represented the "Shield and Sword" as it called itself, performing thus a role through which it served the Party. Thus, working on the dictatorship activities may not confine itself to discussing merely the secret service activities as this would virtually relieve of blame the communist party that gave the orders. Thus, the role of the secret service within the collapsed system is necessary in order to define the priorities for coming to terms with the dictatorial past. There is the paradoxically seeming danger of exaggerating the role of the secret police as its activities incorporated suppression.

- Approaching the former secret police full time employees

Generally, further employing the former full time secret police employees within state institutions is to be regarded as a problem. It is to be prevented as far as possible when the newly built institutions' respect and integrity could be in danger. Yet in all cases a transparent and, furthermore, differentiated approach towards this topic is to be recommended. Thus, it may be important for shaping the transition and reappraisal of the dictatorship to use the former employees' expertise for inspecting the secret service's work. Such cooperation in the process of coming to terms with the past should be acknowledged as experience has shown that the vast majority of the former employees are not willing to cooperate in such a way that's perceived as a betrayal. Yet further employment of formerly collaborating employees should be designed in such a way that the feelings of the victims within the system that has collapsed are not unnecessarily burdened. Thus, these people should not be deployed in institutions serving the reappraisal of the dictatorship. Additionally, as far as further employment is concerned, it should be considered which role the particular person has played within the apparatus. Experience has demonstrated that blanket injustice convictions are not helpful, as only a differentiated check of individual cases brings us further on.

- Approach to former Unofficial Collaborators

As far as the transition process is concerned, uncovering the collaboration with the secret police carries a lot of politically explosive issues. This is another reason why it's important to provide for the document security as soon as possible. Actually, only reliable information derived from sources within the files carried out by the offices authorized to do so can establish a solid base for uncovering an Unofficial Collaborator and keeping them far from any political or professional functions. Suspicions or presumptions not based upon facts may not be enough. The consequences for a solidly provable activity as an Unofficial Collaborator have to be differentiated. There was a broad range of unofficial activities; this prohibits blanket decisions. The reactions may range from dismissal from the public services, to changing employment up to unchanged further employment.

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DISMANTLING THE STATE SECURITY APPARATUS (1989–1991)

FRANCISZEK DĄBROWSKI

INTRODUCTION

POSITION AND STRUCTURE OF THE STATE SECURITY APPARATUS BEFORE THE TRANSFORMATION

The communist security apparatus in communist Poland consisted of several institutions and organisations of different competences and affiliations.

Służba Bezpieczeństwa (SB, security service) (1956–1990) – was the main security force of the communist regime in Poland, acting as a security and political police unit, disguised as a part of **Milicja Obywatelska** (MO, see below), a criminal and public order police, with central units based in the Ministry of Internal Affairs (Ministerstwo Spraw Wewnętrznych, MSW). The SB's local units were formally part of relevant districts and local MO commands (since 1983 part of the district and local "Offices of Internal Affairs"). SB continued the activities of its predecessor, **Urząd Bezpieczeństwa** (UB, security office, 1944–1956, central units: **Resort Bezpieczeństwa Publicznego**, RBP, public security department, 1944; **Ministerstwo Bezpieczeństwa Publicznego**, MBP, ministry of public security, 1945–1954; **Komitet ds. Bezpieczeństwa Publicznego**, Kds.BP, Committee for public security, 1954–1956).

In 1989, several departments in the MSW constituted the structure of the SB, or were manned by SB functionaries:

- **Biuro "A"** (Biuro Szyfrów): encryption and communications unit
- **Biuro "B"**: surveillance unit
- **Biuro "C"**: registry and archive
- **Biuro "W"**: post control unit
- **Biuro Historyczne**: historical unit
- **Biuro Ochrony Rządu**: personal protection unit
- **Biuro Paszportów**: pass control unit
- **Biuro RKW**: signals counterintelligence unit
- **Biuro Studiów** (formed 1982): special unit in charge of invigilation of prominent former Solidarity members and underground organisations
- **Biuro Śledcze**: investigation unit
- **Department I MSW**: foreign intelligence unit. The main tasks of Department I were: classical politic and economic intelligence, penetration and disintegration of Polish diaspora in the Western countries, scientific and industrial espionage.
- **Department II MSW**: counterintelligence unit. The main tasks of Department II were surveillance of non-communist diplomatic personal in Poland, classical counterespionage, control of relations between Polish citizens and foreigners.
- **Department III MSW**: security and political police unit formally tasked with the "fight against antisocialist activity in the social superstructure".
- **Department IV MSW** (formed 1962): "Church affairs" unit. The main tasks of Department IV were surveillance, control and disintegration of activities of Polish Roman Catholic

Church (seen as one of the major enemies of socialist state), and to far lesser extent, other religious communities.

- **Department V MSW** (formed 1979 as Department III-A MSW): unit in charge of invigilation of independent trade unions.
- **Department VI MSW** (formed 1985): unit in charge of control of agriculture, food processing industry, and forestry.
- **Department PESEL**: unit in charge of the electronic system of population records.
- **Department Społeczno-Administracyjny**: unit in charge of the control of legally acting associations and organisations.
- **Department Techniki** (former Biuro "T"): technical measures of surveillance unit (eavesdropping, phone tapping, photo, and video surveillance)
- **Gabinet Ministra**: cabinet of minister of internal affairs, staff and analysis unit
- **Główny Inspektorat Ministra**: main inspectorate of minister of internal affairs (control of operative units)
- **Zarząd Ochrony Funkcjonariuszy** (formed 1985): internal disciplinary and control unit
- **Zespół MSW**: analysis of operative information unit

Departments I–VI and **Biuro Studiów MSW** (and subordinate local units) were the main operatives of units of the SB, the "A", "B", "C", "T", "W", and the **RKW** units were auxiliary and operative-technical support.

Milicja Obywatelska (MO, "citizen guard"): was a criminal and public order police. The headquarters of MO **Komenda Główna MO** (KGMO), since 1954, was one of the central units of MSW. Formed in 1944 by the communist government, the MO was a public law and order enforcement agency, with separate central and local units, but formally subordinated to the security police HQ (RBP 1944, MBP 1945–1954). After the dismissal of the MBP in 1954, the MO was subordinated to the newly formed MSW. The reorganisation of the security apparatus in 1956 saw the MO as part of the MSW, together with SB, KBW, WOP (see below) and some civilian administration. Although generally tasked with matters of criminal investigations and public order, the MO was on the first line of duty when containing riots or other unwanted activity was required. The special riot police units, the **ZOMO** (**Z**motoryzowane **O**dwoły **M**O, the MO's "motorized reserve", formed in 1957) gained notoriety for its brutal actions against political demonstrations.

Ochotnicza Rezerwa Milicji Obywatelskiej (ORMO, MO's "volunteer reserve"): formed in 1946, acting as an auxiliary "volunteer" force for the MO, especially for the containment of riots, and social discontent.

Wojskowa Służba Wewnętrzna (WSW, "internal military service"): counterintelligence and security unit of the military (est. 1957, successor of the **Główny Zarząd Informacji**, GZI, the main directorate of intelligence), responsible for containing unwanted political activities in the army.

Zarząd II Sztabu Generalnego Wojska Polskiego (Z II SG WP, 2nd Directorate of the General Staff of the Armed Forces):

military foreign intelligence (est. 1952, as the successor of Oddział II SG WP).

Wojska Ochrony Pogranicza (WOP): border protection troops, formed in 1945, the main force responsible for the securing of the state frontier; its “reconnaissance unit”, **Zwiad WOP**, was in charge of operative activities in the border zone.

Nadwiślańskie Jednostki Wojskowe (NJW MSW, “Vistulan Military Units”): counterinsurgency and MSW’s protection troops, successor of the reorganised 1965 counterinsurgency corps **Korpus Bezpieczeństwa Wewnętrznego (KBW,** “internal security corps”).

Wojskowa Służba Wewnętrzna Jednostek Wojskowych MSW (WSW JW MSW, “military internal service of the MSW’s troops”): counterintelligence and security unit of the WOP and the NJW (till 1965 WOP and KBW).

Główny Urząd Kontroli Prasy, Publikacji i Widowisk (GUKPPiW): censorship office.

Urząd do spraw Wyznań (Uds.W, Office for Affairs of Religious Nominations): office responsible for legal and political contacts with churches and religious communities (primarily with the Roman Catholic Church).

Although not a security or law enforcement agency, the **Ministerstwo Spraw Zagranicznych (MSZ,** Ministry of Foreign Affairs) was one of the main “cover institutions” for the foreign intelligence unit of the MSW, Department I. Stations of foreign intelligence were placed in embassies and consulates, the agents and officers of the MSW had a great number of posts in the ministry. The other central government body, the **Ministerstwo Handlu Zagranicznego (MHZ,** Ministry of Foreign Trade) was an office supervising the trade missions abroad: another important “cover institution”.

NUMBER OF MEMBERS: THE SERVICE APPARATUS AND SECRET COLLABORATORS

In February of 1990 the SB counted 12,400 functionaries in local branches (in 1984, 18,400). On the 31st of December 1989, the central units of the SB counted more than 6,200 men (on the 31st of December 1988, more than 7,100 men). It is estimated that in the summer of 1989, the SB counted 24 thousand functionaries.

The number of SB informants (“secret collaborators”, TW) since 1981 constantly soared, and in 1988 reached approximately 98 thousand; considering that number of unregistered sources is estimated to be approximately 15 thousand, the whole number could have significantly exceeded 100 thousand. The count sank acutely in 1989, due to the the SB’s response to political transformation; informants and agents were withdrawn from activities, their entries were also withdrawn from the registry.

In 1990, the military secret services, after the fusion of military foreign intelligence (Zarząd II SG LWP) with the internal military service (WSW), counted 496 officers and employees.

The operative assets of military foreign intelligence in 1989–1990 can only be estimated after the number of sources in 1985. The Zarząd II SG LWP had 494 informants in the country with 366 auxiliary sources (couriers, connection men, contact addresses), and 156 sources abroad.

The number of collaborators of the military secret service (WSW) is estimated to be 10 thousand men; it should be noted, that approximately 10 % of collaborators were so-called NP, “nieoficjalny pracownik”, “unofficial employee” (officers and

NCOs secretly tasked with operative work, mainly running of minor informants). It should be also noted, that although the total number of informants and NPs of the WSW was rather stable (soaring in the ’80s), the constant flow of conscripts to the army and the release of reservists caused the need for permanent recruitment of new informants in the ranks. The informants released from the army were withdrawn from the active network of the WSW, while new informants were recruited; there was a constant flow of informants (it should be noted that in ’80 the total number of WSW informants soared, i.e. the recruitment of new informants was higher than withdrawal of released). The data concerning released informants were handed to the SB, and some were “re-recruited” in civilian life.

The censorship office employed more than 400 people in 1989; this institution did not run networks of informants or collaborators.

POWERS OF THE SECURITY APPARATUS

In the 1980s, the powers of SB were partially embedded in the legal system; an act on the 14th of July 1983 concerning the office of the minister of internal affairs (MSW) tasked the SB and the MO with “protection of state security and public order”. The SB (as well as the MO) was entitled to conduct the operative, investigative, administrative, and legal proceedings. The other source of legal power of the SB was the criminal proceedings code; the SB, acting as a part of the MO, was entitled to conduct investigative activities on behalf of the public prosecution office (formally, only when ordered, but practically it never happened; political or state interest cases were rarely or never investigated by the prosecution office itself). The 1983 act of office of the MSW and the criminal proceedings code entitled the MO and SB men to conduct arrests and searches and to use the direct duress (use of fire weapons included) to “enforce the public order” or in the presumption of a crime. The activities of the foreign intelligence branch of the SB (as well as military foreign intelligence) were not legally based.

The activities of the military security services were only partially legally based on military criminal proceedings code (and partially the act on border protection), enabling the WSW and WOP to conduct investigative proceedings.

The operative and auxiliary activities of the security services were subject to internal regulations. The vast number of regulations concerned matters of recruitment, use and rewarding operative sources (informants, agents, other categories of contacts), terms, rules and aims of operative proceedings, the terms of registration proceedings, use of information gathered in the registry, terms of conducting surveillance, setting up wiretapping and eavesdropping, post control operative proceedings and use of the materials gathered, passport control proceedings. The number of methods used by the security services included the use of blackmail, “compromising material”, during the recruitment of informants, tapping of phones and flats, post control, covert entries, was in fact illegal, but authorized by superiors of functionaries involved without any judicial or independent review.

The 1956 decree on border protection was the legal basis for the security enforcement activities of border protection troops (WOP).

The censorship office’s activities were based on the 1981 act on censorship (following the 1946 decree). The act demanded compulsory presenting all text and images before publishing,

exhibiting or performing, and entitled the censorship office to prevent the publication of materials “claiming independence or territorial integrity” of the state, “encouraging the overthrow or the denigration” of the state’s rule, “threatening the constitutional basics of the state’s foreign policy and its alliances”, containing “war propaganda”, disclosing official secrets, “encouraging crime”, disclosing details of investigations and court proceedings held in secret, threatening “religious feelings and the feelings of people of no religion”, spreading “national and racial hatred” and “noxious contents”, that is, encouraging alcoholism, narcotics addiction, cruelty, and pornography. Actually, all of the provisions were quite formal, and the censorship banned the publication or disclosure of materials of any unwanted character (primarily political and religious) due to the instructions obtained from the communist party leadership.

COMMUNIST SECRET SERVICES IN TRANSITION 1989–1991

REACTION TO POLITICAL CHANGES

The reaction of the communist secret services in Poland to the transformation of political system had three parallel layers: the staged reorganisation, the mass weeding of operative documents and archives, and the influencing of the political changes to control extra-parliamentary movements.

Existing paperwork hints, that during the weeks after the 4th of June election the SB gathered information on “opposition members of parliament”. It clearly suggests that the SB leadership initially attempted to gain influence on the Solidarity members in parliament. The failure of the parliamentary bid to establish Czesław Kiszczak as prime minister, and the subsequent decomposition of the post-communist parliamentary coalition led the SB to a reaction concerning its own structure; disposing of compromising materials, securing operative assets (functionaries and informants), and disguising its own structure as “apolitical state security guards”.

FORMS OF TRANSFORMATION OF THE SECURITY APPARATUS

The impact of political changes in the summer and fall of 1989 made the the SB leadership uncomfortable about their perspectives. The answer was to get rid of sensitive files, and staging a reorganisation of the SB. In the spring of 1989, the unit in charge of postal control, Biuro “W” MSW, was formally dismissed; the activities of the unit, the covert opening and control of correspondence were contradictory to the essential human and citizen rights. The eventual disclosure of the Biuro “W” MSW existence and its dealings would be catastrophic for the communist party and especially for the SB. The structures of “W” units were transferred to the II directorate of the SB, the “counterintelligence” unit, which hid the real scope of “»W« work” (as the postal control was called in MSW) under the cloak of presumed “counter-espionage”.

On the 24th of August 1989, the day of the swearing in of the first non-communist Prime Minister, Tadeusz Mazowiecki, the then minister of internal affairs, Czesław Kiszczak, ordered the reorganisation of MSW departments. The central units of the SB were merged building new structures. Department III MSW, the unit in charge of invigilation and containment of political opposition,

was renamed “Department Ochrony Konstytucyjnego Porządku Państwa” (“the department for the protection of the constitutional state order”). Department IV MSW, the unit in charge of the invigilation of Church was dismissed, its structures and assets were merged with the former Biuro Studiów MSW (also an operative unit) to the new Department Studiów i Analiz MSW (“the department of study and analysis”). Departments V and VI were merged into the new Department Ochrony Gospodarki (“the department for the protection of the national economy”). The SIGINT unit (Biuro RKW) was merged into Department II. The reorganisation intended to simulate the transformation of the SB to the “state political police”. The 11th section of the 1st department MSW (Wydział XI Department I MSW), the unit in charge of “countering ideological diversion”, which acted against Polish émigrés, was dismissed on the 1st of September 1989. In the October of 1989 the SB officers’ school (Wyższa Szkoła Oficerska im. F. Dzierżyńskiego, WSO) in Legionowo (named after Cheka founder and chief of Polish descent, Feliks Dzierżyński) was reorganised, formally dismissed, and merged into the MSW academy (Akademia Spraw Wewnętrznych, ASW) as a “state security department” (Wydział Bezpieczeństwa Państwowego ASW).

Similarly, in November 1989, ZOMO was renamed to “Oddziały Prewencji MO” (“MO prevention units”). The internal political unit of MSW, Służba Polityczno-Wychowawcza (“political-educational service”) was dismissed in the November 1989. Departments I (foreign intelligence) and Department II (counterintelligence) and the technical-operative units were allegedly excluded from the structure of the SB (although those units were mentioned in December 1989 as parts of the SB).

The internal reorganization of the MSW followed a new concept for a security service; operations against the parliamentary opposition and Church were to be ceased, and the new aims of activity would be countering economic crime, terrorism and subversive dealings (as Kiszczak understood the activities of extra-parliamentary opposition).

The “volunteer” police force ORMO was dismissed by a parliamentary act on the 23rd of November 1989, although it appeared, that ORMO members anticipated the ensuing dismissal, and formed “Stowarzyszenie Wspierania Porządku Publicznego” (“association for support of public order”), that quickly acquired some significant permissions from the MSW enabling it to act as security contractors and a paramilitary force. Shortly after, these circumstances were made public, and ultimately in December of 1990 the Highest Court abolished the SWPP.

The changes in the MSW were not only to the SB. The handlers of the SB had foreseen the ensuing overhaul or even dismissal of the service, and did everything possible to get rid of compromising materials and move their functionaries to secure posts, outside of the structures of the SB. Also, the personnel of the SB were transferred to the other branches of MSW, mainly to the criminal police (MO), and significant numbers of SB officers retired. Other members found work at newly formed private security companies. In effect, in the end of January 1990, the central units of the SB in the MSW formally counted 3, 500 members.

The staged reorganisation of the MSW aimed to build some kind of “stay-behind” structures for the stranded SB members, and to keep control over the remaining security service units. Making a “leap forward”, Kiszczak suggested to Mazowiecki to form a political advisory committee in the MSW that would control the dealings of the security service, but did not plan to grant the committee access to operative information and procedures.

Between 1989 and 1990, the parliamentary coalition prepared a series of acts abolishing the SB and separating the police force from future security services. The acts were voted on the 6th of April 1990, transforming the MO into a new police force, dismissing the SB and forming a new security force, Urząd Ochrony Państwa (UOP, Office for the State's Protection).

An act on 6th April 1990 of the UOP stated, that the SB is to be dismissed on the 31st of July 1990; the new deputy minister of internal affairs ordered the immediate cessation of SB activities on the 10th of May 1990 (excepting the communication units). The former SB functionaries were permitted to apply for employment in the UOP, although under a compulsory overview of their dealings in the SB. Of the more than 14 thousand former SB officers who applied to the UOP, 5 thousand were rejected during the initial overview in local "verifying committees". From the 4.5 thousand former SB members that appealed the ruling to the central verifying committee, 1.8 thousand succeeded in the appeal. Departments I and II personnel (foreign intelligence and counterintelligence) came through overview practically untouched, the technical-operative units ("T" and communications branches) and surveillance units ("B" branch) were exempted completely from the overview. The new UOP was formed from 10 thousand former SB employees, with intelligence, counterintelligence and auxiliary units practically intact; only the former leadership of the SB was excluded from further service. Only one unit of UOP, Biuro Analiz i Informacji (analysis and information bureau, an OSINT unit) was formed from scratch; it's personnel consisted of former opposition activists.

The MSW's academy, Akademia Spraw Wewnętrznych, was dismissed by the government decision of the 10th of September 1990; the ASW formally ceased to exist on the 31st of March 1991, part of was used as a new Higher School of Police (the ASW's buildings were allocated to Warsaw University).

The reorganisation of the military security services proceeded similarly, but with one important difference; there was no overhaul of the army's security services; its personnel was almost entirely transferred to the new agencies. Only a handful of commanders were dismissed. Apparently the dismissal of the SB took a greater part of politicians' and lawmakers' attention, and the military services were not on their radar. The parliamentary subcommittee for the scrutiny of the WSW dealings was formed in 1990, but the outcomes of its dealings were practically unknown at the time; only a handful of information on the subject was published in 2008.

The internal military security service, the WSW, was formally dismissed in April of 1990; the military police branch of the WSW was reformed into a separate unit, Żandarmeria Wojskowa (ŻW, military police), the security branch of the WSW was merged with Zarząd II SG WP (foreign military intelligence) into Zarząd II Wywiadu I Kontrwywiadu SG WP (2nd Directorate for Intelligence and Counterintelligence of General Staff). This unit was reformed in August 1991 and renamed Szefostwo Wojskowych Służb Informacyjnych (WSI, military information service). The separate MSW's WSW unit (in charge of control of MSW's military units) was dismissed in July 1990, and a separate ŻW unit for MSW troops was formed in September 1990.

Border protection troops (WOP and its security unit, Zwiad WOP) were formally dismissed by a parliamentary act on the 12th of October 1990; formally ceasing to exist on the 16th of May 1991. The personnel and assets of the WOP were transferred to the newly formed border guard force, Straż Graniczna.

The NJW MSW troops survived the first stage of transition, and were used as a diplomatic and government protection unit. In the years 1998–2001, the units of NJW MSW were dismissed; it's personnel and assets partially transferred to Straż Graniczna and the government's protection office.

The Censorship office was dismissed by a parliamentary act on the 11th of April 1990.

CONTRIBUTION OF CITIZENS TO THE TRANSFORMATION

The impact of public opinion, especially the to the reinstated by the 1989 Solidarity press, "Gazeta Wyborcza" and "Tygodnik Solidarność" was one of the crucial factors in the control and subsequent dismissal of the communist security services. The free press informed the public about the alleged attempts to destroy the regime archives, the transition of the ORMO into a privileged security association, and the failed government plans to sustain the institution of censorship.

The main factors of the dismissal of the security services were the political transformation and forming of a new government between the summer and fall of 1989. The then former democratic opposition gained, initially limited, insight into the dealings of the "power ministries". The forming of a parliamentary coalition led by the Solidarity faction enabled the forming of the government and the voting of acts dismissing the former security services. It should be noted, that without the constant public demand for the abolishing of the SB, and the efforts of members of parliament to explain the dubious dealings of the security services, the government would remain reluctant to move forward with a fast transformation.

The popular reaction to the disintegration of communist party included the demand for the dismissal of the SB. The decomposition and then self-dismissal of PZPR were met with a series of rallies in numerous cities, from January until March of 1990; the demonstrators demanded resignation of Wojciech Jaruzelski (then president of Poland), dismissal of the PZPR and the SB. In Poznań, Szczecin, Kraków and Gdańsk demonstrators tried unsuccessfully to storm the buildings of the SB, the buildings of the SB in Warszawa and Rzeszów were blocked by rallies. However, the demonstrators were not numerous enough to occupy the SB buildings, or cease the activities of the secret service or to seize the archives.

The demand for change in the security authorities came from an unexpected direction; the political transition enabled the forming of an independent trade union in the MO units; the loosening of political control let some the MO functionaries demand the separation of the MO from the SB and the forming of the criminal police. Nevertheless, the demonstrations and dissent inside the MSW were not the decisive factors of change; the cause of the transformation of the security services was the political transition. The security services, just like the whole state apparatus, lost their communist handlers and Soviet support (the official KGB station in Warsaw was closed in summer 1990), and the establishment of a connection to CIA in May 1990, might have significantly contributed to the developments in the matter.

LEGAL AND POLITICAL FRAMEWORK OF CHANGES TO THE SECURITY APPARATUS

The initial changes in the structure of the SB, in the second half of 1989, were of a dubious legal nature. The structure of the MSW

according to the 1983 act concerning the office of the minister of internal affairs, was to be decided by the government. On the 22nd of August 1989, two days before the swearing in of the new, non-communist prime minister, Tadeusz Mazowiecki, the departing communist prime-minister Mieczysław Rakowski authorized the then minister of internal affairs, Czesław Kiszczak, to reorganize the ministry. Although such delegation of power was illegal, it was not immediately objected to. The subsequently announced parliamentary plans to arrange the matters of security services were met with a ministerial initiative. Kiszczak and his apparatus submitted to parliament their own proposals concerning the organisation of future security services. The controversy matters concerned the subordination of the future office of state protection (UOP) to the office of the ministry of internal affairs, or to the office of prime minister, relative to the office of the republic's president; the separation of the criminal police from the security service, and the ensuing overview of SB personnel. Ultimately, parliamentary bodies dominated by former Solidarity activists decided the future organization of the UOP and police.

The dismissal of the communist ministers of internal affairs (Czesław Kiszczak) and of national defence (Florian Siwicki), and the subsequent appointment of new non-communist ministers led to the effective dismissal of communist services, and forming of the new ones; although manned almost completely by old personnel. The employment of former SB functionaries was allowed after mandatory overview by special committees, as described in the government's decree of the 21st of May 1990, it concerned the employment of former SB officers in UOP.

The SB was dismissed by a parliamentary act on the 6th of April 1990, it concerned the formation of the UOP.

The MO was reorganised and transformed into the Police by parliamentary act on the 6th of April 1990, it concerned the forming of Police.

The ORMOS was dismissed by parliamentary act on the 23rd of November 1989.

The Akademia Spraw Wewnętrznych was dismissed by government decree on the 10th of September 1990.

The military political academy (Wojskowa Akademia Polityczna, WAP) was closed by a government decree of the 21st of May 1990. Its supervisory unit, Główny Zarząd Polityczny WP (main political directorate of the army, GZP WP) was dismissed in December of 1989 by the ministry of national defence.

The censorship office was dismissed by parliamentary act on the 11th of April 1990 regarding adjusting press regulations.

The border protection troops WOP were dismissed on the 16th of May 1991 due to the stipulations of a parliamentary act on the 12th of October 1990, it concerned the forming of the border guard agency Straż Graniczna. The personnel and assets of the WOP (and of the maritime brigade of the border protection vessels – unit commanded by the ministry of national defence), were transferred to the SG.

The military security services and its political units were transformed by order of the military supervisors.

NEW SECURITY SERVICES AND LAW ENFORCEMENT AGENCIES IN POLAND 1990–2017

The security services were initially controlled by parliamentary permanent committees of the administration, and internal

affairs and national defence. The separate permanent committee for the supervision of the security services (Komisja do spraw Służb Specjalnych, KSS) was formed by parliamentary act on the 27th of April 1995, it concerned the parliamentary proceedings regulation.

Urząd Ochrony Państwa (UOP, “office for the state's protection”), intelligence, counterintelligence, antiterrorist and security agency was formed by parliamentary act on the 6th of April 1990 and started its activities on the 1st of August 1990. The UOP was reformed by parliamentary act on the 24th of May 2002; the agency was split into Agencja Wywiadu (AW, intelligence agency) and Agencja Bezpieczeństwa Wewnętrznego (ABW, internal security agency).

Wojskowe Służby Informacyjne (WSI, “military information service”), military intelligence and counterintelligence agency was formed as a branch of the ministry of national defence on the 22nd of April 1991, its existence was legally recognized by parliamentary act on the 25th of October 1991, it concerned matters of national defence; and subsequently by the special parliamentary act on the 9th of July 2003. The WSI was dismissed in 2006 by parliamentary act on the 9th of June 2006. The dismissal of WSI was followed by overhaul of its personnel and the forming of the new agencies, Służba Wywiadu Wojskowego (SWW, military intelligence service), and Służba Kontrwywiadu Wojskowego (SKW, military counterintelligence service) by parliamentary act on the 9th of June 2006.

The criminal and public order police (Policja) was formed by parliamentary act on the 6th of April 1990; the personnel of the former MO were transferred to the new police force (with the exemption of those MO functionaries who until the 31st of July 1989 were SB functionaries).

The military police (Żandarmeria Wojskowa, ŻW) was separated from the dismissed WSW in April of 1990 by order, of the then, minister of national defence, Florian Siwicki, and formed officially on the 1st of September 1990. The existence of the ŻW was legally recognized by parliamentary act on the 25th of October 1991, it concerned matters of national defence (as well as the existence of the WSI).

The border guard agency Straż Graniczna (SG) was formed on the 16th of May 1991 by the parliamentary act on the 12th of October 1990.

The Polish republic has two law enforcement agencies, not directly preceded by similar institutions under communist rule, fiscal intelligence (since 1991 various units of the ministry of finance, today it is the Department Zwalczania Przestępczości Ekonomicznej, the department combating economic crime in the country's revenue service), formed by parliamentary act on the 28th of September 1991, it concerned fiscal control, and the country's anticorruption bureau (Centralne Biuro Antykorupcyjne, CBA), formed by parliamentary act on the 9th of June 2006.

LESSONS LEARNT

The functioning of the new security services was under limited public scrutiny due to the secret character of their duties. However, the matters of state security remain secret; some significant features, mainly flaws, of the new security services were revealed.

The effective parliamentary supervision over the security services was vital for the lawful activities of the latter, the permanent parliamentary committee however, was, and is, significantly

dependent on the flow of information from the services involved. The impact of public opinion and the free press seems to be one of the most important factors for public control over the activities of secret services (especially when the oversights, and errors, or inaction of the services are made public).

The flaws of the decision to retain former SB functionaries (and to follow SB methods) in the new republic's services became apparent when some landmark scandals broke out.

In March 1993, the leader of, the then, opposition party Porozumienie Centrum, Jarosław Kaczyński announced that the UOP issued a secret instruction (called after its number "instruction 0015/92"), it concerned the operative invigilation and disintegration of the opposition parties and movements. The UOP denied the allegations of its operative dealings against the opposition, nevertheless the notorious instruction was withdrawn after the revealing of its contents.

In December 1995, the then, acting Prime Minister, Józef Oleksy, was accused by minister of internal affairs, of being a secret agent of Russian foreign intelligence, codenamed "Olin". In the course of the subsequent investigation and parliamentary examination, it was revealed that almost all of the UOP commanding officers involved in the case were SB functionaries, and one of the acting UOP operatives was a notorious former MSW foreign intelligence agent.

In 1997, the newly formed post-communist government announced that in the in the years 1991–1997, a cell tasked with operative invigilation and disintegration of opposition parties and movements existed in the UOP, which recruited and handled agents, forged documents, and conducted disinformation campaigns. The leader of the cell, Jan Lesiak, was a former SB officer, engaged in high-profile operations against the opposition prior to 1990.

In 2006, the continuous rumours about the allegedly illegal and criminal activities of the WSI were met with a parliamentary motion to abolish the whole military security service and to form a new military intelligence and counterintelligence agencies from scratch. The subsequent examination of WSI dealings revealed, that the service was as inefficient as the counterintelligence agency, its officers were trained by Soviet intelligence and maintained highly suspicious contacts with Russian intelligence operatives, (the agency was involved in illegal international weapons trade and criminal dealings at home and overseas; the most significant case was the WSI involvement in the so-called Fundusz Obsługi Zadłużenia Zagranicznego/FOZZ affair, a massive fraud scheme concerning foreign debt handling agency), invigilation and disintegration of opposition parties, ran disinformation campaigns in the press by its agents. The leadership of the WSI consisted almost exclusively of former Zarząd II SG LWP and WSW officers.

Private security companies were the hideouts of dismissed former SB and MO functionaries. The general opinion on the sector, that such companies were necessary as police in the early 90s, was seen as inefficient, but the clandestine links of security contractors with the criminal underworld, the police and the secret services was seen as a threat to common security. However, the connections of security contractors seemed to be substantial

in some criminal cases, the presumptions of the ensuing major threats to the state's security appeared to be exaggerated.

The special services established in the first years of new Polish republic were to be reformed or even dismissed (as WSI), partially because of their limited capacity to protect national security. The reluctance of the first non-communist governments to radically abolish the communist security system, and to penalize its men, created a relative lack of resistance (as a communist apparatus was also in crisis), but resulted in serious impediments for the settlement of the crimes of the regime. In fact, in early 1990, communist crimes were not properly investigated and prosecuted. The communist security services' members even retained their pensions privileges (abolished partially in 2009, and on wider scale in 2016). The presence of the former SB functionaries in the new secret services caused significant – and well-founded doubts about the reliability of the service as institutions of a democratic state.

RECOMMENDATIONS

Recommendations are highly political in character. The dismissal of the secret services of the regime is always a serious risk to public order. Continued activity, superficially reforming, or simply not touching the old secret services is a serious threat for a democratic transition, and for transparency in public affairs and national security. The men of the former regime's security services may, and usually do, have clandestine connections, and loyalties to external powers (as in communist states, with USSR and other services), and the criminal underworld. The secret services are a segment of the state with efficient control of key national resources. On the other hand, the interruption of these activities, especially in the counterintelligence area, may be, although temporarily, harmful for national security. It should be noted that the real purpose of the regime's secret services was the protection of the regime itself, with profound detriment to the citizens and their fundamental rights. The former security services as a structure, and its members (although skilled in secret activities) are not fit to protect the democratic state and a sovereign nation. The painful and effort-consuming solution is to dismiss regime's secret services, and to build a national security services from scratch. The next step should be a systematic vetting and replacement of the military and police officers, as well as and NCOs, and a systematic vetting and replacement of the civil service (especially the foreign service).

A resolution of the former regime's security service problems is also a settlement of the former regime crimes. The relevant laws concerning criminal responsibility for the dealings of the former regime should also cover a strict examination and punishment of the former security service functionaries, with the extraordinary use of amnesty in exchange for vital evidence and a *common design* scheme for proving guilt.

Parliamentary supervision of the security services, although dependent, on the services' information and on camera acting, is an efficient and lawful measure for the control and examination of the actual dealings of security system.

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DISMANTLING THE STATE SECURITY APPARATUS

THE ROMANIAN SECRET SERVICES FROM 1948 TO 2016: PERFORMANCE, LEGALITY, TRANSPARENCY

ISTVÁN BANDI, STEFANO BOTTONI

ABOUT SOURCES

Writing about intelligence services is an extremely difficult scholarly challenge, as the researcher is bound by the professional and moral liability to avoid the accusation of bias. **Basic sources of such a work** might include secondary literature, and a vast amount of legally available online and offline sources like legal regulations pertaining to secret services as well as and the public annual reports that these organs submit to the Romanian parliament. In the case of present-day special services, operational files stored in the internal archives of every institution are not available for scholarly use. News, data and results of domestic or international research published in (or made available to) the media must be treated as different types of sources. A most valuable source for this work has been presented by transcripts and press accounts of penal lawsuits launched after 1989 in Romania, where the discrete involvement of special services has often unraveled to the public. Other useful source have been on the one hand the specialized offline “internal” bulletins produced and/or distributed by media outlets controlled by the secret services, and on the other hand those online platforms which have been created over the last years by individuals or groups linked to the assertive Romanian civil society, and whose main goal is to denounce the growing infiltration of the secret services into the Romanian political and societal life.¹

Managing and retaining secrets are one of the unavoidable consequences of intelligence activity, and an adequate degree of conspiracy is indispensable for the effective fulfillment of the special tasks assigned to intelligence bodies. At the same time, in modern democracies secret services operate in an equilibrium built on legality, compliance with human rights and the division of powers. Their performance is expected to be transparent and measurable. Secret services are a double-edged sword. They are necessary and useful, but may turn into a destructive weapon if they fall into the wrong hands, endangering both themselves and the public. In a democratic system they can prevent hazards and terrorist acts, contributing to protect the national interests of their countries. In a different historical situation or in a different social system, they will likely serve as an instrument of repression and deprivation of fundamental rights. In all cases, secret services must be subjected to societal control. What happened when such control rights were not assigned to the society? How and in what quality this control took shape? And how does this burdening legacy impact the effectiveness of Romanian special services today? These are the main questions this chapter will try to answer.

SECURITY SERVICES BETWEEN LEGALISM AND REPRESSION. A REVIEW OF ORGANIZATIONAL HISTORY FROM 1945 TO 1989

After the political turn of August 23, 1944, the new Romanian government initiated an intelligence cleansing at the intelligence level to remove those staff members who were known to be close to Nazi Germany. The first wave of reform affected **Department II of the Chiefs of Staff**, better known as *Bureau 2*, the military intelligence called *Special Intelligence Service – SSI (Serviciul Special de Informații)*², and the **General Security Unit (Siguranța Națională**, better known as *Siguranța*) which operated within the criminal police. The scope of their work encompassed **foreign intelligence, domestic intelligence and counter-intelligence**. The Police and the General Directorate of Security (*Siguranța*) had been particularly penetrated by Nazi sympathizers. Parallel to this, Soviet-backed communist infiltration began in the realm of protective structures. This trend intensified when Petru Groza’s pro-communist government took office on March 6, 1945. After a short transition period, the *Siguranța*, the General Directorate of Security, the Special Intelligence Service, the police and the gendarmerie were all taken over by the communists. Officers trained in the prewar were gradually replaced by a new staff, selected on the exclusive basis of political loyalty.

The political police, better known as, *Securitate* (first official name: **General Directorate of People’s Security – Direcția Generală a Securității Poporului – DGSP**) was established by Decree No. 221 of August 28, 1948 as the fruit of communist party efforts to set up a strong monitoring and repressive body. This organization was set up a meager eight months after the People’s Republic was proclaimed in Romania.³ *Securitate* exercised profound influence on the personal fate of millions of citizens over four decades. With a development curve far from being linear, the *Securitate* underwent ten reorganizations over this time, but its size and operative duties were always aligned to the political goals of the regime *Securitate* had been called to safeguard.

Securitate’s history in 1948–1989 can be divided into four distinctive periods lasting ten years each:

1 See the most active forums and information sources: www.contributors.ro, a pilot initiative of the *Societatea Online*; www.militiaspirituala.ro, the website of the *Asociația Mișcarea Civică Miliția Spirituală*; and www.romania-curata.ro, website of the civil network *Alianță pentru o Românie Curată*.

2 Special Intelligence Service.

3 The Republic was proclaimed on December 30, 1947.

1/ **1948–1958** were the learning years, the period of violent confrontation with the “enemies of the working class” when the foundation of the Securitate’s operational mood was laid down in terms of methods and tools applied. In the 1950, Securitate officers gained notorious fame as the dreaded Party’s fearful weapon. The organization suffered the highest number of reorganizations in this first period of “identity searching”. Accordingly, their name between September 1, 1948 and April 1, 1951 was **General Directorate of People’s Security (Direcția Generală a Securității Poporului – DGSP)**, then changed to **General Directorate of State Security (Direcția Generală a Securității Statului – DGSS)** between April 1, 1951 and September 20, 1952. From the latter date and resulting from the experimental application of the Soviet model, an independent **Ministry of State Security (Ministerul Securității Statului – MSS)** was launched. The new body soon proved not to be a viable structure. As a consequence, the MSS was merged into the Ministry of Interior on **September 7, 1953**, and the Securitate continued to operate within that ministry. Party leadership was almost constantly busy aligning the Securitate’s organization to the regime’s needs. The next reorganization attempt came in **1956** and aimed at improving Securitate’s operational efficiency. This move was closely tied with the endeavor to keep the repressive institution under the Party’s control and avoid scenarios in which it could become a tool of internal power struggles. In the favorable situation created by the de-Stalinization process, the fear that Gheorghiu-Dej could use Securitate for his own purposes spurred certain members of the Political Committee to desire a change. On 10 July 1956, the Ministry of Interior was reorganized into the Interior Department and the Security Department, removing the latter from the direct control of Alexandru Drăghici, a loyal follower of Dej. After the Hungarian revolution, however, the hardliner Drăghici gained back full control of the political police, and a second wave of massive state violence against all potential opponents started in March 1957.

2/ **1958–1968**: This period began with the withdrawal of Soviet troops from Romania in 1958, and ended in 1968, when a comprehensive reform of the security apparatus was implemented. On July 1967, Decree no 710/22 transformed Securitate into the **State Security Council (Consiliul Securității Statului – CSS)** within the Ministry of Interior Affairs. The State Security Department (**Departamentul Securității Statului – DSS**) was given the task “to coordinate, control and direct in a unified manner the efforts of security organizations aimed at preventing, uncovering and eliminating any and all activities against the security of the state”. The department was led by the State Security Council as a “decision-making organ” ensuring that the unit worked in compliance with the “principle of collective work and leadership”. The Council was led by a chairman who was also the first deputy of the interior minister. On April 3, 1968, this Council separated from the Ministry of Interior Affairs and functioned as a central body. The former Minister of Interior, Alexandru Drăghici, was dismissed, put under internal surveillance and expelled from the Party.

3/ **1968–1978**: Following the formal condemnation of the so called “authoritarian tendencies” of the 1950s, an attempt was made to modernize the institution by introducing modern standards in respect to human resources, logistics and work methods. Organizational changes took place in 1968; CSS was detached from the Ministry of Interior, and in 1972,

the Securitate rejoined the Ministry of Interior. Further steps were made in 1973, when a separate Foreign Intelligence Directorate (**Direcția de Informații Externe – DIE**) was established, and in 1978, when the formerly abolished DSS was recreated to better define the operative tasks of each unit and avoid overlaps. This ten-year period was also characterized by power struggles between the Romanian Communist Party (RCP) and the Securitate, and the Securitate’s operational work underwent a growing bureaucratization. of the Securitate’s operational organization could be detached. The defection of the Romanian intelligence deputy chief, general Ion Mihai Pacepa, inflicted a serious blow to the prestige of Securitate. The political leadership reacted by tightening control over the secret services.

4/ **1978–1989**: In the last decade of the communist regime the state security experienced a professional decadence that ran parallel to the bankruptcy of the whole system. Security tasks were increasingly neglected and day-to-day activities were overly politicized.⁴ Pursuant to Decree No. 121 of the State Council of April 8, 1978, the DSS came to be part of the Ministry of Interior and performed the ministry’s responsibilities in **protecting state security and in detecting and preventing crimes against state security**. Until as late as 1989, the DSS retained its structure established in 1978 in nearly unchanged form. Changes were limited to the addition of units specializing in counter-terrorism, and to the increased fight against financial crime.

COLLABORATION AND COLLABORATORS, THE SOCIAL EMBEDDING OF THE SECRET SERVICES

In the early period, Securitate employed a staff of approximately 4,000⁵ to fulfill its purpose as defined by the Romanian Communist Party. Owing to institutional reforms and to fulfill their role properly, the Securitate was transformed into a stand-alone ministry. In 1956, after the merger with the Interior Ministry, the headcount was 56,754. The number of those dismissed in the first wave of internal cleansings of 1956 equaled 25,139. In 1967, Securitate staff numbered 16,740 and apparently avoided major changes in subsequent decades, as the corresponding figure in 1989 hardly exceeded 15,000.

It is very important to point out that the Securitate was solidly embedded in society and in the overall state apparatus, as it could rely on such organs as the new Soviet-type Police (*Militia*), the Securitate Troops (*Comandamentul Trupelor de Securitate – CTS*), the Justice organization, the Law Enforcement Directorate, and last but not least, the Communist Party. Acting in close cooperation and built one on the other, these structures could successfully sustain the totalitarian regime. The Romanian communists who came into power with Soviet support, only managed to enforce total control over the gendarmerie in 1949. This force was converted into **Militia**, a military police unit with a staff of nearly 60,000. It must be noted that the rapid replacement of staff members with persons loyal to the Party was not easy.

4 Florian Banu, Liviu Țăranu, *Securitatea 1948–1989. Monografie. Vol I.*, București: CNSAS – Editura Cetatea de Scaun, 2016, 68.

5 Banu – Țăranu, *Securitate 1948–1989*, 62.

Therefore, even in the early 1950s, only 35,000 of the approved 52,000 jobs could be filled.

By the 1960s this headcount decreased to 30,000. The changes carried out in the late 1960s and in 1978 left the Militia's staff and organization unaffected, both in terms of headcount and organizational role. Cooperation with the Securitate was continual, as the Militia also performed information gathering tasks, especially in the rural environment. Militia joined in all repressive measures initiated or monitored by the Securitate, e.g. mass internment and forced relocations in the late 1940s and early 1950s. Later they took part in oppressing the miner riots in the Jiu Valley in 1977, and in breaking up the workers' anti-Ceaușescu protest in Brașov in 1987. Their role in sustaining the regime did not stop at mass measures. They also focused on and acted against specific individuals that could lead to the death of the person subjected to the proceedings.⁶

A similar role was assigned to and fulfilled by the Command of the Security Troops, a repressive body established in 1948 by reshaping the prewar Gendarmerie. As of the late 1940s, the aggregate number of staff for its central and regional organizations totaled to 64,000⁷. At first, the CTS was subordinated to the Interior Ministry, then after a number reorganization steps, border control was taken from them in 1960, and the number of staff was reduced to slightly over 23,000. At that time, the CTS reported to the Securitate. According to archive sources, their headcount remained nearly unchanged until 1989.⁸ This law enforcement body played a key role in supporting the regime. In the 1950s, CTS implemented campaigns of forced relocation and internal displacement of opponents and those classified as potential threats to the state security. CTS staff also guarded work camps and internment camps. After the consolidation of the 1960s, security troops actively participated in the violent repression of the aforementioned anti-regime protests.

JURISDICTION AS A SEPARATE UNIT WITHIN REGIME-SUSTAINING INSTITUTIONS

The Romanian Communist Party (RCP) implemented a Soviet-type power structure. In that model, the law enforcement organs of the state were transformed into “the fist of the people” and charged with the principal responsibility of “safeguarding the revolutionary gains of the people”. The same way, the communist party enchained the judicial system to gain full power. As with the Securitate, the institutional history of jurisdiction in communist Romania can be divided into two distinct periods: the first ending in the mid-1960s, and the second ending in 1989. In the first period, jurisdiction was under total political control, as shown by the fact that court rulings were appointed by the Political Committee of the RCP and the work of judges was supervised by party committees at courts.⁹ Pursuant to applicable laws, those convicted to death penalty due to acts against the state were not entitled to appeal until as late as 1956. Even then, appealing was only enabled formally in the name of “socialist legality”, since appeals were almost always rejected and the original verdict was carried out.¹⁰ Organic cooperation with the Securitate was also a result of follow-up investigations. In practice, the Securitate supervised information gathering by the political police at the courts.

Another form of depriving individuals from their rights was the implementation of mass administrative measures,

Year	Number of convicts
1950	6,635
1951	19,235
1952	24,826
1953	4,730
1954	5,073
1955	3,332
1956	2,357
1957	3,257
1958	6,362
1959	8,910
1960	1,711
1961	2,232
1962	657
1963	223
1964	240
1965	258
1966	294
1967	312
1968	20

Source: *Arhiva Consiliului Național pentru Studierea Arhivelor Securității, fond Documentar, Dosar 53, vol. 21, f. 76.*

legitimized by the dictatorship's jurisdiction either in advance – as “blank checks” – or retrospectively. For example, if the Securitate arrested someone without authorization from a prosecutor, the Securitate official involved in the case was made immune to any disciplinary action. What is more, as the legal status of justice agencies was transformed in the early 1950s and their involvement in sustaining the regime increased, prosecution was militarized and the organization was assigned unlimited power. It is not surprising that the Securitate and justice agencies worked hand in hand to present statistics proving their effectiveness in combating various “enemy” categories (wealthy peasants, clergymen, or the former aristocrats and state functionaries in the pre-1944 period). They acted so on political impulse, but also on their own initiative, serving target achievement motivations by boosting penalty statistics by declaring people guilty in advance.

The time of mass repression was followed in the late 1960s by the introduction of more sophisticated investigative tools and working procedures. The Securitate employed less and less violent operational methods to keep society under control.¹¹

6 Banu – Țăranu, *Securitate 1948–1989*, 371. In 1985, engineer Gheorghe Ursu was interrogated and died in the prison hospital of Jilava later in the year.

7 90 % of that staff comprised enlisted soldiers.

8 See Florica Dobre, Florian Banu, Cornelia Duica, Silviu B. Moldovan, Liviu Țăranu, eds., *Trupele de Securitate (1949–1989)*, București: Editura Nemira, 2004.

9 Mircea Chiritoiu, “Rolul Biroului Politic al PMR în instrumentarea proceselor politice din România anilor 1949–1953”, in *Analele Sighet 7*, București: Fundația Academia Civică, 1999, 288–292.

10 Banu – Țăranu, *Securitate 1948–1989*, 390.

11 This did not mean, however, that life-threatening methods disappeared. Lethal actions of Romanian secret services abroad against emigrated persons are a good illustration of that. The use of terrorists for carrying out penalties remained acceptable for the regime, as shown in the 1981 Munich attack by international terrorist Carlos and his associates against the Romanian section of Radio Free Europe. See Liviu Tofan, *Șacalul Securității: Teroristul Carlos în solda spionajului românesc*, Iași: Polirom, 2013. Other evidence of the ruling regime's double game was the Haiducu case. ►

Similarly, the disguised deprivation of rights became dominant in judicial proceedings as well. Keeping the interests of the working class in focus remained an ideological guideline, except that while in earlier times it was the usual business for Securitate and the Militia to imprison fellow citizens; under Ceaușescu the justice system was brought aboard to create the impression of “socialist legality”. The reassignment of criminal acts into a different legal category continued to enable repression. Attempts to overthrow the political order and counter-revolutionary acts, financial crimes and criminal acts against public property all became politicized.¹² Measures of mass repression did not disappear as the Securitate continued to identify and process data on “dangerous truants” or “parasites” as they were called in authority parlance at the time, then the Militia would arrest these individuals. According to reports, Amnesty International was aware of 5,800 imprisoned individuals as of 1982.¹³

The **system of prison institutions** is another key area to mention when analyzing the history of the secret services. When these institutions were subordinated to the DGSP in 1949, they actually underwent comprehensive operational transformation. Counter-espionage, intelligence and reconnaissance are professional areas where officers must be subject to supervision. Political inmates were confined at special locations, and many of them were forced to undergo the Soviet educational theorist Anton Makenko’s method of brutal psychological reeducation at prisons in Pitești, and two other sites, as well as at Danube-Black Sea Canal labor camps. This was done in an effort to obliterate the former identities of the young, suspected right-wing extremists (“total psychological exposure”) as the first step toward their adaptation to the desired new ideology (“metamorphosis”). This system of reeducation was abruptly discontinued in the autumn of 1952, and some of the guards at the prisons where it was utilized were brought to trial and condemned to death. Many of those who had been exposed to the experiment either committed suicide or became insane following their release from prison. In prison institutions, the Securitate’s presence was continual via the Investigation Directorate. Its impact on society was also evident throughout the network of undercover agents.

THE SECURITATE’S RELATIONSHIP TO THE PARTY: EMBEDDEDNESS AND CONFLICTS

The relationship between the communist party and secret services was solid from 1945 all the way to 1989. Yet the relationship can be divided into phases based on changes in its quality. In the time of the political transition to total power, the previously, top quality, secret service was transformed along a Soviet Stalinist model. The former national structures were dismantled with the help of purification committees and leaders were selected on the basis of political loyalty. Already in the early 1950s, only 400 of the 10,000 security officers were not members of the party or its youth organization.¹⁴ The new role of protecting the People’s Republic and its institutions against domestic and foreign enemies not only appeared in the name but also in the statutes of the security service established in 1948 (**General Directorate of People’s Security – Direcția Generală a Securității Poporului – DGSP**). Control by the party was already present in the secret service from 1949 in the form of a political directorate. Special services had their own party committees in place that reported directly to the Central Committee of the Party. Regional and

county-level units worked in close cooperation with Securitate branches. Securitate was not obliged to report on its own activities, but regularly briefed local party bosses on the operative situation on the ground.

In addition to the party committees operating in the services, control by the party was also enforced through the human resources directorate and the training directorate. The former ensured proper selection while the latter made sure to keep staff members properly politically educated. Regarding both pre-1964 (Soviet-trained), and post-1964 (national-minded) Securitate, it remains a disputed issue whether the Securitate was under collective party control, or it mostly dependent on a single individual.¹⁵

When Nicolae Ceaușescu came into power in 1965, the relations between the Party and the Securitate changed as well. The party general secretary personally supervised the intelligence, and Securitate was increasingly directed by the RPC Political Committee via the State Security Council. By the mid-1970s, it became a routine for local and regional parties to supervise the Securitate’s operative work. A rather illustrative example of the party’s influence is the composition of the enrollment committee that interviewed would-be professional officers: the party delegated five members, and the concerned organizational unit of the services delegated one professional member. Party control over interior ministry organs was further strengthened by the fact that Nicu Ceaușescu, from the mid-seventies, the son of the general secretary was a member of the Interior Ministry’s Political Committee, as Secretary of the Central Committee of the Union of Communist Youth. Still, even such forced ideological and party control proved insufficient to induce full ideological commitment in the Securitate staff; as the 1989 revolution would have demonstrated.

VIOLATIONS OF LAW BY COMMUNIST SECRET SERVICES BASED ON COMMUNIST LEGAL PROVISIONS

The following overview provides some examples of the systematic violation of law committed by the security services and the law enforcement against Romanian citizens between 1945 and 1989.

1/ Abuse of power based on Decree 221/1948. This decree ordered that only professional state security officers are entitled to act in “investigating criminal acts that endanger the democratic political system and the security of the people”. Based on

► Haiducu was a dormant Securitate agent who attempted to assassinate intellectuals living in Paris in the early 1980s. The assassinations were ordered by Romania and targeted Virgil Tănase and Paul Goma. See Liviu Tofan, *A patra ipoteză. Ancheta despre o uluitoare afacere de spionaj*, Iași: Polirom, 2013.

12 Banu – Țăranu, *Securitate 1948–1989*, 384–398.

13 Octavian Roske, ed. *Romania 1945–1989. Enciclopedia regimului comunist. Represiunea P-R*, București: Institutul Național pentru Studiul Totalitarismului, 2016.

14 Source: Arhiva Națională Consiliului Național pentru Studierea Arhivelor Securității (ACNSAS), Fond Documentar, dosar 199, f. 89. Quoted in Banu – Țăranu, *Securitate 1948–1989*, 282.

15 Marius Oprea, *Banalitatea răului. O istorie Securității în documente 1949–1989*, Iași: Polirom, 2002, 359. According to Oprea, minister of Interior Drăghici was the grey eminence behind Gheorghiu-Dej and in that capacity he performed direct control over the security services.

this elastic legal background, individuals who were deported, sent to work camps, subjected to forced relocation or show trials all belong to the victims. This legal provision opened the way to deprive them of their rights as an alleged enemy of the state. The notion of “enemy” was given by those in power, and included the members of historical parties, the former leaders of law enforcement organizations, defense forces and public administration, church leaders, church personnel and priests of various denominations, and ethnic minorities.

2/ In the mid-1950s, on the borderline of historical eras, just when the grip of the regime became looser, Council of Ministers Resolution 337/1954 set out provisions on designating new places of residence for those released from forced relocation or deportation. National Assembly Decree 89/1958 authorized the Securitate to designate mandatory job positions for those who may have committed crimes but did not endanger the political order. Securitate Troops and Militia also took part in carrying out these violations as both organizations were part of the Interior Ministry.

3/ In the Ceaușescu era, the legal framework pertaining to the Securitate reworded the organization’s objectives. However, these changes were only rhetoric in nature and did not impact the substance of the contents. According to State Council Decree 295/1968, the primary task of the services was to “detect, prevent and eliminate any hostile activity against the state and the social system”. In fact these authorities acted in defense of the dictatorship when carrying out investigations, when identifying individuals who acted against the socialist order of society. A record was kept of these individuals, using preventive network methods, by checking their correspondence, eavesdropping on them and employing similar methods. Another preventive measure was the separation (by way of isolation or defamation) of the person concerned from his living and work environment. Secret actions were taken to expel the individual from his job, or from the settlement he was living in.

Violations committed by the various security agencies on the grounds of maintaining socialist social order took place in high quantity and in diverse forms. It must be stressed that violations of communist legal system took place on a daily basis by law enforcement, e.g. although the Constitutions of 1948, 1952 and 1965 guaranteed the secrecy of correspondence and telephone conversations, these rules were transgressed in mass quantity. The authorities were free to commit such violations as the legal provisions pertaining to their operations (i.e. decrees 221/1948, 295/1968 and 121/1978) simply did not regulate the specific order of secret service procedures and the application of the related methods. However, the Securitate’s internal rules of procedures, commands and directives provided accurate instructions to staff on how the aforementioned operational methods must be used. In fact this in itself could be a violations. The unlimited use of other specific secret service means (secret intrusion, eavesdropping, filming or photographing, etc.) rested on the same controversial legal background, comprising contradictory decrees and internal regulations.¹⁶ The cases mentioned above were unlawful even by the legal standards of the era. Thus after 1989, the institutions assigned to scrutinize the communist repression machine also needed to investigate whether the professional staff of the law enforcement organizations, at the time, violated constitutional and/or fundamental human rights. Often the one-time officers of organizations that served the communist dictatorship use this very legal paradox in their own defense, stating that they only

fulfilled orders. They also argue that the officers of the special services of the era carried out professional duties and that the political leaders of the dictatorship are liable for mass deprivation of rights and excesses.¹⁷

The extremely high figures referring to those surveilled and as secret *informants* (or “agents”, according to the Romanian terminology of *agenți*), resident agents, or “home managers”, must be placed into the context of the deep embeddedness of the secret services in the communist (and post-communist) Romanian society. In the late 1940s, the number of agents exceeded 42,000,¹⁸ while in 1951 the persons targeted were above 460,000; that is to say almost 5 % of the overall adult population.¹⁹ Until the comprehensive reorganization in 1968, “enemy categories” underwent several changes. The Interior Ministry command 155/1959 extended the scope of enemies to be monitored and recorded, subjecting entire groups and segments of society to operational surveillance, monitoring and, inevitably, record keeping. In 1965, records were kept of 560,000 individuals²⁰ while the number of collaborators reached 119,000²¹ by 1967. The record keeping system was put through a revision in the late 1960s, when a more permissive redefinition of the concept of “enemy” paved the way for a sharp decrease of both monitored individuals and collaborators. According to archive sources, 84,000 collaborators were known in 1968, then their number moved upward in the 1970s and 263,000 collaborators were kept on record in 1986.²² The same figure reached to 486,000 in 1989, on the eve of the regime change. Monitored individuals decreased to 51,000 by the mid-1970s, then figures took an upward turn, with more than 110,000 persons being subject to active surveillance in 1989.²³ As recollected by a senior officer of the Securitate’s 1st Directorate (counter-intelligence), the number of collaborators was 100,000 per year.²⁴ This figure is not contradictory to the data mentioned by archive professionals, since it is not clear yet whether the number of collaborators was calculated from Securitate records, and if both active and inactive, but not yet deleted, collaborators were counted.²⁵

16 Vasile Malureanu, *Apararea ordinii constituționale. Perspectiva unui ofțer de informații*, București: Editura Paco, 2016, 80.

17 Malureanu, *Apararea ordinii constituționale*, 84. Several members of the ACMRR din SRI (Society of Reservist and Retired Officers of the Romanian Intelligence Service), including the aforementioned Malureanu, Filip Teodorescu and others strongly argue that the liability of the dictatorship should be separated from the activities of special services. These views were published in the volume *Un risc asumat*, București: Editura Viitorul Românesc, 1992), and in the publication *Adevăruri evidente*, issued by the ACMRR-SRI for the 25th anniversary of the SRI in 2015.

18 Cristina Anisescu, “Dinamica de structură și rol a rețelei informative în perioada 1948–1989”, in AAVV, *Arhivele Securității*, vol. I. București: Editura Pro Historia, 2002, 10–40; see also Dennis Deletant, *Teroarea comunistă în România*, Iași: Polirom, 2001, 101.

19 *SRI – Cartea Albă a Securității*, vol. II. *Categoriile de persoane supravegheate*, București: Editura Presa Românească, 1994, 45.

20 *SRI – Cartea Albă a Securității*, vol. III. *Schimbări în structura de personal, direcțiile și conținutul activității organelor de securitate*, București: Editura Presa Românească, 1994, 34.

21 Anisescu, “Dinamica”, 28.

22 Anisescu, “Dinamica”, 35. The same data were communicated to Constantin Titu Dumitrescu and the Romanian Senate Committee investigating abuses committed by the Securitate by the SRI, on January 4, 1994.

23 Malureanu, *Apararea ordinii constituționale*, 115.

24 Malureanu, *Apararea ordinii constituționale*, 151.

25 Passive staff means dormant agent. Different categories are represented by those who passed away and were not yet deleted from the records and those who remained in the records due to other reasons (e.g. intelligence opportunities disappeared).

IMPACT OF 1989 ON THE NEW/ OLD SECRET SERVICES

The key expectation of Ceaușescu and the political elite regarding the Securitate was to detect, prevent and terminate attempts to overthrow the regime. In the petrified state staff of the late 1980s, the Securitate was the most efficient part. The secret service gathered excellent intelligence and informed Ceaușescu of the most relevant international developments.²⁶ The Romanian president was informed timely of the Gorbachev–Bush meeting to be held in Malta on December 2–3. The position paper contained details on the possible negative outcome of the talks for the Romanian regime, and took for granted the unverified information that the two leaders reached an agreement on Romania.²⁷ But his behavior at his last visit to Moscow on December 4²⁸ was just as anachronistic as his strategic responses to the rapid changes throughout the region.²⁹ By 1989, Ceaușescu's departure from reality had been realized for a long time by the American secret services. As described in the chapter devoted to the transformation of the Romanian political system after 1989, even if the United States and their allies did not take part in the overthrow of the Ceaușescu regime, they had longtime identified a new potential leadership under the guidance of Ion Iliescu.³⁰

Neither senior political leaders, i.e. the RCP Central Committee,³¹ nor the Securitate turned against Ceaușescu in organized form until his attempted escape on December 22, 1989.³² Securitate's senior officials placed themselves under the command of the Defense Minister who arbitrarily took power. The most effective and highest ranking secret service units, the Counter-Terrorism Special Unit – *Unitatea Specială de Luptă Antiteroristă*, (USLA), and the Command of the Securitate Troops (*Comandamentul Trupelor de Securitate*, CTS) followed suit; during the night of December 22 to 23, they placed themselves under direct army control. A CFSN statement aired on Romanian state television early in the morning of December 23, 1989 solemnly declared: “The Armed Forces and the Securitate will work in full cooperation to ensure the country's stability and the well-being of citizens.”³³ Secret services by nature tried to defend themselves as institutions. The leadership of Securitate reportedly acted in this manner when it issued a central briefing to the regional units in November 1989, informing them that the dictator could fall from power or even die in the near future, and events should be expected that may involve clashes between the army and demonstrators.³⁴ To prepare their staff for such situations, high-ranking DSS officials commanded that the Securitate shall not intervene forcefully in anti-Ceaușescu demonstrations.³⁵ Ceaușescu's secret service did not take open action against the dictator and according to certain accounts, this behavior originated in the servile attitude and incompetence of the party's puppets working in the management of secret services.³⁶ At the same time, this calculated passivity enabled a significant portion of staff to keep their function after the regime change. According to an East-German intelligence report, as early as September 1988, NATO assigned the Securitate's staff into three distinct groups. The first included high-ranking leaders put in position solely by the dictator's grace, thus their loyalty was beyond doubt. The second category was the largest in number, comprising staff members who approached their duties as a profession. What this meant is political views were less decisive for them, thus they would have performed similar professional tasks in a different political regime as well. The last group included mostly younger professional officers who

were only interested in building their careers and therefore did not criticize the leadership at the time at all.³⁷

The recollections of Iulian Vlad, Securitate's last commander-in-chief, draw up the image of a competitive organization and a leadership that recognized the opportunity to protect the organization through inactivity. In 1989 Securitate purposely restricted its range of work to informing duties, with the clear goal of preserving its organizational capacity throughout the regime change. The spirit of these recollections cannot be incidental, as they credit the thesis that Securitate's benign neglect gave a decisive help to the revolution.³⁸ A quite different picture takes shape from the recollection of Virgil Măgureanu, the first director of internal counterespionage (*Serviciul Român de Informații*, SRI) after 1989. According to Măgureanu, communist special services did not have a single, harmonized plan to manage the situation during the revolutionary events of 1989. Nevertheless, he could recall several individual cases that took place before the regime's fall and involved escapes and hiding.³⁹

After the 1989 revolution, the presence of secret service leaders in the Ministry of Defense and in the new leadership of the army proved to be insufficient for eliminating misunderstandings and conflicts between military units and the CTS.⁴⁰ Transparency and

26 In a classified report no. 0075/1989 dated December 1, 1989, the DSS informed Ceaușescu that spheres of influence would be discussed at the meeting between the two great powers. Cristian Troncotă, *Duplicitățile. O istorie a Serviciilor de Informații și Securitate ale regimului comunist din România*, București: Editura Elion, 2003, 207–208.

27 See an accurate transcription of minutes at the digital repository of the National Security Archive: <https://nsaarchive.gwu.edu/NSAEBB/NSAEBB298/Document10.pdf> (accessed July 11, 2017).

28 At this meeting, Ceaușescu expressed strong support of a maverick stand and seriously overestimated his own international role by voicing proposals to other Warsaw Pact countries regarding what they should do regarding the withdrawal of Soviet troops. The rigidity of his arguing and thinking is well described in Vasile Buga, *Sub lupă Moscova: politica externă a României 1965–1989*, București: INST, 2015.

29 Adam Burakowski, *Dictatura lui Nicolae Ceaușescu 1965–1989. Geniul Carpaților*, Bucharest: Polirom, 2016 (2nd ed.), 385–400, discusses in detail the reasons of Ceaușescu's fall.

30 The CIA considered Ion Iliescu a potential rival already in the early 1980s. According to the intelligence assessment of March 1982 titled *Unrest in Romania: Causes and Implications*, Ion Iliescu “would be an important figure in a post-Ceaușescu leadership”. See <https://www.cia.gov/library/readingroom/document/cia-rdp83b00228r000100070004-7>, 16 (accessed July 12, 2017).

31 According to Burakowski, Ceaușescu formally resigned in front of the party's Executive Committee, but all the presents assured the leader of their full support. Burakowski, *Dictatura*, 411.

32 Virgil Măgureanu, Alex Mihai Stoenescu, *De la regimul comunist la regimul Iliescu*. București: Editura RAO, 2008, 118.

33 Alesandru Duțu, *Revoluția din Decembrie 1989. Cronologie*, Craiova: Editura Sitech, 2010, 209.

34 Șerban Sandulescu, *Decembrie '89. Lovitura de stat a confiscat Revoluția Română*, București: Editura Omega Ziua Press, 1996, 246–282. Colonel Dumitru Rășină, chief of Securitate of Arad county, recalled that at a briefing held in the Brașov regional unit, higher officers mentioned that Ceaușescu would be dead within three months.

35 Troncotă, *Duplicitățile*, 165.

36 Ionel Gal, *Rățiune și represii în Ministerul de Interne 1965–1989*, vol. I., Iași: Editura Domino, 2001, 150.

37 Stejărel Olaru, Georg Herbstritt, *Stasi și Securitatea*, București: Editura Humanitas, 2005, 400.

38 Troncotă, *Duplicitățile*, 230.

39 Măgureanu – Stoenescu, *De la regimul*, 56.

40 Florica Dobre et al., (ed.), *Trupele de Securitate*, București: CNSAS – Nemira, 2004, 621. Summary Report of April 1990 – Threatening Actions by the 4th Romanian Army against CTS Dormitories.

disinformation often took victims on both sides. One specific case involved the slaughtering of a USLA squad on the night of December 23 to 24. This case is a good illustration of how power groups made use of the revolutionary situation in repositioning themselves, and that secret services were losing the related power struggles against the army.

The first political organ of the new political regime was the Ion Iliescu-led Council of the National Salvation Front (*Consiliul Frontului Salvării Naționale*, CFSN). Decree 4 on December 26, 1989 reassigned the Securitate under the Ministry of Defense.⁴¹ With this decision, the new Romanian government closed the Securitate's history and launched the establishment of a new secret service structure. The final termination of the Securitate organization was brought on by Statutory Provision 33 on December 30, 1989. Upon termination, the organization comprised 15,322 individuals, including 10,114 officers, 3,179 deputy officers and 1,288 civil employees. This staff included county and central organizations, and naturally covered institutions as well. The leader was Major-General Iulian Vlad in the capacity of State Secretary of the Interior Ministry.⁴² On December 31, 1989, the last Securitate chief Iulian Vlad was arrested, and deputy prime-minister Gelu Voican Voiculescu was assigned as temporary chief of the civilian secret service.

In summary, the former leaders of secret services seemed to have adequately assessed the complex situation posed by the 1989 revolution. Out of the various tactical options arising from the complexity of the situation, they chose the one that seemed to promise the most benefits in the short run.

TRANSITION TO A NEW INTELLIGENCE STRUCTURE

The interim leader of the civilian secret service, Gelu Voican Voiculescu guaranteed the protection of former secret service staff members⁴³, and the National Security Committee (*Consiliul Siguranței Naționale*) was to be the new governing body. The opportunities conveyed by the dismantling of the former organization raised interest from several professional groups and organizations. The military counterintelligence (*Direcția de Informații ale Armatei*, DIA) planned to take over the Securitate's intelligence organization and counter-espionage functions, while Măgureanu was planning the creation of a mammoth-sized secret service by merging the former internal counterintelligence and foreign intelligence departments into a single body. Finally, a long-time intelligence officer with broad Soviet connections, Mihai Caraman emerged as the winner. In January 1990, after visiting both the CFSN and the Ministry of Defense, Caraman began to organize a new intelligence service in his capacity as state secretary and Defense deputy minister.⁴⁴ The resurfacing of this renowned intelligence officer of the 1960s and especially his reactivation of old-time cadres dismissed by the former leaders did not seem like forward-looking measures. The logistical and administrative staff of the renewed organization was oversized and created room for a patron-and-client system.⁴⁵ Pursuant to CFSN Decree 111, on February 8, 1990 the foreign intelligence suffered a major internal reorganization. Army control would be terminated at the end of the year, when legislators adopted Act 39/1990 on establishing a stand-alone foreign intelligence service (*Serviciul de Informații Externe*, SIE). The new organization was placed under the supervision of the Romanian Supreme Defense Council (*Consiliul Suprem*

de Apărare a Țării, CSAȚ), and Mihai Caraman was confirmed in the position he would fill until April 1992. Systemic reforms did indeed not take place in the early 1990s, and the SIE remained overly centralized and managed by hands-on control.⁴⁶ Due to incessant warnings from the Romanian civil organization and international human rights organizations, and on the explicit request of NATO secretary general Manfred Wörner, the alleged former Soviet spy Mihai Caraman resigned as SIE leader in 1992. His fall opened the way for another old professional to emerge. Ioan Talpeș, a former staff member of the military, also served as president Iliescu's national security and police advisor, holding a deputy minister rank. Under his guidance, the SIE began to align with the Western secret services. To gain the confidence of his Western partners, the new director regularly fulfilled US requests to share classified information on the network of undercover officers.⁴⁷

In early 1990, the military got possession of an unbelievable amount of information when screening tens of thousands of secret service officers and confiscating their archived operational files. At the same time, the left-wing post-communist government felt the need for a totally new and politically committed secret service. Pursuant to a new informative body was established in 1990 under the denomination of Service Protecting Facilities of Public Interest (*Serviciul pentru Paza Obiectivelor de Interes Public*). The creation of the special military organ coded Military Unit 0215 (UM 0215) was assisted by such big names of the former Securitate as Nicolae Doicaru; the UM 0215 reported directly to the Interior Ministry. Its staff included officers from the former Bucharest Securitate Branch (*Securitatea Municipiului București*, SMB) and from one of the most influential, albeit less known secret service in post-communist Romania has been the General Directorate for Intelligence and Internal Protection (in Romanian, *Direcția Generală de Informații și Protecție Internă*, DGIPI), subordinated to the Ministry of Administration and Interior. Thus, it is the secret service of the Ministry of Interior. DGIPI was established in 1990 upon CFSN Decree No. 100, from the branch of the Securitate covering Bucharest, and the former IV Directorate of the communist secret police, and military counter-information. DGIPI turned into the UM 0215 ("two and a quarter," in the popular parlance of the 1990s), then transformed into the Special Directorate of Intelligence of the Ministry of Interior. Then, in 1998, it was turned into the General Directorate for Intelligence and Internal Protection (DGIPI) subordinated to the Ministry of Administration and Interior.⁴⁸

The Militia organization was officially dissolved and its remnants reorganized into a new civil security, the Police, an organization also seeking to assume specialized law enforcement tasks. In the period reviewed, the Police organization was chaotic.⁴⁹

41 *Monitorul Oficial al României* (the Romanian Official Gazette) published the decree concerned in Issue 5, Year 1, dated December 27, 1989.

42 Herbstritt - Oлару, *Stasi*, 436-437.

43 Marius Oprea, *Moștenitorii Securității*, București: Humanitas, 2004, 98.

44 Gheorghe Dragomir, *Recviem pentru spioni*. Vol. 1, București: Editura România în lume, 2006, 355.

45 Dragomir, *Recviem*, 356.

46 Măgureanu - Stoenescu, *De la regimul*, 253.

47 Măgureanu - Stoenescu, *De la regimul*, 10.

48 On the role of DGIPI see the informative study of Elena Dragomir, *The Romanian Secret Services, Politics and the Media: a Structural Overview*, <http://www.balkananalysis.com/romania/2011/04/20/the-romanian-secret-services-politics-and-the-media-a-structural-overview/> (accessed July 10, 2017).

49 Alex Mihai Stoenescu, *Din culisele luptei pentru putere (1989-1990)*. *Prima guvernare Petre Roman*, București: Editura RAO 2006, 469.

Operational continuity with the communist Militia was gained by former work schemes like the infamous anti-hooliganism and “anti-parasitism” raids, or the clearly undemocratic stance of the special unit charged with monitoring opposition political parties. Even if this latter unit was dissolved after the first Mineriad of June 13–15, 1990, the exact role played by its staff during the tragic events that led to the death of several dozen people remains unclear.⁵⁰ In the early post-communist period, the new/old secret services gravitating around the two power centers (the President and the Prime minister), who were in strong competition and put considerable efforts in their reciprocal weakening and defamation.⁵¹

The formal establishment of new, internal, counterintelligence became urgent to Iliescu after several ethnic clashes between Romanians and Hungarians in the Transylvanian city of Târgu Mureș claimed several casualties in March 1990, and put Romania in a negative focus in the international press.⁵² Dated March 28, 1990, Decree 181 of the Interim Council of National Unity established the, already mentioned, SRI as Romania’s new counter-espionage organ. The new organization under the leadership of former university professor Virgil Măgureanu was first put to the test during the bloody Mineriad of June. The SRI’s partial intervention in support of the government⁵³ raises serious questions about the professionalism of counter-espionage at the time and about their role in establishing the rule of law. During the Măgureanu era, which lasted until 1997, the staff members taken over from the Securitate were rotated within the organization on an ongoing basis. This scheme prevented the return of past practices at a systemic level. At the same time, the change of staff could only take place gradually, as young, trained professionals were not available in sufficient quantity and quality. Further the SRI treated staff mobility extremely flexibly. This approach made it easier for staff members who got their jobs as protégées of the Ministry of Defense to leave the SRI.⁵⁴ The pre-1989 heritage was a heavy burden in terms of human resources. Old-style officers could hinder the execution of orders and were able to compromise specific operations.⁵⁵ The community of post-1989 special services in Romania was further expanded with institutions that were responsible for various areas: the Guard and Protection Service (*Serviciul de Protecție și Pază*, SPP), the Special Telecommunication Service (*Serviciul de Telecomunicații Speciale*, STS), and the Independent Service for Defense and Anti-Corruption (*Serviciul Independent de Protecție și Anticorupție*, SIPA), the latter being placed within the Ministry of Justice.

The Guard and Protection Service originated from a small personal protection unit the military leadership decided to set up immediately after the 1989 revolution. The task of the four officers involved in the original project was to provide physical security to the provisional political leadership in turbulent times. The SPP was later legalized by Decree 204 of May 7, 1990 passed by the Interim Council of National Unity. In the new structure, the primary task of this unit was to protect the President, the Prime minister, and high-ranking Romanian and foreign officials. The Supreme Defense Council gave the structure the name Guard and Protection Service on November 15, 1990, and the SPP became formally independent by the National Security Act 51 of July 21, 1991.

In the 1990s, this special service organization was confronted several times⁵⁶ with the fact that many of its staff members used to serve in the former Securitate’s Fifth Directorate or Security Directorate. The STS (Special Telecommunication Service) was

set up pursuant to the December 18, 1992 resolution of the Supreme Defense Council. In fact, they were built on the former DSS organization, the Securitate’s “R” Unit or Special Unit. From an organizational viewpoint, they could only gain full separation from the Ministry of Defense based on Government Decree 229 of May 23, 1993. This decree was the first legal provision that defined the STS organization and its operational framework as a stand-alone agency. They only achieved independence pursuant to Act 92/1996.

The military intelligence of the Defense Ministry preserved its original pre-1989 structure until February 1991. Even then, only its name was changed to *Direcție de Cercetare a Armatei*, i.e. Military Reconnaissance Directorate. This name was soon changed to Military Information (*Direcția Informații Militare*, DIM) in September 1993. Parallel to this, pursuant to Ministerial Order 41, the Counter-Espionage Directorate was established beginning in May 14, 1990. The Directorate reported to the minister of Defense. General Victor Negulescu was appointed to lead the organization. Negulescu had an operational past as Romania’s military attaché to Rome in the late 1980s.

EFFICIENCY AT ROMANIA’S SPECIAL SERVICES

During Ion Iliescu’s rule from 1990 to 1996, both Romania’s society and thus its secret services were characterized by the work ethic and everyday practices of the previous era. Non state-owned media outlets in Romania were not powerful enough in the early 1990s, thus only foreign publicity could exercise influence on the political leaders. According to several trustfully accounts, a remarkable number of former Securitate higher officers were hired by the new security services.⁵⁷ Both the 1991 Constitution, and 14/1992 Act on the SRI’s operational code declared that special services must operate in a politically neutral manner. This was not the case during the Măgureanu years.⁵⁸

50 Oprea, *Moștenitorii Securității*, 109–110.

51 Dragomir, *Recviem*, 359.

52 Măgureanu – Stoenescu, *De la regimul*, 167, and *Monografia SRI 1990–2015*, Bucharest: Editura RAO, 2015, 68. The official history of the post-1990 internal secret service represents an excellent, albeit not independent source to understand the transformations SRI underwent through the last 25 years.

53 Institutul Revoluției Române din Decembrie 1989 (IRRD), *Caietele Revoluției*, 2010, no. 4–5, 35–85. Memoirs of former Chief of Staff gen. Mircea Chelaru, head of SRI counter-espionage after the 1989 revolution claim that the SRI intervened in support of president Iliescu during the events of June 1990.

54 Mihai Pelin, *Trecutul nu se prescrie. SIE&SRI*, București: Editura Kullusys, 2004, 11.

55 Ștefan Dinu, *Condamnat la discreție*, Bucharest: Editura Neverland, 2009, 291.

56 Sorin Ghica, “Cele mai mari dosare de corupție din anii ‘90”, *Adevărul*, August 6, 2015: http://adevarul.ro/news/eveniment/cele-mai-maridosare-coruptie-anii-90-1_55c35a24f5eaafab2c4ec4f6/index.html (accessed July 14, 2017).

57 See Vlad Stoicescu and Liviana Rotaru, “Doi si-un sfert din adevar: Toti oamenii presedintelui”, *Evenimentul Zilei*, June 16, 2010: <http://www.evz.ro/detalii/stiri/doi-si-un-sfert-din-adevar-totii-oamenii-presedintelui-898231.html> (accessed July 12, 2017). The authors mention that at the UM 0215, subsequently DGPI, out of the total staff of 275 (as of June 1990), 178 were members of the Securitate Fourth Directorate. The article also discusses routines in the pre-1989 era that still characterized the UM 0215 in the 1990s.

58 The role of Măgureanu as SRI leader in the Mineriards of the 1990s is currently investigated in an ongoing lawsuit as it as July 2017.

Not incidentally, in 1997, the NATO Security Office launched the first institutional partnership in Romania, not with SRI, but with the more flexible SIE, the civilian foreign intelligence. SRI, SPP and Army officers were often involved in corruption cases.⁵⁹ The most astonishing for its international implication was probably the Jimbolia affair. During the 1990s, Romania broke the UN embargo against Yugoslavia, as people with decision-making power such as SRI-chief Măgureanu, and the minister of Transportation Aurel Novac organized an illegal network through which 1,107 wagons of gas and diesel gas were smuggled to Yugoslavia from the border locality of Jimbolia. The huge profit was used to finance the government party before the 1996 elections that President Iliescu would lose despite all attempts at keeping power.⁶⁰ The 1996 elections represented a landmark in the Romanian post-communist transition. The new president Emil Constantinescu quickly replaced the longstanding chief commanders of the SRI and SIE, Măgureanu and Talpeș, both loyal to Iliescu, with more palatable figures from within the security system. These changes alone did not help Romania's accession to NATO, but they did indicate the country openness to Europe and its endeavor to unite with the European Union and NATO. The new element in the changes at the helms of special services was the appearance of people who had a new worldview regarding politics. In fact, a new deputy director was appointed at each organization, including the STS. Traditionally, the position in question is that of the manager responsible for operations. In most cases when a new person took this job, he was not a professional expert. President Emil Constantinescu claimed in 2009 that he reformed the special services on his own decision and based on his actual mandate when he replaced 38 generals with managers who had never joined the former Securitate.⁶¹ Still, true reform focusing on professional matters did not take place. Both the SRI leader and the SIE leader prepared materials that enabled compatibility with NATO, but their institutional implementation never started. In 2000, Iliescu was again appointed president for a third mandate. Key positions were filled again with members of the pre-1989 era Securitate.⁶² Further, counter-terrorism also changed after the 2001 terrorist attacks. In the early 2000s, the SRI and SIE made considerable efforts to prove their NATO compatibility. The Parliament adopted Romania's Second National Security strategy and the Supreme Protection Council enacted new operational rules. Both institutions actively pursued cooperation with foreign counterparts, including NATO's Office of Security, the partner services of NATO member states, and transnational security agencies such as INTERPOL and EUROPOL. The SRI started to take the lead in the fight against terrorism and also against internal corruption.⁶³ In April 2002, Romania hosted the first joint meeting of NATO and NATO candidate services, and in May 2002, Romania hosted its first joint conference of all Balkan intelligence services on the topic of counter-terrorism. At an international level, the renewed services mostly showed spectacular progress in counter-terrorism efforts. These measures were recognized and appreciated by Romania's Western partners, and contributed much to improve the country's image among the intelligence community.⁶⁴

CONTROLLED PUBLICITY

The link between transparency and efficiency has been a decisive element in the recent history of the Romanian secret

services. The principal organization in domestic operations, the SRI continually strives to achieve a positive public image. In 2004, Romania joined NATO and as the right-wing, pro-Western candidate Traian Băsescu became President, a new era began in the history of the secret services as well. Significant changes in personnel took place. Many staff members were retired and young leaders were put at the helm of the SRI, including professionals like George Maior, Florian Coldea, Silviu Predoiu and Mihai Răzvan Ungureanu. The generational change is the easiest to capture at counter-intelligence. After the 2004 presidential elections, a definite change of direction finally took place at the SRI starting in 2006. This change was supported by political leaders and was characterized by a deep strategic partnership with the USA. The first spectacular milestone was the meeting of George Maior, a former diplomat who was appointed as the new leader in 2006, with the Director of National Intelligence, John D. Negroponte, at the SRI's headquarters in Bucharest. Their talks were followed by a bilateral meeting of Maior and CIA director Michael Hayden in 2007. The 2011 visit of FBI director Robert Mueller to Bucharest was a sign that the quality of relations has been sustained. Similarly, the visit of CIA director John O. Brennan to Bucharest in 2013 also demonstrated solid and fruitful cooperation.

The SRI worked dynamically to develop a new image by building professional relations with foreign counterparts. At the same time, Romania's number one special service also built political and diplomatic ties: In 2008, simultaneously to the NATO summit in Bucharest, a convention of the newly established Young Atlantists network was held at the SRI headquarters, with British foreign minister David Miliband as keynote guest. On the same occasion, SRI chief George Maior met with Laura Bush. In 2011, the meeting of Charles, Prince of Wales with George Maior represented a great diplomatic recognition for the SRI and Romania.

59 Eurocolumna, Țigareta I-II, and Portelanul scandals.

60 In the Jimbolia case, the SRI Banat, SRI Timiș, SRI Bihor regional branches were involved in the illegal business. See on this Cristina Nicolescu-Waggoner, *No Rule of Law, No Democracy. Conflict of Interests, Corruption, and Elections as Democratic Deficit*, Albany (NY): State University of New York Press, 2016, 79–80.

61 "Constantinescu: Este normal că România să fie condusă de un fost colaborator al Securității?" *Ziua de Cluj*, September 30, 2009: <http://ziua.ro/realitatea.net/mobile/articol.aspx?t=Articole@eID=16656> (accessed July 15, 2017).

62 Victor Veliscu was advisor to the SRI director, Dan Gheorghe was security director at the Otopeni International Airport, Aurel Rogojanu was advisor to the SRI director, Marian Ureche was appointed as leader of the SIPA (the intelligence service operating until 2006 under the Justice Ministry), Tudor Tănase was assigned to the STS, while Mihai Caraman became an advisor to the prime minister. The parliamentary committee supervising the secret services was led by former intelligence officer Ristea Priboi. According to investigations by historian Marius Oprea, Priboi conducted political police activities inside Romania. He was involved in the 1981 actions of the Securitate against a large group of intellectuals – the Transcendental Meditation affair. Priboi was also involved in the repression of the 1987 workers' strike in Brașov. Several witnesses has claim they were investigated by him, including one who accuses him of participation in acts of torture. Oprea, "The Fifth Power. Transition of the Romanian Securitate from Communism to NATO", in *New Europe College Yearbook*, 2003–2004, no. 11, 163–64.

63 *Monografia SRI*, 178–180.

64 Florina Cristina Matei, "Romania's Anti-terrorism Capabilities: Transformation, Cooperation, Effectiveness", *Journal of Defense Resources Management*, 2012, 3 (1), 37–54.

The elaboration and adoption of a new national defense strategy in 2006 marked the beginning of a new era. To achieve recognition by, and openness to the Romanian society, actions were taken in compliance with applicable laws to create a new image of the services. Such actions included large demonstrations and flag initiation ceremonies. Further promotional actions included the issue of memorial stamps and 10-lei memorial medallions commemorating the SRI's 25th anniversary.

A key element in the Western partnership became the fight against international terrorism, a cornerstone of Romania's present national defense strategy. The implementation of this strategy and its public impact in Romania and abroad was significant. The first example was the rescue of three Romanian journalists captured in Irak,⁶⁵ an intelligence success that delivered a message of intransigence: "Wherever they take them, we will find them". Romania's answer to post-9/11 challenges was crystal clear. The country committed itself to fight terrorism. Since the end of the Cold War, the international intelligence community constantly strove to implement practices that avoid rigid approaches and provide answers to quickly changing international security challenges. Simultaneously, these procedures enabled the special services to build adequate ties to civil society, including the academic community, official decision makers, retired political decision makers, retired professionals and obviously representatives of civil circles.⁶⁶ The Romanian services also faced these challenges and tried to answer them.

To boost the efficiency of Romanian special services, president Băsescu established a National Intelligence Community under the supervision of the CSAȚ. Following a series of warnings from civil society and the media, the SIPA was terminated in 2006, reducing the number of secret services to six. The change of political direction in 2014 and the election of new president Klaus Johannis did not affect the branding efforts launched in the mid-2000s. The departure of SRI leader Maior and the appointment of Eduard Hellwig did not bring any discontinuity in the institution's foreign and professional policy. The best evidence of this is the appointment of Maior as Romania's ambassador to the USA, and his reception by FBI director James Comey at the FBI headquarters in 2015.

CONTROL AND SUPERVISION: CORRUPTION AS A RISK FACTOR

The efficiency of the special services is not compromised by transparency. On the contrary, transparency strengthens public confidence in the institution concerned. In the course of the NATO and EU accession process in 2002, the transparency and surveillance of special services were important topics that monopolized public thinking in Romania. In the wake of 9/11, the key task that the Romanian public expected from special services was to support NATO and the CIA in combating terrorism. Results of an opinion survey carried out by the Romanian Institute of Public Opinion Survey (IRSOP), in March 2002 half of those interviewed said special services do not deal with these issues owing to their political conviction and 52 % agreed that special services serve Romanian national interests. Interviewees were also asked about transparency, whether they thought that Romanian special services had already undergone a transformation along a Western model. 60 % of those surveyed gave

a positive answer. According to Radu Timofte, the SRI chief at the time, 5,500 of the institution's 6,800 staff members taken over in 1990 had already retired. Thus by 2002, only 15 % of the active staff serving in the Securitate before 1989, were still serving. Most of these officers had reportedly worked before 1989 in counter terrorism, counter-espionage and training areas. At the same time, Bruce P. Jackson⁶⁷ stressed that the issue of old cadres in the ranks of special services was still not clarified, and that corruption should be combated in a credible and consistent manner.

Control and supervision of the two largest special services is formally provided for by law. In reality, in the early 1990s, when the special services were established and their structures were developed, transparency was not implemented with the strong resilience of "former practices and behaviors,"⁶⁸ according to the fitting description of George Cristian Maior. Both parliamentary and public control practices over the special services were missing. The first definite legal measure to ensure transparency appeared in the SRI Act adopted in February 1992, declaring that a specific parliamentary committee shall exercise control over the secret services. Similarly, SIE was also supervised by a parliamentary committee. Both standing committees have had a positive impact on the special services, since a permanent group of specialists was charged with the close supervision of their activities. The committees currently scrutinize among others the annual draft budget of special services, violations of law reported by citizens and the annual reports submitted by special service leaders.

Corruption cases involving members of the Romanian parliament pose a risk to transparency and parliamentary control. Under Maior's direction, the organization underwent major structural transformation. By the mid-2010s, it developed to a level where it was also prepared to combat cross-border cyberattacks. The professionalism and popular recognition of SRI staff members improved as evidenced by an INSCOP survey in April 2016. Results showed that 51 % of those asked had confidence in the domestic special services. It must be noted that the survey also covered the intelligence organization (SIE). In the digital age, special services employ operational digital tools and procedures for data gathering as specified in applicable laws. While major reorganization was reported by special services, the number of eavesdropping cases (intercepts of telephone conversations) went up. 6,370 intercept orders were approved in the baseline year of 2005 while the same figure was 38,884 in 2013, representing a more than 600 % increase. It must be noted that this figure includes all permits issued to all special services.⁶⁹ The public

65 Eduard Ovidiu Ohanesian, *Raport din spatele ușilor închise*, Iași: Editura Junimea, 2011.

66 Steve Tsang, *Intelligence and Human Rights in the Era of Global Terrorism*, Westport, CT: Praeger, 2008.

67 Bruce P. Jackson is president of the Project on Transitional Democracies, a non-profit supporting post-soviet and Balkan democracies in building closer ties with the European Union and NATO.

68 George Cristian Maior, "Managing change: The Romanian Intelligence Service in the 21st Century", in *International Journal of Intelligence and Counterintelligence*, 2012, vol. 25, 217-239.

69 George Tarata, "Noua Securitate. SRI proteste România", *Lumea Justiției*, May 25, 2016: <https://www.luj.ro/institutii/servicii-secrete/sri-proteste-romania-noua-securitate-condusa-de-coldea-si-hellvig-este-preocupata-de-gainarii-si-dosare-politice-nu-si-de-atentatele-laviata-romanilor-soldate-de-a-lungul-anilor-cu-sute-de-decese-din-cauza-infectiilor-nosocomiale-hexi-pharma-sau-repreze?pdf> (accessed July 14, 2017).

may also raise questions about efficiency when looking at special services headcounts from an international benchmark. Among NATO member states, Romania ranks second regarding the number of professional special service staff. In the USA, officially, the FBI has 35,344 officers/agents for a population of 314 million, while Romania has a reported (the exact figure is not a public information) intelligence staff of 12,000 for 20 million inhabitants. Regarding budgets, the SRI's funding exceeds that spent on healthcare, as the organization has a budget of RON 1.2 billion, i.e. approximately USD 300 million⁷⁰ at its disposal while the SIE's budget is only RON 214 million (USD 53 million⁷¹). The two organizations are thought to have an aggregate staff of 15,000.

In addition to professionalism and efficiency, transparency and control continue to need improvement. Since 2000, Romania's armed forces have been directed and managed along guidelines and recommendations issued by the DCAF (*Democratic Control of Armed Forces – Geneva Center*). These guidelines are aimed at ensuring proper organization and transparency. At the same time, the credibility of the report issued in 2003 to certify the successful democratic transition of the Romanian secret services was jeopardized by the unconventional biography of his author. The US-born intelligence expert, Larry Watts, has been in fact been one of the most effective agents of influence for Romania's intelligence network in the United States since the middle of the 1980s, when he first visited Romania as a PhD student in history. A longstanding advisor to former president Iliescu and foreign intelligence director Ioan Talpeș, Watts is deeply embedded in Romanian political circles and the intelligence community. Albeit informative, the position papers published by Watts in the early 2000s in the Western specialized press were clearly useful for the political agenda of Romanian governmental circles, which had always supported his activity. This circumstance should suggest to scholars and stakeholders to critically read and evaluate the over-optimistic conclusions reached by Watts and his Romanian pundits.⁷²

EU Recommendation No. 1713/2005 sets forth solutions for monolithic forms of control like parliamentary committees that supervise the special services. Best practices to follow include Belgium, Canada and England,⁷³ where the presence of civilian specialists in committees is a day-to-day practice that ensures civilian control over the services. In Romania, the participation of civilian experts in parliamentary committees is not a novelty, as two of the 19 members of the Supreme Council of Prosecution (*Consiliul Suprem ale Magistraturii – CSM*) represent civil society. Thus best practices in terms of form are already in place, only the legal framework and its application must be provided for.⁷⁴ The ongoing Sebastian Ghiță case⁷⁵ highlights the risks of purely political parliamentary control. Consequently, the presence of professional civil representation in special committees is desirable.

LESSONS LEARNT AND RECOMMENDATIONS

While Romania's commitment to combating corruption is beyond doubt, the related procedural practices may raise questions. Adrian Tutuianu, chairman of the parliamentary committee supervising the SRI made a public statement at a press conference on February 28, 2017 claiming that the SRI

had entered into cooperation agreements with other state organizations since 1992. These are classified cooperation arrangements under which SRI officers were enabled to pursue activities at the institutions concerned.⁷⁶ At the same time, anti-corruption efforts should be subject to consistent and transparent control by the DNA-SRI (law enforcement and secret service). This approach could help avoid serious international assessments like "Romania's National Anti-corruption Directorate is an active participant in its position struggles."⁷⁷ In addition to European institutional supervision mechanisms like the Cooperation and Verification Mechanism and other supervisory procedures, attempts should be made to establish bottom-up, non-partisan civil control in each supervisory body that oversees special service operations. By doing this, Romanian civil society could be represented proportionally in supervisory bodies, further increasing public confidence in special services.

70 See Elena Dumitrache, "Statistica uluitoare", *Lumea Justiției*, October 12, 2014: <http://www.luju.ro/institutii/servicii-secrete/statistica-uluitoare-romania-ocupa-locul-ii-in-clasamentul-tarilor-membre-nato-privind-numarul-de-agenti-din-serviciul-national-de-informatii-pe-primul-loc-se-claseaza-sua-unde-fbi-la-un-numar-de-314-milioane-locuitori-are-35-344-agenti-sri-pentru-20-mili?pdf> (accessed July 14, 2017).

71 Information based on 2010 data.

72 Watts spoke about his past in a 2016 interview with the director of the Romanian Institute for Recent History, Liviu Tofan: <https://www.stiri-extreme.ro/dupa-pacepa-larry-watts-dezvaluie-noi-agenti-kgb-din-romania-aflati-langa-ceausescu-si-apoi-alaturi-de-iliescu-interviu-irir/#>. For a critical analysis of Larry Watts' use of sources see <http://www.contributors.ro/societatelife/rastalmacirile-lui-larry-watts-si-rastalmacirile-altora-despre-larry-watts/> (accessed July 14, 2017). Doubts might be also raised regarding the impartiality of the analysis that Larry Watts prepared for the DCAF: "Control and Oversight of Security Intelligence in Romania", in *Geneva Centre for the Democratic Control of Armed Forces (DCAF) Working Papers*, 2003.

73 See Transparency International Romania, *Serviciile de Informații în Echilibrul Interinstituțional*, June 16, 2015: https://www.transparency.org.ro/stiri/comunicate_de_presa/2015/16iunie/Policy%20Paper_Serviciile%20de%20Informatii%20in%20Echilibrul%20Interinstitutional.pdf (accessed July 15, 2017).

74 See the analysis of George Jigău (Centrul pentru Studiul Democrației) and Anca Sinea (Centrul pentru Studii Internaționale), *Cum pot serviciile secrete și transparența să încapă în aceeași frază? Miza controlului civil al serviciilor pentru consolidarea democrației*, March 10, 2017: <http://www.contributors.ro/editorial/cum-pot-serviciile-secrete-%C8%99i-transparen%C8%9Ba-sa-incapa-in-aceea%C8%99i-fraza-miza-controlului-civil-al-serviciilor-pentru-consolidarea-democra%C8%9Biei/> (accessed July 16, 2017).

75 Sebastian Ghiță, a former Social Democratic representative and member of the parliamentary committee that supervises the SRI, made incriminatory public statements about SRI deputy-chief Florian Coldea, dismissed in January 2017, and about Laura Codruta Kövesi, the influential head of the Anti-Corruption Directorate (Direcția Națională Anticorupție, DNA). Ghiță's statements albeit biased negatively affected the credibility of both institutions. His accusations were echoed not only in the governmental press hostile to the anti-corruption fight but also by authoritative civil forums such as www.romaniacurata.ro and www.riseproject.ro.

76 Petriana Condrut, "Până unde au mers protocoalele SRI. Reglementări sau implicare în activitatea altor instituții?", *Gândul*, March 6, 2017: <http://www.gandul.info/stiri/pana-unde-au-mers-protocoalele-sri-reglementari-sau-implicari-in-activitatea-altor-institutii-16183971> (accessed July 16, 2017).

77 See the excellent research paper of David Clark, *Fighting corruption with con tricks: Romania's assault on the rule of law*, London: The Henry Jackson Society. Democracy, Freedom, Human Rights, 2016: www.henryjacksonsociety.org/wp-content/uploads/2017/01/Romania-paper.pdf (accessed July 16, 2017).

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DISMANTLING THE STATE SECURITY APPARATUS

TRANSFORMATIONS OF THE SOVIET STATE SECURITY BODIES IN POST-SOVIET RUSSIA

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THE STATE SECURITY APPARATUS DURING PERESTROIKA

Russian Intelligence Services originate from the Soviet Committee for State Security (the Soviet KGB), established on March 13, 1954, and the successor of, founded in 1917, the repeatedly transformed and renamed security bodies of the All-Russian Special Commission for Combating Counter-revolution, Sabotage, and Speculation (Cheka) – the State Political Department (GPU) – the Unified State Political Department (OGPU) – the People's Commissariat of Internal Affairs (NKVD) – the People's Commissariat for State Security (NKGB) – the Ministry for State Security (MSS) – the Ministry of Internal Affairs (MVD).

“The Committee for State Security at the USSR Council of Ministers and its local bodies are political bodies, performing the guidelines of the Central Committee of the Party (CPSU) and Government on the protection of the Socialist state from attacks of foreign and domestic enemies, as well as the defense of the USSR state border. Their mission is to thoroughly monitor the secret activities of the Soviet state enemies, reveal their intentions, prevent criminal activities of imperialistic intelligence services against the Soviet state”, as defined in the Soviet KGB Regulations dated January 9, 1959.

The accurate data of the Committee for State Security workforce were never disclosed. By the early 1990s western sources estimated it at 490,000–700,000 people.¹ According to Vadim Bakatin, the last Head of the Committee, in August 1991 the KGB staff equaled 480,000 people, including 220,000–240,000 border security forces and 60,000 government communications troops² (there is an opinion, however, that border security forces were not included in the 480,000).³ 90,000 employees, according to Bakatin, worked in the security bodies of the Soviet Republics. In addition, numerous agents collaborated with the KGB (informers, secret agents (*seksofyy*)), but their number has not been revealed.

At the end of Perestroika the KGB headquarters included about 30 units – chief directorates, divisions and departments. It should be noted that the operational structure, functions and principles of the late-Soviet State Security apparatus were established during the period when the KGB was headed by Yuri Andropov (May 18, 1967 – May 26, 1982). In fact the KGB was directly subordinate to the CPSU Central Committee and its Political Bureau, which caused the “fusion of the CPSU and state security bodies” and turned the Committee into the “armed party forces that protected the CPSU power physically and politically, allowing the party to control the society effectively and closely”.⁴

KGB local units included 14 committees in the Soviet Republics (except for the Russian Soviet Federative Socialist Republic (RSFSR)); state security bodies in autonomous republics, regions, krais, cities and districts. Moreover, the Soviet KGB included

security bodies of the armed forces, fleet and internal troops, transport; border security forces; government communications troops; educational and research institutions; as well as the so-called “First Departments” of the Soviet establishments, organizations and entities.

KGB key functions before the USSR collapsed were foreign intelligence (First Chief Directorate, PGU), Counterintelligence (Second Chief Directorate), military counterintelligence (Third Chief Directorate), transport and communications counterintelligence (Fourth Directorate), economic counterintelligence (Sixth Directorate), field surveillance (Seventh Directorate), cryptographic operations (Eighth Chief Directorate), wiretapping and room eavesdropping (Twelfth department), electronic intelligence (Sixteenth directorate), fighting organized crime (OC Directorate), USSR state border guard (Chief Directorate of Border security forces), security guards of the CPSU leaders (until 1990) and the Soviet Government (Ninth Directorate, from February 29, 1990 – Security Guard Service), government communications management (Government Communications Directorate), Investigation Department etc.

The most important activity of the secret police was the fight against the “hostile activities of anti-Soviet and nationalistic elements inside the USSR”, in other words, the silencing of dissent. The notorious Fifth Directorate was responsible for that. It was founded in 1967 upon Yuri Andropov's personal initiative. As stated in his note to the CPSU Central Committee dated April 17, 1968, “the newly established fifth divisions are designed to fight ideological subversion, inspired by our foreign foes”.⁵

By the mid-1980s the Fifth Directorate had established 15 departments: the First department was responsible for

1 Amy Knight, *The KGB: Police and Politics in the Soviet Union*, New York: Unwin Hyman, 1990, 122; John Barron, *KGB Today: The Hidden Hand*, New York: Reader's Digest Press, 1983, 41; Yevgenia Albats, Catherine A. Fitzpatrick, *The State within a State: The KGB and Its Hold on Russia – Past, Present, and Future*, New York: Farrar Straus Giroux, 1994, 23. David Wise, Closing Down the K.G.B., in *New York Times*, 24 November, 1991. <<http://www.nytimes.com/1991/11/24/magazine/closing-down-the-kgb.html>>

2 В. В. Бакагин, *Избавление от КГБ*, Москва: Новости, 1992, 46; А. И. Колпакиди, ed., *Энциклопедия секретных служб России*, Москва: АСТ, Астрель, Транзиткнига, 2003, 267.

3 J. Michael Waller, *Secret Empire: The KGB in Russia Today*, Boulder: Westview, 1994, 111.

4 The Committee of the Presidium of the Russian Federation Supreme Soviet a committee for transferring the CPSU and KGB archives to the state storage and their use (established by the decision of the RSFSR Presidium dated October 14, 1991, No. 1746-I). Expert's opinion to the hearing of the Russian Federation Constitutional Court dated May 26, 1992. <<http://memo.ru/history/exp-kpss/>>

5 Yuri Andropov's note to the CPSU Central Committee of April 17, 1968 “On the objectives of the state security bodies in fighting against hostile ideological subversion”. Cited by: А. И. Кокурин, Н. В. Петров, *Лубянка: ВЧК-ОГПУ-НКВД-КГБ-МГБ-МВД-КГБ. 1917–1991. Справочник*, Москва: Международный фонд “Демократия”, 2003, 724.

the operations in “artistic associations, research institutes, cultural and health care establishments”; the Second planned and performed jointly with PGU operations against foreign national centres; the Third supervised operations in higher educational establishments, preventing any “hostile activities of students and teaching staff”; the Fourth was responsible for religious organizations; the Fifth assisted the local KGB bodies in preventing any mass anti-social activities; the Sixth was engaged in analytics; the Seventh was in charge of “detecting and verifying the persons, intending to use explosive materials and devices for anti-Soviet purposes”; for searching for the authors of anti-Soviet documents and counterterrorism (understood as any verbal and written threats to the state leaders); the Eighth department was responsible for “detecting and preventing ideological subversion activities of Zion centres” (and it mainly fought against Jews seeking repatriation to Israel); the Ninth was in charge of the investigation of “those, suspected of organized anti-Soviet activity (except for nationalists, clergy, sectarians); detecting and preventing hostile activities of the persons, who make and distribute anti-Soviet materials; carrying out secret operations on revealing anti-Soviet activities of foreign revisionist centres in the USSR”; the Tenth jointly with the PGU worked on counter-intelligence “against the ideological subversion centres of imperialistic states and foreign anti-Soviet organizations (except for the hostile organizations of Ukrainian and Baltic nationalists)”; the Eleventh department was initially engaged in ensuring the security of the Olympic Games, and after 1980 it switched over to the surveillance of sport, health care and scientific organizations; the Twelfth group (with the rights of a department) was responsible for the communications with the security bodies of socialist countries; the Thirteenth department fought against informal youth movements; the Fourteenth supervised the mass media and the Association of Journalists, and, finally, the Fifteenth focused on the Dynamo sports society.⁶ Though at the end of Perestroika, in August 1989, the Fifth Directorate was renamed the “Directorate for Constitutional Order Protection” (Directorate “Z”), its main goals remained unchanged.

Furthermore, the KGB supplied the CPSU Central Committee (until March 14, 1990) and the Soviet supreme authorities with information, related to the state security and defense, the social and economic situation in the Soviet Union, the issues of foreign policy and the economy. In September 1989 the Operational Analysis and Information Service was set up in the Committee, and on October 30, 1990, it was transformed into the Analytical Directorate.

It is to be added that the KGB routine activities were supported with the deliberate establishment of the secret services positive image, the cult of chekism.⁷

During Perestroika the state security headquarters managed to maintain their powers and their “weight”, not being subject to any significant changes in structure or human resources.⁸ In 1985 at the April plenum of the CPSU Central Committee the Head of the KGB Viktor Chebrikov (December 17, 1982 – October, 1 1988), who earlier supported the nomination of Mikhail Gorbachev as the General Secretary, was elected a member of the Political Bureau of the CPSU Central Committee. Being granted this high status, which had earlier been held only by the long-reigning KGB Head Andropov, “gave Chebrikov himself and his closest KGB entourage, a sense of significance and a special political role in the renovated party leadership.”⁹

It may be mentioned that Gorbachev saw the KGB not as a threat to his transformations, but rather as a support for them. There is a good reason why in his Perestroika programme report at the 27th CPSU Congress in 1986 Gorbachev specifically emphasized the remaining role and significance of the political secret police: “In the conditions of the growing subversive activities of the imperialistic intelligence services against the Soviet Union and other socialist states the responsibility level of the state security services is increasing dramatically. Being governed by the party, strictly complying with the Soviet laws, they put lots of efforts into revealing hostile schemes, preventing any subversive actions, and securing the sacred borders of our Motherland.”¹⁰

The rhetoric of the people from the secret police during the Perestroika period also stayed largely the same. In their reports the heads of the KGB gave assurances that their agency sought to ensure and encourage successful Perestroika development and “adapted their activities by improving their applied practices”. However, in these speeches there were increasingly strong condemnations, well-known from Andropov’s times: the chekists more and more often blamed foreign intelligence services and their agents in the USSR for the growing internal crisis.¹¹

For instance, speaking in September 1987 at the formal meeting devoted to the 110-year anniversary of the birth of the VChK founder Feliks Dzerzhinsky, Viktor Chebrikov declared: “All the social strata of our country are under the focus of attention of the imperialistic intelligence services... Our foes are trying to push individual representatives of art intelligentsia to the marginal positions of criticism, demagogy and nihilism, demonization of some historic periods in the development of our society...”¹²

On October 1, 1988 Chebrikov, as the Head of the KGB, was replaced by Vladimir Kryuchkov, while Chebrikov was appointed the Secretary of the CPSU Central Committee supervising administrative and law-enforcement bodies, including the KGB. Until September 20, 1989 he was also the Head of the Commission of the CPSU Central Committee for legal policy. In this position Chebrikov initiated a number of repressive decrees, signed by Gorbachev, in particular, the one dated April 8, 1989, toughening liability for “anti-state crimes”.¹³

The Head of the KGB Vladimir Kryuchkov (October 1, 1988 – August 22, 1991), elected in October 1989 a member of the Political Bureau, also stayed loyal to *chekist* principles and rhetoric. For example, in August 1989 the hateful Fifth KGB Directorate was

6 Ibid, 166–167.

7 More on the CheKa Cult see in Julie Fedor, *Russia and the Cult of State Security: The Chekist Tradition, From Lenin to Putin*, London: Routledge, 2013.

8 Waller, *Secret Empire: The KGB in Russia Today*; Бакагин, *Избавление от КГБ*, 37–38.

9 Н. В. Петров, Подразделения КГБ СССР по борьбе с инакомыслием 1967–1991 годов, in Я. Берендс, и др., eds. *Повседневная жизнь при социализме. Немецкие и российские подходы*, Москва: Политическая энциклопедия, 2015, 158–184.

10 М. С. Горбачев, Политический доклад Центрального Комитета КПСС XXVII Съезду Коммунистической партии Советского Союза, in *Материалы XXVII съезда Коммунистической партии Советского Союза*, Москва: Политиздат, 1986, 62.

11 Waller, *Secret Empire: The KGB in Russia Today*, 227.

12 Ibid.

13 Decree of the Presidium of the USSR Supreme Soviet dated April 8, 1989 “On amendments to the USSR Law ‘On Criminal Liability for Crimes against the State’ and some other legal regulations of the USSR”, in *Gazette of the RSFSR Supreme Soviet*, 1989, (16), 397.

renamed the “Directorate for Constitutional Order Protection”, which was supported with a propaganda campaign, manifesting the rift from the old goals and methods. However, justifying the need of this renaming, Kryuchkov stated in the letter to CPSU Central Committee that the “intelligence services and subversive centres of the foe” were trying to “inspire the spots of social tension, anti-socialist actions and civil unrest, provoke hostile elements to the actions, aiming at the violent overthrow of the Soviet power”.¹⁴

Being headed by Kryuchkov, the KGB took part in the forced suppression of mass protests in April 1989 in Georgia and in Lithuania in January 1991, which resulted in dozens of deaths.¹⁵

Finally, on Kryuchkov’s initiative, the law on the state security bodies in the USSR was adopted in May 1991. This law had been developed jointly with the KGB key people. It ensured nearly complete independence of the Committee from the Soviet political leaders, preserving its structure and powers, as well as providing it with full control of any documents related to the state security.¹⁶ The law was supported by the Defense and State Security Committee of the Supreme Soviet, which was controlled by the KGB and consisted mainly of secret police officers.

This way the secret political police successfully adapted to the changing conditions while maintaining their major goals and supporting the pace of their activities.¹⁷ The Committee sought to improve its image and therefore on April 22, 1990, the KGB Public Relations Centre was set up (based on the former Press Office but considerably expanding its workforce and structure). One of the propaganda techniques was the focus on fighting against crime and “economic sabotage”. In December 1990 the KGB established a separate Directorate for Combating Organized Crime (Organized Crime Directorate, or OP) to deal with these issues.

According to the state security retired Major General Oleg Kalugin, dismissed in 1990 for criticizing the secret services, the Committee remained the most untouchable compared to the other law-enforcement bodies: “And after five years of Perestroika the KGB was a state in the state, a body, enjoying huge powers, theoretically capable of crushing any government”.¹⁸

USSR KGB REORGANIZATION AFTER THE 1991 AUGUST COUP

The reason for reforming the existing state security services structure was an attempted putsch in August 1991 by the high officials, who set up the State Committee for the State of Emergency (GKChP). The KGB Head Kryuchkov was one of the main coup organizers, supported during the preparation by a number of Committee people.¹⁹

After the loss of the putsch, the arrest of Kryuchkov and other former GKChP members (all of them were accused of “high treason”, but then were granted amnesty in February 1994), on August 23, Vadim Bakatin was appointed the Head of the KGB. He had been the First Secretary of the CPSU Kirov regional committee (1985–1987), CPSU Kemerovo regional committee (1987–1988) as well as the Soviet Minister of Internal Affairs in 1988–1990. Bakatin was commissioned to launch a reorganization of the State Security system.

Though being aware of the threat his agency was to society, the new KGB Head refused to implement both serious structural transformations and the Committee staff lustration. “I have not considered it possible for us to reform the KGB fundamentally

– following the German or Czech examples, that is to destroy it completely and rebuild it anew. Not to dismiss but reform. That was, so to say, a humane direction I opted for”, wrote Bakatin in 1992 in his book “Liberation from KGB”.²⁰

The main principles of Bakatin’s reforms were *disintegration, decentralization and de-ideologization*. Disintegration implied “the division of the KGB into different independent departments and a deprivation of its monopoly on all the activities related to security: to tear the Committee apart into parts, which, directly subordinate to the Head of State, would balance one another, compete with one another”.²¹ Decentralization, according to Bakatin’s idea, was to “provide full independence to the Republican security bodies mainly combined with coordination and to some extent operative activities of inter-republican units”.²² At the same time Bakatin realized that the achievement of the above target was determined not by his will, but rather by the developing Union disintegration processes. The third of Bakatin’s reorganization lines was in the KGB de-ideologization. “The traditions of *chekism* are to be eradicated, *chekism* as an ideology must terminate its existence. We must comply with the law, but not ideology”, declared the new Head of the Committee.²³ However, it is unclear how he thought to achieve that goal without any radical reforms of the most repressive Soviet institution. In early 1992, summarizing the results of his activities after retiring from the state security bodies, Bakatin acknowledged: “No success was achieved. I do not believe that the security services have already become safe for the citizens. There are no laws, no controls and no professional internal security services”.²⁴

Nevertheless, just after the August putsch, the KGB workforce started shrinking and a number of departments were separated and became independent. In August 1991 the Security Guard Service was transformed into the Security Guard Directorate at the USSR Presidential Executive Office. On August 29, based on the Eighth Chief Directorate (cryptographic), Sixteenth

14 Note of the Head of the USSR KGB V. A. Kryuchkov to the CPSU Central Committee dated August 4, 1989 “On establishing the Directorate for Constitutional Order Protection in KGB”. Russian State Archive on Contemporary History (RGANI), Coll. 89, Op. 18, D. 127, 1–4. Cit. by: Кокурин, Петров, Лубянка, 730–732.

15 The events mentioned include a special operation to break up an opposition meeting near the Government building of the Georgian SSR in Tbilisi, carried out at night on April 9, 1989 by the internal troops and the Soviet army, with an ensuing death toll of 21 protesters. And also chekist military operation at night on January 12–13, 1991, in Vilnius, during which Alpha special forces unit of the Seventh KGB Directorate, an Air-Borne unit and a special police unit seized the TV tower and a radio station, which led to 13 deaths.

16 The Law of the USSR No. 2159-1 “On the State Security Bodies in the USSR”, dated May 16, 1991, in *Gazette of the Congress of People’s Deputies and Supreme Soviet of the USSR*, 1991, (22), 630. See: Waller, *Secret Empire: The KGB in Russia Today*, 168–178.

17 Andreas Hilger, Sowjetunion (1945–1991), in: Jens Gieseke, Łukasz Kamiński, Krzysztof Persak, eds., *Handbuch der kommunistischen Geheimdienste in Osteuropa 1944–1991*, Göttingen: Vandenhoeck & Ruprecht, 2009, 113.

18 О. Д. Калугин, “Дело” бывшего генерала КГБ. Месяц первый, Москва: ПИК, 1990, 41–42.

19 Findings of the investigation materials on the role and involvement of KGB officials in the events of August 19–21, 1991. <<http://constitutions.ru/?p=7018>>

20 Бакатин, *Избавление от КГБ*, 238.

21 Ibid, 77.

22 Ibid.

23 Cit. by: Л. М. Млечин, *КГБ. Председатели органов госбезопасности. Рассекреченные судьбы*. Москва: Центрполиграф, 2011.

24 Бакатин, *Избавление от КГБ*, 239.

Directorate (electronic intelligence) and the KGB Government Communications Directorate the Government Communications Committee at the USSR Presidential Office was set up.²⁵ In September dismantling reached the Directorate for the Constitutional Order Protection “Z”, the former Fifth Directorate, responsible for the counterintelligence to combat a foe’s ideological subversion.

On October 22 the USSR State Council issued a resolution suggesting the dissolution of the Union KGB and establishing in its place the USSR Central Intelligence Service (based on the First Chief Directorate), the Inter-Republican Security Service (Vadim Bakatin stayed on as its head) and the Committee for the USSR State Border Security Guard with the common command of the border forces based on the Chief Directorate of the State Border forces.²⁶ De jure these units were set up after the USSR President Mikhail Gorbachev signed the law on reorganizing the state security bodies on December 3, 1991. It was the date when the USSR KGB formally terminated its operations, whereas the security bodies shifted to the “exclusive jurisdiction of the sovereign republics (states).”²⁷ The story of the national security services began.

RUSSIAN KGB REORGANIZATION

The RSFSR was the only republic of the Union that had not had its own Committee for State Security before May 1991, when on the initiative of the Head of the RSFSR Supreme Soviet Boris Yeltsin, it was decided to establish the republican KGB by dividing the RSFSR State Committee for Security and Defense. At first the staff of the RSFSR KGB was around twenty people, but along with the dissolution of the Union Committee its powers and workforce increased. After the August putsch the competence of the Russian Committee included separate units of the Union KGB: on August 21 – the KGB Directorate in Moscow and Moscow region, on September 5 – the bodies of state security of most subjects of the RSFSR, earlier directly subordinate to the USSR KGB, and from November 1, 1991 – the Seventh Directorate (field surveillance), Operations and Technology Directorate, the Twelfth Department (wiretapping and room eavesdropping) as well as the pretrial detention centre.²⁸

On November 26, 1991 the KGB of the RSFSR was transformed under Presidential Decree into the Federal Security Agency (FSA) of the RSFSR.²⁹ By that time the staff of the Russian security service headquarters had grown to 20,000 employees with another 22,000 working locally.³⁰

After the termination of the Union KGB on December 3, the Russian Federation, which stayed with the bulk of material and human resources of the Soviet state security apparatus, was able to take advantage and use the inherited structures by itself.

POST-SOVIET TRANSFORMATIONS OF RUSSIAN INTELLIGENCE SERVICES

Yeltsin’s strategy was to preserve the secret police organization, but minimize its ability to challenge his presidential power. As a result, five separate security services were set up based on the former KGB. However, no personnel purges were carried out. On the contrary, the continuity with the Soviet Committee for State Security was observed both in human resources and functions.

First of all, on December 18, 1991 the USSR Central Intelligence Service was reorganized as the **Foreign Intelligence Service (FIS)**.³¹ It inherited the structural units and staff of the KGB First Chief Directorate, where, according to different estimates, during the late-Soviet period the workforce was from 12,000 to 16,000.³² Yevgeny Primakov remained the Head of the FIS. On September 30, 1991, he was appointed the Head of the First Chief Directorate while previously he had been an agent of the KGB foreign intelligence for many years.³³

On December 19, President Boris Yeltsin signed the Decree establishing the **Ministry of Security and Internal Affairs of the Russian Federation (MBVD)**, which was designed to become the key Russian intelligence service, uniting the Soviet Inter-Republican Security Service, the Russian Federal Security Agency, as well as the Ministry of Internal Affairs of the USSR and the Ministry of Internal Affairs of the RSFSR.³⁴ The new ministry was headed by Yeltsin’s close associate, the former Soviet Interior Minister Viktor Barannikov.

On December 24, based on the Government Communications Committee at the USSR Presidential Office and some other KGB units, responsible for radio-electronic intelligence and cryptography, the **Federal Agency for Government Communications and Information (FAPSI)** was founded.³⁵ It was headed by a former chekist, the Head of the Government Communications

25 Decree of the President of the USSR No. UP-2484 dated August 29, 1991 “On Establishing the Government Communications Committee at the USSR Presidential Office”, in *Gazette of the Congress of People’s Deputies and Supreme Soviet of the USSR*, 1991, (36), art. 1059.

26 Resolution of the USSR State Council No. GS-8 dated October 22 1991 “On reorganizing state security bodies”, in *Gazette of the Congress of People’s Deputies and Supreme Soviet of the USSR*, 1991, (44), art. 1239. The President of the USSR also approved of the temporary Regulation of the Central Intelligence Service (25. 11. 1991), Inter-Republican Security Service (28. 11. 1991 the), Committee for the USSR State Border Security Guard (3. 12. 1991).

27 Law of the USSR No. 124-N dated December 3, 1991 “On reorganizing State Security Bodies”, *Gazette of the USSR Supreme Soviet*, 1991, (50), art. 1411.

28 Бакатин, *Избавление от КГБ*, 125; Albats, Fitzpatrick, *The State within a State: The KGB*, 23.

29 The Decree of the President of the RSFSR No. 233 dated November 26, 1991 “On reorganizing the RSFSR Committee for State Security as the RSFSR Federal Security Agency”, in *Gazette of the Congress of People’s Deputies and Supreme Soviet of the RSFSR*, 1991, (48), art. 1683.

30 Gordon Bennett, *The Federal Security Service of the Russian Federation*, Watchfield: Conflict Studies Research Centre, Defence Academy of the UK, March 2000, 8.

31 The Decree of the President of the RSFSR No. 293 dated December 18, 1991 “On Establishing the RSFSR Foreign Intelligence Service”, in *Gazette of the Congress of People’s Deputies and Supreme Soviet of the RSFSR*, 1991, (52), art. 1890.

32 Andrew Christopher, Oleg Gordievsky, *KGB: The Inside Story of Its Foreign Operations from Lenin to Gorbachev*, New York: Harper Collins, 1990; Amy Knight, *Russian Security Services Under Yel’tsin*, in *Post-Soviet Affairs*, 1993 (9), 1, 44; Waller, *Secret Empire: The KGB in Russia Today*, 113.

33 Steel and Shadows. Obituary: Yevgeny Primakov, in *Economist*, 18 July 2015. <<http://www.economist.com/node/21657755>>

34 The Decree of the President of the RSFSR No. 289 dated December 19, 1991 “On Establishing the Ministry of Security and Internal Affairs of the Russian Federation”, in *Rossiyskaya Gazeta*, No. 284–285, December 25, 1991.

35 The Decree of the President of the RSFSR No. 313 dated December 24, 1991 “On establishing the Federal Agency for Government Communications at the RSFSR Presidential Office”, in *Gazette of the Congress of People’s Deputies and Supreme Soviet of the RSFSR*, 1992, (1), art. 39. The status and mission of the FAPSI were specified in RF Law No. 4524-1 dated February 19, 1993 “On Federal Bodies of Government Communications and Information”, in *Gazette of the Congress of People’s Deputies and Supreme Soviet of the RSFSR*, 1993, 12, art. 423.

Committee at the USSR Presidential Office Aleksandr Starovoytov, who from May 1986 until August 1991 was the deputy head of the KGB Government Communications Directorate for Science and Technology.

In addition, at the end of 1991 the Security Guard Directorate at the USSR Presidential Executive Office was dissolved and used as the basis for establishing the **Chief Guard Directorate (GUO)**. Earlier, in July 1991 the Presidential Security Service started its operations. Both organizations originated from the Ninth Directorate of the Soviet KGB, responsible for the security of the top party officials and statesmen whose workforce reached, as some estimates say, approximately 15,000 employees.³⁶

Before June 1992 the GUO was headed by the former Ninth directorate officer Vladimir Redkoborody, followed by Mikhail Barsukov, who from 1964 had served in the Kremlin KGB regiment.

The Head of the President's Security Service (September 3, 1991 – June 20, 1996) and also the first deputy head of the GUO was Aleksandr Korzhakov, who had also worked in the Ninth Directorate in 1970–1989, where at the end of this period he was one of the three bodyguards of Boris Yeltsin, then the First Secretary of the CPSU Moscow City Committee.

In late 1992 additional functions were delegated to the GUO – they were related to the organization of secured communications for the Russian leader. For this purpose the Federal Agency for Government Communications and Information was re-subordinated to it.

In June 1996 the GUO was renamed as the **Federal Guard Service** (its chief was general lieutenant Yuri Krapivin, whose career from 1972 was also related to the KGB, including the Ninth Directorate), whereas the President's Security Service merged with the Federal Guard Service.³⁷ According to some sources, by 1996 the staff of the GUO had grown from 8,000 to 20,000, and the executives took the functions, not directly associated with the physical security of the leaders: according to the laws adopted in the early 1990s, the GUO was entitled to perform operational-investigation activities, including covert surveillance and wiretapping.³⁸

The President's decision to unite the secret services in the Ministry of Security and Internal Affairs was violently criticized: this idea reminded people of Stalin's terrifying People's Commissariat for Defense (NKVD) headed by Lavrenty Beria. As a result Yeltsin's Decree dated December 19, 1991, was appealed against in the Constitutional Court of Russia and on January 14, 1992, it was recognized as contradictory to the Constitution. The Constitutional Court order served as the basis to establish two separate Ministries – the Ministry of Internal Affairs of the Russian Federation led by Viktor Yerin and the Ministry of Security led by Viktor Barannikov (December 19, 1991 – July 27, 1993).

The **Ministry of Security (MB)**, founded on January 24, 1992, became the essential and largest successor of the KGB, inheriting the functions of the Second Chief Directorate (counterintelligence), the Third Chief Directorate (military counterintelligence), Directorate "Z" (internal political security), Organized Crime Directorate (combating organized crime), the Fourth Directorate (transport counterintelligence), the Sixth Directorate (economic counterintelligence), and the Seventh Directorate (field surveillance).

In total, according to Michael Waller's estimates the MB comprised of at least 17 large KGB units, including those responsible for political internal security, economic security, counterintelligence, military counterintelligence, nuclear weapons storage,

the underground, the railways, the marine fleet and the state-owned Aeroflot airlines security, combating organized crime, drug control, the security of the majority of governmental facilities, military construction, technological laboratories, mail interception, archives, wiretapping, analysis, investigation and training. In addition, the Ministry of Security "was responsible for monitoring the public, cooperative and private business in transport, the industrial and communications sectors, the monitoring of the mass media, the analysis of social and political issues and patent protection. The only important duties of the former KGB that the MB did not perform were foreign intelligence, cryptography, communications and presidential security".³⁹ The ministerial workforce reached 135,000, out of which 50,000 were engaged in counterintelligence.⁴⁰

Similarly to the KGB leaders of the late-Soviet period, the Minister of Security Barannikov focused on combating crime, which became a part of the image efforts to provide security bodies with a clear meaning of their activities, and "a political tool, with which to ruin opponents in and out of government".⁴¹

At the same time it became common practice to *delegate* state security people from the *active reserve* to public and commercial entities in order to informally control them.

In 1992–1993, at Barannikov's suggestion of Yeltsin's approval, an array of laws regulating the secret services activities were adopted. Acting similarly to the KGB Head Kryuchkov in 1991, the Minister of Security demanded from the Supreme Soviet the urgent adoption of his bills. And, like in 1991, the initiative was endorsed by the State Committee for Security and Defense of the Supreme Soviet, run by the future Head of the State Security bodies Sergey Stepashin.

The array of Yeltsin-Barannikov laws included a law on operative investigation activity, on security, on federal state security bodies, on foreign intelligence, on state secrets and on the Russian Federation state border. Their distinguishing features included the width of powers, granted to the secret services, and their guaranteed tough control by the president. On the contrary, the possibilities of public and parliamentary control weakened dramatically.

The Law on Operative Investigation Activity, adopted in April 1992, entitled five governmental agencies to carry out operative investigation activities: bodies of the Internal Affairs, the Ministry of Security, Border Security, the Foreign Intelligence Service and operative units of the Chief Security Directorate (art. 11).⁴²

36 "Знаю их всех". Говорит Александр Коржаков, in *Медиазона*, September 5, 2016. <<https://zona.media/article/2016/05/09/korzhakov>>

37 Federal Law No. 57-FZ dated May 27, 1996 "On State Security", in *Rossiyskaya Gazeta*, No. 106, June 6, 1996. The Decree of RF President No. 938 dated June 19, 1996 "On the Federal Security Service of the Russian Federation", in *Rossiyskaya Gazeta*, No. 118, June 25, 1996. The Decree of RF President No. 1136 dated August 2, 1996 "On Approving the Provision of the Federal Security Service of the Russian Federation", in *Russian Federation Code*, 1996, (32), art. 3901.

38 Amy Knight, *The Security Services and the Decline of Democracy in Russia: 1996–1999*, The Donald W. Treadgold Papers in Russian, East European, and Central Asian Studies, No. 23, October 1999, 14, The Henry M. Jackson School of International Studies, The University of Washington, Seattle. 14. <<https://digital.lib.washington.edu/researchworks/handle/1773/35343>>

39 Waller, *Secret Empire: The KGB in Russia Today*, 116.

40 Richard Sakwa, *Russian Politics and Society*, Fourth ed., London: Routledge, 2008, 96.

41 Waller, *Secret Empire: The KGB in Russia Today*, 117.

42 Law of the Russian Federation No. 2506-1 dated March 13 1992 "On operative investigation activities", in *Rossiyskaya Gazeta*, No. 99, April 29, 1992.

It is notable that the Law on Federal State Security Bodies which became effective in July 1992 appeared nearly identical to the law, adopted in 1991 on the KGB initiative: in several places the wording was absolutely the same. The sections of the law, describing the rights and responsibilities of the federal state security bodies, provided the Russian intelligence services with functions that were similar to those of the Soviet secret police. In particular, the law reserved their right to delegate their employees to any institutions, organizations and enterprises “to solve security issues” (art. 11).⁴³ It meant that the intelligence services could still freely infiltrate the mass media, civil groups and political alliances. In addition, the secret services could “provide the security” for “federal, interstate and international public-political and religious events” held in Russia, which allowed for broader interpretations (art. 12 (l)). To ensure state security under natural disasters and riots, and under the prevention of some crimes the state security bodies were empowered to “freely enter housing and other premises owned by citizens, land plots owned by them, the areas and premises of companies, institutions and organizations regardless of their forms of property”. The only condition for these entrances was the need to notify the prosecutor of them within 24 hours (art. 12 (e)). Taking into consideration the unaccountability of the secret services and the specifics of the Russian law-enforcement practices, this form of the law could also become subject to abuse.

The law on security established that the Russian president “controlled and coordinated the activities of the state security bodies”, and also “made day-to-day decisions on security provision” (art. 11).⁴⁴

The law on state secrets, adopted in July 1993, introduced an extremely wide definition of the term *state secret*, which significantly reduced the rights of the citizens to get information on the activities of the governmental authorities – both in the past (using archive data), and in the present.⁴⁵

During the escalation of the presidential and parliamentary antagonism in 1992–1993 and the deepening economic crisis, Boris Yeltsin was seeking support in the law-enforcement bodies, whose significance in domestic Russian politics was continuously growing. At the same time the President feared that an exaggerated strengthening of the secret services could potentially be a threat to his power.

After a two-year confrontation between Yeltsin and the Supreme Soviet, which ended up in dissolving the parliament on September 21 and the seizure of the House of Soviet (Russian White House) on October 4, 1993, the Ministry of Security was reorganized into the **Federal Counterintelligence Service (FSK)** in December that year. A Presidential Decree on the MB dissolution stated that “it appeared to be impossible to reform the system of VChK-OGPU-NKVD-NKGB-MGB-KGB-MB bodies” and that “the recently taken measures to attempt to reorganize them were mainly formal and decorative”.⁴⁶ These tough words, however, did not at all mean rethinking the role of the security bodies. They just showed Yeltsin’s dissatisfaction with the willful secret services, which took the side of the Supreme Soviet and did not provide the President with sufficient support in his opposition to the parliament.

Despite the loud statements, instead of qualitative reforms, Yeltsin again used intelligence services to strengthen his personal power and to prevent any attempts by parliament to challenge him in the future. Hence the FSK was fully controlled by him: under the Service Regulation, it was subordinate directly to

the president.⁴⁷ According to the appointed Secretary of the Presidential Security Council Oleg Lobov, Yeltsin’s right-hand man from the times of Sverdlovsk (now Yekaterinburg) regional committee, “the counterintelligence service is designed to protect the new presidential rule”, it must “support the president”.⁴⁸

The personnel policy of the renamed body also confirmed the continuity with the Soviet past. Colonel General Nikolay Golushko was appointed the Head of the Service (December 21, 1993 – February 28, 1994) – a former Ukrainian SSR KGB Chairman (1987–1991), who distinguished himself by especially cruel repressions of dissidents and dissenters. In addition, from 1974 to 1978 Golushko ran the department “combating nationalism” in the KGB Fifth Directorate.

The announced then FSK re-attestation of the service leaders did not lead to changes of key people in the counterintelligence headquarters and its regional directorates. Out of 277 top officials subject to re-attestation, only 13 failed, moreover, partly due to the retirement age. Sergey Stepashin, who replaced Golushko as the FSK Director (March 3, 1994 – June 30, 1995), summarizing the results of the re-attestation in March 1994, was pleased to note that “we did not follow the Eastern European example and did not fully destroy Russian Intelligence Services”.⁴⁹ Being one of the main organizers of the First Chechen War that started in 1994, Stepashin consistently advocated the expansion of secret services powers, at the same time insisting on the priority of the state interests over civil rights. In an interview given in June 1994 he made a claim that would be incompatible with a democratic state of law: “We will infringe upon the human rights of a person if this person is a criminal”.⁵⁰

The FSK included nearly all units of the dissolved Ministry of Security, except for the Border Security Forces, which were singled out as an independent **Federal Border Service – Chief Command of the Russian Federation Border Security Forces (FPS – glavkomat)**. Pursuant to the FSK Regulation, the tasks of the counterintelligence service bodies were: detecting, preventing and suppressing intelligence, surveillance and reconnaissance of foreign secret services and organizations against the RF; seeking intelligence information on security threats; providing the President with information on RF security threats; the war on terror, arms and drug trafficking, illegal armed groups, as well as illegally established or prohibited non-governmental

43 Law of the Russian Federation No. 3246/1-1 dated July 8, 1992 “On federal state security bodies”, in *Rossiyskaya Gazeta*, No. 180, August 12, 1992.

44 Law of the Russian Federation No. 2446-1 dated March 5, 1992 “On Security”, in *Rossiyskaya Gazeta*, No. 103, May 6, 1992.

45 Law of the Russian Federation No. 5485-1 dated July 21, 1993 “On State Secrets”, in *Rossiyskaya Gazeta*, No. 182, September 21, 1993.

46 Decree of RF President No. 2233 dated December 21, 1993 “On the Dissolution of the Russian Federation Ministry of Security and the Establishment of the Russian Federal Counterintelligence Service”, in *Collected President’s Decrees and Russian Federation Government Resolutions*, 1993, (52), art. 5062.

47 Decree of RF President No. 19 dated January 5, 1994 “On Approving Provisions of Russian Federal Counterintelligence Service”, in *Collected President’s Decrees and Russian Federation Government Resolutions*, 1994, (2), 1994, art. 76.

48 Interview with O. Lobov, in *Nezavisimaya gazeta*, February 2, 1994, 1.

49 Максим Въръвдин, Контрразведка преаттестована, in *Kommersant*, No. 54, March 26, 1994. <<http://www.kommersant.ru/doc/74594>>

50 TV interview with S. Stepashin dated June 23, 1994. Cit. by: Amy Knight, *Spies without Cloaks. KGB’s Successors*, Princeton: Princeton University Press, 1996, 25, 29. See also interview with S. Stepashin, in *Nezavisimaya gazeta*, May 26, 1994, 1–5.

organizations, encroaching on the RF constitutional order; ensuring state secrets protection within their competence; counterintelligence operative cover of the RF state border.⁵¹

FSK leaders initially claimed an expected staff downsizing from 135,000 to 75,000 due to the delegation of some functions to other institutions. However, it is impossible to establish the fact of staff cuts because the information has been classified. At least, in early July the officials themselves mentioned a workforce of 100,000 people.⁵² Most likely, Yeltsin's strategy was to weaken the central national security body politically, distributing chekists in different governmental authorities. Nonetheless, according to Michael Waller, it was similar to the effect of fungi growth: spores were not restrained any more, but "distributed through the entire society".⁵³

The Chechen War made Yeltsin increasingly rely on law-enforcement bodies. There were new transformations, further strengthening the role of the state security bodies. In early 1995 the Law on the Federal Security Service Bodies in the Russian Federation was signed and became effective on April 12.⁵⁴ From this day the FSK was renamed the **Federal Security Service (FSB)**, and its powers were significantly expanded.⁵⁵ According to the law, FSB core activities included counterintelligence and intelligence, the war on terror and high-threat crimes, border security activity, information security, and the control of corruption (art. 8).

In July 1995 Sergey Stepashin was dismissed and his post was taken over by the former Head of the Chief Guard Directorate Mikhail Barsukov (July 24, 1995 – June 20, 1996). One of his first steps in the new office was setting up an FSB counterterrorism centre (FSB ATC) to coordinate different counterterrorist services. The centre was the successor of the former Soviet KGB Counterterrorism Directorate (UBT). It included two famous special forces units – Alpha group, before 1995 it had been a part of the Chief Guard Directorate (Department "A"), and Vypfel group, a part of which had been subordinate to the Ministry of Internal Affairs since 1993, while the other made up the Special Operations Directorate (Department "V"). In October 1998 special forces were united in the newly established FSB Special Forces Centre (FSB CSN).

On December 20 1995, the anniversary of the VChK foundation, a public holiday was established – the Day of Security Bodies.⁵⁶ Before that, December 20 had been celebrated for decades informally by the state security staff as the Day of the Chekist. And two years later on December 20 President Yeltsin delivered a speech, which was considered by many as the final "rehabilitation" of the secret services. According to Yeltsin, "we nearly pushed too far in revealing the crimes of the state security bodies. Their history included not only black periods, but also glorious ones, which are something to be proud of". The President also noted that "today our security services people are genuine patriots. They work not for the glory and awards, but – I dare say – for an idea. For the state security. For the peace and quiet of our citizens. And we must respect the work done by the security service officers. Their hard and often heroic work".⁵⁷

After the first round of the presidential election, held on June 16, 1996, Yeltsin dismissed the head of FSB Barsukov, replacing him with Nikolay Kovalev (July 9, 1996 – July 25, 1998), who had served in the KGB from 1974 – first as a field officer of the district department of the KGB Directorate in Moscow and Moscow region, and then an officer and later the head of the Fifth service of the KGB Moscow Directorate (combating ideological subversion).

From the mid-1990s observers continuously mentioned a deterioration of the human rights situation in Russia.⁵⁸ In the background of concerns about the potential return of the political investigation system on July 6, 1998, President Yeltsin issued a decree setting up a Constitutional Security Directorate in the FSB, being, in fact, the reincarnation of the Constitutional Order Protection Directorate, the former KGB Fifth Directorate.

The Head of the new unit Gennady Zotov in his interview to "Nezavisimaya Gazeta" in November that year described the objectives of his directorate as follows: "The state sought to establish an FSB separate unit, 'specialized in' combating security threats to the Russian Federation in the social and political area. <...> Owing to a number of objectives, related to the fundamental specifics of Russia, reasons special attention has always been paid to the protection of the state against 'internal revolt', i.e., in other words, against the security threats in the social and political areas, since the 'internal revolt' for Russia has always been more terrifying than any military invasion".⁵⁹

Thus, President Yeltsin did not opt for the path of dissolving the Soviet secret services, but, divided the KGB into several individual organizations, preserving most of their functions and personnel. According to the secret services researchers Andrei Soldatov and Irina Borogan, Yeltsin's idea was "to encourage rivalry in the splintered intelligence community, providing a precarious system of checks and balances": "Under Yeltsin, the foreign intelligence agency remained in direct competition with military intelligence; the FSB struggled with the communications agency, which kept a close on political and social situation in Russia. After obtaining a report from the FSB Director, Yeltsin could compare it with the report from the communications director".⁶⁰ In any case, according to Soldatov and Borogan, in 1998 there appeared changes in the secret services competitive system created by Yeltsin: "First, the founding fathers of agencies lost their posts, independent people who had become accustomed to fiercely defending the interests of their structures. <...> Then there began to appear stubborn rumors about a draft decree being walked

51 Decree of RF President No. 19 dated January 5, 1994 "On Approving Regulation of Russian Federal Counterintelligence Service", in *Collected President's Decrees and Russian Federation Government Resolutions*, 1994, (2), art. 76.

52 Amy Knight, *Russia's New Security Services: An Assessment*, Washington, D.C.: Library of Congress, 1994, 24; <<https://www.hsdl.org/?view&did=457727>>

53 Waller, *Secret Empire: The KGB in Russia Today*, 121–122.

54 Federal Law No. 40-FZ dated April 3, 1995 "On Federal Security Service Bodies in Russian Federation", in *Rossiyskaya Gazeta*, No. 72, April 12, 1995.

55 Bennett, *The Federal Security Service of the Russian Federation*, 16; Bettina Renz, Russia's 'Force Structures' and the Study of Civil-Military Relations, in *Journal of Slavic Military Studies*, 2005, (18), 4, 570–572.

56 Decree of RF President No. 1280 dated December 20, 1995 "On establishing the Day of the Russian Federation Security Bodies", in RF Code, 1995, (52), art. 5135.

57 Boris Yeltsin, "The secret services will never be 'watchdogs' any more", in *Radio Adress, Kommersant*, No. 220, December 20, 1997, 2.

58 Michael J. Waller, "Russia's Security Services: A Checklist for Reforms", in *Perspective*, 10 September 1997; Knight, *The Security Services and the Decline of Democracy in Russia*, 21–25.

59 "Защита личности, общества, государства". Так определяет приоритеты своего подразделения начальник Управления конституционной безопасности ФСБ России Геннадий Зотов, in *Независимое военное обозрение*, No. 044 (118), November 20, 1998, 1.

60 Andrei Soldatov, Irina Borogan, "The New Nobility: The Restoration of Russia's Security State and the Enduring Legacy of the KGB", in *New York: PublicAffairs*, 2011, 14.

through the Kremlin corridors which would combine all the fragments of the KGB into one agency.”⁶¹

On July 25, 1998, Vladimir Putin was appointed the FSB Director (July 25, 1998 – August 9, 1999), the former KGB officer, who served from 1975 to 1991 first in the Leningrad KGB Directorate working in counterintelligence, and then, from 1985 to 1990, in the local intelligence centre in Dresden under the cover of the position of Dresden USSR–GDR Friendship Centre Director. Later Putin was appointed the head of the Government, leaving his colleague from the Leningrad KGB Directorate Nikolay Patrushev as the FSB leader (August 9, 1999 – May 5, 2008).

On December 20, 1999, at a formal meeting devoted to the Day of the Security Services, Prime-Minister Vladimir Putin addressed the security services officers in the following way: “A group of FSB people, sent by you on a mission to work under cover in the government, is performing well at the initial stage”. Soon after that he was elected by Boris Yeltsin as the successor for the presidential post.

Putin’s rise to power in 2000 meant the appointment of former state security people to the key political offices. Since the 2000s nearly all the top positions in the presidential office, government and economic area have been controlled by the people from the law-enforcement bodies. Though this process commenced when Yeltsin was still in office, and the number of high officials with a law-enforcement background (top leadership, government, regional elite, parliament) grew from 11.2 % to 17.4 %, during the first years of Putin’s reign by 2004 this figure reached 24.7 %.⁶² According to some estimates, by 2007 the share of direct or indirect intelligence presence in authorities could have been above 75 %.⁶³

The consolidation and reinforcement of the secret services under Putin’s rule became truly large-scale. On March 11, 2003 the president dissolved the Federal Agency for Government Communications and Information (FAPSI) and the Federal Border Service (as well as the Federal Tax Police Service) as separate organizations. Consequently, the border security service was fully integrated into the FSB, while parts of the dissolved FAPSI were divided between the FSB and the Federal Guard Service. Furthermore, informally the Ministry of Internal Affairs became fully FSB-controlled. All the key people appointed in the Ministry – from the Minister to the Head of the Internal Security Directorate – were from the secret services.⁶⁴

The workforce of the Russian intelligence service during Putin’s reign has also been growing steadily. As mentioned above, formal data on the workforce of the state security bodies were not disclosed. Nevertheless, by the end of the 1990s, according to available data, the FSB employed from 80,000–90,000 to 120,000–130,000 people, including two elite special operations units.⁶⁵ After the merge of the FPS and a part of the FAPSI with the FSB, the staff of the latter could have grown and reached 350,000 people.⁶⁶ At the same time experts say that the Federal Border Service included some 180,000 people in the 1990s.⁶⁷ However, from the early 2000s it appears that the figure rose to 200,000–210,000.⁶⁸ The workforce of the Federal Guard Service was within the 13,000–20,000 range according to different estimates by the late period of Yeltsin’s rule and it might well have considerably grown after Putin’s arrival.⁶⁹ According to other estimates, in the mid-2000s the Federal Guard Service staff included approximately 20,000–30,000 people, inter alia, 3,000–5,000 of the presidential guard.⁷⁰ And, finally, according to 2008 data, the Foreign Intelligence Service employed about 13,000 people.⁷¹

Despite being in the focus of public attention during Perestroika and forced to adapt to the new situation, the KGB and

then the Russian state security, partially changing their methods and increasing their propaganda efforts, were never actually challenged and pressed by the public. It is true that the monument to the founder of VChK Feliks Dzerzhinsky was spontaneously dismantled during the strife between GKChP members and the RSFSR President Boris Yeltsin. However, neither during nor after the putsch was it demanded to take similar action to the very state security structures and to ban their members from taking positions in the new democratic authorities and institutions. In spite of a long-lasting repressive policy towards the citizens (forced regulation of their life, long isolation, civil rights restrictions, pressure against dissent etc.), the Soviet Committee for State Security, unlike its analogues in most countries in Central and Eastern Europe, was not so discredited as to disrupt its functional, personnel and symbolic continuity with the past. The Russian secret services openly admit and emphasize their role as followers of the Soviet secret state security services traditions.

A poll, conducted during the last year of the USSR existence, showed that the KGB had higher public trust (62 %), than other institutions (police, courts, the mass media etc.).⁷² And 10 years later, when the Levada-Centre asked people if it bothered respondents that President Vladimir Putin who took office in 2000 had long been in the KGB and FSB, 78 % confessed that this fact was not of any concern to them and only 5 % stated that it was a high concern to them.⁷³ Sociologist Lev Gudkov noted in 2003 that “Putin’s relation to the state security and armed forces looks for many Russians a merit rather than a flaw for his reputation.”⁷⁴

61 Andrei Soldatov, Irina Borogan, The Mutation of the Russian Secret Services, in *Agentura.ru*, August 25 2016. <www.agentura.ru/english/dosie/mutation/>

62 О. В. Крыштановская, *Анатомия российской элиты*, Москва: Захаров, 2005, 269–270.

63 Russia under Putin The making of a Neo-KGB State. Political Power in Russia Now Lies with the FSB, the KGB’s Successor, in *Economist*, 23 August 2007. <<http://www.economist.com/node/9682621>>

64 Andrei Soldatov, Irina Borogan, The Mutation of the Russian Secret Services, in *Agentura.ru*, 2007 <<http://agentura.ru/english/dosie/mutation/>>

65 Bennett, *The Federal Security Service of the Russian Federation*, 22; Eberhard Schneider, *The Russian Federal Security Service under President Putin*, in: Stephen White, *Politics and the Ruling Group in Putin’s Russia*, Basingstoke – New York: Palgrave Macmillan, 2008, 43; Knight, *Spies without Cloaks*, 14; Knight, *The Security Services and the Decline of Democracy in Russia*, 14.

66 *Spionage gegen Deutschland – Aktuelle Entwicklungen*, Bundesamt für Verfassungsschutz, November 2008, 6. <<http://www.verfassungsschutz.brandenburg.de/cms/detail.php/bb1.c.162958.de>>

67 Waller, *Secret Empire: The KGB in Russia Today*, 7; Knight, *The Security Services and the Decline of Democracy in Russia*, 14.

68 Schneider, *The Russian Federal Security Service under President Putin*, 43; Bettina Renz, “The *Siloviki* in Russian Politics: Political Strategy or a Product of the System?”, in *Russian Analytical Digest*, No. 17, 20 March 2007, 6.

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73 Press releases of Levada Centre dated September 15 2000 <<http://www.levada.ru/2000/09/14/15-sentyabrya-2000-goda/>> and July 3 2001. <<http://www.levada.ru/2001/07/02/3-iyulya-2001-goda/>>

74 Л. Д. Гудков, “Массовая идентичность и институциональное насилие. Статья вторая: Армия в постсоветской России”, in *Bulletin of Public opinion: Data. Analysis. Discussions*, 2003, (68), 2, 35–51.

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MEMORY OF NATIONS

Democratic Transition Guide

[The South African Experience]



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DISMANTLING OF THE STATE SECURITY APPARATUS

GUY LAMB

INTRODUCTION

In 1948 the National Party became the ruling party in South Africa. Historians generally regard this political development as the official commencement of the apartheid period, which was to herald the implementation of even more far-reaching racially discriminatory policies and legislation aimed at the comprehensive disenfranchisement and regulation of South Africa's black population. Throughout the apartheid period (1948–1993), opposition and violent resistance to government, principally within black communities, was typically met with an aggressive response from the security forces, especially the South African Police (SAP). From the mid-1980s the South African Defence Force (SADF) was deployed internally in response to an escalation in unrest and violent protests, and regularly used lethal force in this regard.

From the 1960s dynamics within a number of states in the Southern African region became increasingly threatening towards the South African government, particularly in Rhodesia (now Zimbabwe) and South West Africa (SWA) (now Namibia), which was occupied by South Africa at the time. In both territories liberation movements had initiated armed insurgency against the white minority governments, with these liberation movements being sympathetic to the plight of the African National Congress (ANC) and the Pan Africanist Congress (PAC) in South Africa. Southern Africa became an even more unwelcoming place for the apartheid government from the mid 1970s with Angola and Mozambique acquiring independence and subsequently being led by pro-communist governments. In response, the SADF became involved in various regional armed conflicts, especially in Namibia and Angola.

Such responses by the apartheid government were informed by a security-centred form of statecraft widely referred to as “Total Strategy”. This strategy was based on an ideology that a “total [communist] onslaught” was directed against the apartheid state from both inside and outside of the country. Total Strategy entailed the de facto centralisation of high-level decision-making on domestic and foreign policy within the State Security Council (SSC), which was dominated by the security services, particularly the military. A key foreign policy strategy was to use the security forces to destabilise states in Southern Africa that were perceived to be hostile towards the South African government and/or harboured ANC and PAC insurgents.¹

POLICE WORK UNDER APARTHEID

A central feature of apartheid was the methodical criminalisation of the movement of black people who were required to reside in specific (principally rural) areas and could only be present in urban and “Europeans (whites) only” areas if they had an official permit (passbook). SAP members were active in upholding such legislated racial segregation and arrested those black people who

failed to produce such a permit on demand. In fact, considerably more time was taken up with the enforcement of “petty” apartheid criminal codes than was devoted to the prevention and combating of more serious forms of crime.² Police also harassed and imprisoned numerous leaders of anti-government organisations. The SAP also became intricately involved in the forced removals of black populations from land that had been designated for exclusive use by whites, or from areas that had been earmarked to be buffer zones between white and black residential areas.³

Paradoxically, on average, close to half of all the SAP members were black, the majority of which occupied lower ranks of the policing organisation. This was largely due to cost considerations, as black police personnel were paid lower wages than whites. Black South Africans enrolled in the SAP largely due to limited stable employment opportunities, and the relatively better salaries offered by the SAP compared to other government institutions.⁴

There was a distinct difference with respect to the manner in which the SAP policed “ordinary” crime in white residential areas as compared to black townships, with patrolling and responses to calls for assistance being significantly more subdued in the latter. The SAP, which displayed distinct othering towards black populations, surmised that a minimalist approach to policing “ordinary” crime in black townships was appropriate as the SAP's enforcement of petty apartheid laws would mostly keep crime contained within townships.⁵ When necessary, the austere and indirect policing in townships was supplemented with mass crackdowns and curfews by both the police and the military in an attempt to clear-out the more deviant and undesirable elements from these communities through sudden and concentrated enforcements of laws and the mass arrests of suspects.⁶

From the 1980s the SAP also made use of “special constables” who were inexperienced, poorly paid black recruits often drawn from communities with strong support for loyalist vigilante groups, such as Inkatha. They were enrolled in a six-week crash course in basic policing and were then armed with shotguns, batons and *sjamboks* (a type of whip). These special constables were largely unsupervised and often operated with impunity.

1 Gavin Cawthra, *Brutal Force: The Apartheid War Machine*. London: International Defence & Aid Fund for Southern Africa, 1986; Rob Davies, and Dan O'Meara, “Total Strategy in Southern Africa: An Analysis of South African Regional Policy Since 1978”, *Journal of Southern African Studies*, 1985, (11), 2, 183–211; Kenneth W. Grundy, *The Militarization of South African Politics*, Oxford: Oxford University Press, 1988.

2 Andrew Prior, “The South African Police and the Counter-Revolution of 1985–1987”, *Acta Juridica*, 1989, 189–205.

3 John D. Brewer, *Black and Blue. Policing in South Africa*, Oxford: Clarendon Press, 1994.

4 Andrew Prior, *op cit*, 1989.

5 Gavin Cawthra, *Policing in South Africa. The SAP and the Transformation From Apartheid*. London: Zed Books, 1993.

6 John Brewer, *op cit*, 1994; Clive Glaser, “Whistles and Sjamboks: Crime and Policing in Soweto, 1960–1976”, *South African Historical Journal*, 2005 (52), 1, 119–139.

They were also notorious for their brutality, ineptitude, partiality and for abusing their mandate and service firearms to settle personal disputes.⁷

A further SAP strategy in relation to policing black communities was to provide financial and material support to loyalist groups that were predisposed to undermining or attacking organisations within their communities that were opposed to government. This in effect was a form of indirect policing, in which partisan groups were deputised to undertake aspects of geo-racial boundary enforcement. In Natal, for example, during the 1980s the SAP reportedly escorted and permitted Inkatha *impis* (armed vigilante groups) to perpetrate violent acts against communities aligned to the United Democratic Front (UDF)⁸ and the Congress of South African Trade Unions (COSATU). In addition, the SAP even thwarted efforts to prosecute Inkatha members, particularly warlords, who had allegedly been responsible for multiple acts of violence.⁹

SAP typically policed protests in townships at an arm's-length with an arsenal of military-style vehicles and incapacitants (such as tear gas). If required, SAP members would engage in a baton charge and use *sjamboks* on protestors. Lethal force was applied (including live ammunition) in the occasions where protestors breached the SAP notion of a buffer zone, or if the crowd did not adhere to instructions from the police.¹⁰ Such policing tactics often resulted in massacre of protestors, as was the case in Sharpeville (in 1960) and Soweto (in 1976).

Following the 1976 Soweto massacre the SAP became increasingly militarised (Brewer, 1994). Close strategic and operational ties were forged with the SADF, and the operational elements of the SAP were frequently teamed-up with SADF units to patrol high priority border areas, as well as subdue and contain unrest and violent protest action in black townships. In addition, the police were granted extensive search-and-seizure powers. Such developments were also informed by an escalation in acts of sabotage by the ANC's armed wing, Umkhonto we Sizwe (MK). In 1981, for example, there were reportedly more than 90 sabotage acts orchestrated by MK against police stations, railway lines, electricity stations, and military facilities. This was close to a nine-fold annual increase in attacks compared to the period 1977–1980.¹¹

From the mid 1980s elements within the SAP and the SANDF pursued clandestine divide-and-rule strategies in relation to a number of black communities that were perceived to be strong supporters for the ANC, UDF and COSATU. This entailed the formation and support of vigilante/gangster groups (which included the supply of firearms and ammunition) that then sought to unsettle ANC/UDF/COSATU mobilisation efforts in targeted communities. These groups also terrorised and attacked those individuals and communities that were supportive of the ANC/UDF/COSATU.¹² Furthermore, the Truth and Reconciliation Commission (TRC) implicated SAP members in the clandestine support of and/or complicity in attacks by Inkatha-affiliated hostel dwellers against ANC-aligned communities, which resulted in mass killings in the early 1990s. Massacres were perpetrated in the Transvaal province in areas such as in Sebokeng (1990), Swanieville (1991) and Boipatong (1992). Some SAP personnel even planned and directly perpetuated mass killings, as was the case with the 1988 Trust Feed Massacre in the Natal Midlands where UDF activists were assassinated in a SAP orchestrated hit.¹³

By the mid-1980s the SAP was struggling to contain this widespread violence and the destruction of state property in many townships. For the period from September 1984 to May 1990 the SAP reported that they had responded to in excess of 51,000

unrest incidents in which 4,529 people had died and 12,449 had been injured.¹⁴ Various states of emergency were declared (which mostly remained in place until 1990), which allowed the police to arrest and detain (without standing trial) suspected agitators. Between June 1986 and June 1987 the police detained an estimated 29,000 people.¹⁵

THE SOUTH AFRICAN DEFENCE FORCE

Between the early-1970s and the early-1990s, the SADF enjoyed a privileged relationship with the Presidency, both in terms of budget and influence on decision-making. It was unaccountable to Parliament, and its military operations were undertaken in the absence of public scrutiny. It was comprised a permanent force but derived the bulk of its manpower from the compulsory conscription of white men. In the 1980s, it was estimated that, in times of need, the SADF could muster between 400,000 and 500,000 personnel.¹⁶

The SADF was involved in a variety of military activities during the apartheid period, which included: frequent hot pursuit operations into Angola; covert cross-border attacks; material and training support of anti-Communist rebel groups such as the *União Nacional para a Independência Total de Angola* (UNITA) (in Angola) and the *Resistência Nacional de Moçambique* (RENAMO) (in Mozambique); counter-insurgency strategies; destruction of strategic targets in neighbouring countries; and large-scale conventional military campaigns in Angola. The SADF's principal enemies were the ANC; the South West African Peoples' Organisation (SWAPO), the main Namibian liberation movement; and the *Movimento Popular de Libertação de Angola* (MPLA) government in Angola along with its Cuban allies.

The South African government and the SADF perceived their interventions in Angola and other military operations throughout Southern Africa as necessary wars that were part of the West's

7 John Brewer, *op cit*, 1994; Matthew Krentz, *An Unofficial War: Inside the Conflict in Pietermaritzburg*, Claremont: David Philip, 1990.

8 The UDF was an anti-apartheid movement that drew together hundreds of civil society organisations and religious organisations from across South Africa. It was closely aligned to the ANC.

9 Anthea Jeffery, *The Natal Story: Sixteen Years of Conflict*, Johannesburg: South African Institute of Race Relations, 1997.

10 Janine Rauch and David Storey, *The Policing of Public Gatherings and Demonstrations in South Africa, 1960–1994*. Braamfontein: Centre for the Study of Violence and Reconciliation

11 African National Congress, *Further Submissions and Responses by the African National Congress to Questions Raised by the Commission for Truth and Reconciliation*, 1997.

12 Piers Pigou, *The Apartheid State and Violence: What has the Truth and Reconciliation Commission Found?* *Politikon*, 2001 (28), 2, 207–233, doi:10.1080/02589340120091664; Gavin Woods, "Perspectives on Policing", in Mary. L. Mathews, Philip. B. Heymann, & A. S. Mathews (eds.), *Policing the Conflict in South Africa*, Gainesville, FL: University Press of Florida, 1993, 48–55.

13 Truth and Reconciliation Commission of South Africa. (1998). *Truth and Reconciliation Commission of South Africa Final Report*. Cape Town: Truth and Reconciliation Commission of South Africa, 1998.

14 South African Press Association, "Harms Report Details 1984–90 Unrest Figures", *South African Press Association*, 20 August 1990.

15 Robert, M. Price, *The Apartheid State in Crisis. Political Transformation in South Africa 1975–1990*. New York: Oxford University Press, 1991.

16 Mark Phillips, "The Nuts and Bolts of Military Power: The Structure of the SADF", in Jacklyn Cock and Laurie Nathan, (eds.), *War and Society: The Militarisation of South Africa*, Cape Town and Johannesburg: David Philip, 16–27.

resistance to a perceived Soviet global offensive. The SADF's first major invasion of Angola was through Operation Savannah (1975), which sought to prevent the MPLA from securing power at independence in November 1975. Operation Savannah was unsuccessful and the SADF withdrew in March 1976. The South African military continued to conduct clandestine and overt operations into Angola until the late-1980s. The aim of these operations was to prevent the MPLA government from permitting SWAPO to operate in southern Angola and to install UNITA as the *de facto* government of southern Angola.¹⁷

By the late-1980s, none of the parties involved in the Angolan war were in a position to secure a resounding victory. Furthermore, the SADF military campaign was placing a considerable burden on the South African economy. This resulted in considerable progress towards the conclusion of a peace agreement. The signing of the New York Accords in December 1988 resulted in the SADF withdrawal from Angola and Namibia, but also brought about the implementation of United Nations Resolution 435, which paved the way for Namibia's independence (in March 1990).

From the mid-1980s SADF soldiers were increasingly sent into black townships in an attempt to quell the intensification of violent protests against apartheid rule. Initially, soldiers were deployed to support the work of the police, but during the states of emergency SADF personnel were granted police powers (including the power of arrest, and search-and-seizure) and were often deployed separately from the police. For example, in 1985, more than 35,000 soldiers were dispatched to unrest hot spots. During this period there were numerous reports of SADF members being responsible for human rights abuses.¹⁸

INITIAL POLICE REFORMS

In 1988 the De Witt Commission was established to draw up proposals for the restructuring of the police, but the key recommendations were only effectively initiated during the early 1990s. In this regard, the SAP was reconfigured into five divisions, namely: Crime Combatting and Investigation (CCI), Visible Policing, Internal Stability, Human Resource Management and Support Services.¹⁹

The restructuring process subsequently became framed by the National Peace Accord (NPA), which was signed by government and the principal political groupings in 1991 (including the ANC). This document had a major police component, including a Code of Conduct for SAP members, specifically calling for effective, non-partisan, racially inclusive and more legitimate, community-focused and accountable policing. In addition, SAP members were obliged to "disarm those persons illegally bearing dangerous weapons in any gathering or procession".²⁰ Some analysts have argued that the NPA ultimately laid the foundation for democratic policing and community-oriented policing in the post-apartheid period.²¹

POST-APARTHEID PERIOD REFORMS

THE CREATION OF THE SOUTH AFRICAN POLICE SERVICE (SAPS)

South Africa's Interim Constitution (1993), which was negotiated during the political transition in the early 1990s, required the government to create the South African Police Services (SAPS) by

means of an act of Parliament. Such a police organisation was subsequently established out of the integration of various apartheid-era police bodies, including the Bantustan police forces, as well as the inclusion of some individuals from the armed wings of the ANC and the PAC into the existing SAP structures.²²

South Africa's final Constitution (1996) reframed the police's "internal security" obligation as follows: "maintain public order" and "protect and secure the inhabitants of the Republic and their property".²³ The subsequent SAPS Act (Act no. 68 of 1995) sought to re-engineer the police, and how they related to government structures and how they acted within society. The SAPS were thus required to: "ensure the safety and security" and "uphold and safeguard" the fundamental Constitutional rights of "all persons" in South Africa; "reflect respect for victims of crime and an understanding of their needs"; cooperate with "the communities it serves" to reduce crime; and submit to civilian oversight.²⁴

In essence, the architects of the Constitution and the SAPS Act had envisaged a new police for South Africa that would disregard the internal geo-racial apartheid policing boundaries and police all people with professionalism, compassion and respect, particularly those population groups that had previously been treated with suspicion and fear. Flowing from the new political leaders from the ANC and their civilian policing advisors set about drafting the National Crime Prevention Strategy (NCPS). The strategy was an attempt to "reorganise government" in order to reduce and prevent crime, but emphasised the need for the SAPS to be more efficient and effective.²⁵ This approach was informed by development-centred crime reduction efforts in other countries. The NCPS was an idealistic attempt to fundamentally address the various social and economic determinants of crime and violence in South Africa by means of an extensive, integrated, multi-layered, intergovernmental and public-private partnership enterprise. Many of the principles of the NCPS strategy were also re-emphasised in the 1998 White Paper on Safety and Security.

LIMITED SAPS REFORMS

The SAPS was fashioned amidst considerable political and socio-economic volatility. Intense political violence persisted in many peri-urban and rural areas in KwaZulu-Natal after the 1994 general elections. In addition, criminal violence escalated in most policing areas in South Africa throughout the remainder

17 Annette Seegers, *The Military in the Making of Modern South Africa*. London: IB Tauris, 1996.

18 Laurie Nathan, "Troops in the Townships, 1984-1987", in Jacklyn Cock and Laurie Nathan, (eds.), *War and Society: The Militarisation of South Africa*, Cape Town and Johannesburg: David Philip, 67-78.

19 Janine Rauch, *Deconstructing the South African Police*. Paper presented at the Annual Conference of the Association for Sociology in Southern Africa, Cape Town, 1991.

20 National Peace Accord, 1991, retrieved from <http://www.anc.org.za/show.php?id=3967>

21 (Phiroshaw Camay and Anne J. Gordon, *The National Peace Accord and its Structures*. South Africa Civil Society and Governance Case Study No. 1, 2002.

22 Mark Shaw, *Crime and Policing in Post-Apartheid South Africa. Transforming Under Fire*, London: Hurst & Company, 2001.

23 Republic of South Africa, *Constitution of the Republic of South Africa (Act No. 108 of 1996)*

24 Republic of South Africa, *South African Police Service Act No. 68 of 1995*.

25 Department of Safety and Security, *National Crime Prevention Strategy*, Pretoria: Department of Safety and Security, 1996.

of the 1990s, with high concentrations of such violence being experienced in Gauteng, KwaZulu-Natal and the Western Cape. Cabinet consequently impressed upon the SAPS the necessity to control and combat crime within South Africa as a matter of priority. In addition, the SAPS generally lacked popular legitimacy, particularly in townships.²⁶

During the latter part of the 1990s the ethos and orientation of the SAPS had remained relatively unchanged from the apartheid era (Rauch, 2004). Consequently, the SAPS responded to the radical policy shift that was recommended within the NCPS in a relatively superficial manner.²⁷ The police leadership narrowly interpreted the notion of crime prevention to conform to its tried-and-tested militarised approaches. Within a short space of time the NCPS had become marginalised, and was subsequently supplanted by the SAPS' own National Crime Combatting Strategy (NCCS) (in 2000), in which serious and violent crime was to be eliminated through aggressive policing, and by apprehending and imprisoning criminals.²⁸

The SAPS, however, did embrace some policing approaches that were in-line with more progressive thinking on crime prevention. A key example was that of community-oriented policing. It was seen by the new generation of South African policy makers in the 1990s to be a potential miracle treatment that would instil democratic policing values throughout SAPS, as well as generate legitimacy and grassroots accountability for the police (African National Congress, 1993; Pelser, 1999). In this regard, the SAPS Act (No. 68 of 1995) has required the police to establish Community Policing Forums (CPFs) in all policing areas. CPFs were envisaged to be committees of community members that would be mandated to: Promote communication and cooperation between communities and SAPS; engage in joint problem-solving between civilians and the police; facilitate transparency and accountability of the police; and improve the delivery of police services. Nonetheless, the SAPS modified the notion of community-oriented policing to suit the dominant policing ethos, namely as a means to mobilise and co-opt civilians as auxiliary resources for the business of state policing.²⁹

The SAPS even developed their own brand of community-oriented policing in 2001, which has been referred to as Sector Policing, with the National SAPS Commissioner issuing a Final Draft National Instruction on Sector Policing in 2003. It was a hybrid model that fused together elements of both community policing and problem-oriented policing, and was influenced by the limited British and North American experience in this area.³⁰ The SAPS version was envisioned to be a "practical manifestation" of community policing, that divided policing precincts "into smaller manageable parts", which would be actively patrolled by the same cohort of police in order to: deliver more community-specific, partnership policing; increase response times; and strengthen CPFs.³¹

Sector Policing was to be phased in over the next decade, and by March 2012 it had reportedly been implemented in 1,056 police station areas.³² However, by this point in time, the problem-solving aspects had been de-emphasised with sector policing having been re-interpreted as an "operational" form of visible policing.³³ Since 2000 there have been some studies of Sector Policing that has indicated that there had been some successes in building legitimacy and improving service delivery,³⁴ but other studies have indicated that the effectiveness of sector policing was undermined by scant community involvement and inadequate resources.³⁵

Efforts were also made to reform the SAPS approach to the policing of public disorder in an attempt to align this form of policing with the principals of policing in a multiracial democracy. In this regard the SAPS Public Order Policing Unit was established in 1995, which was the merger of the personnel from the former Riot Units and Internal Stability Units from the SAP and the various Bantustan police forces. It was envisaged that the Public Order Policing Unit would pursue a "more soft approach than previous historical methods" to the policing of gatherings, marches and protests, which included the showing of restraint and using force as a last resort.³⁶ Public Order Policing personnel were "re-selected" and underwent training based on international standards of crowd management by Belgian police instructors, which included negotiation skills.³⁷

The 1997 SAPS strategy on the policing of gatherings, protests and crowds called for the establishment of uniform procedures in this regard that were: aligned to the Constitution; community orientated; and efficient and effective. Public Order Policing units were also required to devote a significant amount of their time to supporting crime prevention and crime combatting operations. This strategy was encapsulated within SAPS Standing Order No. 262 (2002), which outlined how the police should act in circumstances where force was required to control collective disorder.³⁸

26 Ibid.

27 The SAP had experimented with the notion of crime prevention in the 1980s, but was narrowly interpreted as a community liaison function and appeared to be part of a "winning-hearts-and-minds" counterinsurgency strategy.

28 Guy Lamb, "Police Militarisation and the 'War on Crime' in South Africa", *Journal of Southern African Studies*, 2018, (44), 5, 933-949.

29 Monique Marks, Clifford Shearing and Jennifer Wood, "Who Should the Police Be? Finding a New Narrative for Community Policing in South Africa", *Police Practice and Research*, 2009, (10), 2, 145-155.

30 Johan Burger, J, *Submission to the Commission of Inquiry into Allegations of Police Inefficiency and a Breakdown in Relations between SAPS and the Community in Khayelitsha*, 5 May 2014; Janine Rauch and Bill Dixon, B, "Sector Policing. Origins And Prospects", *Institute for Security Studies Monograph*, 97, 2004.

31 (South African Police Service, 2003, 2013) South African Police Service, *Annual Report of the National Commissioner of the South African Police Service 1 April 2002 to 31 March 2003*, Pretoria: South African Police Service, 2003; South African Police Service, *National Instruction 3 of 2013: Sector Policing*, 2013.

32 (Government Communication and Information System, *South Africa Yearbook 2012/13*, 2013.

33 Johan Burger, 2014, *op cit*.

34 Jonny Steinberg, "Sector Policing on the West Rand. Three Case Studies", *Institute for Security Studies Monograph*, 2004, 110.

35 Dumisani S. Buthelezi, *An Analysis of the Implementation of Sector Policing in Soweto* (Magister Technologiae in Policing), University of South Africa, Pretoria, 2014; Moses Montesh, "Poor Infrastructure as an Inhibiting Factor in the Implementation of Sector Policing at Calcutta Police Station in the Bushbuckridge Local Municipality", *Acta Criminologica*, 2007, (20), 3, 32-45.

36 South African Police Service, *Annual Report of the South African Police Service 1 April 1996 - 31 March 1997*, Pretoria: South African Police Service, 1997, 50.

37 Sean Tait, and Monique Marks, "You Strike a Gathering, You Strike a Rock: Current Debates in the Policing of Public Order in South Africa", *South African Crime Quarterly*, 2011, 38, 15-22; Bilkis Omar, "Crowd Control. Can Our Public Order Police Still Deliver? SA Crime Quarterly", 2006, 15, 7-12.

38 Bilkis Omar, 2006, *op cit*.; Ministry of Police, *Policy and Guidelines: Policing of Public Protests, Gatherings and Major Events*, 2013.

During the 2000s, the public order component was rebranded, reoriented and its members re-trained on two occasions. In 2001, following a reported decrease in incidents of public violence, these units were renamed Area Crime Combating Units (ACCUs). Informed by the principles of Sector Policing the ACCUs were regionalised and were assigned an adjusted mandate, namely, to focus on serious and violence crimes. Five years later the ACCUs were further rationalised into Crime Combatting Units (CCUs), which were heavily armed, sported military-style uniforms, and made use of military organisational terms such as “company” and “platoon”.³⁹ These developments have had serious implications for the nature of public order policing in South Africa in the post-apartheid period with SAPS members being regularly implicated in the excessive use of force. A prime example was the 2012 Marikana massacre in which 34 striking miners were fatally shot and 78 were wounded by a large contingent of well-armed police personnel during an unprotected strike. Evidence uncovered by journalists has suggested that some of the deceased had possibly been executed by the police.⁴⁰

DEFENCE TRANSFORMATION IN SOUTH AFRICA

During the 1990s the South African military establishment underwent a large-scale transformation process, not merely in terms of its personnel, but also with respect to its relationship with government, as well as its organisational culture, role and posture. The military was brought under civilian control, as Parliament was given the authority to approve the defence budget and decisions taken by the President to deploy the military. The Parliamentary Joint Standing Committee on Defence was granted powers of investigation and recommendation, and the personnel, logistics and financial functions of the military are closely regulated and subject to independent audit.

A new military structure, the South African National Defence Force (SANDF) was established that is comprised of an army, air force, navy, and health services. Its primary objective is the defence and protection of South Africa, its territorial integrity and its people. Within South Africa, the SANDF has undertaken the following activities: patrolled the borders on a regular basis; supported the SAPS in crime combatting operations; provided assistance to victims of natural disasters, such as floods and fires; provided search and rescue support at sea and in mountainous regions; and patrolled the Kruger National Park to combat wildlife poaching. In addition, SANDF personnel have assisted the Independent Electoral Commission with logistics for voter registration as well as provided support during national and provincial elections. The SANDF has also increasingly become involved in United Nations (UN) and African Union peace support operations in Africa. In August 2019, for example, the SANDF had contributed 1,168 personnel to UN missions.

MILITARY NEGOTIATIONS AND THE CREATION OF THE SANDF

In the early-1990s, parties responsible for negotiating South Africa’s future were faced with the problem of how to deal with a variety of armed forces, namely the armed wings of the ANC and PAC (*Umkhonto we Sizwe* – MK and the Azanian People’s Liberation Army – APLA), the former homeland armed forces and the SADF, all of which had the potential to destabilise

TABLE 1: CERTIFIED PERSONNEL REGISTER DATA

Armed Force	Number
Statutory forces:	
Former SADF (excluding part-time forces, but including civilians)	90,000
Former TBVC (homeland) defence forces	11,039
Subtotal	101,039
Non-statutory forces:	
MK	28,888
APLA	6,000
Subtotal	34,888
TOTAL	135,927

Source: Motumi and McKenzie (1998)

South Africa. A two-fold strategy was eventually agreed upon. Firstly, a new representative national armed force would be created (the SANDF), which would consist of personnel from all the above-mentioned armed forces. Secondly, thousands of combatants would be demobilised and reintegrated into civilian life.

Between 1993 and 1994, all South African statutory (conventional military formations) and non-statutory (armed wings of liberation movements) forces were required to submit a list of their personnel to a centralised list called the Certified Personnel Register (CPR), which was administered by the South African Department of Defence (DOD). This list was to form the basis of the military integration, as well as the demobilisation and reintegration of targeted ex-combatants. However, MK and APLA experienced challenges in compiling their relevant lists as they had not kept detailed records of their members; many ex-combatants had used pseudonyms during the armed struggle; and MK and APLA experienced difficulties in determining those categories of members that could be defined as “combatants”.⁴¹

The content of the CPR was controversial as thousands of ANC and PAC members who had not been included on the list claimed that they had served in MK or APLA. Consequently, these individuals were not entitled to any financial payments or other benefits, and in effect had to self-demobilize. The final numerical breakdown of the CPR by type of armed force at that time was as follows: *See Table 1*

Following the completion of the CPR, integration of the former combatants into the SANDF was initiated. It consisted of four stages:

- Ex-combatants were regionally mustered and then assembled at specified military bases.
- Ex-combatants then appeared before the placement board that consisted of different armed forces and the British Military

39 Bilkis Omar, “SAPS Costly Restructuring. A Review of Public Order Policing Capacity”, *Institute for Security Studies Monograph*, 2007, 138.

40 Greg Marinovich, “The Murder Fields of Marikana. The Cold Murder Fields of Marikana”, *Daily Maverick*, 8 September 2012

41 Tsepe Motumi, and Penny McKenzie, “After the War: Demobilisation in South Africa”, in Jacklyn Cock and Penny McKenzie, (eds.), *From Defence to Development. Redirecting Military Resources in South Africa*, Cape Town: David Philip, 1998, 181–203.

Assistance Training Team (BMATT). Those without formal military training or sufficient military qualifications did not undergo integration and were released from the military.

- If required, ex-combatants were provided with bridging training and orientation.
- Ex-combatants were placed into different arms of service.⁴²

The official process of integrating personnel into the SANDF began in April 1994. During these negotiations it was decided that the SANDF would include the following numerical breakdown of armed forces: MK-17,000, APLA-6,000, Homeland militaries-10,000 and SADF-85,000. The integration of MK and APLA was however characterised by dissatisfaction over ranks, conditions of service and salaries. Most MK and APLA soldiers received lower salaries and ranks compared to their white SADF counterparts. In addition, former non-statutory soldiers were not initially issued with uniforms, had to endure substandard living conditions, and were not provided with pensions as had been previously promised.⁴³

DEMobilIZATION OF IDENTIFIED EX-COMBATANTS

The official demobilisation process was initiated in April 1995, the aim of which was the voluntary release of ex-combatants (principally from MK and APLA) who were members of the SANDF, but either did not wish to, or were unable (due to physical disability) to serve in the full-time force. It involved the provision of gratuities, which varied according to the number of years of military service, from a minimum of R 12,734 to a maximum of R 40,657. Soldiers undergoing demobilization were also encouraged to participate in two weeks of voluntary counselling and eighteen months of vocational training through the DOD's Service Corps (SC).⁴⁴ It was anticipated that the SC would train close to 22,000 personnel between 1995 and 2001. However, the SC was plagued by various problems, with the primary shortcomings being:

- It was established without effective planning and training programmes were designed without an adequate analysis of existing skills among demobilised soldiers, as well as their career aspirations.
- No systematic labour market analysis was undertaken, which resulted in many trainees acquiring skills with which they could not secure jobs in their place of residence.
- Tensions existed between the SC Head Office, which was administered predominantly by former MK soldiers, and regional offices, which were run by former SADF and TVBC soldiers.
- The maintenance of a military culture within the SC undermined the culture of learning. There were a number of official inquiries into the performance of the SC, all of which found that the SC to have significantly under-performed and to have been ineffective in fulfilling its mandate.⁴⁵

In December 1996, the South African Parliament passed the Demobilisation Act, which extended demobilisation to SANDF members who could not be integrated because of their age, level of education, health, or individuals who chose not to continue in the employment of the military because of dissatisfaction with their rank after placement in the SANDF. It involved the provision of gratuities, which varied according to the number of years of military services. (DOD, 1998). Also in 1996 the Special Pension Act No. 69 of 1996 (which specifically targeted MK and APLA military veterans) was enacted to provide a modest pension to those former combatants were 35 years or

older on the commencement date of the Act, with monthly payments ranging from R 500 to R 5000 depending on the age of the beneficiary.

SANDF POLICY AND INSTITUTIONAL REFORM

DEFENCE POLICY

The Interim Constitution which was enacted in 1993 (which was reworked and amended in 1996), includes a Bill of Rights, stipulates that government should be transparent and accountable to the people of South Africa, and specifies that the South African armed forces should be non-partisan, subject to the control and oversight of an elected civilian authority; and required to perform its functions in accordance with the law. This provided a major impetus for the overhauling of South Africa's defence policy in the post-apartheid period.

The process of re-writing defence policy was characterised by a struggle over the control of drafting process between the Ministry of Defence and the DOD. In 1995, the DOD, presented a draft policy document to the Minister of Defence, Joe Modise, which recommended a series technical reforms. However, this plan did not adequately address organisational culture, as well as race and gender representivity. Modise rejected this document and established a more consultative process involving Parliament, political parties, interest groups. A White Paper on Defence was subsequently drafted, and then ratified by Parliament in 1996.⁴⁶

The White Paper provided the broad policy framework and the principles of defence in a democratic South Africa. The key principles were as follows: security shall be pursued by addressing the social, economic, political and cultural rights and needs of South Africans; the SANDF shall have a defensive posture and orientation, and shall pursue peaceful relations with other states; the SANDF will be a balanced, modern, affordable and technologically advanced military force, capable of executing its tasks effectively and efficiently; the SANDF shall be subordinate and fully accountable to parliament; the SANDF shall develop a non-racial, non-sexist non-discriminatory institutional culture; and the composition of the SANDF shall broadly reflect the composition of South Africa, and as a result affirmative action and equal opportunity programmes shall be introduced.⁴⁷

However, the Defence White Paper was vague in certain sections. No targets, timelines and implementation strategies were presented, and it did not address the critical issues of the SANDF's force design and budget.⁴⁸ Hence it became essential to initiate a more technical follow-on process that would

42 Mafole Mokalobe, *Demobilisation, Reintegration, Rationalisation and Peacebuilding in South Africa*, Unpublished Master of Social Science Degree, University of Cape Town: Department of Political Studies, 2001

43 Creative Associates International. *Tool Category C: Military Measures 7, Integration/Restructuring of Military Forces*, ND.

44 Tsepe Motumi, and Penny Mckenzie, 1998, *op cit*.

45 Mafole Mokalobe, 2001, *op cit*.

46 Laurie Nathan, "The 1996 Defence White Paper: An Agenda for Demilitarisation?" in Jacklyn Cock and Penny McKenzie, (eds.), *From Defence to Development. Redirecting Military Resources in South Africa*, (Cape Town: David Philip, 41-59, 1998.

47 Laurie Nathan, 1998, *op cit*.

48 Gavin Cawthra, "From 'Total Strategy' to 'Human Security': the Making of South Africa's Defence Policy, 1990-1999", *Journal of Peace, Conflict and Military Studies*, 2000, 1, 51-67.

recommend, in detail, the manner in which the SANDF would be transformed. This process became known as the Defence Review, which was a transparent and consultative process, with the Defence Secretariat making an effort to ensure public participation. These developments resulted in the formulation of a substantial document that was approved by Parliament in April 1998. This document included sections on defence posture; roles and functions; force design; regional and international security co-operation; organisation and structure; human resources (particularly strategies to bring about race and gender representivity); land and the environment; as well as defence acquisition management.

INSTITUTIONAL REFORM

Institutions that were geared towards effecting the necessary democratic changes with respect to the military establishment were either strengthened or introduced in post-1994 South Africa. The key organisations were: The Parliamentary Portfolio Committee on Defence and Military Veterans; the Defence Secretariat; the Chief Directorate Equal Opportunities and Affirmative Action (DOD); and the Military Ombudsman.

The South African multi-party Parliamentary Portfolio Committee on Defence and Military Veterans has been the key champion in terms of redrafting defence policy and legislation, as well as an advocate for transformation within the SANDF, and has, since the mid-1990s, this Committee has frequently held the DOD to account in terms of fulfilling its transformation objectives. The Secretary for Defence manages the Defence Secretariat and is the accounting officer of the DOD. He is the principle advisor to the Minister on defence policy, as well as on matters that may be investigated by the Parliamentary Portfolio Committee. The Secretary is responsible for monitoring the Chief of the SANDF's compliance with directives issued by the President or the Minister of Defence.

The Equal Opportunities and Affirmative Action Chief Directorate was established within the DOD, and has advised the Secretary for Defence on equal opportunities and affirmative action policy and plans (and the implementation thereof).

A Military Ombudsman was established in the Office of the Public Protector and reports to Parliament. According to the Defence White Paper, the Military Ombudsman is responsible for monitoring adherence to democratic civil-military relations and investigating complaints against the SANDF by military personnel and members of the public (Republic of South Africa, 1996). As shown in the various annual reports compiled by the Military Ombudsman, over the years, the Military Ombudsman has predominantly dealt with cases related to the conditions of service of serving or former SANDF members. Only a small minority of complaints have been related to complaints against SANDF personnel by members of the public. Of concern was a report by the Ombudsman in 2000 to the Parliamentary Portfolio Committee on Defence that verbal abuse of rank-and-file soldiers was widespread.⁴⁹

One of the major challenges that confronted the SANDF in the 1990s was to transform its race and gender profile. Hence targeted policies and programmes were required. The DOD has sought to implement measures to ensure that the DOD is broadly representative of the South African population, but at the same time ensures that the mission readiness of the SANDF is guaranteed. The key features of this policy are:

- To assist designated groups (particularly Africans and women) to develop their skills and potential, especially in leadership positions;
- To create an environment which values diversity and fosters mutual respect and dignity among all DOD personnel;
- To acknowledge and entrench the right of women to have the opportunity to serve in all ranks and positions, including combat roles;
- To subscribe to the principle of affirmative action as a measure to obtain equal opportunity in the DOD; fast-track identified military members and civilian employees, specifically personnel of the designated groups, who are suitably qualified in order to prepare them for leadership roles; and
- To develop special programmes to suit the specific needs of designated individuals/groups in developing their full potential to empower them to execute their tasks more efficiently.

Special education and training programmes were introduced in the SANDF to standardise procedures following the integration of statutory and non-statutory forces; to facilitate the above-mentioned affirmative action and equal opportunity programme; and upgrade the skills of African personnel and women soldiers. A civic education programme on "Defence in a Democracy" was planned, with the objective of instilling respect amongst military personnel for core democratic values such as respect for human rights, the rule of law, international law, non-partisanship, non-discrimination and civil supremacy over the armed forces.⁵⁰ However, such a programme is yet to materialise.

SANDF: FORCE RESTRUCTURING AND DOWNSIZING

In 1996 the total personnel strength stood at 101,000. However, in terms of the 1998 Defence Review, the ideal personnel strength was set 70,000, and hence a downsizing process was required, which the DOD referred to as "separation". The downsizing of personnel was largely achieved by means of natural attrition (e.g. resignations, retirements, transfers, selective non-renewal of contracts, discharges and death) and voluntary severance packages.⁵¹ The DOD also sought to achieve greater racial and gender representivity within its ranks. The table below provides details on progress that has been made in this regard between 1994 and 2001, where the percentage of African person increased from 37.5 % to 71 % (which is more representative of overall demographics in South Africa). There was also an improvement in terms of the DOD's gender representation during this period as there was a eight per cent increase in the overall number of women employed by the DOD between 1994 and 2011. *See Table 2*

In the late-1990s and early-2000s there were a number of incidents of alleged racial discrimination by white soldiers against their black counterparts. These incidents took the form of unfair punishment, assaults, slurs, discrimination and unfair dismissals. Shooting incidents between members of the SANDF, which were allegedly racially motivated, have also taken place. The most widely publicised incident was in 1999 when a black soldier shot

⁴⁹ Military Ombudsman, *Report on the State of Military Ombudsman to the Joint Standing Committee on Defence*, 31 October 2000.

⁵⁰ Laurie Nathan, 1998, *op cit*.

⁵¹ Philip Frankel, *Soldiers in a Storm: The Armed Forces in South Africa's Democratic Transition*, Boulder: Westview Press, 2000.

TABLE 2: RACIAL AND GENDER TRANSFORMATION IN THE SANDF

	1994	1996	2011
SANDF personnel (race) %			
African	37.5	54.1	71
Coloured	15.7	11.9	13
Indian	1	0.9	1
White	45.7	33.1	15
SANDF personnel (gender) %			
Male	80.2	82.3	72
Female	19.8	17.7	28

Source: Department of Defence (2011)

and killed six white colleagues and a white civilian at Tempe military base (Bloemfontein). Other allegedly racially motivated shootings have taken place at the Phalaborwa 7 SA Infantry Battalion, Simon's Town naval base and during the South African peace support operation in Burundi. Following the Tempe shooting, a Ministerial Inquiry was established to determine the causes of the Tempe shooting. According to the final report, the skewed racial representation at the SANDF's management at operational levels fuelled racial tension and contributed to overt racist incidents between white and black members of the SANDF.⁵²

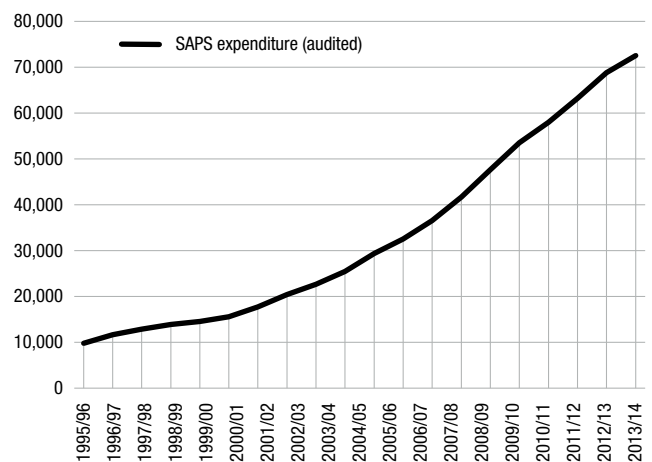
REINTEGRATION OF EX-COMBATANTS INTO CIVILIAN LIFE

Studies on the reintegration of ex-combatants into civilian life indicated that ex-combatants encountered a number of challenges in this regard. Liebenberg and Roefs (2001) undertook a questionnaire-based study of a sample of 307 ex-combatants (of which 66 % of their sample stated that they were from MK or APLA). They found that 37 % of respondents to be unemployed.⁵³ Gear (2002) undertook a qualitative study that was based on interviews and focus group discussions. Gear concluded that many ex-combatants were experiencing major difficulties integrating into civilian life, and perceived themselves to have been "wished away".⁵⁴ The Centre for Conflict Resolution (2003) surveyed a nationally representative sample of 410 MK and APLA ex-combatants and found that 66 % per cent of respondents were unemployed, with most either being dependent on family members to provide them with money, food and shelter, or engaged in *ad hoc* informal sector activities. Approximately a third of the respondents indicated that they suffered from psychological problems.⁵⁵

LESSONS LEARNT

The South African case indicates that considerable democratic reforms in relation to the security apparatus are possible in post-conflict environments. A key aspect of this was an all-inclusive negotiation process that led to the drafting of a new national Constitution. This Constitution necessitated substantial legislative, institutional and policy reforms in terms of both the police and military. A further element of success was the systematic

CHART 1: SAPS EXPENDITURE (AUDITED AMOUNTS IN SOUTH AFRICAN RANDS)



Source: (National Treasury, various years)

integration of individuals from the previously conflicting groups into new security entities.

A key contributing factor to defence transformation in South Africa is that the country has not faced a significant military threat since 1994. Hence, the DOD and the Parliamentary Portfolio Committee on Defence were able to focus on and consolidate defence and security reforms, including effective civilian oversight of the military. However, transformation efforts have been constrained by declining budget allocations for the military over the past two decades, which in turn has had negative consequence for the SANDF's combat readiness as identified in the 2015 Defence Review.

Leadership also played a constructive role in defence reform. The Defence White Paper (1996) and the Defence Review (1998) would not have materialised if it had not been for the commitment of the relevant Cabinet Ministers and Chairpersons of the Parliamentary Defence Portfolio Committee; the diligence of senior members of the Defence Secretariat; and the willingness of the Chief of the SANDF and senior officers to make compromises and actively engage in the policy reform process. In addition, other constructive developments, such as changes to the role and functions of the SANDF, as well as movements towards greater racial equality in the SANDF, would not have been achieved without the necessary leadership.

The South African police did undergo a noticeable transformation process both in terms of democratic oversight and policing orientation. This was also facilitated by progressive leadership, both in terms of the relevant parliamentary committees and senior SAPS officers, combined with the requirement that the SAPS had to regularly engage with community organisations, such as CPFs, in its day-to-day policing activities.

52 Ministerial Committee of Inquiry, *An Analysis of Progress with Transformation in the Defence Force*, Bloemfontein: Ministerial Committee of Inquiry), 2001

53 Ian Liebenberg and Marlene Roefs, "Demobilisation and its Aftermath: Economic Reinsertion of South Africa's Demobilised Military Personnel." *Institute for Security Studies Monograph Series*, 2001, No. 61.

54 Sasha Gear, "Wishing us Away: Challenges Facing Ex-Combatants in the New South Africa", *Violence and Transition Series*, (8), 2002

55 Centre for Conflict Resolution, "Reintegration into Civilian Life: the Case of Former MK and APLA Combatants", *Track Two*, 2003, (12), 2.

However, some elements of apartheid policing remained, especially militarised policing. A key lesson is that policing reforms are especially difficult in contexts characterised by: consistently high levels of crime; low levels of public trust in the police; and a dominant view amongst government decision-makers that forceful approaches to police work is an effective means of reducing crime levels. This approach has resulted in a considerable expansion in the size of the police, as well as in terms of the police budget.

The SAPS, which encompasses close to 50 % of all funded government posts, has consistently received one of the largest allocations of total government spending compared to other departments. This financial allotment has increased considerably every year since 1995/96 (see Chart 1. below). In the 2014/15 financial year SAPS spent R 72.5 billion, which was in excess of 11 % of government spending for that year. For 2015/16 SAPS was allocated R 76.4 billion, which was more than the combined financial resources that had been apportioned to: Health; Basic Education; Trade and Industry; Economic Development; Agriculture, Forestry and Fisheries; Sport and Recreation; and Women.⁵⁶ Sound international research has shown that significant government investment in education, health, and employment creation is likely to result in meaningful long-term violence prevention outcomes. See *Chart 1*

CONCLUSION

During the apartheid period the security apparatus within South Africa was well-resourced and politically influential. The police and military were central to ensuring the perpetuation of a repressive government that sought to protect the interests and privileges of a minority group at the expense of the majority. A negotiated settlement was concluded between the main political groupings following decades of armed conflict that spanned numerous other countries in Southern Africa. A key focal issue during the negotiations was the reform of the both the police and military with aim of ensuring that these institutions would support and protect democratic governance in a “new” South Africa.

Since the elections in 1994 South Africa’s security institutions have undergone considerable changes in terms of institutional arrangements, policy and posture. This has been influenced by the absence of a significant military threats to South Africa but has also due to the fact that the ANC, as the ruling party has had a substantial political majority. Such a state of affairs has enabled the South African government to initiate and consolidate reforms within both the police and the military.

⁵⁶ National Treasury, 2015, *Estimates of National Expenditure 2015*, Pretoria: National Treasury.

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MEMORY OF NATIONS

Democratic Transition Guide

[The Spanish Experience]



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DISMANTLING THE STATE SECURITY APPARATUS

RICARDO RUIZ DE LA SERNA

INTRODUCTION

The authoritarian nature of the Francoist regime made the police apparatus a central element of the power structure in Spain. This apparatus comprised of two planes. On the one hand, the police forces with successive denominations that were adapting to the times from the first years of the Post-War period until the advent of democracy. On the other hand, the Civil Guard has maintained its denomination, although its structure keeps changing?

Both corps used the usual techniques of police work, i.e., infiltration, capture of confidants, interception of communications, monitoring, tracking, etc., in a legal framework in which the system pivoted on the notion of “public order”.

In fact, perhaps the greatest change performed during the transition is the replacement of the notion of public order with that of “citizen security”, as of article 104 of the Constitution of 1978.

This transformation, however, was not accompanied by the dismantling of the police apparatus, but rather by its reform.

On the one hand, a general framework of the State Security Forces and Corps, in which both regional and local police entered, was redefined.

On the other, the officiality was not depurated, but it kept renewing as retirements or, where appropriate, the steps to the reservation were taking place. The cadres of the security forces complied with the constitutional order that had emerged from the transformation of the Francoist State to the democratic State in the famous formula of Torcuato Fernández-Miranda “from law to law through law”.

Of course, this did not prevent the practices of the dictatorship from surviving during the beginning of the democratic period: the practice of torture and ill-treatment at the police station, arbitrary detentions, etc. However, the consolidation of the constitutional regime was eradicating these practices and normalizing the system of fundamental rights enshrined in the Constitution.

POSITION AND STRUCTURE OF THE STATE SECURITY APPARATUS BEFORE THE TRANSITION

The police forces during Franco’s regime (1939–1975) were of a different nature. As a characteristic of the police State, the entire administrative apparatus was at the service of police control and, in this sense there was no scope of administrative action that could not be made available to those corps.

During the Civil War, the Information and Military Police Service (*Servicio de Información y Policía Militar*, SIPM), as its counterpart, the Military Information Service (*Servicio de Información Militar*, SIM) of the Republic, assumed spying, counterespionage and political police tasks. Created in 1937, its antecedents were the Military Information Service (1936) and the Northeast Spain Information Services (1936) as well as the Information and Investigation Service, which depended on the Traditionalist Spanish *Phalanx* (*Falange Española Tradicionalista*, FET) and of the National Syndicalist Offensive Boards (*Juntas de Ofensiva Nacional*

Sindicalista, JONS). The functions of these bodies were assumed, at the end of the war, by the Political-Social Brigade.

After the war, the armed forces controlled most of the police activity and social control. The Police Services Reorganization Act of 1941 created a police structure comprising of two bodies: the General Police and the Armed and Traffic Police Corps.

The General Police Corps was in charge of the investigation and political repression tasks while the Armed and Traffic Police Corps was assigned the task of operational intervention and public order.

Attached to the General Police Corps was the General Public Order Police Station and the most relevant force depended on it for the purposes of political repression: The so-called Social Political Brigade.

Indeed, the police force that performed during most of Francoism was the Social-Political Brigade, which was active from 1941 to 1978. Its official name was the Social-Investigation Brigade. The Decree of June 24, 1938 indicated among its functions “the control of matters in political action” as well as the prevention and repression of activities that obstruct or divert the general guidelines of the government.

Together with the Falange’s police and information services, it is necessary to mention the Civil Guard that, under the Act of March 15, 1940, “reorganizing the Meritorious Civil Guard Corps”, had a military nature and was entrusted with “the surveillance and safeguarding of the fields, towns, rural agglomerations, factories, industrial and mining centers isolated from the populations, coasts and borders, the persecution of smuggling and fraud, the forecasting and repression of any subversive movements and, at all times and places, the persecution of criminals”.

Thus, this organization of the apparatus led to the creation of archives of a different nature, namely, civil and military, which in turn were distributed according to the respective deployments.

NUMBER OF MEMBERS OF POLICE FORCES, APPARATUS AND NETWORK OF COLLABORATORS

Perhaps it was Joaquín Bardavío who has best described the police forces and the functioning of the power of the State’s order forces during the Transition:

“The General Directorate of Security, under the Ministry of the Interior, is a fundamental department in the structure of the country. [...] The Directorate is entrusted, in large part, with the support of the social and political structure of Spain. Its functions are diverse: repressive of common crimes and of politicians who undermine the established legal status; administrative in issuing passports and hunting licenses; humanitarian in the search for a lost child or insane person; informative for the location of a friend or a relative distant for years; but always preventive for the safety of citizens and for the security of the State.

8,200 officers of the General Police Corps and almost 20,000 members of the militarized Armed Police are responsible for

maintaining, together with the Civil Guard, order in the Spanish society.”¹

The police command apparatus was divided into two scales: the superior with 750 chief commissioners and commissioners and the executive with 7,450 chief inspectors, inspectors and sub-inspectors. Within the police scheme, the General Commissariat of Social Investigation is highlighted for its special political importance, whose mission is to “maintain the internal security services of the State, preserve its institutions from danger and defend and preserve public order.” Thus, it has “preventive and repressive functions for crimes punishable by common and special legislation that refer to alterations of order, illegal organizations, attacks on institutions, etc.” This police station is entrusted with the supervision and coordination of the Social-Investigation Brigades spread throughout Spain: It “centralizes information and issues orders, guidelines and news to prevent the type of crime entrusted to it and neutralize all illegal activity.”²

The General Police of Public Order also highlighted because of its competences and some of its functions “the preparation and establishment of the security services for the displacements and trips and travels of the Head of State, the Prince of Spain and their respective families as well as the trips and travels of Government ministers and foreign personalities”, as well as “the processing of orders for and ratifications of imprisonment” and “authorizations for the conduct of detainees or incarcerated in prisons or before the presence of governmental or judicial authorities that require them”. It was also in charge of guarding “the number of foreigners detained at the request of other countries for the application of extradition and of those who for various reasons await their immediate expulsion from the national territory”.

At the end of the Civil War, all State institutions were reformed and this affected the forces and corps of public order. The Civil Guard was reorganized after the Civil War under the Act of March 15, 1940 and had merged with the *Carabineros*. In this way, the Armed Institute, as Bardavío states, assumed the surveillance of ports and borders for the suppression of smuggling. During the Transition, it had approximately 60,000 men.

The Meritorious, as the Civil Guard is known, depended administratively on the Ministry of the Interior, but its organization, instruction and weaponry depended on the Ministry of the Army, thus reaffirming its status as a military corps. Hence, the new Civil Guard “adopted all the characteristics of a large Army corps unit while retaining in the background its characteristics of a uniformed police institution.”³

It has to be added the numerous information services that operated at the political level to the two corps with police functions. Under the Decree of August 30, 1939, created by the High General Staff, there was granted to its Third Section the mission of “providing the supreme command with the necessary information for the most accurate assessment of the military and economic potential of other countries”. In February 1944 this mission was extended to “confront in and out of Spain the complex foreign spying services and coordinate the action of the various agencies responsible for repressing them.”⁴

Around this Third Section, a complex apparatus of information services that made necessary a reserved order of December 20, 1945 in which the powers were distributed among the different ministries was developed:

“The senior management of the military-type information services corresponds to the High General Staff, coordinating the actions of the specific ones of the three Armies [...] To the Ministry of the Interior, with its specific body, the General Directorate of Security, corresponds the full responsibility and competence with regards to the general information services related to public order and the internal security of the State [...] The questions of competence will be resolved by the Presidency of the Government.”⁵

At the beginning of 1968, the Third Section was articulated in the Bureau of Studies and Reports, the Bureau of Operations, with the sub-bureaus of Interior and Exterior, and the Technical Bureau, in charge of encryption, encoding and decryption services, transmissions, listening and other technological needs.

From the Third Section, the so-called Central - Information Service Bis of the Army - (*Central-Servicio de Información Bis del Ejército*, CESIBE), which assumed powers in political research both at the espionage and counterespionage level, was detached. It was fed by the military information services, but also from the General Directorate of Security, the Civil Guard and the information services of the Traditionalist Spanish Phalanx and the JONS, the Spanish Trade Union Organization and other informants of the political and social organizations.

Following the 1968 student mobilizations, the National Counter-subversive Organization (*Organización Contrasubversiva Nacional*, OCN), dependent on the Third Section whose function was the control of student organizations and then expanded to intellectual, social and religious circles was created. As of 1972, its mission was continued by the Central Documentation Service (*Servicio Central de Documentación*, SECED), which was structured in the areas of “information” and “operations”. Some of the most important operations of the Transition were directed from the SECED, such as obtaining information about the XII Congress of the Socialist Party in Suresnes (France).

Thus, in the years of the Transition, as Ernesto Villar mentions, “Spain had eleven information services. The Caudillo had wanted it that way; following the manual for use among the dictators (the principle of ‘shared information’) according to which the best vaccine against a coup d’etat is to distribute knowledge of sensitive data. In other words, ensure that everyone has a part of the information that they must convey to their superior, but not all.”

POWERS OF THE SECURITY APPARATUS

As General Andrés Cassinello, under the pseudonym of Carlos I. Yuste, described in the famous book “Subversión y reversión en la España actual”, published in a year as emblematic as 1975 by the now disappeared Editorial San Martín, “the danger of subversion increases as part of an organized, powerful and coherent front, of an enemy who knows what he wants and has the necessary

1 Joaquín Bardavío, *La estructura del poder en España*, Madrid: Ibérico europea de ediciones, 1969, 223.

2 *Ibid.*, 232.

3 Antonio Morales Villanueva, *Las fuerzas de orden público*, Madrid: San Martín, 1980, 176. Also Antonio Morales Villanueva, *Administración policial española*, Madrid: San Martín, 1988, 202.

4 Juan María de Peñaranda, *Los servicios secretos de Carrero Blanco. Los orígenes del CNI*, Barcelona: Espasa, 2015, 20–21.

5 *Ibid.*, 21.

experience and means to achieve it. Such is the case of Marxist subversion, spread throughout the world. [...] In the face of this ideological aggression, it is necessary to consider the problem as a real battle and conduct a detailed study of factors that allow us to achieve victory. We have plenty of means to achieve it, but it is necessary to use them with opportunity and efficiency”.

Indeed, the means and powers available to law enforcement agencies to combat what they considered “subversion” were very remarkable and served to bring about “reversion”, i.e., in Cassinello’s words, the “reaffirmation and relaunch of principles on which society is based; the strengthening of the institutions in which it is articulated and the destruction of the groups and of the ideas that try to subvert it”.

To that purpose, the actions of the safety apparatus are distributed in two different orders:

“[...] the first, strengthening the attacked society, in the double aspect of its organic and spiritual structure; it constitutes the fundamental, essential means, the channel of the natural dissatisfaction and of the legitimate hopes that justify, before ourselves, the commitment; the second, totally sterile if not accompanied by the first, responds to the principle of legitimate defense of society against an implacable and persevering enemy. In the general development of the process it will be necessary to implement psychological actions to modify the ideas and attitudes of the population, political actions to adapt the system to the aspirations and needs of the population; administrative actions for the resolution of old and new problems and police and judicial actions for the location and neutralization of hostile groups.”⁶

In the terminology of the anti-subversive struggle, what will be called “destruction action” is based on three possibilities that can be coordinated: informative possibilities, police possibilities and psychological actions of consolidation.

The scope of the informative actions refers to the knowledge of the enemy and it is the responsibility of the internal and external intelligence services that work at the service of the State. They ascertain who the people and groups “committed to the revolutionary adventure” are, where they act (universities, professional associations, religious organizations, etc.) as well as their forms of action (strikes, pickets, assemblies), and the moments chosen for it (for example, revolutionary commemorations). The internal and external intelligence services analyze the types of subversive propaganda, its origin, its dissemination and, in general, the ideological and doctrinal aspects. For this, the security apparatus will use both open sources accessible in Spain and abroad as well as information obtained through networks of confidants and infiltrated agents. This intelligence purpose can be coordinated with the strictly police purpose of prosecuting common and political crimes.

There are many cases of famous infiltrators such as the Agent Conesa, with whom the infiltration of the Communist Party of Spain in 1947 and the subsequent fall of a good part of its organization in 1952 was achieved, but also those of confidants and collaborators who are often “natural members of the same group captured by the information service for their secret identity with the cause of the reversion or due to the benefits of any kinds that this collaboration could provide (money, protection of police records, etc.)”.

Along with these possibilities of information, there are the police that start from a “legal system for the description of offenses

against society, intended to be punished, and with an agile system to empower the police to exercise their functions”.⁷

Here, the change in the Transition from the model of public order enshrined in the pre-constitutional order through the Public Order Act of 1959 to the democratic constitutional order that, as of the Constitution of 1978, would replace that notion with that of citizen security, becomes of the utmost importance. Indeed, the Law of Public Order of 1959 defined the different states of normality, of exception and of war in a different gradation that oscillated “between the total exercise of defined freedom and its limitation for the sake of a serious need.” However, it warned about the danger of abusing situations of exception: “the occasions of limitation of freedoms must be few and short in time, since they have an unfavorable impact on the mass of citizens not engaged in subversion.”

Here it is the background of police thinking during the years of the Transition in which, in the words of Alfredo Grimaldos, it produced “the repressive action of the Armed Police and the Civil Guard against concentrations of strikers and popular demonstrations” that “causes dozens of deaths and countless wounded between 1976 and 1980”. In this sense, the triumph of the Transition “from above” instead of the “revolutionary process” that the communist parties had theorized meant the continuity of the security apparatus, which was adapted to the constitutional order but not radically substituted. There were, no doubt, retirements, dismissals and substitutions in the command posts, but there was not, in general, a depuration of the police cadres, the Civil Guard and the information services.

In effect, the Police Forces Act of December 4, 1978, changed the name of the Armed Police to National Police and supposed important symbolic modifications such as the disappearance of gray uniforms and their replacement with brown ones, but this did not prevent, for example, that the commands continue to feed on the military cadres. Figures such as the Creix brothers or the aforementioned Conesa benefited from the Spanish Amnesty Act 46/1977 of October 15, which also benefited the opponents of the regime.

Thus, the different police techniques to combat subversion, infiltration, monitoring, tracking, observation and interception of correspondence, records, seizures, capture of confidants or informers, etc., had the dual purpose of obtaining information for intelligence purposes and the police, and, where appropriate, judicial persecution, of the “subversive” organizations. The legal framework after the Constitution of 1978 will limit, on the one hand, these police powers and will subject the intelligence services to the internal and external parliamentary and judicial controls that are applied nowadays.

REACTION TO POLITICAL CHANGES

As has been said, the Spanish Transition was considered as a transformation “from above” in which one would go “from law to law through law” in the phrase coined by Torcuato Fernández-Miranda.

Thus, the reaction to political changes by the political forces of Francoism was more an internal matter between

6 Carlos I. Yuste [Andrés Cassinello], *Subversión y reversión en la España actual*, Madrid: San Martín, 1975, 215.

7 *Ibid.*, 239.

the “open-minders” and the so-called “bunker”, the whole of the involution forces, than the response to changes imposed from outside. These tensions grew as Francoist Cortes made themselves the “hara-kiri”, according to the expression that became popular in the Transition, through the approval of the Law 1/1977 for the Political Reform that Torcuato Fernández-Miranda wrote to execute the “controlled demolition” of General Franco’s regime. In statements to the press cited by the famous *Diario 16*, “since one thousand eight hundred we, the Spaniards have had procedures to modify the laws that political groups never followed, while now we are faced with the possibility of creating a radically different political assumption starting from the Fundamental laws themselves that are reformed”.

In this sense, article 5 of the legal text gave King Don Juan Carlos the power to lead the change through a constitutional referendum:

“The King may directly submit to the people a political option of national interest, whether constitutional or not, to decide by referendum, the results of which will be imposed on all the bodies of the State.

If the object of the consultation refers to matters of the competence of the Cortes and they will not make the corresponding decision in accordance with the result of the referendum, they will be dissolved, proceeding thus to call for new elections ...”

This consolidated its role as the “engine for change” that had been in evidence since the death of the General. Thus, the involution attempts clashed with the support that, from outside Spain and from the opening forces of the interior were given to the figure of the King and the change he represented. Of significance was, for example, his trip to the United States between May 31 and June 6, 1976.

The speech of King Don Juan Carlos on June 2, 1976 to the United States Congress was an obvious commitment to openness:

“The evolution of our society continues to offer tensions, difficulties, setbacks and even violence. We suffer from the current crisis in the world, i.e., unemployment, inflation, the contraction of demand and high production costs are among our priority government concerns. But no obstacle will decisively oppose our Spanish community to continue working towards the creation of an increasingly prosperous, fairer and more genuinely free society.

The Spanish Monarchy has committed, from the first day, to be an open institution in which all citizens have a comfortable place for political participation without discrimination of any kind and without undue pressure from sectarian and extremist groups. The Crown protects the entire people and each of the citizens, guaranteeing through the right, and through the exercise of civil liberties, the rule of justice.

The Monarchy will ensure that, under the principles of democracy, social peace and political stability are maintained in Spain, while ensuring orderly access to power of the different government alternatives, according to the wishes of the people freely expressed.

The Monarchy symbolizes and maintains the unity of our nation, a free result from the determined will of countless generations of Spaniards, as well as crowning a rich variety of regions and towns, of which we are proud.”

Continuity and involution sectors of the regime failed in their attempts to disrupt the transition process through political

violence. From the so-called “last great political crisis of Francoism”, the cessation of the Minister of Information and Tourism Pío Cabanillas Gallas, until the coup d’état of February 23, 1981, all efforts to disrupt the Transition will fail. As Juan Tomás de Salas wrote in the pages of *Diario 16*, “when the past turned in the form of Girón and the blues, when Arias Navarro was defeated and forced to go back, it was too late for any design to perpetuate the dictatorship. The country had spoken, it had been seen, it had been confirmed that the peaceful Spaniards were a crowd”.

It was not, therefore, a linear process.

Adolfo Suárez, appointed as President of the government and personally elected by King Don Juan Carlos as President to lead the reform, had to face the opposition from the continuity sectors, first, and then from the leftist opposition. In both cases, the information apparatus provided the President with services without which the Transition would have been difficult or, perhaps, impossible. As Ernesto Villar states, “every time the terrorists have filled their hands with blood, the men of Valverde and Cassinello [the intelligence services] have stood firm next to the President, even to defend the so shaken Anti-Terrorist Law. But this does not mean, much less, that the government must take a step back in its reforms. Not even those of the ‘bunker’ triumph. Rather the complete opposite. It must be, the SECED says, a punch on the table so as not to entrench behind it, but to open the doors of the ‘essential reforms’ in the political and social fields”.

Thus, in general, the security apparatus was on the side of the institutions that, at the same time, led the change and embodied it. Both King Don Juan Carlos and President Suárez embodied this change that, by legal means, was taking place in Spain. The forces of the State were limited, in general, to fulfill the orders emanating from who, at any time, was the legal authority.

There were stops and setbacks, for example, the contradiction between the opening of Arias Navarro and his spirit of “February 12” of 1974 and his retreat on June 15 of that same year, but the steps towards democratic reform were decided and coming from the structures of the regime itself. Thus, on August 31, 1974, a group of officers founded the Democratic Military Union (*Unión Militar Democrática*, UMD) (remember that in April of that year there was the Carnation Revolution in Portugal). There are terrorist actions of the extreme right, the extreme left, for example, the attacks of the First of October Anti-Fascist Resistance Group (*Grupo de Resistencia Antifascista Primero de Octubre*, GRAPO) and the Anti-Fascist Revolutionary Front (*Frente Revolucionario Antifascista*, FRAP), and the Basque and Catalan separatists. ETA blows up the Rolando cafeteria on Correo street, next to the Puerta del Sol in Madrid: twelve dead and eighty injured. The carrying out of death penalties of terrorists of ETA and of the FRAP unleash international campaigns to support those convicted and criticize the regime. However, none of these forces manages to stop the process.

Nor can the forces on the left stop it. The legalization of the Communist Party on April 9, 1977 marks a milestone in the Transition because it integrates the most powerful political force of the non-nationalist opposition into the system. It joins the more moderate forces that had been organized in the Democratic Junta of Spain and the Democratic Convergence Platform (*Plataforma de Convergencia Democrática*, PCD), which in turn are grouped in March 1976 into a new opposition body: Democratic Convergence, also known as “*Platajunta*”.

Thus, the Transition has a centripetal force that will bring the liberalizing sectors to the opposition forces within the system

and the opposition forces outside it to an institutional game that evolves towards a democratic regime. Unions, the Catholic Church, professional associations and corporations are joining a process that, with terrible stops and episodes such as the shooting of Montejurra (May 9, 1976), the murder of Atocha labor lawyers (January 26, 1977), the murder of two policemen and a civil guard at the hands of the GRAPO (January 28, 1977) or the bombs placed by ETA on the slogans of the Atocha and Chamartín railway stations, which killed seven people and wounded a hundred more on July 29, 1979.

The resistances in the forces of public order had their swan song in the coup d'état attempt on February 23, 1981, which meant the consolidation of the King as guarantor of the process that had begun in the early 70s. Its weak monitoring and the determined reaction in support of the King and the Constitution in the whole of Spanish society marked the end of the opposition to the Transition. Henceforth, only terrorist organizations will try to end the democratic regime in various ways.

FORMS OF TRANSFORMATION OF THE SAFETY APPARATUS; LEGAL AND POLITICAL FRAMEWORK OF CHANGES IN THE SECURITY APPARATUS

The transformations in the security apparatus had to be performed in three areas: the police forces, Civil Guard and intelligence services. In all cases, the way to undertake them was through normative instruments, i.e., laws and regulations, which led the system to transform both in the pre-constitutional period as it did when the Constitution of 1978 itself was already in force.

POLICE FORCES

In the case of the National Police and the Civil Guard, the greatest transformation was the change from a police model based on the notion of public order to another that started from the concept of citizen security.

The desire to maintain public order justified the administrative, legal and police controls that inspired the "Police State" of the Francoist regime. From a system in which, often, the direct prohibition or the need for permits is the norm and freedom the exception, it had to move to another in which everything that was not expressly prohibited was understood as to be allowed. The State had to assign quotas of power so that civil society and citizenship could be developed.

The first step was the Royal Decree 1558/1977, of July 4, which laid the foundations for the restructuring of certain organs of the Central State Administration and reorganized ministries and departments. The justification, as indicated by the explanatory statement itself, was the changes that Spanish society was facing:

The magnitude and intensity of the political changes that Spanish society has experienced, the deeply felt need to achieve greater efficiency in the direction of political-administrative tasks, the convenience of coordinating dispersed bodies that coincide in their actions on the same social sectors, the demand for more intense public action in some fields that require greater emphasis and more specific treatment, made the corresponding changes in the structure of the State Administration imperative.

This led to the old Law of 1941 that reorganized the police services being replaced by a new rule that introduced that new sensitivity that displaced the center of the police action from the maintenance of public order to the guarantee of citizen security. Thus, the Law 55/1976 abolished the Armed Police Corps and structured the police force into two bodies, the Superior Police Corps and the National Police Corps, whose functions were in accordance with its second article, as can be seen below:

- a) Maintain and restore public order and the safety of citizens, guaranteeing the exercise of their rights and freedoms.*
- b) Avoid the commission of criminal acts, and, if committed, investigate, discover and detain the alleged culprits and ensure the effects, instruments and evidence of the crime, making them available to the competent judicial authority.*
- c) Provide assistance in case of public calamities and particular misfortunes, collaborate with the Public Assistance Institutions and Organizations and assist, at the request of the parties, the peaceful settlement of disputes between private subjects.*

Finally, the change occurred definitively, since in the constitutional period, with the Organic Law No. 2/1986 on State Security Forces and Services of March 13, which embraced the mandate of article 104.1 of the Constitution, which attributes to the Security Forces and Corps, under the dependence of the Government, *the mission to protect the free exercise of rights and freedoms and guarantee citizenship security.* For the fulfillment of said mission, art. 11.1 attributed to the Security Forces and Corps provides that:

The State Security Forces and Corps have the mission of protecting the free exercise of rights and freedoms and guarantee the citizen security through the performance of the following functions:

- a) Ensure compliance with the Laws and general provisions, executing the orders they receive from the Authorities, within the scope of their respective powers.*
- b) Assist and protect people and ensure the conservation and custody of assets that are in danger due to any cause.*
- c) Monitor and protect public buildings and facilities that require it.*
- d) Ensure the protection and security of high personalities.*
- e) Maintain and restore, where appropriate, order and citizen security.*
- f) Prevent the commission of criminal acts.*
- g) Investigate crimes to discover and detain the alleged culprits, secure the instruments, effects and evidence of the crime, making them available to the competent Judge or Court and prepare the appropriate technical and expert reports.*
- h) Capture, receive and analyze how much data are of interest for public order and security, and study, plan and execute crime prevention methods and techniques.*
- i) Collaborate with civil protection services in cases of serious risk, catastrophe, or public calamity, under the terms established in civil protection legislation.*

A similar transformation occurred in the Civil Guard, which was fully integrated into the model of citizen security assuming, under the Organic Law No. 2/1986 of March 13 and as stated in its explanatory statement, "its authentic mission in the current society: guarantee of the free exercise of the rights and freedoms

recognized by the Constitution and the protection of citizen security, within the collective of the Security Forces and Corps”.

Thus, the Civil Guard move from a role of military force to the service of civil power with functions of maintaining public order and border control, according to the Law of March 15, 1940 and subsequent regulatory development, to be a part of the Security Forces and Corps of the constitutional State responsible for guaranteeing the free exercise of rights and freedoms and for protecting citizen security.

Finally, the intelligence services went from being an area of military action to being part of the constitutional state’s security system. This began with the aforementioned Royal Decree 1558/1977, created by the Ministry of Defense, which came to replace those of the Army, Navy and Air Forces, with a broader vision than the management of the armed forces. This reorganization was developed through Royal Decree 2723/1977, of November 2, which organically and functionally restructured the Ministry of Defense, providing it with a certain desire for transparency through the creation of the Directorate for the Information, Dissemination and Public Relations of Defense and ordering its intelligence services “in order for the Defense to have the information it needs to fulfill its functions” for which it created the Superior Defense Information Center, (*Centro Superior de Información de la Defensa*, CESID). Already in the constitutional period, by Royal Decree 726/1981 of March 27, the CESID function was defined as “the body responsible for obtaining, evaluating, interpreting and providing the head of the Department as much information as necessary and of interest to the National Defense and to the fulfillment of the missions entrusted to the Armed Forces by article 8 of the Constitution, first and foremost attending the needs of the Board of Joint Chiefs of Staff”. In 2002, the Law 11/2002, of May 6, regulator of the National Intelligence Center was approved.

Thus, in the three areas of transformation, this one was operated through formally valid regulatory changes that were adapting the security and information corps to the democratic and constitutional framework to which it was transited.

CITIZEN CONTRIBUTION TO THE TRANSFORMATION

In general, as has been seen, the transformation of the security apparatus was done through legal means and with strict submission to the principle of legality as it corresponded to a Transition process “from above” directed from the institutions and channeled through the reform of the political system through its own formal channels.

In this way, in general, civil society organizations did not have such an active role as in other countries when it came to changes in the security apparatus. The transition from a public order model to a public security model had, without a doubt, a legal framework in which citizens participated to the extent that they participated so much in the referendum of the Political Reform Act (December 15, 1976, participation of 77 % of the census) as in the general elections of June 15, 1977 (participation of 78.83 %) and in the referendum on the draft of the Constitution of December 6, 1978 (participation of 67.11 %).

Of course, as the transition progressed, civil society gained increasing prominence in the Spanish political and social life and this resulted in criticism and some influence on the security apparatus. Thus, for example, the return of the Catalan nationalist leader Josep Tarradellas and his appointment as president

of the pre-autonomous Generalitat of Catalonia on October 17, 1977 gave clear signs that police pressure on the so-called “subversive forces” should be mitigated. Secret political appointments with the opposition, the emergence of political parties, the PSOE congress in Suresnes, the legalization of the PCE and many other gestures towards those who had been in exile, hiding or ostracism indicated to the apparatus of security the political and social changes that were coming.

Similarly, the resistance of terrorist organizations to the transitional process and, especially the attempt to seize the occasion for their own purposes by ETA and other terrorist groups identified the need to keep the security apparatus alert to those who had declared war on democracy as titled *Diario 16* in its history of the Transition.

Thus, what really favored the Transition process, along the lines of demobilization and depoliticization of the Spanish society, which did not align with the side of the continuist sectors or the violent rupturist sectors, but rather it supported by the formal channels the process towards democracy through the established formal channels.

LESSONS LEARNT: POSITIVE AND NEGATIVE

In the first place, the transformation of the security apparatus was possible because it was conducted through the legal and administrative instruments that the current Law required. The inability of the opposition forces in hiding to overthrow the regime and the power of law enforcement forces prevented a transformation into a revolutionary key. On the contrary, the Transition model “from above” was adapting these corps to the new reality of evolution towards democracy.

Similarly, the gradual but inexorable change from a model based on the notion of “public order” to others based on that of “citizen security” allowed the Security Forces and Corps to move from one model of a police State to another in which they themselves were guarantors of rights and freedoms. The last involution attempt of the immobilist forces, the coup d’etat of February 23, 1981, was thwarted by the lack of support within those security forces.

However, despite these changes, peripheral nationalisms used the continuity of police forces to create regional police. This has resulted in the fragmentation of the security and information apparatus and certain coordination problems between the bodies.

RECOMMENDATIONS

The main recommendation that could be made in view of the described period is the importance of using legal channels for the transition from authoritarian regimes to democratic systems. In this sense, the law provides stability that, for example, a charismatic leadership does not offer.

CONCLUSION

The transformation of the security apparatus was one of the essential processes for the success of the Transition. The use of the law was the starting point for adapting the bodies of public order to the new democratic reality to which it was moving.

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