

LEGAL REGULATION AND CONTROL OF THE SECURITY SYSTEM OF THE REPUBLIC OF SERBIA

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Abstract: *The state's security system includes a set of primary and secondary, permanent and temporary, internal and external, short-term and long-term goals. Goals are interrelated and have their place in the hierarchy of priorities. Each system is part of a larger system, and each country forms several large systems, subsystems and microsystems. The security system of the Republic of Serbia is regulated by law and the National Security Strategy as a set of functionally interconnected state bodies that are responsible for the security of the Republic of Serbia and its citizens. The national security system consists of subject-wise and hierarchically different contents. Control is an important aspect of the security system because it measures, evaluates and improves the efficiency and effectiveness of the work of state authorities responsible for the security of the Republic of Serbia and its citizens. The paper analyzes the normative-legal framework of the security system of the Republic of Serbia, as well as the control of the security system, with an emphasis on internal and external control.*

Key words: *security system, Republic of Serbia, legal arrangement, security*

1. INTRODUCTION

Legal regulation of the security area is of special interest to states, because states use law to pursue their vital interests. The security system is regulated by the Constitution, laws and the National Security Strategy, a set of functionally interconnected state bodies that are responsible for the security of the Republic of Serbia and its citizens. The security system consists of subject-wise and hierarchically different contents, i.e. subsystems.

The elements of the security system in the broadest sense are: activities, measures, tasks, subjects and forces. Subjects and forces make up the "brain and skeleton" of the system, and they contribute to the achievement of the system's goals with their competence, scope, equipment and method of action. Activities are the most important element, because they are used to realize the function of the system, i.e. securing such a state in the state and society by

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which most or all threats to its vital values are eliminated or neutralized. System measures are the actions (procedures) that the state undertakes to move its security and defense forces from a normal to an elevated state, in order to respond appropriately to danger. The tasks of the security system are the actions and procedures used to achieve the security tasks (Djukic, 2017).

2. SECURITY SYSTEM

When defining the concept of security, it starts from the position that security is the basic attribute of every state and that it is related to its protective function. As a function in a certain society, the security system can be organized differently. The state's security system includes a set of primary and secondary, permanent and temporary, internal and external, short-term and long-term goals. Goals are interrelated and have their place in the hierarchy of priorities.

According to the Lexicon of Foreign Words and Expressions, a system can be defined as an organized whole composed of various things or knowledge (Vujaklija, 1980). In the organizational sense, a system is a set of different elements, which function as a harmonious whole, in order to achieve a certain goal. According to the Military Lexicon, security in relation to its essence and real meaning can be defined as a state, organization and function (Military lexicon, 1981). As a state, it represents the protection of some good, value, asset, society, and as a function, it is an inseparable attribute of the state, regardless of the character of the arrangement.

The security system can be defined as a form of organization and functioning of society in the implementation of measures and activities on a preventive and repressive plan, which are undertaken to preserve the sovereignty and integrity of the state, its constitutional order, rights and freedoms of citizens, as well as all other social and international values from all forms and carriers of threats, regardless of the place and time of execution (Stajic, 2021). It is a very complex system and is organized through a hierarchical structure, i.e. subsystems and microsystems. Subsystems perform one activity, as part of a general activity. Microsystems connect several smaller activities and function in a narrower space. The specificity of the security system is reflected in the organization of subsystems as a system, because each subsystem has special strengths, means, rules and work methods.

3. NORMATIVE-LEGAL FRAMEWORK OF THE SECURITY SYSTEM OF THE REPUBLIC OF SERBIADesign and Research Problems

States strive to legally regulate all forms of social relations, including the area of security. The legal regulation of the area of security is of special interest to states, because states use the law to realize their vital interests and other interests, due to which they ensure by law the limitation or suppression of those activities that threaten their interests (Stajic, 2021). Regulation of the security sector based on the principles of the rule of law is particularly important, because the actors of the security sector can directly influence the political trends in society, the life and property of citizens through their actions. Therefore, it is of inestimable importance that the actions of these actors are in line with firm and pre-defined legal rules (Hadzic & Stojanovic-Gajic, 2012).

The Constitution of the Republic of Serbia is the highest legal act from which all other legal regulations, as well as all political documents, originate and are harmonized (Constitution of the Republic of Serbia, 2021). The area of human and minority rights and freedoms, economic regulation, jurisdiction of the Constitutional Court, territorial regulation, constitutionality and legality are regulated by the Constitution. In accordance with the Constitution, the security system protects the basic values of the social community. The role of the security system derives from Article 97 of the Constitution of the Republic of Serbia.

The Constitution regulates the security system, directly or indirectly, as a whole or through individual subsystems. It also regulates the competences and mutual relationship of the highest authorities in all aspects of the functioning of the state. In accordance with the principles of separation of powers, the Constitution defines the security competences of the National Assembly, the President of the Republic and the Government, which form the governing and commanding part of the national security system, to which all state administration bodies from the executive branch of government are subordinate, including those that make up the state sector security (Hadzic & Milosavljevic, 2013). In addition to the Constitution, Constitutional laws legally regulate parts of the security system of the Republic of Serbia.

The state strategy is a general and integral programmatic standpoint for the preservation and achievement of the highest national values and interests, with the engagement of the state's mental, spiritual and material potentials for its protection and successful development, through the achievement of defined goals in peace and war. It is a general idea about the real and/or virtual direction of the political, economic and military power of the state in order to protect and achieve the highest national interests through the realization of special and individual strategies (Kovac, 2003).

The National Security Strategy is the highest strategic document, the implementation of which protects the national values and interests of the Republic of Serbia from challenges, risks and security threats in all areas of social life (National Security Strategy of the Republic of Serbia, 2019). Represents the starting point for the preparation of other strategic and doctrinal documents, public policy documents and normative-legal acts in all areas of social life and the functioning of state bodies and institutions, in order to preserve and protect the security of citizens, society and the state. It sets the framework within which the Government can and should act when adopting other general acts and documents, as well as the key parameters according to which the legal and by-law rules in the security system should be shaped. The main starting points of the National Security Strategy are: preservation of sovereignty and territorial integrity, military neutrality, care for the Serbian people outside the borders of the Republic of Serbia, European integration and an effective rule of law. The Strategy analyzes the strategic environment of the Republic of Serbia, assesses the challenges, risks and threats to the security of the Republic of Serbia, formulates national interests and goals, determines the national security policy, then the structure and principles of the functioning of the national security system, as well as the manner of its implementation.

The Defense Strategy of the Republic of Serbia defines defense as a function of the state that ensures the protection and realization of defense interests. Defense interests are an expression of the highest values and general needs of the citizens and the Republic of Serbia for the construction and preservation of security and stability as essential prerequisites for the free and democratic development of society (Defense Strategy of the Republic of Serbia, 2019). By protecting its defense interests, the Republic of Serbia simultaneously creates the necessary preconditions for the protection of all other national interests, as well as for active participation in the protection of common values with other countries. The defense strategy of the Republic of Serbia is based on the Constitution of the Republic of Serbia and the National Security Strategy of the Republic of Serbia. It is a basic strategic document that directs the development of normative, doctrinal and organizational solutions for the defense system, defense planning and financing, and the deployment of defense resources of the Republic of Serbia.

The national security system consists of state institutions and bodies that manage, plan, organize, coordinate and implement prescribed measures and activities in the security system. This institutional part of the security structure of the security system consists of the

management and executive part. The management part is part of the state apparatus that makes laws and decisions of strategic importance for the security system.

The governing part of the security system of the Republic of Serbia consists of: the National Assembly of the Republic of Serbia, the President of the Republic of Serbia and the Government of the Republic of Serbia. The responsibilities of this part of the security system are regulated by the Constitution in accordance with the principle of separation of powers. The National Assembly, the President and the Government form the governing and commanding part of the national security system, to which all state administration bodies from the executive branch of government are subordinate, including those who make up the state security sector (Hadzic & Milosavljevic, 2013). Bodies that deal with systemic activities within the security system, i.e. the activities by which the security system is constituted, changed and directed, form the management part of the system, while the authorities and organizations that carry out operational tasks for the execution of the security policy, guidelines and tasks established by the management bodies, form the executive part of the system (Dragisic, 2011).

The National Assembly is assigned the exercise of constitutional and legislative power. The National Assembly is therefore authorized to enact and amend the Constitution, decide on changing the borders of the Republic of Serbia, call a republican referendum, ratify international treaties, decide on war and peace, declare war and state of emergency, supervise the work of the security services, pass laws and other general acts, adopts the defense strategy, budget and final account and grants amnesty for criminal offences (Constitution of the Republic of Serbia, 2021). In addition, it establishes permanent working bodies (committees) and temporary working bodies. Two permanent committees are important for the security system: the Committee for Defense and Internal Affairs and the Committee for the Control of Security Services.

The Committee for Defense and Internal Affairs is considering: the draft law and other general act in the field of military, labor and material obligations, mobilization, state of emergency and war, status and other issues of professional members of the Serbian Armed Forces, military education, international cooperation in the field of defense and military cooperation, maintenance of public order and peace, gatherings of citizens, road traffic safety, state border security and control of border crossing and movement and stay in the border zone, stay of foreigners, traffic and transportation of weapons, ammunition, explosives and other dangerous materials from the scope of the ministry responsible for internal affairs, fire protection, citizenship, unique identity number of citizens, residence and residence of citizens, identity cards, travel documents, international aid and other forms of international cooperation in the field of internal affairs, including readmission, illegal migration and asylum.

In its work, the Committee for the Control of Security Services supervises the constitutionality and legality of the work of the security services, supervises the compliance of the work of the security services with the National Security Strategy, the Defense Strategy and the security and intelligence policy of the Republic of Serbia, respect for political, ideological and interest neutrality in the work of the security services, the legality of implementation special procedures and measures for the secret collection of data, proposal of budget funds needed for the work of the security services and supervises the legality of spending budget and other funds for work, considers and adopts reports on the work of the security services, draft laws, other regulations and general acts within the competence of the services, initiates initiatives and submits proposals for laws within the jurisdiction of the services, considers proposals, petitions and petitions from citizens sent to the National Assembly in connection with the work of the security services and proposes measures to solve them and informs the applicant thereof, determines the facts about established illegalities or irregularities in the work of the security

services and their members and makes conclusions about it and reports to the National Assembly about its conclusions and proposals (Rules of Procedure of the National Assembly of the Republic of Serbia, Article 66).

According to the Constitution, the President of the Republic of Serbia commands the Serbian Armed Forces and appoints, promotes and dismisses the officers of the Serbian Armed Forces (Constitution of the Republic of Serbia, 2021). In accordance with the Law on the Basics of Organizing the Security Services, the President of the Republic presides over the National Security Council (Law on the Basics of the Organization of Security Services, 2012). The President convenes meetings of the Council for National Security, determines the draft agenda for the Council session, signs conclusions and other acts of the Council for National Security, invites leaders of other state bodies and institutions to Council meetings. The Law on Defense determines the responsibilities of the President of the Republic in the defense system. The President of the Republic submits to the National Assembly a proposal to declare a state of war and emergency, approves the draft of basic development planning documents, approves the Doctrine of the Serbian Armed Forces, approves the draft of other basic strategic-doctrinal documents, orders the implementation of the Defense Plan of the Republic of Serbia, approves the Mobilization Plan of the Serbian Armed Forces, orders the implementation of preparedness measures, general and partial mobilization, adopts the Plan for the use of the Serbian Armed Forces and orders its use, adopts guidelines for building the operational and functional capacity of the Serbian Armed Forces, appoints and dismisses the Chief of the General Staff of the Serbian Armed Forces (Defence Act, 2018). In addition, the president forms the military cabinet for matters under his jurisdiction related to defense.

The Government of the Republic of Serbia is the holder of executive power in the Republic of Serbia. In the security system, the Government manages ministries and institutions in the domain of national security in accordance with the Constitution and laws. In addition, the Government proposes and implements the national security policy, directs and controls the functioning of the national security system, provides material and financial resources for the needs of national security and manages the activities of state bodies, organizations, institutions, natural and legal persons in the area of national security (Kekovic, 2009). In accordance with the Constitution and the law, the Government of the Republic of Serbia ensures the implementation of international treaties and agreements in the field of national security.

The National Security Council determines the basis of the national security policy and defines the basic measures and activities for the preservation and improvement of national security and the protection of vital national interests (Kekovic & Dimitrijevic, 2017). The National Security Council considers issues in the areas of: defense, internal affairs and security services, their mutual cooperation, as well as cooperation with other state bodies. In addition, the National Security Council monitors and coordinates the work of elements of the national security system (Kekovic & Dimitrijevic, 2017). The sessions of the National Security Council are chaired by the President of the Republic. The other members of the session are: the Prime Minister, the Minister of Internal Affairs, the Chief of the General Staff of the Serbian Armed Forces, the directors of the Security and Information Agency, the Military Intelligence Agency and the Military Security Agency. The Office of the National Security Council ensures the professional and technical working conditions of the National Security Council.

The Office of the Council for National Security and Protection of Secret Data is an expert service of the Government of the Republic of Serbia. The Office of the Council for National Security and Protection of Secret Data performs the following tasks: acts on requests for issuing certificates and permits; ensures the implementation of standards and regulations in the field of protection of secret data; takes care of the execution of international obligations and

concluded international agreements between the Republic of Serbia and other countries, or international authorities and organizations in the field of protection of secret data and cooperates with the appropriate authorities of foreign countries and international organizations; creates and manages the Central Register of Foreign Secret Data; suggests a security questionnaire form; proposes a form of recommendation, certificate and permit; keeps records of issued certificates, or permits, as well as records of refusal to issue certificates, or permission; organizes training of secret data users in accordance with standards and regulations; proposes to the Government a plan for the protection of secret data for extraordinary and emergency cases; revokes data confidentiality in accordance with the provisions of the Law on Data Confidentiality; after the termination of public authorities that do not have a legal successor, performs tasks related to the protection of secret data; cooperates with public authorities in the implementation of the Law on Data Secrecy within its jurisdiction; performs other tasks provided for by the Data Confidentiality Act (Data Privacy Act, 2009). Work with data is regulated in several system regulations. Among the most important laws are: Law on Free Access to Information of Public Importance, Law on Protection of Personal Data, Law on Confidentiality of Data, etc.

Subsystems of the security system of the Republic of Serbia are also important for the security system, which include: intelligence and security system, police system, defense system, protection and rescue system and other subsystems of importance for the security system.

4. CONTROL OF THE SECURITY SYSTEM OF THE REPUBLIC OF SERBIA

Control is a term that denotes a set of competences, powers, procedures, forms, methods and means established by the constitution and law, the use of which directly checks, measures, determines, evaluates and improves the efficiency and effectiveness of the work of state authorities, which are responsible for the security of Serbia and its citizens (Hadzic, 2012). The goal of the control is insight into the regularity and efficiency of the performance of the security function. This implies: determination of facts regarding the observance of legal competences, duties, authorizations, limitations and responsibilities in the implementation of activities, jobs and security measures (Mijalkovic, 2018). The result of the control is the determination of irregularities in the implementation of the security function, the identification and sanctioning of those responsible for omissions and errors, as well as the reprimanding of those who improved security and identified new security needs and deficiencies.

Considering the nature of control, security system control mechanisms include: political control, administrative control, control by independent state institutions and control by the public (Mijalkovic, 2018). All the mentioned types of control can be divided into internal and external control mechanisms. These two types of control differ from each other according to the origin of the control holder. Competence for internal control is assigned by law to a separate body, body or unit that organizationally belongs to a given apparatus of state power or the competent ministry, or, administrative authority, while external control is performed by a state authority and/or body, which is outside the composition of the security actor that is subject to control (Hadzic, 2012).

External control of the security system is based on the principle of publicity of the work of state bodies and a critical evaluation of their actions. This type of control is manifested through: national security councils, independent and independent bodies, media, citizens, non-governmental organizations, etc.

The executive branch has a key role in shaping and conducting the security policy. Also, the executive branch has a significant role in controlling the provision of security through bodies

in charge of coordination, such as the National Security Council. The National Security Council determines basic national security policies and defines basic measures and activities for the preservation and improvement of national security and the protection of vital interests (Law on the Basics of Organizing the Security Services of the Republic of Serbia, 2012).

Parliamentary control includes all mechanisms, i.e. procedures, means and methods available to the parliament in the process of regular and extraordinary control and supervision of the security system. Parliament with its permanent and temporary bodies and mechanisms responsible for the security system: reviews, changes and adopts the budget for the security system, examines the activities in the security system in the implementation of the planned security policy, examines the activities in the security system, represents a forum for reviewing the security policy and implementing measures and activities in the security system between political parties as representatives of citizens (Kekovic & Dimitrijevic, 2017).

Judicial authorities have a role in the supervision of the security sector by ensuring that the entities of the security system adhere to the internal and international legal framework in their work. Judicial control should be carried out by regularly established courts, in accordance with the law and independent of political influence. Courts do not have the authority to directly control the security system, but it is a form of secondary or intermediate controls. Although it is not considered an integral part of the process of control and supervision of the security system, the Constitutional Court can indirectly control the security system within its jurisdiction. According to the Constitution of the Republic of Serbia, the Constitutional Court is an autonomous and independent state body that protects constitutionality and legality and human and minority rights and freedom, and in this way the Constitutional Court exercises control over general acts that regulate the operation of the security system (Constitution of the Republic of Serbia, 2021).

Control by independent and independent state bodies in the Republic of Serbia can be divided into two groups: bodies established by the Constitution and bodies and bodies established by law. The first group includes the Protector of Citizens and the State Audit Institution. The laws established autonomous and independent state bodies such as: Anti-corruption Agency, Commissioner for Information of Public Importance and Protection of Personal Data, Commission for the Protection of Rights in Public Procurement Procedures, Commissioner for Protection of Equality, etc. Each of the aforementioned bodies performs control of the security system defined by the law that regulates the work of an independent and independent body.

Supervision and control of the security sector is also carried out by civil society, through civil society organizations, experts, researchers, representatives of the academic community and others who can participate in discussions and debates on issues related to security. Citizens' associations and research institutions can conduct independent research on the operation of the security system, monitor respect for human rights in the security system, inform the public about issues that are important for the entire society, educate professionals and the general public about the operation of the security system, provide feedback on various decisions made in the security system (Kekovic & Dimitrijevic, 2017). In addition, the role of public information is also important. Through the means of public information, citizens can exercise their right to information about matters of public importance.

State security entities implement mechanisms of internal control and supervision, in order to ensure adherence to high standards in the provision of security by their members. Control mechanisms include internal disciplinary measures, measures of supervision and audits of work by lines of command and leadership. Subjects of internal control can be controlled and supervised by independent and autonomous state bodies, as well as by the management part of the security structure of the security system.

5. CONCLUSION

The Constitution, international treaties, legal and by-laws, which refer to security issues in the broadest sense, as well as all special regulations on defense, police, security services, etc., prove that security is fundamentally indivisible, even though it is regulated by different laws and established under the jurisdiction of various state authorities. The security system of the Republic of Serbia is a normatively regulated, structural and functional unit of competent state bodies, state administration bodies, security and intelligence systems, as well as other entities whose activities contribute to the protection of the vital values of the Republic of Serbia and its citizens. The security system is legally regulated by: the Constitution, the National Security Strategy, the Defense Strategy and laws that directly or indirectly regulate the security system of the Republic of Serbia. The national security strategy is the highest strategic document and represents the starting point for the preparation of all other documents of importance for the security system.

Security system control is one of the important elements. The importance of the control of the security sector is reflected in the improvement of the security situation, that is, the prevention, suppression and remediation of the consequences caused by the illegitimate and illegal performance of the security function. Full control of the work of elements of the National Security system is legally established by the above-mentioned laws and entrusted to various state and non-state bodies.

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