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## THE ROLE OF THE NATIONAL SECURITY SYSTEM INSTITUTIONS IN THE CONTEXT OF THE NEW SECURITY PARADIGMS

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**Abstract:** *This paper aims to make a SWOT analysis of the legal framework on the organization and functioning of security matters and to assess the way in which the current national security institutions ensure the sustainability of the domain. By emphasizing the unacceptably large delay in adopting the package of laws on national security, it highlights the role of newly established institutions: Inter-Ministerial Strategic Group, Government Operations Command Centre, National Management Centre for Public Order Actions, National Cyber Security Centre etc. The paper suggests some possible new types of approaches - in the context of evolving paradigms of security (the position of the new White House Administration on the concept of global security, the latest political developments in Moldova, the attitude of the Russian Federation towards NATO and, punctually, towards Romania etc.)*

**Keywords:** *the organization and functioning of the security domain; the national security institutions; new security paradigms; package of laws on national security; the Future of NATO.*

### **C**onceptual delimitations – an inappropriate legal framework for the geopolitical realities

According to the definition taken from the Guide on Romania's new national security strategy: *"The national security system is the ensemble of legislative, executive and judicial bodies, institutions, economic bodies, non-governmental organizations and citizens who, bound by the law or freely consented, undertake obligations or show concerns and civic*

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*initiatives in connection with the realization, protection or assertion of security values and interests. "*<sup>1</sup>

Therefore, according to the new definition that we have adopted, the bodies and structures specialized in the implementation of the national security system should be found – with specific missions, within the three powers of the State, within some economic bodies, but also in the civil society – topic to be developed in point 3 of this article. However, from a structural point of view, it is considered that the national security system mainly consists of: a defense component, a public order component, an Intelligence component and, together with the socio-economic component – a component of the civil society (specialized non-governmental organizations).

We find, however, that the legislation in this field remained a long way behind the approaches made in the content of Romania's national security strategies, starting with the first national security strategy in 1999.

Thus, *Law No. 51/1991 on the national security of Romania* is still in force, republished in 2014 (until 2014, called the *Law No. 51/1991 on the national safety of Romania*), which, in Art. 6, provides that *only the structures in the field of Intelligence have responsibilities in the field of national security*. So, according to a law still in force, the three powers of the State do not have either their own specialized structures or direct duties in the field of national security.

Also, regarding the legal regime of the exceptional states, namely the state of emergency, the state of siege, the state of mobilization and the state of war, the first two were regulated only in 1999, through O.U.G. No.1/1999, when the miners were already approaching the Capital, and the other two states (mobilization and war) only after 10 years - by Law No. 355/2009.

Concerning the much discussed packages of draft laws on national security (3 variants proposed between 2007 and 2014), the need for new projects - to be legislated - was clarified in Chapter IV of the *National Defense Strategy Guide 2015-2019, approved by CSAT (Supreme Council of National Defense) Decision No. 128 of 10 December 2015*.

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<sup>1</sup> National Defence Strategy Guide for the period 2015-2019, p.10, [http://www.presidency.ro/files/userfiles/Ghid\\_SNApT\\_2015-2019\\_AP.pdf](http://www.presidency.ro/files/userfiles/Ghid_SNApT_2015-2019_AP.pdf)

### **The new security paradigms**

The main paradigm currently perceived by the author about the evolution of international relations is the transition from the principle of *Political Correctness or Politically Correct* - (tolerance towards minorities of any kind, generous promotion of human rights, more social justice, and acceleration of democratization of international relations) to the *Realpolitik* principle - the principle of realistic politics (*ethical principles yield to power-based relationships - with emphasis on promoting pragmatism in international relations etc.*).

***According to the doctrine in the field, the concept was re-launched in the U.S., during the Cold War, by Henry Kissinger - during President Richard Nixon's term of office, and is now unreservedly expressed by the current US President Donald J. Trump.***

We consider that this new paradigm also includes Romania's new security strategy under the name of *the National Defense Strategy of the Country for the period 2015-2019* (the previous strategies we appreciate, however, as having a too general nature) which analyses the current geopolitical context, makes several references (even indirect) *to the dangers currently posed by the Russian Federation.*

In antithesis, *the Military Doctrine of the Russian Federation - 2014*, approved by President Vladimir Putin and formulated in 58 points, considers NATO expansion, the stationing of troops in NATO member countries on the border with the Russian Federation, *"as well as in the adjacent waters, including the political and military pressure exerted on the Russian Federation" ... "the location of anti-missile Defense systems undermining global stability and breaking the balance of forces in the nuclear field" ... represent real threats to Russia's security*<sup>2</sup>.

***A new episode happened in Athens - on May 27, 2016, when, in a joint press conference with the Greek Prime Minister, Alexis Tsipras, President Putin said "If yesterday, in these areas of Romania, people just did not know what it meant to be within the range of action, today***

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<sup>2</sup> „*The Military Doctrine of the Russian Federation*”, p.12, <https://www.offiziere.ch/wp-content/uploads-001/2015/08/Russia-s-2014-Military-Doctrine.pdf>

**we are forced to take certain measures to ensure our security” ... adding that “We will not act until we see missiles in areas bordering us”<sup>3</sup>**

In the context of the evolution of new paradigms, we must also assess the trenchant position of President Trump on the need to increase the contribution of the European states to NATO, both on the budget of the organization and on the percentage of GDP allocated by each Member State for defense (developments marked on the European level also by the Brexit phenomenon, the launch of the European Commission’s White Paper on Europe, the dangerous evolution of the extreme right in many EU countries, etc.).

In this context, the question naturally arises regarding the position of Romania is in the great "European concert" (or the context of “Global state, ruled by world government”<sup>4</sup>) and about its real security guarantees. One may ask even whether the events that have taken place lately could be considered relevant in this respect: the American ambassador in Bucharest had a picture taken with the Szekler banner, the US Ambassador in Chisinau pronounced against the union of the Republic of Moldova with Romania and President Vladimir Putin handed to Igor Dodon, President of Moldova, a map of Great Moldova - which also included territories of Romania.

We believe, however, that it would be naive to consider that - at present and in the near future - Romania, as a NATO member state, could become the target of an actual attack from the Russian colossus, as it might have happened until the years 2002-2004.

*However, making scenarios - on possible future challenges (from Russia or third parties - in the form of hybrid warfare) or "cold testing", these need to be identified and analyzed by specialists and military structures with competence and expertise in the field.*

**The current organization and functioning of the national security system.**

#### **Institutions**

As stated above, the *National Security System* represents all bodies of state powers, economic institutions and bodies, non-governmental

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<sup>3</sup><http://www.foxnews.com/world/2016/05/28/putin-warns-romania-poland-over-implementing-us-missile-shield.htm> (Foxnews - quoting Reuters News Agency).

<sup>4</sup> Frunzeti Teodor, *Globalization of Security*, Military Ed., Bucharest, 2006, p.25

organizations and civil society representatives that assume responsibilities or manifest concerns and civic initiatives in the field of security.

*The national security strategy must conceptually integrate the risks to national security with the means of institutional response.*

► **Parliament - Legislative Power**

The Parliament, through law-making, provides the necessary legal framework for the proper functioning of the national security system.

Also, the Parliament exercises the control function through the competent commissions, according to the law, and under the conditions established by the normative framework for the organization and functioning of the entities in the National Security System, especially through the specialized committees, namely: *Defense, Public Order and National Security Committees of the two Chambers of Parliament, the Joint Committee of the Chamber of Deputies and the Senate for exercising parliamentary control over the Romanian Intelligence Service and the Special Committee of the Chamber of Deputies and the Senate for the exercise of parliamentary control over the Foreign Intelligence Service.*

► **The Executive Power** - the authorities concerned are: the institution of the President of Romania and the Government of Romania. As a central administrative autonomous institution, ***The Supreme Council of National Defense - SCND*** (in Romanian, CSAT) occupies a central place in the architecture of the national security system, but it is not part of the two main components of the executive power - being an autonomous administrative authority – *still, it is a an autonomous public institution of the executive power* (in the future, after a new amendment to the Constitution, we may find it under the name of *National Security Council*<sup>5</sup> - with upgraded powers). Within the Supreme Council of National Defense, the *National Intelligence Community*<sup>6</sup> (NIC) also functions, having the purpose of corroborating information from all intelligence services (CSAT Decision no. 146/2005).

**The President of Romania**, as a public authority and a self-standing institution, has specific attributions (independent of its quality as CSAT

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<sup>5</sup> Bahrin Dorel, *The Supreme Council of National Defence and the parliamentary control over it*, the Romanian Institute for Human Rights, Bucharest, 2009, p. 8.

<sup>6</sup> CSAT Decision No. 146/2005

President) both on the national level and on the realization of the foreign policy (see revised 2003 Constitution of Romania, Title III, Chapter II).

**The Government of Romania** also carries out *the "state authority function, which ensures the pursuit and control of the application and observance of the regulations in the field of Defense, public order and national security, as well as in the economic and social fields and the functioning of the institutions and bodies operating under the authority of the Government"*.<sup>7</sup>

Unfortunately, the Government's agenda does not always overlap the President's vision (especially in "cohabitation" formulas), which could create atypical vulnerabilities.

The current work in the field of security is carried out through the General Secretariat of the Government - *the Special Directorate*.

*The main institutions and bodies with responsibilities in the field of national security. Structures existing at Government or Ministerial level.*

At Government level, there are the following structures:

**The operational command centre of the Government**, governed by G.D. No. 117/2014 on the organization and functioning of the Government's Operational Command Center

The Center is organized, according to the legal provisions, within the General Directorate for Operational Management and Special Problems of the General Secretariat of the Government, as a decisional support structure for the management of emergency situations, under the competence of the National Emergency Committee.

The Center is an operational structure with permanent activity.

**Ministry of National Defense – MoND** (in Romanian, MApN)

*If, at the central level, we can see that, with respect to the organizational structure, the situation is appropriate, in other respects - just as important, such as the Romanian Armed Forces' endowment or combat capability, the present state of facts can be regarded as critical.*

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<sup>7</sup> Law no. 90/2001 on the organization and functioning of the Romanian Government and the Ministries, as subsequently amended and supplemented, art. 1, lit. e).

Thus, a comparative analysis even with our neighboring countries, such as Bulgaria and Hungary – which, at the beginning of the nineteenth century, were similar or under Romania's level of endowment, on all three branches of the military, nowadays the situation has reversed.

For example, regarding airspace coverage only, according to the website <<http://www.armedforces.co.uk>>, at the level of 2010, the situation of the Romanian air forces is presented as more than worrying. Possible airspace coverage will exist when Romania has at least 36 F-16 planes equipped with all the combat gear on board.

Also, according to Romanian military specialists, it is necessary to acquire - for Romania's air Defense (complementary to Aegis Ashore missile Defense system in Romania - Deveselu), several Patriot rocket batteries (minimum 4 Patriot batteries) - besides the current equipment: a limited number of modernized Hawk systems and Kub missiles (short range) or Russian Volcov missiles. (Poland has already concluded a contract to acquire 8 Patriot missile batteries, which is a \$ 5 billion contract).

Also in the anti-aircraft defense chapter, Bulgaria and Hungary are doing better.

Within the MApN, there are the following structures:

***The National Military Command Centre (Nucleus)*** - acronym CNMC(N) is a complex military-strategic structure (established by Law No. 58/2011 amending the Law No. 58/1994 on National Defense), within the General Staff of the Army, which warns the structures of the MApN about the imminent occurrence of crisis situations in the military or civilian fields. It also ensures the communication of MApN with the other institutions with responsibilities in the field of national security and Defense (with the CSAT, the General Secretariat of the Government, the ministries with responsibilities in the field, the I.G.S.U. (the General Inspectorate for Emergency Situations), all intelligence services, the Earth Physics Institute etc.), as well as with the bodies belonging to NATO, EU etc., for crisis management.

The management of military actions at strategic level, *"in the case of armed aggression, in case of declaring state of siege, state of mobilization or the state of war, is carried out through the Military Command National*

*Centre*<sup>8</sup> - which passes to full operational capacity (former Great General Headquarters) and falls under the direct subordination of the CSAT.

**Ministry of Internal Affairs – MIA** (in Romanian, MAI)

The Ministry of Internal Affairs was reorganized into the current structure by O.U.G. No. 96/2012. Within the MAI, there are the following structures:

**National Public Order Management Centre - CNCAOP** - established by G.D. No. 1152/2014, as an inter-institutional decisional support structure for integrated management of special and crisis situations.

**The Romanian Inter-ministerial Group for Integrated State Border Management - GIRMIFS**, established by G.D. No. 943/2001, updated 2017 (aimed at integration into the EU and, in the second phase, integration into the Schengen area).

At inter-ministerial and ministerial level there are other complex structures (relatively newly established), such as: Strategic Inter-ministerial Group - GIS; National Cyber Security Incident Response Centre - CERT-RO; Operational Council for Cyber Security - COSC.

► **The Judicial Authority** is made up of: the courts, the Public Ministry and the Superior Council of Magistracy (the Judicial Power is made up of only the High Court of Cassation and Justice and the other courts)

From the point of view of the national security system, only the Public Ministry is relevant, headed by the Prosecutor General under whose authority are the following:

○ *The Directorate for the Investigation of Organized Crime and Terrorism* - DIICOT is a structure established in 2004 for the purpose of dismantling the organized crime border and cross-border criminal groups.

○ *The National Anticorruption Directorate* - DNA, established in 2002 under the name of the National Anti-Corruption Prosecutor's Office (PNA), is a prosecution structure specialized in the fight against large and medium corruption. Taking into account that in *pt. 68 - Vulnerabilities* – from the National Defense Strategy of the Country for the period 2015-2019,

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<sup>8</sup> Article 8 of Law no. 58/1994 on the national defence, with subsequent amendments and completions.

*Corruption* is considered vulnerability, the Directorate can also be involved in addressing vulnerabilities to Romanian national security.

► **The Intelligence Community**

The state bodies – intelligence services, with specific powers in the field of national security are: the Romanian Intelligence Service, the Foreign Intelligence Service, as well as some specialized structures subordinated to the Ministry of National Defense and the Ministry of Internal Affairs.

***The Romanian Intelligence Service*** - (in Romanian, SRI) whose organization, functions and powers are provided by Law No. 14/1992 *on the organization and functioning of the Romanian Intelligence Service*, as subsequently amended and supplemented, is the informative authority that carries out intelligence and counterintelligence activities throughout Romania, in order to prevent the occurrence of situations that could affect national security, *being an integrating structure in the fight against terrorism*. Thus, since 2004, Romania has a National Terrorist Alert System - SNAT and a National System for Prevention and Combating Terrorism - SNPCT managed by SRI, in order to support the anti-terrorist activities planning process at national level, as well as to inform the population in relation to the level of terrorist threat.

*Specific institutions and structures in the area of responsibility:* the Antiterrorist Operational Coordination Centre and the National Centre for Interception of Communications.

***The Foreign Intelligence Service*** – (acronym SIE), whose organization, functions and powers are stipulated in the Law No. 1/1998 *on the organization and functioning of the Foreign Intelligence Service*, as subsequently amended and supplemented, is the "state body specialized in foreign intelligence related to national security and Defense of Romania and its interests"<sup>9</sup>. Therefore, SIE is an intelligence authority with responsibilities exclusively outside Romanian territory, for Romania's national security, according to the competencies established by law.

***Other departmental intelligence structures:*** the General Intelligence Department for Defense within the Ministry of National Defense and the

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<sup>9</sup> National Defence Strategy Guide for the period 2015-2019, p.16, [http://www.presidency.ro/files/userfiles/Ghid\\_SNApT\\_2015-2019\\_AP.pdf](http://www.presidency.ro/files/userfiles/Ghid_SNApT_2015-2019_AP.pdf)

*Department for Intelligence and Internal Protection* within the Ministry of Internal Affairs.

*As it can be seen, the main intelligence services operate according to laws adopted before the year 2000, even if they were completed and modified later on (i.e. before Romania's accession to NATO and the EU), and they include provisions that have nothing in common with today's reality.*

### **Conclusions and Proposals**

Analyzing the dimensions of the extended national security strategy, we find a real deficit in the Defense sector - in terms of endowment, *which - in the conditions of the new security paradigms - is gaining increasing importance*. This Defense deficiency may affect the sustainability of the entire national security system.

We consider it a matter of first urgency to adopt a *new national security (framework) law* that would contain the provisions of the previous proposals, supplemented with notions or clarifications from the National Defense Strategy of the Country 2015-2019 and the National Defense Strategy Guide for the period 2015-2019.

*We also support the need to approve - by government decision - an action plan to implement the forthcoming new national security strategy.*

In the institutional field, we consider it strictly necessary to create a *Unified Control Centre for Disasters*, integrating all responsible intervention forces in case of such events.



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