

## THE NATIONAL MILITARY COMPONENT/SECTOR FOR SECURITY AND DEFENSE - STRATEGIC REQUIREMENTS AND DEMANDS

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***Abstract:** For security and defense, the state needs operational-action means purchased according to performance and utility requirements. The Armed Forces' endowment plan is achieved by observing the Offset Law, this being the first strategic condition in the national security and defense concerns. In the last years, at the level of the political-military decision maker errors were produced with implications on Romania's military capacity.*

***Keywords:** military sector, security and defense, military acquisitions, offset, plan of endowment, national defense industry.*

**M**odern security and defense, by the military forces and means they can use, are increasingly required to cope with integrating value and always prospective strategic requirements and exigencies. Military operational-action integrated systems for security and defense must converge to a set of requirements of practice in the field, such as utility, performance, viability, and so on. But also the exigencies imposed by the new challenges and especially by the insecurity factors in the context of which it is to perform its preventive function and to participate successfully in internal and external security and defense missions.

Nowadays, more than ever, the modern Romanian military security and defense component/sector needs operational-action systems compatible with those of NATO and those required by the security structure of the European Union.

Unfortunately, over the past 25 years, the strengthening of Romania's military security and defense system has been accomplished by second hand purchases, real improvisations with fighting techniques (armored vehicles, driving systems, airplanes, frigates, etc.) for all categories of armed forces (land, air, naval).

It can be considered even with some delay that this approach represented a series of serious strategic errors, produced at the political-military level, made up of decisions of the Supreme Council for Country's Defense (SCCD), continuing with the plans and programs for armed forces' endowment and the purchase (as a business) of techniques, often morally worn out.

In our view, it is necessary to completely eliminate the acquisition of second hand necessary means for the national, collective and common security and defense on the basis of sufficient good reasons: distortion of the political decision on modern security and defense; eliminating opportunities to gain economic benefits/compensation, resulting in significant losses to the national economy and the defense industry.

Equally important is the fact that some dependence can be created on their exploitative performance and, at the same time, serious incompatibilities may arise during specific actions and missions.

Finally, this approach allows for the emergence of quality and performance contrasts between the operational-action structures in the course of actions and missions, which affect the morals of those who implements them.

We conclude preliminarily that with regard to the achievement of the modern national security and defense military component/sector, it must take precedence the criterion of performance and integrated operative-operational necessity and utility and not exclusively the political decision in which private or other nature interests may be manifested.

The strategic concern of the current power factor, expressed at the SCCD level, for an Armed Forces' Endowment Plan for a period of ten years to be discussed and approved, which is the basis for the planning of acquisitions for staggered endowment with modern forces and means of structures which are part of the national security and defense system, with the allocation of 2% of GDP for the defense needs in the coming years, is emerging as a reason for optimism.

In this context, it is mandatory and legal to ensure future operational and action systems necessary for own security and defense and to participate in collective, common and cooperative security by acquisitions in offset mechanisms. Thus, some special advantages can be realized, not only within the national defense industry, but also in the national economy as a whole.

Offset acquisitions allow a certain technological transfer to Romanian companies, stimulating scientific and technical cooperation for the assimilation and production of constructive elements locally.

At the same time, it is possible to create the necessary conditions for capitalizing on innovations, by facilitating access to high technologies, provided there is a permanent economic compensation favorable to other sectors and productive fields as a result of the completion of the acquisition process.

International experience in the field highlights the need for political power to pursue consistently and take into account two main issues. Firstly, achieving a certain balance/level of economic compensation for any transaction with operational-action systems required for modern security and defense. Secondly, there is necessary to express political option only for new, performing, useful and necessary systems in the current regional/area of national security and defense, easily to integrate into complex defensive security systems, based on maximum compatibility and performance.

In view of the above mentioned facts, a factor generating confidence arises from the possibility that, for the satisfaction of stringent national and regional security requirements and exigencies, the budget for defense allocated this year, if the declarations of the political factor are real, can exceed the figure of 2% of GDP, appreciating this as a decisive measure for a good level of conjectural sufficiency.

It is well known but sad that for over 20 years the Romanian Armed Forces has been quite ignored from the point of view of budget allocations. Now, in the face of security effervescence in the Central, Eastern and Southeastern Europe, the Euro-Atlantic strategic concern to compel states to allocate a significant percentage of national GDP and to recover the negligence of annual financial allocations from the past, can and is only to some extent possible to be recovered, the military balance in regional and zonal security being still a distant objective.

Since 1999, sufficient normative acts have appeared in Romania, on the basis of which any procurement contracted for the necessary means in the military security and defense sector can be achieved on the basis of a negotiated and favorable offset: Law no. 595/2004 for the approval of Government Emergency Ordinance no.158/1999 on the regime of exports and imports of strategic products; Law no. 206/2005 on the implementation of international sanctions, in conjunction with UN Resolution 1373/2001 on Combating International Terrorism; Law no. 354/2003 for the approval of GEO no. 189/2002 regarding the compensatory operations related to the contracts for defense, public order and national security needs, as subsequently amended and supplemented; Government Emergency Ordinance no. 189/2002 on offset operations related to procurement contracts for defense, public order and national security needs; GEO no. 34/2006 on the awarding of public procurement contracts, public works concession contracts and services concession contracts, with subsequent amendments and completions.

At the same time, in Romania, a public, autonomous lucrative structure was created, from the executive branch, with legal personality - the Office for Compensation for Special Techniques Acquisitions (OCATS), whose role consists in the concrete regulation of the way of compensatory actions and all bureaucracy linked to them.

The purpose of creating and operating OCATS derives from the logic that budgets allocated to procurement in the field of national security and defense can impact in a favorable way the Romanian economy. However, at present, the most used forms of procurement are related to investments, exports, by the means of foreign subcontracting participating or non-participating firms, technology transfer, donations, training, etc.

Under the law, transactions based on offset contracts attached to military procurement contracts must end for a value equivalent to 80% of the value of the procurement contract.

Components of an offset contract cover direct offset operations involving the participation of Romanian economic agents in the realization of the products covered by the procurement contract (equipment, technique, technology, materials) or the provision of services that make a significant contribution to the implementation and operation in convincing conditions of purchased equipment and products.

In addition, indirect offsetting operations respectively the provision of economic compensations less and not related to the products and services covered by the procurement contract are added.

The current Romanian law stipulates that any offset contract should contain a direct offset component of at least 25% of the total acquisition, while the indirect offset covers 75%, with the stipulation that the beneficiaries of the obligations assumed by the foreign partners may also be companies in civil industry.

In occurrence with the facts described above, we remind that in 2016 the SCCD approved a strategic document - *Program for the Transformation, Development and Endowment of the Romanian Armed Forces by 2026 and in the future* - with the stated aim to ensure the capabilities necessary to promote the national interests and protecting them against the combined actions of the insecurity factors in a permanent proliferation and at the same time fulfilling the international commitments in the field of modern security and defense.

The analysis of the *Program* unequivocally shows the necessity to acquire weapons systems and support equipment, to strengthen the operational-action capability of the three categories of armed forces (land, air and naval) and the Joint Logistics Command.

As a consequence, it is obvious that the upgrading of Romania's capabilities for integrated security and defense implies the acquisition of airplanes, helicopters, combat ships, missiles, modern armored vehicles, etc., involving billions of euros / dollars.

The content of the *Program* has not been publicly disclosed, which has led to uncertainties about the nature and sources of procurement of modern operational and action systems and means for security and defense that correspond to the current requirements of the Romanian Armed Forces.

Moreover, although the *Program* covers a period of 10 years, the SCCD has recently endorsed the multi-annual budget planning (NATO requirement) and has given due attention to the indigenous defense industry and the acquisition of economic benefits accordingly.

All national security strategies contain in a separate chapter the concerns for the development of the respective defense industry, starting from the principle that a basic pillar of state security and defense is the reduction of import dependence in the field of military technology. Given

the current national economic realities, in contrast to the real needs of technical and technological reinforcement of the army in the coming years, the national political factor has applied European experience (and not only) in the field, offering a few years ago an offset law but insufficiently applied.

Although Romania produces means of fighting (not the latest generation), in the existing law it is stipulated that any foreign legal person wishing to sell arms in the country is obliged to provide an offset of at least 80% of the value of the contract with the stipulation that the compensation obligation applies to those contracts with a value greater than three million euro.

In addition, in order to acquire military equipment, the offset value must also represent the transfer of part of the production of the components of the respective equipment to the purchasing country. The 80% level is the lowest percentage legally accepted in all EU countries, with the possibility of claiming between 100% and 120%.

Our analysis confirms the need to regulate the offset acquisitions field and its poor application exemplified by a series of procurement contracts: two used British frigates, Hercules C-130 transport aircraft, 8 HAWK PIP III missile systems (Dutch), 78 DAF YA-5442 vehicles or even some components of the EADS contract for securing Romania's borders.

A relevant example of a potential effective use of offset law but not taken into account as a valid option is the process of endowing the Romanian Air Force with airplanes, which began with the acquisition of used US F-16 ( produced in-between 1981-1983), as a prerequisite for the next step - the purchase of new F-35s (by newer manufacturing).

To the amount required to purchase, by applying and complying with the offset law, the company producing airplanes could have assumed some obligations by implementing bilateral programs with significant value to the Romanian economy.

A different situation occurs with armored carriers. It is about a possible partnership of a Romanian company with a foreign firm, which will build an armored carrier in Romania. As a result, foreign technology and resources will be used from Romania, which will lead to the creation of new jobs. The product as an economic agent will be a mixed company (Romanian and foreign shareholders), which will receive the contract with the national Ministry of Defense for the production of the armored carrier.

Another example can be found in the provision of combat ships. On the basis of a Government Decision (GD), Romania would acquire four new corvettes for the Navy, based on an ongoing contract for the next four years. The four new corvettes were produced by the foreign company that owns the Galati shipyard; the maintenance works would have been delivered in Romania for the lifetime of the corvettes, and in addition to the offset program the foreign firm was asked to include the modernization of the T-22 type frigates already existing in the Navy endowment. Subsequently, however, following the parliamentary elections and the establishment of the new government, this program was canceled, based on a suspicion of illegality.

Finally, an equally unfortunate situation also occurs with Super Puma helicopters. After inauguration of their production facility, the production was commenced in accordance with the Romanian state orders and the fulfillment of the requirement for application and observance of the Offset Law. However, no Romanian company in the industry was contacted for the production of any component, and the helicopters will be assembled from imported components.

In the face of the following period, Romania will spend many billions Euros on military purchases, given that demand and supply are high, and the interests are as many and often contradictory, internally and externally.

It becomes thus a strategic obligation to pursue with constant attention the extent to which the financial resources at the disposal of the national security and defense interests will also strengthen the Romanian industry or will most of all deal with foreign producers.

Thus, it can be regrettably concluded that there is a major disinterest from the national political-military factor. In most EU countries, defense ministries are constantly supporting and collaborating intensely with their own national defense industries. Direct promotion, trade delegations, military attachés, participation and organization of exhibitions are common forms of support for national interests, having the capacity to contribute positively to strengthening their own security and defense capabilities.

Romania's situation reflects the opposite. The Romanian Ministry of Defense opted for imports, even when the national defense industry offered similar products and technologies. In addition, most tenders require the bidder to have a higher turnover than any Romanian company, and foreign

firms are offered attractive contracting conditions, such as prepayments, opening of bank letters of credit, etc.

On one hand, under the current conditions created by the regional security environment, it is necessary to move to a systematic and planned multiannual level on the consolidation of the national defense industry, which will become a strategic objective, translated into the security and defense practice with perseverance, pursuing consistently in permanent development.

On the other hand, one cannot ignore the fact that in recent years the compensation generated an European and Euro-Atlantic dispute, being perceived by the countries holding high technology as an increasing burden. Consequently, these states become the most determined supporters of the limitation and, as far as possible, the elimination of offset practice. This attitude can be supported by the fact that compensation obligations increase proportionately with the export of weapons and military technology, thus affecting suppliers or subcontractors. In fact, they are obliged to provide facilities in the countries to which these military exports are made, together with compensation.

At EU level, there is a rather active controversy between arms-producing countries and technologically less-developed countries related to the fact that compensation has become inefficient and, moreover, can distort the market.

In our opinion, offset can also be considered as a marketing tool, which can offer certain advantages to the buyer. At the same time, the exception may be that the offset value itself is more important than the purchased military product. Of course, in the case of the existence of interests of the state and of the exporting firms it can lead to the situation in which the offset can become a direct and discrete way to corruption.

A possible and viable solution for the avoidance of corruption is the outsourcing of the stages, namely the negotiation of the acquisition, offset and crediting - to firms with international expertise in the financial field. To this end, creating a specification of the ministries of defense, industry and finance becomes absolutely necessary, thus highlighting a form of private management of procurement contracts.

An example of this is the US situation, where a Bureau of Industry and Security (BIS) operates, with an express purpose in the field of offset



commitments in trade with other nations. The BIS is within the framework of industrial security concerns with the clear goal expressed by two purposes: protecting national security from the point of view of exporting high technology, especially military, and establishing and approving compensation for US military technology purchases.

The results of various political-military analyzes indicate that, for two decades, the national defense industry is facing extremely difficult problems, addressing three major malfunctions.

Firstly, there is a lack of cooperation between the national defense industry and the Ministry of National Defense, secondly, the need for a new legislative framework appears and, thirdly, the passage of this sector under the authority of the Prime Minister. The need for regulation is acute, given precisely the inter-correlations and the importance of the field in the modern security and defense sector.

Faced with the past and current realities of the analyzed field, some important aspects emerge which draw attention to the gravity of the effects on security and defense:

- Defense ministries in most of the European States integrated or not into regional/ areal security and defense systems support and cooperate effectively with their own national defense industries by direct involvement and promotion;

- The Romanian Ministry of Defense repeatedly preferred imports by the direct negotiation procedure, even if in a few situations the national defense industry could offer similar products needed for endowment, invoking the quality of domestic products;

- In the process of negotiation, some foreign companies have benefited from conditions of contracting better of those for Romanian companies, such as prepayment and foreign currency payments, bank letter of credit, etc.

- The purchase of military means or contracts for the modernization of the fighting technique by direct award, from/to foreign companies, provided that the acquisition of the Romanian Armed Forces' strategic programs (for the period 2007-2025) did not provide for them.

A coherent legislative and institutional approach to eradicating corruption and supporting transparency and equal opportunity for all participants in the procurement process has become imperative based on a

constructive dialogue on the hot topics of the critical situation in the national defense industry with a view to identifying and the implementation of coherent, vigorous and urgent measures included in a national plan.

The improvement of the legal framework should aim to establish the principles, the general framework and the procedures for performing the compensatory operations consisting of economic compensations, established by the procurement contract as a condition for the acquisition of products, works or services on the foreign market in the field of defense, public order and national security, provided that such purchases exceed an established threshold value.

We consider it imperative that any import of military equipment intended for national security and defense to be accompanied by a clearing clause whereby the supplier of the goods is obliged to buy products/services or make investments in Romania worth at least 80% of the value of the contract, especially given the decision to allocate 2% of GDP for endowment.

At the same time, the purchase of military equipment (airplanes, helicopters, missiles, frigates, tanks, other armored vehicles etc.) must be carefully monitored and audited, as situations where the Offset Law is often not observed and thus do not contribute to development the national defense industry, generating and favoring corruption suspicions, which can place Romania on the map of possible political-military targets.

It is gratifying that starting in August seems to have started to move something in this field. According to Agerpress materials and debates in the media, important information has been revealed that the Romanian Government has approved and submitted to SCCD a new program of endowment of the national army, which refers to the acquisition and production of modern means of security and defense.

It is also important that the supplier has to be involved as much as possible in the national economy, with benefits for the Romanian industry. As a form is seen the possibility of creating joint ventures in Romania, which produce the military technique, based on a high-tech technological transfer that Romania needs, generating economic development and more national security.

On the endowment of the Romanian Armed Forces with attack helicopters, convincing explanations were made. The decision to do so was

motivated by the fact that Romania has a Strategic Partnership with the United States, which must be respected in military procurement as well, as USA is our best partner for national security.

It was intended to purchase a powerful combat helicopter, with multirole military performances and possibilities of targeting configurations according to the destination (attack, transport, firefighting, medical evacuation, etc.).

For the production of multifunctional corvettes with which the Romanian naval forces will be equipped, several stages beneficial to the business partners will be carried out. As a result, the ships will be built and equipped on a Romanian site, the creation of a center (on the Black Sea and/or on the maritime Danube), for all ships of the national maritime-riparian forces and the modernization of the two T22R frigates.

Also on the same principles and criteria will be produced the armored transporter TBT 8x8, on the basis of external refurbishment of the designated economic agent. Priority will be the endowment of the Romanian Armed Forces, and afterwards the product could be exported.

It is noteworthy that the funds that is and will be allocated to the Romanian defense industry aim to develop this field. By appropriate forms and methods of offset the allocated resources must ensure the production in the country of the necessary means for the national security and defense, the acquisition of performing products in operational-action plan and the development of national economic agents.

Actually, this may mean that partnerships will be concluded, with a clear purpose for re-technology, for the possibility of technology transfers and especially for the production in Romania in a reasonable time of military products, which are to be considered Romanian, homologated in the NATO system, thus reviving national security and defense capacity.

