

CIVIL-DEMOCRATIC CONTROL OVER THE MILITARY

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Abstract: The directions of research of the present paper followed the three pillars of epistemological research: conceptual assertions, the need for the civil-democratic control over the military institution and the historically demonstrated ways of exercising civil-democratic control over the army. Conceptual coordinates and characteristics of civilian control over the army are based on values such as legitimacy and democratic necessity, constitutional fundament, a factor of boosting the credibility of the military institution, a vector of development of the cooperation and cohesion between army and society, a process of increasing the performance of the military institution. This control has to be performed due to historical, social, political and democratic reasons. The types of civilian control are highlighted through historical, social and political perspectives. The analytical conclusions show the importance of democratic civilian control over the army.

Keywords: civil-democratic control, military administration, army, rule of law

1. Conceptual assertions

The civil-democratic control over the military institution, in fact over the use of armed forces of the state, is both the quintessence of relations between the military and society and the constitutionally defined certainty that the military force of the state will be used in strict accordance with the normative-legislative system governing its specific status. For example, we must admit the fact that it has an imperative nature, conceptually moving within the classical coordinates of its acting nature, meaning that it is similar to *social control* which “*is the result of the relations of interdependence between elements of a system and determination of the components of the system to which they belong (...)* being possibly regulated by formal (institutional impersonal rules, codes) or

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informal means (self-control)."¹ In fact, we can admit that, strictly in terms of civil-military relations, we are dealing with "*the process of formation of a management mechanism of relations between the professional army and the legitimate authority of the state.*"² Exercising that control, however, is not left to chance. Beyond the requirements imposed by the nature of the legal system governing the existence, role and missions of the military institution, the institutions that guarantee the status and condition of democratic state have implicitly and explicitly generated the requirement that the controls should be of democratic nature, for instance to be in line with the essence of the relations within the social system. Not randomly, this perspective imposed the phrase "*civil-democratic control*", which fundamentally requires civilians, belonging to the democratically elected institutions of the state, to exercise over the army a type of control in strict accordance with the letter and spirit of the Constitution and the laws of the country. At the same time, it requires from *the military*, the professional obligation to lucratively submit to such control. At the same time, "*civil-democratic control*" over the military institution is necessarily reclaimed by the very democratic nature of the social system as well as by the fact that "*the existence of a real transparency of the army is more advantageous and more effective in a state, rather than the situation in which the army is torn from society and placed above the law.*"³ On the way to a certain definition of "*civil-democratic control*" we start from the reality according to which, conceptually, it consists of a coherent set of theses, ideas, procedures, laws and regulations, standards and traditions, under which "*civil*" political authority is constitutionally exercised over the armed forces of a country.⁴ This implicitly determines the assertion that "*the legitimacy of civilian control is ensured by the legitimacy of the democratic process through which popular will is delegated to the political authority.*"⁵ Actually, there

¹ R. Boudon, apud Cătălin Zanfir, Lazăr Vlăsceanu, Dictionary of Sociology, Babel Publishing House, 1993, p.138.

² M. Zulean, op. cit. p. 39.

³ Mircea Cozma, Civil-military relations in the Romanian society, AFT Publishing House, 2002, p.39.

⁴ Alexandru Baboş, Florentin Udrea, Civil-military relations. Course, CTEA Publishing House, Bucharest, 2006, p.95.

⁵ Ibidem, p.95.

is no clear distinction between the two terms. In the specific literature in the field, the two terms are used, in reference to the military institution, frequently combined in expressions such as, on the one hand, "*civilian control*", "*civil-democratic control*" and, on the other, "*democratic control*", issue that cannot be attributed to confusion, but rather to a certain simplifying automatism. In fact, civilians, as representatives of political authority democratically elected, can only exercise the democratic control. However, the adding of "*democratic*" to the phrase defining the attribute is not random, at least until reaching the full democratic maturity of our society. That is because in the totalitarian communist regime a type of civilian control was exercised over the army, which, however, took the essential attributes of the dictatorial regime, therefore being un-democratic. On the contrary, the democratic nature of control is revealed precisely by its being exercised by the state's legitimate civil authorities, democratically elected. In fact, resorting to one of the three phrases emphasizes the right of the democratic society, but also that of the civil society, immutable entities with no rigid borders coexisting in a considerable intermingling of principles and actions, to continually make sure that the armed forces act solely and fully in line with the constitutional responsibilities conferred. In this spirit the *democratic nature of control* over the armed forces can be further defined as the activity that "*means all the rights conferred by the Constitution and laws to the authorities of the political society - democratically elected - to establish the regulatory framework for the organization, functioning and responsibilities of the armed forces, to set forth limits of their action and to check how their work complies with the provisions of law and decisions of the competent civilian authorities.*"⁶ Moreover, in agreement with the stated thesis, the assertion arises that democratic control over the army is the natural expression of democratic relations between the army and society, "*understood as a complex mechanism of democratic oversight of the army, the exercise of civilian control by democratically elected politicians and the existence of a*

⁶ Gheorghe Diaconescu, Floarea Șerban, Nicolae Pavel, *Democratic Control over Romanian Army*, Enciclopedică Publishing House, Bucharest, 1996, p. 211.

professional army operating as expert organization for defending the state."⁷

2. The necessity of having civil-democratic control over the military institution

Understanding war as a social phenomenon, as an extension of politics by other means and, therefore, the armed forces as an instrument of political strategy, Clausewitz believed that "*Subordinating the political to the military viewpoint would be absurd because politics has generated the war, it is the reasoning behind it and war is only the instrument, not the other way around. The only remaining possibility is that of subordinating the military to political point of view.*"⁸ In the spirit of the same philosophies, a century later, Georges Clemenceau stated: "*War is a task too important to be left to military.*"⁹ In the respective situations, the direct reference to war (and exemplification thereby of a reality) implicitly regards the army as the only state institution dedicated to the use of armed violence, including waging war. What does such an argument mean in shaping relations between society represented by politics and the military? It means that, at least since the beginning of the modern era, when the state became the organizational system of a community, in a well defined territorial framework, and ordered by a military body to defend its interests, it also created the means and instruments necessary for controlling the military institution. In fact, in pre-modern history, from this perspective, things were similar in the sense that since their inception, by moving on from the primitive order, regardless of their nature - slavery or feudal - states have had some military force, such as an army for instance, in the service of and, by default, under the control of, society's dominant forces.

Without going into details of historical evolution of relations between the dominant forces of the state, regardless of their nature - despotic, authoritarian, dictatorial or democratic - and the tool it had available to defend its interests, namely the *army*, it is obvious that *in any historical specific state organization, the military institution was under*

⁷ M. Zulean, op.cit. p. 40.

⁸ Carl von Clausewitz, *On war*, Military Publishing House, 1982, p. 65.

⁹ *** Reflections and sayings, Scientific and Encyclopedic Publishing House, Bucharest, 1989, p. 493.

some form of control specific to the nature and the development of state organization. Basically, a retrospective look at the historical relations between the state and the military organization at its disposal shows four types of control exercised over the military institution, namely: the slavery state's specific control, which was a review of the ruling class, represented by masters of slaves and ruling classes; the control over feudal armies, whose main characteristic was that of being typically mercenary, the control being exercised by evaluating and possibly changing the purchased military services; the control applied in modern capitalist states, where the military acted as a tool serving the interests of society and the state; the control specific to democratic states and societies, in which armies are subject to civil-democratic control. *Basically, the control over the army has, historically, the age of the army, as an institution of the state; the very existence of the army necessarily causing its control.*

In exercising control over the army, the legislation subsystem's quality referring to the military institution has a decisive character. Ambiguities and inconsistencies in the foundation and defining roles and tasks assigned to the army can generate social and state counterproductive trends, with unforeseeable consequences, which may be difficult to overcome. It is quite obvious that the need to control the army stems right from its social role and lies in the continuous need of the society to control its ability to strictly perform constitutionally assigned powers. Ultimately, the aim of the necessary control over the military institution is that, as far as related laws are concerned, the army is better so as to confer, in turn, in terms of law, the social certainty of confidence in it.

An effective and productive control over the military institution is performed in a state where the laws under which the army exists and acts, in any of the possible instances, peace or war, for example, there are clear laws, comprehensively detailed, predictable in line with strategic projects of the state and society's expectations.

In the operational relation **state - laws - army**, “*the most enduring foundations of the states, both the new and old or mixed ones, are good laws and good armies (...) and there may not be good laws where there are no good armies and where good armies are, there is also the need for better*

laws.”¹⁰ In other words, summarizing, we can say that the operational purpose of the factors mentioned is significantly determined by the existence of good law, good control and therefore good army, according to the state social desideratum.

Starting from the reality that the army is and represents one defining pole of state power, “*it is very important for constitutional and legal levers to prevent the military factor from gaining a dominant position, while the conduct and use of force should not be applied except under direct and expressed authority of democratically elected leaders.*”¹¹ This is one of the reasons for the need of control, namely *the social state management of constitutional responsibilities of the military institution*. From another perspective, by the activity of control of the armed forces, an interference of the military in the political societal sector is prevented, aspect in which Jean Blondel¹² highlighted the following relational steps:

- The high degree of professionalization of the military can lead to their isolation from the rest of the national community, soldiers clearly showing a tendency to develop and enforce their own attitudes, their own understanding of the state’s social expectations;

- The likelihood of military intervention decreases in relation to the rising legitimacy of the political system;

- The likelihood of military intervention decreases where political, social and economic systems become more complex;

- The likelihood of military intervention increases in the context of the dominant ideology of the state differing in terms of characteristic responsibilities and tasks of the military.

Citing control over the military institution, “*The democratic principle of civilian control over the military itself may be endangered because the threats and military crises can materialize faster than any consensus.*”¹³

¹⁰ Niccolo Machiavelli, *Principele*, Publishing House Minerva, Bucharest, 1995, p.142

¹¹ Gheorghe Diaconescu, Floarea Ţerban, Nicolae Pavel, op.cit., p. 311

¹² Jean Blondel, *The Military and its role in the political process*, in *An introduction to comparative government*, Weidenfeld and Nicolson, London, 1979, p.76-89

¹³ Alvin and Heidi Toffler, *War and anti-war*, Antet Publishing House, Bucharest, 1995, p.215

Although often, when invoking the need for democratic control over the military, there is a tendency to regard it as a guarantee for preventing the onset of any military subversive actions, fundamentally, by its very nature, the reason of democratic control lies in the assertion of certainty that the army fully and strictly acts in line with national interests, designed, made and promoted by the country's democratic political authorities. At the same time, this democratic control certifies the capacity of the army to meet the highest demands imposed by the activity and the existence of the state.

3. Historically acknowledged types of civilian control over the army

Resulting *de facto* from the power equation in which they reside, both by their constitutional definition and by the laws deriving from that, specifically reinforcing it, the civil-democratic control over the army also marks the relations between civil institutions and the military institution, being, in the end, the expression of the civil institutions, not least of civil society as well as of the military institution. And this is because the idea of control, even in its elementary or vulgar-empirical sense, means power, a dominant power, exerted over another power thus becoming dominated.

In defining and conceptualizing the forms of civil democratic control over the army, we start from what we consider that represents, even if not assuming and openly asserting its analytical aims and nature, a way to locate within some standards of military power, implicitly of its possibilities of manifestation. Naturally, this happens within the conceptual and operational standards required and officially stated by Constitution. However, these standards represent or can represent not only specific performance optimization tools, but, from a certain perspective, also a limitation of military power, a power which the military institution is not allowed to ignore.

Historically, in terms of the outlined and assumed perspective of our conceptual plea, we identify as being extensively validated by the scientific community the following types of civilian control over the army¹⁴, stating

¹⁴ Huntington, Samuel P., *National security and civil-military relations*, in "Army and society. Collection of military sociology texts", coord. Sava, Nicu Ionel; Tibil, Gheorghe and Zulea, Marian, Ed. Info-Team, Bucharest, 1998, pp. 312-335

that the democratic attribute is understood in contexts where control is executed by the democratically elected legitimate authorities of the state.

•*Civilian subjective control* – Basically, it consists in maximizing the power of civilian groups, with significant representation in society, in direct relation with the military institution. It is important to emphasize that the large number of civilian groups, the lack of minimum convergence of their positions on fundamental issues of state policy or in addressing operational national interests, their diversified nature, as structure, goals and interests, make it impossible to maximize their power on state society level in relation to the army. Logically in their assertion in society, we conclude that maximizing civilian control over the army derives in fact from maximizing the power of one of these groups or of some of them, being by conjuncture or endemically found in programmatic consonance. Basically, we define as *subjective control* the power relations between civilian groups aiming for the domination of one / some over others, which by their expressed or subsequent nature of their interests give authenticity of control over the army. The resulting idea is that, consequently, the civilian groups not engaged in state power action use as a slogan the theme of *civilian control* over the army in order to strengthen their position against those in power, the military institution being of reference in quantifying the overall civilian power.

•*Civilian control through the governmental institution* – Diachronically, as theme, but also as programmatic action, the origin of the *civilian control* is found in attempts of parliamentary institutions performed in the democratic development of society (England and America, where the armed forces were under the exclusive authority of the Crown) as a way to increase their influence and power in relation to the historical prerogatives of the Crown. In more concrete terms, exercising, under those circumstances the *civilian control* was an implicit social reality, in fact maximizing parliamentary control over the armed forces asserting itself at the expense of Royal Power, of the British Crown.

•*Civilian control through social class* – It is obvious from the name that this type of control is specific to society's segmentation into social classes. This form of control became especially conspicuous in Western European countries in the second half of the eighteenth century and during the nineteenth century when the aristocracy and the young European

bourgeoisie whose confrontation resulted in the emergence of the capitalist society, vigorously started the fight, the former to maintain, and the latter to gain control over the armed forces. The fight itself was enhanced by the fact that each of the representative social classes openly manifested concern to gain control over the armed forces, the civilian control however, in present-day terms, being identified *de facto* to their own interests.

•*Civilian control through constitutional means* – This form of control makes the conjunction between the dual fundamental attributes of control exercised over the army - *civilian and democratic*, conceptually foreshadowing the phrase *civilian democratic control*. The key lies in appreciating that only under a Constitution that outlines the society's democratic status and imposes it as such, may genuine civilian control be exercised over a state's armed forces, maintained by the legitimacy of representation. By default, it results that only in the socially and nationally representative paradigm of a democratic Constitution, which requires and legitimates a democratic government, has civilian control the qualities and attributes of a democratic action, of a democratic work.

•*Objective civilian control* – Fundamentally opposite to *subjective civilian control*, *objective civilian control* is the expression of the stage when, as a historical necessity, maximizing military professionalism is cultivated, promoted and stimulated. The context itself is signified by the distribution of political power between military and civilians, meant to achieve and to increase, always to the maximum, the professional attitude and behavior of the military. Such an approach makes a decisive difference between *objective civilian control* and *subjective civilian control* at least, in the sense, of the following statements: *subjective civilian control* fulfills its assumed objectives by resorting to “making the army civilian” for the purposes of implementing a system of values, attitudes and relationships specific to the extra-military social nature into the military body, the desirable consequence being a maximization of civilians’ power in the military sector. From another perspective, the *objective civilian control* achieves its undertaken goals proceeding, by clearly specifying and rigorous assertion of professionalism and professionalization, to the essential “militarization” of the army, thereby attributing to the quality of military the status of “servant” of the state.

4. Analytical conclusions

The conceptual review of the types of control over the army shows us that, given the arguments we brought, the *subjective civilian control* is not a condition of exclusive monopoly of a particular constitutional system, being specific, especially, to undemocratic societies or to those with closed, reluctant, limiting democracies.

A consensual significance regarding the practice and conceptual nature of civilian control over the army was impossible, because of the trend, but also the practice of each group (we keep in mind, in a way, a certain school of thinking) to define civilian control as a distribution of power, exclusively favorable to its own interests. This is perhaps why, although relied on since the dawn of the parliamentary institution, a widely operational acceptance of definition, conceptual by default, was impossible to reach. The situation was changed by the emergence in the field of social legitimate professions of the military profession, event which, in labor sociology, conferred a different meaning and a different significance to the relations between civilians and military, complicating and hampering the endeavor of civilian groups to develop their influence and power over the armed forces. Thus, the forms customizing the exercise of subjective civilian control have became outdated, requiring in the historical field of social practice the emergence of a new type of civilian control, in line with the operative demands and expectations of social evolution, which will be contained in the conceptual paradigm of *objective civilian control*.

At the same time, we appreciate that, from the approach we used, the democratic civilian control is not intended, as one might think, “*to tame the army*” but, fundamentally, that it will strictly exercise powers and responsibilities in accordance with the Constitution and laws of the country, while achieving through democratic control the following objectives: increase of political and democratic society’s trust in the military institution; facilitation of solving the problems the armed forces are facing; prevention of potential abuses; knowledge of *de facto* reality in the army; productive harmonization of relations between the military on the one hand, and society, on the other hand; development of mutual trust between the military and the civil society. Moreover, democratic civilian control should not have a formal character, but it should rather signify the essentially supporting nature of the military in performing its fundamental responsibilities.

At the same time, the analytical approach to problems related to *forms of civil-democratic control over the army* generates theses that configure a conceptual understanding of the phenomenon, the most significant being the following: a divisional look on civil society shows its broad range of coverage, eliminating the hypothesis that, structurally, it would only be reduced to non-governmental organizations; the social-state value of the civil society consists in its rich diversity, generated by the human categories they represent, the size, functions, resources and people it is legitimated by, the level of resources, organizational form and the geographic scope of actions, the historical experience and cultural context; in the systemic passing from totalitarian logic of social construction to one centered on values with certain democratic consistency, the emergence, development and assertion of the NGO system represents a fundamental fact, contributing to the articulation and harmonization of the major concerns and aspirations of civil society with major interests manifested in specific aspects; the consistent dilution of authority differences between civil society and the military institution is synonymous, in terms of theory and organizational philosophy, with the entry of the military institution into a merger process with civil undertaking; control over the army has, historically, the age of the army, as an institution of the state, the very existence of the army necessarily causing its control; consensual significance on conceptual practice and nature of civilian control over the army was impossible, because of the trend, but also the practice of each group (we keep in mind, in a way, a certain school of thinking) to define civilian control as a distribution of power exclusively favorable to its own interests.



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