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**EVALUATION OF NATIONAL SECURITY
DECISION-MAKING STRUCTURES**

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Abstract:

The way how national security policies are conceptualized, adopted, implemented and evaluated is vital to the country and citizens wellbeing. In order to realize the decision-making process and develop such policies it is necessary to establish well-organized and legitimate institutions. This study analyzes the Decision-making Structures of the National Security and tries to assess how adequate and well-coordinated these structures are in order to generate stable security policies and guarantee their effective implementation.

Introduction

This study analyses the development of the responsible decision making and coordination institutions of the national security policies. In addition, it also offers an assessment overview of their role and efficiency.

In its first part, the paper focuses at the concept on which is based the need of founding of the decision making and coordination institutions of national security policies. From an institutional perspective, the experience of establishing such structures is relatively new, and began in the US after the Second World War.

While in its second part, the study analyses the process of setting up and development of National Security Decision-Making and Coordination Structures. In retrospective glance, the paper analyses the circumstances and factors that have influenced these structures and their functions. Research findings show that three main development periods of this structure coincide with the history of constitutional changes. Because of this, it is highly expected that any other change of the structure and role in the future would be accompanied with constitutional amendments.

The last two parts of the study sets several conclusions on why the responsible institutions for the coordination and the integration of the security policies remain weak, not adjusting to the political system and the country's needs and conclusively not able to develop sound security policies and guarantee their implementation. Some recommendations for further consideration are also included in the end.

The Needed National Security Decision-Making Structures

In many countries, the *National Security Decision-Making Structures* (NSDMS)¹ is an important element of the development, coordination and the delineation of foreign policy, defense and other policies that ensure the country's welfare².

¹ The term National Security Decision Making Structure is found in 'National Security Decision-Making Structures and Security Sector Reform', RAND Corporation, 2005, and its has a general meaning without referring to any particular model.

² Alan G. Whittaker, Frederick C. Smith, Elizabeth McKune, (2008). The National Security Policy Process: The National Security Council and Interagency System. (Research Report, November 15, 2008 Annual Update),

Such structure was initially set up in USA in 1947, under the designation of National Security Council (NSC). The Congress proposed the endorsement of a legislation, which could serve to manage the national security issues³. The Congress also proposed the establishment of a unit within this executive that a) would integrate and coordinate the policies between the institutions and various agencies, and b) would advise the President over issues of a national security interests.⁴

Since then, different countries have set up and developed their own models of organising and functioning, result of political structures and preceding institutional structures as well as the specific needs or style of the high officials⁵. However, the model of the American National Security Council is considered as the most powerful one. NSC serves as a forum to initiate and formulate new policies by which the President, the advisers and members of the cabinet discuss over internal, foreign and defense policies related to the national security. NSC staff advises the President on the issues related to national security, coordinates with the different executive institutions for the development and formulation of policies, and nevertheless is not involved in the process of implementation.

The reason behind the establishment of the National Security Decision Making Structure is the need of setting up structures, which will consolidate and coordinate various aspects of national security. Such supportive structures would be called in order to coordinate, apply or simply evaluate these policies, and officially or not advise over them⁶. NSDMS could constitute in entities with decision-making or advisory (or both) competences and in most of the cases was established by Constitution, Law or Decree to perform a series of functions:

- Evaluation of policies relating to security
- Setting of security priorities
- Counseling on policies related to security
- Institutional Coordination
- Allocation of resources (Resource allocation)
- Coordination of emergencies (Emergency Coordination)
- Oversight on the implementation of policies for defense and security issues (defense and security policies)
- Other significant issues such as the appointment of high officials, drafting of National Security Strategy etc.

In general, NSDMS plays a central managing role for the security policies, but also serves as an independent advisory body to the high decision-making officials that depending on the political system could be the President or the Prime Minister.

Washington, D.C.: Industrial College of the Armed Forces, National Defence University, U.S. Department of Defence.

³ Cody M. Brown, 'Project on National Security Reform, The National Security Council: A Legal History of the President's Most Powerful Advisors' (2008)

⁴ It has to be underlined that the political system in USA is presidential and the President retains executive competences, but similarly competences to propose legislation, a fact which cannot operate in parliamentary systems where the competences are executed by the Prime Minister.

⁵ Bearne, Susanna, Oliker, Olga, O'Brien. Kevin A., Rathmell. Andrew, 'National Security Decision-Making Structures and Security Sector Reform', RAND Corporation, 2005

⁶ Ibid

Another important aspect that justifies the NSDMS establishment, is that it ensures that the evaluation of threats and decision-making in the security field is not done within separate boundaries of defense institutions, police and security services, but beyond such boundaries and carried on by high civil officials of the Executive.

Therefore, it is understandable that the key factors that guarantee for NSDMS to function effectively are the composition and the degree of the given competences. Membership in this body has to include all the significant institutions involved in security issues as well as in the Civil sectors of policies such as finance, foreign policy, economy and justice. This composition encourages a more thorough full analysis of security and defense.

National Security Decision-Making Structures in Albania

As mentioned above, the way that NSDMS was organized and functions in many countries resulted from a combination of a series of factors. Such as the political system, institutional heritage, way of governance and high officials' attitude like the evolution of the defense concept that has shifted the focus from the internal territorial security towards an ever-growing international dimension.

Albania's case seems entirely included in this model. Analyzed in this framework, how NSDMS was structured and functioned, there could be distinguished three main periods

Prior to 1991
1991-1998
1998 and on

Up to 1985, the highest authority of defense and security in Albania was the First Secretary of Central Committee of Party of Labor (FSCCPL), who, even though did not have whatsoever any official executive functions, took the most important decisions in the security area. These decisions resulted in the format of party-platforms and were obligatory to all interested institutions. In 1985, when Ramiz Alia at the time the President of the Republic was elected as the First Secretary two functions were given to one person.⁷

For the sake of this analysis, the period might not have presented any importance at all, if not for the institutional heritage and the ways the transformation processes of the systems occurred during 1991-1992.

The fall of this one-party system and the establishment of the rule of law would also mean that like any other aspects of public policies, even the country's security and coordination of institutions assigned for this mission, could be set on constitutional and legal basis.

The political developments, at the beginning of 1991, which coincided with drawing of the Constitutional Draft, to be adopted by the first Pluralist Parliament, were obviously leading to the existing winning force, the Party of Labor. Therefore, the drafters of the Constitution, originating from the existing system, wrote the Constitution taking into consideration the fact that the future President would be again, Ramiz Alia.⁸ That draft which would not succeed to be endorsed as a Constitution, but as the Law for the Principal Constitutional Dispositions that due to certain well

⁷ Raymond Zickel and Walter R. Iwaskiw, eds. 'Albania: A Country Study'. Washington: GPO for the Library of Congress, 1994. <http://countrystudies.us/albania/index.htm>

⁸ Jon Elster, 'Approaching Democracy: A New Legal Order for Eastern Europe', The University of Chicago Law Review, Vol. 58, No. 2, (Spring, 1991), pp. 447-482

commented circumstances and causes, remained to force up to 1998, although it predicted a Parliamentary Republic, it transferred to the President broad executive competences such as the right of legislative initiative.⁹ With these competences, the President was de facto the “Chief” of the Executive with the highest competences in the area of foreign policy and defense as the Commander in Chief of the Armed Forces.

The Law for the Principal Constitutional Dispositions established the Council of Defense as a coordinating authority under the President with the mission “leading, organizing and mobilization of all country’s resources for nations defense.”¹⁰ The Council of Defense proposed by the President and approved by Parliament included: The Speaker of the People’s Assembly, Prime Minister, Minister of Defense, Minister of Interior, Minister of Transports, Minister of Economy, Director of State Intelligence Service and Chief of General Headquarters.¹¹

In addition to the advisory function, on a majority voting, the Council of Defense retained the authority to take decisions, which the Government was forced to implement.¹² The Council of Ministers guided its activities for to the accomplishment of these assignments in compliance with the decisions of the Council of Defense.¹³

The council’s competences reflect the security concept at the beginning of the 90-ies, based on the country’s defense, and as a result, the focus remained on the Armed Forces.

Some of these competences included the drawing of military regulations for the preparation of the country for the defense, definition of the AF structures, establishment of defense headquarters; determination of strategic operational defense; review of measures needed for the protection of public order in case of states of emergencies or wars.¹⁴ With the same focus on the Armed Forces were also the competences of the President as the Chairman of the Council of Defense. Such as; the endorsement of a strategic operational plan on defense, assignment of the Chief of General Headquarters, provision of disciplinary measures for generals, setting and scaling the states of alert, the decision to use the Armed Forces in the military operations.¹⁵

Although being limited to defense issues, it is obvious that the concept of need for coordination was clear and reflected either in the Constitution as well as in and the organic law for the functioning of the Council of Defense.

Reflecting upon the new problems of security not directly related to defense and AF, in the year 1995, it was established another coordinating body at the Council of Ministers, The Committee of Policies on National Security (CPNS). It was established as a consulting body for the Council of Ministers. The aim was to coordinate and determine the governmental policies in important areas of state activities. CPNS included the Interior Minister, Minister of Defense, Minister of Justice, Minister of Foreign Affairs and Chairman of State Intelligence Service. On invitation, even the General Prosecutor could participate. The mission of CPNS was the examination over issues of public order, of defense, of foreign policy and European integration,

⁹ Law no.7491, dated 29.4.1991 ‘For Principal Constitutional Dispositions’

¹⁰ Law no.7491, dated 29.4.1991 ‘For Principal Constitutional Dispositions, Article 32

¹¹ Decision of People’s Assembly, No. 214,dated 11.12.1991 and Decision of People’s Assembly, No. 319,dated 05.08.1997

¹² Law no.7528, dated 11.12.1991 ‘For functions of Defence Council and General Commander of the Armed Forces’

¹³ Law no.7491, dated 29.4.1991 ‘For Principal Constitutional Dispositions, Article 36, point 4

¹⁴Law nr.7528, dated 11.12.1991 ‘For functions of Defence Council and General Commander of the Armed Forces’, Article 5

¹⁵ Law no.7528, dated 11.12.1991 ‘For functions of Defence Council and General Commander of the Armed Forces’, Article 8

as well as the examination of draft-proposals and important draft-decisions for national security.¹⁶

Starting from the mission, it is evident that CPNS is the outcome of acknowledgement for new realities in security.

After the crisis of 1997 and the subsequent political rotation, the priority for the new majority was the endorsement of Constitution and reconstruction of the shattered system of security. There are a few data on the role the President and DC played during the period 1997-1998 as well as for decisions on home security and similarly on the way the competences for the new important decisions on security matters were taken by the Prime Minister and CPNS^{17,18} But coordination from this structure was weak, meetings were held with no regular agenda and CPNS did not have the proper expertise to serve as filter for decisions by the Council of Ministers and to successfully contribute in the process of developments on national security.¹⁹

It is evident that there has been a lack of vision on the way to coordinate policies and responsible institutions for national security; this is manifested not only by the Constitution, but also by the laws to be subsequently endorsed and further on the institutional practices that followed.

Regardless of being limited to defense issues, obviously the concept of the need for coordination is clearly seen and reflected by the Constitution and the organic law for the functioning of the Council of Defense.

After the 1997 crisis and the subsequent political rotation, the priority for the new majority in power was the adoption of the Constitution and the reconstruction of the shattered system of security. There are a few data on the role the President and Council of Defense played during 1997-1998 as well as on decisions on home security and similarly on the way the competences for the new important decisions on security matters were taken by the Prime Minister and the Committee of Policies^{20,21} But coordination from this structure was weak, meetings were held with no regular agenda and the Committee did not have the proper expertise to serve as filter for decisions taken by the Council of Ministers and to successfully contribute in the process of developments on national security.²²

It is evident that there has been a lack of vision on the way of coordinating policies and responsible institutions for national security; this is shown not only by the Constitution, but also by the laws to be subsequently adopted and on the institutional practices that followed.

¹⁶ DCM no.81, dated 6.2.1995 'For the rules of functioning of Council of Ministers', Article 8

¹⁷ 'Nano says " Aid for Kosova refugees increases', Albanian Telegraphic Agency (ATA), 16 July 1998, <http://www.hri.org/news/balkans/ata/1998/98-07-16.ata.html>

¹⁸ 'Albanian Prime Minister Orders Action against Organized Crime', Radio Free Europe/Radio Liberty, Vol. 2, No. 145, 31 July 1998, <http://www.hri.org/news/balkans/rferl/1998/98-07-31.rferl.html#17>

¹⁹ Albania, Centre of Government Profile, [as at April 1998], SIGMA, Support for Improvement in Governance and Management, [http://www.sigmaweb.org/dataoeCouncil of Defense/7/9/1831667.htm#Organisation%20and%20membership](http://www.sigmaweb.org/dataoeCouncil%20of%20Defense/7/9/1831667.htm#Organisation%20and%20membership)

²⁰ 'Nano says " Aid for Kosova refugees increases', Albanian Telegraphic Agency (ATA), 16 July 1998, <http://www.hri.org/news/balkans/ata/1998/98-07-16.ata.html>

²¹ 'Albanian Prime Minister Orders Action against Organized Crime', Radio Free Europe/Radio Liberty, Vol. 2, No. 145, 31 July 1998, <http://www.hri.org/news/balkans/rferl/1998/98-07-31.rferl.html#17>

²² Albania, Centre of Government Profile, [as at April 1998], SIGMA, Support for Improvement in Governance and Management, [http://www.sigmaweb.org/dataoeCouncil of Defense/7/9/1831667.htm#Organisation%20and%20membership](http://www.sigmaweb.org/dataoeCouncil%20of%20Defense/7/9/1831667.htm#Organisation%20and%20membership)

The 1998 Constitution reconfirmed Albania as a Parliamentary Republic, with a stronger prime minister and with a president with more limited powers than before.²³ However, with the new Constitution the President continues to be the General Commander of the Armed Forces, but currently this competence is exercised through the Prime Minister or the Minister of Defense. In fact, the execution of a competence from another power implies delegation of competences. So, what can be counter stated is that these competences were not given to the Prime Minister, who de facto, even through the Council of Ministers is the highest decision-making authority which “determines the principal direction of overall state policies and is responsible for them.”²⁴ Therefore, the President is only an implementer of such policies, because by Constitution, the president has not been given any power to propose or formulate policies.

Based on the Constitution, stronger competences for the President are those for the assignment and discharge of the Commander of the Armed Forces, commander of ground, naval and air forces, nomination of the Director of State Intelligence Service, competences which he cannot execute without receiving a formal proposal by the Prime Minister. But, as practice has showed during the years that followed, these competences took more importance if the Prime Minister sought to discharge any of the abovementioned functionaries. With only these competences and considering the fact that with the new Constitution, the President has no competences to initiate laws, the establishment of the Council of National Security as an advisory entity could be considered as a recipe for failure, since the scope of its activities is enormously narrowed if we compare the typical functions for such an authority as mentioned in the introduction of this study.

The discrepancies were quickly manifested when almost on the same date with the decree of the Constitution, the President addressed the Constitutional Court to clarify the status of the Council of National Security, substitution of Council of Defense and his role as a General Commander of AF, by considering that the simultaneous existence of a law for the Council of Defense and the Constitution created a contradictory legal situation.²⁵ The Constitutional Court decided that law dispositions determining the functions of Council of Defense are not applicable and according to the Constitution “the unique direction of the Armed Forces is accepted, overruling the Council of Defense as a decisively collegiate body.”²⁶ Three months later, the Parliament adopted a new law determining the competences of the President as the General of the Armed Forces and Council of National Security. The law reaffirmed the President as the Commander in Chief of the Armed Forces at times of peace and war, who exercised the function through the Prime Minister, the Minister of Defense, and carried the nomination competences as sanctioned by the Constitution. As Commander in Chief, the President continued to retain even by this law similar competences to the previous ones such as: adoption of the strategic operational plan of defense and organizational structure of the Armed Forces, nomination of the Chief of General Staff of the Armed Forces, provision of disciplinary measures for generals; determination of the alert scales, decision for the use of Armed Forces in military operations, the

²³ Constitution Watch, Albania Update, East European Constitutional Review, Volume 7 Number 3 Summer 1998 <http://www1.law.nyu.edu/eecr/vol7num3/constitutionwatch/albania.html>

²⁴ Constitution of the Republic of Albania, Article 100 and 102

²⁵ Constitutional Watch: Albania Update, East European Constitutional Review, Volume 8 Numbers 1-2 Winter/ Spring 1999, <http://www1.law.nyu.edu/eecr/vol8num1-2/constitutionwatch/albania.html>

²⁶ Decision of Constitutional Court no. 77, dated 31.12.1998, with the object interpretation of article 178 point 1 of the Constitution in relation to law implementation no.7528, dated 11.12.1991 ‘For the functions of the Council of Defence and the General Commander of the Armed Forces’

right to propose to the Assembly the declaration of the state of war etc.²⁷ The role of the National Security Council was redefined by the Constitution as an advisory body to the President of the Republic in the area of national security with the task of assisting him in the directing, organizing and mobilizing the human and material resources for the national security of the country.²⁸

The task of National Security Council, which differs from the task of Council of Defense with the exception that instead of the “defense of the country” the objective is the “national security”, in fact, indicates the evolution of environment and security concept, which has taken a wider dimension than the defense of the country’s integrity. Although the law gives rather weak competences to the National Security Council - it “discusses and provides opinions” - their focus remains almost completely oriented to military area.²⁹

In National Security Council, in addition to the President, participate: Speaker of the Assembly, Prime Minister, Minister of Defense, Minister of Foreign Affairs, Minister of Public Affairs and Transports, Minister of Local Government, Minister of Health, Director of State Intelligence Service, Chief of General Headquarters of the Army.

The Strategy of National Security which was adopted in January 2000, in the chapter where the constitutional responsibilities of strategic leadership are defined, the President is defined as “the highest responsible official to accomplish the mission, the principles and the objectives of the country’s security, defense and development of national interests” and for the first time it is seen as a principal task of the National Security Council “the conception and the adoption of the security strategy in the Republic of Albania which should be adopted, in principle, in the Assembly.” The Council of Ministers is held responsible for implementation of security strategy and principal directives of security policy which are forwarded to the National Security Council. Whereas, the Prime Minister, is defined as the authority who “conceives and presents the principal directions of security policies and ensures their coordination and implementation in compliance with the law and Constitution.”³⁰

The competences of the President and National Security Council were redefined again in October 2000 with the law “on powers and authorities of command and of strategic direction of the Armed Forces”, which invalidated the law on the competences of the President as the Commander in Chief and National Security Council. According to this law the competences of powers and authorities of Command and strategic direction of Armed Forces were determined in a harmonized way. The National Security Council law is defined according to this law as “an aid to the President in security issues and defense policies, arms control, and other related issues of security and defense.”³¹

It is unclear, which mechanism ensures that the discussions and opinions given by the National Security Council could become part of a decision-making process for security issues.

²⁷ Law No.8467, dated 31.3.1999, ‘For the competences of the President of the Republic as the General Commander of the Armed Forces and of Council of National Security’, Article 8

²⁸ Law No.8467, dated 31.3.1999, Article 7

²⁹ Law No.8467, dated 31.3.1999, Article 8

³⁰ Law No.8572, dated 27.1.2000, ‘For the adoption of the Document on Security Strategy in the Republic of Albania’, (33-34)

³¹ Law no. 8671, dated 26.10.2000, ‘For the powers and authorities in Command and Strategic Direction of the Armed Forces in the Republic of Albania’, Article 13.

But the role of the Council has been insignificant”; it is obvious that during its second mandate up to 2002, the President has convened the Council only twice³²

With the election of the President in 2002, through a broad consensus, it seemed like a more appropriate climate of political and institutional cooperation was created. In his speech; held at the meeting of the Committee of Policies on National Security in August 2002, the Prime Minister would declare:

‘By assessing the initiative of the President of the Republic to put into action the National Security Council he leads, we are developing today the meeting of Inter-ministerial Committee of on National Security Policies, to put at a higher level the analysis and decision-making reflecting the current situation and the new rates of work in our institutions. Hence, this meeting logically precedes and I feel convinced that we are structuring the functioning of a normal working procedure and democratic cooperation in various levels: where there are homologous bodies headed by the President of the Republic, where there are government members and other institutions which converge in coordinated actions for priority reasons, engaged in relation to the national security and tasks of integrations. And so, we are finally consolidating the models of cooperation, among constitutional institutions of the Albanian State with full respect to the universal principle on balance and equilibrium for the functioning of powers in a democratic society. By receiving your evaluations and opinions on issues to be discussed, I believe and assume altogether we come to formulate a document to be presented to the President of the Republic and National Security Council that he leads in his converging functions.

³³

It seems likely that the newly-elected President, and the Prime Minister who has been resituated into this post after resignation in 1998, are inclined to bring a further impulse in this aspect, inferring that reasons of weak coordination have been of voluntary character up to that time. But this declaration, by the Prime Minister witnesses out the existence of two coordinating authorities which appear as equal affronting one-another, and it is not clear on how to realize the coordination between or which of them has the last and final say.

Even though, the legislation endorsed after the Constitution of 1998, transfers many of the Competences to the Prime Minister, who is de facto the authority with the highest decision-making power, still, it remains unclear on how he exercises that authority and how decisions taken are incorporated by the National Security Council and the President.

Several months later, the Parliament endorsed a law for the organization and functioning of Council of Ministers, where among others are determined the competences of the Prime Minister who in addition to the competences as predicted by Constitution, with the endorsement of the Council of Ministers, can take over additional duties.³⁴ Similarly, this law established the Inter-ministerial Committees as consultative bodies of Council of Ministers, where bodies for preliminarily discussed policies, important issues of executive activities, as well as the draft acts

³² According to the official data taken on the agenda of meeting of NSC, from President’s office as requested for the purpose of NSC, from President’s office as requested for the purpose of this study, NSC has been convened once on 14.11.1998, and another time on 03.04.1999.

³³ From Prime Minister’s Speech Fatos Nano, held at the meeting of Inter-ministerial Committee on Policies of National Security, 29 August 2002. Official Paper of Council of Ministers, <http://www.km.gov.al/index.php?fq=brenda&m=news&lid=1323>; 28 October 2009

³⁴ Law no. 9000, dated 30.1.2003 ‘For the Organization and Functioning of Council of Ministers’, Article 2

of special significance.³⁵ These committees are headed by the Prime Minister, the composition and area of activity to be treated, are determined by his Ordinance. In this regulation for the Council of Ministers subsequently to the endorsed law, a significant role is given to Inter-ministerial Committees in the process of formulating policies,³⁶ but in the regulation are not mentioned other typical functions for authorities of coordination of national security.

During the period 2002-2004, CPNS has been convening several times to discuss and take decisions on various issues like, the approximation of legislation and documentation for free movement of people in the Schengen Area and concrete measures to this;³⁷⁻³⁸ increasing measures and capacities in combating terrorism,³⁹ inter-institutional coordination to unify attitudes in the areas of foreign policies for incorporating Euro-Atlantic structures,⁴⁰ endorsement of the final draft of Document of Security Strategy.⁴¹

Nevertheless, according to the institutional reports for the improvement of governance, Prime Minister's office remains fragmented from the organizational aspect, with responsibilities' divisions between political cabinet and administrative units under the General Secretary which do not function in conformity with the best practices and are incapable to guarantee a coherent approach in support of collegiate activity of the Council of Ministers.⁴²

A gradual inclination of the balance by the side of the Prime Minister is evident, although the President is more active during that time and tries to put into efficiency NSC, or at least trying to convene NSC more frequently and regularly.⁴³

A review of the Strategy on National Security in November 2004 brought forth a new formulation for the roles of the decision-making authorities and their coordination. In addition to "conceives and presents principal directions of security strategy and ensures the coordination for their implementation compliance with the Law and Constitution", the Prime Minister, according to this document retains the competence to initiate and renew the Security Strategy within a period of no later than three years from the date of its endorsement. At the same time, the new strategy assigns the Prime Minister with the task to create and lead the Committee of Policies of National Security.⁴⁴

³⁵ Ibid, Article 11

³⁶ DCM no.584, dated 28.8.2003 'For the Endorsement of Regulation of Council of Ministers," , Chapter V, Coordination of draft acts

³⁷ Meeting of the Inter-ministerial Committee of Policies of National Security, dated 29/08/2002, <http://www.keshilliministrave.al/?fq=brenda&m=news&lid=1324>

³⁸ Meeting of the Inter-ministerial Committee of Policies of National Security, dated 28/01/2004, <http://www.km.gov.al/index.php?fq=brenda&m=news&lid=3649>

³⁹ Meeting of the Inter-ministerial Committee of Policies of National Security, dated 18/03/2003 <http://www.keshilliministrave.al/?fq=brenda&m=news&lid=2665>

⁴⁰ Meeting of the Inter-ministerial Committee of Policies of National Security, dated 10/06/2003 <http://www.km.gov.al/index.php?fq=brenda&m=news&lid=2899>

⁴¹ Meeting of the Inter-ministerial Committee of Policies of National Security, dated 16/04/2004, <http://www.keshilliministrave.al/print.php?id=4117>

⁴² 'Albania: Policy-Making and Co-ordination Assessment. June 2006', SIGMA Support for Improvement in Governance and Management; <http://www.oecd.org/dataoecd/29/36/37738859.pdf>

⁴³ According to the received data on the calendar of meetings from the President's Office for purpose of this study, NSC has been summoned ten times under the direction of President Moisiu during the period July 2002 – July 2007.

⁴⁴ Law No.9322, dated 25.11.2004, 'For the Endorsement of the Strategy of National Security of the Republic of Albania'

Even in that case, there is not a clear positioning of the National Security Council and the President related to these amendments, as according to the prior existing National Security Strategy, the formulation and endorsement of which was a task of National Security Council. The NSC itself is redefined as an advisory body to the President over security issues and country's defense, as well as the direction, organization and mobilization of human and material resources to the benefit of security and defense of the country with the following composition: Speaker of the Assembly, Prime Minister, Minister of Foreign Affairs, Minister of Defense, Minister of Public Order, Minister of Local Government and Decentralization, Minister of Finance, Minister of Transport and Telecommunication, Chief of General Headquarters, Director of State Intelligence Service and General Police Director. With the new composition it is observed the removal of the Minister of Economy and incorporation of the General Police Director.

CM 1991	CNS1999	CNS 2004*
<ol style="list-style-type: none"> 1. President 2. Speaker of the National Assembly, 3. Prime Minister 4. Minister of Defense 5. Minister of Interior 6. Minister of Transports 7. Minister of Economy 8. Director of National Intelligence Service 9. Chief of the General Staff 	<ol style="list-style-type: none"> 1. President 2. Speaker of the National Assembly 3. Prime Minister 4. Minister of Defense 5. Minister of Foreign Affairs 6. Minister of Public Order 7. Minister of Economy and Privatization 8. Minister of Finance 9. Minister of Public Work and Transport 10. Minister of Local Government 11. Minister of Health 12. Director of State Information Service 13. Chief of the General Staff 	<ol style="list-style-type: none"> 1. President 2. Speaker of the National Assembly 3. Prime Minister 4. Minister of Foreign Affairs 5. Minister of Defense 6. Minister of Public Order* 7. Minister of Local Government and Decentralization 8. Minister of Finance 9. Minister of Transportations and Telecommunications 10. Chief of the General Staff, 11. Director of State Information Service 12. Minister of Health 13. General Director of Police
*Composition of 2004 continues to be valid and current.		
* Minister of Public Order and Minister of Local Government after 2005 is the Minister of Interior.		

The political rotation and the venue of new majority in 2005 did not bring any new vision to the improvement and reform of coordinating authorities. NSC continued to be summoned two times a year for the period up to the Presidential elections in July 2007, a thing to be more of a tendency for the Council to enter into a normal procedure and institutional functioning, seems to be more of an individual attention and enhancement by President Moisiu. After the election of new President, NSC has been summoned once in September 2007 to discuss over the situation in Kosovo and the region, and another time in March 2008 to analyze the Gerdeci's event.⁴⁵ So, out of fourteen meetings that NSC has been convening since the establishment from Constitution of 1998 and until now, ten meetings have been headed by President Moisiu.

Even after 2005 the coordination among different ministries, hence between NSC and Council of Ministers has continued to be a weak link. However, the need of coordination has

⁴⁵ According to the received data on the calendar of meetings from the President's Office for purpose of this study.

been the refrain of several meetings of CPNS, and in fact has remained at a rhetorical level. The establishment of a permanent structure in the Council of Ministers to tackle with issues of national security has not come to be concrete. The Gerdec event brought to evidence the order of priorities for the Prime Minister when he declared that:

'At the Council of Ministers shall be set up a department to coordinate the work of all agencies dealing with the problem of security, where are included SHISH (State Intelligence Service), Guard of the Republic, Police, Taxation, Customs, Service of the Army, Military Policy and other inspection bodies. This model exists in many countries and is possible for this committee which is determined by law to take the attributes of a collegiate body, to periodically examine the problems of country's security'.⁴⁶

Although a year and a half has passed, there is not a law or regulation for such a structure. Neither the structure itself has been set up. For reason of integration priorities of the country, there is an overlapping of issues of national character and EU integration priorities, a thing which is obvious if one views the agenda of discussions of respective inter-ministerial committees.⁴⁷

Simultaneously, there is a continuity of vision of preceding majority regarding the format and weight of decision-making of coordinating authorities. Still there is not a new National Security Strategy endorsed by the current majority, neither a clear format of the authorities, of competences and of coordinating structures, at a time when military strategy approved in 2007, refers to the formulations of the National Security Strategy of 2004, except for the fact that in the military strategy is re-sanctioned the competence of the Prime Minister to initiate the review of National Security Strategy.⁴⁸

The Prime Minister realizes the coordination through his adviser responsible for security issues. A consistent weakness of this form of organization from the institutional viewpoint is that when Prime Minister changes, the institutional memory and real experience are lost and there is not a sustainable continuity in the seat of government to advice on issues of security policy as this function is limited to the political advisers of the Prime Minister who also change with the Government.⁴⁹

Even NATO membership which could pressure on the need for a better inter-institutional coordination not only did not bring any new development in the field but NATO does not consider these complicated relations as problematic but mostly as a characteristics of the region, in general.⁵⁰

Conclusions

It is obvious that the NSDMS evolution in Albania is a result from a combination of changes in the political system; institutions inherited from the past, vision, political philosophy, way of governance, and changes of the concept of security.

⁴⁶ Armand Maho, 'Berisha: A department at the Government to coordinate agencies of security;', Newspaper 'Tema', 5 June 2008, <http://www.gazetatema.net/pdf/5qershor2008.pdf>

⁴⁷ Meetings of Inter-ministerial Committee for Integration into NATO, dated 16/06/2008 <http://www.keshilliministrave.al/index.php?fq=brenda&m=news&lid=8345>

⁴⁸ Law nr. 9858, dated 27.12.2007 'For the endorsement of military'

⁴⁹ Albania: Policy-Making and Co-ordination Assessment. May 2009, SIGMA Support for Improvement in Governance and Management; <http://www.oecd.org/dataoecd/31/28/43912524.pdf>

⁵⁰ Pietz, Tobias and Marc Remillard, 'Defence Reform and Conversion in Albania, Macedonia and Croatia', Bonn International Centre for Conversion, 2006. <http://www.bicc.de/uploads/pdf/publications/briefs/brief34/brief34.pdf>

From the institutional viewpoint, it seems likely that the best applicable model in Albania is the one regulated by the Law for the Main Constitutional Provisions. Nonetheless considering the fact that participation is the core of coordinating authorities, the stronger role of the President and weaknesses of the other political actors made this experience ineffective.

In regard to the establishment of this coordinative structure led by the President, who was also the de facto head of executive with constitutional competences needed for the legal initiatives, it can be pointed out that the Council of Ministers was well positioned in the cycle of policies⁵¹ to carry out the typical functions of such structure.⁵² Since this process is very complex, the cycle of policies includes the participation of several actors such as ministers, deputies, civil employees, private sector, civil society media etc. They try to influence each other to achieve a balanced result. Then, seen from this theoretical viewpoint, this coordinating structure was well set regarding the normative side. But empirically speaking and considering the fact that most of the other actors were weak, the decisions on the security policies were made not in cyclic but in a vertical way, bottom up. Particularly we can mention the weak role of the civil society and media, but specifically the parliament who did not have oversight powers over the President

Another negative aspect of this experience that had several consequences was the creation of a precedent for a weak role of the Parliament and parliamentary supervision, as well as the exclusion of media and civil society. Another negative experience was the fragmentation of the coordination concept between the two institutions; the President and the Prime Minister, a fragmentation which remains up to the present.

Hence, the model of coordination envisaged by the Constitution of 1998, instead of improving, weakened and further complicated this coordination. One of the weaknesses of the Constitution is that it identifies the concept of Security with the Armed Forces and has amended the regulation of provisions for the competences of the President and Council of National Security based upon this concept. Similarly, it remains undetermined the way on how President's Decrees and NSC are included in the decision-making over policies, in implementation or their articulation.

Later attempts to regulate by laws the existing constitutional gaps, made coordination vulnerable to challenges and political clashes, which led to more tendencies in awarding further competences to the Prime Minister and Council of Minister. As such NSC constituted a problem rather than a solution. So, the coordination over issues of national security at the government level continues to be weak, spontaneous and politicized.

The establishment of a single authority of national security is a complex and difficult task. To successfully realize such a thing, all parties involved have to view their benefits through this initiative and offer their support. At the current stage, home experience is not lacking, which to the best case could serve to learn from past mistakes, but also from best practices in countries with successful coordinating structures.

Recommendations

⁵¹ James E. Skok, 'Policy Issue Networks and the Public Policy Cycle: A Structural-Functional Framework for Public Administration', *Public Administration Review*, Vol. 55, 1995

⁵² Theoretically, the cycle of policies implies the process that includes: (a) identification of the problem, and proposal, (b) policy formulation, (c) approval, (d) implementation, (e) evaluation

As it seems likely, from failures of our actual system, and experiences from other countries, it is necessary the establishment of a unique authority and a permanently supportive structure at the Executive.

This authority:

- would enable a better coordination of institutions for their role in the security sphere
- would accomplish a more coherent and detailed assessment regarding threats towards national security
- would assist country's leadership to formulate and promote defense and foreign policies
- would coordinate the activity of organizations involved in crisis management
- would create a continuity in the follow-up policies as it would survive to the shifting majorities in power

Traditionally, it remains problematic the fact that this structure is headed by the President and as stated, is the result of our institutional tradition, and the presidential model of USA, a model brought for the first time to Albania.

Hence, the establishment of this structure should be preceded by legislative reforms in order to ensure the Prime Minister at the centre of the process, because as Chairman of the Council of Ministers he is capable to realize a more collective organized leadership. Such a scheme is in full compliance with the constitutional principles of our Parliamentary Republic and enables an adequate parliamentary supervision, since the executive itself is subject to the supervision.

The supportive structure of this authority, established at the executive level, would comprise military officers, diplomats, high officials of the services, specialists and technocrats. This mixed composition would help to create a civil military structure and would serve as a basis to solutions of security in a consensual and flexible way in compliance with the complex environment of security sector.

In this framework, there would be a concrete role even for the advisers of the Prime Minister on security issues, as they would serve as an instrument to prevent the establishment of an influential institution beyond legal predictions, as well as the prevention of conflicts and institutional rivalries within the structure. The structure would outline and contain these elements:

- An administrative secretariat
- A strategic planning unit
- A crisis management centre
- A coordination unit of information services
- A responsible unit for public diplomacy

The challenge for the establishment of such a structure might constitute in setting up a small, realizable and elastic body in such a way as not to endanger and substitute the existing institutions but to support and coordinate them.

It remains problematic the fact whether a political will would exist to preserve this structure from excessive influence as regards to the Prime Minister, who could intervene and manipulate it by converting it into an instrument to his favor.

Likewise, it could be challenging the creation of proper balances amid experts of various fields as well as between political and technocratic staff.

Bibliography

1. 'Albanian Prime Minister Orders Action against Organized Crime', Radio Free Europe/Radio Liberty, Vol. 2, No. 145, 31 July 1998
<http://www.hri.org/news/balkNSDMS/rferl/1998/98-07-31.rferl.html#17>
2. 'Albania, Centre of Government Profile, [as at April 1998], SIGMA, Support for Improvement in Governance and Management
<http://www.sigmaweb.org/dataoecd/7/9/1831667.htm#Organisation%20and%20membership>
3. 'Albania: Policy-Making and Co-ordination Assessment. June 2006', SIGMA Support for Improvement in Governance and Management
<http://www.oecd.org/dataoecd/29/36/37738859.pdf>
4. 'Albania: Policy-Making and Co-ordination Assessment. May 2009', SIGMA Support for Improvement in Governance and Management;
<http://www.oecd.org/dataoecd/31/28/43912524.pdf>
5. Armand Maho, 'Berisha: Një departament pranë qeverisë për të koordinuar agjencitë e sigurisë', Gazeta 'Tema', 5 qershor 2008
<http://www.gazetatema.net/pdf/5qershor2008.pdf>
6. Constitution Watch, Albania Update, East European Constitutional Review, Volume 7 Number 3 Summer 1998
<http://www1.law.nyu.edu/eecr/vol7num3/constitutionwatch/albania.html>
7. Constitutional Watch: Albania Update, East European Constitutional Review, Volume 8 Numbers 1-2 Winter/Spring 1999
<http://www1.law.nyu.edu/eecr/vol8num1-2/constitutionwatch/albania.html>
8. Jon Elster, 'Approaching Democracy: A New Legal Order for Eastern Europe', The University of Chicago Law Review, Vol. 58, No. 2, (Spring, 1991), pp. 447-482
9. Law no.7491, date 29.4.1991 'On Major Constitutional Provisions'
10. Law no.7528, date 11.12.1991 'On the functions of the Council of Defense and the Chief of the General Staff of the AF'
11. Law no.8417, data 21.10.1998, 'The Constitution of the Republic of Albania'
12. Law no.8467, date 31.3.1999, '*Competences of the President of the Republic as the Commander – In chief of the Armed Forces and of the National Security Council*'
13. Law no.8572, date 27.1.2000, '*Adaptation of the Document of the Security Strategy of the Republic of Albania*', (33-34)

14. Law no. 8671, date 26.10.2000, ‘ Power and authorities of the command and strategic guidance of the Armed Forces of the Republic of Albania’
15. Law no.9000, date 30.1.2003 ‘Organization and Functioning of the Council of Ministers’
16. Law no.9322, date 25.11.2004, ‘Adoption of the National Security Strategy of the Republic of Albania ’
17. Law no. 9858, date 27.12.2007 ‘Adoption of the Military Strategy of the Republic of Albania’
18. Inter-ministerial Committee on the National Security Policies Meeting, August 29 2002. Official webpage of Council of Ministers
<http://www.km.gov.al/index.php?fq=brenda&m=news&lid=1323>
19. Inter-ministerial Committee on the National Security Policies Meeting, date 29/08/2002
<http://www.keshilliministrave.al/?fq=brenda&m=news&lid=1324>
20. Inter-ministerial Committee on the National Security Policies Meeting, date 28/01/2004
<http://www.km.gov.al/index.php?fq=brenda&m=news&lid=3649>
21. Inter-ministerial Committee on the National Security Policies Meeting, date 18/03/2003
<http://www.keshilliministrave.al/?fq=brenda&m=news&lid=2665>
22. Inter-ministerial Committee on the National Security Policies Meeting, date 10/06/2003
<http://www.km.gov.al/index.php?fq=brenda&m=news&lid=2899>
23. Inter-ministerial Committee on the National Security Policies Meeting Mbledhje e Komitetit Ndërmintor të Politikave të Sigurimit Kombëtar, date 16/04/2004
<http://www.keshilliministrave.al/print.php?id=4117>
24. Inter-ministerial Committee on NATO integration Meeting, date 16/06/2008
<http://www.keshilliministrave.al/index.php?fq=brenda&m=news&lid=8345>
25. ‘Nano says aid for Kosova refugees increases’, Albanian Telegraphic Agency (ATA), 16 July 1998
<http://www.hri.org/news/balkNSDMS/ata/1998/98-07-16.ata.html>
26. Pietz, Tobias and Marc Remillard, ‘Defense Reform and Conversion in Albania, Macedonia and Croatia’, Bonn International Centre for Conversion, 2006
<http://www.bicc.de/uploads/pdf/publications/briefs/brief34/brief34.pdf>
27. Raymond Zickel and Walter R. Iwaskiw, eds. ‘Albania: A Country Study’. Washington: GPO for the Library of Congress, 1994
<http://countrystudies.us/albania/index.htm>

28. Decree of the People's Assemble, no. 214, date 11.12.1991 and Decree of the People's Assemble no 319, date 05.08.1997
29. A Constitutional Court decision no. 77, date 31.12.1998, the interpretation of the Article 178/1 of the Constitution regarding the implementation of Law no7528 date 11.12.1991 'On the Functions of the Council of Defense and the Chief of General Headquarters'
30. Decision of Council of Ministers no.81, date 6.2.1995 'Regulations and functioning of the Council of Ministers'
31. Decision of Council of Ministers no.584, date 28.8.2003 'Adopting the regulation of the Council of Ministers '