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Defence policy oversight: Challenges and needs of the Albanian Assembly

The military is a key instrument of national power. Their critical importance for defence and the potential devastating effects from their misuse or lack of readiness require that defence policy is formulated through careful and professional analysis of national threats and strategic objectives. This is essential to ensure the military readiness, professionalism, and effectiveness of the armed forces. The Albanian Assembly has a central role to achieve these objectives by exercising effective oversight on defence policy, but has been unable to fulfil this core mission.

Despite Albania's NATO membership, the country's standards of parliamentary oversight are insufficient to ensure that defence policy is examined by the legislature and its implementation is thoroughly scrutinised. This policy brief outlines the main shortcomings of these processes by focusing on the deliberations of the Committee for National Security on government defence bills, the use of parliamentary tools to hold defence officials accountable, and the Assembly's research and expertise capacities. To successfully exercise oversight of defence policy, the Assembly must require the government to include impact assessments of proposed bills, task the parliamentary research service (PRS) to provide evaluations on defence policy implementation, and build its research and expertise capacities.

Corruption and incompetence in the defence sector

Albania's post-Communist defence policy has been marked by mismanagement, corruption, and a thorough lack of transparency and accountability. During the last 30 years, the country's military embarked on a process of downsizing. This was partly due to the lack of financial resources to maintain the military infrastructure that was built during the Cold War, and partly because of the reforms required to become a member of the North Atlantic Treaty Organisation (NATO). NATO-related reforms included the decommissioning of ageing weapons and military platforms – including aircraft, ships, and tanks. As the military was decommissioning the vast majority of Cold War-era platforms, their personnel progressively decreased. Furthermore, the ownership of the supporting infrastructure –

bases, air and coastal defence batteries, military outposts, and office buildings – considered to be excessive was transferred to local and central government institutions.

Despite the fundamental strategic implications of these policies and their inherent corruption and safety risks, they have been pursued with little accountability. There are virtually no published government reports on the outcomes of the transfer of ownership of military infrastructure or the dismantling operations of ageing weapons and military platforms. The Ministry of Defence (MoD) has published some data on the ammunition that has been dismantled since 2012, but they are not consistent, thorough, and do not cover the decommissioning and dismantling process as a whole. Data on the ammunition dismantled during 2009-2012¹ need to be extracted from press releases while data for 2013-2014 include the overall amount of weapons demolished in demolition ranges, dismantled in the Albanian military's weapons plants, and the weapons that were sold or exported.² Except for these data, no reports have been published to comprehensively document the process: the implementation of the strategy and plan of action, costs, revenues from sales and exports, and investment of revenues. Furthermore, no data are published on the decommissioning and sales/exports of ammunition, artillery, tanks, ships, aircraft, and other materiel before 2009. This lack of transparency dovetails with the March 2008 explosion of ammunition in a dismantling site in Gërdec that killed 26 people and suggests corruption and incompetence throughout the process.

A similar lack of transparency and accountability has been a salient feature of the management of the supporting military infrastructure, which suffers from a lack of strategic and legal vacuum.³ The military do not have a comprehensive plan that outlines infrastructure needs by prioritising the military installations that ought to remain under their ownership. There is furthermore no law that regulates the management of military properties. The legislation in place only allows for the transfer of ownership of military properties but does not establish clear standards and conditions for that transfer. This has led to the transfer of a number of properties to other ministries without a clear, transparent, and objective assessment for such transfers.⁴

¹ "Press conference on the demolition of excessive ammunition" (Albanian), 30 March 2012, <https://www.mod.gov.al/index.php/politikat-e-sigurise/te-tjera-nga-mm/62-aktivitete-analize/74-konference-per-shtyp-per-demontimin-e-municioneve-te-teperta>

² <https://www.mod.gov.al/index.php/politikat-e-sigurise/te-tjera-nga-mm/demontimi>

³ Defence Directives from 2012 until 2017 merely state that the transfer of ownership of excessive property must continue, but there are no classification criteria included in these documents to determine the excessive nature of the properties. The list of Defence Directives is found here: <https://www.mod.gov.al/index.php/aktivitete-analize-2/51-direktiva-e-mbrojtjes-2020>.

⁴ For a more comprehensive examination of the legal and strategic vacuum of the supporting military infrastructure, see Redion Qirjazi, "Case Study: Assets management in the Albanian Armed Forces" in *Financial Oversight in Albania's Security Sector* edited by Arjan Dyrmishi, Institute for Democracy and Mediation, Tirana, n.d., p. 101-130, <https://idmalbania.org/wp-content/uploads/2017/05/Financial-Oversight-and-Integrity-English-ilovepdf-compressed.pdf>.

In addition to the issues related to the transition and downsizing of the Albanian military, the Supreme State Audit Institution has documented multiple cases of waste and abuse of government funds through repeated violations of procurement procedures.⁵

Parliamentary oversight processes

Despite the overwhelming issues that plague the defence sector, in the last eight years, Assembly members seem to have been unable to effectively use tools of parliamentary oversight and control to hold defence officials accountable (see below). The extremely low use of motions, inquiries, interpellation, hearings, and information requests is staggering and has arguably contributed to the lack of defence sector accountability.

Use of parliamentary oversight and control tools on defence policy (2013-2020)

Oversight tools	2013	2014	2015	2016	2017	2018	2019	2020
Interpellation	0	0	1	0	0	0		
National Security Committee hearing	0	0	1	3	3	1	0	1
Questions ⁶								
Information request ⁷						1	2	5
Inquiry	0	1	0	0	0	0		
Motion	0	1	0	0	0	0		

Source: Data on the number of interpellations, questions, inquiries, and motions are based on the annual activity reports of the Assembly (2013-2018), which can be found [here](#). Data on the Committee hearings are based on the annual Committee reports. Only hearings held for specific issues, e.g. civil emergency or the use of military infrastructure for drug trafficking, have been taken into account. Routine hearings, e.g. on defence budget or legislative initiatives, have not been taken into account. Data on the information requests are based on the relevant statistical reports published by the Assembly (2018-July 2020), which can be found [here](#).

In addition to the tools listed above, the Assembly has two other available means to exercise its powers: (i) scrutinize defence bills submitted by the government; (ii) assess the impact of defence legislation and enact legislation that prevents corruption and improves integrity in the defence sector.

⁵ “ALSAI files lawsuit against 12 Ministry of Defence officials” (Albanian), November 2015, <https://www.balkanweb.com/site/klsh-kallezon-penalisht-12-punonjes-te-ministrise-se-mbrojtjes-i-shkaktuan-942-mije-euro-dem-buxhetit/>; Albanian Supreme State Audit Institution, “Decision no. 150, date 29.09.2018 ‘On the compliance audit of the Ministry of Defence from 01.01.2015 to 31.12.2017’” (Albanian), 29 October 2018.

⁶ This category refers to questions submitted by MPs to members of the Council of Ministers to be discussed in a plenary session. The annual reports on the activities of the Assembly include a section on ‘Questions’, but no data are included on the number of questions submitted during a parliamentary session and to whom they have been addressed.

⁷ This category refers to written requests submitted by MPs to government institutions – in this case to the Ministry of Defence.

Although the Albanian Assembly has not formally integrated the regulatory impact assessment (RIA) methodology as part of its legislative process, the regulation of the Assembly includes provisions that address some of the objectives of this methodology.⁸ Legislative proposals must be supported by a report that includes: (i) the intended objective of the bill, (ii) the argumentation demonstrating that the objectives of the bill cannot be attained through existing legislation, (iii) the constitutionality and the level of harmonization of the proposed bill with existing national legislation in place and the EU *aquis*, (iv) the economic, social, environmental, and gender balance impact, and (v) the fulfilment of relevant international agreements or treaties to which Albania is a party. Additionally, the report for bills ‘of a financial nature’ must also include its expected financial impact.⁹

These requirements do not fully convey the importance of evidence-based policy making to the potential initiator of the bill since they do not specifically require that bills are preceded by prior (*ex-ante*) analysis that would support regulatory interventions. For example, the argumentation criterion assumes *a priori* that the issue presented to the Assembly for consideration can be addressed only through legal intervention, thus – by default – precluding non-regulatory intervention. Consequently, the reports accompanying defence bills do not reference government or independent studies to support their claims. Their argumentations are based – at best – on opinions of government officials, or – at worst – on narrow political objectives that are not related to improving defence policy or the Armed Forces.¹⁰

There are two main claims that feature in virtually all the bill reports that were examined. The first claim is that the specific law that the bill seeks to replace or other related legislation are outdated and thus ill-suited to address new challenges. The second claim asserts that existing legislation are not suited to enable Albania to shoulder international commitments that arise from a changing geopolitical environment (reference to NATO is common).

The first claim is indeed true. Some of the laws that the bills sought to replace date as far back as the early 2000’s.¹¹ Nevertheless the reports fail to elaborate on the adverse effects of standing legislation on

⁸ For more information on RIA methodology, see OECD, “Regulatory Impact Assessment”, accessed 12 January 2021, <https://www.oecd-ilibrary.org/sites/7a9638cb-en/index.html?itemId=/content/publication/7a9638cb-en>.

⁹ Article 68, Regulation of the Assembly of the Republic of Albania, p. 36, <https://www.parlament.al/Files/sKuvendi/rregullorja.pdf>. Additionally, in 2018, the Albanian government has formally included the requirement to submit regulatory impact assessments for their bills, but there are broad exceptions to this provision including, among others, bills related to classified information, national security, international relations, taxation and customs, and budgetary issues. See Decision of Council of Ministers no. 584, date 28.8.2003 (amended), articles 45 and 45/1, <https://qbz.gov.al/eli/vendim/2003/08/28/584>.

¹⁰ This assessment is based on the examination of the documents of the Committee for National Security for the following bills: (1) On the Discipline in the Armed Forces (2014), (2) On Civil Protection (2019), (3) On Strategic Leadership of the Armed Forces (2014), (4) On the Agency for Defence Intelligence and Security (2014), (5) On Career in the Armed Forces of the Republic of Albania (2014), (6) On Military Police (2014), and (7) On Defence and Security Procurement (2019). Bills, their supporting documentation, and committee reports can be found here: <https://www.parlament.al/ProjektLigje/IndexList>. The supporting documentation and argumentation for the bill on Civil Protection is a noted exception as it includes a detailed argumentation and also a RIA report.

¹¹ The Law on Civil Protection replaced the Law on Civil Emergencies (2001) while the 2014 Law on Military Police replaced the same law adopted in 2003.

military readiness and effectiveness. They only assert that relevant defence institutions have faced several difficulties working within the existing legal framework without substantiating their assertions. It is rather curious that despite these assertions, for more than 10 years no interim reports have been produced by the MoD or the Assembly to document the difficulties faced by the Military Police and the civil emergency infrastructure.

The second claim, concerning NATO, is rather unclear. NATO does dictate a change in the legal framework prior to accession, but once a country has joined the next step is integration in its institutional structures. While it is true that achieving integration objectives could necessitate intervention in defence legislation, this is not the argument made by the Albanian government, i.e. it is not claimed that the purpose of legislative changes is further integration within NATO structures. The bill on the Strategic Leadership of the Armed Forces and the bill on Defence and Security Procurement claim to meet NATO-interopability requirements, but they are not specified or elaborated. Similarly, vague references to reports and recommendations made by NATO, international consultants, and government experts feature in the argumentation for the bill on the Agency for Defence Intelligence and Security, but no concrete recommendations or findings are mentioned to substantiate provisions that the bill seeks to change.

The insufficient rationale provided by the government for their bills suggests that the legislative process for defence policy is rather formal. Sincere and thorough parliamentary deliberation is not sought, and the members of the Assembly – particularly those representing the governing party – are prone to agree with the government’s rationale rather than challenge it by commissioning parliamentary studies to assess the impact of defence legislation.¹² Consequently, addressing policy issues and institutional effectiveness through quick legal fixes has not been successful. Despite the adoption of the Civil Protection Law (2019), the Plan for Civil Emergency Response, adopted in 2004, has not been revised; therefore, the legal changes have not translated into new policy approaches to civil emergency response.¹³ Similarly, the criminal section of the Military Police had been operating in a legal vacuum for almost seven years – from 2007 to 2014 – since the 1998 Law on Criminal Police was suspended after the adoption of the Law on the State Police in 2007.¹⁴

These are not merely the outcomes of a flawed legal review process but of the lack of comprehensive impact assessment methodology, which includes *ex-ante* assessments to identify the legal, administrative,

¹² The review of the Committee for National Security reports for seven bills examined indicate that the amendments proposed by the Committee before the bill is discussed in the plenary session aim to correct grammar, legal expressions, or add provisions to ensure harmonization with existing legislation, but they do not change the substance of the bill.

¹³ See National Plan for Civil Emergency (Albanian) approved by Decision of Council of Ministers no. 835, date 3 December 2014, <https://www.mod.gov.al/images/ec/Plani-Kombetar-EC.pdf>.

¹⁴ Before the adoption of the 2014 Law on Military Police, the tasks of the criminal section of the Military Police were regulated by the Law on the Military Police (2003) and the Law on Criminal Police (1998), which was revoked after the 2007 adoption Law on the State Police.

and socio-economic impact of new legislation and *ex-post* assessments to evaluate the actual impact of the legislation after adoption.¹⁵

Research and expertise needs

The constitutional duties of the Assembly to legislate and assess the impact of the legislation cannot, however, be discharged within the current level of research and expertise in the institution. The supporting expertise for the Committee for National Security and research capacities of the parliamentary research service are inadequate and insufficient.

There are only two advisors providing counsel to the Committee for National Security. One of them provides counsel on administrative and legal implications of the bill while the other – whose official title is ‘Committee advisor’ – must provide counsel on particular security and defence matters.¹⁶ It is impossible for one person to provide counsel on a variety of complex defence-related issues – even more so when considering that the Committee is not only responsible for defence policy but also intelligence, community policing, and counter-terrorism policy amongst a plethora of other issues.

The lack of Committee staff could potentially be balanced by an efficient PRS, but this is impossible under the current structure. The PRS is staffed by only six researchers, who must provide support to individual MPs and parliamentary committees through legal briefs, comparative analysis, and statistical briefs.¹⁷ Six researchers are not enough to cover even core policy areas that are essential for the well-being and prosperity of the citizens such as (i) education, (ii) healthcare, (iii) economy, (iv) agriculture, (v) trade, (vi) foreign relations, (vii) defence, and (viii) internal security. Furthermore, researchers are not tasked with impact assessment studies, and they do not have access to paid digital library databases.¹⁸

The employment criteria for the advisors and the researchers are inadequate and do not specifically target defence and security expertise. The employment criteria for the Committee staff (legal and Committee advisers) include: (i) a master’s degree in law, (ii) five years of working experience, and (iii) proficiency in at least one language spoken in the European Union. It is important to emphasise that despite the different functions of the two advisors, the employment criteria is the same; therefore, the Committee advisor, who must provide counsel on defence and security matters is not required to have the appropriate academic background and working experience. Similar criteria are used for the PRS researchers, who must have a master’s degree either in law, social sciences, or economics. In addition to this rather restrictive range of academic degrees, it is especially concerning that no criteria are included to ensure that researchers have a strong background in academic research or policy analysis.

¹⁵ A section on the use of regulatory impact assessments emphasizing the use of *ex-ante* and *ex-post* assessments in the legislative process is included also in the Manual for Drafting Legislation: A Guideline for the Legislative Process in Albania (Albanian) (Tirana: Botime Pegi, 2010), p. 33-44, <https://drejtesia.gov.al/wp-content/uploads/2019/02/MANUAL-PER-HARTIMIN-E-LEGJISLACIONIT.pdf>.

¹⁶ Interview with legal advisor of the Committee for National Security, 6 November 2020.

¹⁷ Information provided on 29 December 2020 through a freedom of information request.

¹⁸ Information provided on 29 December 2020 through a freedom of information request

Conclusion and recommendations

The Assembly has been incapable of exercising its oversight competencies over defence policy to address corruption and military readiness. Exercising such competencies is extremely difficult without the indispensable research and expertise needed to conduct policy analysis. The disregard of such needs appear to be the result of two factors: (1) a legalistic approach to policymaking; (2) the imbalance of power between the Albanian government and the Assembly

The purpose of legislation is to codify and regulate policies based on a thorough and objective analysis of the information and data available to achieve the best societal outcomes. Albanian government bills, however, are introduced mainly based on opinions of government officials or on short-term assessments submitted by international organisations or external consultants. Government officials tend to address the challenge through a legal – rather than a policy – approach. They see the problem as being inherent to the legislation, and disregard non-legal interventions including *inter alia* institutional restructuring of internal processes, improved inter-institutional cooperation and communication, increased technical expertise and human resources. Similarly, international assessments – despite their conclusions and recommendations – are used to legitimize their claims. These issues are compounded by the clear dominance of the legislature by the executive, which is evidenced by the Assembly's failure to use parliamentary accountability mechanisms and by the absence of thorough deliberation of government defence bills.

The following recommendations aim to address the shortcomings identified that prevent the Assembly from successfully overseeing defence policy formulation and implementation:

- The Assembly must proactively use reports produced by government accountability institutions such as the Supreme State Audit Institution to collect information on the impact of defence legislation. They should also use such information to hold defence institutions accountable and initiate anti-corruption legislation. Alternatively, it could consider establishing a government accountability institution that audits only defence and security institutions.
- The Assembly must consider initiating legislation that strengthens the independence of the internal auditing unit in the Ministry of Defence to ensure that robust internal corruption controls are in place.
- The Assembly must initiate comprehensive inquiries on current and past cases of corruption and incompetence that have led to loss of life, military readiness, as well as cases of large scale waste, fraud, and abuse.
- The Assembly must institute regulatory impact assessment methodology to ensure that defence policy is evidence-based and its implementation achieves military readiness and national defence objectives, and must require that the Albanian government conduct impact assessment studies to support legislative initiatives.
- The Assembly must revise the employment policy for the Committee advisors and the parliamentary research service to ensure that the most competent candidates are employed. Such revision would entail a holistic approach to assessing potential candidates by focusing on

the educational level, academic background, work experience, personality, and leadership skills of candidates.

- For the Committee advisors: While the legal advisor of the Committee for National Security must have a law degree, this should not be a criterion also for the Committee advisor on defence and security issues. The main criterion in this case should be substantial working experience in defence and security institutions or extensive relevant policy research experience. Similar criteria should apply to parliamentary researchers dealing with security and defence policy. Moreover, personality and leadership skills are important since researchers and advisors must work in groups to successfully examine complex interdisciplinary issues that warrant diverse expertise.
- The range of academic background for researchers must be specified and broadened to include expertise on defence and security policy, but also to cover a wide array of areas such as education and healthcare, social and gender policy, international relations, international trade and finance, fiscal policy, agriculture, transport and digital infrastructure, and energy. This approach would also facilitate the Assembly's work in transposing the EU *acquis*.
- The Committee for National Security must augment its current human resources. In addition to the legal advisor, it must include – at least – experts on defence policy, public safety, intelligence services, and defence and security procurement.