

## **Security Sector Transformation in Armenia**

### *Introduction*

The Armenian security sector has largely been inherited from the Soviet Union. However, the Armenian authorities saw their task more in strengthening rather than reforming the inherited and existing state security institutions. Firstly, they attempted to form a security sector by combining the old Soviet institutions and new paramilitary forces. Later, the Government tried to develop these institutions at a formal level, improving their legal, financial and structural base without radically changing their fundamental principles and practice.

### *Background*

From the start the formation of the post-Soviet security system in Armenia was conditioned by the threat of war with Azerbaijan over Nagorno Karabakh. Therefore, from the first days of independence in 1991, the 'power ministries'<sup>1</sup> were given priority in the state-building process. Hence the main economic, political and personnel resources of the state were directed towards the army and the police. As a result, the power ministries claimed a higher position in political life. However, as these power ministries became more powerful, it became increasingly difficult to impose control on them. This allowed corruption to spread within these institutions.

### *Armed Forces and Ministry of Defense*

Like its Russian counterpart and strategic ally, the Armenian Armed Forces are run largely along Soviet lines, with the same hierarchy, military doctrine and culture. Most officers are trained at military academies in Russia. The government is still trying to find a balance between competing interests in its foreign policy. In military terms, this means maintaining strong relations with Russia, while at the same time cautiously responding to the demands imposed by a cooperation with NATO. Since joining NATO's Partnership for Peace (PfP) in 1994, the Armenian military took part in hundreds of joint initiatives, from academic and scientific seminars through to joint military exercises. Two related themes appear to run through NATO's relations with Armenia: interoperability and participation in peace support operations (Kosovo, Afghanistan and Iraq). The last case gave the Armenian peacekeepers valuable experience in working together with NATO forces, as well as exposing them to Western military practices. The Marshall Center<sup>2</sup> experts were helping Armenia to develop an Individual Partnership Action Plan that outlines the framework for Armenia's closer cooperation with NATO. When Armenia joined

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<sup>1</sup> MOD, Ministry of Interior, Security and Intelligence Agencies

<sup>2</sup> US Marshall Center for Security Studies based in Garmisch-Partenkirchen (Germany)

the Council of Europe (2001), it committed itself to passing a law on alternative military service within three years.<sup>3</sup> A new National Security Strategy is being prepared by the Government. It is planned that by 2015, Armenia will have a military “which will meet the requirements of the 21st century, withstand new challenges and fully provide for the country’s military security.”<sup>4</sup> As a matter of fact, a professionalization of the armed forces is doubtful. The Armenian army depends on conscription and a large reserve force. While the conflict over Nagorno Karabakh remains unresolved, the Government continues to perceive a threat both from the West (Turkey) and the East (Azerbaijan). It is unlikely that it will take steps to reduce and professionalize the army. Moreover, without sufficient budgetary resources to fund a large-scale modernization, it is felt that all that would be achieved would weaken security.

No real distinction was made over years between the Ministry of Defense as a “civilian” body and the General Staff as the operational, military arm. The MOD is basically militarized, with serving officers performing most of its functions. The authorities maintain the Soviet mentality that most things relating to security should be kept secret. The MOD is not run in a transparent fashion and information to civilian sources is very limited. Unlike many ministries of defense around the world, it does not even run a website.

### *Intelligence and Border Guards*

The National Security Service (NSS) has undergone a number of changes to its status and power since independence. Firstly, it was renamed the Department of National Security. Then it merged with the MOI in 1996 to form the Ministry of Internal Affairs and National Security, but became a separate Ministry again in 1999. At the end of 2002, its status was changed again, it was made an adjunct body to the Government answering directly to the President.<sup>5</sup> NSS staff are trained in academies around the world, notably in Russia, but also in France and the United States. The NSS is still structured largely as it was in Soviet times, though the fifth department, which dealt with ideological matters, has been disbanded. The major innovation over years was the creation of an anti-terrorism unit in 1999. Other departments in the NSS include: espionage, counter-espionage; military intelligence; and the economic crimes department. The NSS also includes approximately 2,000 Border

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<sup>3</sup> The law’s (2003) provisions of three years of military service not involving the use of arms or three-and-a-half years of alternative service seem designed to make alternative service as unappealing as possible. See Avagyan and Hiscock, 2005.

<sup>4</sup> Armenia announces major security reform plans. (<http://www.aaainc.org/ArTW/article.php?articleID=1913>) (The officials claim this “reform plan” will be guided by four major principles: “realistic goals, gradual implementation, thorough analysis and flexibility, and democracy and transparency of the process”). *Author’s note.*

<sup>5</sup> This move was motivated primarily by political concerns, with the President keen to ensure that he had full control over the agency. See Avagyan and Hiscock, 2005.

Guards<sup>6</sup>, who patrol Armenia's borders (including joint patrols of the Turkish and Iranian borders with the Russian Federal Border Guard Service).

#### *Police and Ministry of the Interior*

The role and status of the MOI has changed several times since independence. In June 2002, a new Law on Police was passed outlining the roles and responsibilities of the police force, paving the way for its alleged professionalization. As a result, in December 2002, the Ministry was renamed the 'Police of the Republic of Armenia'.<sup>7</sup> The OSCE's Strategic Police Matters Unit is running a police assistance program. This project (2003) has three components. The first is the introduction of community policing methods in the Arabkir district of Yerevan. If this is successful, it is expected that this will serve as a model for the rest of the country. Secondly, a new call-response center will be set up to help the police respond better to emergencies. Thirdly, the Police Training Center is being upgraded, with improved training courses and teaching materials. The police still suffers from the legacy of its Soviet past, in which the MOI saw its primary responsibility as the maintenance of state and regime security rather than protecting its citizens. It remains a highly militarized organization, as suggested by the ranking system, which is more or less identical to that within the army. The police is still home to a large number of well-armed interior troops, which are run in a very similar fashion to the standard military units. However, the police also face huge challenges in terms of resources. Outside Yerevan, police officers have very poor facilities, only basic training and little equipment, hindering their attempts to fight crime. In addition to this, official wages are low, providing a strong incentive for corruption. Both, rank and file soldiers take bribes in order to supplement their income and to pay off their superiors.<sup>8</sup> Especially the traffic police is unpopular, and is generally perceived to be more interested in taking bribes than in keeping the roads safe.

#### *Judicial Reform*

Armenia's accession to the Council of Europe in 2001 has played a particularly important role in catalyzing some changes within the justice sector. However, justice

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<sup>6</sup> The reason why the Border Guards are placed within the NSS appears to be based largely on the old Soviet model. Such a format is very unusual for European countries, and reflects the fact that as with other security agencies, the Border Guards are over-militarized and are not subject to any form of civilian control. See Avagyan and Hiscock, 2005.

<sup>7</sup> Ostensibly, this was done to bring Armenia into line with European standards. However, it is worth noting that in effect, the President had succeeded in bringing this important part of the security apparatus firmly under his own personal control, as the police are no longer answerable to anyone but him. The Council of Europe has criticized parts of the Law on Police, which Armenia is now expected to revise again. (Ibid)

<sup>8</sup> Police is thought to control a number of industries like the oil market, trade in food and medicines. (Ibid)

reform began in earnest with the passing of a new Constitution (1995). This introduced a three-tiered national court system (the Court of Cassation, the Courts of Review and the Courts of First Instance) and a separate system (the Constitutional Court) for reviewing the constitutionality of laws and decrees. The Law on the Status of Judges and the Law on the Judiciary came into effect in January 1999. The Constitutional Court began operating in 1996 and is made up of four presidential and five National Assembly appointees.<sup>9</sup> The independence of the judiciary is also compromised by the Council of Justice, which effectively supervises and governs the judicial system. The Council is chaired by the President, with the Minister of Justice and the Prosecutor General acting as Vice Presidents. It has fourteen members, including legal scholars, and meets on an ad hoc basis. It has significant powers, including the ability to recommend the appointment or dismissal of judges. Since it is obvious from its structure that the Council of Justice is completely dependent on the President, society considers it as yet another branch of the presidential system.

Armenia's accession to the Council of Europe was made dependent on a number of obligations being fulfilled within a limited timeframe (mostly one to three years), including: ratification of the European Convention on Human Rights; ratification of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; abolishment the death penalty; establishment an ombudsman's office; and a transfer of the prison system from the Ministry of the Interior and the Ministry of State Security to the Ministry of Justice.<sup>10</sup> All of these changes have now been adopted, except for the amendments to the Constitution, though Armenia came under frequent criticism for the way in which these reforms were carried out.<sup>11</sup> Generally, public confidence in the judicial system remains low. There is little faith that corruption is reducing and most people doubt that the judiciary is free of political influence.

### *Penal Reform*

The reform process of the criminal justice system was initiated in Armenia in 1998 with the establishment of the Department of Structural Reforms within the Ministry of Internal Affairs. In March 2001 the Government adopted a 3-year plan for the reform of criminal and penitentiary legislation. The reform aimed at the humanization of criminal executive system and is strongly supported by the OSCE. The first phase of the reform included a structural reorganization of the criminal-

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<sup>9</sup> Given that the National Assembly is dominated by pro-presidential parties, this has led to accusations that the Constitutional Court is not entirely free of influence. *Author's note.*

<sup>10</sup> The Council of Europe also recommended that the Constitution (1995) be updated in various places to address areas where it believed there was a lack of suitable checks and balances. See Avagyan and Hiscock, 2005.

<sup>11</sup> The revised Constitution failed to gain the necessary majority in a referendum in May 2003. *Author's note.*

executive system and development of key legislative acts regulating the area. The actual reform process started in 2001 with the transfer of the Department for Execution of Criminal Punishments<sup>12</sup> from the Ministry of the Interior to the Ministry of Justice. Main reason behind the structural reform was the demilitarization of the criminal executive system, and particularly the prison administration. Another reason behind the reform was to align Armenian criminal legislation with best practices and standards of international criminal law. So was the enactment of a new Criminal Code (2003). Among other legal acts, adopted in the first phase of the reform, were the Law on Treatment of Arrestees and Detainees (2002) and The Law on the Penitentiary Service (2003). A crucial step towards humanization of the criminal law was the substitution of the death penalty with life sentences. The Criminal Code encourages the use of milder sanctions, providing that maximum punishment shall only be imposed when less strict forms of punishment would not be effective.<sup>13</sup> Finally, the Criminal Code has been modernized. It incorporates norms, which are necessary to fight against modern-day crimes, such as terrorism and computer technology crimes. The Code also provides specific criminal liability and criminal punishment for juvenile offenders.

The second phase of the reform process aims at modernizing criminal legislation in a wide sense. It considers a comprehensive design and redesign of legal acts regulating the entire sphere of criminal justice. The milestone of the reform at this stage is the adoption of a Criminal Executive Code that was elaborated with participation of European experts and ratified by the National Assembly on 27 September 2004. The Code<sup>14</sup> sets a legal basis for the implementation of penal sanctions, including the alternatives to imprisonment. One of the components of the reform that is currently in progress is the development and enactment of normative acts regulating the practical implementation of penal sanctions as well as functioning social-psychological and medical services for convicts and prisoners. Another objective set forth is professional training of criminal executive officers, which includes education on practical implications of modern psychology and modern approaches to the prison system. The most recent development was the transfer of the Pre-Trial Isolator of the Security Service to the Ministry of Justice. The complicated system of establishments' numbering has also been abandoned—every establishment now had a name consisting of the type of establishment<sup>15</sup> and its geographic location. Shutters have been removed from the windows in most establishments. New regulations have changed the principles concerning visits in remand prisons: visits are now allowed unless refused by investigators for individual

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<sup>12</sup> Now Criminal Executive Department. *Author's note.*

<sup>13</sup> The former Criminal Code provided for sanctions with minimum of 3 and maximum of 12 years of imprisonment for the same type of crime. Such intervals are shortened and a wide range of alternative sentencing options is introduced. (*See Assessment of Alternative Sentencing in Armenia*).

<sup>14</sup> Replaced the 1971 Code of Correctional Labor. *Author's note.*

<sup>15</sup> Prison, colony, isolator, etc. *Author's note.*

inmates. Equally important, the OSCE considers legal options for non-custodial punishment of crimes, wherever circumstances allow for such options.

#### *National Security Council*

The National Security Council (NSC) was formed immediately after the declaration of Armenian independence. The functions of the Council included both short-term planning, and drafting a long-term national security doctrine. In the days of early independence, the National Security Council played a vital role in ensuring that the army functioned within and for the benefit of the overall political system. Over time, however, this balance began to falter. As political instability worsened in Armenia in the mid-1990s, and both power ministries became more corrupt and gathered more power, the NSC's official role was increasingly subverted by political concerns, becoming an informal arena for the heads of these agencies to coordinate their actions in other areas as well.<sup>16</sup> The exact status of the NSC at the present time is unclear. It is chaired by the President, with the Minister of Defense as the Secretary. Other members include the Chief of Police, the Head of the National Security Service, the Minister of Foreign Affairs, the Speaker of Parliament and the Prime Minister. Yet it does not meet at regular times, apparently being convened whenever it is felt necessary. Nor does it have a Secretariat. There is no clear law regulating the NSC nor outlining its competencies and responsibilities, though apparently it is mentioned briefly in the Law on Security. In short, there is very little information regarding the role of the Council or its influence on policy- and decision-making.

#### *Parliamentary oversight*

Though the National Assembly has passed a number of relevant laws, including On Defense, On Martial Law, On Security Bodies, On Military Service, On the Police, and On Interior Troops, it is doubtful parliament's role in scrutinizing and amending this legislation was really that significant. Furthermore, these laws generally still contain many gray areas and lack clarity, limiting their power to be implemented effectively. This suggests that the Standing Committee on Defense, National Security and Internal Affairs, which has responsibility for the initial deliberation of draft laws in this field, is mostly functional but has little political weight.

As a matter of fact the Parliament has very limited control over the budget of the security sector, particularly the defense budget. The budget is developed by the MOD in consultation with the Ministry of Finance and the Prime Minister. It is then presented before the Standing Committee, but even this committee is not given detailed information about the budget. Following this, the National Assembly

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<sup>16</sup> It is believed that the NSC served as a planning forum for the falsified presidential election in 1996. *Author's note.*

is presented with a final budget figure, which can only be approved or disapproved.<sup>17</sup> The National Assembly has little control over procurement. For most government agencies, procurement is managed by the Committee on State Procurements, and can at certain times be reviewed by the Assembly. However, the MOD has its own procurement office that is not answerable to the Assembly. The Assembly has little control over personnel issues. Virtually all senior officials in the security sector can be appointed by the President. Though Armenia is officially a parliamentary democracy, its security policy is being formulated somewhere within the government. It seems that this is the domain of the President, the power ministries and the NSC.

### *Conclusions and SSR-outlook*

Armenia is far from what is generally understood by Security Sector Reform. As long as the sector is still in formation, one can possibly talk of security sector 'transformation'. 'Reform' indicates an intention to fundamentally change certain core variables of a given structure (even if this reform is incomplete or totally unsuccessful). The Armenian authorities have never indicated that they believe such changes to be necessary.<sup>18</sup> They see their task more in terms of developing and strengthening the state security institutions rather than in any type of reform. Though the institutions that collectively make up the security sector have undergone some changes with respect to legislation and status, there has never been a coherent strategy for reform. In fact, Armenia cannot realistically make large alterations to its security sector without corresponding reforms until Karabakh's status is resolved.<sup>19</sup>

The failure of the leadership to establish proper democratic control over the power ministries was also closely related to the generally weak democracy in Armenia. Corruption is pervasive within many security institutions, and enough people benefit substantially from the current state of affairs to resist changes that might restrict their power.<sup>20</sup> At the wider level, the President must balance the interests of various political 'clans', some of which have a strong power base within the security sector. As such, there is a clear distinction between state security and regime security, and the temptation is always to sacrifice the former for the latter.

Public attitudes towards the security sector are not uniform, but some broad observations show that Armenians generally feel that their most basic security need—protection against foreign aggression—is being met, and thus attitudes towards the army are usually relatively positive. There is a strong image of armed men in uniform as defenders, liberators, and fighters for freedom and justice. Public

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<sup>17</sup> This procedure is further weakened by the fact that the budget presented has little in common with the true expenditure of security forces. See Avagyan and Hiscock, 2005.

<sup>18</sup> Avagyan and Hiscock, 2005.

<sup>19</sup> There is likely to be strong resistance to reform within Karabakh itself. See Avagyan and Hiscock, 2005.

<sup>20</sup> Ibid.

opinion about other security actors is less positive, however. Opinion surveys have repeatedly shown high levels of mistrust towards the police, and particularly to the judiciary. There is a widespread belief that the rule of law only exists on paper, that corruption is endemic, and that the whole sector is abused for political ends. It is clear that even where the government has been trying to reform the security sector, the public remains unconvinced that there have been any qualitative changes that would make them feel safer or that the rule of law is taking hold. Given the special nature of the security sector, often there has been resistance to allowing civil society organizations to get involved in this field, with a culture of secrecy reigning. Taking into consideration the strength of the power ministries in Armenia and the lack of control that even the Parliament is able to exercise over them, it is perhaps not surprising that there appear to be very few organizations working specifically on security issues in Armenia. Armenian NGOs have tended to focus their strengths on other issues that are perceived more important than the security sector, from democracy-building to poverty alleviation. Even NGOs that work in related fields, such as conflict resolution and human rights, have not tended to make the links between their work and other security sector issues. People and organizations may actually fear to get involved in such work. There have been several prominent cases of violence against journalists in recent years, suggesting that though there is some freedom of the press, it can be dangerous to touch on certain topics. As long as the conflict in Nagorno Karabakh remains unresolved and the country continues to feel it is on a war footing, the security forces are likely to remain resistant to civil society interference in their work.

There is no real evidence to suggest that the authorities as a whole recognize the need for reform. Moreover, there are powerful figures within the Armenian establishment who would resist reforms that limit them in any way. So far, the Armenian authorities have managed to either ignore calls for reform from the West and the international community, or to implement them halfheartedly in a way that does not fundamentally alter the way in which things work. However, the recent analysis<sup>21</sup> claims that strengthening the rule of law, reducing corruption, and improving the public's participation in and trust for the security sector would find strong backing from the public, and from the international community.

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<sup>21</sup> See Avagyan and Hiscock, 2005.

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