
Institutul de Politici Publice



THE NATIONAL SECURITY COUNCIL
IN THE DECISION-MAKING PROCESS

Comparative analysis: Republic of Moldova, Romania and Ukraine



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FOREWORD

This collection of studies dedicated to the comparative analysis of the decision making factors in the field of national security policy in the three neighboring states – the Republic of Moldova, Romania and Ukraine, constitutes a natural continuation of the research performed by the Institute of Public Policies in the field of transformations and reforms of the security sector of the Republic of Moldova during 2000-2005. Within the framework of the study “*Strategic evaluation of national security and defense of the Republic of Moldova*” issued in 2002, it is stated that the Republic of Moldova has no coherent strategy of national security. In this respect, a considerable issue for Moldovan society is to revise the security strategies, as well as the whole system of national defense and security. Undoubtedly, economic stability and prosperity, as well as obtaining strategic investments from outside, are directly dependent upon the general climate of security, the climate of the security of these investments, of territorial integrity and settling the Transnistrian conflict, and of the quality and efficiency of the national security and defense system.

In order to reach successfully the strategic tasks of European and Euro-Atlantic integration aimed at by the Republic of Moldova and represented today as a national option, there is an eminent necessity for some fundamental transformations, primarily at the level of the elite. The increase of the role and the responsibilities of institutions from the security sector require better cooperation among civil and military officials, as well as an efficient and democratic system of control and supervision. The financial and human resources require a more efficient administration. There is an increasing need for coordination among the institutions from the security sector based upon a clearly formulated strategy, followed by a set of coherent actions and a conscious attitude on the part of public administration and the society as a whole.

Consequently, the purpose of the three teams of researchers from the neighboring countries is to simultaneously examine and to discuss together the legal framework and different aspects of the activity of the Supreme Security Council from the Republic of Moldova, the Supreme Council of National Defense from Romania and the Council of National Security and Defense from Ukraine in the process of planning (or) development and decision making in security sector of the three neighboring states. The last but not the least was, for the participants of this project, the task of contributing to the creation of a permanent forum of discussions and consultations on the issues of national and international (regional) security, development of civil-military relations and principles of civil control over the security sector. The activities within the framework of the project have also had a beneficial impact upon the development of collaborative relations among the partner institutions. These relations aim to clarify some subjects of public interest for our countries and to synchronize some actions of common interest.

It is praiseworthy that some of the practical conclusions and recommendations made by the authors of the studies from this collection within the framework of the workshop that took place in Kiev on 6-7 June 2005 and of the trilateral conference organized in Chisinau on 12 July 2005 now, at the beginning of the year of 2006, have already started to be applied. Thus, the Republic of Moldova has established the convenient legal format and initiated adequate administrative mechanisms for the development (or) planning and qualitative implementation of the Individual Partnership Action Plan (IPAP) Republic of Moldova – NATO. The process of elaboration and implementation is monitored by the President of the Republic of Moldova and the Supreme Security Council and coordinated by the National Commission on elaboration and implementation of IPAP constituted by the Decree of the President of the Republic of Moldova from 5 August 2005. The launching of the IPAP process confirms the European and Euro-Atlantic orientation of the Republic of Moldova and offers, together with the objective of integration in the EU, the perspective of plenary connection of the country to the area of Euro-Atlantic security and its return to the European family. The Individual Partnership Action Plan will be the main document as regards the launching of the process of reform and modernization of State Administration agencies specialized in the field of national security and defense, a process necessary within the framework of accomplishing policies of European integration.

Within this context, we would like to express our profound gratitude to our project partners – the Institute for Public Policies from Bucharest and the International Centre for Policy Studies from Kiev; to the representatives of security councils from Moldova, Romania and Ukraine for the offered information, support and participation to the activities of the project; as well as to the representatives of the mass media who covered the events within the framework of the project and who constantly informed public opinion as regards the conclusions and recommendations forwarded by the experts.

Institute of Public Policies

NATIONAL SECURITY COUNCIL AND DEMOCRATIC GOVERNANCE

Iurie Pinte

The National Security Council is a traditional element of the national security system in democratic countries. Its roles and missions in most cases are similar. Usually, the Council is a crucial point of the national security system and has the purpose of advising the President on internal, foreign and military policies related to national security. The Council is also the main forum of the President for considering these issues with his principal advisers on national security and cabinet officials. At the same time, it is the main tool of the President in practical coordination of these policies among different governmental agencies. The Council is not a body that makes official decisions (except in some states, or specific situations, such as crises, exceptional situations, war time, etc.).

THE FACTORS THAT DETERMINE THE ROLE OF THE NATIONAL SECURITY COUNCIL

The organizational models, roles and prerogatives of Councils vary from state to state. Each model has at its base a number of factors, which are proper only to a specific case and which predetermine the specific features of the Council. Among the most relevant factors, the following have to be mentioned (1) **the constitutional system**, (2) **the balance of political forces**, (3) **the geopolitical framework** and (4) **the personality of the President**.

1. **The constitutional system** (i.e. the way of investiture and executive power attributions) establishes the relations between branches of power, the structure of governance and the role of constitutive elements of the executive branch of the government. These specific features of the constitutional system pre-establish the limits of the field where the Council can be placed and, implicitly, the limits of its prerogatives.

Thus, in a “**presidential**” **state system** the head of state is much more independent in choosing Council organization and investing it with the powers s/he deems necessary and resulting from the political objectives and the program of administration. In such a system the head of state takes part actively or even governs directly the security policy (especially the external and military policy), and the Council’s role can be very important, often exceeding the prerogatives of an advisory body and eventually changing into a key element of executive power.

A similar situation can take place especially when the president considers that s/he needs not only an advisory body, but also a tool for making and executing decisions as

well, which would be totally subordinated to the head of state and protected in a more secure way from the influence of the Parliament, in comparison with the Government. This model can be selected in cases when the executive branch is limited in its actions in offering the necessary support to the President because of various legal or political constraints, or, vice versa, in order to limit the political ambitions or the influence of the government.

In this respect, the Ukrainian example would be relevant, where the existence of the Council itself is established by the Constitution. The decision of President Yuschenko of spring 2005 on the National Security and Defense Council of Ukraine (NSDCU), more precisely on its Secretary, invested them with prerogatives and powers that in many respects have competed with the Government's tasks.

On the one hand, this decision has pushed the NSDCU and security policy of Ukraine to the foreground of national policy, and national security has become a topic of mass media and civil society. In such conditions, the Ukraine's role in international security policy has increased considerably, and the President has had the possibility to take more cardinal decisions on issues of great importance for national security, which had been postponed for many years or promised during the election campaign.

On the other hand, the NSDCU Secretary has taken over a number of powers that had belonged exclusively to the executive power until then. This change has taken place without changing the governing rules of administration. As a result, the traditional relations within the Government have been distorted, leading to duplication and overlapping of powers, actions and prerogatives, and finally to an open conflict between the Secretary of the Council (Petro Poroshenko) and the Prime Minister (Iulia Timoshenko).

The Security Council has another organization and another role in a **“parliamentary” state system**. Within such a framework, the legislative branch of the government has much more influence on the security policy of the state and more possibilities to control the Government. In this case the role and prerogatives of the President, and, therefore, of the Council, are mostly determined by the Parliament's decisions, by the balance of forces within the Parliament and by the relations between the Parliament and Presidency. In such situations, the President is often less autonomous, more limited in his/her actions, and the Council is more often a subject of parliamentary control from the part of the standing parliamentary committees specializing in national security.

2. Certainly, in reality each constitutional system is far from a theoretical one, being heavily affected by **the balance of forces in the political arena**. Thus, when there is no parliamentary majority favorable to the president in a parliamentary constitutional system, the fight for power will represent his main concern. In this case, there is a risk that the Council would be used as a tool in the political processes, and its role in national security would be reduced to minimum. In fact, in such situations, not national security, but the fight for power is the main concern of all branches of the government.

Another example is the case when the head of state controls the Parliament and the executive, or has a strong influence on both. In such situations, the president is free to choose the field, the issues, the staff and the Council's degree of involvement in national security issues.

3. The geopolitical framework establishes national interests, threats and risks for national interests, the political objectives of governance, the security policy agenda and, in this way, the role and prerogatives of the Supreme Security Council. The geopolitical situation is a more flexible factor than the constitutional system and it engages more frequent changes in a national security system's organization and agenda.

Relevant examples in this respect are offered by the Baltic States and the changes that occurred recently in the role and prerogatives of the supreme security (defense) councils of these countries because of adherence to NATO. These elements of the national security system were set up at the same time as the declarations of independence and sovereignty, and corresponded to the specific situation of that period. The Councils were focused mostly on military defense issues and had a major influence in the beginning, when the Baltic States' security was based firstly on their own efforts and potentials, and implementation of adherence objectives had to be supported by cardinal actions, first in the military security sector. The adherence to the North Atlantic Alliance completely changed the geopolitical framework of these countries. On the one hand, this event signified "giving up a part of the national sovereignty" to the interest of the Alliance and collective decisions. This fact transferred a part of the most important responsibilities from the national level to the interstate level. On the other hand, the weight of concerns in the military defense sector was considerably reduced. Therefore, the role of the defense councils lost a degree of importance in recent years.

Another example of geopolitical framework influence is non-traditional risks and threats, which have emerged on the security agenda in recent years. Thus, in most democratic states the initial efforts of counteracting international terrorism were mostly coordinated or even totally conducted through national security councils, which proved to be the most adjusted tools of immediate response for this new type of challenge to national security.

4. The personality of the President is the main subjective factor that determines the role and prerogatives of the Council. "*The National Security Council is set up to do one thing – to advise the President. I make the decisions, and there is no use trying to put any responsibility on the National Security Council – it's mine.*" Dwight D. Eisenhower, *the USA President, 1953-1961*.

When the National Security Council has this sole purpose – to advise the President – it is the personal qualities of the head of state that will determine his or her activity, sometimes even in spite of any legislative acts or regulations. No state presidents are ordinary individuals, but first, they are strong and ambitious leaders invested with enormous responsibilities. Each of them has his or her own definite qualities, knowledge and skills,

which establish how the President needs to be assisted in decision-making. Thus, each President organizes the team and establishes the activity rules in accordance with his or her own options.

Some heads of state feel very comfortable in trusting other people. In this case, the governing team members enjoy a greater degree of autonomy. Sometimes they fail and are not trusted anymore. Others do not feel comfortable “trusting other people at all allowing them to express their opinion and because of these they must take more decisions individually, collect and analyze a tremendous amount of relevant information”¹.

The most known experience of relations between the President and National Security Council, which is relevant in this context, is that of the USA. President Eisenhower (1953-1961), for example, had a predilection for a military-style staff system, and was the initiator of an extensive structure for monitoring the implementation of policy decisions. In addition, this administration established a tradition for the Secretary of the National Security Council of cumulating the position of the National Security Assistant (NSA) to the President. In his turn, President Kennedy (1961-1963), “preferred policy-making with ad hoc groups, dismantled Eisenhower’s elaborate NSC machinery and allowed the Special Assistant for National Security Affairs and his staff to assume the primary coordination role”². Kennedy’s liberal style was to blur the differences between the political decision-making process and the operational process, which President Eisenhower’s “military” staff carefully observed. Similar to Kennedy, President Johnson (1963-1969) preferred informal arrangements, relied on ad hoc groups and trusted friends, and let the National Security Council structure atrophy further.

Only under Presidents Nixon (1969-1974) and Ford (1974-1977) did the numerous NSC staff led by Henry Kissinger have the possibility to concentrate its activity on acquiring analytical information from different agencies that would allow the National Security Assistant to offer the President the best possible range of options for decision.

President Bush (1989-1992), benefiting from considerable experience in governance and external policy (having held previously the office of Vice President for 8 years) cardinally streamlined the activity of the Council. Even on his inauguration day, President Bush issued the directive of organizing the NSC that established its missions, organization, structure and main rules of activity. The reorganization of the Council included the establishment of the Principals Committee, the Deputy Committee and eight Policy Coordinating Committees carrying regional and functional responsibilities instead of multiple interdepartmental working groups. This Council had a crucial role during such events as the collapse of the USSR, the unification of Germany and the military operations of US troops in Iraq and Panama.

¹ From the interview held by the author with a US National Security Council staff-member in November 2004.

² History of the National Security Council, 1947-1997, US State Department.

In his turn, the actual president of the US, George W. Bush, is considered to be “...very strong in «*business administration*». He has a very strong business background and feels comfortable in making decisions in the way they are made in big business. He has organized his staff to support him in a proper way. He does not see the need to be an expert in every field, as long as he feels comfortable and has experts who can give him good advice. In comparison with G.W. Bush, President Clinton wanted to become an expert on every issue, and he used to analyze and study a tremendous volume of information in order to answer individually whatever question could appear”³.

The above examples put forth some suggestions on how the personality of the president of any state can influence the activity of the Council and its staff. In reality, the influence of the president is practically absolute and the staff of the Council is structured and organized according to the president’s wishes in order to correspond to his or her political objectives and management style.

THE NATIONAL SECURITY COUNCIL MEMBERSHIP

When we are speaking about the Security Council, it is important to make a difference between the Council itself, the decisional structure and the NSC apparatus. As a rule, the Council’s **membership** consists of the statutory members (persons who become council members due to their official status), the “circumstantial” members (persons who become members due to the circumstantial political objectives or due to their personal qualities) and “guests” (persons who are invited to take part in some Council meetings).

It is a common practice that, in addition to the head of the state and the Secretary of the Council (the Advisor on national security to the President), the statutory members are the minister of defense and the minister of foreign affairs, their sphere of responsibility being the main topic of the Council. In addition, Council membership is more often extended to include the Chief (chiefs) of the General Staff of the Armed Forces (or the highest person in the military hierarchy), the Minister of Internal Affairs and the Chief (chiefs) of the Information Service (Special Services Directors). The other members of the National Security Council are appointed according to:

- the real hierarchy of the state powers;
- the administrative structure, organization of the government and the prerogatives of constitutive elements;
- the perception of the security concept and the area it covers (in some cases not only military and external policy, but also economic, energy, information, etc.);

³ From the interview held by the author with a US National Security Council staff-member in November 2004.

- the level and importance of the issues discussed;
- the President's personal relations with each member.

The membership changes with the election of a new president, with changes of administration, with the amendment of political priorities and objectives, etc. The personality of each member, the level of responsibilities and competence with which he or she contributes to the council's activity are not less important.

The Chairman of the Parliament rarely becomes a Council member. In a parliamentary system, such a situation could be a source of tension because it inverts the hierarchy of the authorities within a state, in comparison with the presidential system. At the same time, the presence of the Chairman of the Parliament in a way changes the role of the Council from a consultative body to the President into a consultative body or even a supreme decisional one at the state level. On the other hand, inviting the Chairman of the Parliament to the Councils' meetings, or more often inviting the Chairmen of the parliamentary standing committees on national security, is a well-known practice. It is argued that this allows the Council to define more viable solutions for the most important issues, and that it is necessary for the overall coordination of the decision implementation processes.

THE NATIONAL SECURITY COUNCIL ORGANIZATION

The organization of the Council and decisional processes in different countries are not well known. Only some countries have laws or regulations that offer enough details on the issue. The most relevant examples in this respect are presented by the experience of the USA. In this country, it has become a tradition that at his inauguration, the President of the US issues a presidential decision document, which revises the framework of the presidential administration's organization concerning national security issues.

In the case of President Clinton, for example, this document was the Presidential Decision Directive (PDD2) of January 21, 1993. The President, Vice President, Secretary of State, and Secretary of Defense were members of the NSC. The Director of Central Intelligence and Chairman of the Joint Chiefs of Staff were included as statutory advisers. The new membership of the NSC included the following officials: the Secretary of the Treasury, the Assistant to the President for National Security Affairs, the U.S. Representative to the United Nations, the Assistant to the President for Economic Policy, and the Chief of Staff to the President. Although not a member, the Attorney General would be invited to attend meetings pertaining to his jurisdiction. The heads of other agencies and departments, and other officials would be invited to the NSC meetings if required.

This Directive kept these traditional elements of the US NSC structure:

The NSC Principals Committee – a senior interagency forum for discussion and consideration of national security issues that do not require the President's direct participation. The Committee has the mission “to revise, coordinate, and monitor the

development and implementation of the national security policy”⁴. The membership of the Committee was identical to the membership of the National Security Council except, certainly, the President, and it allowed the State Secretary and Secretary of Defense to be represented, only in some cases (*if unavailable*), by their deputies. The Assistant to the President for National Security Affairs served as Chair at the Principals Committee meetings.

The NSC Deputy Committee – a senior sub-Cabinet interagency forum for considering policy issues affecting national security. The Committee had the mission of revising, coordinating, and monitoring the efficiency and the results of inter-departmental processes, of the Interagency Working Groups inclusively, which were established in accordance with the same Presidential Directive. The basic concern of the Committee was the implementation of political decisions. The Committee had as its members the deputies of the Principals Committee members. The Deputy Assistant to the President for National Security Affairs chaired the DC meetings. The Deputy Committee was also responsible for day-to-day crisis management and it was convened at the request of any Principals Committee member.

The system of **Interagency Working Groups** – permanent and ad-hoc – which acted under the authority of the Deputy Committee and was chaired at the Assistant-Secretary level. For example, the interagency working group on foreign policy or defense issues was chaired by the Assistant to the Secretary of State or by the Assistant to the Secretary of Defense accordingly. The working groups were convened regularly according to Deputy Committee decision and had the mission “to review and coordinate the implementations of Presidential decisions in their policy areas”⁵. The Directive required establishment of strict guidelines governing the operation of interagency working groups, including their competence, decision-making process and time frames. These groups also identified and studied the issues that would be considered by the senior decision-making committee, and they had the mission of preparing the needed documents for the respective meetings. The groups had geographical, functional and ad hoc areas of responsibility.

The need to have a developed structure for such decision-making processes has not once been felt in the case of the Republic of Moldova. Thus, the Decree of the President of the Republic of Moldova regarding the organization of the Supreme Security Council (Nr. 1824-III from May 25, 2004) stipulates that “alongside the Supreme Security Council should be established the committees for foreign and internal policy, economic-financial policy, ecologic and social policy, antiterrorist policy, and the analysis

⁴ Organization of the national Security Council. Presidential Decision Directive PDD 2. January 20, 1993.

⁵ Presidential Decision Directive PDD 2. January 20, 1993.

and information center”. However, up to now this stipulation of the presidential decree has not been implemented in practice, and therefore it does not offer any examples for analysis. Considering the organizational structure of the presidential apparatus, the press releases and the following decrees of the President of the RM, we will conclude that the presidential staff has quite limited possibilities as regards national security.

THE ROLE OF THE SUPREME SECURITY COUNCIL

The Supreme Security Council Secretary has, as a rule, a triple role: (1) to determine the agenda of the Council’s meetings and ensure that the necessary documents are prepared; (2) to lead the Council’s apparatus (staff) activity, and (3) to act as Assistant (Counselor) to the President for national security issues. The major objective of the Secretary’s activities is to provide the President with the needed expertise and information for the decision-making process, to monitor the development of security policy and to implement the respective decisions in a coherent way. The permanent concern of the Advisor is to “look at how the President would be best served in his decision-making, what he needs to know in addition to what he wants to know and how to keep the process moving in a direction that he wants it to move.”⁶

As a Secretary of the Council, his or her primary concern is of organizational matter and is focused on how to ensure successful organization of the Council’s meetings. In this case, the Secretary is working for more “masters”, assisting each member of the Council in the decision preparation process.

As a director of the Council’s Staff (Apparatus), the Secretary has the duty of organizing and leading a team, which, depending on its extension, quality and status, can assume a monitoring, coordination, administration, implementation, etc., role, of political decisions within the national security system.

As the Advisor to the President on national security issues, the Secretary can actually be the spokesperson of the President in this area, and his or her influence is placed above the ministry of defense or the ministry of foreign affairs. For instance, “within the Administration of President Clinton the National Security Advisor (*Samuel Berger, n.a.*) was invested with a significant authority, and he was a very influential person, in some cases he was even more influential than the Defense Secretary or the State Secretary”. During the current Bush administration, the situation has been different: “Dr. Rice is a very influential person, but the way the President asked her to fulfill her role was not to challenge the Secretary of State and the Secretary of Defense. They are clearly the leaders in the Government in their area. So first, Staff supports her in advis-

⁶ Samuel R. Berger, National Security Advisor to the President Bill Clinton.

ing the President and helping coordinating policy but the Staff doesn't dictate policy answers to the Department of Defense or Department of State"⁷.

Indeed, this function is crucial for the good functioning of the whole national security system. For the head of the state it is very important that the Secretary (Advisor) be placed in the decisional hierarchy where the president considers necessary, without the parliamentary approval and without the obligation to report to the parliament.

The personality of the Secretary-Advisor and of his/her relations with the President often determine the efficiency of the whole system. Of course, the Secretary's role is established by the President. In case the President intends to make foreign or national security policy himself or herself, in the literal and even daily basis, the role of the Secretary-Advisor is different than in the case where the president is more interested in domestic affairs and more inclined to delegate authority to his other principal advisors. Thus, due to the Secretary's physical proximity to the President, and permanent access to and significant influence on the President, the personality of the Secretary determines greatly whether he or she would be an "honest broker" of the different points of view of the bureaucratic system of governance, an intermediary of relations between different governmental departments or a political actor and a decision-maker.

OFFICIAL AND UNOFFICIAL PROCESSES

The decisional-operational process in the national security sector is a complex one and has more overlapping, sustaining and mutually competing elements. This process is different from state to state depending on the range of objective and subjective factors, but as a rule, it has the same key elements. The main element in this respect is *the National Security Strategy* which is subject to official or principle approval, namely by the Supreme Security Council. The strategy is developed within a complex coordinating process together with the involvement of the most important governmental departments and agencies. This document, as a rule, reflects the interests, aims, and the strategic objectives of the Presidential Administration in the national security sector during the entire governing period or on a yearly basis. At the same time, this document serves as a basis for development of the state's internal organization of the decision making processes on national security issues. The key role in the elaboration and monitoring of the implementation of this strategy belongs to the Council's staff.

In the national security system, the development of decisions and of the president's directives is as a rule a formal process that includes all the structural elements. For ex-

⁷ From the interview held by the author with a US National Security Council staff-member in November 2004.

ample, in the US case, it comprises the Council, the Principal Committee, the Deputy Committee, the permanent Inter-agency Working Groups and the *ad hoc* groups. Each separate element has a predetermined role and limited responsibilities and prerogatives.

Concomitantly, alongside the official processes, the structure of the Council facilitates multiple unofficial interactions, which have a major impact on the national security sector. Thus, the National Security Advisor to the President, the Secretary of State and the Secretary of Defense meet regularly for consultations at *weekly lunches*. There are also *Weekly Lunches* focused on foreign policy issues within which the National Security Advisor to the President, the Secretary of State and the Secretary of Defense meet the US representative to the UN, the Central Informational Agency Director, and the Chairman of the Joint Chiefs of Staff. There are also weekly lunches and a great number of other unofficial meetings on the deputy level. In addition the members of the Council's staff take part as observers in the departmental top-level meetings. All these unofficial processes are considered a democratic tradition of the governing system functioning in the US.

CONCLUSIONS

The need to develop coherent forward-looking national security policies and strategies dictates the necessity of reorganizing the national security system of the Republic of Moldova in a way that it would become responsive to national needs and would withstand the challenges of personality and circumstances. Comparing the role of National Security Councils from a number of countries and analyzing the conditions that determine their efficiency, we will notice the importance of a permanent assistance body that would correspond to the volume and importance of the Council's missions. Thus, when we are reviewing the role, attributions and the structure of the Supreme Council of Security of the Republic of Moldova, it is extremely important to take into account how the SCS is assisted in decision-making; what are its organizing procedures and assisting bodies; what are the processes initiated, coordinated, run and monitored by the apparatus, as well as their results.

Organizational reform is not a panacea. There is no perfect organizational design, no flawless managerial settings. The reason is that organizations are made up of individuals, and individuals invariably use informal means of dealing with one another depending on personality and temperament. Even an excellent organizational structure cannot transform false or impetuous leaders into perseverant and wise ones. However, a deficient organizational design can make good leaders less efficient and less effective.

LEGAL FRAMEWORK OF THE SUPREME SECURITY COUNCIL – REALITY AND EXPECTATIONS

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1. General notions concerning the security of national sovereignty

In order to elucidate comprehensively the efficiency of the way the Supreme Security Council's activity is organized, several theoretical issues should be discussed concerning the relationship between national sovereignty and national security, as well as between state security and public security. According to the Constitution of the Republic of Moldova (Art. 77, paragraph 2) the Head of State is the guarantor of state sovereignty, independence and territorial integrity. Therefore, it is necessary to understand the extent of his/her prerogatives as a guarantor.

It is well known that sovereignty has a unitary character, but essentially involves two dimensions in which they are manifested at internal and external levels. These dimensions are directly connected with the state's right to decide freely on its internal and external rights. Thus, we can speak about "internal sovereignty" and "external sovereignty" or, in other words, about "state sovereignty" and "sovereignty of the state". It is considered that state sovereignty supposes the supremacy of state power; and sovereignty of the state supposes the independence of state power. Supremacy may be defined as the quality of being superior to any other existent social power in a certain country at a certain moment. It is materialized in the state's right to establish a legal framework and to assure its enforcement.

Independence, the main element of the notion "sovereignty of the state", is expressed in the state's right to establish its internal or external policy by itself, freely and according to its own considerations, without any interference of any other state or international body. This quality also implies the commitment to respect international law and the rights of other states. It is easy to see that both components – sovereignty and independence – are inseparable and conditioned reciprocally. Moreover, the sovereign state appears as independent in respect to the solution of its internal problems, as well as to the solution of its external problems.

Referring to external sovereignty and internal sovereignty, French jurist Raymond Carre de Malberg emphasized that external sovereignty is nothing else but the state's sovereignty toward another foreign state, but that internal sovereignty is not possi-

ble without external sovereignty. A state which remains dependent on another foreign state does not have sovereign power inside the state. Internally, sovereignty is limited by the Constitution, which strictly stipulates the functions of the state's power institutes. Not even externally can sovereignty be unlimited, because a national state is an element in the international system or, otherwise named "*independence within interdependence*" of the "*national sovereignty in the sovereignties' system*". This is important to be acknowledged especially by the states that belong to the European Community and those which are about to accede, because a very important part of a state's sovereignty (border security, national defense, economic security, etc.) becomes a collective prerogative of all community members.

In state power, we should see a property of the state entities expressed through the effect of the power that belongs to them. This is done through the aptitude of imposing the general will even on those who oppose it, bringing all the citizens to unity. Otherwise, the state is characterized as a power capable of ruling and reducing individual or collective resistance.

Hence, we can define state sovereignty as the quality of the state's power to be supreme in relation to any other existent social power within its territorial limits and to be independent in relation to any other foreign state or international institution. This quality is expressed by the state's right to establish deliberately, without any interference, the purpose of its internal and external activities, as well as the basic tasks and required means for their realization. According to Article 2 of the Constitution of the Republic of Moldova usurpation of state power is the most serious crime against the nation.

Therefore, we can emphasize that national sovereignty, the exclusive holder of which is the nation, should be protected efficiently from possible infringements, regardless of whether these are coming from the outside or inside the country.

The task to protect sovereignty obviously belongs to the state, or, more precisely, to political institutions and public authorities involved in exerting national sovereignty – Parliament, Head of State, Government and Justice. The mechanisms and competencies of these public institutions regarding the protection of national sovereignty are directly dependent on the responsibilities and functions executed by them. These competencies should be specific for each authority, and possible abuses or work negligence should be prevented through different mechanisms.

In order to appreciate correctly the attributions of each public authority in the sphere of national sovereignty protection it would be useful to know some of the elements of that sphere. On a day-to-day basis, many expressions are used such as national security, state security, public security as well as economic security, alimentary security, ecological security, etc. Common to these expressions is the notion of "security", which etymologically means "shelter from any danger, peace as a result of the absence

of any danger”. Referring to the state, security can be considered as an ensemble of laws, measures concerning protection, security of people, goods, etc., or an ensemble of state institutions having as a task the protection of political, social and economic organization of the society created in the state.

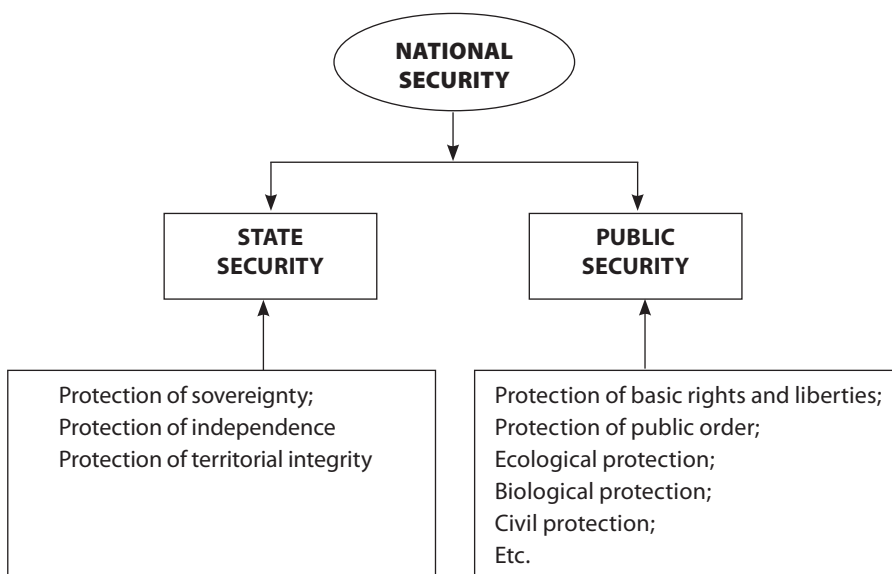
Thus, the notion of national security is a general one, and has an integration character and should be perceived as the lack of any danger for the whole nation, the state’s organization of the nation, the constitutional system, economic, technical-scientific and defensive potential, for the basic rights and interests of the citizens, as well as for the public order. We have mentioned the integration character referring to the fact that national security contains, as composing elements, the other existent types of security which are also related to the citizens and their public and individual interests.

By national security, which is assured by the state’s Armed Forces, we must understand the issues that refer directly to the protection of national sovereignty, territorial independence and integrity. We should understand that we are dealing with the protection of the political system established by the Constitution, protection of the economic basis of the state, and protection of the constitutional democracy. In other words, national security involves the protection of political power, which exclusively belongs to the people, from the possible infringements from outside the state, as well as from inside the state, which have the purpose of overthrowing the power, changing the political system through violence or other ways that are not provided by the Constitution.

Public security must be understood as the protection of citizens’ basic rights and liberties, assurance of public order, protection of the environment, social protection of the citizens and other issues of organizing a decent way of life for the state’s citizens.

Dividing the national security into constituent elements, such as state security and public security, offers the possibility of establishing definite competencies and responsibilities referring to different public authorities in the sphere of national security, taking into consideration the fact that in accordance with Art. 6 of the Constitution, power is divided into legislative, executive and judicial branches. This means that the functions and attributions of public authorities involved in the exertion of power should not intersect. Thus, we must understand that the Parliament, Head of State, Government and judicial authorities shall possess specific duties or responsibilities depending on the function fulfilled by them. These are tasks that cannot be repeated or intersected. Evidently, in this very situation we can speak about the mechanism that gives the possibility to these authorities to mutually control the realization of the duties that will give the possibility of excluding possible abuses. In other words, power will be balanced through these mechanisms.

Schematically, national security can be represented as follows:



2. General characteristic of the legal framework of the security system

The appearance and confirmation of the Republic of Moldova as a sovereign, independent, democratic state based on the rule of law, and the adoption of the Constitution of the Republic of Moldova have determined the imperative need to correlate the national security system with constitutional regulations, external and internal policy principles, and international norms concerning national security, and to establish priorities and separate public authorities' competencies in the sphere of national security. The quality of regulations in this important field is directly dependent on numerous factors such as the form of government, state structure, political system, the degree of the development of democracy, economic development, and the level of political and legal culture of the whole society.

The conception of National Security in the Republic of Moldova

On May 5, 1995 the Parliament of the Republic of Moldova adopted the Decision on the National Security Concept of the Republic of Moldova¹, which served as a basis

¹ The Official Gazette "Monitorul Oficial" of the Republic of Moldova nr. 35/399 from 29.06.1995.

for the development of state policy in the field of national security, for the approval of adequate documents and regulations in order to streamline the institutions that administer and organize the activity of the national security system bodies.

We will mention that this document is not a successful one, because it does not depict a unitary and flexible framework of planning and conceiving the sectional approach in the field of security, whose foundation should be the imperative of protecting national values and identity, and assuring internal resources indispensable for economic, cultural and social programs that would help Moldovan society approach and implement the European performance criteria. The notion of “national security” is defined in a simplistic way as the protection against the internal and external threats of an individual, society and state, as well as their rights and interests established by the Constitution and other laws of the Republic.

Some possible threats to national security, which can be interpreted in an inadequate way and can lead to the deliberate harming of some inherent rights of citizens or some of their associations, are represented too inconsistently. Thus, the actions aimed at provoking tense social situations or social conflicts are qualified as a danger for the national society. This can affect some activities of trade unions, the members of which can be accused of actions that can jeopardize national security. The same can be said about actions that aim to harm the constitutional rights and liberties of citizens. Indeed, such actions are inadmissible, they come into collision with the principles of the “rule of law”, but they cannot be a risk or threat to the national security of the state. Such actions, if they are accepted by state authorities, can harm democracy, can establish a totalitarian system (for ex: USSR), but certainly they cannot harm the security of the state.

Basic principles and methods of national security are incorrectly established. First, we should mention that basic principles are those that arise from the Basic law; second, in the theory of law the principle is considered the fundamental element, an idea, an essential law that underlies a scientific theory that can take the form of an axiom, anticipation, postulate, main idea, and fundamental thesis. Therefore, the following cannot be considered as principles:

- Separation of the competencies of institutions providing national security;
- Creation and improvement of the legal framework and mechanisms of policy development, and of the exertion of control upon the adoption and application of decisions in the sphere of national security;
- Coordination of efforts with other states in order to identify, prevent and defeat possible threats to the national security of the Republic;
- The maintenance of high-level military readiness of the Armed Forces.

We disagree with the statements that national security is provided through the creation and improvement of the legal framework of national security, which establishes the security bases, public authorities’ competencies, rights and duties of citizens,

enterprises, institutions, organizations and non-governmental organizations (NGOs) in the sphere of national security. We cannot speak about the rights and duties of citizens, enterprises, institutions, organizations and non-governmental organizations in the sphere of national security. It is true that Art. 56 and 58 of the Constitution establish such duties for citizens as Devotion to the Homeland and the Holy Duty of Defending the Homeland. However, national security is an intrinsic function of public authorities, which exert state power, as well as of the institutions specialized in this area (National Army, Information and Security Service, Ministry of Internal Affairs, and other bodies that hold similar responsibilities).

Title II of the Concept, entitled *The National Security System*, leaves much to be desired. The National Security System is defined incorrectly as *the organized integration of the management bodies of the military and special units, provided with financial, material, and technical resources in accordance with the possibilities of the national economy, state and local budgets, as well as the totality of legal regulations and activity programs that ensure the stability of public authorities and protection of the person, society and whole state against external and internal threats*. The Parliament, the Head of State and the Justice authorities do not fit in this definition because we are speaking only about the executive bodies, military and special units. Afterwards, the local budgets do not fit into the national security system, because Art.109 of the Constitution offers local autonomy to local public authorities based on public services decentralization, and Art. 18 of the Law on Local Public Administration does not establish under their jurisdiction any competencies referring to national security. This means that local budgets cannot be used to cover the expenses related to the issues that are not included in their area of responsibilities.

We consider that a correct definition of the National Security System can be the following: **ensemble of the means, state regulations and institutions that have the function and responsibilities of implementing, protecting and affirming the national interests of the Republic of Moldova within its national borders and abroad.**

The legislative, executive and judicial bodies, enterprises, institutions, non-governmental organizations, and citizens are established as national security system elements. We can see that the plural form is used while referring to the legislative and executive bodies (?), and as components – all the institutions and organizations, including NGOs and citizens. We consider this incorrect because an educational institution, a local public administration, and an NGO cannot be included or considered as elements of the national security system.

The main tasks of the national security system are also considered aberrant, because the objectives that lead to the protection and implementation of the national security interests are not specified. Moreover, the international security environment and the role of the Republic of Moldova within different international Pacts and structures are not taken into consideration. In spite of this, the following arrangements are presented:

- *The Parliament carries out the legislative regulation in the area of national security and exerts direct control on the legislation implementation by the national security bodies.* (According to Art. 66 of the Constitution, the Parliament exerts control on the Government activity only according to the aspects and limits provided by the Constitution. The Constitution does not stipulate the Parliament's direct control on the legislation's execution by the national security bodies);
- *The Government promotes internal and external policy of the state according to national security interests; it exerts the general leadership of the national security bodies.* (According to Art. 96 of the Constitution, the Government exerts the implementation of the internal and external policy of the state. As regards the general leadership of the national security bodies – it is a completely aberrant regulation, because in that case it should be understood that the Government leads with the Parliament and the Supreme Security Council, the president of which is the Head of State).
- *The Justice provides the operative examination of the materials from criminal cases on offences against the state; it investigates the generating causes and conditions.* (During the examination of civil and criminal causes, the Justice follows the Codes of civil and criminal procedures, which do not contain provisions concerning the operative examination of materials from criminal cases on offences against the state).
- *The Republican prosecutor's office, in concordance with the Law on the Prosecutor's Office of the Republic of Moldova, exerts the prosecutor's supervision of the national security legislation observance.* (According to the amendments to Art. 124 of the Constitution, passed in July 2000, the prosecutor's office was deprived of the supervision function of the legislation's observance).

In Art. 5 the national security bodies are listed, but the Parliament is not included because Art. 4 mentions the Parliament as part of the system, as an element, and its mission is also established. We consider incorrect the fact that the Supreme Security Council is included among these bodies as well, because, according to Art. 12 of the *Law on the Security of the State* the Supreme Security Council is a consultative body, which forwards recommendations to the President of the Republic of Moldova, who is, at the same time, the Chairman of the Supreme Security Council. Thus, the President of the Republic of Moldova should be mentioned as a national security system element, but not the Supreme Security Council, because the President can take into consideration the Council's recommendations. He can also ignore these recommendations because, according to Art.77 of the Constitution, he is endowed with the function of being a guarantor of the sovereignty, independence and territorial integrity.

Art. 6 in its definition of state security contains a wide range of national security components, including economic, technical-scientific, and defense potentials, as well as individual rights and interests against the informational and subversive activities

of special services and foreign organizations, criminal attempts of certain groups or individuals.

At the same time, the main tasks of state security are reduced to the informative activities carried out in order to acquire political, economic, technical-scientific and military information necessary to the President of the Republic of Moldova, the Parliament and the Government for the fulfillment of the tasks related to national security, military, foreign policies, foreign economic policies , as well as counter-intelligence activities in order to reveal and combat the illegal or subversive activities of foreign special services and organizations, groups and individuals with hostile intentions.

Moreover, the same Art. 6 establishes that the direct leadership of the state security bodies and sub-units is exerted by the Information and Security Service of the Republic of Moldova, headed by the General Director of the Information and Security Service (ISS). That, in our opinion, is incorrect due to the fact that according to the law the ISS can lead only its own bodies.

Referring to *Military Security*, we do consider that the Armed Forces of the state represent a way through which national security is provided, especially the Security of the State and evidently public security, because special operation units of the Ministry of Internal Affairs are part of the state's Armed Forces. For these reasons we consider as incorrect the definition given to national security which "assures military defense of the state against external and internal military dangers through the implementation of the defense policy, creation of the Armed Forces capable of rejecting a possible military aggression", due to the fact that the same article stipulates that *Military Security* has the goal of providing national defense, border protection, as well as the maintenance of public order through the Armed Forces.

In our opinion, the definition of *Civil Protection* is correct, but we consider that Civil Protection is not a separate element of national security, but a part of public security, because one of its activity purposes is to provide the protection of population, goods and cultural values in the aftermath of emergency situations (natural and ecological calamities, damages, catastrophes, epiphytes, epizooties) as well as against different means of modern destruction.

The Law on the Security of the State²

On 31.10.95, promoting the Concept on National Security, the Parliament adopted the Law on the Security of the State, which considers adequately the problems of state security. The Law rectifies some errors made in the National Security Concept and establishes correctly the principles of state security. In addition, the law requires that

² The Official Gazette of the Republic of Moldova nr. 10-11/115 from 13.02.1997.

the observance and protection of individual rights and freedoms be the main duties of the state. At the same time, it establishes that the activity related to the protection of national security cannot function to the detriment of the legitimate rights and liberties of an individual. The competencies of the Parliament, Head of State and Government in the area of national security protection are also established according to the constitutional provisions.

Our task in this research is to identify the existent drawbacks, eliminate them, and thus contribute to the improvement of the national security of the state. Certainly, the drawbacks of the National Security Concept have also affected the Law on the Security of the State. From our viewpoint, it would be better if the law had the title *The Law on National Security*, because the law could tackle other issues related to public security which were mentioned in the Concept but were developed neither in this nor in any other law. On the other hand, we believe that having many laws on national security problems is not a good idea. Even the two basic laws (the Law on the Security of the State and the Law on the State Security Bodies) have repetitive clauses, address the same issues, and even contradict each other.

The National Security Conception does not define clearly the national security system (the national security system represents the organized integration of the administrative bodies of the military and special units). Obviously this law contains certain misleading aspects and even some errors.

Thus, Art. 13 of the Law establishes that the system of state security bodies includes the Information and Security Service of the Republic of Moldova, Guard and Protection State Service, Border Guards Department, Customs Department, as well as the educational institutions and other non-military organizations of the state security bodies. We can only say that the authors of this law did not have a clear vision of many theoretical issues, because a system should include an ensemble of elements arranged in a certain order that function in a certain dependent and inter-dependent way and have a certain common purpose. As to the system of the state security bodies, all the institutions that have a direct relation to these issues should be part of the system. Obviously, the Parliament, Head of State, Government and legal authorities should be included in this system. It is not clear why Art. 9-12 stipulate competencies of the Parliament, Head of Republic, Government and Supreme Council of Security if these bodies are not part of the state security system. We also consider absolutely incorrect the fact that the Ministry of Defense was not included in this system since the sovereignty protection, independence and territorial integrity cannot be assured without the National Army.

We will emphasize some errors contained in this Law. Art. 8 does not allow the disclosure of information considered a state secret, military secret or commercial or on duty secret, her confidential information the disclosure of which can harm the rights or liberties of an individual. It is wrong and unconstitutional to ban the disclosure of work information that is considered a work secret. According to Art. 34 of the Consti-

tution, public authorities are obliged to provide accurate information concerning their public duties or issues of personal interest to citizens. The constitutional norm stipulates that the right to information should not be detrimental to the security measures to protect citizens or national safety. Therefore, a work secret is not a state secret if it is not related to citizens' security or national security. The stipulation not allowing the disclosure of information that can harm the honor and dignity of the individual is redundant. The relation of the individual's honor and dignity to state security problems is not clear.

Art. 7, paragraph 7 has another error because it stipulates the following: *in case the body (official person) that exercises measures to ensure state security has infringed upon the rights and legal liberties of an individual, or has prevented the implementation of these measures without good reason, the hierarchically superior body of the state security, the prosecutor or the judge are obliged to undertake measures in order to fully reestablish the rights and liberties of a harmed person and thus cover the moral and material damages in accordance with the legislation.*

It is not clear what type of hierarchy is referred to in the text, because the state security bodies are not in a subordination hierarchy. From the law, we should withdraw that the Information and Security Service (ISS) has as its subordinates the Guard and Protection State Service, the Border Guards Department or the Customs Department, and, in case of need, can cancel the decisions of these hierarchically subordinated bodies.

The stipulation that the public prosecutor or the judge are obliged to undertake measures to reestablish the absolute rights and liberties that were infringed upon make no sense, because the prosecutor and the judge carry out their activity according to the respective legislative framework (The Law on the Prosecutor's Office, the laws on the organization and functioning of the judicial system in the republic).

The Law on the State Security Bodies³

On the same day, i.e. October 31, 1995, the Parliament adopted the Law on the State Security Bodies. This law repeats some provisions from the Law on the Security of the State. The fact that the Parliament adopted two important laws on the same day points to their poor quality. There was no need for two laws on state security issues since both of them regulate the same issue. We think that these two laws should be combined, and that only one law should be adopted to regulate the whole set of social relations that can appear in the process of providing national security. It is important to take into account that aside from these two laws there is also the Law on National Defense adopted on 25.07.2003. This law is more complex and regulates nearly the whole set of

³ The Official Gazzette of the Republic of Moldova nr. 10-11/115 from 13.02.1997.

social relations in the national security sphere and also repeats some stipulations from the Law on the Security of the State and other laws related to the state security bodies.

Nevertheless, we will start the analysis with Art. 3 and 8 of the Law on the State Security Bodies, which stipulate the competencies of the state security bodies. Again, the authors of the law mixed up the notions of attributions and obligations because Art.3 stipulates the functions of the state security bodies as follows:

- To defend the independence and territorial integrity of the Republic of Moldova, to protect and guard the state borders, to defend the Constitutional regime, rights, liberties and legitimate interests of individuals against illegal attempts;
- To provide to the Parliament, the President of the Republic of Moldova and the Government, the intelligence and information necessary to solve state security problems (in the economic, foreign and internal policy sphere), and to promote social-economic development and technical-scientific progress;
- To protect, within the limits of their competencies, the national economy from criminal infringements, to prevent emergency cases and situations in telecommunication, transportation and infrastructure of vital importance;
- To combat terrorism, organized crime, and corruption, which undermine the Security of the State, as well as to discover, prevent and counter-act other types of legal offences, the criminal prosecution that falls under state responsibility, etc.

In Art. 8, "*Duties of the state security bodies*", other competencies are provided that establish what state security bodies should do in this area. We have noticed in this article that some of the tasks from Art.3 are repeated:

- To inform public authorities on a regular basis about state security issues.
- To protect, within their competence, the Constitutional rights and liberties of citizens of the Republic of Moldova;
- To make decisions, together with other public administration authorities, concerning the protection by Guard and Protection State Service of highly placed officials, politicians, foreign personalities visiting the Republic of Moldova;
- To issue and supervise the implementation of normative acts and regulations on the Security of the State, issued in order to implement the provisions of the Constitution, laws and decisions adopted by the Parliament of the Republic of Moldova, Government's decisions and orders;
- To combat terrorism, organized crime, and corruption, which undermine the Security of the State.

This Law, for the third time, establishes the state security bodies system, repeating the identical regulations of the above-analyzed laws: the Information and Security Service of the RM, the Guard and Protection State Service, the Border Guards Department and the Customs Department. It is obvious that we are not dealing with a system, but only some bodies that are part of the system.

Moreover, among the competencies established by Art.3 and 8 we can find “to protect, within the limits of their competencies, the national economy from criminal infringements, to prevent emergency cases and situations in telecommunication, transportation and infrastructure of vital importance; to combat terrorism, organized crime, and corruption, which undermine the Security of the State”. We would like to mention that these competencies are inherent for the bodies of the Ministry of Internal Affairs, as well as for the Prosecutor’s Office. These bodies certainly are not mentioned among those protecting state security and are not parts of the system referred to in the above-mentioned three Laws.

From the practical and theoretical points of view, an important issue is the control over state security institutions. This is exerted by public authorities, which exercise the power of the state. Thus, Art. 25 establishes that:

- (1) *The Parliament exerts control over state security bodies through parliamentary hearings and investigations, hearing the reports of the state security institution leaders at public or closed sessions, as well as through the participation of the Chairman or Vice-Chairman of the Parliamentary Standing Committee on national security at the working meetings of the Board of the Information and Security Service of the Republic of Moldova.*
- (2) *The permanent control over the state security bodies’ activities is exerted by the Parliament through the National Security Standing Committee.*

We do consider that the regulation provided by Art. 25 on the control exerted by the Parliament exceeds the mandate that the Parliament should have. It contradicts the theory of the state separation of powers, even referring to Art. 66, (f) of the Constitution, which establishes that the Parliamentary control over the executive branch is exerted under Constitutional forms and limits.

According to the principle of separation of powers in a state, the competencies of the authorities exerting state power (the Parliament, the Head of State, the Government and the Justice authorities) must not intersect. Thus, we must understand that the Parliament cannot interfere in different issues within the competencies of the executive branch bodies. Art.1 from the Law determines that the state security bodies are specialized structures of the executive branch. Therefore, the control over these bodies’ activities is an inherent function of the President and Government of the Republic of Moldova. These authorities are the main pillars of the executive branch. Referring to the Parliament, we have already mentioned Art. 66, (f) of the Constitution that establishes the parliamentary control exerted under the Constitutional limits and forms. These forms are provided by Art.104 (the Parliamentary report; Art. 105 (Questions and Interpellations); Art. 106 (Motion of distrust). The stipulations of these constitutional regulations are further developed by the Parliament’s regulation.

The activity of the Parliamentary Standing Committee on national security exceeds its competencies, because its missions are to approve drafts and legislative proposals, to undertake parliamentary investigations, to consult public administration bodies and

other institutions, and to issue advisory notices or recommendations (Art. 27 from the Parliament's regulation)⁴. Speaking about the Parliamentary Hearings, we must understand the Government report concerning its activity during a session. The Standing Bureau of the Parliament can initiate other hearings concerning the issues of major public interest (art. 112/1 of the Parliament's regulation). Therefore, the hearings are organized not by the Standing Committee on National Security, but by the Parliament in its meeting and only once during a session, i.e. only twice a year at most.

Thus, the main task of the Standing Committee on National Security should be the approval of bills or legislative proposals related to national security issues, but not the organization of hearings and interfering with different directions or imperative proposals to the institutions charged with the mission of providing national security. The provision that allows *the participation of the Chairman or Vice-Chairman of the Parliamentary Standing Committee on National Security at the working meetings of the Board of the Information and Security Service of the Republic of Moldova* is absolutely useless.

Nevertheless, the reality is different because the Parliamentary Standing Committee on National Security involves the solution of some of the problems that are not within the competencies of the Parliament. In order to be more convincing, we will bring as an example some decisions adopted by the Parliament at the Committee's initiative. Thus, on 16.07.1999, after examining the report of the *Standing Committee on National Security* concerning the control exerted on the activity of the penitentiary system, the Parliament decided to compel the Government to fulfill the following actions:

- to consider the possibility of allocating additionally 22 million lei to the Department of Penitentiary Institutions and to submit to the Parliament proposals concerning changes to be operated in the budget Law of 1999;
- In order to consolidate the technical-material basis of the penitentiary institutions and to assure the fulfillment of guard, supervision and escort functions of detainees, the Government will transfer the necessary equipment and materials, a military site and other goods from the Ministry of Internal Affairs, Ministry of Defense, Ministry of Transportation and Communication, Municipal Council of Chisinau to the balance of the Department of Penitentiary Institutions, and will use extra-budget financial sources for the above mentioned aims;
- To pay off the arrears at money and food rights for 1996, the arrears at the exclusive allowance of dismissal for 1998 to the personnel of the penitentiary institutions and to provide measures for further allocation in time of different resources regarding this purpose;
- to distribute 1200 hectares of farming land from the reserves for the penitentiary institutions' use.

⁴ The Official Gazette of the Republic of Moldova nr. 81-92\765 from 19.12.1996.

Another example is the Parliamentary Decision from March 27, 2003 referring to the investigations of the observance of the Law on Custom Bodies, which established the following:

The Government:

- will allocate additional financial resources for technical and equipment improvement of the custom bureaus and posts, including for building terminals within the control zones of bureaus and border checkpoints;
- will issue orders to the Ministry of Finance to allocate totally, in accordance with the State Budget Law for 2003, the financial resources assigned to the Customs Department, as well as the resources established by Art.121, paragraph (2) of the Customs Code.

The Customs Department administration:

- will objectively establish the qualification grades to the administrative personnel of the Department and its subdivisions, which did not fulfill their duties properly (This fact was revealed in the report on the results of the Law on Customs observance).

The General Prosecutor's Office:

- will investigate the penal files shelved during 2000-2002 on the basis of the lack of elements constituting an offense, and it will submit a report on the investigation to the Parliament;
- will study the results of the Customs Department activity investigation and in cases when infringement elements are ascertained, it will oblige the criminal investigation and preliminary inquiry bodies to continue the necessary procedures and to submit the materials to the court.

There are the same regulations with the Parliament's Decision from August 04, 2002 concerning the results of the investigations on observance of the Law on Carabineers Troops (internal troops) of the Ministry of Internal Affairs. For example, the Government is to:

- solve within three months the problems related to the accommodation infrastructure for the personnel of the Carabineers troops deployed on the military site nr.100;
- compel the Ministry of Defense to modify the Regulation regarding the medical-military commission of the Armed Forces of the Republic of Moldova, approved by the Minister of Defense order nr. 230 from December 15, 1997, in order to allow recruiting into the Carabineers troops conscripts with the 1st and 2nd health grades.

The same can be said about the Decision adopted on November 23, 2001 on the Commission report concerning the observance by the Ministry of Defense of the Law

on Military Duties and Military Service of the citizens of the Republic of Moldova. And in this case, the Parliament of the Republic of Moldova compels the Government to undertake a number of actions as, for example:

The Government, within three months:

- will examine the issue of reorganization of the military airfield Marculesti into a double destination airport;
- will undertake necessary actions for the further use of the military camps “Radoaia”, “Milestii Mici”, “Vadeni” and “Marandeni”;
- will return apartments to the Ministry of Defense instead of the ones received from the ministry’s fund in accordance with the guarantee letters of the Government;

The created situation is due not only to the Commission’s pressure, but also to the wrong conception developed by the Parliament through its Decision on the Standing Committees’ areas of activity, passed on April 08, 2005⁵. According to this conception, the areas of activities of the standing committees are established in contradiction with the Parliament’s Regulation adopted by the organic law. Thus, for the Standing Committee on National Security, Defense and Public Order the following areas of activity are established:

1. The national security issues, the military service within the specialized institutions of the executive branch assigned to protect national security;
2. Combating crimes, corruption and terrorism, assuring public order and road traffic security; state border guard and regime, central public and regional authorities’ mandates on state border protection.
3. The Armed Forces reform (national army; border guards troops, carabinieri troops), military and alternative service, social and juridical protection of military personnel, service organization within the Customs Department, Penitentiary Institutions Department and Emergency Situations Department; observance of state secrets; providing citizens with identity documents.

Besides, as the last argument, we will mention the Parliament’s competencies on national security established by Art. 9 of the Law:

- a) Provides legislative regulation in the sphere of national security;
- b) Approves the National Security Concept;
- c) Creates a legal basis for the creation and national security bodies activities;
- d) Establishes the state border;
- e) Approves the budget for the Security of the State;
- f) Ratifies and denounces international treaties on the security of the state.

⁵ The Official Gazette of the Republic of Moldova nr. 59-61/212 from 15.04.2005.

As we can see, the Parliament does not have administrative competencies; these are exclusively inside the executive branch of the power. Therefore, the Parliament bodies cannot have such prerogatives.

Thus, we can say that the DECISION concerning the areas of activity of the Parliamentary standing committees from 08.04.2005 is in contradiction with Art.66 of the Constitution, as well as with the law on the state security bodies. Thus, through the above-mentioned decisions, the Parliament violates the principle of power separation within the state. This kind of control and decisions substitutes the Government activity and attempts to lead it, ignoring the fact that the Government carries the political responsibility through resignation for its mistakes and failures, including the sphere of national security.

Art. 26 from the Law, entitled the *Control exerted by the President and Government of the Republic of Moldova*, is also deficient by determining that:

- (1) The Government and the President of the Republic of Moldova examine the reports of the state security body leaders concerning the results of the institutions' activities, state security, human rights and liberties observance and other questions;
- (2) The President of the Republic of Moldova together with the Government approve the programs concerning the state security bodies activity, establish the types of information presented by these bodies and the way of their presentation.

As we can see, this article does not determine the whole set of control mechanisms held by the head of state as a guarantor of sovereignty, independence and territorial integrity. These problems are more successfully considered in the Law on National Defense.

The stipulation contained in Art. 27 on *the judicial control on the state security bodies' observance of the human liberties and rights*, establishes that this type of control is exerted within the examination of criminal cases in courts. Such type of control is also exerted within the investigation of causes of legal offences and contraventions committed by the state security bodies' personnel.

It is necessary to mention that the judicial bodies, in accordance with the Law on judicial organization, nr. 514-XIII from 06.07.1995, carry out justice for the defense and achievement of basic rights and liberties of citizens, enterprises, institutions, and organizations, as well as try the causes concerning civil, administrative and criminal judicial relations⁶. As we can see, the courts do not perform judicial control but carry out justice, or, in other words, reestablish broken judicial norms regardless of the person and the examined criminal causes.

⁶ The Official Gazette of the Republic of Moldova nr. 58/641 from 19.10.1995.

The same thing can be said about Art. 28 on the supervision exerted by the public prosecutor, because the Prosecutor's Office was deprived of the right to supervise the accuracy of the laws' observance, including by the state security bodies. With regret, the lawmakers in many normative acts on national security have committed this error. This is only due to the fact that after the change of a constitutional norm the adjustment of a great number of regulations from different legislative acts to the constitutional standard does not take place.

The Law on National Defense⁷

This law passed on August 25, 2003 and, as we have previously mentioned, according to its content it regulates more efficiently a certain set of social relations in the field of national security. Obviously, this law is greatly related to state security issues, only in the case of accepting the idea that state security is only the protection of the sovereignty, independence and territorial integrity of the state. We will not comment entirely on this law, but only emphasize some specific issues connected with some theoretical and practical aspects of state organization and functioning.

We will consider the issue concerning the function of the Commander In Chief of the Armed Forces, carried out by the Head of State. This issue is tackled differently by some experts in the sphere of constitutional law. Art. 25 of this law develops the constitutional norm according to which the President of the Republic of Moldova is the guarantor of state sovereignty, independence and territorial integrity, and that is why he is endowed with the function of the Commander In Chief of the Armed Forces. The law establishes that the President exerts the general management of the national defense system and coordinates the activity of the public administration institutions in the area of national defense. This regulation is a correct one and does not cause great conflicts, but Art. 29 changes the situation completely because it provides the following:

- 1) *During peace and wartime, the Armed Forces leadership is carried out by the Supreme Commandment of the Armed Forces headed by the President of the Republic of Moldova – the Commander In Chief of the Armed Forces.*
- 2) *In order to fulfill his duties, the Commander In Chief of the Armed Forces issues orders and directives, compulsory for the whole personnel of the Armed Forces.*

We will mention that on December 16, 1996 the General Public Prosecutor of the Republic of Moldova interrelated the Constitutional Court of the Republic of Moldova. He required the Court to interpret the stipulations of Art.87 of the Constitution of the Republic of Moldova, and to establish if the President of the Republic of Moldova, as the Commander In Chief of the Armed Forces and according to the Head of State competencies in the field of defense, has the right to lead the Ministry of Defense.

⁷ The Official Gazette of the Republic of Moldova nr. 200-203/775 from 19.09.2003.

In the adopted DECISION, the Constitutional Court stated that the President of the Republic of Moldova governs the Ministry of Defense according to the competencies in the sphere of defense established by the Constitution of the Republic of Moldova and other laws that do not run counter to the Constitution.

Although the Constitutional Court's interpretation exists, we do have some concerns on this delicate matter. Besides, an ample conflict took place in 1996, when the Minister of Defense of that period, General Pavel Creanga, was dismissed through a Decree signed on March 15, 1996 by the President of the Republic as Commander In Chief of the Armed Forces. The Constitutional Court declared this Decree unconstitutional.

This proves the fact that the President of the Republic of Moldova does not govern the Ministry of Defense. The leadership of the ministry is carried out by the minister, who complies with all the rules applied to any minister. At the same time, the Head of State is the Commander In Chief of the Armed Forces, among which are all the armed forces, including the National Army, Border Guards and Carabineer Troops. Should we really understand that the Head of State leads both the Carabineer and Border Guard Troops? Obviously not. There are separate laws concerning these institutions, which establish their structures, organization and leadership. It is true that the Head of State is the guarantor of sovereignty, independence and territorial integrity, so in case of a threat to these specific state characteristics, he can assume the commandment of the Armed Forces, and according to the Constitution, his Decrees will be compulsory and executed on the whole territory of the Republic of Moldova.

As regards national security, we shall mention that it is provided by a system, which is a part of some more authorities and public bodies, each one in charge of a certain number of competencies and responsibilities. This system consists of the Parliament, the Head of State, the Government, a number of ministries and some specialized services. The general governing of the system is the responsibility of the Head of State. We should take into consideration that this governing should be carried out through specific methods, and the authorities and institutions that are part of this system are not subordinated directly to the Head of State. Due to this, the attributions stipulated in Art. 25 of the Law are correct:

- a) Submits to the Parliament for approval the drafts of
 - National Security Conception;
 - Military Doctrine of the state;
 - General structure and number of personnel of the Armed Forces;
 - Armed Forces regulation on military discipline;
- b) Approves:
 - Supreme Security Council regulation;
 - General Staff regulation;
 - Projects and plans on the Armed Forces organization and development;
 - Armed Forces mobilization plan;

- Armed Forces battle plan;
- Military Regulations;
- c) Coordinates international military co-operation activity;
- d) Performs general management concerning the accumulation of resources for the needs of the national defense system;
- e) Issues decrees on conscription and demobilization;
- f) Conducts negotiations, signs international agreements in the military sphere on behalf of the Republic of Moldova and submits them to the Parliament for ratification, as the law requires;
- g) Submits to the Parliament proposals concerning participation in international peacekeeping and humanitarian operations with military personnel, troops and equipment;
- h) Appoints and dismisses, according to the legislation, the Armed Forces Supreme Commandment officers and vice-ministers of defense;
- i) Promotes into supreme military ranks established by the law.

3. The Supreme Security Council's (SSC) role in assuring national security

In order to understand correctly the role of the SSC in the national security system, we should clear up some issues concerning the role of the Head of State in this system. Traditionally, the Head of State belongs to the executive branch of power, even if the Constitution of the Republic of Moldova does not mention it. This raises some groundless arguments among a certain category of experts. The functions and responsibilities of the Head of State certify the fact that the President and the Government exert the executive power.

Paragraph 2 of Art. 77 of the Constitution stipulates that the President of the Republic of Moldova represents the state and is the guarantor of the sovereignty, national independence and territorial unity and integrity of the country. The function of the guarantor of sovereignty, national independence, territorial unity and integrity is accomplished in two ways. The President, as the state's representative carries out his responsibilities through internal and external negotiations, signing Treaties, Agreements, Statements, Memorandums, Messages to the nation, or to the Parliament in order not to admit harming the national sovereignty, independence, territorial integrity or national security.

During this study, we have already tackled some issues on the duties of the Head of State as a guarantor. Depending on the form of government, from state to state, heads of state are endowed with more or less mandates as guarantors. It is true that not every Constitution uses the term *guarantor*.

The term “guarantor” appeared for the first time in the Constitution of France, which stipulates in Art. 5 that the president is the guarantor of the national independence, territorial integrity and international treaties observance. The same is stipulated by Art. 80 of the Romanian Constitution. In addition, Art. 77 of the Republic of Moldova Constitution states the same, but with a small difference to what is mentioned in the constitutions of France and Romania. In the Republic of Moldova, the president is also the *guarantor of sovereignty*. At first glance, no difference is seen, but in reality, it does exist.

Art. 15 of the Constitution of France, Art. 92 of the Romanian Constitution, as well as Art.87 of the Constitution of the Republic of Moldova, determine that the president is the Commander In Chief of the Armed Forces and fulfils the function of the President of the Council of Defense (security) of the country. Similar regulations can also be met in other European constitutions, such as:

- The Constitution of Austria (Art. 80) – the Commander In Chief of the Armed Forces is the President of the Federation and the leadership of the federal army is carried out by the federal minister of defense;
- The Belgian Constitution (Art. 167) – the King is the Commander In Chief of the Armed Forces;
- The Constitution of Germany (Art. 115 b) – from the moment the defense situation of the country was declared, the Armed Forces Command was taken by the federal Chancellor;
- The Constitution of Spain (Art. 62) – the King is the Commander In Chief of the Armed Forces, but Art. 97 stipulates that the Government exerts the general leadership of internal and external policy, military and civil issues management, as well as national defense issues.
- The Constitution of Italy (Art. 87) – the President is the Commander In Chief of the Armed Forces and he is the Chairman of the Supreme Council of Defense.
- The Constitution of Portugal (Art. 123) – the President assures the national security, state unity, normal functioning of the state’s democratic institutions, and he is the Commander In Chief of the Armed Forces.
- The Constitution of Bulgaria (Art. 100) – the President is the Commander In Chief of the Armed Forces and the President of the National Security Consultative Council.
- The Constitution of Estonia (Art. 78, paragraph 16) – the President is the Commander In Chief of national defense.
- The Constitution of Poland (Art. 28) – the President is the guarantor of state sovereignty and security, and of territorial integrity and inviolability.

In the Constitution of Hungary (Art. 29), the Czech Constitution (Art. 63), the Constitution of Slovakia (Art. 102) and in other Constitutions we can find the same regulations. As we can see in the above-mentioned Constitutions, the “independence and sovereignty guarantor” term is not broadly used. An exception is the Constitution of Poland where

it is stipulated that the President is the Guarantor of state sovereignty and security, territorial integrity and inviolability. Portugal only mentions the “assurance of independence”. All the other Constitutions contain only the stipulation that the Head of State is the Commander In Chief of the Armed Forces. Analyzing the constitutional mandates of the above-mentioned heads of states, we can see that similar to the Constitution of the Republic of Moldova the president can declare, with the Parliament’s preliminary approval, the general or partial mobilization of the armed forces. In case of an aggression against the country, he undertakes the necessary actions to stop and defeat the aggression, declares a *state of war* and immediately informs the Parliament. Such type of Constitutional regulation means that the head of state has the responsibility of organizing the defense of the country, when dangers to the territorial integrity and independence emerge.

Certainly, we should not think that the Head of State waits passively until dangers to the country emerge, and only then steps into the position of armed forces commander. All countries have developed and adopted military doctrines and strategies concerning national security, in which the roles, functions and duties of each public authority and specialized bodies concerning national security protection are established.

Commanding the Armed Forces is not an exclusive function of the President of the state, because at the top of the institutions of the national security system, there are ministers, members of the Government, and certainly, the President cannot interfere in the operational command. Moreover, the Constitution even does not confer or him such competencies.

The need to fulfill such function finds its explanation in political pluralism and the multiparty system, because both the Parliament and Government are made up of different political party representatives, as well as of ministers of “*force*”. In an emergency at the national level, it would be unacceptable to set out political debates on the necessity of using armed forces. It is true that the Head of State can be a part of a political formation, but the requirements of Art. 77, par. 2 demand from the President to place national interests first. The president’s function of *guarantor* is incompatible with any other partial interests, it is connected legally and through the oath of the President to the Parliament and the Constitutional Court, (Art. 79) to protect democracy, basic human rights and liberties, sovereignty, independence, and territorial integrity and unity of Moldova.

Analyzing all the President’s duties, we emphasize the fact that he does not have the mandates to be involved directly in the management process. What the Constitution does offer are sufficient possibilities for him to accomplish successfully the function of the main representative of the state and guarantor of sovereignty and national independence. The explanation for this is that the president does not carry political responsibility for his activity; this postulate is stipulated in the Constitutions of all countries with a republican form of government, regardless of the form of the republic (presidential, semi-presidential, or parliamentary). The president can be called to account only if

he commits some exceptional actions that violate the Constitution. Art.81, paragraph 3 of the Constitution of the Republic of Moldova says that the Parliament can settle accusations of the President if he committed an offence, and the President can be dismissed only if he violates Constitutional stipulations (Art. 87). The political accountability of the President can appear only in case of a bad government, which can be expressed by the impeachment procedure of the Parliament (Art. 103).

Political irresponsibility of the President certifies that he is protected by the Constitution, being the representative of the state, guarantor of sovereignty, which, in some circumstances, can bring moral prejudices to him notching his authority.

In order to protect the Head of State from possible mistakes, according to Art.6 of the Law on National Defense, as well as according to other regulations previously analyzed, the President of the Republic is endowed with the right to institute and administer the consultative bodies on state security. In the Republic of Moldova, this institution is entitled *The Supreme Security Council*. In Bulgaria, this body is mentioned even by the Constitution and is entitled *The Consultative Council of National Security*, emphasizing the fact that this body is a consultative one. In other countries, this body is entitled the Supreme Council of Country Defense. Thus, it emphasizes that only issues concerning the defense of the country are parts of its responsibilities, such as dangers to territorial integrity and independence.

At first glance, it seems that there are no differences between the Council of Security and Council of Defense, but actually, differences do exist. Theoretically, we can say that there is a possibility that the Head of State, as a guarantor of national sovereignty, can assume unlimited mandates only if he is personally responsible for national security. Through national security, we understand all other types of security as food security, demographic security, industrial security, biologic security, ecological security, etc. As an example, we can mention the regulations from the Law on national security of the Republic of Kazakhstan, which suggests the following as dangers for the national security of Kazakhstan in Art.5 of this law:

- The worsening of the socio-political situation, expressed through interethnic and inter-religious conflicts, mass disorder, meetings, demonstrations, non-sanctioned meetings, illegal pickets and strikes;
- The unexpected worsening of the ecological situation;
- Damages to economic security, including the use of strategic resources against national interests that would obstruct investment, including the impediment of foreign investments' affluence and the withdrawal of capital from the country;
- The worsening of the demographic situation; an unexpected decrease of the birth rate and an increase of the death rate, as well as the appearance of some uncontrollable migratory processes;
- The worsening of the quality of education and of the country's intellectual potential;

- The imperfection or lack of a sufficient normative basis for the protection of the country's national interests.

As we can see, alongside some real dangers, which can threaten independence, of the change of the political system with violent means, there are also some issues (mass disorder, meetings, demonstrations, non-sanctioned meetings, illegal pickets and strikes, etc.) that can hardly be considered as threats to national security. Art. 9 that determines the Head of State's competencies already attributes to him the right to approve the National Security Concept, to evaluate real dangers to national security and to issue documents (Decrees) on national security. Thus, the President of Kazakhstan, without carrying any political responsibility concerning his activity, intercedes in a very broad area of activity which actually is the responsibility of the Government and other authorities. These latter should carry political responsibility when, for example, the demographic situation is worsened, the birth rate suffers a sudden decrease, the death rate increases, some uncontrollable migratory processes occur, or the intellectual potential and the quality of education of the country are decreasing.

Concerning the Republic of Moldova, we will notice with satisfaction that in our legislation, we do not have such stipulations that would strengthen the prerogatives of the head of state under the cover of national security needs, but we do have other types of problems. Thus, the threats and dangers stipulated in the National Security Concept do not correspond to those from the Law on the Security of the State. The table below illustrates this.

Possible threats to national security

The national security concept	The state's security law
<ul style="list-style-type: none"> • Direct aggression and territorial claims of other states; • Local or regional conflicts in the immediate vicinity of the Republic of Moldova's borders; • Uncontrolled transportation of arms, as well as of nuclear, bacteriologic, and chemical weapon components on the territory of the Republic of Moldova and in its border vicinity; • Actions intended to change the constitutional order through violence, to undermine or liquidate the sovereignty, independence and territorial integrity of the republic; • Actions intended to undermine or liquidate the economic, technical-scientific, and defensive potential of the country, or create hazardous ecological situations; 	<ul style="list-style-type: none"> • Actions intended to change through violence the constitutional regime, to undermine the sovereignty, independence and territorial integrity of the country. These actions cannot be interpreted as against political pluralism, the achievement of constitutional rights and liberties of a person; • Activities which contribute in a direct or indirect way to military actions against the country or waging civil war; • Military actions and other violent actions that undermine the state's foundation; • Actions which will provoke exceptional events in transportation, telecommunication, economic entities and those of vital importance; • Espionage, transmission of information which represents a state secret to other states, as well as illegal obtaining or holding of information which is a state secret for its later transmission to foreign states or anticonstitutional organizations;

<ul style="list-style-type: none"> • Actions intended to create tension in the social sphere and to provoke social conflicts; • Terrorism, organized crime, drug trafficking, and illegal immigration; • Actions directed to harm the constitutional rights and liberties of citizens; 	<ul style="list-style-type: none"> • Manifested treason through giving assistance to a foreign state in its hostile activity against the Republic of Moldova; • Actions aimed at overthrowing through violence legally elected public authorities; • Actions that harm the constitutional rights and liberties of citizens, and there by jeopardize the security of the state; • The preparation and perpetration of terrorist acts, attempts on life, health and inviolability of highly placed officials of the republic as well as foreign public personalities visiting the Republic of Moldova; • The embezzlement of arms, munitions, combat technologies, explosive and radioactive materials, poisonous and toxic substances, drugs, and other kinds of materials, their smuggling, production and use; • Illegal transportation and possession of the above-mentioned substances, only if the state security interests are harmed through these illegal actions; • Setting up illegal organizations or groups which jeopardize the security of the state or the participation in their activity; cases of organized crime and/or corruption which undermine state security;
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Regarding the Supreme Security Council of the Republic of Moldova, which works in accordance with the Regulation approved by the Decree of the President of the Republic of Moldova of 08.10.97⁸, we had that the functions are correctly considered, although the sphere of activity stipulated in Art. 1 is incorrectly described:

– *“The Supreme Security Council is a consultative body which analyses the ministries and department’s activity in the sphere of national security, and forwards recommendations concerning the internal and external policy issues of the state to the President of the Republic of Moldova”*. We are not saying that this is a mistake committed by the Head of State, because in the very Regulation the provisions of the Law on the Security of the State are reproduced. We believe that in order to provide state security the SSC should not confine itself only to an analysis of ministries and departments, but also should consider some wider issues, like the analysis of the social-political situation of the country, policies of neighboring countries and of the international community concerning the Republic of Moldova, as well as other issues dealing directly with national security. It is

⁸ The Official Gazette of the Republic of Moldova, nr. 69-70/592 din 23.10.1997.

very important to define accurately the SSC's spheres of activity, these are directly related to the competence with which the *Supreme Security Council* should be invested, and hence the correctness and promptness of the actions of the President of the Republic.

Another issue that stirs discussions is the following: Should the *Supreme Security Council* be a consultative body alongside the Presidency or should it be a decision-making body headed by the President? The answer is – a consultative body, regardless of the form of government, structure or the socio-economic and political situation in the state. We have already mentioned in this study that the authority invested by the Constitution together with the right to exert the power of the state is the President of the Republic, who has certain responsibilities and obligations.

In a modern state, the delegation of attributions of a military nature to certain social and political groups is not possible. National defense and the maintenance of public order in the state are exclusively governmental responsibilities. Because of this, political party spirit is prohibited for the staff of the bodies which are part of the state military forces. Thus, it should be mentioned that heads of state, during the exertion of their mandates, should suspend their activity in any political party. Such kind of regulation exists in the constitution of Romania, France and other countries, but unfortunately, it is not stipulated in the Constitution of the Republic of Moldova, and this damages the exertion of the president's functions.

Therefore, we would like to mention that the decisions adopted by the Head of State should be his own. If the SSC were transformed into a deliberative body, the constitutional order would include another authority exerting state power, which would, therefore, require a constitutional and investiture provision from the Parliament as the supreme representative authority. We should also take into account the fact that although the Head of State is leading this body, the latter, being a collective structure, will be able to adopt certain decisions against the will of the President. Such a body would be possible in the case of a state implementing a regime of assembly as its form of government, which is typical of Switzerland, which has no Head of State. For the republican form of government, issues dealing with state security are traditionally within the competence of the Head of State. Even in monarchies, the commander in chief of the armed forces is the monarch.

Speaking about the SSC make-up stipulated by Art. 6, we consider that it is meaningless, because Paragraph 1 establishes the SSC's official members: "prime-minister, minister of defense, minister of foreign affairs, minister of internal affairs, minister of national security, minister of finance, Head of the Armed Forces General Staff, Head of Civil Security and Emergency Situations and Secretary of the Supreme Security Council", but Paragraph 2 allows the President of the Republic to appoint the SSC members and other persons with a responsible function.

We consider that the Law should not imperatively fix who should be a member of the SSC, because it is only a consultative body, and the President should decide inde-

pently who should be a part of this Council. Nevertheless, we consider that the Law can propose that the Council be formed of important ministers and officials of the Government, heads of security institutes, military commanders, political party leaders represented in the Parliament, and highly professional legal experts.

We also believe that in order to avoid some possible abuses, the SSC Regulation should include the SSC Service competence because the mandate: “the organizational and informational assistance of the Council’s activity” is too general. The same thing can be said about the SSC Secretary’s duties.

We will expose our personal opinion on the Coordinating Council concerning the combating of corruption and crime⁹. It is true that corruption and organized crime are considered as a certain danger to the Security of the State. Thus, the SSC should include in its activity the study of issues concerning this scourge of the society and recommendations to the President regarding some actions which should be undertaken by him. Otherwise, it is our opinion that the Coordinating Council double the activity of the SSC in the field of combating corruption and crime, or even make the SSC specialized in this specific sphere. Art. 21 (a) of the Coordinating Council Regulation, confirms this idea according to which it offers to the President consultations and recommendations on providing national security through combating corruption and crime. In having a Coordinating Council on the issues of combating corruption and crime, the President assumes the responsibility concerning the rate of corruption and crime in the state, as long as the Government is responsible for the situation in the state, and as long as the Head of State exerts control over the efficiency of measures undertaken by the SSC.

4. Conclusions and recommendations

Generally, the Republic of Moldova has a complete system of national security provision, and this system contains juridical regulations concerning the functioning and organization of the systemic elements.

At the same time, this important sphere, in our opinion, contains serious gaps and drawbacks. These are generated by a series of legislative acts that sometimes are not mutually coordinated, are reciprocally doubled, and contain incorrect and contradictory regulations.

In this context, we believe that the following actions have to be undertaken:

I) Through a Presidential Decree, a working group should be formed of highly qualified specialists, representatives of ministries, security bodies, and academics, whose mission would be to draft the following documents:

⁹ The Official Gazette of the Republic of Moldova nr. 116-118/859 from 27.09.2001.

- A) The National Security Strategy of the Republic of Moldova, which subsequently will be submitted to the Parliament for approval;
- B) The Law on National Security;
- C) The amendments to a number of laws that establish the status, the way of organization and functioning of the bodies which are part of the national security system, adjusting them to the stipulations of the new Law on National Security;
- D) The Supreme Security Council Regulation.

II) We believe that the National Security Strategy should include the national doctrine of defense, and should establish basic concepts of the national security activity. The strategy should synthesize objectives, specify definitions and correlate ways of actions for the state security components, having a structure that would include the following:

- The definition of national security interests;
- The specification of the objectives that lead to the protection and affirmation of these interests;
- The evaluation of international security environment;
- The identification of the internal and external risk factors;
- The directions for actions and main means for the provision of national security;
- The directions for actions and main means concerning the reintegration of the Republic of Moldova's territory.

The strategy should measure the security level of the Republic of Moldova, which is also characterized by many vulnerabilities in almost all the economic and social spheres. The Moldovan society witnesses the enlargement of unconventional risks, being deeply marked by the irrational actions of some forces that are promoting separatism as a way of splitting and weakening state sovereignty.

The strategy should be the basic document which grounds defense planning at the national level. The document would establish: the main objectives and tasks of the institutions involved in national security and defense; measures and actions that should be undertaken by these; natural, human, material, financial and other types of resources which should be ensured for the constitution and preparation of the forces involved in national defense and security, according to their missions.

Civic, non-governmental, academic and commercial structures must be attracted in the national security system, specifically those that possess technologies and information interfacing with national security and that can contribute to the balance of all areas of the internal sphere– economic, social, civil, and military.

In special terms of cooperation with NATO and the European Union, the strategy should stipulate the guarantees of constitutional order, improvement of the political system, development of the civil society, streamlining of the national defense capacity, modernization of the institutions providing public order, combating terrorism and organized crime, harmonization of the inter-ethnic relations, and formation of participatory conduct at the regional level.

After a prospective and perspective analysis concerning the general evolution of the Republic of Moldova, as well as the dynamics of the operative situation, the national security strategy should include the whole set of issues concerning public security, and should respond to the planned institutional and operational objectives and transformations. In this way, it establishes the structure, missions of the component forces of public security and order, logistics, and the manner of their management and cooperation. It is needed to identify the threats and risks to public order and security. Moreover, courses of actions should be established, as well as the principles of realization, definition of “public order” and “public security” concepts, as well as those of “maintenance”, “assurance”, and “reestablishment” of public order.

The strategy concerning Public Security will make more efficient the actions meant to prevent and combat crime; guarantee and protect constitutional rights and liberties, public and private property; assure the necessary climate for the operation of state institutions and citizen security according to the law. As a work variant, the idea of a separate Strategy concerning public security can be accepted, because the Government should be responsible for all of these matters.

In general, the strategy should be a medium-term planning document whose purpose is the harmonization and compatibility of the Moldovan system of national security and public order with those of the European Union states, by developing an efficient juridical and action framework, which would respond to the planned structural and functional transformations and objectives.

Based on the National Security Strategy, the ministries and the rest of public institutions involved in the sphere of defense, public order and national security will develop strategies, projects and plans meant to implement the security interests and objectives of the Republic of Moldova. The respective strategies will be submitted to the Government for approval in order to ensure the integration and complementary character of the actions and activities included in these documents. Coordination of the unitary application of the actions undertaken by the Government, ministries and the rest of public institutions involved in the sphere of defense, public order and national security, are to be achieved by the Supreme Security Council.

The President of the Republic will submit the strategy to the Parliament, due to the fact that the President is the guarantor of sovereignty, independence and territorial integrity. We consider necessary to amend the Constitution and establish that every newly elected president will submit the National Security Strategy to the Parliament for approval.

III) As we have already mentioned, the 3 laws (the Law on the Security of the State, Law on State Security Bodies, and Law on National Defense) should be transformed into one law only entitled the Law on National Security. It should explain the National Security Strategy and establish state security and public security tasks. It should define

more precisely and clearly the national security system and, depending on constitutional stipulations, it should establish missions, competencies, and responsibilities of each element of the system.

IV) A set of amendments to the normative acts stipulating the issues of the Armed Forces, the Border Guard Troops, the Informational and Security Service, and the civil protection bodies' organization and functioning should be prepared with the draft of the new Law on National Security.

V) Having defined all the issues concerning the National Security Strategy, obviously a new Supreme Security Council Regulation will be required which will more precisely establish its functions, structure and competencies.

THE SUPREME SECURITY COUNCIL IN THE NATIONAL SECURITY SYSTEM. THE ACTUAL ROLE, NEEDS AND REFORMS OPPORTUNITIES

Vadim ENICOV

The Supreme Security Council (*Consiliul Suprem de Securitate*) of the Republic of Moldova was established by presidential decree, passed on August 20, 1991. During this period it has been chaired successively by the three Moldova state presidents: Mircea Snegur, Petru Lucinschi and Vladimir Voronin. This study refers to the activity of the Supreme Security Council during 2001-2005, when President Vladimir Voronin chaired it.

**Supreme Security Council and national security policy.
The role of the Supreme Security Council in developing
and implementing the National Security Concept, in establishing
national interests, threats, risks and responses**

According to the Law on Security of the State (nr. 618-XIII, passed on October 31st, 1995) „The Supreme Security Council is a consulting forum which considers the activity of ministries and departments in the sphere of national security and develops recommendations to the President of the Republic of Moldova regarding the internal and foreign policy of the state”. The Supreme Security Council is one of the four supreme public authorities able to act in the sphere of national security; the other three authorities are the Parliament, the President of the State and the Government. The members of the SSC are approved by the President. Actually the Supreme Security Council includes the Prime minister; the Chairman of the National Security Committee of the Parliament; ministers of Defense, Foreign Affairs and European Integration, Economy, and other high level officials.

The Supreme Security Council, being endowed with large responsibilities in the sphere of national security, considers issues related to state security, public security, military security, economic security, ecological security, and other issues of high importance.

Consequently, it might be easily observed that both the competencies of SSC and its structure determine its role in establishing national security policy, and developing and implementing the National Security Concept. Being a consulting and collegial body, the SSC is also a forum where the information, opinions and proposals on the

most important security issues converge from its members – representatives of the supreme public authorities which have responsibilities on national security. Due to this fact, the decisions taken by the SSC are consistent, reflect a coordinated position of the state power branches, and have necessary conditions for efficient implementation.

The National Security Council and foreign policy. The role of the SSC in the Foreign Policy Concept's development and implementation

The Supreme Security Council hasn't had any direct involvement in the implementation of foreign policy. According to the Constitution, this is a specific activity of the President of the Republic of Moldova, who, as a constitutional authority, represents the state and, according to Article 86, carries on negotiations and signs international agreements on behalf of the Republic of Moldova. The Head of State executes his powers in foreign policy with the assistance of the Presidency Apparatus special services and his Foreign Policy Counselor.

The Supreme Security Council is a collegial authority whose responsibilities in the sphere of security have to be distinguished from the activity in the sphere of foreign policy. Nevertheless, some issues considered at the Council meetings have been connected to the foreign policy of the state in terms of bilateral relations with other countries, as well as the state's position on some international affairs.

In this context, many issues considered by the SSC may be listed. As an example, the decisions adopted in connection with international antiterrorism efforts or with international assistance have been either connected to the relations with different countries of the world, or to the official position of the Moldova Government on the issues (Session on the 6th of October, 2001). Also, the decisions to allow Moldovan Armed Forces to participate in international activities may be mentioned. (Sessions on the 13th of December 2002 and on the 21st of April 2003).

In the same context may be listed the decisions concerning migration (the sessions on September 24th, 2001 and May 3rd, 2002), concerning border security and human and drug trafficking (the session on October 26th, 2001), and concerning the Transnistrian conflict settlement (session on July 21st, 2004). These decisions also considered the relations with countries such as Austria and the Russian Federation.

The SSC sessions that considered these problems will be covered in the respective chapters of the study.

The Supreme Security Council and the Transnistrian conflict settlement process

The fact that the Supreme Security Council had been never involved in the Transnistrian conflict settlement process until the summer of 2004 is a very relevant one. The reason was that, during this period, only purely political ways of conflict settlement were considered. This approach has been characteristic to the period of time starting from the first agreements that were with the non-constitutional administration of the East regions of the Republic of Moldova, up until the development and negotiations of the so called “Kozak memorandum”. Unfortunately, not all the actions undertaken by the Presidential administration and the Government of the Republic of Moldova have had significant positive results. On the other hand, the attempts undertaken in order to bring public institutions and economic agents’ activities under the constitutional jurisdiction of RM have brought to light the true intentions of the “Smirnov group”, revealing at the same time the lack of co-operation among the guarantor-states.

During 2004, many provocative attacks were undertaken against the authorities of the Republic of Moldova. We might mention, for example, the actions of closing schools that teach the state language in Latin script, the illegal arrests of Moldovan citizens by Transnistrian police, and others. At the same time, by the end of the first semester of 2004 a lot of information had been collected referring to criminal activities in the East regions, actions that have revealed the real threats to national, regional and international security. As a consequence of these illegal and aggressive actions of the East region’s authorities, a set of political and economic measures has been developed, the objective of which is to make the Transnistrian authorities stop the criminal actions.

The first session of the Supreme Security Council that considered the problems of the Transnistrian conflict settlement process took place on July 21st, 2004. The issue was developed on the agenda of the session as following: “1. Concerning the transactions and other financial relations between the banks and other financial institutions of the East regions of the Republic of Moldova and the banks and financial institutions of the other states. 2. Regarding the export of metallurgical products produced by the Metallurgical Factory of Ribnița, and the export from other economic agents of the left-bank of Nistru”. At this session were presented collected data about the huge number of international financial operations that have used financial recourses coming from contraband, arm and munitions trade, and other illegal sources. The flows of funds were directed to financial institutions of such states as the Russian Federation and Austria, in order to legalize its provenience. The council concluded that these activities directly threatened the economic security of the Republic of Moldova and became a significant threat to regional security. The eventual use of these funds was also considered, presuming possible destination to criminal activities and international terrorism.

A separate, but closely related, problem was the export of goods from the Metallurgical Factory of Rîbnița situated in the East regions. This was included in the session due to information offered by Spain and the United States of America concerning the import of metallurgical products in these countries using false certificates claiming Moldovan origin. Analyzing the figures of the metallurgical products import into Moldova and export of such items to other countries from the Metallurgical Factory of Râbnița reveals a criminal schema of money laundering causing huge negative effects to the national budget and the budgets of the importer-countries.

During this Council session other issues were also discussed, such as the activity of schools in the East regions, the illegal arrests of Moldovan citizens by the militia of these regions, and the efforts of the separatist authorities to keep the farmers on the left-bank of the Nistru-river from cultivating their own lands.

At this session the fundamental decision was adopted to stop the negotiations with the administration of the East regions. Among the other decisions concerning practical measures developed at this session of the Supreme Security Council the following may be named: the request to different countries and international organizations to prohibit the illegal international financial activities of Transnistrian institutions; the interdiction of the export of goods by economical agents from the East regions that do not have any connection with the budgetary system of the Republic of Moldova; the development of a complex program concerning settlement of the Transnistrian conflict.

Afterwards, these problems and their solutions were discussed at the ordinary sessions of the SSC several times. Some new actions contributing to the re-invigoration of the settlement process were identified during these sessions. Among them the following must be named: adhesion to the international organization fighting against money laundering (Egmont Group); the negotiations concerning the problems of schools and others. It is necessary to mention that the Apparatus of the Supreme Security Council has become responsible for the permanent monitoring of the above mentioned issues, for the collection and systematization of the information concerning the activity of the institutions involved in this process.

The Supreme Security Council in crisis situations and struggle against corruption and terrorism

The struggle against corruption

Even before the parliamentary elections in the spring of 2001, the struggle against corruption was declared as a priority of the actual governing party. It was considered as the crucial problem that needed to be solved for a the state to function better, and to ensure public and economic security. The Supreme Security Council continuously focused its attention on this problem and considered its different aspects. During the

sessions either practical or particular cases, or issues concerning system functioning were discussed with the perspective of crucially diminishing corruption.

Realizing that the majority of the problems that affect state security are based on corruption, we will give some examples of the SSC activity in fighting corruption by describing particular cases that have become problems of national concern.

In autumn of 2003 a crisis situation emerged on the bread market and market of related products, manifested through the lack of necessary quantity and the low quality of raw materials. This economic crisis primarily affected the disadvantaged social strata. The increase of prices was a real danger for social security and measures needed to be imposed to protect the population.

Initially treated as a problem caused by the drought of the summer of 2003 and the small harvest, the problem attracted the attention of the SSC because a clear governmental program for solving the problem had been missing.

A number of inspections were initiated regarding the activity of state agencies having responsibilities in the field, concerning law observance and good administration of enterprises with preponderant state capital stocks, and especially of the joint-stock company “Franzeļu”, as well as economic activity of private businesses, observance of legalities on the import of wheat, methods of wheat storing, manufacturing and price establishment.

The inspections revealed violations of law by authority executives at different levels, starting with breaches of discipline and ending even with crimes, the most serious of which were cases of corruption. As a consequence of the results of the inspection, on February 28, 2004 the Supreme Security Council met in a session in order to investigate the situation of the bread market, and the legal framework. According to the decision of the SSC, improvement of the situation in this sphere and development of some governmental preventive programs were considered a duty of competent authorities. At the same time the attention of SSC members was also focused on the crimes committed by some executives of the Government and businesses. The Center for Economical Crimes and the Fight Against Corruption, the Ministry of Internal Affairs, and the General Prosecution were asked to investigate all these cases. As a consequence, several penal cases were initiated, and some of them ended with severe Court decisions.

Another aspect of SSC activity in the sphere of the struggle against corruption was the development of the National Strategy for the Fight Against Corruption and its Prevention, and of the Plan of activities for the implementation of the strategy. The necessity of developing such a strategy was outlined at the majority of the SSC sessions during the years 2002-2003. During this period an important effort was made to find the reasons and premises of corruption and its prevention, methods of prevention and struggle against it. Nearly all governmental institutions, legislative agencies and civil society took part in this process. The activities were permanently monitored and con-

ducted by the SSC service. After the implementation of the initial project, different local and international experts were involved in finalizing.

The strategy of corruption prevention and the struggle against it was determined as an actual priority of economic, political and social reforms in the Republic of Moldova. The strategy's goals were based on the understanding that corruption can not be exterminated only by punitive and restrictive measures, that a new assessment of this phenomena was necessary, including an evaluation of a combination of different methods, tools, and market-economic mechanisms. The document classified corruption according to international documents – the Civil Convention concerning corruption (Strasbourg, 04.11.1999), the Punitive Convention concerning corruption (Strasbourg, 27.01.1999), and other definitions of this – and stipulated opportunities for the adjustment of the national legislation to the standards of conventions and anticorruption treaties. The prevention and anti-corruption measures have been identified as priority and complementary actions of:

- the improvement of the legal framework and law enforcement activities;
- the prevention of corruption in public institutions and political processes;
- the enhancement of cooperation of public institutions with civil society, including raising public awareness and civil education.

The plan of activities contains the list of planned actions, responsible institutions and terms of implementation. It is necessary to mention that coordination of the planned actions was established as a duty of the SSC service.

On April 15, 2004, a session of the SSC was convened to consider this issue. Beside members of the SSC, other officials participated in the session: representatives of the Financial Commission, Fiscal Service, Supreme Court of Justice, Customs, Border Guards, Statistic and Sociology Departments, Trade Unions and Employees, Universities and NGOs. Several participants presented their ideas concerning the Strategy Project and the Plan of Action. The means of adoption and implementation of these documents were also discussed.

During this session fixed terms were adopted for development and approval of the Strategy and of the Plan of Action by the Government, and their subsequent submission to the Parliament. The final phase of this activity was on December 16, 2004, when the Parliament adopted the Resolution Nr. 421-XV concerning approval of the National Strategy of the prevention and struggle against corruption, and of the Plan of Action. Starting from the year 2005, with the support of the European Council, many practical actions have already been implemented for the accomplishment of the planned tasks.

The struggle against terrorism

The activities of the Supreme Security Council concerning the struggle against terrorism obviously have been influenced by international developments during recent years. Before 2001 terrorism was considered mostly as a problem of only a few states, and antiterrorism actions were designed accordingly. Taking into account most of the international agreements about the struggle against terrorism, in our opinion, international cooperation today is far from our expectations. The same approach to this problem was also characteristic to the Republic of Moldova. After the tragic events on September 11, 2001, the definition of international terrorism received new content, and revealed the real threat that terrorism represents to all states. At the same time, the specific conditions that might encourage terrorism's development have been considered from a new perspective, as, for example, illegal operations with money, arms trafficking, the existence of different regimes and regions that are not controlled by the international community, the security of transports and communications.

The first attempt of the Supreme Security Council of the Republic of Moldova to find solutions to the problems related to international terrorism took place on October 6, 2001. The opportunities of international cooperation in this sphere were discussed at this Council session and some actions supporting this cooperation were planned. The decision approved was mostly a political one having a declarative content concerning the cooperation of the Republic of Moldova with other countries in the struggle against international terrorism. The necessity of such a decision was caused by the events mentioned above and by the cooperation of the world states in the undertaken activity. At the same time, a decision was adopted at this session concerning permission to military airplanes to over fly and land at the national airports.

The priorities of the SSC activities for the following years were discussed during the session on October 6, 2001. Thus, the problem of international cooperation in the sphere of terrorism was a subject of discussion during the sessions of December 13, 2002, and April 21, 2003. The approval of the participation of the National Army engineers at the operations conducted in the framework of the International Security Force in Afghanistan was on the agenda at the session on December 13, 2002. The participation of the National Army in the international post-conflict humanitarian operations was considered during the session on the 21st of April 2003. In both cases the participation of the Moldovan armed forces in the mentioned operations was accepted. The decisions have been implemented.

Also in the framework of counteraction of international terrorism, during the sessions of the SSC, the issues concerning the security of traffics were also considered. In this context it is necessary to reveal the role of the SSC in the evaluation of the real situation and the development of proposals aiming to improve the situation. Being a subject of concern for many law enforcement agencies of the state that have specific responsi-

bilities in the area, as well as for the senior executives of these agencies, the necessity to evaluate the real situation has been the basis for approval of a number of classified operations. As a result, a low level of air traffic security was revealed. After obtaining some negative results, on August 28, 2004, a council session was convened with the purpose to consider the issues concerning the real security measures implemented at the “International Airport Chisinau” State Company. According to the decision of the SSC, the relevant agencies were charged to implement necessary actions and improve the situation. That has also included the development of some complex cooperation plans among relevant governmental agencies, continuous training of personnel and the renovation of the technical equipment. At the same session the decision was made to punish the persons who were considered responsible for the low security level.

After this session some measures for the improvement of the situation were taken, but they were considered insufficient by the SSC. This fact determined that a new session was convened on the same subject, on October 14, 2004, where the level of execution of the SSC’s decisions was considered. At this session reports from responsible persons about the undertaken measures were presented and they were asked to extend and intensify the relevant activity. This case also gives an example of the way the Supreme Security Council controls the execution of its decisions.

At the same session the issue of the state air space over-fly legality and security was considered. It concerned especially the unauthorized and uncontrolled flights to/from the Eastern regions of the country. This problem is closely related to the Transnistrian conflict settlement process, but also obviously weakens antiterrorism efforts. Stopping the activity of the Tiraspol Airport was determined as a duty of the Government, but, because of outer reasons, the decision of the SSC concerning this subject was not executed.

Crisis Situations

The Supreme Security Council of the Republic of Moldova has been summoned as a competent body to take imperative decisions in many crisis situations. This is because the majority of SSC members are heads of powerful institutions and key ministers. This is also because representatives of the Parliament and Presidency are among its members. More than that, at the SSC sessions any other persons can be invited who have relevant responsibility in a specific filed. Therefore, when a decision is made many bureaucratic obstacles are being omitted concerning endorsement of some actions or legal drafts like legal expertise by the relevant governmental institution and following submission to the Government, or by the relevant parliamentary commissions and following submission to the Parliament.

The SSC decisions do not have the power of a legal provision and are not mandatory, they are counseling, and have the status of a recommendation. The simplicity of

the procedure for passing decisions is also due to this. A problem or a crisis situation that appears is being studied in a very short time by every concerned institution; afterwards the members of SSC discuss it, consider other competent persons' opinion and make the decision. The advantage of this decision-making mechanism is its efficiency and simplicity during crisis situations.

The presence of high level officials from different institutions allows a quick and comprehensive assessment of all important issues and a viable and practical decision. This method has proved its efficiency over time.

Some of the problems discussed during the SSC sessions might be considered as crisis situations, such as the bread crisis or the situations provoked by the Transnistrian conflict, mentioned above.

Another example of the SSC activity during a crisis situation was its activity concerning the cases of smuggling petrol. In fact, from the beginning of its activity in a new format in 2001, the SSC has been aware of threats to national security represented by cases of smuggling petrol. It was obvious that smuggling surpassed the level when it was just a crime under the Penal Code and became a real threat for the economic security of the state. The prices for petrol products have been growing continuously growth, but the budget corresponding revenues continuously decreasing. The economical security of the state has become dependent on some illegal companies ruled by organized criminal groups, which at any moment could provoke a large crisis. A long period of time has been necessary for the evaluation of this phenomena and development of some functional counteracting mechanisms.

The crisis situation on the petrol products market was discussed during the session on May 24 2002. During this session were presented information and results of investigations conducted by several state institutions such as the Ministry of Interior, Information and Security Service (Intelligence Service), General Prosecution, Customs Department, Sociology and Statistics Department. These reports were analyzed and systematized, and the mechanism for counteractions was outlined. It became obvious that one of the main causes of the contraband with petrol products was the high level of corruption in state institutions, from the custom checkpoints and to the control of seals at petrol stations. Some administrative measures had to be imposed.

The Government was forced to undertake some actions to repair the situation. The activity of several customs subdivisions were checked, and many cases were discovered regarding staff involvement in contraband schemas. The law enforcement agencies initiated several penal cases and the guilty persons were prosecuted. Governmental decisions were adopted on the issue, some drafts concerning legislation improvement have been developed, and some measures concerning the efficiency and effectiveness of inspections and checks performed by subdivisions of the Standards and Metrology Service, and Fiscal Service.

Supreme Security Counsel and the democratic control over the Armed Forces

During its activity the SSC several times has considered issues related to the Armed Forces. The situation has been discussed in different aspects: the discipline of soldiers and officers, the integrity of the military property and the modernization of the National Army.

On December 13, 2001 a session was convoked concerning the situation in the National Army, precisely regarding issues related to the sale of military equipment, and also regarding the defense minister's report on some aspects of the National Army's international cooperation. Several cases of law violations related to patrimony sale were revealed, and issues related to military post-conflict operations were discussed. The decision of the SSC established some measures aiming to improve the situation in the field.

During the SSC session on March 6, 2003 the crime level and the observance of constitutional rights with respect to the military personnel in the National Army were discussed. The a basis for this session's convocation was information about crimes committed by military or against them. An unacceptable situation was discovered in this field and the Government and other institutions saw it as their duty to establish an efficient struggle against criminality in the Armed Forces. Some responsible officials were sanctioned.

An important issue discussed during the SSC sessions was the modernization of the army. After the examination of several drafts and proposals about army reform, which were also based on a number of recommendations of the Council of Europe, the Ministry of Defense developed and submitted to examination the Concept of the National Army's reform and modernization. At the session on May 13, 2004, this concept was approved, and the decision was made to send it to the Government for examination. Also at this session were discussed problems about the conditions of weapons storage. An Action Plan was approved and it was decided to inspect the storage facilities of all the institutions having weapons. The decision has been executed.

Supreme Security Council and national security system budget. The capacity to influence the budget priorities

During its activity the Supreme Security Council has not been involved in budgetary policy. This being an unspecific domain for the "institutions of power", whose representatives compose the majority of SSC members, the budgetary policy has been in the attention of the SSC only occasionally, through the examination of some issues that could influence the budgetary process.

Therefore, at the SSC session on October 15, 2002, the observance of the Law on prevention and fighting against money laundering was discussed. We say that it is a

problem that has influence on the budgetary process, because money laundering is a field in which fraud and several crimes have been committed that directly influenced the financial discipline and tax collection of the budget. The infringements and committed offenses in this field are related to the economical activity of companies, financial institutions and control agencies of the state. According to the SSC decision some administrative measures were outlined aiming to improve the situation in this field.

One of the problems discussed recently was related to the security of banking and financial sphere of the country (the session on March 30, 2005). The necessity of discussing this problem was imposed by the increasing number of cases of illegal activities by some banks, of cases of intentional or fictive insolvency, and of cases of money forging and use. At this session were outlined tasks related to the activity of institutions that protect the law and the National Bank of Moldova. It also referred to the National Bank of Moldova's activity concerning control on legal authorization, supervision and settlement of the activities of bank and financial institutions.

The capacity of the Supreme Security Council and its apparatus to fulfill its missions attributed by law. The capacity of the Supreme Security Council to address issues that are not stipulated by law

The analysis above indicates a big number and the diversity of problems discussed during the SSC sessions. We consider that the responsibilities attributed by law to the SSC are fully executed. We would also like to outline the role of the SSC in solving less traditional problems for national security.

Thus, at the session held on January 25, 2002 were discussed problems related to the ecological situation and the priorities of the ecological security related activities. At the Council session were presented reports of academics regarding such issues as air and water pollution, soil erosion and persistent threats of landslides. According to the SSC decision the Government was obliged to develop the National Program for ecological security and assistance.

Though the existent legislation does not provide responsibilities to the SSC in this field, due to their importance, these issues were also discussed at the SSC session. By now some modifications have been made to the legal framework, and giving the SSC responsibilities for the ecological security of the state.

In the same framework, at the SSC session on June 20, 2003, the situation with national forests was discussed. By a special decision the Government was asked to develop a program for forest realm rehabilitation. The decision was executed concerning the implementation of the program. Concerning this implementation, the SSC service is thill monitoring the level and quality of its execution.

Another less specific issue was the situation related to construction and measures for security in construction, discussed at the session on July 31, 2002. The need to examine this issue was motivated by the Ministry of Construction and Territory Development. The experts of this ministry developed complex research concerning the situation in construction in different localities of the RM, and concerning eventual threats for the population. Several violations were reported regarding illegal construction and unauthorized reconstruction of existent buildings. Especially, the threat of crumbling refers to living blocks that were modified illegally. As a duty of the Government and other institutions, a complex action plan was developed against illegal construction and the assurance of construction security.

A problem that was permanently in the attention of the SSC and its service is the national and international adoptions and children's rights protection. The existent problems were discussed at several sessions, the last one on January 11, 2005. At this session, a decision was made to establish by the Government the National Committee for adoptions and a working group to draft a law on the juridical status of adoption. The decision was executed.

Proposals

The activity of every state institution needs permanent improvement. The social and state development, new international relations impose the development and implementation of new mechanisms of activity, the identification of new solutions and the elimination of threats to national security.

Recently, on June 3, 2005, the President's decree from 30.05.2005 on the SSC constitution was published. According to this decree the membership of the council was changed by excluding some previous members. Also, the provision was excluded concerning the creation of specialized commissions of the SSC.

Among the objectives of improving the activities of the SSC are the following: developing the national security concept, the Law on the Supreme Security Council, and the modification of the normative acts related to national security.

ESTABLISHMENT OF THE NATIONAL SECURITY SYSTEM AND EVOLUTION OF THE ROLE OF THE SUPREME SECURITY COUNCIL ROLE

Viorel CIUBOTARU

I. The Role and Influence of the Supreme Security Council and its Staff at different stages of the process of the establishment of the National Security System

1. Stages of the Process of the establishment of the National Security System

A. Initial and Present Structure of the National Security System

The Declaration of Sovereignty of the Republic of Moldova within the USSR was adopted on the 23rd of June 1990. That *political-legal fact* further allowed the government of that time to undertake a number of actions focused on the establishment of the first bodies intended to fulfil some functions of the national security system (NSS).

Thus, in a period of two months after the adoption of the Declaration, the Department for Military Issues was created and carabineer troops were established. Such actions of the Moldavian Government were blocked by the USSR authorities of that time. During the first term of 1991, both the carabineer troops and the Department for Military Issues were dissolved by Government Decree. The invoked argument was the “campaign” of intimidation by the Moldavian Government of secessionist provokers of the districts of Comrat and Vulcănești in October 1990.

The events occurred on the 19th-24th of August 1991 in Moscow – the establishment of the “State Emergency Committee” (the well-known “GKCP”) – boosted the establishment of the Supreme Security Council (SSC) and of the whole national security system in the RM. The SSC was set by presidential decree on the 20th of August 1991, in full putsch.

After the establishment of the SSC, throughout a six-month period, were set three essential bodies of the national security system were set: in September, the Ministry of National Security; in October – the Troops of Border Guards; in February 1992 – the Ministry of National Defence. The above-mentioned three bodies and the SSC formed at the initial stage the frame and the core of the SSN.

In addition to these, during the first months of development of the NSS, a number of *ad-hoc* working committees were also created, such as the *Parliamentary Committee in charge of developing proposals concerning the settlement of problems in the east region*

of Moldova and the *Parliamentary Committee in charge of investigating the causes of the socio-political crisis in the Southern region of the Republic of Moldova* (Căușeni and Ciadâr-Lunga).

The *ad-hoc* bodies of the national security system also had some temporary prerogatives imposed by the conjuncture or by the conjunctural way of dealing with vital state issues inherent to the political class and the governors of that time. Among those prerogatives were:

- Developing proposals (within a one-month time-frame!) concerning the ways to solve problems, and submitting them to the Parliament for examination (the *Parliamentary Committee in charge of developing proposals concerning the settlement of problems in the east region of Moldova*);
- Pointing out the reasons for the tense socio-political situation in the Southern area of the Republic of Moldova (*Parliamentary Committee in charge of investigating the causes of the socio-political crisis in the Southern region of the Republic of Moldova* (Căușeni and Ciadâr-Lunga) after the tragic incident occurring during the night of 23rd to 24th of May 1992);
- Informing the Parliament of the Republic of Moldova and public opinion about the results of the investigations (*Parliamentary Committee in charge of investigating the causes of the socio-political crisis in the Southern region of the Republic of Moldova* (Căușeni and Ciadâr-Lunga) after the tragic incident occurring during the night of 23rd to 24th of May 1992);
- Submitting to the Parliament of the Republic of Moldova proposals concerning the measures for improvement of the socio-political situation in the Southern area of the Republic of Moldova, which was destabilized as a result of the activation of armed criminal elements, who attempted to take over legal bodies of state power (*Parliamentary Committee in charge of investigating the causes of the socio-political crisis in the Southern region of the Republic of Moldova* (Căușeni and Ciadâr-Lunga) after the tragic incident occurred during the night of 23rd to 24th of May 1992).

The fulfilment of the above-mentioned prerogatives contributed, although partially, to the establishment of the system of prerogatives of the NSS.

At present, in addition to state border guard, the NSS also fulfils the following prerogatives:

- Ensuring civil protection against natural and environmental *calamities*, accidents and catastrophes, epizooties, fires, as well as applying means of modern destruction (Department for Civil Protection and Emergencies);
- Ensuring state security in the *economic, political, internal affairs, and socio-economic development* fields (Information and Security Service, Department for State Protection and Guard, Border Guards Department);
- Fighting against *terrorism* (Information and Security Service, Department for State Protection and Guard, Border Guards Department);

- Developing a *strategy for the development of society* in the political, economic, social and cultural fields (Presidential Council);
- Protection and *guard of the people who enjoy the right to state guard* and guard of objects under its competence (Service for State Protection and Guard).

Practically, all the prerogatives were granted to the NSS throughout the period 1994-2001, mainly during the period 1995-1998.

B. Criteria for Staging the Establishment of the National Security System

From the time of the establishment of its first bodies up to present, the prerogatives of the NSS have substantially, although unilaterally, evolved, in parallel with the prerogatives of each body of this system. The sphere of NSS competence has *permanently enlarged* both due to the establishment of new bodies and to the integration of existing bodies into the NSS, as well as due to granting new prerogatives to bodies of the NSS or to the co-optation of new prerogatives as a result of the integration of new bodies into the NSS.

The Supreme Security Council has been the first form of institutionalization of a prerogative directly related to national security within the Moldavian central government. For almost two months, the SSC has been the only body empowered with relevant prerogatives to the NSS. At present, the NSS comprises a large (although absolutely incomplete and even inadequate from some viewpoints) spectrum of bodies with relevant prerogatives for the NSS. Therefore, the development of the NSS' composition can be, by itself, a relevant criterion for examining the development of the structure of the NSS.

To be operational and to fulfil its missions, the NSS needed a conceptual mechanism to generate its prerogatives. Such a mechanism ("The Concept of Foreign Policy of the Republic of Moldova", "The Concept of National Security of the Republic of Moldova", "The Military Doctrine of the Republic of Moldova", "The Law on State Security", "The Law on the Bodies of State Security") was practically developed and approved in 1995, throughout one year. Seven years later, in 2002, a new conceptual document was approved – "The Concept of Military Reform".

Such a temporal and systemic discontinuity excludes in fact the possibility of applying this criterion for the development in time of the conceptual contents of the NSS.

C. Stages of Establishment of the National Security System

If the process of development of the system of prerogatives in the field of national security and the process of modification of the composition of NSS bodies are examined from the perspective of the respective two criteria, four stages can be easily identified:

- 1) *First Stage*. This stage started when the SSC was established and ended late in 1992, when the frozen situation of the Transnistrian conflict was institutionalized.
- 2) *Second Stage*. This stage started after an intermezzo of almost one year. It began with the reorganization of the Ministry of National Security (in September

1993) and with the enlargement and the definition of its prerogatives. This stage ended late in 1995, when the list of NSS prerogatives and bodies was configured. The process of their practical implementation started in 1997, marking the beginning of the third stage.

- 3) *Third Stage*. In the third stage, a new composition of the SSC was established and the NSS prerogatives, set up during the previous stage, were put into force. The third stage ended with the reorganization of the Ministry of National Security into the Information and Security Service (in 1999).
- 4) *Fourth Stage*. The full modification of the SSC's composition in 2001 can be considered as the beginning of this stage. After several months, the Centre for Fighting against Economic Crimes and Corruption (CFECC) was set up.

The four stages lead as to the application of the third criterion – a combined one: the development of the SSC composition criterion which reveals in an exact and relevant manner the real situation in the field of the Moldavian policy of national security.

2. Criteria for Staging the Activities of the Supreme Security Council and the Corresponding Stages

The work of the SSC and of its Staff can be staged according to the following criteria:

- governance (from the viewpoints of numerical and nominal SSC composition);
- from the viewpoint of SSC prerogatives according to the above-mentioned criteria, the following stages can be defined in the work of the Supreme Security Council.

The *governance* criterion leads to the following stages:

- I. *First stage*: 20.VIII.1991 – 30.VII.1993 (the period of political domination of President Mircea Snegur in coalition, volens-nolens, with the People's Front and its exponents);
- II. *Second stage*: 30.VII.1993 – II.1997 (the period of political domination of the political group represented by the Agrarian Democratic Party in coalition with President Mircea Snegur, who was rather their hostage);
- III. *Third stage*: II.1997 – IX.2001; (the period of political domination of the group represented by President Petru Lucinschi);
- IV. *Fourth stage*: IX.2001 – up to present; (the period of political domination of the Communist Party and of the groups represented by the Party led by President Vladimir Voronin).

The prerogative criterion. The Supreme Security Council was set up by presidential decree on the 20th of August 1991, during the Moscow coup attempt. From that date to 1997, the Supreme Security Council functioned without any legal basis. Apart from the presidential decree of the 20th of August 1991, there was no other legal document considered as strategic concerning the work of this body.

In 1995, the *Law on state security bodies* and the *Law on state security* were passed, which entered into force in 1997. These laws empowered the Supreme Security Council to analyze the activities of all bodies involved in ensuring state security and to make recommendations to the Head of State.

The Regulation of the Supreme Security Council defining the prerogatives of this body, of its members and its composition was signed on the 8th of October 1997 by President Petru Lucinschi. According to the prerogative criterion, the activities deployed by the Supreme Security Council can be classified in the following stages:

- I. First stage: 1991 – February 1997;
- II. Second stage: February 1997 – up to present.

No new documents have been adopted since 1997 to redefine the prerogatives of the SSC.

3. Stages in the Work of the Supreme Security Council and its Role as a Body within the National Security System

Since the issuance of the presidential decree (on the 20th of August 1991) on the establishment of the Supreme Security Council, there have been no other available documents concerning its activities. The data used below were found in mass-media sources from that time.

- A. First stage: 20.VIII.1991 – 30.VII.1993
(period of political domination of President Mircea Snegur in coalition, volens-nolens, with the People's Front and its exponents)

This period was marked by the domination of the political process by the representatives of the People's Front, in collaboration (sometimes controversial) with President Mircea Snegur and with many political personalities and officials in his immediate circle. At that time, the People's Front was the most popular political force in the Republic of Moldova; it supported continuously Mircea Snegur during his accession to the supreme leadership and to his election as President of the Republic of Moldova. Such a collaboration ended because of development in the Transnistrian conflict that forced Mircea Snegur to accept integration into the Commonwealth of Independent States. This was followed by the approach to the agrarians and by the "renunciation" of the ideas promoted by the People's Front.

Legal Basis for the Establishment of the Supreme Security Council. The Supreme Security Council of the Republic of Moldova was set up by the Presidential Decree no. 162 of the 20th of August 1991. The legal foundation for this document was point 2 of article 113/4 of the Constitution of the Republic of Moldova of 1978, providing that the President is empowered to undertake the required measures aimed to **defend the sovereignty and the territorial integrity of the Republic of Moldova**, by the means of consultative bodies set up to that end.

Such provisions were included in the Fundamental Law of the Republic of Moldova on the 3rd of September 1990, when the Supreme Soviet passed the Law of the Republic of Moldova on the institution of the function of President of the Soviet Socialist Moldavian Republic and the Law on some amendments to the Constitution of the Soviet Socialist Moldavian Republic.

According to the Presidential Decree, the establishment of the SSC was *aimed* at the “co-ordination of all actions focused on ensuring the security, the independence and the territorial integrity of the country”.

The goal expressed in the Decree, including “ensuring the independence of the country”, involves several points. First, the GKCP group and its activities were beyond the legal frame, while its activities were intended to violate the laws of the USSR. Compared to the GKCP, Chişinău’s authorities were legitimate and their activities were aimed against usurpers.

Thus, in the lack of a central (federal) power, the political power in the Republic of Moldova, as a component part of the USSR, committed to ensure the functioning, the legality and the legitimacy in the territory of the republic (the Decree uses the word “republic”, not “state”). The sovereignty of the people proclaimed in summer 1990 can be included within that legal and legitimate frame.

The Presidential Decree on the establishment of the SSC was a reaction to the events occurring in Moscow on the 19th of August and a natural outcome (although, seldom realized or wished) of the political developments during the period 1985-1991. The coup attempt made by the GKCP and its possible success threatened the transformations undertaken previously, including the proclamation of sovereignty. Throughout the year 1991, the idea of proclaiming independence was broadly promoted, including by the representatives of the political authorities of our country, while the overthrowers aimed mainly at avoiding such a development.

Composition of the Supreme Security Council. Under its initial composition, the SSC included the following members:

1. Mircea Snegur, President of the Republic of Moldova;
2. Alexandru Moşanu, President of the Parliament of the Republic of Moldova;
3. Valerii Muravschi; Prime-Minister of the Republic of Moldova;

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| 4. Tudor Botnari, | Head of the State Security Committee; |
| 5. Ion Coștaș, | Minister of Defence; |
| 6. Nicolae Țîu, | Minister of Foreign Affairs, |
| 7. Constantin Antoci, | Minister of Internal Affairs, |
| 8. Alexandru Arseni, | Head of the Human Rights and National Relations
Committee of the Parliament of the Republic of
Moldova; |
| 9. Victor Berlinschi, | Head of the Committee on Issues of Crime Figh-
ting; |
| 10. Mihai Cotorobai, | Head of the Local Government and Local Economy
Committee; |
| 11. Gheorghe Mazilu, | Head ad-interim of the Committee for State Security
and Military Issues; |
| 12. Tudor Panțîru, | Head of the Committee for Law Issues. |

After the dismissal of Valerii Muravschi, the position of Prime-Minister was held ex officio by Andrei Sangheli (02.08.1992).

Issues Raised by the SSC

Throughout the period 20.08.1991 – 30.07.1993, the press of that time reported *nine* meetings of the SSC. The first meetings of the SSC (15.10.1991, 1.11.1991) held after the proclamation of independence focused on setting up the national armed forces, the border guard troops and the police.

The situation in Western Transnistria (the Eastern area of the Republic of Moldova) and the armed Transnistrian conflict were among the issues raised at those meetings. The worsening of the situation in the Eastern area imposed the need to declare a state of emergency and to set the direct command of the President of the Republic of Moldova by the means of the Supreme Security Council (28th of March 1992).

In the lack of a legal frame defining the limits of the SSC prerogatives (except the Presidential Decree of the 20th of August 1991 which simply provides for the “co-ordination of all activities to ensure the security, the independence and the territorial integrity of the republic”, without specifying the forms and the mechanism for such a co-operation), it can be assumed that as a result of the institution of the direct command of the President of the Republic of Moldova by the means of the SSC, the Head of State took full responsibility, while the SSC was transformed into a body which held supreme state political and decision-making power.

The meetings held on the April 11, June 20, July 3, and July 17 focused exclusively on the situation in Western Transnistria, taking into account the position of the Russian Federation in the conflict and the attack made on the town of Bender by bands of mercenaries. The meeting held on the August 11 focused on the Moldavian-Russian

Agreement on the Stabilization of the Situation in the Conflict Area and on the programme of the holiday (!) “Limba Noastră” (“Our Language”).

Privatization was another issue largely dealt with by the SSC. The sudden acceleration of the privatization process, after an artificial equivocation of about one year, was debated within the SSC meeting of the May 7 1992, while the armed conflict was in full swing. The inclusion of the privatization issues in the SSC agenda reveals the quality of the political leadership of the country. That is probably the reason why the Transnistrian conflict served as a tool for promoting personal interests different from the country's interests. Further developments in the field of privatization largely confirmed the above.

Taking into account the political developments of that time, in particular, the developments concerning the “separatism” issue, the actions undertaken by the Moldavian authorities can be qualified as unsatisfactory as they did not give any positive results from the perspective of national security. Among all the issues tackled by the SSC, the establishment of border guard troops is the only issue which could be considered as having satisfactory results.

National armed forces revealed their real quality in the armed conflict of 1992: they did not succeed to eliminate the problem of separatism. During the armed conflict, the units of special police were the most efficient as they had existed in Soviet times, too, and they had been trained following the model of Soviet special units.

The developments of the Transnistrian conflict were a total failure for the Republic of Moldova. The SSC did not succeed in setting the conflict, could not avoid armed confrontation and did not have an adequate reaction to the intervention of Russian troops against the sovereignty, independence and territorial integrity of the Republic of Moldova.

In its early stages, the SSC did not strengthen the capacity of national security. The results of its activities were negative, practically a total and resounding failure, and the country is still facing the effects of their enormous damage to national security. That period determined the further developments of the Republic of Moldova as a social-political, geopolitical and geo-economic entity.

B. Second Stage: 30.VII.1993 – X.1997 (Snegur – Agrarians Period)

The new composition of the SSC was formally approved in July 1993, although the Council entered a period when it was impossible to exert its functions formally after President Mircea Snegur declared his new political course in the speech at the plenary session of the Parliament, on the 24th of December 1992. As a result of that speech, in which Mircea Snegur dissociated himself from the course promoted by the People's Front exponents within the SSC (where they held 7 in 12 mandates) and in the Parliament leadership, the Republic of Moldova entered a political crisis (which started with the demonstrative dismissal of the People's Front representatives in the Parliament leadership on the 28th of January 1993, while President Mircea Snegur was making an official

visit to Paris). The crisis turned out fatal for President Mircea Snegur. It ended up with the redistribution of the levers of political power between Mircea Snegur, Petru Lucinschi (who had been recalled from the function of ambassador of the Republic of Moldova in Russia and elected on the 4th of February 1993 by the “agrarian” majority as President of the Parliament of the Republic of Moldova) and Andrei Sangheli, the leading exponent of the group with the euphemistic and totally inadequate name of “Agrarians”.

Thus, the period under consideration can be characterized by the progressive loss of political influence by Mircea Snegur in favour of the agrarian group. This period culminated in Mircea Snegur losing the presidential election to Petru Lucinschi.

Composition of SSC. The transfer of the political power from the People’s Front of Moldova to the “agrarians” had repercussion on the SSC’s nominal composition. The new Council included 9 members (instead of 12):

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| 1. Mircea Snegur, | President of the Republic of Moldova; |
| 2. Petru Lucinschi, | President of the Parliament of the Republic of Moldova; |
| 3. Andrei Sangheli, | Prime-Minister of the Republic of Moldova; |
| 4. Constantin Antoci, | Minister of Internal Affairs; |
| 5. Vasile Calmoi, | Minister of National Security; |
| 6. Nicolae Chirtoacă, | State Councillor to the President of the Republic of Moldova; |
| 7. Pavel Creangă, | Minister of Defence; |
| 8. Gheorghe Gusac, | State Minister; |
| 9. Nicolae Țîu, | Minister of Foreign Affairs, since the 22 nd of October 1993 – ambassador of the Republic of Moldova in the United States. |

All 7 supporters of the People’s Front were replaced with “agrarians”, more exactly – either with people promoted by Andrei Sangheli – V. Calmoi, P. Creangă, or with people promoted or maintained by Mircea Snegur – C. Antoci, Gh. Gusac, N. Țîu (Petru Lucinschi, who had recently come from his “exile” as ambassador had not succeeded by that time to restore or to recruit a network of trust worthy people to be promoted).

Key-Issues Faced by the State during That Period

Political Instability. From the political perspective, the stage under consideration was an unstable one. The triumvirate triad Snegur-Lucinschi-Sangheli turned out to be a tactical one and shortly after the parliamentary election of the 27th of February 1994, it dissolved. Each of the above-mentioned political personalities held a key position in the state and maximally exploited his position during the political confrontation with his opponents. The quality of the SSC was affected by such a confrontation.

In July 1995, Mircea Snegur declared his total dissociation from the “agrarian” group and his opposition to the tandem Lucinschi-Sangheli. From that time forward,

SSC, whose members were Mircea Snegur, Petru Lucinschi and Andrei Sangheli, the latter being declared adversaries, could not operate any longer, at least formally.

On the 31st of October 1995, the Parliament adopted the *Law on State Security Bodies* and the *Law on State Security*, but these laws entered in force 14,5 months later. The laws had been adopted when Petru Lucinschi was President of the Parliament and entered in force only when Petru Lucinschi became Head of State.

Acceleration of Social-Economic Decline. During the period 30.VII.1993 – X.1997, the socio-economic decline intensified considerably and reached a level which could be qualified as collapse. Most people lived under the poverty line. Regardless of the massive privatization, of putting into circulation a convertible currency, and of market liberalization, the economic reform did not progress. A large exodus of the labour force to Russia, to Balkan countries and to European Union countries started during that period. The foundations of the demographic collapse were laid. In addition, there was an explosion of criminality, including of organized crime.

Privatization. The process of privatization was under way, with a particular intensification within the period August 1994-July 1996. The obsolete concept of privatization developed early in the '90 was abandoned. The process of privatization, considered previously as the key to successful economic reform and to increasing people's welfare, transformed into the massive appropriation of state ownership by the political-financial groups of the duumvirate of the "agrarians" who ruled the country. The most attractive were the economic units supposed to bring immediate revenue. In fact, the real purpose of the process of privatization consisted of enriching some circles instead of fostering economic entities and economic development in general, with a further positive impact on other sectors of state security.

Legalization of "Gagauzian" Secessionism. In the period under consideration, the Moldavian authorities attempted to settle some basic problems faced by the Republic of Moldova. The Parliament dominated by the Lucinschi-Sangheli group granted unconditioned territorial-administrative autonomy to a non-indigenous cultural-territorial group which forms 3,5% of the country's population, does not live in the same area, but in three micro-areas separated by localities with indigenous and allogeneous population.

Such a decision made by the ruling group led in fact to the legalization of paramilitary anti-state criminal groups from a number of localities of the Southern area of the country. The establishment of the "*Gagauzian*" TAU was a political step towards the legalization of the Tiraspol separatist regime and did not really solve the problems faced by the "minorities". It was rather a direct attempt on the national security of the Republic of Moldova.

Consolidation of the Occupation Regime in the Eastern Area of the Country. The situation in the *Eastern area of the Republic of Moldova* did not evolve positively. The endeavours undertaken in that sense can be reduced to continuous concessions made by Chişinău and the legalization of most aspects and of the main functions of the separatist regime.

The major issues debated during the negotiation process were the status of the area and the presence of the units of the former 14th Army on the territory of the Republic of Moldova.

Among the political personalities in the Moldavian political arena, Petru Lucinschi, President of the Parliament of the Republic of Moldova, had a permanently growing influence. Before his appointment as ambassador of the Republic of Moldova in Russia, Petru Lucinschi had played an active role both in overcoming the armed stage of the conflict and in the post-conflict stage. Shortly after his election as President of the Parliament of the Republic of Moldova, Petru Lucinschi met the separatist leaders. It seems that the President of the Parliament was the motor for launching the political dialogue between the legitimate power and the separatists, resulting mostly in continuous concessions made by Chişinău.

In 1996, the conflict parties signed a number of documents which enhanced permanently the level of legitimacy of the separatist regime and strengthened it. On the 7th of February, Chişinău recognized the right of the separatist regime to conduct foreign economic activities, using the customs stamps of the Republic of Moldova. The *Protocol on Mutual Agreement Issues of the 11th of March* recognized the separatist regime as a result of granting it such prerogatives as: having a Fundamental Law, passing laws, having symbols, establishing direct contacts in the economic, cultural and technical-scientific fields, (as far as other fields are concerned, they need the consent of Chişinău's authorities), etc.

On the 17th of June 1996, the experts submitted the *Memorandum on the Normalization of Relations between the Republic of Moldova and Transnistria*, which meant legalization of the separatist regime which controlled the Eastern area of the Republic of Moldova. President Mircea Snegur refused to sign the memorandum, while Petru Lucinschi, President of the Parliament, criticized the position of the President of the Republic of Moldova.

Despite the lack of information concerning SSC activities, on the one hand, and, taking into consideration the political, economic, social, etc. developments, including the above-mentioned ones, on the other hand, the activities of the Council can be qualified as unsatisfactory and damaging to the country. The processes occurring during that period have directly affected the national security of the Republic of Moldova.

Role and Influence of the Supreme Security Council at that Stage

There is a lack of information on SSC activities. There no data concerning national security issues examined by the SSC, neither concerning the overlooked issues, nor concerning non-implemented SSC decisions.

Nevertheless, taking into account the way of implementing the privatization process, as well as the recognition of two separatist regimes – “Gagauzian” and “Tiraspo-

lian” (both of them being in fact creatures of the secret services of the USSR-Russia and of Russian groups of organized crime) – SSC activities can be qualified as baneful or as a totally inactive.

The activity (as well as the inactivity) of the Supreme Security Council has seriously harmed the national security of the Republic of Moldova. The level of the country’s vulnerability to both external and internal threats has risen. The developments of the privatization process have directly affected the economic security of the Republic of Moldova, having also serious repercussions on other aspects of national security. The concessions in the Gagauzian and Transnistrian issues were an attempt on the territorial integrity of the Republic of Moldova and provided to other states (Russia, Turkey and other) pressure tools in their relationship with the Republic of Moldova.

C. Third Stage: 1997-2001 (Lucinschi Period)

There is no documentary or other kind of information available concerning the work of the Supreme Security Council at this stage.

Shortly after his inauguration, President Petru Lucinschi promulgated the *Law on State Security Bodies* and the *Law on State Security*. The Parliament passed these laws while the new Head of State was President of the Parliament. On the 8th of October 1997, President Petru Lucinschi signed the *Decree of the Approval of the Regulation of the Supreme Security Council*.

Composition of the SSC. The members of the Supreme Security Council (08.10.1997-21.05.1998):

1. Petru Lucinschi, President of the RM, Jan. 1997–Apr. 2001: President of the RM. In Jan.-March 1998, Petru Lucinschi supported the BMDP in parliamentary elections.
2. Ion Ciubuc, Prime-Minister (Jan. 1997–March 1999). In January 1997, he was appointed as Prime-Minister. In 1998, he took part in the electoral campaign on the side of the BMDP
3. Tudor Botnaru, Minister of National Security (Jan. 1997–May 1999).
4. Valeriu Pasat, Minister of Defence (Jan. 1997–March 1998–May 1999) Minister of National Security (May 1999–Nov. 2000–Dec. 2001).
5. Valeriu Chițan, Minister of Finance, Apr. 1994–March 1998.
6. Mihai Plămădeală, Minister of the Interior (Jan. 1997–March 1998).
7. Vladimir Doțul, Head of the General Staff of the National Army (Oct. 1997–Jan. 1998);

8. Anatol Cociug, Head of the Department for Civil Protection and Emergencies (Jan. 1997–Nov. 1997), replaced with Anton Gamurari.

The members of the Supreme Security Council (21. 05.1998–March 1999):

1. Petru Lucinschi, President of RM. In 1998, sided with the BMDP at parliamentary elections. In 1999 launched the initiative to transform RM into a presidential republic.
2. Ion Ciubuc, Prime-Minister. In Jan.–March 1998, sided with the BMDP in the electoral campaign. Prime-Minister until February 1999.
3. Tudor Botnaru; Minister of National Security (Jan. 1997–May 1999).
4. Valeriu Pasat, Minister of Defence (Jan. 1997–March 1998–May 1999)
Minister of National Security (May 1999–Nov. 2000–Dec. 2001).
5. Anatolie Arapu, Minister of Finance (March 1998–Nov. 1999). ADR-Sturza Period.
6. Victor Catan, Minister of Internal Affairs (March 1998–Nov. 1999). ADR-Sturza Period
7. Anton Gamurari, Head of the Department for Civil Protection and Emergencies (Nov. 1997–July 1999).

The members of the Supreme Security Council (March 1999–December 1999):

1. Petru Lucinschi, President RM. In 1999, launched the initiative to transform the RM into a presidential republic.
2. Ion Sturza, Prime-Minister; March–November 1999, Prime-Minister;
3. Tudor Botnaru; Minister of National Security (Jan. 1997–Maz 1999). Replaced with V. Pasat as Minister of National Security.
4. Anatolie Arapu, Minister of Finance (March 1998–Nov. 1999);
5. Victor Catan, Minister of Internal Affairs (March 1998–Nov. 1999).
6. Valeriu Pasat, Minister of Defence (Jan.1997–March 1998–May 1999) Minister of National Security (May 1999–Nov. 2000–Dec. 2001). Replaced with Boris Gamurari as Minister of Defence;
7. Anton Gamurari, Head of the Department for Civil Protection and Emergencies (Nov. 1997–July 1999), replaced with Constantin Antoci in Sep. 1999.

The members of the Supreme Security Council (Dec. 1999 – March 2001):

1. Petru Lucinschi, President of RM. In 2001, sided with the “Alianța Braghiș” party at parliamentary elections.
2. Dumitru Braghiș, Prime-Minister. December 1999–March 2001, Prime-Minister.

3. Valeriu Pasat, Director of the Information and Security Service. In 1999, Minister of Defence, member of SSC. Since May 1999, Minister of National Security.
4. Nicolae Tăbăcaru, Minister of Foreign Affairs (July 1997–Nov.2000), ambassador of the RM in Germany (Feb. 2001–Oct. 2003).
5. Mihai Manoli, Minister of Finance (Dec. 1999/Apr. 2001–Feb. 2002).
6. Vladimir Țurcan, Minister of Internal Affairs (Dec. 1999–March 2001).
7. Ion Coropcean, Head of the General Staff. Invested since 1998.
8. Boris Gamurari, Minister of Defence (May 1999–March 2001).
9. Constantin Antoci, Director General of the Department for Civil Protection and Emergencies (July 1999–June 2001).
10. Mihai Plămădeală, Councillor to the President of the RM, SSC Secretary. (June 1998–Feb. 2000).

The modification of SSC composition points out the fluctuations in the political fight for power.

Key-Issues Faced by the State at That Stage

Enhancement of Internal Political Instability. The period of time from February 1997 to (March) September 2001 was the most unstable from a political viewpoint. The succession of four governments during a four-year period confirms this fact. The Ciubuc I period was the most stable form the political perspective; it was dominated by President Petru Lucinschi.

The situation changed after the parliamentary elections held on the 22nd of March 1998, which generated the Alliance for Democracy and Reforms (ADR). The algorithm for sharing the power levers among the representatives of the ruling coalition, established by the ADR, was from the beginning conceived as a temporary phenomenon, as a field for manoeuvre for the future election and it did not comply with its name. The situation was also aggravated by the actions undertaken by President Petru Lucinschi in order to subordinate the legislative body.

The confrontation culminated with amendments to the Constitution of the Republic of Moldova, operated by the Parliament. According to those amendments, the President of the Republic of Moldova had to be elected by the legislative body. The attempts of Petru Lucinschi to remain on the water-line of Moldavian politics ended with the victory of the Communist Party of the Republic of Moldova at the anticipated elections held in March 2001.

Intense Depreciation of the National Currency. The depreciation of the national currency was the most visible event in the *Moldavian economy*. In October-November 1998, the currency rapidly depreciated from 4,8 lei to 9,6 lei to one USA dollar. The authorities explained the devaluation by the Russian financial crisis. Meanwhile, the crisis un-

leashed in August 1998, but, up to November, the Moldavian authorities did not take any visible steps to neutralize/annihilate the negative effects of the Russian crisis (not just on the national currency, but on the economy, in general). In November 1999, after several descents and ascents, the Moldavian leu was rated at 12 units for one USA dollar.

Renunciation by the Republic of Moldova of its Economic Sovereignty in Favour of the Occupation Regime of the Transnistria. The Transnistrian conflict remained the major issue of the political agenda. Being the President of the Moldavian Parliament, Petru Lucinschi criticized the refusal of President Mircea Snegur to sign the *Memorandum on the Normalization of the Relations between the Republic of Moldova and Transnistria*, which legitimized the separatist regime and its control on the Eastern area of the Republic of Moldova.

In February 1997, Petru Lucinschi opted for the deployment of Russian troops on the territory of the Republic of Moldova. On the 8th of May 1997, in Moscow, the *Memorandum on the Normalization of the Relations between the Republic of Moldova and Transnistria* was signed. As a result, the separatist regime which controlled the Eastern area of the Republic of Moldova was granted prerogatives as a federal entity. Nevertheless, the results of the 1998 parliamentary elections reduced to some extent the élan of Tiraspol regime legitimization.

The OSCE meeting held in Istanbul in 1999 issued a document in which Russia committed to withdraw its troops and ammunition before the end of 2002. The endeavours of President Petru Lucinschi came down to signing the above-mentioned document, alongside other members of the OSCE. The provisions of the OSCE meeting documents responded to the geopolitical interests of the USA and of many Western countries, although they had also been promoted by the official of the Moldavian Ministry of Foreign Affairs.

Corruption and Military Security. As far as the system of *military security* of the Republic of Moldova is concerned, the major event was the sale of a large lot of military equipment and ammunition to the United States of America. On the one hand, the transaction was a failure from the viewpoint of profit and of economic advantage, and it violated the legislation of the Republic of Moldova, including criminal law. On the other hand, it harmed considerably the military security of the country. By their actions, the supreme authorities seriously weakened the country's military capacity, considering the circumstances of the separatist conflict and of the foreign military presence.

The Demographic Collapse. The *demographic* situation worsened considerably during the period under consideration. The majors reasons for the demographic problems were massive emigration and the decrease in the birth rate. Massive emigration of a large share of the labour force was caused by the social-economic situation in the country. The birth rate was regressive, because of the economic situation as well as due to the moral crisis faced by society.

Energy Insecurity. The energy sector of the Republic of Moldova was seriously affected at this stage. The energy dependence of the country was several times confirmed by the suspension of its energy supply. In addition to the foreign monopoly and the energy dependence of the country, the energy sector also faced poor management of the system and of its components. The transfer of a part of the country's electric networks from the state's ownership to a foreign company did not solve the problems related to energy security of the Republic of Moldova. On the contrary, the energy segment of national security became more vulnerable.

Role and Influence of the Supreme Security Council at The Stage under Consideration

There is no available information concerning the SSC work at this stage. There is no data about security issues raised by the SSC, nor about the overlooked issues. There is no information about the decisions made by the Council no about the quality of their execution.

The developments of the Transnistrian conflict did not approach the settlement of the conflict, but marked a new stage in the recognition of the separatist regime and in abolition of the concept of the state's sovereignty and territorial integrity.

The way to deal with other essential issues – the sale of military equipment and ammunition, the economic situation and the migration of the population, the demographic situation, the situation in energy sector – reveals a small share of the large amount of harm caused to the national security of the Republic of Moldova.

Taking into account the above-mentioned developments and the fulfilment of SSC responsibilities, the Council's activities can be qualified as negative.

D. Fourth Stage: 2001 – present; (Voronin period)

At this stage, the Supreme Security Council undertook sporadic actions aimed at solving problems related to some specific fields of national security. It focused on such security fields as: military security (reform of the National Army, loss of ammunition and deficient discipline, ensuring border security, participation in post-conflict operations); political security (the Transnistrian issue, fighting against terrorism); economic security (the relationship between banks on both sides of the Nistru river, supply of oil products, bread crisis, money laundering, the situation of civil aviation), social security (traffic in human beings, traffic in drugs), environmental security (development of an environmental protection programme), etc.

The SSC composition (*according to Decree no. 237-III of 19.09.2001*):

1. Vladimir Voronin, President of RM (4th of April 2001–4th of April 2005);
2. Vasile Tarlev, Prime-Minister (19th of April 2001–23rd of April 2005);
3. Maria Postoico, Head of Law Committee (22nd of March 2001–March 2005);

4. Iurie Stoicov, Head of National Security Committee (22nd of March 2001–March 2005);
5. Victor Gaiciuc, Minister of Defence (19th of April 2001–October 2004);
6. Nicolae Dudău, Minister of Foreign Affairs (1st -7th of September 2001–6th-13th of February 2004);
7. Vasile Drăgănel, Minister Internal Affairs (19th of April 2001–25th-28th of February 2002);
8. Mihail Manoli, Minister of Finance (December 1999; 19th of April 2001–1st-8th of February 2002);
9. Valeriu Pasat, Director of Information and Security Service (Nov. 2000-Dec. 2001, since February 2004 – Councillor to Ciubais);
10. Anatolie Bantuș, Head of the Department for Emergency Situations;
11. Ion Coropcean, Head of the General Staff (May 2001–May 2005, re-elected);
12. Valeriu Gurbulea, Head of SSC Service (July 2001–19 Feb. 2004).

Composition of the Supreme Security Council (*according to Decree no. 1824-III of 14.05.2004*):

1. Vladimir Voronin, President of RM (4th of April 2005);
2. Marian Lupu, Minister of Economy (July 2003–March 2005), President of the Parliament of RM (24th of March 2005);
3. Eugenia Ostapciuc, President of the Parliament of RM (March 2001–March 2005), head of the majority parliamentary faction (Apr. 2005);
4. Vasile Tarlev, Prime-Minister (19th of April 2005);
5. Iurie Stoicov, Head of the National Security Committee (March 2005);
6. Gheorghe Duca, President of the Academy of Sciences (19th of April 2005);
7. Leonid Talmaci, Governor of the National Bank of Moldova (June 1991–to present);
8. Andrei Stratan, Minister of Foreign Affairs (19th of April 2005);
9. Zinaida Grecianii, Minister of Finance (19th of April 2005);
10. Gheorghe Papuc, Minister Internal Affairs (19th of April 2005),
11. Ion Ursu, Director of Information and Security Service (December 2001-to present);
12. Filip Beșleaga, Head of the Department for Emergency Situations;
13. Valentin Mejinschi, Director of the CFOCC (April 2004);
14. Valeriu Balaban, General Prosecutor (December 2003),
15. Gheorghe Tabunșic, Governor of the Gagauzian TAU (19th of April 2005).
16. Ion Morei, Head of SSC Service (20th of February 2004–to present).

During the period 2001-2005, a number of changes were made within the government. As far as the SSC is concerned, no changes have been reported. We can assume that changes within the SSC composition were made in parallel with changes within the government or other structures of the state security system.

Issues Examined by the Supreme Security Council

The period 2001-2005 is the only period of SSC activity about which there is information available. During this period, the SSC mainly undertook sporadic actions aimed at solving problems related to some specific fields of national security.

Fighting against Corruption. Considering the fight against corruption, the SSC decided on the 25th of January 2002 to set up the Centre for Fighting against Economic Crimes and Corruption (CFECC). CFECC is subordinate to the Head of State. Since the establishment of this Centre, corruption has not suffered significant diminution. The decision to set up such a Centre was mainly intended to enhance the government's image, and less to fight against this scourge. Fighting against corruption requires a systemic approach on the level of society as a whole.

Sector of Civil Aviation. After the SSC examined the situation in the field of civil aviation (31.07.2002, 15.10.2003), the *AIRMOLDOVA* Company became state-owned. The quality of such a transformation was visible late in 2004, when serious gaps were revealed in the company's work and some members of its administration were arrested.

Environment Protection. The SCC examined the situation in the field of environmental protection and the main directions aimed at ensuring environmental security. The output was a *National Programme for Ensuring Environmental Security* (25.01.2002). SSC has also dealt with forest patrimony.

Oil Products Market. SSC intervention in the oil products market aimed at fighting against smuggling of oil products and at influencing on the price of oil products. The Government has undertaken a number of measures intended to stop smuggling: regulating the way of importing oil products, and equipping service stations with cash desks.

Army Reform. According to the declarations of the Moldavian authorities, army reforms are aimed at modernization. The major reform element is the establishment of a professional army, i.e. a contract-based service. Meanwhile, the Concept of Defence has not been defined yet; neither has the provision for military equipment.

Human Trafficking. Fighting against traffic of human beings was proclaimed as a task of all bodies in charge of law observance. Nevertheless, as in many other fields, there is not a systemic approach on the level of society as a whole.

Bread Crisis. The poor wheat harvest and the risk of increase in bread prices, with an imminence of social discontentment, led the country's authorities to submit this issue to SSC examination. As a result, there were wheat imports and interventions in the activities of the largest bakery – “*Franzeluța*” (the administration of the enterprise was dismissed).

Fighting against Organized Crime. The actions aimed at fighting against organized crime were reduced to arresting and sentencing the chiefs of the underworld. Given the complex structure of the underworld, such actions turned out inefficient. The “legal” segment (formed and led by representatives of state and administrative structures) has not been affected.

Participation of the Units of the National Army in Post-Conflict Operations in Iraq. The decision for Moldavian military units to participate in post-conflict operations in Afghanistan and Iraq was a political decision aimed at supporting the USA’s actions focused on “fighting” against “terrorism”, or at eliminating the regimes of the respective states which are not loyal enough to the USA. There were no threats to the national security of the Republic of Moldova which would impose the intervention of the Moldavian troops. So, the decision to send troops was intended to obtain some political benefits for the country (for instance, getting American support in regaining the territory in the Eastern area under Russian occupation) and for the political regime.

The Transnistrian Conflict. The situation in the Eastern area of the Republic of Moldova was examined after the separatist regime undertook actions against Moldavian schools of the area in order to destabilize the state of affairs from the perspective of the Transnistrian conflict. The SSC also examined the relationship between banks of Transnistria, on the one hand, and banks of Moldova and of foreign countries, on the other hand. The School crisis was partially overlooked by Moldavian authorities, but there are no other examples of actions (plans of actions) aimed at the country’s reintegration.

Role and Influence of the Supreme Security Council at the Stage under Consideration

The SSC activities have several major aspects. Among SSC activities, there are actions focused on preventing events and planning some actions of state bodies intended to protect the national interests of the Republic of Moldova: for example, developments of the Transnistrian conflict, in particular, the issues related to “*Kozak Memorandum*” and the ones related to the period succeeding its rejection. This category could also include the reform the army, the development of the Strategy for Fighting against Corruption, the situation in the field of civil aviation, the development of the Strategy for Environmental Protection (preservation of forests), etc.

As far as SSC activities are concerned, the reactions to some developments should also be identified: the bread crisis, the situation on the oil market, the participation of the units of the national army in peacekeeping operations (the latter was a reaction to an event to which the Moldavian authorities could not have any lever of influence), and neutralization of the heads of the underworld.

There are gaps concerning the execution of the largest share of issues examined by the SSC: the reform of the national army and military legacy, the bread crisis, the si-

tuation in the field of civil aviation, the situation on the oil market, and fighting against traffic in human beings.

In addition to the above-mentioned gaps concerning the execution of SSC decisions, it should also be mentioned that most issues examined by the SSC, including the ones related to preventing and planning, are isolated and concern generally only one segment of the system of national security.

During the stage under consideration, the SSC did not tackle such issues as the street protests that occurred in winter-spring 2002 and 2003, or the conflict concerning inspection before expedition (SGS).

II. Influence of the Internal and External Political Contexts on the Activities and the Decisions Taken by the Supreme Security Council

1. Identification of the Co-ordinates of the Political Context

The internal political context in the Republic of Moldova is to a large extent determined by the internal political process which involves different informal interest groups using both formal and informal ways of acting. Formal actions take place through political structures, while informal actions occur in the appointment of exponents of interest groups to important state positions. The latter can occur either directly, by the means of administrative decisions taken by the exponents appointed previously, or by the means of different political structures, including by the competitors in the political arena.

The following co-ordinates serving to circumscribe with sufficient precision the political process in the Republic of Moldova during the period under consideration – 1991-2005 – have been identified:

1. the level of *control* over the execution of power;
2. the President's *personality*.

The above-mentioned two dimensions are in fact the internal factors which influence SSC activities: the level of *control* over the execution of power reveals the level of confrontation for power or for influence over power. The President makes decisions within the Supreme Security Council. The impact of external factors on his decisions depends much on the President's personality and on the forces which support the President or influence him.

The following co-ordinates serving to circumscribe with sufficient precision the external political process which impacts the political situation in the Republic of Moldova have been identified:

1. developments of the Transnistrian issue;
2. activities of the Commonwealth of Independent States;

3. collaboration with international financial bodies (in particular, with the International Monetary Fund and with the World Bank);
4. integration into the European Union;
5. fighting against terrorism;
6. relationship with the United States of America.

The above-mentioned dimensions are the external political factors which exerted the largest share of influence on SSC activities.

The separatist regime of Tiraspol is a factor of permanent influence on the political process under way in the Republic of Moldova. Such an influence, by its availability, plays the role of object of national security of the Republic of Moldova; by its actions intended to maintain the separatist regime, focused against the Republic of Moldova, it plays the role of subject.

The collaboration with international financial institutions is an external element which influences/has influenced directly the economy, respectively, the political process and SSC activities. The quality of the relationship between the Moldavian authorities and the above-mentioned institutions determines and has determined the developments in the field of economy, including from the viewpoint of national security of the Republic of Moldova.

The quality of the Moldavian membership to the Commonwealth of Independent States has had an important influence on the political processes occurring within the period 1991-2000. During this period, the above-mentioned regional structure, particularly the Russian leadership, had a strong impact on Moldavian political developments, including the ones focused on the Transnistrian conflict settlement.

Throughout the last three years, such an impact was exerted by European structures. The United States, whose presence in the post-Soviet space is more intense within the “fight” against terrorism, is another important element.

2. Internal Political Context

A. The level of Control on Power Execution

The development of the internal political situation can be divided into two large periods, distinct from the viewpoints of the category of participants in the political process and of the levers of the execution of power. The first period is April, 1990 – March 2001; the second one – March 2001 to present.

The first period was marked by the confrontation between various nomenclature groups of the Communist Party of the Soviet Union/Communist Party of Moldova which after (a) the liberalization of the political regime in the USSR, (b) the elimination of the state ownership regime, without establishing any coherent alternative and (c) the geopolitical disintegration of the USSR, had, in both form and extent, different

benefits from the results of the above-mentioned three processes, finding themselves in adversary camps.

As a result, a series of informal groups emerged: (1) local administrative nomenclature, whose exponent was Mircea Snegur, (2) local industrial nomenclature, headed by Andrei Sangheli, (3) “national” nomenclature formed by the party’s protégés coming from the system of culture, of education and of social sciences, focused initially on the People’s Front, and then on other political structures detached from it, (4) union-level nomenclature headed by Petru Lucinschi.

Several categories of political influence levers used by the participants in the political process characterize this period. Among the most popular were: (a) street protests, (b) inter-personal intrigues used as a means to eliminate real or imaginary opponents who held control positions or had the power to influence high-level decisions, (c) informal negotiation between real decision-makers, regardless of their political position, the results of the negotiations being directly formulated in legislative documents (for example, the amendments to the Privatization Law, operated in 1994, and the set of associated documents, the establishment of the “Gagauzian” administrative-territorial autonomy, the documents concluded with the separatist regime, etc.).

During **the first period**, the political state power was successively under the control of such groups. The period included the following sub-periods:

First sub-period: April 1990-December 1992. It was visibly dominated by the national nomenclature group which shared some fields of influence with the local nomenclature group. This sub-period can also be called the “Snegur-I” sub-period, when President Mircea Snegur relied on the People’s Front of Moldova, being in the same time directly and, sometimes, brutally, influenced by its proponents.

In the beginning, President Mircea Snegur enjoyed the support of the legislative body, controlled by its unionist right wing. The Parliament shortly became the arena of confrontation between the Front’s representatives and all its other members. So, instead of being a legislative body, the Parliament transformed into an arena of political disputes. The composition of the Supreme Security Council was at that time dominated by proponents of the People’s Front of Moldova: 7 in 12 SSC members were the Front’s representatives, three members represented Mirea Snegur, one was a technocrat and one was a representative of Russian secret services.

Second sub-period: 24.12.1992-July 1995. In the context of parallel separatist developments in the Gagauzian area and in Transnistria, President Mircea Snegur gradually moved closer to the Agrarians and accepted a foreign policy vector focused on the Commonwealth of Independent States. As a result, he broke his relations with the leadership of the legislative body. On the 4th of February 1993, Petru Lucinschi became President of the Parliament. Shortly after, the Law on Parliamentary Election was passed and the date of the new election was established (10.08.1993). Before establishing this date, the

deputies had rejected the accession of the Republic of Moldova to the Commonwealth of Independent States (07.07.1993) and adopted the Privatization Programme (12.03.1993).

Political confrontation occurred after the election held in February 1994, which was a mechanism to marginalize the unionists and to prepare for the 1996 presidential election. Parliamentary elections revealed the main candidates for the Presidency of the Republic of Moldova. The lapse of time leading up to the presidential election was marked by different methods of confrontation among them (i.e. street protests in spring 1995 against the “Moldavian” language).

The “Snegur-II” sub-period was characterized by the absence of the Front’s representatives in the SSC’s structure. They had been replaced with elements called “Agrarians”. Among them, there were representatives of the industrial nomenclature (Sangheli, Calmoi, Creangă) and proponents of the union-focused nomenclature (Lucinschi). Nevertheless, most SSC members (5 in 9 members) could be qualified as supporters of Mircea Snegur and of his policy.

Third sub-period: July 1995-January 1997. Its main characteristic was the cessation of SSC activities. Because of the intensity of political confrontation between the major power holders – the President, Prime-Minister and President of the Parliament – the SSC could not function. Andrei Sangheli and Petru Lucinschi gradually took over the levers of the country’s leadership. In order to keep his positions and to regain the lost means of influence, President Mircea Snegur attempted to set up a new political structure.

Fourth sub-period: January 1997-March 1998. The election of Petru Lucinschi as Head of State was followed by his attempts to take control of the legislative body. The President’s attempts to subordinate the Parliament destabilized the political situation in the country. The Supreme Security Council was dominated by the new President Petru Lucinschi. This lapse of time could be qualified as the sub-period of union-focused nomenclature: 7 in 8 members of the SSC were promoted by President Petru Lucinschi and they represented his interests.

Fifth sub-period: March 1998-March 1999. The direct outcome of the 1998 parliamentary election was the “Alliance for Democracy and Reforms” algorithm – an inefficient, destabilizing, temporary structure. Shortly after, the legislative body became an element of confrontation with President Petru Lucinschi. The confrontation caused a legislative reform which put the election of the President of the Republic of Moldova under the Parliament’s competence and led to anticipated parliamentary elections.

The Parliamentary elections held in 1998 somehow affected the positions of President Petru Lucinschi. They resulted in the establishment of the Alliance for Democracy and Reforms (ADR). Two ADR representatives were members of the Supreme Security Council. Nevertheless, the influence of Petru Lucinschi remained major, because four in seven SSC members represented his team.

Sixth sub-period: March 1999-December 1999. The positions of President Petru Lucinschi within the SSC kept weakening. Half of the SSC members, including

Prime-Minister Ion Sturza, represented another group. That group derived from the ADR and could be considered as the group of the new nomenclature.

Seventh sub-period: December 1999-March 2001. During this sub-period, the group of union-focused nomenclature again took control of the SSC. The Council was absolutely dominated by President Lucinschi and by people from his environment.

The second period was characterized by (a) the emergence in the political confrontation of a new actor, who differed considerably from the participants of the previous period and (b) the use of new levers of influence levers and of levers to exert political power.

The Communist Party of the Republic of Moldova is the only political party with adherents all over the country, practically in all localities, in all ethnic-cultural components of the Moldavian society. The members of this party are characterized by a high level of discipline, incomparable to the lack of discipline within other parties, except, perhaps, the People's Christian-Democratic Party (the new name of the People's Front of Moldova). No other party has reached such characteristics and succeeded to get such a broad support of the electorate.

The emergence of a new player with such "combat" characteristics determined the radical reconfiguration of the political process. The new participant in this process has made all former participants form a coalition against it. Moreover, the impact of such levers as "inter-personal intrigues" and "street pressure" lowered considerably. On the other hand, a new category of political levers emerged – the parliamentary fight among factions with a distinct political identity. The parliamentary faction became, for the first time in the history of the Republic of Moldova, a lever of political influence. Political discourse reached an analysable level, acquiring elements of political responsibility. The negotiations between powers became partially formal, i.e. the public opinion was aware of their course.

The second period started with the crushing victory of the Communist Party in the 2001 parliamentary elections. This period can be divided into two sub-periods.

Eighth sub-period (March 2001-November 2003) and **ninth sub-period** (November 2003-to present): This can be called the Voronin period and can be divided into two sub-periods. Both sub-periods of the Voronin period have been dominated by the personality of President Vladimir Voronin. The SSC is exclusively formed of members of the ruling party or of members of the government voted in by the communists. The Communist Party is a well-organized party whose structure covers the whole country.

The Parliamentary majority obtained after the elections held on the 25th of the February allowed the Communist Party to concentrate its influence on legislative and executive state power. It was a positive, stabilizing factor. For the first time since the proclamation of the independence of the Republic of Moldova, the state power (executive and legislative) was taken by one political party which did not need to set an alliance

or to gather different factions under the umbrella of one party (like the Democratic-Agrarian Party).

During the period 2001-2005, a number of destabilizing events occurred. They were generated by the political actions of the opposition, so, it was a natural political process. Among the destabilizing events were the protests occurring in winter, spring and November 2003.

The developments of the Transnistrian issue have determined the division of the Voronin period into two sub-periods. Since early in the '90s, the Transnistrian issue, in particular its armed stage, influenced essentially the political developments in the Republic of Moldova. The Transnistrian issue has played a determining role for the distribution of forces on the political stage as well as for the identification of the foreign policy vector of the Republic of Moldova.

B. The President's Personality

During the period 1991-2005, the function of President of the Republic of Moldova was held by three personalities: Mircea Snegur, Petru Lucinschi and Vladimir Voronin.

Mircea Snegur. As a Head of State, Mircea Snegur did not enjoy the support of any political or public structure. Inclined to be influenced (especially by circumstances), the first President of the Republic of Moldova, under the pressure of then-current developments, attempted to search for political allies. Mircea Snegur was voted as President by a legislative body dominated by the People's Front. During the armed Transnistrian conflict, President Snegur very easily ceded to the pressure exerted by Russia. To remain in his position, Mircea Snegur joined the agrarian camp. Later on, when the agrarian camp dissolved, President Snegur joined again the unionist wing, coming back to the respective political discourse.

Mircea Snegur lacked the skills to evaluate correctly the state of affairs and lacked the strategic thinking required to promote the country's national interests. President Mircea Snegur acted spontaneously under the pressure of circumstances and neglected the country's interests. The first President was able to change his decisions after the first failure. Mircea Snegur was indecisive, inclined to be influenced; he let events lead him.

Petru Lucinschi. Unlike Mircea Snegur, Petru Lucinschi permanently attempted to set up circumstances favourable to himself. Like Mircea Snegur, Petru Lucinschi did not have a political party, but attempted to found one – the *Alliance for Democratic and Prosperous Moldova* (“*Rândunica*”). President Petru Lucinschi used nomenclature methods for promoting his personal political interests (not the country's ones). His accession to the first ranks of the Moldavian policy and his election as President of the Republic of Moldova confirmed the above. Coming from the top level of the Communist Party of the Soviet Union, Petru Lucinschi had quite close relations with old structures and with their representatives from the post-soviet space and from Western countries.

Vladimir Voronin. This is the first President of the Republic of Moldova who has led a political party. Through his party (a quite well-organized one), Vladimir Voronin can control the legislative body, the government and the situation throughout the country's territorial units. Despite the fact that he is a party leader, President Vladimir Voronin does not hesitate to appoint decision-makers from outside the Communist Party and to undertake staff modifications, if necessary.

Unlike Mircea Snegur, President Vladimir Voronin is consistent in achieving political goals. His approach to the Transnistrian issues confirms it: in order to solve the problem in favour of the Republic of Moldova, Vladimir Voronin has changed his strategic political priorities.

C. Influence of the Developments of the Internal Political Context on the Supreme Security Council Activities

First, the developments of the internal political context circumscribed by two co-ordinates – the level of *control* over the execution of power and the President's *personality* – have directly influenced the (a) nominal and (b) functional composition of the Supreme Security Council.

Second: SSC capacity to function, at least for meetings, has also been influenced by the vicissitudes of the infighting.

Third, *internal policy* aspects of the issues included on the SSC agenda reflect mostly the conjuncture of the political confrontation, the need to suppress internal political and economic adversaries, less their relevance to national security. Thus, the SSC has often been used as a tool for political confrontation between different political groups.

Fourth, full involvement of political players in infighting has essentially marginalized the statutory concerns of the SSC for internal national security.

Fifth, the internal political instability, the attempts to use the Supreme Security Council for inadequate goals, as a tool for internal political confrontation, instead of for solving the problems of national security, has undermined the need for SSC development aimed at enlarging its operational functions and at transforming it into an effective tool of the national security system.

Thus, the internal political context has strongly discouraged SSC activities, essentially depriving this body from the institutional possibilities required to keep its immunity to the echoes and sinuosities of infighting.

3. External Political Context

A. **The Issue of Separatism.** The developments of *the Transnistrian issue* during the period 1991-2003 were marked by the chronic impotency of the Moldavian political leadership to make qualitative steps towards the settlement of the con-

flict. Within this period, the separatist regime which was permanently present on the right bank of the Nistru river, focused on the destabilization of the political situation. Qualitative endeavours have been undertaken by the Communist government during the last two years.

- B. **Russian Vector: the Commonwealth of Independent States.** *The Commonwealth of Independent States (CIS)* was and still is a failed project. Russia, the main initiator and the motor of this structure, was not able to generate ideas that make possible the integration of former soviet republics. Moscow has treated the CIS as a tool for maintaining its influence in post-soviet space. CIS activities have been reduced to signing some documents without any practical influence.
- C. **The European Vector: the European Union.** *European issues* have lately become priorities of the Moldavian political agenda. On the other hand, the Concept of Foreign Policy of the Republic of Moldova adopted in 1995 proclaimed the collaboration with the CIS as a priority. The modification of the CIS vector was determined by that organization's inefficiency. The CIS did not provide the Republic of Moldova with viable mechanisms for solving its problems (in particular, the Transnistrian issue). The relationship between the Republic of Moldova and the European Union is framed by the Action Plan and by the new neighbourhood policy.
- D. **The American Vector: Terrorism.** The events that occurred on the 11th of September 2001 in New York influenced the developments of events throughout the world. The situation in the Republic of Moldova has been touched by this influence, as well. NATO enlargement and the direct intervention of the United States of America in post-soviet space are among the results of those events. The relationship between the Republic of Moldova and the United States has changed. The USA is now more actively involved in dealing with problems faced by the Republic of Moldova (especially the Transnistrian issue). The Republic of Moldova directly took part in post-conflict operations in Iraq.
- E. **International Economic Organizations.** The Republic of Moldova established *relations with international financial organizations – the International Monetary Fund and the World Bank*– shortly after the proclamation of its independence. In 1992, our country became a member of the above-mentioned financial bodies. Throughout the period 1992-2001, collaboration with the IMF and the World Bank was framed by an inefficient economic policy and by the increase in the financial dependence of the Republic of Moldova on these bodies. On the other hand, the collaboration with the IMF and with the World Bank had positive outcomes during the period 2001-2005, when the Republic of Moldova fulfilled its reimbursement obligations without requesting the financial assistance of these financial bodies.

Influence of the Development of the External Political Context on the Supreme Security Council Activities

The external political factor had a direct and often favourable influence on SSC, from the viewpoint of the institutional maturity activities. In fact, while the impact of internal factors on national security was examined by the SSC sporadically, even marginally, the impact of external factors enjoyed a larger examination, although insufficient.

The SSC has never served as a tool for political confrontation from the external perspective. Such a fact excluded all attempts to use it against its purpose. Most external security issues included in the SSC agenda have been formulated adequately from the perspective of national security concerns, unlike most internal security issues examined by the SSC.

III. The Effects of the Supreme Security Council Activities on Various Fields of Responsibility

1. Identification of the Fields of Responsibility of the Supreme Security Council

A. Fields of Responsibility

The security of a human community is affected by five major sectors:

- military;
- political;
- economic;
- social;
- environmental.

According to the legislation of the Republic of Moldova, the Supreme Security Council has the following fields of responsibility:

1. *Ensuring military security*: – Military defence of the state against internal and external threats by the means of promoting the defence policy, and setting up Armed Forces that are able to reject a possible armed aggression (*p. 8 of the Parliament decision on the approval of the Concept of National Security of the Republic of Moldova, no. 445-XIII of 05.05.1995*). Points 8 and 9 of the Parliament decision to approve the *Concept of National Security* comprises some elements related to national security. *The Regulation of the Supreme Security Council* (article 3, paragraphs 3, 4, 5, 6) also concerns the issue of ensuring national security.

2. *Ensuring political security*: Protecting the sovereignty, independence and territorial integrity of the Republic of Moldova, its constitutional regime, and its economic, technical-scientific and defensive potential (point 6 of the Parliament decision to approve the *Concept of National Security of the Republic of Moldova, no. 445-XIII of*

05.05.1995). Elimination of the causes and of the conditions that favour crimes and other contraventions, preventing, interrupting and investigating them, as well as carrying out justice (point 7 of the Parliament decision to approve the Concept of National Security of the Republic of Moldova, no. 445-XIII of 05.05.1995). SSC Regulation provides for the Council's prerogative to examine draft decisions concerning the modification of the Concept of Foreign Policy (article 3, paragraph 3).

3. *Ensuring economic security.* Point 6 of the Parliament's decision to approve the Concept of National Security provides for the protection of economic potential.

4. *Ensuring social security:* Point 9 of the Parliament's decision to approve the Concept of National Security provides for the protection of the population, of material and cultural values against the effects of emergency situations (natural and environment calamities, accidents, catastrophes, epiphytes, epizooties), as well as against modern destruction means.

5. *Ensuring environmental protection:* Protection of the population, of material and cultural values against the effects of emergency situations (natural and environmental calamities, accidents, catastrophes, epiphytes, epizooties), as well as against modern destruction means (point 9 of the Parliament's decision to approve the Concept of National Security of the Republic of Moldova, no. 445-XIII of 05.05.1995).

Article 3 of the Regulation of the Supreme Security Council sets the Council's prerogative to provide to the President of the Republic of Moldova consultations on national security matters (art. 3/1) and recommendations on foreign and home state policy matters (art. 3/2). According to the Regulation, the Council is in charge of the monitoring of the execution of decrees and decisions taken by the President of the Republic of Moldova in national security matters (art. 3/7).

B. Spheres which Should Be Included within the Fields of Responsibility of the Supreme Security Council

The legislation of the Republic of Moldova concerning national security, including the Concept of National Security, covers all security components – military, political, economic, social and environmental. Nevertheless, most security segments are not sufficiently tackled to respond to the requirements of national security. Some of them are only superficially dealt with.

Military security. Among the components of national security, military security is the only one that enjoys a more or less complete legislative coverage. The legislation tackles different matters concerning military organization and the supply of resources for the fulfillment of missions. On the other hand, the potential sources of threats and the changes intended to make possible their re-evaluation are overlooked.

Political security. Ensuring political security implies protecting the sovereignty, independence and territorial integrity of the Republic of Moldova, and its constitu-

tional regime. The legislation overlooks an important element of political security – the ideological element. To fill this gap, the *Concept of National Security* (2004) was developed – a document which does not reflect reality and does not comply with the national interests; moreover, if it enters into force, the Concept could be an attempt on the people’s sovereignty and on the national security.

Economic security: The Concept of the National Policy of the Republic of Moldova provides for the protection of the country’s economic potential. Such a term is quite ambiguous, as it is not obvious what *economic potential* means. There are no provisions concerning the need to ensure access to resources, to funds and to markets in order to maintain a strategic level of the nation’s economic capacity, an acceptable level of the state’s social welfare and the power required to adequately fulfill its defining functions.

Social security. The Concept of National Security approaches tangentially the issue of ensuring social security – it concerns the protection of cultural values against the effects of emergency situations. The legislation totally lacks a frame intended to protect traditional values (language, culture, cultural, religious and historical identity) which support the existence of such a geopolitical entity as the Republic of Moldova; it also lacks provisions concerning the limits of the development of such values.

Environmental security. According to the legislation in force, environmental security implies the intervention of state structures in the event of emergencies. There is no policy intended to ensure environmental security from external and internal perspectives.

2. Crises and Responsibilities: 1991-2005

A. Military Security

Crises and responsibilities related to military security: The issues related to ensuring the military security of the state were raised by Moldavian authorities immediately after the proclamation of independence of the Republic of Moldova. On the 15th of October 1991, the Supreme Security Council examined the issue of setting up the national army, but six months later, the units of the National Army did not have the capacity adequately respond to the developments of the Transnistrian conflict. This fact was confirmed both by the participants in the armed conflict and by the declaration of the Minister of Defence Costaş in the press of that time¹.

Military actions aimed at defending the territorial integrity and the independence of the Republic of Moldova did not reach a logical end – settlement of the separatist conflict. The authorities of the Republic of Moldova did not succeed in ensuring the integrity and the independence of the country by means of armed methods and did

¹ “Sfatul Țării” newspaper, January, 22, 1992.

not do anything to mobilize the other components of national security (political, economic and social) during the armed stage of the conflict.

After the armed conflict, military security issues and the capacities of the National Army were raised again in 1997, in parallel with the *MIG transaction*. In autumn 1997, Moldavian authorities sold to the United States of America twenty-one MIG-29 combat planes for USD 40 million, as well as military equipment. That transaction caused serious material damage to the Republic of Moldova (as it had received more advantageous offers) and affected the military capacity of the National Army. Regardless of the fact that the country was facing a separatist conflict, the most efficient combat unit of the National Army was dissolved.

Within the period 2001-2005, the situation of the National Army was constantly on the SSC agenda (10 in 23 meetings). The SSC mainly focused on the reform of the National Army and on the management of combat resources available to military units. On the one hand, the Republic of Moldova accused the separatist regime of traffic in arms, but on the other hand, there has been illegal sale of ammunition of the National Army.

B. Political security

Crises and responsibilities related to political security: The Transnistrian conflict is the major expression of political security matters.

During the period 1991-2002, the Supreme Security Council adopted an inadequate approach to the Transnistrian issue and to its developments. The SSC activities were unsatisfactory both from the perspective of some aspects of the conflict and of the Transnistrian conflict in general, as a national security matter. It was confirmed by the incapacity to avoid the outbreak of armed conflict, on the one hand, and to ensure the logical end of military actions, on the other hand. Moldavian leaders turned out to be unable to ensure the territorial integrity and the independence of the country by the means of armed methods and did not do anything to mobilize other components of national security (political, economic, social) during the armed conflict. Further endeavours aimed at conflict settlement were reduced to political actions (of low efficiency), overlooking military, economic, and social components.

The cessation of the armed conflict cannot not be accepted as a positive result, because it did not solve the problems of territorial integrity and of independence of the Republic of Moldova. A part of the Moldavian territory remains outside the limits of the constitutional coverage of Chişinău authorities, being under the control of an aggressive separatist regime.

Within the period 1993-1997, the “endeavours” of the authorities of the Republic of Moldova focused on the Transnistrian conflict settlement were reduced to some steps towards legitimizing the separatist regime. On the 7th of February 1996, Chişinău recognized the right of the separatists to conduct external economic activities and to

use the customs stamps of the Republic of Moldova. The *Protocol of the 11th of March 1996 concerning the Issues of Mutual Agreement* recognized the separatist regime as a result of recognizing its prerogatives: having a fundamental law, adopting laws, having symbols, establishing external contacts in economic, cultural, and technical-scientific fields (in other fields, they needed the consent of Chişinău authorities).

In February 1997, President Petru Lucinschi opted for the deployment of Russian troops on the territory of the Republic of Moldova. In Moscow on the 8th of May 1997, the *Memorandum on the Basis for the Normalization of Relations between the Republic of Moldova and Transnistria* was signed. The memorandum provided for vesting the separatist regime which controls the Eastern area of the Republic of Moldova with prerogatives similar to the ones of a federal entity.

The approach to the Transnistrian conflict proposed by President Vladimir Voronin is the only possible solution focused on ensuring the national security of the Republic of Moldova. It is supposed to be complemented by a set of measures intended to strengthen the expected results. The developments concerning the Kozak Memorandum and the problem of the Moldavian schools of the Eastern area of the Republic of Moldova are framed by such an approach.

Alongside with the Transnistrian issue, street protests unleashed by students also affected the political stability in the Republic of Moldova. The protests were particularly intense in autumn 1992, in spring 1995 and in spring 2003. Each wave of protests was impregnated with political characteristics.

During the period 1991-2001, the political situation in the Republic of Moldova was determined by political confrontation at the level of political elites. The subjects of such confrontations wanted to accede to political power or, at least, to gain a higher level of influence over political power, in order to solve their personal problems. Such confrontations culminated with the parliamentary crisis of 2000 and with the modification of the mechanism of election of the President of the Republic of Moldova.

C. Economic Security

Crises and responsibilities related to economic security: During the '90s, the economy of the Republic of Moldova passed through a deep crisis. The economic situation had a negative impact on the whole system of national security.

The privatization process was one of the most important elements of the economic developments of that time. Privatization issues were for the first time examined by the Supreme Security Council on the 7th of May 1992, in full swing of the Transnistrian conflict. The privatization process was launched in summer 1993, when the Parliament approved the list of objects to be privatized. The direct outcomes of the privatization were: aggravation of the economic crisis, the crash of most enterprises and of many branches of the economy, and the enrichment of a limited group of people.

Economic developments were to a large extent determined by the collaboration of the Republic of Moldova with international financial institutions: the World Bank and the International Monetary Fund. The enhanced level of intervention of these institutions in Moldavian economic policies allowed them to set the directions for the national economy. The results were soon visible. At present, the International Monetary Fund and the World Bank hold efficient tools for intervention into the decision-making process which is under way inside the Moldavian leadership.

Energy crises occurring in summer 1992 and in spring 2000 revealed repeatedly the vulnerability of the Republic of Moldova in the energy sector. The non-fulfilment by the Republic of Moldova of its financial obligations was invoked as the reason for the cessation of the supply of electric energy (1998) and of natural gas (2000). Because of the inefficient management of the energy sector, Moldova-gaz company merged with GAZPROM (a Russian state-owned company). The perpetuation of Russia's monopoly over the Moldavian energy sector increases considerably the dependence of the Republic of Moldova on the Russian Federation. No concrete steps undertaken by the Moldavian authorities in order to eliminate the problem of energy dependence have been reported.

In 2000, the Republic of Moldova sold to the Spanish company "Union Fenosa" three networks of energy distribution: RED Centru, RED Sud and RED Chişinău. As a result of this transaction, the government lost control of the largest share of energy distribution networks. Taking into consideration the situation on the gas and oil markets, as well as the energy supply problems and the situation in Transnistria, it can be assumed that the Republic of Moldova has extreme problems in the energy sector.

D. Social Security

*Crises and responsibilities related to **social security**:* Since the proclamation of its independence, the Republic of Moldova did not undertake any steps or political actions focused on strengthening its social security.

This essential segment of national security is practically not covered by the legislation. There is only one document that tackles some issues related to social security – the Concept of National Policy, adopted in 2004. At the same time, this document is a visible threat to the national security of the Republic of Moldova. It does not have any provisions concerning such traditional elements as the language, the culture, the faith, or the traditions which identify Moldavians as a founding and constituent identity of the state. There are no provisions concerning the identification of ethnic minorities. The threat consists in the fact that the document is placed within a political frame, instead of being placed within the frame of ensuring the state's national security.

E. Environmental Security

Crises and responsibilities related to environmental security: Moldavian authorities did not pay much attention to this security segment.

Environment security matters have been twice in the limelight – in 1998 and in 2002 – when non-governmental organizations unleashed vehement protests against the transportation of radioactive waste from the nuclear station of Kozlodui (Bulgaria) to Russia via the Republic of Moldova. The protests did not hinder the Moldavian authorities from operating legislative modifications in order to allow the transportation of such waste (2002).

From the external perspective, there was only one achievement – the signature of Kyoto Agreement and its ratification by the Parliament.

3. Evaluation of the Effects of the Supreme Security Council's Activities by Fields and by Stages

From the perspective of the national security and state security concepts as defined by the legislation of the Republic of Moldova, it can be assumed that throughout 15 years of independence, the Supreme Security Council did not undertake any measures to ensure efficiently the national security of the country and of the state. The legislation of the Republic of Moldova does not provide a complete approach to the concept of national security (*The Concept of National Security of the Republic of Moldova*). It mainly concerns the protection of the person, of the society and of the state, of their rights and interests, set by the Constitution and other laws, against external and internal threats.

The threats listed in the Concept concern the military sector of the national security more than the political sector. Social, economic and environmental sectors are only invoked in the context of physical threats against them. The Concept does not deal with the fundamental segments of national security and with their essence.

At present, the Republic of Moldova is very vulnerable to political, military, economic and social threats and dangers.

The political system of the Republic of Moldova is dominated, especially in the second stage of development of the internal political process, by external (Western) factors that determine the directions to be followed by the country. The latest elections or energy dependence can confirm the above. The National Army is obsolete from technical, organizational (structure, all levels of military training, etc.), ideological and moral viewpoints.

The economic segment of the security is affected by the structure of the economy, by corruption and nepotism, by the lack of protection against negative influences coming from the world's markets, etc.

The social sector is deprived from a frame for preservation and development of such traditional elements as the language, the culture, the identity and the cultural

traditions. At present, the state keeps its distance from the social segment of national security which is now handled by different subjects who are strangers to the identification elements of the Moldavians.

The above-mentioned facts confirm the dependence of the Republic of Moldova on external factors and subjects from the perspective of ensuring national security or its existence.

The involvement of external elements in ensuring national security can be reduced to guaranteeing the existence of the subject of international law – the Republic of Moldova – and it is far from the concept of “national security”. If matters do not change and the Republic of Moldova does not become the major element in ensuring its own security, the state will no doubt disappear in favour of other regional geopolitical actors, which are more dexterous, more consistent, and more concerned about their interests and values.

IV. Motivations and Objectives of the Supreme Security Council Reforms, Evaluation of Decision-Making Practices, Analysis of the Present Situation

1. Identification of the Motivations and of the Objectives of the Supreme Security Council’s Reforms

A. Analysis of the Conceptual-Legal Frame for the Supreme Security Council’s Activities

The *Concept of National Security* is the central element of the conceptual-legal frame of SSC activities. The Concept of National Security (Parliament Decree no. 445-XIII of the 5th of May 1995) defines *national security as the protection of the person, of the society and of the state, of their rights and interests, set by the Constitution and other laws of the Republic of Moldova, against external and internal threats*. The document defines the *threat to national security as the intention of hostile forces, under any form, or as environmental, technical and other factors, whose intervention or influence can be a threat to the person, the society and the state*.

The *Concept of National Security* focuses on the neutralization of violent actions (directly exteriorized) aimed at the state, the society, and/or the person. Violent actions can be caused by hostile forces and by technogenical factors.

The formula “*the intention of hostile forces under any form*” of the definition of *threat to national security* is determined by the structure of national security as presented in the Concept of National Security and by its definition.

The Concept of National Security of the Republic of Moldova aims at four security sectors (components) intended to guarantee national security:

1. *State Security.*
2. *Public Security.*
3. *Military Security.*
4. *Civil Security.*

The objects of *guaranteeing state security* (according to the Concept of National Security) are subversive and informative actions of secret services and of foreign organizations as well as criminal attempts of some groups and individuals on the sovereignty, independence and territorial integrity of the Republic of Moldova, on its constitutional regime, on its economic, technical-scientific and defensive potential, and on the legitimate rights and interests of the people (the same definition is provided by the Law on State Security nr. 618-XIII of the 31st of October 1995).

According to the Concept and the Law on State Security, secret services, foreign organizations, and groups of people are the main bearers of threats to national security, while their actions aimed against the state are subversive, indirect. Ensuring state security is the responsibility of the Information and Security Service, State Protection and Guard Service, Border Guard Troops and military secret bodies.

The largest share of threats to state security are exteriorized actions of threat bearers: actions which contribute to the unleashing of military actions against the country or of a civil war; military actions; actions that encourage extraordinary events in transport, in telecommunications, toward economic entities and vital objects, and espionage; actions aimed at the violent remove of legal authorities, etc. (art. 4 of the Law on State Security).

Threats in the fields of information and information technologies, economy, ideology and culture are not listed in the law, although they imply an enormous level of danger. The developments at the international level have repeatedly revealed that such actions aimed against a state, a society and a citizen can have disastrous effects on several countries, comparable to the effects of a total war.

The bodies listed in the Law on State Security cannot ensure the system of state security. They are intended to counteract the actions aimed against the state, specific to the period up to the '80s of the 20th century. Such actions are broadly used at present, too. On the other hand, a number of information, economic, ideological-cultural actions, etc., totally ignored by the legislation of the Republic of Moldova, play an increasing role, too.

Ensuring public security. The Concept of National Security defines public security as a basic component of the security of the Republic of Moldova.

Public security aims to eliminate the reasons and the conditions that encourage crimes and contraventions, to prevent, interrupt and investigate them, and to carry out justice. The Concept of National Security provides that such a goal can be achieved as a result of the implementation of a system of state and non-state law-based political, social, economic, legal and organizational measures.

Such an approach to public security is the result of the emphasis on the “force” component in ensuring national security. According to the definition formulated in the Concept of National Security, public security is a prior segment of the security of the Republic of Moldova. A number of structures of the major fields of social life – policy, economy, etc. – are involved in ensuring public security. Thus, public security has practically become one of the priorities of state structures from the respective social fields.

Ensuring military security: According to the Concept of National Security, military security aims at ensuring military defence of the country against external and internal military threats by the means of promoting the defence policy, and setting up armed forces able to reject a possible military aggression. Military security is the object of the *Military Doctrine* of the Republic of Moldova and of the *Concept of Military Reform*.

According to the legislation of the Republic of Moldova, military security is the only sector of national security that enjoys a more or less complex approach. Some vulnerable elements can be identified from the perspective of military planning and resources.

Ensuring civil security: The Concept of National Security defines civil security as a system of state activities and measures, implemented either at peace or in war time, aimed at ensuring the protection of the people, of material and cultural values against the effects of emergency situations, as well as against modern means of destruction.

Ensuring *environmental security* circumscribes a series of measures undertaken by the state against possible violence which could threaten peoples’ lives and could cause material damage.

B. Present Frame of the National Security

The security of human communities is affected by factors coming from five main sectors:

Military security – concerns the double interaction of the state’s capacities – of armed offense and defense – and the states’ perception of the other states’ intentions.

Political security concerns the organizational stability of the state, of the system of government and of the ideology that legitimizes them.

Economic security involves the access to the resources, funds and markets required to maintain an acceptable level of fulfilment of national security functions, for the people’s welfare and for the economic power (including international competitiveness) of the national economy, of the state, and of the country.

Social security concerns the capacity to support, within the limits of acceptable developments, the traditional elements of language, culture, identity, cultural and religious values.

Environmental security aims at preserving the local and global biosphere as an essential support on which depend all people’s actions.

C. Comparison of the Responsibilities under the Present Conceptual and Legal Frame to the Fields of National Security

The *doctrine focused on violent threats* is the determining element of the system of national security of the Republic of Moldova, resulting from its legislation. The doctrine is tackled in the Concept of National Security and in the structure of the national security of the Republic of Moldova. The doctrine determines the definition and the object of each segment of the present system of national security – state, public, military and civil security.

The present system comprises components which are not related to national security, but implicitly related to public and civil security. Both civil and public security involve a series of factors concerning various components of national security (social, environmental).

The Concept of National Security is obsolete and incomplete. Military security is the single sector of national security tackled in the Concept.

The way of emergence in the Concept and in other legal documents of elements related to other components of national security – political, economic, social, environmental – makes us admit the practical inexistence of such sectors within the system of national security of the Republic of Moldova. Elements of political, economic, social and environmental security have been included in the *Doctrine Focused on Violent Threats*.

The present Concept of National Security makes us conclude that the Republic of Moldova can be affected by numerous political, economic, social, and environmental threats, without having a conceptual-legal basis for the neutralization of such threats. There is no legal basis concerning the actions of state bodies and structures aimed at guaranteeing national security of the Republic of Moldova.

The Concept of National Security is in fact a threat to the security of the Republic of Moldova, because of: – the lack of recognition of some threats to national security; – the lack of a legal-organizational basis allowing the state to fight the threats to the security of the Republic of Moldova; – the negative effects of such a “lack” on the security segments stipulated in the legislation – as far as the Republic of Moldova is concerned, on military security.

D. Evaluation of Present Activities of the Supreme Security Council

The available information and the deductions from the analysis lead to the conclusion that there is neither a strategic nor an operational or current plan of SSC activities. It practically excludes the availability of any managerial technique.

The lack of such a plan reveals both the lack of a national strategy for national security development and of a country strategy, in general. Because of the lack of a country strategy, it is impossible to define a real concept of national security intended to ensure the survival of a state – the Republic of Moldova – as a tool for promoting the interests and for protecting the authentic values of the Moldavian people.

The available data concerning the ways that SSC members prepare for SSC meetings reveal that most decisions are not taken after the debates of SSC members, but outside the meetings. At meetings, they simply establish the level of acceptance by different SSC members of the proposed solution or make declarations related to some problems.

The decisions made by the Supreme Security Council are not subject to a plenary previous expertise, nor to geopolitical, or diplomatic, cultural, financial, or technical (logistic) viewpoints. The decisions are mainly indicative, generating ambiguous interpretations concerning their execution.

Regardless of the unordinary efforts of the staff of the SSC Service, and because of the Council's totally inadequate structure compared to its tasks and to the tasks of national security, in general, it is practically impossible to issue effective decisions. Such a fact reduces considerably the efficiency of the SSC and its functions.

E. Motivations for the Reform of the Supreme Security Council

The central motivation for SCC reform is enhancing the quality of the national security of the Republic of Moldova by state authorities.

The structure of the bodies in charge of ensuring national security is inefficient as it does not cover totally the set of issues related to the concept of national security (not as defined by the legislation of the Republic of Moldova, but a concept which would respond to the reality and to the threats to security). At present, national security is ensured by the means of force structures (not enough, especially, on the military segment) and there is no concern for economic, social, or partially political components.

The Supreme Security Council does not co-ordinate the activities of state structures in charge of some components of national security. The SSC does not respond to the threats to national security of the Republic of Moldova and does not cover by its activities all the segments of the concept of national security.

To reach an efficient level of operation of the system, there is a strong need for co-ordination by the Supreme Security Council of all national security segments and of the activities of all bodies that are in charge of some distinct components of security. Most issues and actions are related to some specific security sector, but both issues and actions also affect the other segments of national security (some are more and other affected than others). The major task in dealing with security issues is to avoid negative influence on the other fields of security and to contribute to strengthening national security.

F. General Objective (the Mission of Reforms)

The reforms should focus on the establishment of a functional system, intended to guarantee national security in the following fields: political, military, economic, social, cultural, spiritual, and environmental. The Supreme Security Council should be the centre of co-ordination of this system.

V. The Efficiency of the Supreme Security Council in Relevant Situations

1. Identification of Crisis Situations Faced by the Country and the State since the Establishment of the Supreme Security Council to Present:

- *the separatist issue and the armed Transnistrian conflict.* The separatist issue originated in the process of disintegration of the USSR. Since the proclamation of independence to the present, the Transnistrian issue has not been settled and remains on the agenda of political authorities. The Transnistrian issue serves as an incentive for other fundamental issues faced by the Republic of Moldova.
- *privatization;* the privatization process has enormously damaged the national economy of the Republic of Moldova. Its main results were the destruction of the country's productive potential and the enrichment of some circles.
- *social-economic situation.* Since 1991, economic crisis has been the main characteristic of the Republic of Moldova. The main reason for the crisis and, especially, for its perpetuation, was the country's political leadership. The incompetence of the leadership to deal with the economic crisis was complemented by ill-will. The "efforts" of the leadership directly hit the largest share of the population, who have reached the limits of their survival, and served as a permanent destabilizing factor. The socio-economic situation of the state has directly impacted the national security of the Republic of Moldova.
- *1995 street protests (against teaching Moldavian language in educational institutions).* The protests were unleashed early in March by the students of the State University of Moldova as a reaction to the decision of the Rector Gheorghe Rusnac to replace the courses of Romanian language and of History of Romanians with the courses of Moldavian language and History of Moldova. Their protests were supported by most higher educational institutions and lycees of Chişinău.
- *MIG issue:* In autumn 1997, the authorities of the Republic of Moldova sold to the United States of America twenty-one combat aircrafts MIG-29 for USD 40 million, as well as military equipment. The transaction caused serious material damage to the Republic of Moldova (as the country had received other more advantageous offers) and affected the military capacity of the National Army. Despite the fact that the country faced a separatist conflict, the most efficient combat unit of the National Army was dissolved.
- *energy crisis.* Energy crises occurring in summer 1998 and in spring 2000 have revealed repeatedly the vulnerability of the Republic of Moldova in the energy sector. Non-fulfilment of its financial obligations by the Republic of Moldova was invoked as the reason for cessation of electric energy (1998) and the natural gas (2000) supply. Because of the deficient management of the energy sector,

Moldova-gaz company merged with the GAZPROM Russian state-owned company. The Russian monopoly of the energy sector of the Republic of Moldova has caused an increase in the level of dependence of the Republic of Moldova on the Russian Federation.

- *reform of the system of state administration (June 2000)*. The reform was the outcome of the confrontation between Petru Lucinschi, President of the Republic of Moldova, and the Parliament. This confrontation destabilized the political situation in the country and drew the attention of foreign bodies. According to the modifications approved by the Parliament in June 2000, the President of the Republic of Moldova is elected by the legislative body.
- *government crisis and anticipated parliamentary elections (December 2000)*. This was the follow-up to the confrontation between the Parliament and President Petru Lucinschi. The fractioning of the legislative body and the actions aimed at the anticipated elections undertaken by Petru Lucinschi caused the dissolution of the Parliament and the declaration of anticipated parliamentary elections.
- *street protests against the compulsory study of the Russian language (winter-spring 2003)*. The decision to declare the Russian language as a compulsory subject in the primary school curriculum caused the outbreak of street protests. Their intensity raised in winter-spring 2003, when protesters added political claims and demanded the Government's dismissal and anticipated elections.
- *Kozak memorandum (November 2003)*. The memorandum submitted by Russia was the first document supposed to lead to the final settlement of the Transnistrian conflict. The document was aimed at the legalization of the separatist administration and at vesting it with the prerogative to set the directions for the country's development.
- *bread crisis (spring 2004)*. The rise in the price of bread led the supreme state authorities to intervene in this field. The largest bakeries were subject to controls followed by arrests and criminal investigations. The bread crisis revealed that the Ministry of Agriculture does not fulfill its obligation to ensure the country's food security.
- *crisis of Moldavian schools (June 2004)*. The crisis of the Moldavian schools of the Eastern area of the Republic of Moldova was the result of provoking actions of the separatists versus the position adopted by Chişinău authorities in the Transnistrian issue. Taking into account the resources and the capacities held by the political authorities of the Republic of Moldova when the crisis unleashed, their actions can be considered as adequate to the national interests of the Republic of Moldova.
- *The Concept of National Policy*: This document issued by the Parliament is a visible threat to the national security of the Republic of Moldova. The document lacks any provision concerning such traditional elements as the language, the

culture, the faith, the traditions which identify the Moldavians as a founding and a constituent identity of the state. The chapter related to ethnic minorities also lacks identification provisions. The threat of the document comes from the fact that it is placed within a political frame work, instead of being placed within the frame of state social security.

- *loss of ammunition (September 2004)*. The loss of a lot of ammunition of the stocks of the National Army occurred when the Moldavian authorities accused the Transnistrian separatists of illicit trade in arms and of supplying arms to the Caucasian region of the Russian Federation. The crisis of ammunition was preceded by active debates on the Concept of Reorganization and Modernization of the National Army.

2. Identification of Crisis Situations Debated at the Meetings of the Supreme Security Council

Bread crisis (spring 2004). The bread crisis was debated at two meetings of the Supreme Security Council. On the 28th of February 2004, the SSC examined the situation of the bread market and the legality of state bodies and economic entities in this field. According to the decisions made by the SSC, the concerned bodies got the task to undertake measures to improve the situation in this field. In addition to this, disciplinary and penal sanctions were imposed on a number of decision-makers. The SSC meeting held on the 27th of April 2004 focused again on the situation of the bread market and evaluated the implementation of the decision made at the meeting of the 28th of February. New tasks were set. The previous decision had been executed partially. Nothing was done to execute the following tasks: developing a law on cereals and bread products, improving legislation concerning joint stock companies, and penalizing the people who inspected the “Franzeluța” Joint Stock Company.

Loss of ammunition (September 2004). The SSC meeting held on the 14th of October 2004 focused on the following issues: military discipline, level of criminality, integrity of the military patrimony, of arms and of ammunition of the National Army, the legitimacy and the security of flights in the air space of the country. As the situation in all the above-mentioned fields was qualified as deplorable, the SSC decided to penalize the concerned people; new tasks aimed at improving the situation were set.

Most crises have been dealt with in a superficial way. Although some issues related to the crises have been examined by the leadership, including by the Supreme Security Council, and some problems have been solved, the ways of approaching them were incomplete and did not really ensure security.

A number of essential issues concerning the system of national security have not been examined by the Supreme Security Council (for example, the MIG transaction, the Concept of National Policy) or have been superficially examined (for example, privatization issues).

When problems and crises affecting national security were raised and decisions fostering the situation were made, it can be assumed that there were/are other centres which make decisions concerning national security matters. Taking into account that the decision power belongs to the President, it can also be assumed that such centres can be placed both inside the SSC and outside it, within circles which are close to the President.

3. Pointing Out Why Some Crisis Situations Have Not Been Examined by the Supreme Security Council or Have Been Examined Superficially (Symbolically)

Overlooking some national security matters by the Supreme Security Council can be explained by the Council's way of functioning.

SSC meetings are convoked by the President and by the SSC Service, the latter being in charge of the technical aspects of the meetings. The President convenes the Supreme Security Council in the event of an emergency situation. Or, the President convenes the SSC if there is need for actions to defend the country's interests.

The SSC Service monitors and evaluates the processes and informs the Supreme Security Council, if required. The major sources of information for the SSC Service are the data provided by the ministries and other state structures (such information does not reflect the reality and is not functional!).

The Service does not have the capacity to draw a realistic picture of national security, to identify present and possible threats to the security of the Republic of Moldova.

The availability of circles that "overlap" in their examination of the visible problems concerning national security has been and still is one of the main reasons that keeps the SSC from effectively dealing with such problems.

4. Evaluation of the Supreme Security Council Efficiency in Dealing with Crisis Situations (by identified situations);

Early in the '90s, the SSC dealt in an unsatisfactory way with the Transnistrian issue. Since the beginning of the conflict, the Republic of Moldova has lost control of a part of its territory in favour of a group of separatists and its further endeavours have resulted in the perpetuation of a separatist regime in the Eastern area of the country and its *de facto* recognition.

The actions aimed at conflict settlement undertaken since 2001 led to a qualitative leap, due to pointing out the real reasons of the conflict and to its institutionalization, as a result of involving new subjects in the settlement process. The steps undertaken by the Moldavian authorities have been marked by continuity. Nevertheless, the position of the Republic of Moldova remains quite vulnerable (because of the quality of the segments of the security system: military, economic, social, political). The level of dependence on external subjects remains very high.

The actions undertaken within the context of bread crisis, including the ones aimed at the situation at the *Franzeluța* bakery, focused on the neutralization of the deficit of wheat and on lowering the prices of bread. A series of administrative and legal measures were undertaken in order to take control of this branch. Nevertheless, no steps were undertaken to avoid such a crisis in the future.

The participation of Moldavian military units in peace-keeping operations in Afghanistan and Iraq were in fact political actions intended to enhance the quality of the relationship between the Republic of Moldova and the United States of America and to ensure support for the Moldavian authorities in dealing with some problems. Otherwise, no military threat has influenced the Republic of Moldova to send its troops to the above-mentioned states.

IV. Proposals Aimed at the Optimization of the Supreme Security Council's Activities:

The goal of the changes: the SSC must become the central element for strategic co-ordination of the national security system; the SSC must become a collegial and depolitized body.

1. Specification of the Mission of the Supreme Security Council and of its Staff

The Supreme Security Council is the central state body whose object is the national security of the Republic of Moldova. To ensure the country's national security, the Supreme Security Council focuses on preventing threats to national security and on neutralizing crisis situations that can be a threat to the national security of the Republic of Moldova.

2. Objectives of the Reform of the Supreme Security Council and of Its Staff

The objectives aim at:

- 1) Transformation of the Supreme Security Council into a body with decision and control power in the field of national security;
- 2) SSC depolitization;
- 3) Renunciation of the present approach to security matters and adoption of a real concept. (*see above*).

The Staff of the Supreme Security Council must ensure totally (a) the technical aspects of SSC activities and (b) expertise aspects – a complex substantiation of draft decisions, including participation with consultative vote at SSC meetings (its permanent bureau).

SSC Staff cannot be recruited or replaced like any other public servants. Recruitment and dismissal principles, similar to the ones established for the State Board for Movables, should be adapted and applied for the SSC staff.

3. The Fields of Competence of the Supreme Security Council and of Its Staff

Military, political, economic, social and environmental security. *Military security* concerns the double interaction of the state's capacities of armed offense and defense and the state's perception of the intentions of other states.

Political security concerns the organizational stability of the state, of the system of government and of the ideology which legitimizes them.

Economic security concerns the access to resources, funds and markets required to maintain an acceptable level of the state's welfare and power.

Social security concerns the capacity to support, under the limits of acceptable developments, the traditional elements of language, culture, identity, cultural and religious traditions.

Environmental security implies the preservation of the local and global biosphere, as an essential support for all activities conducted by the people.

4. Functions and Tasks of the Supreme Security Council and of Its Staff

The functions of the Supreme Security Council:

- 1) co-ordinating the activities of state structures in charge of ensuring the components of national security. The SSC must unify of all the activities focused on ensuring the national security of the Republic of Moldova;
- 2) undertaking actions intended to prevent threats to national security;
- 3) undertaking actions intended to overcome crisis situations that can cause threats to the national security of the Republic of Moldova;
- 4) exerting control over the execution of SSC decisions.

The functions of the Staff of the Supreme Security Council:

- 1) planning the actions intended to preserve and to strengthen the capacities of national security;
- 2) monitoring the situation in the field of national security,
- 3) monitoring the implementation of SSC decisions.
- 4) monitoring the reports submitted by ministerial and other state structures;
- 5) developing the programme of SSC activities;
- 6) informing daily the President of the Republic of Moldova about the developments in the national security sector.

5. Levers of Influence of the Supreme Security Council on the Fields under Its Competence

A lever of SSC influence could be the “rotation” of the SSC personnel (of the experts) within ministerial structures.

6. Structure of the Supreme Security Council and of Its Staff

The Supreme Security Council has two components:

- Permanent Bureau of the Supreme Security Council;
- Staff (Secretariat) of the Supreme Security Council.

The members of the first component – the permanent bureau – are:

1. President of the Republic of Moldova;
2. Secretary of the Supreme Security Council;
3. President of the Parliament of the Republic of Moldova;
4. Prime-Minister of the Republic of Moldova;
5. Minister of Foreign Affairs;
6. Director of the Information and Security Service;
7. Minister of Internal Affairs;
8. Minister of Defence;
9. General Prosecutor of the Republic of Moldova;
10. Minister of Culture;
11. Minister of Economy;
12. Minister of Finance.

The SSC Staff is led by the Council’s Secretary. The second component of the Supreme Security Council has two subdivisions:

- *the Monitoring subdivision* focuses on: monitoring the execution of SSC decisions, monitoring the internal component of national security, monitoring the external component of national security.
- *the Planning subdivision* has the prior function of identifying the major directions of activities to ensure national security and of developing plans intended to achieve such directions.

Depending on the issues to be examined by the Supreme Security Council, ministers or other public officials can be invited to SSC meetings.

ORGANIZATIONAL PRACTICES OF THE SUPREME SECURITY COUNCIL (Organizational management analysis)

Viorel CIUBOTARU

1. Organizational structure, rules and methods of organization

1.1. Organizational components of the Supreme Security Council and its Service.

The Supreme Security Council operates according to the provisions of the *Constitution* of the Republic of Moldova, the *Law on state security*, Supreme Security Council *regulations* and other legislative acts. According to SSC regulations (adopted on October 08, 1997) the SSC is composed of the Council chairman and members. The membership of the Council is established by the decree of the President of the Republic of Moldova. In addition to the members appointed by Presidential decree (prime minister, minister of defense, minister of internal affairs, minister of foreign affairs, director of the Information and Security Service, chief of General Staff, president of the Civil Protection and Emergency Situations Department and the secretary of SSC), the head of state “*can appoint as members of the SSC any other high-level officials*”.

Thus, by the decree of the President Vladimir Voronin nr. 1824-III from May 24, 2004, as members of the SSC were also appointed the Chairman of the Parliament, Chairman of the Parliamentary Standing Committee on National Defense, Security and Public Order, Chairman of the Academy of Sciences, Governor of the National Bank, minister of Economy, General Director of the Center for Economic Crimes and Corruption Fight, the Attorney-General, and the Governor of the Autonomous Territorial Unit “Gagauz-yeri”. The SSC Service is led by the Secretary of the SSC Service, and the members of the SSC Service are appointed by the President of the Republic of Moldova. At present, besides the SSC Secretary, there are also *three experts and a secretary adviser* in the SSC Service.

In terms of functional structure, the two elements of the SSC – Council and Service – are very different from one another with regard to the competence and relevance of their members. Among the appointed members of the Supreme Security Council there are officials whose legal competencies do not correspond to the legal status of the SSC or entail other aspects of security beside those established by regulations: Chairman of the Parliamentary Standing Committee on National Defense, Security and

Public Order, Chairman of the Academy of Sciences, Governor of the National Bank, minister of Economy, General Director of the Center for Economic Crimes and the Fight Against Corruption, the Attorney-General, and the Governor of the Autonomous Territorial Unit “Gagauz-yeri”. The actual structure of the Council is explained by the necessity of minimal coverage of human and professional abilities necessary for the efficient activity of the SSC.

SSC functions and competencies

According to SSC Regulations, the Supreme Security Council is a consultative body, which analyses and monitors the activity of ministries and departments in the field of national security and presents to the President of the Republic of Moldova recommendations concerning the problems of internal and foreign policy with regard to national security protection.

The SSC Regulations, like other legislative acts – *National security concept, Law on state security* – regulate actions regarding the prevention and control of “violent” threats to the national security of the Republic of Moldova. The regulations stipulate that the SSC presents recommendations on *national security issues* (art. 1 of the SSC Regulations) to the President of the Republic of Moldova, though most of the competencies established by the Regulations refer to military security and prompt reactions to emergency situations. The wide spectrum of issues concerning military security starts with the examination of the *Military Doctrine* and procedures for declaring war and extends up to regulations concerning collaboration with other states (art. 3 para. 3/i) and strategic infrastructure protection.

Among the SSC’s competencies there is also the examination of “drafts of decisions regarding modifications and additions to the National Security Concept, Military Doctrine and Foreign Policy Concept” (art. 3 al. 3/a). The Regulations concerning the examination of the *Foreign Policy Concept* within this “*framework of powers*” subordinate the foreign policy segment of the Republic of Moldova to military aspects of national security and develop the excessive “militarization” of the SSC activity and of the national security system.

The analysis and monitoring of the activity of the Ministry of Defense, Ministry of Foreign Affairs, Ministry of Internal Affairs, Information and Security Service, Civil Protection and Emergency Situations Department, and other governmental institutions from the SSC list of competencies (art. 3 para.6) are carried out during the working sessions of the Council and depend on the problem under consideration. The analytical quality of materials for discussion depends on two basic factors: the level of professional skills of the members and the competence and resources of the SSC Service. On these two factors, especially on the competence of the SSC Service, depend the examination of the “implementation of decrees and other decisions of the President of the Republic of Moldova regarding different issues of national policy” (art. 3 para. 7).

The competencies of the SSC Service do not allow us to qualify the activity of this structure as corresponding to the main goal of the Supreme Security Council. The regulation provision stating “*the examination of information and materials concerning national security problems*” is too vague and general to stimulate an efficient improvement of the SSC Service activity. Not only the missions established by SSC Regulations, but also the SSC Service structure serve as evidence of this fact. The Service doesn’t possess the necessary capacities to organize the monitoring and analysis of the issues concerning national security. The possibilities of the Service are limited to day-to-day organization of Council activities and monitoring of the implementation of SSC decisions.

1.2. Incoherence and contradictions

Contradictions and incoherence among the norms that regulate the SSC and Service activity reduce the efficiency of the structure as a whole and in certain conditions can represent a danger to national security.

Thus, the Supreme Security Council analyses the activity of the ministries and departments in the sphere of national security protection (the state’s internal and foreign policy), though the Regulations neither exactly define the comprehensive list of these institutions, nor stipulate the areas of national security, methods, terms, or designate the official person who would have the charge of supervising and analyzing the activities of state agencies in the sphere of national security protection. The SSC Regulations do not provide any directions concerning the periodicity of reports presented by heads of the governmental institutions, concerning the structure and content of the reports, the executive official who would have the charge of developing, presenting and guaranteeing truthfulness of the information.

The National Security Concept (NSC) of the Republic of Moldova, endorsed by the Decision of the Parliament of the Republic of Moldova nr. 445-XIII from May 5, 1995 provides that the SSC acts within the legal framework established by an organic law passed by the Parliament of the Republic of Moldova. At the same time, according to the *Law on national defense*, nr.345-XV from July 25, 2003, which came into force on September 19, 2003, the SSC Regulations are approved by the President of the Republic of Moldova.

According to the Law on National Defense passed on March 17, 1992, the President of the Republic of Moldova has full responsibility for the defense capacity of the state and military capacities of the armed forces. At the same time, according to the decision of the Parliament of the Republic of Moldova from June 6, 1995 concerning the Military Doctrine of the Republic of Moldova, the responsibilities for the state military security, improvement and development of the armed forces are carried out by the President together with the Parliament and the Government.

1.3. The degree of correspondence of the SSC structure and its Service to functions and missions established by their regulations

The SSC competencies, taking into consideration the norms coming from the Republic of Moldova' legislation, are restrictive. These competencies are based on the military component of national security and protection of public order. Other components of national security, such as political, economic, social and ecological aspects, are taken into account insufficiently. State institutions having as an object of their activity some legal aspects concerning political, economic, social and ecological security do not provide in their internal regulations any actions concerning national security protection.

There are no provisions concerning the ideological component of social security in the legislation of the Republic of Moldova. There are also no provisions concerning social security (ideology) and actions directed to grant it in the Council's and other state institutions' attributions.

The actual structure of the SSC Service does not correspond to the functions specified in the SSC Regulations. The SSC Service activity is practically limited to the organization of SSC meetings. The clause of the SSC Regulations (ch. IV, art. 8/b) about the fact that the Service's function is "*to examine the information and materials concerning national security issues*" is not carried out.

The main factors that cause poor information flows to the SSC Service are the following:

- There is a lack of legal regulations that would establish an efficient mechanism of information exchange;
- The structure and components of the Service do not allow efficient information distribution;
- The structure of information distribution. At present, the main information sources of the SSC Service are the reports presented by ministries and other state institutions. This fact creates certain dependence of the SSC Service and respectively of the Council itself on the information received from the government and state structures. Thus, it implies a significant decrease in the degree of objectivity of information as well as of the subsequent SSC decisions.

2. The SSC Service's functional structure and decision-making ability

2.1. SSC Secretary's role, functions and prerogatives

According to the SSC Regulations the President of the Republic of Moldova can appoint as the SSC Secretary only a civilian. SSC Secretarial combines the post of the SSC Service director and the post of the Councilor to the President of the Republic of Moldova on national security issues.

The SSC's Service coordination of the state agencies' activity is limited to drafting, by common agreement, of decrees concerning the implementation of the Council's proposals (art. 12). The SSC Secretary does not have the prerogatives which allow him to follow the implementation of the SSC decisions or to intervene in any manner when the implementation meets difficulties or demands collaboration of certain state structures.

The SSC Secretary's activity is determined mostly by the SSC Secretary's professional abilities and at the same time the boundaries of intervention of the SSC Secretary are determined by the intervention ability of the Service. In addition, the Secretary cannot intervene in the Service formation and in the definition of its functions.

2.2. SSC Secretary's capacity of influence

According to the Supreme Security Council's and the SSC Service's functioning mechanism, the SSC Secretary introduces issues into the SSC agenda. It can also deny the SSC Service proposals of convocation. Naturally, this situation is not valid in cases when the decision to convene a meeting is made by the President of the Republic of Moldova.

As SSC Service director, the SSC Secretary controls the monitoring of the implementation of the Supreme Security Council's decisions. At the same time, the Supreme Security Council Secretary, as a councilor of the President of the Republic of Moldova, may intervene alongside the President in case problems demanding effective intervention appear and the degree of danger or impact on national security of these problems do not demand the convocation of the SSC. The SSC Secretary is responsible for solving this problem.

Certain crisis situations serve as a motive for granting extra-regulations power to the SSC Secretary. The power granted to the SSC Secretary is not clearly defined. If it is granted to him as an even SSC Secretary then it means that the critical emergency concerns national security, though it is solved outside the frames of the SSC. The criteria which determine the fact that the issue is not examined in the frames of the SSC, but directly by the SSC Secretary by the President's instructions are not known as well.

Thus, the SSC Secretary's ability to exert influence is wider than the attributions reflected in article 12 of the SSC Regulations which are to govern the SSC Service, to work in common agreement with the departmental bodies of the decree projects concerning the realization of SSC proposals, and the fulfillment of duties of councilor.

2.3. SSC apparatus role and influence

The SSC Service monitors the issues covered by the SSC terms of reference, though there are no clear criteria that determine what issue is in the SSC competence. ("Issues in the SSC competence" presents us again with the fact that there is no systematic exa-

mination of the issues concerning national security in SSC activity; these problems selectively apply to SSC “competence” selectively).

A problem can be put on the SSC agenda thanks to certain evolutions around it and if the SSC expert believes that the situation is worth being examined by the SSC. The SSC Secretary makes the decision to add the proposal to the SSC agenda. It is obvious that this mechanism does not provide for a certain periodicity in the examination of national security issues.

In the frames of fulfilling its functions, the SSC Service (including its members) can request information from ministries and other state structures for information distribution and in order to prepare for meetings.

SSC Service influence consists in pertinent documenting of (a) the proposals for the agenda and (b) of the issues passed for the agenda and now are under elaboration, because on the documenting quality depends both the formulation of the issue (and the resolution entered on approval) and the entering of the issue on the agenda.

2.4. Human recourses policy within the SSC

In the SSC Regulations all the staff requirements are limited to exercising the duties of the Supreme Security Council.

Taking into account the SSC Service sphere of activity and degree of influence over the Supreme Security Council decisions, we can affirm that the formulation of certain obligatory demands of the candidates is necessary or at least similar demands should not be ignored while employing a candidate. These factors – professional, psychological, moral, civil and other qualities – can influence not only the quality of the work done by the Service employment but on the evolution of certain aspects concerning national security or on national security as a whole.

Alongside with the professional and psychological qualities, candidates employed by the SSC Service should be bearers of national values, which they ought to protect by means of the realization of national security politics. Their political convictions should be based on the values of social (ideological) security.

Any deviation of the employee from the fundamental national values of the social (ideological) aspect presents a danger to the Republic of Moldova’s national security and the expert in charge should naturally be relieved of his post in the SSC structure.

The staff recruitment for the SSC Service does not differ from the customary practice (the imperfect one) of the recruitment of public employees in the superior state bodies.

2.5. The attribution of the SSC Apparatus' staff

At the present moment every main SSC Service consultant, including the Secretary, monitors the activity of a certain segment of national security (in the current Regulations formulation), including ministries and specialized state structures. Several experts can analyze a complex problem involving multiple issues.

Subordinate structures, affiliated societies and subsidiaries

In legal terms, the SSC is a consultative body and no state structure can be subordinate to it. There are no norms in legislation that provide for the affiliation or subordination of certain state bodies. However, the SSC is the only body that has as the object of its activity the Republic of Moldova's national security, and other state structures are responsible only for certain elements of the Republic of Moldova's security.

Affiliated structures are all the state structures of the national security system: Ministry of internal affairs, Ministry of Defense, Information and Security Service, Anticorruption and Economic Crime Control Center, Ministry of Foreign Affairs, Civil Protection and Emergency Situations Department, State Guard and Protection Service, Border Troops Department, degrees of jurisdiction, Prosecuting magistrate bodies, transport infrastructure security bodies, environmental protection bodies. As supporting structures, they can serve any organization or person not involved in the national security system, coming with relevant initiatives for national security system improvement.

There is no specification in the legislation about the structure and the quality of relations between the SSC and other state structures. The only current Regulations stipulation is the provision by the SSC Service that SSC conduct activity efficiently. SSC Service doesn't have direct and efficient levers by means of which it can implement SSC decisions or promote national security politics. The SSC Service can only analyze the evolution of certain security problems and the implementation of SSC decisions and in case the decision is not implemented, the SSC Service should make a report. At the same time, legal norms do not provide regulations that can oblige the state affiliated or subsidiary structures to offer the SSC Service the requested information.

Common spheres of competence and the object of relations between the SSC or its apparatus with different subordinate structures, affiliated societies and subsidiaries

Military security is the only domain of national security in common with other state bodies. Being more precise, military security is the only domain entirely examined in the legislation of the Republic of Moldova concerning national security.

Amongst other components of national security only political security is considered relatively modestly, in terms of neutralization of threats towards the constitutional regime. The main gap concerning national security is in its ideological component.

Economic, social and environmental protection security were examined within the necessary limits of the provision of military security and combat against violent menaces to the Republic of Moldova.

The objective of relations between the SSC Service and other relevant bodies consists of:

- a) data concerning the present state and history of the (sub)domains in the SSC responsibility;
- b) data concerning the implementation of decisions made by the SSC or other bodies.

According to the National Security (NS) Concept, the following can contribute to the provision of national security by means of directly or indirectly advancing to the SSC proposals concerning legislation improvement, or the models and means of security provision: the state bodies system with duties in the domain of security provision, companies, institutions and organizations, public associations or citizens.

There are no cases when companies, institutions and organizations, or public associations of persons have contributed to the provision national security by means of directly or indirectly advancing to the SSC proposals. (Sometimes, the proposals are advanced by means of mass media, but there have been no cases when those proposals have been examined by the SSC).

3. Operative analysis of the SSC Service activity

3.1. Decision-planning and decision-making mechanisms

Identification and evaluation of the stages of the decision-making process

At the first stage, the SSC Service collects the information and monitors the previous SSC decisions' implementation and results, as well as identifies and formulates issues concerning national security. Analysis and evaluation of the issues is made taking into consideration the potential risk and relevance (emergency case or crisis) that is characteristic to the national security problems. SSC Experts advance the proposals concerning the examination of certain problems in the purview of the SSC, when they consider that the evolution of the situation concerning this issue demands the Council's intervention. The direct addressee of the experts' (or expert's) initiative is the SSC Secretary, who analyses proposals and decides whether they will be put on the Council's agenda. The final variant of the SSC meeting's agenda is established by the President of the Republic of Moldova who can refuse the Secretary's proposals and advance new issues for examination. It's obvious that the SSC has no plan of activity nor systematic consideration of national security problems. The majority of the problems worked over by the decision-implementation mechanism are concerned with current critical problems. The decision is considered and passed unanimously by the Council members.

Informational circuitries

The SSC Service is the institution that gathers information, processes it and presents the results to the Council. The main sources of information are the state structures, which offer the Service, on one hand, information concerning the evaluation of national security, and on the other hand, information concerning the implementation of SSC decision. The mechanism of informing the SSC is inadequate. For at least two reasons the information offered by the state structures cannot be regarded as objective. First of all, state structures are quite tendentious in the appreciation of their own activity, and secondly, based on only one source of information it is impossible to create an objective account of reality.

Practice of putting the issues on the agenda

The Security Council hasn't got a plan of activity for a specified time – the period of presidential mandate plan, annual plan and the term plan. The decisions made concerning putting issues on the SSC agenda are spontaneous and made ad hoc. The SSC Service Regulations do not offer any criterion or models for putting issues concerning national security on the Council's agenda. There are four identified sources of issue formulation for the agenda:

- The President of the Republic of Moldova;
- the SSC Secretary;
- SSC Service members;
- Any other institution able to formally contact the SSC Secretary.

The Council's meetings are convened on the President of the Republic of Moldova's initiative who, in his turn, is informed by and consults with the SSC Service concerning certain situations or events they consider exceptional or critical. The calling of emergency SSC meetings is an exclusive prerogative of the President of the Republic of Moldova.

The decision to put issues on the agenda made by SSC Secretary in charge depends on how critical or grave is the situation. If the President approves the agenda, the SSC Service starts to prepare the issues and to inform the Council members.

Data base used to prepare issues put on the SSC agenda

In their everyday activity the SSC Service experts use the following types of data bases:

- data concerning the present state and history of the (sub)domains of SSC responsibility;
- data concerning the course of the implementation of decisions made by the SSC or other bodies.

In both cases the SSC Service interpellates the relevant structures

According to the type of data base the SSC Service information sources subdivide into two groups: the institutions responsible for the implementation of SSC decisions and the institutions whose activity is in direct or indirect connection with one of the domains of SSC responsibility. The access to the data bases is not provided by legislation. The SSC Service receives the requested information for its efficient activity from the affiliated bodies of the Council: the Ministry of Internal Affairs, Ministry of Defense, Information and Security Service, Anticorruption and Economic Crime Control Center, Ministry of Foreign Affairs, Civil Protection and Emergency Situations Department, SPSS, Frontier Troops Department, degrees of jurisdiction, Prosecuting magistracy bodies, transport infrastructure security bodies, and environmental protection bodies.

Due to such factors as institutional bureaucratization, and the tendency to overestimate needs and to underestimate abilities, the information offered by the state structures often suffers shortcomings that distort reality. There is an interesting fact that in the frames of the state structures (ministries, departments etc.), except the Information and Security Service, there are no specialized services that can analyze and work on the initial information.

Information processing

In the condition of the lack of a framework for regulation of the relations between the SSC and other state agencies, and of a common informational system between these institutions, the initial information processing demands more efforts from SSC Service experts. Each of the 3 Service experts is responsible for a particular domain or group of domains, which he or she should permanently monitor.

Substantiation basis used to motivate decisions and develop and implement solutions

There is no precise substantiation framework used to develop decisions and solutions concerning security problems. We can deduce from the available information that the main substantiation arguments are legal ones that are adjusted to the current political interests. Such a consideration implies immediate results concerning current political interests. The current result has the priority, to the detriment of the strategic view which itself contravenes the national security concept. While the national security problem implies more aspects to be considered than just current legal and political ones, the formulation of a solution adequate to the current and potential security provocations can not be made without considering historical, cultural, geopolitical, social, economic, and ethical factors in the decision-making process.

Participation in the formulation of issues and implementation of decisions

SSC Service experts analyze the problems concerning national security and advance to the SSC Secretary proposals for the examination of some issues. For every issue, the person assigned responsibility for that issue is either a member of the Council or a competent person invited to the SSC meeting. In the process of issue formulation, only affiliated structures of the SSC are allowed to take part indirectly. These structures are, the Ministry of internal affairs, Ministry of Defense, Information and Security Service, Anticorruption and Economic Crime Control Center, Ministry of foreign affairs, Civil Protection and Emergency Situations Department, SPSS, Frontier Troops Department, degrees of jurisdiction, Prosecuting magistracy bodies, transport infrastructure security bodies, and environmental protection bodies.

The modalities of informing SSC members concerning the issues on the agenda

There is no specific modality for convening the SSC members. The members are informed by telephone by the SSC Service referent. The procedure of informing the SSC members about the issues on the agenda is to hand over the sets of documents and the agenda itself to each member of the Council the week before the meeting takes place. In case of emergency meetings, the members of the Council are informed about the issues on the agenda in an emergency order.

The way of proceeding and documenting the SSC meetings

SSC meetings can be divided into two categories: i) ordinary meetings, which take place once a month and ii) extraordinary meetings called ad hoc in critical situations, emergency cases or for other current problems what require an emergency solution. Based on the discussions taking place during the SSC meeting, the SSC Service referent records the minutes of the meeting, which are consequently handed over to members of the Council for confirmation.

3.2. Prerogatives, mechanisms, rules and processes of coordination

Identification of the domains and object of coordination

Taking into account the concept of the Republic of Moldova's national security, including the elements mentioned in the working regulations of certain state structures (Information and Security Service, Ministry of internal affairs, Ministry of Defense), we can affirm that the SSC on one hand and the military structures on the other have common spheres of competence in the military and political segments of national security.

Problems concerning other aspects of national security: economic and ecologic domains (excluding social security) were under the SSC's consideration. The state struc-

tures' regulations what concern the above domains do not refer to issues of national security.

Prerogatives, mechanisms, rules and processes of coordination

The Supreme Security Council does not have the ability to coordinate the activity of all the structures meant to provide national security for the Republic of Moldova. The SSC is a consultative body and the heads of the state structures are interested in operating of their own institutions, and within the state institutions there are no services to deal with the coordination of relevant domains of national security.

The coordination of *State structures' activity* as the subjects of the provision of state security **must be** in the SSC Service's competence. The activity of the Service in this sphere should be directed at two main elements.

One element is the coordination of activity of the structures involved in solving a specific problem concerning national security, or the structures involved in a whole series of provision for security issues. The first of these 2 components is limited in time and becomes useless once the specific problem is solved, though it is still under the SSC Service's consideration for a period of time. The second component doesn't depend on time and can disappear only together with the state system and sovereignty. Even if national security problems were totally eliminated (utopia!), the activity for the provision of national security must be continued.

The second element in the coordination of activity for the provision of national security is logistics and strategic planning. The term logistics implies the SSC Service mechanism of gathering information received by state structures. The SSC Service uses the gathered information in the elaboration of action plans for current problem solving and in readjusting already existing plans the aim of which is the exercise of a series of directions in order to provide national security. The information offered by the state structures is just a part of the total informational volume which the SSC Service ought to possess in order to develop efficient state security provision plans.

The coordination of action between different structures is necessary to solve each problem concerning national security by common efforts. The Supreme Security Council is a coordinating institution of different elements that provide national security. The importance of the SSC consists in the level of representativeness of the members of this structure. Although the current organizational structure of the Council and the SSC Service is not able to provide efficient collaboration of all of its elements that are meant to solve concrete problems, it also cannot coordinate the national security system as a whole. The coordination with other bodies should be centered upon two essential elements. The first consists of the presentation of a list of necessary actions which should be taken into consideration when making a decision and the possible consequences in case the decision is not made. A similar list can be presented by every party interested

in solving a certain problem, and the SSC Service could systematize all the elements, presenting the result of its work to the SSC.

Another essential element of the coordination mechanism consists of offering a list of every structure (ministry, department, service, etc.) interested in solving a certain problem connected with national security. The list should contain the concrete proposals for solving this problem.

3.3. Implementation mechanisms and control mechanisms

Mechanisms for decision implementation

Each decision made by the SSC has a person responsible for its implementation. Those who execute the decisions are members of the Council. It is a common practice that the appointed person responsible is the minister or the head of a service, department, center, etc., and should be one whose competence includes solving the problem on the agenda. There are cases when several state institutions are involved in solving one problem.

The implementation of decisions is monitored by the SSC Service. In the relation “SSC Service – the structure responsible for the implementation of decisions”, the responsibilities of the first are limited to the monitoring of decision implementation. The mechanisms which would make possible certain interventions from the direction of the SSC Service in the process of decision implementation are not stipulated by regulating norms.

Evaluation of the implementation mechanisms

In order to evaluate the mechanisms of decision implementation, it is natural to refer to evaluation criteria similar to those of management activities, such as efficiency, effectiveness, and the terms and systematic character of implementation. Implementation mechanisms do not differ very much from administrative mechanisms. The main difference between SSC decisions and common administrative circulars is the fact that the first are confirmed directly by the President and their implementation is directly monitored by the President of the Republic of Moldova.

Such a consideration of the implementation of SSC decisions increases the degree of implementation of decisions of a certain type, namely those considering current issues (e.g. the measures to combat leaders of the criminal world, the case with the “Franzeluta”, Joint-stock company, the situations concerning illegal construction, etc.). At the same time, the problems what require thorough and long-term consideration suffer from major shortcomings at the stage of their implementation. The reasons for such state of things are, on the one hand, the impossibility for the President to monitor the efficiency of decision implementation (it is beyond his physical, psychic, and professional possibilities) and, on the other hand, the lack of an efficient mechanism to monitor decision implementation monitoring by the SSC Service.

Another reason for inefficiency in decision implementation is the consideration of the majority of national security problems separately from the entire national security context. This fact leads to an increase in expenses for solving problems which means they are usually solved for their own sake – a fact that usually generates new problems.

Mechanisms (levers and procedures) of control (monitoring and setting right) of the decisions implementation

The SSC service experts monitor the implementation of decisions by the institutions appointed responsible for it. There are no sanctions stipulated for the non-execution of SSC decisions in the legislation and in practice. Based on the information received from the institutions responsible, Service experts report on the process of the execution of the decisions made at the SSC meeting. The monitoring report of the execution of decisions is presented to the President of the state only when the decision is executed unwillingly by the institution responsible.

The execution of SSC decisions is controlled by the President of the Republic of Moldova and by the SSC Service.

4. The practical role of the SSC in the provision of national security

4.1. Identification of the place of the SSC in the provision of national security

In such a complex domain as national security on which the very existence of the Republic of Moldova depends, the politics of the state are very modest and are limited only to the events and to the monitoring of security phenomena. In spite the fact that the Supreme Security Council is meant to provide the national security of the Republic of Moldova, the actual legislative framework of the regulation of the national security state policy is considerably underdeveloped, especially where it refers to the legislative framework of the SSC's functional activity.

The national security of a state represents a complex system of relations between the state bodies responsible for providing state security. That is why national security can be efficiently provided only by the common efforts of all the elements of the system. Being the nucleus of this system, the SSC must provide good conditions for the course of actions concerning the provision of security. Unfortunately, at the moment the SSC is rather a body of purely technical assistance to certain of the President's current aspects of activity. Its functions are limited to the statement of facts and to some current recommendations formulation. The national security system of the Republic of Moldova is more a sphere of current actions dealing with the elimination of the results of fatal events and phenomena than a strategic domain dealing with the preclusion and prevention of potential risks to national security.

4.2. Identification of the type and the contents of the relations between the SSC and other components of the national security provision system

The relations between the SSC and other components of the national security system consist of information concerning the provision of national security. Within this informational system, the SSC Service is the information receiver, and the state organs are the information transmitters. The direction of the information flow is practically unilateral.

4.3. Evaluation of the practical role of the SSC in the national security provision system

The Supreme Security Council represents the only body of the national security system which has national security as its object. The SSC activity within the national security system can be evaluated as unsatisfactory. After 14 years of independence the Republic of Moldova is confronting numerous problems concerning security: territorial, military, social, economic and cultural problems. During this period none of the major problems concerning security was solved, and the existence of the Republic of Moldova as a state is balanced precariously between the influence of the great powers of the world.

The SSC, using its components and resources, was to consider national security problems of the Republic of Moldova and to serve as a generator of national security system reformation. The main causes of deficiency of the SSC activity in this period are: the lack of an adequate legal framework, inadequate structure of the Council and the SSC Service, and the lack of a conceptual framework what would cover all the problems concerning national security.

The actual way of organization and activity of the Supreme Security Council of the Republic of Moldova does not correspond to the Republic of Moldova's national security interests. The Council is beyond the provocations directed to the Republic of Moldova national security and the evolutions which take place on the international arena. Thus, it cannot adequately cope with those provocations. The SSC activity is predominantly directed at solving imminent crises and strategically, it lacks a long-term consideration of the issues (spheres) of security as component parts of the national security of the Republic of Moldova. The legislation according to which the SSC activates comprises only several isolated elements of national security, and ignores such spheres as economic, social, ecologic, cultural and spiritual, which are elements of political security. The actual organizational structure of the supreme Security Council doesn't permit it to act as a central element of the national security system, to consolidate this system and make it functional.

5. Reserves and imperatives for improvement

5.1. Challenges for improvement of SSC activity

Room for improvement

The actual SSC structure, especially the SSC Service, is not only compatible with provocations directed to the national security, and with the imperatives for further SSN edification, but also with the objectives and functions of SSC regulations. Thus, room for improvement is lacking absolutely. In this situation it is possible to speak only about the improvement of the current SSC Service activity by means of introducing standard techniques of operation management. The methods of strategic management are inapplicable to the actual SSC structure.

Imperatives for improvement

The Supreme Security Council should represent the central element in the national security system. To achieve that it is necessary to surpass the actual state and to create an efficient Council which can unite around it the entire national security provision system. The SSC should represent a connecting link of all the dispersed elements which form the national security system.

The SSC reform pursues the transformation of the Council into a body which can appropriately and efficiently react to the actual and eventual provocations directed at the Republic of Moldova. The Supreme Security Council should become the main organizational and functional element of the security system of the Republic of Moldova. The essential aim of the re-formation is to transform the Supreme Security Council into the fundamental element of a single united system of national security which would include all the elements of national security: military, political, economic, social and ecological security.

One important element of transformation is the development of a new Concept of national security. Giving up the *doctrine concentrated on violent dangers* and construction of a new concept that would correspond to the national interests is an essential aspect in the SSC institutional (structural and conceptual) and the entire national security system re-formation.

In order to surpass the actual state of the SSC, the expansion of the SSC Service expert's authority concerning control over the execution of decisions and concerning intervention in the execution of SSC decisions is welcomed.

The proposals for the reformation of the SSC are a part of a *package* meant to transform the Council into a body able to meet the national security interests of the Republic of Moldova. The SSC re-formation package should include conceptual innovations as well as legislative ones. The national security Concept must cover five basic factors: political, military, economic, social and environmental security. Thus, not only the re-formation of the national security Concept as a fundamental document of the pro-

vision of national security should be the undertaken, but also the re-formation of every sphere of security and of national structures. National security system reformation should include legislative interventions in order to specify the role and responsibilities of each state body in the sphere of national security provision.

5.2. The aspects of SSC and SSC Service re-formation

The re-formation of the Supreme Security Council would cover the following two spheres:

- 1) Functional and organizational sphere;
- 2) Professional and values sphere.

Functional and organizational dimension

The functional and organizational aspect of the transformations follows the reformation of the methods and mechanisms of the organization of Council activity as well as of the system of relations with the state structures responsible for certain national security spheres or elements.

The Supreme Security Council is formed by two substructures:

- 1) The Council itself (actual, eventual and SSC Permanent Office) and
- 2) the SSC Service.

The Council consists of (i) persons in charge and (ii) invited experts, who only have the right to consultative suffrage. The SSC Service is formed by engaged consultants.

The persons in charge are divided in their turn into (a) the Council office members and (b) permanent members appointed (and removed) by the President during his mandate. The office members are the President of the Republic of Moldova, the Prime-minister, minister of the internal affairs, director of the Information and Security Service, minister of Defense, minister of external affairs, minister of Economy, minister of Culture, and head of the Emergency state Department. Only the President of the Republic of Moldova has the right to appoint the SSC's invited members.

Also, the President in charge appoints invited experts as SSC members during the period exceeding his mandate. He cannot remove those Council experts-members whose personal mandate hasn't expired yet, even if they were appointed by the former president.

The Supreme Security Council Consultants form the SSC Service. The SSC activity is coordinated by the SSC Secretary who is also a permanent member of the Supreme Security Council. Each consultant is responsible for one of those seven domains which form the national security system: cultural and spiritual, social, political, economic, technological, ecological, and military. Each consultant has his or her own deputy. Along with these seven experts a global, regional and local events forecasting expert will activate within the SSC Service.

The Service Consultants will systematically consider information in order to identify problems and dangerous situations. The substantiation of the proposed solutions will be in accordance with the national security Concept regulations and the specific exogenous factors (historical, geopolitical, constitutional, legal, cultural, moral and ethical, economical and social ones). Based on the analysis of facts, values and arguments of the critical situations and on the estimation of potential risks, the Service consultants will formulate proposals for overcoming critical situations or suggestions on avoiding and minimizing security dangers. These recommendations will be included in the SSC meetings' agenda for consultation purposes. In order to increase the efficiency of the Council's activity, it is very important to undertake certain structural changes. The Council's Permanent Office should have a stable membership, leaving the possibility to get interested outside persons to take part in a certain problem concerning the competence of the institution they represent (for institutions not represented in the SSC).

The SSC Service consultants as well as the invited experts as Council members will be appointed for 7 years and won't be removed together with the changing of political power in the country. After these 7 years the experts will be eventually proposed to stay for another 7 years. The Service consultants' activity concerns two functional components: the *monitoring* of the situation in the national security sphere and *action planning* (for different periods) in order to provide national security. Thus, the SSC Service is formed by 2 components: the monitoring department and the strategic planning department. The consultants offer in an obligatory way the alternative solutions to those advanced by the state structures.

The action planning for the provision of national security will be made according to long term, medium term and short term strategic planning. The minimum amount of time of Service activity planning will be 1 month. Another functional component of the planning department is the coordination of state structure activity concerning the provision of state security.

The monitoring department exercises control over SSC decision implementation; monitoring of the Parliament and Government activity (or other governmental structures) on the level of decision or implementation of law projects, etc.; and monitoring of economic, social, and ecological development. Within the process of SSC improvement it is necessary to identify alternative information sources along with the official (state) ones. Such sources can be first of all national and foreign mass communication media, reports and studies of the public bodies (foreign NGOs should be included in the bodies whose concern is the provision of national security).

The SSC Service is authorized to request from the state structures any information concerning the sphere of national security provision. The SSC Service consultants and the Council experts as well as any other members of the Council are granted free access to the state archives.

In order to *reinforce the SSC administrative abilities* it is necessary to delegate to the state structures the experts who would administer the solving of problems concerning internal national security. These experts will be appointed by the SSC and the post in the ministries and departments must not be lower than vice-minister of the respective deputy director. These persons in charge should have a specialized consultant namely in the specific aspects of national security and who would be appointed by a majority vote of $\frac{2}{3}$ of the SSC members. Except the SSC members, the SSC Service consultants take part in the Council meetings with only a consultative vote. Only unanimous issues can be put to the vote. The decision is confirmed by the President of the Republic of Moldova who takes the full responsibility of his decisions.

Professional, civic and moral sphere

The *professional* aspect involves the SSC members' and employees' professional qualities. In order to be engaged and appointed as members of the SSC, the candidates must be known (formally or informally) as professionals. The Service consultants and Council members must obligatorily speak the state language, because the SSC documents and works cannot be translated in order to avoid the possibility of leakage of information. Every person within the SSC should have a clear and active civic position, without contradictions and which expresses and affirms the fundamental values of the people of the Republic of Moldova as well as the values necessary for the provision of efficient integration of other ethno-cultural groups of the Moldovan society. The SSC members and the SSC Service employees should have been born on the territory of the Republic of Moldova and have been living for the last 15 years on the territory of the state. None of the persons within the SSC is allowed to have a double citizenship. The SSC members and employees cannot have a criminal record, cannot be exposed in amoral behavior, including that which would ruin the bases of a model family and solidarity.

THE SUPREME COUNCIL OF NATIONAL DEFENSE: THE MAIN INSTRUMENT OF DECISION MAKING OF ROMANIAN SECURITY POLICY

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HISTORY OF REGULATION

A. Before 1989

Not longer after its establishment as a unitary and sovereign state within its natural borders, in December 1918, Romania went through a massive and comprehensive re-organization. An important moment was the adoption of a new Constitution in 1923, which was considered one of the most modern in Europe at that time, as an expression of the great ambitions that had animated the Romanian political elite during those years. The Constitution stated in art. 122: *“A Superior Council of National Defense will be established to be responsible, on a permanent basis, for the measures necessary to organize the national defense”*. As a result, on March 14th, 1924, the Parliament passed the Law on organization of the Superior Council of National Defense. According to this law, the role of the Superior Council of National Defense was to *“examine, coordinate and find solutions to all matters pertaining to the national defense”*. Although the role of the Council was so generously formulated, one can notice that the duties of this structure had in fact been primarily to synthesize information and, under certain circumstances, to coordinate, rather than to *“find solutions”* to matters of national defense, which may even include, in certain cases, powers of operational command. This is the complete opposite of the situation drawn by the post-1990 legislation, which stated the role of the Supreme Council of National Defense (SCND) mainly in terms of synthesizing information and of coordination. A closer look at the actual powers of the Council clearly shows that it has rather a role of command or a role of *“finding solutions”*, if one is to put it in the terms of the 1924 law. Another observation about the 1924 law is that it does not stipulate the powers of the Superior Council of National Defense. These were specified, in a general manner, in the Rules of implementation of the law, which were promulgated by Royal Decree, six months after the law entered into force.

The Superior Council of National Defense was composed of the President of Council of Ministers (as President), the Heir to the Throne of Romania (when he reached the

age of majority), the Minister of War, the Minister of Foreign Affairs, the Minister of Trade and Industry, the Minister of Communications, the Minister of Public Works, the Minister of Finance, the Minister of Agriculture, the Minister of Public Health, the Minister of Internal Affairs, and a representative of the Army Superior Council (possessing a consultative-only vote). A rapid examination of the membership of the Superior Council of National Defense displays an almost perfect overlapping with the Government. Out of the 12 members of the Council, with the exception of the Heir to the Throne and of the representative of the Army Superior Council, the members of the SCND are also members of the Government. This impression of a perfect counterpart to the Government is strengthened by the provisions of art. 2, paragraph. 2: *“Apart from the Superior Council of National Defense, a permanent delegation composed of the ministers of the relevant departments will operate to satisfy the needs of the army related to the respective departments.”*

It is also worthy of note that art. 1, paragraph 2 of the 1924 law states: *“The decisions of the Superior Council of National Defense are mandatory and engage the responsibility of the respective Minister, following the confirmation of the Council of Ministers”*. This provision is a clear indication of the role of the Superior Council of National Defense as a structure subordinated to the Government.

The Council was required by law to be summoned by its President *“mandatory, at least twice a year”* (in March and September, as the law stated), its working meetings were secret and its records were kept in an archive that was secret as well. The matters on the agenda were researched and prepared in advance by a *“studies committee”*, composed of representatives of the ministries whose heads were members of the Council, as well as other experts appointed by the Ministry of War. The *studies committees* were always led by the Chief of the Romanian General Staff.

The Council was assisted by a secretariat operating within the Romanian General Staff and led by an officer appointed by Royal Decree upon a proposal from the Army Superior Council. This secretariat had three main functions: to centralize the issues submitted to the Council for decision-making, or to the *studies committee* for research; to notify the interested departments about the decisions made by the Council and to follow-up on the implementation of these decisions. The mission of decision implementation monitoring should be noted.

The 1924 law was supplemented by a set of Regulations regarding the implementation of the law on the Superior Council of National Defense, which was promulgated by Royal Decree on 17 September 1924. In our opinion, these implementation rules went beyond the mere implementation of the law by exceeding its provisions at times. This was the case from the very first article, which spelled out the role of the Council in a more specific and articulate manner. Thus, the Council’s role was to *“examine and decide on all matters related to the national defense that require coordination among several ministries”*, to *“coordinate the efforts and keep the balance between all the needs*

of the country, by providing the army with the desired military strength and with all the necessary means”, “to create and maintain the links between the ministries in order to ensure that the needs of the army are met”, “to study in peace time all the issues related to the defense of the country and to decide on the appropriate means to achieve it” (art. 1 of the Regulations). This makes clear the fact that the Council at that time played the role of a coordination structure having a marked inter-ministerial nature and was established to maintain an adequate level of national defense capabilities. These regulations were formulated in a more specific way than the text of the law and this is the reason why they sometimes exceeded its literal provisions.

On the other hand, one can notice the precise formulation featured by these Regulations, which regulated in detail the procedures for the summons and operation of the Council and of its two subordinated structures: the studies committee and the secretariat.

Also noteworthy is the relation that the King (defined in the 1923 Constitution as the “*head of the armed forces*” in art. 88, paragraph 10) had with the Council. The 1924 law and its rules of implementation contain only one provision concerning the King. Both legal documents state that “*His Majesty, the King, may summon the Council whenever he deems necessary, in which case he will chair the meetings*”. The law did not elaborate on the role of the President of the Council in such cases, but corroborating the provisions of both documents with the fact that the decisions of the Council could not enter into force without the subsequent sanction of the Government, the President of the Council of Ministers still remained part of the Superior Council of Defense without exerting its presidency.

The 1938 Constitution, according to which the King was granted almost discretionary powers, did not provide a structure like the one analyzed in this paper.

This was also the case with the first two communist Constitutions, in 1948 and 1952. Under these constitutional arrangements, the entire responsibility for national defense rested with the Government that, according to the 1952 Constitution, could organize under its authority any kind of “*services*” dealing with any type of problems.

Under the 1965 Constitution, the executive responsibility for national defense rested with the Defense Council of the Socialist Republic of Romania, which was led by the President of the Republic that was a newly introduced position. The SRR Defense Council issued decisions concerning the organization of defense, which were mandatory for the Council of Ministers. Law 5/1969 provided the legal basis for the organization and operation of the SRR Defense Council.

This law clearly states even in its preamble two fundamental features that define the nature and the role of the Defense Council. Firstly, the purpose of the Defense Council was to “*examine, coordinate, and find solutions to the main problems in the field of national defense and security, both in peace and war time*”. Secondly, the law details the subordination of the Council: “[*The Council*] is accountable for its whole activity to the

Central Committee of the Romanian Communist Party and to the Great National Assembly, and to the Council of State, between its sessions". One should remember that, at that time, Romania was under a constitutional system proclaiming that the Romanian Communist Party was "*the single political force of the entire people*" playing "*the role of the leading force*". Art. 1 of Law 5/1969 defines the Defense Council as a "*deliberative body*" and art. 6 states that its activity complies with "*the principle of collective work and leadership*", a tenet that was both vague and inefficient, but kept in high esteem by the propaganda of that time.

The Council could be summoned only by its President at least twice a year and made decisions by simple majority vote openly cast by its members. According to the law, the Defense Council was composed of: **president** (the secretary general of the Communist Party), **members** (the president of the Council of Ministers, the minister of armed forces, the president of the State Security Council, the minister of internal affairs, the minister of foreign affairs, the president of the State Planning Committee, other members nominated by the Central Committee of the Romanian Communist Party and appointed by decrees of the Council of State), and a **secretary** (the Chief of General Staff). According to Decree 295/1968 on the establishment, organization and operation of the State Security Council, the president of this structure, who was in fact the person in command of the secret service of communist Romania, which was mostly undertaking activities of political police, had a rank of minister and was a member of the Government. This was decided following the changes that occurred in the relations between the power groups at that time, after Nicolae Ceausescu acceded to the top position of the Romanian state. Thus, it was decided that the security structures would be subordinated both to the Government and to the Communist Party. Prior to that moment, the Romanian "*Securitate*" had operated almost as a separate power of the state.

The main roles of the Defense Council were: to define the "*fundamental conception of defense system of the SRR*"; to approve the measures concerning general organization of the armed forces, the plans for mobilization and use of resources during war, and the measures of "*operative preparation*" of the national territory; to consider reports from ministers and heads of departments regarding national security; to examine and propose to the Great National Assembly and the Council of State the declaration of the "*state of necessity, of mobilization and of the state of war*" and to directly lead the military operations during war times.

B. After 1989

The Supreme Council of National Defense (SCND) was established under this title, immediately after the fall of the Ceausescu regime in December 1989. One of the first tendencies of the new authorities, which responded to a radicalized opposition caused by the violent nature of the regime change, was to completely eliminate the commu-

nist power structures, including by their formal abolition and by avoiding the use of infamous words such as “*security*” in the title of the new structures. In this spirit, the new authorities installed immediately after December 1989 decided to eliminate the Defense Council under its communist form and dissolve without delay the State Security Department, the political police of the Ceausescu regime also bearing the ominous legacy of the years of terror during the Gheorghiu-Dej regime. In search for historical and democratic legitimacy, the newly established bodies often received names that echoed their counterparts in the interwar period of the Romanian democracy. As the title of the institution analyzed in this paper was the “Superior Council of National Defense” during the ‘20s and ‘30s, the title of its post communist counterpart was slightly changed to the “Supreme Council of National Defense” (SCND).

In December 1990, even before the first post communist Constitution was adopted, the Parliament passed Law 39 regarding the establishment, organization and operation of the SCND. Law 39/1990, subsequently abrogated by Law 415/2002, established an SCND composed of 8 members (the minister of industry and trade, the minister of defense, the minister of foreign affairs, the minister of internal affairs, the head of the Political Analysis Department of the Presidency, the director of the Romanian Intelligence Service (RIS), the director of the Foreign Intelligence Service (FIS), and the chief of General Staff) and led by the President of Romania, as a chair, and by the Prime Minister, as a deputy chair. Given that this law was adopted prior to the 1991 Constitution and that it was supposed to be implemented during a period of constitutional void (the communist Constitution from 1965 had been abolished *de facto* in December 1989), the law-makers did not pay enough attention to a precise definition of the constitutional nature of the SCND. Instead of defining its position within the system of state powers, the law-makers only defined the SCND by its ascribed role. Thus, Law 39/1990 states in its first article that the SCND is established “*for the purpose of organizing and coordinating the activities related to the national defense and security of the state both in peace and war times*”. Although the SCND was defined as a kind of general administrator of the activities related to defense and “national security”, its actual prerogatives rather suggested the profile of an authority with full powers. According to Law 39/1990, the SCND essentially had three categories of powers:

1. to initiate documents for the approval of the Parliament (the doctrine of national defense, the structure of the national defense system, the declaration of the state of war, cease of hostilities, armistice agreements and the cease of states of conflict);
2. to make decisions on the general organization of the armed forces and of other components of the national defense system, the measures of defense when Romania is attacked, the deployment and redeployment of the grand units on the national territory, the plan for the mobilization of the national economy during the first year of war, prognosis studies on the organization of production of military equipments, long-term programs for providing army equipments and sup-

plies, the plan of cooperation between the Ministry of Defense and the Ministry of Internal Affairs regarding the “*surveillance and defense of important objectives on the national territory, maintaining and restoring the legal order*”, the draft international treaties and agreements in the field of national defense, etc).

The third type of prerogatives of the SCND granted by this law cannot be easily categorized. The legal text states: “[*the SCND*] analyzes the situations susceptible to make necessary the declaration of the state of emergency as well as the declaration of partial or general mobilization”. It should be noted that, according to the ambiguous legislation in force in 1990, both the declaration of the state of emergency and of the partial or general mobilization fell under the responsibility of other structures of the state, and this is the reason why the lawmaker stated that the SCND “analyzes” these situations without giving any indication about what role these analyses were to play.

As far as organization and operation are concerned, the provisions of Law 39/1990 were not much different from the ones regulating the SCND of today (Law 415/2002). The SCND had a secretariat organized within the Presidency of Romania, it was summoned on a quarterly basis or as needed, by its President or by one third of its members and needed a quorum of two thirds of its members to make decisions. However, differences are visible in the decision-making procedures: while the 2002 law provides for consensus decision-making, the 1990 law stipulates the open simple majority vote as a decision-making rule. The 1990 law also states that “*the president of the SCND coordinates and guides the entire activity of the council*”; in the absence of the president, these prerogatives were assumed by the vice-president.

It is also noteworthy the legal provision according to which the “*decisions made by the SCND are compulsory for all Romanian citizens, as well as for all the institutions and units that they refer to*”. If judged against the democratic standards to which Romania adheres nowadays, such a legal provision would be inadmissible today, because the SCND substituted a legislative body by an *erga omnes* extension of the obligatory character of its decisions.

According to Law 39/1990, the SCND had the obligation to present an annual report or, to report to the Parliament whenever requested. It is noteworthy that the 1990 Law states that the annual report and any other reports were to be presented in front of the legislative body by one of the SCND members. Therefore, neither the SCND president, nor the vice-president were obliged to give the Parliament an explanation of their activity at the top of the SCND.

THE SYSTEM OF LAW 415/2002

Law 415/2002 on the organization and operation of the Supreme Council of National Defense defines this body as “*the autonomous administrative authority in charge, according to the Constitution, of the organization and the unitary coordination of the activities that concern national defense and security*” (Art. 1). It should be noted that the 2002 law, still in force at present, preceded the constitutional amendments adopted in 2003 and it reflects the provisions of the 1991 Constitution.

The 1991 Constitution stated in Art. 118: “*the Supreme Council of National Defense organizes and unitarily coordinates the activities that concern the national defense and security*”. This makes clear that the 2002 law literally reproduced the constitutional text in force at the time when it was passed by the Parliament. Defining the SCND as an “*autonomous administrative authority*” also has constitutional roots. Thus, the article pertaining to the SCND was part of section 1 (“*Specialized central public administration*”) within Chapter V (“*Public Administration*”) of the Constitution in force at the time when Law 415 was passed. Its nature of an “*autonomous administrative authority*” clearly stands out by corroborating the constitutional provisions mentioned above with Art. 115(2) of the same Constitution, which provides for the possibility of specialized bodies of the central public administration to be organized either under the authority of the Government and its ministries, or as “*autonomous administrative authorities*”. Anyhow, it clearly results from the provisions of the Constitution and of the organic law that the intention of the law-makers was to render the SCND autonomous from the Government, even though this is impossible for practical reasons, as will be emphasized later in this paper.

The Romanian Constitution as modified in 2003 stipulates in Art. 119: “*The Supreme Council of National Defense organizes and unitarily coordinates the activities concerning national defense and security, the participation in maintaining international security and in collective defense within military alliance systems, as well as the participation in peace keeping and peace reestablishing operations*”. A comparison of the two constitutional provisions related to the SCND makes clear that the one in the 2003 Constitution is more comprehensive and substantive and better adjusted to the security needs of the Romania of today, as a member of an active military alliance and prospective member of a pan-continental Union with a high degree of integration, a Union that, among other things, seeks to integrate the foreign and defense policies of its members. For these reasons, these new constitutional provisions should be followed by a new law regarding the organization and operation of the SCND, as a matter of urgency.

SCND and the Parliament

According to the same Law 415/2002, “*the activity of the SCND is submitted to parliamentary examination and verification*” (Art. 2). The phrase “*examination and verification*” indicates a form of parliamentary control which is both strict and, above all, total. However, the law promptly stipulates that the only way the Parliament can control the SCND is by examinations of the SCND activity reports. These reports are to be obligatorily submitted on an annual basis or “*at any time deemed necessary*”, at the request of the specialized Standing Committees of the Parliament. The latter formulation is obviously vague, since, in general, impersonal phrases like “as deemed necessary”, “as ascertained” or “as decided”, without specifying who deems necessary, ascertains or decides, leaves room for idle and muddled practices. The SCND reports are to be submitted in a joint meeting of the two Chambers (as per Art. 2 in Law 415 corroborated with Art. 62, paragraph. 2(f) of the 1991 Constitution). From these provisions it follows that no aspects involving classified information can be examined during these meetings. Given that working with this type of information lies at the very core of SCND activity, can easily conclude that the parliamentary control can only be superficial one, even though it is literally defined as “*examination and verification*”.

An alternative type of parliamentary control over the SCND has developed in actual practice, which can be more appropriately termed as parliamentary control over individual members of the SCND as opposed to control over the institution of SCND in its entirety. According to the law, the SCND is primarily composed of members of the Government and also of heads of the intelligence services. Both the members of the Government and the heads of the intelligence services are placed under parliamentary control in virtue of their respective official positions. Since they are members of the SCND also in virtue of their official positions, it follows that they can be checked by the relevant Standing Committees also for their activity within the Defense Council. An SCND meeting held on February 28, 2005 illustrates this point. This meeting was summoned by President Traian Basescu to discuss the possibility of changing the national security strategy in order for it to allow Romania to participate, together with other allied states, in preemptive military actions. As this issue is no less controversial in Romania than it is at the international level, the opposition reacted without delay by criticizing the President’s proposal and using the means of parliamentary control at their disposal. As the opposition has the chairmanship of the Foreign Affairs Standing Committee in the Senate, this committee called the Minister of Foreign Affairs to explain during a hearing what happened at the SCND meeting and his position on the issue under debate. Thus, the Parliament used a normal constitutional procedure to exert its control over the Minister of Foreign Affairs, in his capacity as a member of the Government, but also in relation with his activity within the SCND, the end result being a form of control over the SCND.

However, in our opinion, there is no rigorous parliamentary control over the activity of the SCND, even though this conclusion might be tempered by the features of the constitutional and political framework in force. If judged against the standards of a parliamentary republic, the control exerted by the Romanian Parliament over the SCND is almost inexistent, while according to the standards of a presidential republic, the same control may seem satisfactory. As the majority of experts are in agreement that Romania is a “semi-presidential” republic, which may also be interpreted as “semi-parliamentary”, the practice and the constitutional underpinnings of parliamentary control over the SCND can be most appropriately assessed against general democratic criteria. One such criteria, in this case, can be the importance that the SCND itself attaches to this control, namely to the submission of its annual reports to the Parliament. What is noteworthy in this regard is that in practice the person presenting the report in front of the Parliament is the SNDC secretary, who has a State Adviser level in the presidential administration, equivalent to state secretary. One may deem that the President of Romania, who is also the President of the SCND (or the Vice-president of the SCND, in the absence of the President) should present the report, since they are the officials who lead this body and are responsible for its activities. The fact that the presentation of the SCND report is delegated by the President to the secretary general indicates not only that the President considers this report a mere formality (here the Members of Parliament have their own responsibility as they approve the report without going into much detail), but also that each party involved considers the parliamentary control as having little political significance.

SCND and the Government

Although there is no legal text to define it in exact terms, the rapport between the SCND and the Government is described in several legal norms. Law 415/2002 provides for two main categories of such rapports.

First, there is a relation of subordination introduced by the unequivocal formulation of Art. 3, which states that SCND decisions are “*mandatory for the institutions of the central public administration and for the public institutions to which they refer*”. This relation of subordination is emphasized again in the second clause, which stipulates that these authorities “are responsible, under conditions established by law” for the implementation of the Council’s decisions.

Second, there is a relation of coordination and collaboration resulting from the fact that most members of the SCND are also members of the Government. According to Art. 5 of Law 415/2002, the SCND is composed of ten members, out of which six are ministers (ministers of defense, internal affairs, foreign affairs, justice, industry, and finance), two are directors of intelligence services (directors of the Romanian Intelligence Service and of the Foreign Intelligence Service), the Chief of the Defense

Staff, and the presidential adviser for national security. The President of Romania is the president and the Prime Minister is the vice-president of the SCND. Since most SCND members are also ministers in the Government, and the head of the Government is also the vice-president of the SCND, it follows that the activity of the SCND is governmental at its core. At any rate, there are many arguments for the SCND to be considered as a part of the executive branch: its composition, its subordination to the President (one of the two peaks of the executive branch in Romania), and the chapter in the Constitution where the provisions related to the SCND are located, all these presumably are the most convincing arguments. The impression of a “monolithic” presence of the Government ministers in the SCND is strengthened by the fact that, according to Art. 7 para. 3 of the law, any propositions from the ministers who are members of the SCND must be approved by the Prime Minister before being included in the SCND agenda. However, the agenda of the SCND meetings is decided by the President “after consultations with the Vice-president”, as the Law states. Given that no input from the ministries can be included on the SCND agenda without prior endorsement of the Prime Minister, it follows that the Prime Minister’s role in setting the SCND agenda is not only a consultative one, but rather a decisive one.

However, in order to counterweigh the majority which the members of the Government have in the SCND, the Law stipulates that the decisions of the SCND are to be made “by consensus”, and the Council is legally assembled in the presence of at least two thirds of its members, i.e. seven persons. It should be noted that, according to the Law, the President of Romania (the SCND President) and the Prime Minister (the SCND Vice-president) are not counted among the SCND members.

The SCND meetings

The SCND is summoned either by its President (the President of Romania) or by one third of its members (i.e. 4 members). It is noteworthy that, according to the Law, the Prime Minister cannot summon the SCND by him or herself or together with other members, even though the SCND can be summoned by four members of the Government who are also members of the SCND. Since the rule of the Prime Minister’s prior endorsement only applies to the documents to be included on the SCND agenda, it follows that an SCND meeting may be summoned by four SCND members, provided they are members of the Government, without the approval of the Prime Minister. This can be considered as a procedural loophole which should be addressed in the future, by explicitly including the Prime Minister, who also serves as the Vice-president of the Council, among the members of the SCND.

The Law states that the SCND meetings are secret. They are chaired by the SCND President or, in his absence, by the Vice-president. In case a member cannot participate, he or she can be represented, without the right to vote, by his or her legal substi-

tute. That is, a minister can be represented by a secretary of state; the intelligence service director can be represented by his or her deputy directors; the Chief of the General Staff can be represented by his or her Deputy; and the presidential security adviser can be replaced by the subordinated adviser of state. All these substitutes may represent the absentees in the meetings, but they may not vote.

The SCND meetings can also be attended by invited guests. The range of possible invited guests is broad, as the legal provisions are quite wide-ranging: representatives of the Parliament (in our interpretation, this category may include not only members of Parliament but also other officials who can represent it), representatives of the central and local administration, of nongovernmental organizations, of other public institutions responsible for national defense and security, and of the civil society at large. These categories of persons should meet two conditions to be invited to attend the SCND meetings. The law stipulates a substantive condition: their presence “*being necessary in rapport with the issues on the agenda*”; and a formal condition: their presence being authorized by the SCND president. In our interpretation, the law allows any SCND member and the vice-president to have the initiative of inviting a guest, but the president has the final decision. The SCND president may also invite any person from the above categories to attend a meeting, provided that such a presence is relevant to the issues on the working agenda. It is also noteworthy that there is a potential for confusion as the law uses two different phrases: “*working agenda*” (*agenda de lucru*) in Art. 9 and “*agenda*” (*ordinea de zi*) in Art. 7. In our opinion, “*working agenda*” should be understood as a perfect synonym of “*agenda*”; otherwise the SCND can hold its meetings using two different types of preparatory documents, out of which only the “*agenda*” has an applicable legal procedure. According to the Law, the internal procedures of the SCND are stipulated in a set of Regulations adopted by SCND decision.

The SCND Secretariat

According to the law, the “*SCND has a Secretariat*”. The Secretariat, whose competencies, organization and operation procedures are set out by SCND decision, operates within the Presidential Administration and is “*coordinated*” by the SCND Secretary. The SCND Secretary is appointed by the President of Romania and has the rank of state adviser within the Presidential Administration.

The SCND decision regulating the competencies, organization and operations of the Secretariat, which still is in force, was adopted in the SCND meeting on February 2nd, 2003. According to its competencies defined by this decision, the Secretariat plays two main roles:

- a) To organize the SCND meetings;
- b) To be an interface between the SCND/its president and public institutions in charge of national security issues.

Regarding the organization of the SCND meetings, the Secretariat:

- drafts the agenda of the meeting, submits it to the President for approval, and distributes it to the participants;
- according to the agenda, centralizes the working documents prepared by the relevant state agencies on the topics to be discussed and ensures that copies are available for each SCND member;
- takes care of the proper organization of the SCND meetings, including the preparation of the meeting room with all technical supports;
- ensures that the SCND meetings are recorded on magnetic support;
- drafts the minutes of the meeting (a transcript of the recorded discussions), which are checked and signed by the SCND Secretary;
- drafts the adopted decisions, submits them for signing to the SCND president, and sends them in full or abridged form to the beneficiary institutions or to the *Official Journal* (if the law requires their publication);
- produces the protocol of the meeting and ensures that all SCND members signed it;
- keeps track of the SCND decisions and of all the documents discussed during the meetings;
- ensures the drafting, copying, management, handling, preservation/destruction, archival and transport of all classified documents and information within the National Security Department of the Presidential Administration.

With regard to its “interface” role, the Secretariat has three main competencies:

1. It receives and manages documents and information coming to the SCND from the public institutions. The regulations clearly state that the Secretariat is in charge of checking, analyzing and commenting on these documents in order to present them to the President or to make them available for debate within the SCND, according to the law. Thus, the Secretariat is the structure that evaluates and submits relevant proposals regarding documents which are fundamental for the national security and their development falls under the responsibility of the SCND, such as: the strategy of national security, the strategy of defense, the strategy of public order and national security, but also other current reports and measures that the SCND takes into consideration. The Regulations give a clear formulation of the general competency of the Secretariat: “*it keeps the president and the members of the SCND permanently informed about the problems of national security of Romania*”. These provisions make clear that any information coming to the SCND is processed by the Secretariat.

2. It drafts documents. The most important documents are the annual activity report of the SCND and the annual report that the SCND must submit to the Parliament, according to the law. The Secretariat is also responsible for drafting the approvals for the draft laws which require such approval, and expresses a legal opinion on any document submitted for the attention of the SCND. At the same time, the

Secretariat suggests solutions for the problems raised by reports and memoranda submitted to the SCND.

3. It monitors the implementation of the SCND decisions. In this sense, the Secretariat submits reports to every SCND meeting on the implementation of decisions adopted by the previous meetings. The SCND Secretariat is an interdepartmental structure, which achieves its responsibilities in connection with other public agencies in charge with national security matters.

The Secretariat operates within the Presidential Administration and is composed of two compartments, one in charge of “*expert analysis and drafting of the SCND documents*” and the other in charge of “*organization, planning and monitoring of the implementation of the SCND decisions*”. According to the last SCND decision, the Secretariat employs ten permanent staff. The Secretariat is coordinated by the SNDC secretary, who also is a counselor in the President’s Administration, which means he or she is appointed by the president of Romania. The Secretariat is ruled by its chief, appointed by the presidential counselor for national security at the SNDC secretary’s proposal. In this way the SNDC Secretariat is, from one side, a part of the National Security and Public Order Department within the Presidency, led by a presidential counselor, but having autonomy fully dedicated to SNDC activities. One of the SNDC members declared for us during the research interviews we conducted within this study: “*The SNDC is a virtual institution. It exists as a reality only through its secretariat*”. We quoted this opinion because we consider it relevant for our attempt to show as precisely as possible the role played by the secretariat in the SNDC activity.

The Secretariat personnel are mostly military: eight of ten have a military rank and only two are civilian. With the exception of one civilian, all the Secretariat personnel are composed of persons temporary transferred from other public agencies (two from the Ministry of Defense, including the head of the Secretariat, one to three persons from the Ministry of Administration and Internal Affairs, 1-3 from the Romanian Intelligence Service where 2 of them are colonels, 1-2 from the Foreign Intelligence Service where both are colonels, one from the Presidential Administration, and one from the Special Telecommunications Service.

The duties of the SCND

According to Law 415/2002, the Council has four main categories of duties:

- analyzes documents related to national security and constitutional order and submits them for debate and approval to other public institutions;
- approves certain documents and measures of the same kind;
- coordinates certain activities related to Romania’s integration in the European and Euro-Atlantic security structures;

- nominates and dismisses holders of certain positions, in special cases provided for by law.

Within the first category of competencies, analyzing, debating and approval of some documents concerning national security and law enforcement to other state agencies, SNDC acts as follows:

- a) initiates the drafts for:
 - Romanian national security strategy
 - Romanian military strategy
 - Public Order and National Safety strategy in rapport with the authorized agencies' responsibilities
 - data, information and evaluation presented by (requested from) the intelligence services and other structures with duties in the national security area
- b) responds to the President's requests and analyzes the drafts for:
 - initiation of the state of siege (*stare de asediu*) or of the state of urgency
 - declaration of the partial or general deployment of the armed forces
 - responding to an armed aggression against the country
 - declaring and stopping the state of war
 - initiation, postponing or stopping of military actions
- c) endorses the normative acts drafts initiated or issued by the Government on national security issues which refer to:
 - general organization of the armed forces and other agencies that have national security duties
 - organization of the function of the armed forces and other institutions having national security responsibilities
 - organization and functioning of the SNDC
 - preparation of the population, economy and territory for defense
 - budgetary allocations to the ministries and institutions with responsibilities in security, public order and national safety
 - conditions for entering, transiting or presence of foreign troops on the territory of Romania
 - assignment approval of high-ranking personnel whose status level corresponds to the rank of lieutenant-general, vice-admiral or higher.

Within the second category of competences, those to approve some documents, the SNDC has the exclusive responsibility for:

- determining the basic guidelines for international relations that concern national security
- drafts of international treaties and agreements having direct impact on, or related to national security
- relations to be established between national institutions and agencies having national security responsibilities with similar institutions abroad

- recruiting policy for military institutions during peace time
- armed forces action plans for passing to the state of emergency, mobilization, or war time and operational missions
- action plans for cases when the state of mobilization or war time are declared
- action plans for cases when the state of siege or state of emergency are declared
- national economy mobilization draft plan and state budget draft for the first year of war
- population preparedness for defense and verification plans including exercises and mobilization practices
- recruits distribution quota for the institutions with national security responsibilities
- goals for territory preparation according to the operational needs for national defense system forces
- determining inventory and levels of mobilization stocks
- multi-annual programs regarding equipment supply for national defense system forces
- militarization, as the law requires, of economic agents whose activity is directly connected to the supply of resources for defense needs
- joint intervention plans of the Ministry of National Defense and Ministry of Internal Affairs units for limiting or eliminating the effects of disasters on the national territory
- regulations for special telecommunication networks and systems
- organizational structure and responsibilities of the General Headquarter
- creation of the post of Military Commander subordinated to the General Headquarter and determining his attributions for unitary command during war time
- determining the list of infrastructure and high-ranking officials to be protected by the Protection and Guard Service, the norms and rules concerning antiterrorist protection
- reports and information concerning national security and presented by heads of public administration institutions
- general plans concerning information requests from institutions and agencies with national security responsibilities
- main activities guidelines and leading actions necessary to neutralize national security threats
- structure, organization, personnel and regulations of the Romanian Intelligence Service, Foreign Intelligence Service, Special Telecommunications Service, and Protection and Guard Service
- operational expenses addressed to national security needs

- norms concerning planning, recording, utilization, justification, and control of operational expenses for the intelligence services activities concerning national security
- reports concerning budget execution of operational expenses after approving relevant agencies activity reports.

The SNDC also „monitors” the process of armed forces’ adaptation to NATO requirements, which means it has a role to follow closely this process. As a consequence, the SNDC could „*formulate recommendations in accordance with NATO standards*”.

THE REGULATIONS REGARDING SCND FUNCTIONING

According to the provisions of Art. 10 of Law 415/2002, the SCND adopted Decision nr. 3 on February 10, 2003, which approved the Regulations regarding its own operations. These regulations were meant to formulate the details of the SCND operations, in accordance with the legal framework. The Regulations explain and apply the provisions of the law and focus on the SCND meetings by giving details on what happens before, during and after these meetings.

Thus, the Regulations state that the SCND can also be summoned “*at the initiative of at least four of its members*” (Art. 1, para. 2), which translates into a clear procedure the legal provision referring to the right of “one third” of the members to summon a meeting.

The agenda of the meeting is set by the President, after consultations with the Vice-president, based on a draft proposed by the SCND Secretary. At the first quarterly meeting in a year, the Secretary has the obligation to present a report on how the action plan for the previous year was implemented, and the SCND must analyze its activity report on the past year, which shall be presented during a joint session of the Parliament, according to the law. During each quarterly meeting the Secretary also has the obligation to make a presentation on the implementation of decisions which have deadlines before the date of the meeting, and of decisions to be implemented in the next quarter.

The meetings are recorded on magnetic support and transcripts are produced. The SCND Secretary signs the transcripts for conformity and the documents are archived together with the magnetic support. Based on these transcripts, the Secretariat drafts a meeting protocol, which includes the conclusions of the debates and the decisions made and is signed by the Secretary, the members who attended the meeting, and the President. The Secretariat drafts the decisions in accordance with the transcripts and forwards them to those concerned and, if needed, to the Official Journal (*Monitorul Oficial*) for publication, no later than ten days from the date of the meeting.

These Regulations contain a provision which may raise question marks about its consistence with the letter and the spirit of law 415/2002. Thus, Art. 2 para. 2 states that *“between two meetings, in order for urgent issues to be solved, the Council makes decisions by obtaining the individual endorsement of its members”*. By corroborating this provision with Art. 1 (19) of SCND Decision 4 of February 10, 2003 on the competencies, organization and functioning of the SCND, which states that the Secretariat *“drafts decisions between meetings in order for urgent issues to be solved and submits them to the members of the Council to approve and sign them”*, it clearly follows that the SCND can also make decisions outside its meetings.

In fact, the SCND carries out its activities in accordance with an annual action plan. This plan is prepared at the beginning of each year by the Secretariat based on proposals from the SCND members and directives from the President. Once approved by the President, the plan is disseminated to each member of the SCND and becomes the reference document on which the agenda of the meetings will be drawn up.

SUBSEQUENT LEGISLATION

Domestic and external political developments after 2002 have imposed adjustments to the institutions and procedures of the national security system. These are the three main events that directly affected Romania over the past three years by requiring changes to the national security legal framework:

- Romania’s involvement in the fight against terrorism, together with the United States and its allies
- Threats to Romania’s security and to the international stability in general becoming more diverse
- Romania’s adherence to NATO.

Under the influence of these three factors, the SCND has received new competencies and the existing ones, listed by Law 415/2002 have been further specified. However, the new competencies have not led to a real clarification of the nature and role of the SCND among the institutions that compose the overall system of national security. In our opinion, adding new competencies to the SCND had its source rather in disparate intuitions about what the SCND should be, than in a policy evaluation assumed by the highest political level about what the SCND should become within the general context of the Romanian central administration.

In what follows, the main pieces of legislation pertaining to the SCND are briefly presented.

Law 535/2004 on preventing and combating terrorism

This law establishes the National System on Preventing and Combating Terrorism (NSPCT) constituted with the participation of several public institutions and authorities, under the coordination of the Romanian Intelligence Service through a Center for Antiterrorist Operative Coordination (CAOC) created within the Romanian Intelligence Service precisely to ensure this coordination. The structure, personnel and internal regulations of the CAOC are submitted to the SCND for approval. The public institutions and authorities composing the NSPCT operate according to their specific competencies outlined in a General Protocol of NSPCT Organization and Operation. This Protocol enters into force after it is approved by the SCND. The NSPCT experts have the obligation to submit a report to the SCND on the implementation of the Protocol at least every six months, according to the law (Art. 13, para. 3).

Regarding the actions against terrorism, the law introduces the notion of “*contra terrorist intervention*”, which takes place during or after terrorist acts. According to Law 535/2004, the SCND “*authorizes the execution of contra terrorist intervention*”. Contra terrorist interventions must be implemented in accordance with a methodology developed by the Romanian Intelligence Service (RIS), which is also approved by the SCND (Art. 12, para. 2). In this case, the SCND operates like a crisis group, but it is not exempt from continuing to observe the internal procedures set by law. More specifically, contra terrorist intervention is approved by a structure composed by the Minister of Finance, Minister of Industry, and the Chief of General Staff. In our opinion, the bureaucratic complexity of this approval may have daunting consequences by affecting the speed of reaction in case of a terrorist act.

Law 477/2003 on preparation for defense of the national economy and territory

This law sets “*the measures and actions to be carried out in time of peace in order to utilize the economic and human potential of the country to meet the needs for defense and ensure the continuity of economic and social activities in case of mobilization and war.*” The Government is the main party responsible for the implementation of these measures. However, the SCND plays a major role in planning and setting the magnitude of these actions meant to prepare for defense of the national economy and territory.

Thus, the Government has the obligation to implement the measures decided by the SCND in this area (Art. 3), which is in fact an application of the general principle stipulated by Law 415/2002 on the organization and operation of the SCND, according to which the decisions of the Council are mandatory for the public authorities they refer to. Moreover, the Government has the obligation to submit for SCND approval the draft plan for the mobilization of the national economy for defense, the draft program containing the objectives of “*operative preparation*” of the national territory for

defense, and the draft state budget for war. The SCND plays an important role not only in the approval of these plans and budgets, but also in their implementation. Although the Parliament makes the actual decision that these plans and budgets be implemented, the SCND is the only public authority that can ask the Legislative body to make such a decision (Art. 11, para. 3).

The SCND is the only public authority that sets the limits of the mobilization reserves, including supplies of raw materials, equipments and other products with a long manufacturing cycle, which are needed by the institutions responsible for national defense, national security and public order. The practical details of how these reserves are constituted are set by the Government, but within the framework decided by the SCND.

Law 42/2004 on participation of the armed forces in missions outside the territory of the Romanian state

This law provides for several types of missions outside the national territory in which the Romanian armed forces can participate:

- a) collective defense
- b) peace supporting operations
- c) humanitarian assistance
- d) coalition
- e) joint exercises
- f) individual
- g) ceremonial

The SCND has a leading role in decision-making related to the first four types of missions. Before the June 30 of each year, the SCND must “*analyze and decide*” on proposals presented by the Ministry of Defense on forces and means to be used during the next year for these types of missions. Based on this SCND decision, the Government allocates the necessary resources in the state budget.

The decision to send Romanian troops on such missions is made by the President of Romania, the SCND having only a consultative role in this respect. The decision-making chain is the following: the Prime Minister proposes participation in missions abroad; the President consults the SCND, makes the decision and informs the Parliament about this decision in no later than five days. If the operation and deployment is not required by an international treaty to which Romania is a party, then the mere information is not sufficient, but the President has the obligation to ask the permission from the Parliament for the troops to be sent on a mission abroad.

Law 473/2004 on defense planning

This law stipulates that defense planning is based on two fundamental documents: the Government Program and the National Defense Strategy. The Government Program is adopted in the joint plenary session of the Romanian Parliament when a new

Government is invested in office, while the National Defense Strategy is submitted by the President to the Parliament for debate and approval no later than six months after the President is sworn in. In order to implement the provisions of the Government Program and the National Defense Strategy, the Ministry of National Defense prepares a *Defense White Book*, a “*defense planning document at the departmental level*”, as the law defines it. This document must be adopted by the Parliament six months after the new Government receives the confidence vote. Until the Defense White Book is submitted to the Parliament for debate, it must be first “*endorsed by the Government*” and then “*approved by the SCND*”. Based on the National Defense Strategy, the Defense White Book, and the NATO Ministerial Directive, the Ministry of National Defense must prepare the Military Strategy no later than three months after the Defense White Book is adopted. The Military Strategy is adopted by the Government after it is approved by the SCND.

When compared with the other defense-related pieces of legislation, this law seems particularly confusing as far the SCND role, nature, and relations with other institutions of the central administration are concerned. Thus, the most important defense planning document (National Defense Strategy) is initiated and submitted to the Parliament by the President. According to the law, the SCND has no formal role in the preparation of this document, even though one may suppose that, as a matter of fact, the President prepares the Strategy in the SCND or at least he works closely with important SCND members to prepare this document. The law only gives the SCND the right to approve a document issued by the Ministry of National Defense (i.e. the Defense White Book), after this document is approved by the Government and before it is discussed in the Parliament. As regards the implementation of the Defense White Book, the Ministry of National Defense elaborates the Military Strategy, which is adopted by the Government, but only after it is developed by the SCND. The confusion is related to the inconsistent position of the SCND in relation to the Government, as the SCND seems sometimes subordinated to the Government in its approval competencies, but some other times the opposite seems true. Moreover, the SCND approvals are mostly “for conformity”, and the Council seems to lack any formal role in the preparation of these fundamental documents related to national security.

Other relevant legislation

Law 604/2003 enacting the Government Emergency Ordinance 63/2003 on the organization and functioning of the Ministry of Administration and Internal Affairs stipulates in Art. 4 that the MAIA “*is responsible to the Parliament, the SCND and the Government for how it applies the provisions of the Constitution, of other legislation, and of the international treaties to which Romania is a party*”.

A similar provision can be found in the Government Emergency Ordinance 14/2001 on the organization and operation of the Ministry of National Defense: “*MND is responsible to the Parliament, the SCND and the Government for how it applies the*

provisions of the Constitution, of other legislation, and of the international treaties to which Romania is a party”.

The fact that the SCND is listed among the authorities to whom the MAIA and the MND are responsible seems inappropriate. First, because the heads of these ministries are also members of the SCND, i.e. the structure that keeps them responsible; second, because the SCND does not have any competency of political control over the activity of these ministries. In our opinion, a better solution would have been that the MAIA and MND were responsible for their activity to the President of Romania, who is the supreme chief of the armed forces and the guarantor of the balanced activity of state authorities.

Law 218/2002 on the organization and functioning of the Police stipulates that the Romanian Police can organize intelligence operations in accordance with the orders of the Minister of Internal Affairs. The Minister of Internal Affairs has the obligation to submit a report to the SCND and to the specialized standing committees of the Parliament on an annual basis or whenever necessary. This report refers to *“intelligence activities and the funds used for this purpose”* (Art. 33, para. 3). Thus, the SCND was granted a role of control over the intelligence activities carried out by the Romanian Police, given that the SCND receives these reports and the law does not distinguish between the reports submitted by the Minister of Internal Affairs to the SCND and the reports submitted to the relevant Standing Committees of the Parliament.

Law 191/1998 on the organization and operation of the Protection and Guard Service stipulates that the PGS activity, as an *“agency specialized in protection of high-ranking officials, Romanian and foreign, their families and residences”*, is *“organized and coordinated by the SCND”* (Art. 1, para. 1 corroborated with Art. 3, para.1). The SCND also has an important role in appointing the head of this service; the President appoints the head of the PGS following nominations made by the SCND.

Law 92/1996 on the organization and operation of the Special Telecommunications Service also stipulates that the activity of this service is *“organized and coordinated by the SCND”* (Art. 3). The head of the STS is nominated by the SCND President and appointed by the SCND.

Law 1/1998 on the organization and operation of the Foreign Intelligence Service grants the SCND a very important role in the activity of this institution. The FIS activity is *“organized and coordinated by the SCND”* (Art. 2, para. 1) and the FIS Director must report to the SCND on an annual basis or whenever necessary. The FIS Director is appointed by the SCND following nomination by the President of Romania.

Law 42/1992 on the organization and operation of the Romanian Intelligence Service, modified by Government Emergency Ordinance 72/2002 stipulates that the SCND shall set the general rules according to which the planning, recording, utilization, justification, and control of operational expenses for activities of intelligence services will be carried out (Art. 42, para. 4).

Government Decision 83/2005 on the organization and operation of the Ministry of Justice, corroborated with Government Decision 637/2004 provides that the Protection and Anticorruption General Directorate operates within the Ministry of Justice in accordance with internal regulations approved by the Minister of Justice, after having been previously approved by the SCND.

Law 24/2000 on the norms of legislative technique for drafting new legislation, modified by Law 198/2004, stipulates that “*the documents that contain the reasons for new draft legislation must contain references to approval from the Legislative Council and, as appropriate, the SCND, the Court of Accounts, and the Economic and Social Council*” (Art. 29, para. 4).

PRACTICAL ASPECTS

The SCND meetings are always summoned by the President. It has never happened that a group of SCND members has made use of their right to summon an SCND meeting. Summoning can also take place on an emergency basis. For example, on September 11, 2001, a few minutes after the terrorist attack on Washington, D.C. and New York, President Iliescu gave an order to the SCND secretary to summon the Council in 90 minutes. Thus, the Council gathered under a regime of emergency to examine the situation. Similarly, in 1999, when the structures of the Romanian state were put in severe danger by a domestic crisis named *mineriada* (“miners’ riot”), the SCND rapidly gathered to make major decisions.

The number of meetings varies from year to year according to the existing problems faced by Romania. For example, the years 2002 and 2003 were an intensive time as Romania was preparing to receive the invitation to join NATO at the Prague Summit and due to the war in Iraq. During these years, the SCND convened on a monthly basis and even twice a month at certain times. The average duration of an SCND meeting is 4-5 hours. In general, there are 20-30 topics on the agenda. Routine topics such as appointments, promotions or approvals of draft laws are first voted on rapidly. Then the issues that need indepth debates are discussed. Usually topics are considered in the order they are listed on the agenda. After listening to all viewpoints and asking questions, the President proposes a solution, usually the solution that emerged from the debate. The SCND members usually approve the solution by reaching consensus. So far, there has been no instance when a decision put forth by the President did not receive the consensus of the members.

As a rule, the SCND does not act as a crisis cell. Thus, during the war in Iraq, which took place during the Iliescu administration, a crisis cell was established at the Romanian Presidency following a previous SCND decision. Since the SCND had known in advance the date when the war was to start, the crisis cell could be put in place three

days before the initial attack and could be fully operational from the very beginning of the hostilities. In the recent case of the Romanian journalists kidnapped in Iraq, during the Basescu administration, the crisis cell led by the President was not part of the SCND or of its secretariat, even though the crisis cell included persons from institutions that are represented in the SCND and even full members of the SCND.

Each institution represented in the SCND has its own procedures for dealing with SCND-related matters, such as the implementation of decisions or submission of official information, propositions, and viewpoints to the SCND. For example, the Ministry of Internal Affairs employs an officer working in Minister's staff to deal with SCND issues. SCND decisions for which the Ministry of Internal Affairs is responsible are discussed in the Management Board of the Ministry and assigned for implementation to the adequate agencies in the Ministry. That structure reports to the Minister or the Management Board, which further inform the SCND. In the Foreign Intelligence Service, the officer responsible for liaising with the SCND is employed by the Legal Directorate. At this stage, there is a serious concern for the FIS to assure the legality of its activities so it has the obligation to perform a legality check of all its activities.

CHALLENGES

The IPP experts conducting research for this report interviewed numerous persons whose activity is related to the SCND. Persons from state agencies who are represented in the SCND and persons who have been SCND members in the past shared their experiences and thoughts regarding the Council. As we have agreed with the participants in these interviews to observe the *Chatham House*¹ rules, the main ideas and information on SCND will be highlighted in what follows, without attributing a particular position to its respective source. Unsurprisingly, the views expressed by our respondents have been diverse and sometimes contradicting to each other. We have also eliminated any references to specific persons and circumstances, and our interviewees' assessments of each other's activities, as we are solely interested in giving an account of the institution and its procedures, and in an improvement of its performance within the context of the present threats to national security and of the consolidation of Romanian democracy.

¹ The Chatham House rule stipulates that the participants in a meeting may make public use of any information revealed during that meeting, but they are not allowed to disclose the identity and the institutional affiliation neither of the source of this information nor of the other participants. This rule was named after the prestigious British institution, Chatham House, one of the most important debate forums for international relations issues, which introduced this rule for the discussions organized since 1912, in order to encourage the sincerity of the debates and to facilitate the circulation of ideas and information.

1. The SCND should be a place for strategic analysis at the highest level and should approach security-related issues to the greatest extent. The SCND should be a forum of debate assisting the President in making correct decisions.

2. The SCND should be the “dome” under which the intelligence community should perform. The SCND is the main beneficiary of intelligence delivered by specialized agencies. As a result, the SCND should operate like “a reception and distribution desk” for other executive agencies and the population at large.

3. The SCND should mainly develop a mechanism of management for crisis situations.

4. The SCND should develop its own capacity of analysis and follow up on the subsequent implementation of its decisions.

5. The SCND prerogatives should be revised: it should not have the prerogative to approve the structure of the armed forces as the SCND does not have the required expertise. It simply gives a formal endorsement of the work of the experts from the General Staff and Ministry of Defense.

6. As the SCND includes the Minister of Finance in its new structure, it should also stipulate how the implementation of its decisions is to be financed.

7. The SCND should operate like a board of advisers in concord with the President, while the President should not consider the SCND as an executive agency (a mini-government), but as a structure assisting him in making decisions related to national security.

8. The SCND should develop a control capacity given that many state agencies “are responsible to the SCND” for their activities.

9. The SCND should have two main categories of prerogatives: strategic and tactical; it should build its structure around this “strategic – tactical” binomial.

10. After receiving reports on the implementation of its decisions from subordinated structures, the SCND never gives feedback on these reports. This lack of feedback is frustrating.

11. The way that the SCND operates is too militarized.

12. Most of our interviewees favored a reform of the SCND and its transformation into an agency similar to the U.S. National Security Council

13. Many reservations were expressed as to the SCND membership. More often, it has been argued that the presence of the Chief of General Staff is redundant given that the Minister of Defense is also a member. The presence of both as full-fledged members gives them equal status despite one being subordinated to the other. Similarly, it has been argued that the presence of the presidential security adviser is also redundant, given that the President is a SCND member. According to his function description, the advisor cannot cumulate an advisory role in the Presidential Administration and an executive role in the SCND, which operates like a sort of “crisis cabinet”. On other hand, in order to have the activity of the SCND better integrated with the activity of

the Presidential Administration, it has been argued that the presidential security adviser should directly assume the coordination of the SCND secretariat. It has also been suggested that the SCND should include the Minister of Transport and the Minister of Telecommunication.

14. The SCND operates well overall compared to the general level of the Romanian public administration. Some aspects of its activity need reconsideration and adjustments, primarily with regard to harmonizing some legal provisions, but no major reform is necessary.

15. The SCND is and should remain a mechanism of shared responsibility.

16. The SCND should be a more effective mechanism of civil control over the military, but its present way of operation practically makes it an instrument leading to concentration of powers into one man's hands.

17. The SCND is and should remain a "virtual institution".

18. The SCND only has a preventive role: it should neither be mistaken for a crisis cell, nor transformed into one.

19. Its name should be changed to better reflect what it actually does. The name most frequently proposed was National Security Council or National Council for Security. The former is of American inspiration, while the latter is more adapted to a European vision.

The main question suggested by the opinions expressed by our interviewees is ***whether or not a reform of the SCND is necessary?*** Obviously, there are two different views on this issue: there are advocates of the reform, many of whom want to see it rapidly implemented, but also there are opponents to the reform, who argue that only small adjustments are needed.

There are two lines of thought among those who favor the change. According to the first viewpoint, ***the SCND should retain general strategic and tactical competencies, and should have a role of analysis and prevention.*** The second viewpoint favors ***a rather operative role, enabling it to deal with situations of crisis.*** What is important is a clarification of the SCND mandate, of the ***expectations one should have from this agency,*** and of the ways it can best achieve its constitutional role. In terms of institutional design for SCND, there are several options to choose from:

- an operative agency assisting presidential decision-making;
- an advisory board, a group of senior officials advising the President;
- a debate forum meant to provide the President with a broad perspective over security issues in order for him to make the best informed decisions;
- an agency with shared responsibility, where all members are jointly responsible together with the President for their activity.

There have been many debates recently over the opportunity of an "intelligence community" being established. According to the law, intelligence services in Romania have different areas of competency and different fields of work. However, all these ser-

vices serve a common purpose: defending national security, protecting Romanian citizens, consolidating the rule of law. The establishment of an intelligence community is mainly justified by the reason that all intelligence services seek the same goal, but also by the fact that the security threats facing Romania become more diverse, complex and sophisticated as Romania consolidates its status of a NATO member and approaches the status of joining EU.

Obviously, it is necessary to clarify the relation between the SCND and this intelligence community. The almost unanimous opinion of the interviewed experts was that *the best place for the intelligence community is within the SCND or as close as possible to this agency*, given that the SCND is the main beneficiary of intelligence from the relevant services. Thus, the dominant view is that the head of the intelligence community should be a member of the SCND.

On other hand, the mechanisms of parliamentary control over the activities of the intelligence community should be put in place. This control can be implemented either by strengthening the parliamentary control over the SCND or by establishing special parliamentary mechanisms dedicated to the intelligence community.

The IPP experts working for this project recommend the establishment of a standing committee in charge of the control of the entire community of intelligence services, which can operate in subcommittees dedicated to the control of each intelligence service.

CONCLUSIONS

1. The National Intelligence Community

The research and drafting of this report were carried out in a period dominated by the debate over the establishment of a National Intelligence Community (NIC). This topic has been advanced for public debate by the President of Romania and widely discussed both within the strategic community and by the mass media. Not surprisingly, the NIC was one of the main topics of the interviews carried out with representatives of agencies relevant to the SCND, including the intelligence services. In general, the public debate concerning the NIC boils down to the question “Who runs the NIC?” While the answer to this question is very important to the configuration of power in Romania, it is far from exhausting a subject of such complexity.

With only one exception, interviewed experts agreed that the establishment of the National Intelligence Community is necessary. The main reasons are the need for the coordination of specific activities carried out by the intelligence services, on the one hand, and the need for corroboration and synthesis of intelligence gathered by the various services at their specific level of competence on the other hand. Organized crime, terrorism, and other threats to national security have complex manifestations that require responses of comparable complexity. As the available intelligence about

threats to the national security becomes more varied, ampler, and more sophisticated, there is a clear need for a bureaucratically efficient way of turning this intelligence to good account. Moreover, the intelligence services expected to become part of the NIC do already collaborate with each other. At present, this collaboration relies on a protocol signed by the directors of these services and this protocol is generally observed. From this standpoint, the NIC does not bring about an innovation, but it would rather confirm and cement a form of collaboration already in place.

The singular opinion against the establishment of the NIC based itself on the argument that such a structure would put all national intelligence capabilities under a single command, which would concentrate too much power in the hands of one person. It also espoused the idea that “competition on the intelligence market” is beneficial. The counterargument to this opinion was that the present legal framework already gives the President the coordination of intelligence services and that, in actual fact, the NIC would not add anything to the presidential powers.

With regard to the institutional placement of the NIC, there was a unanimous opinion that the SCND is the most appropriate framework for this new structure. The main argument stems from the constitutional provisions, which assign the SCND the task to “organize and coordinate” all activities related to national security, but also from the practical consideration that the SCND is the main beneficiary of intelligence coming from the relevant services.

2. The Supreme Council for National Defense

The need for a reform of the SCND was unanimously accepted. However, a major obstacle to this reform was identified even in the present constitutional arrangements. The semi-presidential/semi-parliamentary system established by the Romanian Constitution seems to having been designed with the issue of power sharing in mind rather than as a solution for an efficient exercise of power. “The ambiguity of our Republic”, as one of our interviewed experts well put it, leads to competition between the Presidential Administration and the Government for the position of head of the executive power. Thus, the SCND appears to some as a mini-government at the President’s disposal and to others only as a debate forum meant to provide the President with various perspectives on major issues of national security. The SCND is also perceived as a kind of “crisis cell” or “strategic unit of rapid reaction”.

At any rate, this constitutional ambiguity leaves ample room for political tensions, which could be found within almost all administrations since 1991 (for example, the crisis involving President Emil Constantinescu and Prime Minister Radu Vasile, President Ion Iliescu and Prime Minister Adrian Nastase, but also, at the present day, President Traian Basescu and Prime Minister Calin Popescu Tariceanu). These tensions prove that the balance of power at the top of the executive branch is far from being

adequately designed. The present constitutional arrangement leaves the President with too much room for maneuver, so that the power of the SCND varies with the political temper of the President, but also with the political and personal “chemistry” of the relationship between President and Prime Minister.

As long as there will not be a clear cut option between a presidential and a parliamentary republic, a precise outline of the responsibilities and hierarchy of command related to matters of national security will remain a difficult task. However, given that changing the constitutional framework is a strenuous and complex operation, the preferred option seems to become the reform of the SCND within the current constitutional framework.

In the same vein, it has been emphasized that the establishment of the NIC is the best opportunity for a far-reaching reform of the SCND. The reform of the SCND, regardless of the specific form it will take, will involve major readjustments at the top of the national security system. Moreover, there is a long-lasting dissatisfaction of the practitioners with some legal provisions in force, such as the National Security Law enacted in 1992, which became outdated from many standpoints. A new legal package establishing a new institutional setting of national security, which would make the SCND the core of strategic debates, is highly desirable and much overdue.

Interviewed experts highlighted that any reform of the SCND should include the establishment of a working apparatus within the SCND able to effectively achieve the legal tasks of the Council. Thus, much emphasis was put on the establishment of a SCND group of experts (mostly civilian) who would be able to advance their own arguments and points of view, to carry out control activities at the security agencies that are responsible to the SCND according to the law, and, more generally, to effectively implement the legal competencies of the SCND. If the SCND is to become a full-scale public institution, it must become more than a Secretariat used for arranging meetings. In this sense, it has been stressed that the present practice of staffing the SCND by temporary transfer of personnel from the agencies represented in Council is far from satisfactory. The SCND should establish and use an expertise of its own.

Another critical aspect of the SCND reform consists in redesigning its mechanisms of accountability to the Parliament. All experts agreed on the point that the current system of parliamentary control over the SCND is both inefficient and superficial. The relevant standing committees have neither the expertise nor the required resources to exert a significant control of the intelligence services and this situation must be remedied in order to accommodate the increased powers of the intelligence services to be expected after their planned grouping into a National Intelligence Community. It is the duty of the Parliament to permanently keep a vigilant eye on the operations of these services in order to prevent them from any transgression of the legal framework and compel them to serve their intended purpose: the national security of Romania. All participants have acknowledged that there is an urgent need for a strict parliamen-

tary control over a reformed SCND, including the National Intelligence Community. Developing and putting into place an effective system of parliamentary control is an integral part of the reform that this Council needs.

3. The recommendations of the Institute for Public Policy

The reform of the Supreme Council for National Defense is necessary and this reform should be as comprehensive as possible.

There are divergent views among the IPP experts as to the subordination and control of the activities of a National Intelligence Community; as a result, there are also different opinions about how the SCND should eventually be organized. Notwithstanding these differences, the IPP experts are in agreement that the reform of the SCND should include:

- ***an improved legal framework***: a viable option may be a new legal package on national security, which would include a new law on national security, a law on the establishment of the National Intelligence Community together with laws on the operations of every intelligence service that will become part of this Community, a new law on the SCND and a new law on defense planning;
- ***restructuring the SCND*** mostly in order to equip it with an increased capacity of independent analysis (this can be done at first by expanding the organizational chart and recruiting civilian personnel with adequate expertise), on the one hand, and with an increased capacity of control and coordination of all the component parts of the national security system, on the other hand;
- ***ensuring a real and effective parliamentary control*** over the activity of the Council as a whole but also over its component institutions. In this sense, the optimal option would be an integrated control setup (the standing committee for the SCND control operating in sub-committees dedicated to every SCND segment).

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NOTE

The authors of this research would like to thank all interviewed experts for being so kind to answer our questions and for the ideas, suggestions and views which they shared with us in a spirit of openness and sincerity. Their names cannot be made public as the interviews were conducted according to the Chatham House rules. However, we can indicate the institutions these experts are affiliated with: Romanian Intelligence Service, Foreign Intelligence Service, Ministry of National Defense, Ministry of Administration and Home Affairs, and Presidential Administration. We are also grateful to the management of the Institute for Defense Policy Studies and Military History for sharing with us valuable information and for their constant feedback during our research. We have received a highly significant support for the completion of this report from Army General (four stars) Constantin Degeratu, State Adviser to the President of Romania and from General (r.) Viorel Bârloiu, Secretary of the Supreme Council for National Defense, to whom the authors would like to express their special gratitude.

**ROMANIA
SUPREME COUNCIL
OF NATIONAL DEFENSE**

DECISION

**on the activity performed by the Ministry of National Defense in the year of 2003
and the objectives for the present year**

In accordance with Article 4, (f), item 20 of Law nr. 415/2002,
on the organization and functioning of the Supreme Council of National Defense

THE SUPREME COUNCIL OF NATIONAL DEFENSE DECIDES:

Single Article: approves the report of the Minister of national defense as regards the activity performed by the Ministry of National Defense during the year 2003 presented by the letter nr. S.G 1985, from 07.04.2004 and the objectives that will be accomplished in the year 2004 according to the present decision.

THE PRESIDENT OF THE SUPREME COUNCIL OF COUNTRY DEFENSE

The decision was adopted during the session of the Supreme Council of National Defense from 15.04.2004

Bucharest,
Nr. 12

Objectives that are to be accomplished by the army in the year of 2004

The fundamental objective of the Army is to constitute the continuity of the process of reorganization, operationalization and modernization of military structures.

Simultaneously, with the gradual increase of the level of interoperability of the forces aimed at collective defense within the Alliance, there will be created agencies of modulating, supple and efficient forces capable of accomplishing missions on the national territory or abroad, within any operation theatre, independently or in within groups of multinational forces.

In order to accomplish the fundamental objective the following steps will be undertaken:

A. In the field of defense policy:

1. Development of the strategic and military profile of Romania within the North Atlantic Alliance in respect to the participation and transformation of NATO, definition of a new regional profile of security and development of cooperation and assistance in this field, in the zone of the Black Sea and the Caucasus;
2. Configuration of an active profile of actions for the participation within the European Policy of Security and Defense (EPSD) and the new institutions and processes in the field of defense suggested within the framework of the drafts of the Constitutional Treaty of the EU and Security Strategy of the EU;
3. Development of the component of analysis and strategic evaluation at the level of the Ministry of National Defense; evaluation of the politico-military implications of the process of complete qualification of the Romanian Army;
4. Launching of the process of redefinition of the mechanisms of planning defense in accordance with the existent procedures at the level of the North-Atlantic Alliance.

B. In the field of human resources:

1. By the end of semester III/2004, to adjust the normative framework to NATO requirements (modification of the Law on the status of military staff, adoption by the law of the status of military personnel and professional non-commissioned officers, revision of the Guide to military career, etc.);
2. Improvement of human resources management by implementing the management of individual career that would guarantee the transparency, correctness and equal chances in promoting military staff; by the end of this year to introduce the guide of promoting the civil staff in the army;
3. Continuation of army reduction and reorganization simultaneously with assuring the measures of social protection to the discharged staff;

4. Continuation of adjusting the military education system and training the army staff to NATO strategies, doctrines, procedures and standards;
- C. In the field of modernization programs and acquisitions:
1. Modernization of army equipment by purchasing equipments necessary for the activation of some military structures designated in the “Objective Force 2007”, as well as for supporting the forces participating in the operations led by NATO;
 2. Continuity of the improvement of national legislation in the field of public acquisitions for defense with practices existent in NATO member states; a more efficient substantiating and spending of allocated funds;
 3. Support for the process of reorganization and modernization of the defense industry, amplification of the participation in international cooperation in the field of armaments and activities of standardization and codification with NATO agencies and procedures;
 4. Improvement of the activity of assessing the equipment, outmoded goods and army assets that is to excess in the process of reorganization.
- D. In the financial-accounting field:
1. Improvement of the management of the financial-accounting activity in accordance with the principles, techniques and procedures covered within NATO standardization agreements;
 2. Modernization and correlation of the system of remuneration and social protection of the military and civilian staff;
 3. Increase of the role of army finance and budgets, assurance of a qualified administration of the army assets;
- E. In the field of control and evaluation of the military structures:
1. Organization and accomplishment of the evaluations of the stage of launching the established programs, processes and projects that are carried out in the army in order to accomplish the objectives from the V MAP cycle;
 2. Improvement of the conceptual framework regarding the system control and evaluation of the military agencies;
 3. Assurance of observance by army agencies of the specific normative laws and acts.
- F. In the field of internal audit:
1. Assimilation of modern techniques and instruments of investigation and evaluation as regards the operational and financial risks of organizations as well as the ways of their elimination;
 2. Increase of audit efficiency so that each military unit carries it out at least once in two years;
 3. Auditing, since the very draft stage, of the programs of medium-term army constitution, modernization and preparation, of the annual plans of army modernization and preparation, as well as of the budgetary and legal commitment.

REPORT

of the Supreme Council of National Defense on the activity performed during the year 2004

In the year 2004 Romania continued the process of reform and modernization as regards the accomplishment of the conditions for the conclusion of negotiations with the European Union, thus responding to the requirements of the new status of NATO member state.

In accordance with the provisions of the Constitution and the law in force, the Supreme Council of National Defense acted in order to fulfill the objectives stipulated by the Strategy of National Security in order to assure state independence and territorial integration, guarantee fundamental democratic rights and liberties, safety and protection of citizens including the rights of persons belonging to national minorities according to the European standards in the field.

Within the framework of the meetings of the Council there have been analyzed concepts, strategies, and plans of activity, reports, notifications, draft laws, regulations and other normative acts. The adopted decisions became compulsory for public administration authorities and institutions with specialized attributions and aimed at maintaining internal political stability, combating corruption and social marginalization, consolidation of legal state institutions, affirmation of national identity as well as the engagement supported at the diplomatic level by assuming the responsibilities acquired as a NATO member, active participation in the administration of regional and global crises, permanent connection to mechanisms of international cooperation.

The adopted decisions are the ones from the annex. Most of them have been accomplished or are in the process of accomplishment. The decision have not yet been finalized in stipulated terms, especially the decisions regarding the programs of modernizing the institutions bearing responsibilities in the field of national security due to the total lack of provision with solicited financial funds.

The unitary coordination of the activities regarding country defense and national security aimed at developing the territorial infrastructure and assessing the geostrategic position of Romania, optimization of response capacity in accordance with NATO requirements and standards, continuity of institutional reform, active participation in actions of international cooperation aimed at combating transborder terrorism and organized crime, as well as the fight against corruption, fraud and money laundering.

The activity of the Council concentrated
on the following fields of action:

a) The status of Romania within the North-Atlantic Alliance and adherence to the European Union constituted one of the basic priorities in the activity of the Coun-

cil during the year of 2004 that determined the adoption of some decisions as regards: the promotion of Transatlantic dialog; maintaining of coherence and complementarity among the developments within the framework of NATO and developments in the matter of European policy of security and defense; supplying the Alliance with political, economic, military and other kind of resources with respect to accomplishing its objectives and missions; supporting the coherent and transparent development of the NATO-EU relations aimed at developing the capacities at the level of the two organizations, as well as their openness for collaboration with states in the course of adherence.

In this respect, the Council has analyzed the subjects from the agenda of the Summit from Istanbul. Beginning with NATO priorities and the perspective of the summit, as well as with the general and specific responsibilities and interests of Romania within the framework of the Alliance, the Council decided that the Ministry of External Affairs and the Ministry of National Defense are to finalize the detailed suggestions to all subjects mentioned in the agenda, to establish ways of participation in the debates within NATO, as well as within the consultations with the Allies in order to support us in projecting the strategic profile of Romania.

During the last annual session were approved the objectives, assignments and means in the field of national security resulting from the reunion in Istanbul, and it was considered that the planned actions underline the decision of Romania to continue and finalize the reform processes as part of the strategy of reorganization of the Romanian society. In this respect, there were approved the strategic objectives and means necessary for assuring the participation of Romania in the activity of the integrated political and military committees and agencies of the Alliance.

Moreover, the necessity was outlined for amplification of the politico-military actions aimed at increasing the contribution of our country in the consolidation of Transatlantic relation, as well as the affirmation of the new profile of Romania on the European stage.

In addition, the members of the Council considered that the first informal reunion at the high level of the Alliance after the Summit from Istanbul undertaken in Poiana Brasov by means of substantial discussions on agenda regarding the stage and issues in enforcing the adopted decisions by the Alliance in Istanbul, affirmed itself as a major event that, by the suggested ideas and solutions, will mark the next NATO activity.

In this respect, Romania declared in public the support of adopting by the head of state and the Government of the External Political Directives of the North Atlantic Treaty Organization that stipulates the inclusion of operational planning aimed at directing the national contributions in the missions of the Alliance. The Council mentioned that a long-term strategy of planning the assignments and objectives of the Alliance might assure the predictability in decision-making and overall picture of transformation of the Alliance.

During the debates within the meetings of the Council there were analyzed and approved the Concept and general provisions as regards the logistic and infrastructural facilities that will be placed at the disposal of the troops of the allies and partners, the continuation of the process of reform and reorganization of the military capacities during the period of 2004-2012, and of the defense industry in accordance with the new status of Romania as a member of the North Atlantic Alliance.

At the requirements of the international organizations, the members of the Council approved the offers of Romania to participate with effectives and equipment within the response forces of NATO under the leadership of the Headquarters for Operations in Europe with general staff in order to engage some functions in the Headquarters of the Multinational Force in Iraq and Afghanistan under the leadership of the Central Headquarters of the USA, as well as within the framework of the project "Teams for Reconstructions of the Provinces" lead by Great Britain in the province of Maz-ar-e-Sharif in Afghanistan.

Periodically, members of the Council analyzed and evaluated the stage of accomplishment of the adopted measures that aimed at the responsibilities assumed by Romania as a member of the Alliance and active participant in the development of security on the continent of Europe under the conditions of amplification of terrorist threats and instability in different "sensitive" regions of the globe.

In 2004, Romania, in its approach to accomplishing the strategic objective adherence to the European Union from 1 January 2007 continued to adopt measures necessary for the implementation of the community acquis and accomplishment of the assignments assumed in the process of negotiation. Within the sessions, members of the Council were constantly informed a regarding the stage of integration. It represented a strategic objective with direct influence upon national security as well.

In this respect, the Council adopted decisions in order to support the national objectives of preparing the integration of Romania in the European Union taking into consideration the vulnerabilities and the risk factors that might aggravate the process of integration, the strategies for medium and long term development of the relations of our country with West European countries, the political objectives and the draft of the strategic plan of promoting political, economic and security interests in the relations of Romania with future member states of the European Union, and the force structure which our state can place at the disposal of the Union.

Moreover, the Council analyzed the priorities resulting from the Report on the situation in the country for the year of 2004 of the European Commission and approved the general framework of actions of the Government and other responsible institutions with the purpose of concentrating the efforts of the whole Romanian society in order to apply the recommendations of the West-European experts. The Council also approved conclusion of the negotiations with the European Commission by the end of

the year of 2004 and accomplishment of the strategic objective of integration of Romania, beginning with the year of 2007, into the European Union.

b) Politico-military evolutions on the international level and the basic orientation in the field of relations regarding national security constituted the main points on the working agenda of the Council. The decisions adopted in this respect referred to the position of the Romanian diplomacy toward the politico-military evolutions in the zone of the Caucasus, Central Asia and Western Balkans, the strategy and objectives of collaboration of our country with the Russian Federation, Ukraine and the Republic of Moldova, the development of strategic partnership Romania – USA and the placement of some American military bases on the national territory, as well as the negotiation of some agreements between our country and other states regarding the fields related or tangential to national security regarding this issue.

Members of the Council stated that it is to Romania's advantage that the border of the Euro-Atlantic community based upon democracy and security does not stop on the eastern border of the country. In this respect, the Council analyzed the vulnerabilities and risk factors that might burden the process of integration of Romania into the European Union.

In addition, the Council has evaluated the contribution of Romania in the sphere of the European policy of security and defense within the framework of performing of the prerogatives of the Presidency of the Security Council of the United Nations Organization by our country last year in July. In this respect, the politico-diplomatic objectives were approved and the actions stipulated by Romania as regards the assurance of a constructive and substantial contribution to maintaining peace and international security and the affirmation of our country's profile as regards promoting the dialog, preventive diplomacy and pragmatism in terms of regional-global interdependency.

c) Improvement of the legislative framework on national security. In this respect, the Council endorsed and approved the drafts of some doctrinal documents and normative acts promoted by the structures of the national defense system such as the White Chart of national security and defense. The national doctrine of information on security, the National Strategy of Civil Protection, the Strategy of the Ministry of Administration and Interior of accomplishing public order and safety in the urban and rural areas aimed at increasing the safety of the citizen and preventing street crime during the period 2005-2007.

Moreover, the Council endorsed bills on the prevention and combating of terrorism, the national System of crisis management, civil protection, defense against outbreaks of fire, defense planning, status of military personnel and professional non-commissioned officers, organization and functioning of the Police Force of Romania and national archives.

As regards these projects, the specialized institutions have been assigned to improve their contents with the observations of the members of the Council and to pass

all the stages of the proceedings in order to be forwarded for the analysis of the Government and further for the approval of the Parliament of Romania.

Another document that has been analyzed and approved is the General Cooperation Protocol on the information activity aimed at national security that delimits the competences and functioning of the horizontal relations among services in accordance with the requirements of the Chapter of Justice and Internal Affairs negotiated with the European Union.

The protocol establishes the fields of performing the attributions by each service or information agency, clarifies the principles of activity and cooperation in this field as well as the ways of resource streamlining aimed at obtaining and exploiting the information.

The analyzed bills and other normative acts endorsed or approved by the Council in the year of 2004 have been adjusted to the European and Euro-Atlantic standards, this fact representing an important contribution to the general effort of intensifying the process of concluding the reorganization, modernization and reform process in which our country is engaged.

d) Fight against corruption, organized crime, trafficking in drugs, goods and human beings constituted an important subject of debate in the Council meetings in the year 2004.

Taking into account the fact that the phenomenon of corruption has a direct impact upon the economic and social development, that it destroys potential benefits of the free market, causes distortions to the rules of the market economy and diminishes the capacity of state bodies in its prevention and combating, the Council recommended to the Government and the specialized institutions to initiate programs of actions aimed at enforcing the legislative provisions for combating and preventing corruption, organized transborder crime, frauds and money laundering. In cooperation with the civil society activities were initiated aimed at prevention and reduction of crime committed violently and in order to increase the degree of civic safety.

Special importance has been attributed to the program of institutional brotherhood in accordance with European standards in order to contribute in this way to the improvement of police cooperation and the fight against organized crime, participation in the activities, programs and initiatives of the Stability Pact for South-Eastern Europe, in the field of combating organized transborder crime, promotion of a coherent policy of counteracting the conventional risks in the region, decrease of corruption acts, of shadow economy, tax evasion, smuggling and money laundering, as well as hardening the sanctions against those who commit such actions.

It can be stated that the activity of prevention and counteraction of corruption, organized crime, trafficking in drugs, goods and human beings has had a rather asserting character without performing an action of prevention and may present negative effects upon persons or collectives if the legislation in force is not being observed.

By means of specialized agencies an operative monitoring has been accomplished of the activity zones and sectors with potentially touched by the field of organized crime.

Periodically, members of the Council have been informed as regards the actions of preventing and combating organized crime and corruption and have established measures for constituting integrated, coherent and coordinating systems, mechanisms and procedures that would support the fight against these phenomena in cooperation with similar agencies from European and other states.

The Strategy of the National Anticorruption Public Prosecutor's Office constitutes one of the important concerns of the Council, focusing in 2004 upon its institutional development. The general Protocol of cooperation regarding the information activities aimed at national security induces the aspects related to engagement of information services in the enforcement of the legislation, especially regarding combating fraud, corruption and money laundering as well.

e) With respect to the provisions of the Strategy on National Security, the **Council concerned itself with the coordination of the activity of Ministries and Institutions with responsibilities in the field** determining the revision of some concepts regarding their role in assuring public order, defense and national safety, as well as the missions they are to accomplish.

The opinion of the specialists is that, under the present conditions, war does not represent an immediate threat any more, but there may be an amplification of asymmetric risks that refer mainly to the expansion of terrorist networks and activities, of transnational organized crime, economic-financial crime, illegal transborder trafficking in human beings, drugs, radioactive and strategic materials, armament and munitions, as well as the proliferation of weapons of mass destruction.

In order to combat these phenomena, the agencies with responsibilities in the field of national security were forced to improve and diversify the employment missions and rules.

Moreover, in accordance with the requirements of the Committee of Analysis and Defense of Alliance, the Council has analyzed the force structure that is to be accomplished by Romania during the planned period of 2005-2010 and the offer to participate with effectives and equipment within the reaction force of NATO under the leadership of the Commandment for operations in Europe, as well as the participation of Romania in core agencies of the North-Atlantic Alliance.

In this respect, the Council approved the Plan-Framework and the modifications to it as regards launching the process of army reorganization and modernization in the year 2004 as well as the Structure of forces – "Army of Romania 2012". The implementation of the objectives and measures established in these programs will assure the accomplishment of national defense within the framework of collective defense of the North Atlantic Alliance, the increase of the efficiency in accomplishing the specific missions in peaceful times, in situations of crisis and war, as well as the accomplish-

ment of some dislocating fighting and supporting forces able to react operatively in situations of internal and external crises and to participate in multinational operations in accordance with the commitments assumed by Romania as a NATO member and signatory of international security agreements.

In the year 2004, the participation requirements of the Romanian military personnel in international missions of peace stabilization in Kosovo, Afghanistan and Iraq were higher if compared to other years, the fact that led the Council to inform itself periodically regarding the measures undertaken in order to accomplish the compatibility and interoperability with services of military information of the member states of NATO and with the information agencies of the Alliance recommending as well their continuity in accordance with the approved programs.

The Council has analyzed the way of implementing the joint Concept of action of the structures of the Ministry of Administration and Interiors aimed at assuring public order and the increase of the degree of safety of the citizen, as well as the Program of the Ministry of National Defense on operative preparation of the territory for defense during the period 2005-2008. Within the same framework, the Protocol on cooperation between the Ministry of Administration and Interior and the Ministry of National Defense has been approved in order to accomplish together other missions in peaceful times and in critical situations and the necessary measures to be accomplished so that Romania can participate actively in the integrated System of joint defense.

The process of reforming the institutions of the national defense system resulted in the reduction of effectives and the diminution of the level of military equipment, reorganization and re-dimensioning of their mobilization reserves. Under the new conditions, the activity of preparing the reservists continued as far as the funds allocated by the budget allowed and in accordance with the approved plans.

The additional funds of the defense budget are to be directed to a greater extent to technical and logistic equipment of the subunits that take part in the peacekeeping missions in accordance with the standards existing at the level of the Alliance.

Members of the Council stated that in the year 2004, the Ministries and institutions with responsibilities in the field of country defense and national security by assessing the conclusions of the dialog undertaken permanently with the leading agencies of NATO and with those of the European security as well as of the results of the evaluation of expert teams of the Alliance, improved the efficiency of the actions and measures of institutional and functional reform of the military agencies, thus contributing to fulfilling the objectives imposed on our country with the purpose of integration in the European Union.

f) Analysis of the state and activities of the institutions with responsibilities in the field of national security. The Council stated that the prevention and the counteraction of risks and threats that could affect national security stipulate intensification of efforts with the purpose of the accomplishment of measures of combating transborder infrac-

tions, illegal migration, trafficking and use of drugs, end of illegal production and selling of alcohol and any other infractions that affect public order and security of the citizen.

In addition, there have been analyzed and approved the directions of action aimed at the prevention, identification and counteraction of risks and threats to national security determined by the manifested forms of corruption. Measures have been initiated aimed at combating efficiently this phenomenon, as well as actions aimed at the discovery and research of abuses and unlawful acts committed in the fields of privatization, control activity of strategic exports, assurance of economic, financial-banking and energetic security of the country.

Moreover, it has been stated that the liberalization of the borders assured, on the one hand, the possibility of moving the population and its access to knowledge and dialog and, on the other hand, favored a series of acts belonging to organized crime such as proliferation of terrorists and organized crime, drugs, armament and military technologies and nuclear networks, as well as actions of non-authorized penetration of the informational and banking, misinformation and information manipulation systems.

Consequently, the Council approved some modifications regarding the organizational structures of the information systems, regulations on their organization and functioning, as well as the general Protocol of cooperation on information activity for national security.

In order to inform correctly its members, during each meeting of the Council are presented reports, synthesis and notifications regarding the evolution of the potential external and internal risk factors and their influence upon national security. The Ministry of Administration and Interior, and the institutions with duties in the field have been required to intensify their efforts in order to continue firm implementation of the action measures with the purpose of maintaining public order in the urban and rural regions, security of the citizen and prevention of street crime.

g) The Council offered itself to intensify the specific measures in the fight against international terrorism and to direct external relations toward accomplishing the security objectives of Romania.

As a result of analyzing the terrorist attacks from the year 2004, it has been stated that neo-terrorism reached an extremely dangerous level. Asymmetric threats were especially prominent. Their prevention and combating imposes the adoption of new evaluation means, as well as specific methods of counteraction. The phenomenon led to the accomplishment of an international coalition to which Romania adhered from the first moment and which focuses the states with the same primary objective on the fight against terrorism.

Under the conditions of worsening of the situation in Iraq and launching the actions of the Coalition for the stabilization of the zone, the Council analyzed the action to be undertaken by our country on the economic, political and military level aimed at the participation of Romania in the multinational force, recommended to be im-

plemented by the Government. In accordance with the legal provisions, the President of Romania informed permanently the Parliament regarding the participation of the armed forces in such actions.

Consequences of clashes from Iraq over the evolution of the political process in this country and the situations of the Romanians present in the zone, as well as the consequences of crises determined by terrorist attacks from various regions of the world have determined the Council to authorize the creation of the National system of terrorist alert, similar to the one existing in NATO and the European Union, with the main mission of undertaking steps to prevent and limit the aftermath of terrorist attacks.

In addition, the National system of crisis management was established and the Integrated Informatics System was streamlined. These have offered the possibility of data exchange among agencies of the national defense system and the Council approved sending to specialized agencies a questionnaire on available rapid international assistance and inventory containing national capabilities for immediate response in case of use of chemical, biological, and radiological weapons against civil population.

Based on the information presented by the Minister of National Defense, members of the Council have appreciated the activity of military personnel and Romanian civilians who are taking part in the operations of stabilization and establishing of a climate of security and remaking state agencies from this country. It was considered that Romania has to get involved continuously alongside the Coalition states in the process of training Iraqi specialists, in the activities of humanitarian assistance and the participation of Romanian companies in the economic rebuilding of the commercial basis of Iraq.

Under the conditions of escalation of a terrorist threat in Europe, the Council analyzed, during a special meeting, the influence of this phenomenon over the evolution of the international political-military situation, as well as the consequences for our country.

On this occasion, the Council approved the measures proposed by the Government for the prevention and combating of some terrorist threats on the territory of Romania, protection of Romanian citizens staying in the countries from the regions with a high level of terrorist risk, of diplomatic missions staff, as well as their withdrawal in cases of need.

At the same time, the Ministry of Administration and Interior, and the Ministry of National Defense were requested to apply measures providing security and protection of strategic objects, state agencies, foreign embassies and diplomatic missions, of providing calm and security of citizens; and the Romanian Information Service and the Foreign Information Service were requested to amplify information exchange with foreign partner services, especially those of NATO member states in order to acquire data on threats to national security.

In addition, the Ministry of Transports, Constructions and Tourism, Ministry of Economy and Commerce, Ministry of Communications and Information Technology

and Ministry of Health have analyzed and, carried out specific measures to prevent and combat all categories of terrorist manifestations and the cooperation protocols signed among agencies from the National system of preventing and combating terrorism were reviewed and discussed during the Council's meetings.

Throughout the year were approved draft treaties and international agreements in the sphere of national security or those having common aspects in this sphere, initiated by agencies bearing responsibility in the sphere of national safety.

h) The Government has analyzed draft budgets for 2005 in order to **provide resources and the necessary infrastructure essential for the protection of public order and national safety**. It has been considered that the level of offered funds corresponds to the needs of continuing structural reforms in these spheres according to the programs approved by the government, as well as the normative acts and commitments to NATO and the European Union.

In addition, the Council analyzed the state of equipment and operability of technologies from the endowment of the Ministry of National Defense, Ministry of Administration and Interior, and the Service of Special Telecommunications. Special attention was given to the level of equipment, especially with special telecommunications and informatics, but also to the aspects of continuity or discontinuity of holding some programs and norm reviewing in accordance with the requirements and standards of the North-Atlantic Alliance and the European Union.

In this context, the Council also analyzed the expediency of using funds allotted by international financial bodies for the development of some economic, social and infrastructural programs meant for national security, recommending the provision of transparency and legitimacy of applying the stipulations of the approved agreements and accords.

The Council has also analyzed aspects of financial safety of the country, population health, situation in agriculture, as well as the quality of the environment.

The Government was recommended to undertake a range of measures to hold a systematic program of growth of forested areas and protective belts, performing hydro-technical works necessary for the prevention of floods and droughts, elaborating risk maps of areas that are subject to floods and landslides, up-dating plans of defense against floods, localities' water supply, promoting renewable energy sources and the program of nuclear energy, carrying out the necessary legal and institutional framework for environmental issues caused by enterprises, including the mining ones that are in operational shut-down, as well as deposits of hazardous waste.

i) A constant concern of the Council represented **the readiness of economy and reserve for defense in accordance with the new legal defense provisions and the previously adopted programs in this sphere**. For this purpose, the Council analyzed the stage of restructuring the defense industry, load of production capacities in this sector,

structure and orders proposed for 2005, and established measures of settling these issues in accordance with Romania's current status as a NATO member.

It has been considered, that during the last four years, the industrial production of the defense sector had a tendency to rise, and the Council concluded that it is also necessary to maintain that tendency in 2005. In addition, the program of re-dimensioning certain production capacities is to be carried out in accordance with the requirements of the agencies of the national defense system and foreign beneficiaries.

The Government has been recommended to initiate a dialog with international armament organizations and NATO equipment agencies in order to establish opportunities of cooperation, association, partnerships or investment for our own defense industry, to disaffect and assess production capacities that have no future, and in 2005, to continue the application of the approved restructuring programs and the privatization of all economic entities from the defense industry with a majority state capital that are under the authority of the Ministry of Economy and Commerce.

Besides, based on the provisions of the new law that refer to the readiness of the territory and economy for defense, adjusted to similar systems of NATO member states, the Council approved the plan of verifying the stage of population and economy readiness for defense in 2005, annual readiness of army reserve, plan of mobilization of the national economy for the state of war, restructuring and re-dimensioning programs of mobilization reserves and the annual plan of reservist training.

In this framework, the Council has analyzed the possibilities of the Romanian economy to meet the requirements of agencies of the national defense system and has approved the plan containing objectives of operative readiness of the territory for defense in the period 2005-2008.

j) Under the conditions when **the protection of classified national and NATO** information represents an integral part of the commitments assumed by Romania in the Calendar of reforms for the adherence to the North Atlantic Alliance, the Council has been permanently informed of the way of application of specific attributions by ministries and agencies having attributions in the field.

In the context, the Council analyzed the implementation by the Bureau of the National Registry of State Secret Information of ways of protecting classified NATO information at the end of the adherence process of Romania to the North Atlantic Alliance and priorities were set in accordance with the recommendations of the Alliance in the field.

The Council considers that the new institutional system and the standards affiliated with this field assure an efficient implementation of the necessary measures in order to carry out protection of classified information and respond to Euro-Atlantic exigencies, realities and interests of Romanian society.

From this perspective, the activities held in 2004 by the specialized state agencies in the enforcement of legal provisions have assured the protection of Romania's informational values and of free citizen access to public information.

In addition, there have been approved the proposals of agreement negotiation between the Government of Romania and the governments of NATO member states referring to reciprocal protection of classified information.

k) According to the competences and attributions granted by law in 2004 the Council approved **the appointment and advancement in rank, participation in the exam for promotion to the rank of general, as well as some aspects of social security of military personnel.**

Every situation has been analyzed, taking into account field legal provisions and strict accomplishment of restructuring, re-dimensioning and operating objectives of agencies of the national defense system. The normative framework promoted by ministries and military agencies based on the stipulation of Law 80/1995 on the status of military personnel and of the Guide to military carrier can be compared to the one practiced in NATO member state armies that are applying new philosophies and strategies of carrier promotion.

In addition, military agencies have set up an efficient criteria system of selecting and re-training personnel through courses, as well as rank promotion and sending on international missions based on the criteria of competence and professionalism.

The Council has been permanently informed of the main social issues of active, reserved and retired personnel regarding payment of salaries, military pensions, housing issues, providing medical assistance and recreation, rest and recovery conditions. It has been considered that these issues are to be in the attention of decision-makers from ministries and agencies from the fields of defense, public order and national safety and the Government has been recommended to perform their settlement on the occasion of adopting or modifying normative acts in the field.

l) During the Council's meetings other issues have been analyzed referring to **the organization and coordination of activities** concerning defense, public order and national safety, adopting the necessary decisions corresponding to the approached fields.

* * *

The Supreme Council of National Defense considers that in 2005 the activity of state agencies bearing responsibilities in the sphere of national security should provide the necessary conditions for integration into the European Union as a priority and, at the same time, as an essential condition for affirming and promoting its national interests at the regional and global level.

NATO membership and that of a future EU member offers Romania optimal conditions for economic and social development, determining, at the same time, the responsible involvement of our country in accomplishing missions and policies of NATO and the European Union, intensification of contribution to peacekeeping and stability worldwide, in counteracting new terrorist threats, proliferation of weapons of mass

destruction, trafficking in drugs and human beings, thus responding to the new challenges of modern life.

The activities listed in the program of the Council for 2005 refer to effort coordination for reaching national consensus as regards Romania's security interests, deepening justice reform, strengthening the mechanisms of observance and enforcement, and prevention and combating of corruption.

A part of the topics offered for discussion to the members of the Council were aimed at providing mechanisms of competitive and functional development of the Romanian economy, improving living standards of the population, providing measures for the protection of natural resources and the environment, supporting Romanian communities from abroad, as well as assessing the potential of collaboration with these in order to promote national interests.

The Council will also act for the intensification of consolidation efforts of Transatlantic relations, of NATO's role in projecting security outside the Euro-Atlantic Area, including combating terrorism and proliferation of weapons of mass destruction.

In 2005, Romania will also contribute to the strengthening of the European policy of security and defense in accordance with NATO transformation process, of good neighborhood relations and regional cooperation, as well as the complete adjustment of the national security system to the specific mechanisms of NATO and the EU.

The Council has decided upon the initiation of certain measures that would determine the reduction of internal vulnerability concerning difficulties of an economic, financial and social character, reduction of shadow economy insisting on the preventive side, rather than just stating the phenomenon through activities of raising awareness of the population in the spirit of eliminating economic-financial and tax crime.

At the same time, the Activity Program of SCCD for 2005 stipulates measures and actions for the reform of public administration, streamlining of cooperation between agencies engaged in the fight against corruption, fraud and money laundering, prevention and combating of the phenomena of smuggling, clandestine migration and human trafficking, increase of trafficking and illegal use of drugs and narcotic substances, as well as the reduction of the aftermath of natural, technological, ecological or complex disasters, and of the degradation of the environment.

THE NATIONAL SECURITY COUNCIL AS A DECISION-MAKING TOOL IN UKRAINE

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Introduction

Having a specific importance for every European state, the development and implementation of the national security strategy is even more important for the countries undergoing the period of transition. The success of this process is a necessary prerequisite for a sustainable economic development and an index for fulfilling the necessary conditions for a complete integration into the European Community.

Throughout the last decade national security and defense in many parts of South East Europe have been the subject of some important modifications. The efforts to transform its influence so that its culture, nature and activity will be in concordance with the criteria of democracy they are functioning in proved to be very difficult in these processes of transformation.

Transformation, especially in South East Europe, is a very comprehensive process including many interdependent spheres. On close inspection we will ascertain that transformation processes have, de facto, a major influence over all aspects of activity of the existent institutions and require a competent guidance in order to ensure success in this process. In order to make all transformation processes successful it is important to identify three significant factors of success in the process of leadership as such:

- providing a firm and operative leadership of transformation processes;
- providing a high level of legitimacy;
- providing a clear-cut spectrum of the transformation process – organizing culture, traditions and style of government, ethnic and gender make-up, as well as other factors.

Transformation processes in the sphere of security and defense include four basic spheres:

- *Cultural transformation.* It includes: the transformation of the culture of a security institution, leadership, management, administrative nature of the institution; as well as of the traditions and system of values underlying this institution.
- *Human Transformation.* It signifies the transformation of ethnic, regional and gender make-up of the institution, as well as of its human resources.

- *Political Transformation.* This process assures the fact that the behavior and nature of any institution corresponds to the political peculiarities of the democratically system it is placed in – acknowledging the principle of society’s supremacy, setting up some special mechanisms of control and supervision, observing principles and practices of transparency and evidence, etc.
- *Organizational transformation.* This is a process with a much more technical content within which the examined institution changes its “dimensions” and structure, administration and management depending on the necessity of streamlining expenditures, as well as the necessity of improving and streamlining the services rendered.

It is extremely difficult to implement fully such complex transformation processes, a fact demonstrated by the reforms carried out in the security sector in Moldova, Ukraine, and partially in Romania. Priority changes, limited means and resources, lack of skills and experience, poor quality administration and management, as well as the absolute novelty of the reform areas may complicate considerably the accomplishment of these initiatives. The reform process of the security sector in many countries of South East Europe, especially in those with an authoritarian or violent past, requires a clear and integrated transformation strategy that will guarantee the irreversibility of this process.

There is no standard process under the title of “security sector transformation”. The experience and the initial positions differ from country to country. However, in most cases, the transformation of the security sector takes place as a consequence of the end of the “Cold War” and the disintegration of the system typical for that period. Despite the fact that the period of “cold war” was extremely dangerous and often illogical, it assured, however, most world countries with a more or less clear structure on which the security and defense policy used to be based. During that period the states could be members of a formal alliance, could offer territory and infrastructure to the dislocation of the military base or opt just for political assistance and support. In other cases, the security and defense policy of some states aimed at keeping them out of any alliances. Some states, regardless of their geographical position, avoided the consequences of the Cold War. All these already belong to the past.

The objective characteristics of security (for instance, the need for enlargement of the security area for a more efficient counteraction of terrorism) are able to give a strong impulse to the members of the North Atlantic Alliance in supporting the ambitious scenario of enlargement. As an alternative, the better and closer relations of collaboration between the West and Russia, which appeared due to the terrorist threats, may influence the perspectives of a further expansion of NATO. The relation between the two expansion processes (NATO and EU) is reflected in the thesis dominating in Western Europe as well as in the Central and Eastern Europe and according to which for the stability of Europe itself it is necessary to, at least, offer the countries of Central, Eastern and

Southern Europe the perspective of adherence to either NATO or the European Union. Due to these reasons, the reevaluation of the role of the North Atlantic Alliance that is on the agenda of the American policy raises the European Security and Defense Policy to a level of extreme importance and priority for the candidate countries.

1. Historical development of the security system and the evolution of the National Security and Defense Council

The Council of National Security and Defense of Ukraine¹ (further CNSDU) was created in July 1992 during the mandate of President L. Kravchuk. During that period it was exclusively a counselling structure with a rather limited prerogative spectrum, referring especially to the development of an analytical informative activity related to national security issues. The role of the Council was radically modified to enlarge its duties and responsibilities, to enrich its activity content and to gain influence upon political processes within the country after the election of Leonid Kuchma as the President of Ukraine and the appointment of Vladimir Gorbulin, in October 1994, as the Secretary of the Council. During the same year, the Decree “On the Regulations of the Council of National Security within the Presidency of Ukraine”², was signed as well as the main normative document of the Council – “CNSDU Regulations”. This document mentions that the Council is a collegial organ within the Presidency of Ukraine that undertakes the organization and coordination activity on national security. Under the competence sphere of CNSDU falls the analysis of the development tendencies in the internal and external political situation, the elaboration of the contents of the strategy and state programs of national security policy, the multilateral evaluation of the eventual and real threats addressed to the national interests of Ukraine, the examination of the most important issues related to national security as well as the development of recommendations for the President regarding respective decision making, the organization of interaction among departments and effort coordination of the executive power bodies in the field of national security.

Together with the appointment as the Secretary of the Council of Vladimir Gorbulin, nicknamed groundlessly “the grey cardinal” who enjoys the trust of Leonid Kuchma and who actually connected to himself almost all informational flows coming towards the head of state, CNSDU became the centre of making most important political decisions. During this period, almost all state problems of major importance are coordinated with the Secretary of the Council. Since October 1994, CNSDU subordi-

¹ Рада Національної Безпеки і Оборони України (РНБОУ).

² Указ «Про положення про Раду національної безпеки при Президенті України».

nates to itself the National Institute of Strategic Research (activated since March 1992) that is an institution of scientific research in analytical assistance and prognosis of the activity of the President of Ukraine, who assures the accomplishment of the scientific researches in the geopolitical field, of the socio-political, state legal, politico-military and spiritual development of Ukraine. The general administration of the institute is carried out by the Secretary of the National Security Council. In addition, since December 1994, besides the Council the Commission on nuclear policy and ecological security issues began its activity.

In 1999 in the function of Secretary of the CNSDU was appointed the ex prime-minister of Ukraine, the army general (four star general) Evghenii Marchuk. Beginning with this appointment, the role of the Council was gradually reduced in the process of state decision making and carrying out of coordination among departments in the key spheres of state activity. In addition, the influence of the Secretary of the Council upon the President of the country was reduced as well. During this period, the CNSDU appeared more often in the role of “firefighter” and was used to straighten out critical situations (“Kolchuga Scandal”) or took on the role of an “inspector for the investigation of exceptional cases” (tragedy from Skniliv).

The years 2002-2003 were, on the one hand, a testing period for Ukrainian-American relations and, on the other hand, an assessment of the Council’s abilities to react to critical situations and solve scandals in external policy. A vivid example in this respect was the case of the illegal delivery from the territory of Ukraine to Iraq of the radiolocation stations “Kolchuga”. Consequently, this threatened more than just Ukraine’s relations with the United States. Ukraine’s possibility to conclude important contracts on the armament market and the credibility of the Ukrainian system of control over exports were questioned, but also, in a larger context, an important (or, for many years, even irreparable) blow was dealt to the prestige of Ukraine itself on the international arena. Fortunately, the secretary of CNSDU E. Marchuk and his deputy I. Smeshko managed to straighten out the extremely dangerous situation and as a “reward” for the amelioration of the relations with the United States, a decision was adopted to send a Ukrainian peacekeeping contingent to assure stability in Iraq in order to implement the respective decision of the CNSDU supported by the Supreme Rada of Ukraine (Ukraine’s legislative body – *translator’s note*).

In September 2003 Vladimir Radchenko was appointed the Secretary of the CNSDU. The level of participation of the Council in the state decision-making process during his appointment remained approximately at the same level as during the functioning of E. Marchuk as the Secretary of the Council. Meanwhile, it was during this period that the Council was forced to react to such extremely complex threats to the national security of Ukraine as, for instance, overcoming the critical situation related to building a dam towards the isle of Tuzla belonging to Ukraine by the Russian Federation. Among the merits of Victor Radchenko can also be mentioned the signifi-

cant stirring to activity of an important mechanism of solving common problems in the security sector – systematic gatherings of the Secretaries of Security Councils in accordance with the collaboration protocols among the CNSDU Apparatus and the apparatuses of Security Councils of Russia, Georgia and Poland. In December 2003, by the Decree of the President of Ukraine alongside the CNSDU, the Institute of National Security Issues Research³ was created. Its main functions are to elaborate some scientifically grounded proposals regarding the assurance of national security and the analysis of the international experience in this field; to provide the President of Ukraine, the CNSDU, and the Cabinet of Ministers of Ukraine with conceptual and informational-analytical materials related to national security issues; to forecast and assess the possible internal and external threats to national security; to elaborate proposals regarding their prevention and neutralization; and to solve the most important economic, political, ecological and other problems that can cause the appearance of such dangers and threats.

According to the Decree of the President of Ukraine entitled “On some organizational issues of the activity of the Council of National Security and Defense “ from 8 February 2005, Petro Poroshenko was appointed to the function of the Secretary of the Council. Poroshenko was one of the persons close to Victor Yushchenko during the “orange revolution”. In accordance with the same decree, the Secretary of the CNSDU was empowered with additional functions and authority. Thus, he was allowed to initiate the convocation of the Council of Ministers of Ukraine in order to examine urgently the problems related to the accomplishment of CNSDU decisions; to take part in the Government sessions with the right to vote consultatively; to raise for discussion the issue of bringing to account persons with high level administrative functions after the results of public controls regarding the implementations of Council decisions; to appoint candidates for top positions in the legal bodies, Armed Forces and other military formations of Ukraine in which the appointment is made in accordance with the decision of the President of Ukraine; to submit for the examination of the President of Ukraine proposals regarding the candidates for the position of judges, members of the Supreme Commission of Qualification of Judges whose function is related to the prerogatives of the President of Ukraine; to endorse proposals regarding the candidates for the state bodies whose activity is related to assuring national security and defense of Ukraine, the appointment being also done by the President of Ukraine, etc. Leaving aside this survey, and the issues related to constitutionality or non-constitutionality of empowering the Secretary with such prerogatives, we will just mention that we are dealing with an important increase in the influence of the Secretary regarding political

³ Інститут проблем національної безпеки.

decision making and control over implementation as well as the determination of the staff policy in the top structures of the state power.

Notwithstanding the fact that the time of appointment of Petro Poroshenko in the function of Secretary was short, he manifested himself as a very active state personality and a highly qualified professional. The number of meetings convened by the Council, the importance of the issues examined, and the number of initiatives submitted by the CNSDU in one way or another are impressive. Among them are the initiatives of solving the Transnistrian conflict (it is difficult to underestimate in this context the importance of personal meetings of the Secretary of the CNSDU and the President of the Republic of Moldova Vladimir Voronin, with key-personalities of the European Union, etc.) and those related to refresh the activity of GUUAM, the issue of withdrawing the Ukrainian peacekeeping contingent from Iraq, the control over the observation of real estate legislation, the launching of administrative reforms, the issue of energetic security of the state, the problem of adherence of Ukraine to the World Trade Organization and collaboration with Russia within the Common Economic Space, etc.

2. The role of the CNSDU in the formulation and implementation of the strategies assuring national interests

Analyzing the role and the place of the CNSDU in the structure of national security structure, it is necessary, first, to stop at one of the responsibilities of the Council: the examination during the CNSDU sessions of the issues related to determination of the strategic national interests of Ukraine, of the conceptual approaches and ways of national security and defense in the political, economic, social, military, scientific-technological, ecological, informational and other fields. In this respect, the most important document that is under the permanent attention of the CNSDU is the Apparatus of the National Security Strategy of Ukraine. It is a concrete and pragmatic document having the character of a program that establishes the most important points of prospective support in all fields of internal and external policy; outlines the main profiles in the implementation of national interests of crucial importance of the country; and aims to assure the security of the person, society and state in case of internal and external conflicts in all fields of activity in Ukraine. As the ex-Secretary of CNSDU E. Marchuk precisely mentioned – “The Strategy must determine the geopolitical and alternative objectives and consequences of geopolitical decisions of Ukraine, the structure of the threats and provocations to state national interests for the next decades and most importantly – must formulate precisely the strategic directions and priorities of the policy in the determined fields of national security”.

The importance of this document is the fact that the examination of the issues related to the development and implementation of state policy in the field of national secu-

riety represents the cornerstone of state administration. The National Security Strategy of Ukraine is to be seen as a directive state document determining the practice of state policy at a high level in the security sector and all conceptual documents of a lower level are to result from this Strategy.

This document was developed under the supervision and coordination of the Council of National Security and Defense, was approved by the President of Ukraine and was presented by him to the Supreme Rada.

The practical role of the CNSDU within the process of developed of this document consists in the integration of economic resources and demographic potential; of the industrial possibilities and financial limits of the country; of the ideological and moral factors; of the activities on the internal and external level; and of the social, ecological and scientific-technological parameters that would correspond to political requirements during peace and war time. These latter would be based upon taking into account the long-term state interests and not just upon current factor and they would integrate the military elements with the diplomatic and economic ones, as well as other important elements. In other words, it is the Council that outlines the general contour of the programs of implementation, brings to life national priority interests, and is responsible for the unity, concordance and correlation of all elements of national security established by the Strategy.

One of the important prerequisites for the efficient implementation of the Strategy is the formation of an integrated complex of national interests, priorities and goals; the formation of a national consensus regarding these interests and priorities; as well as the coordination of efforts of the executive and legislative branches of the power (especially by initiating the elaboration of the respective normative documents and documents related to national security and defense issues) in accomplishing the established objectives – and in this respect it is also difficult to overestimate the role of the CNSDU.

One of the important elements in the CNSDU's responsibilities (according to paragraph 1 article 4 from the Ukrainian "Law on the Council of National Security and Defense of Ukraine") is the development and examination within the sessions of the Council of the political, economic, social, military, scientific-technological, ecological, informational and other actions depending on the level of real and potential threats to the national interests of Ukraine. An example of accomplishment of these prerogatives by the Council are the CNSDU sessions carried out in the period of 2003-2005 related to far-reaching issues as follows:

- "On imperative measures of counteracting the danger of violation of territorial integrity and sovereignty of Ukraine as a result of building the dam towards the isle of Tuzla by the Russian Federation." (October 2003)
- "On the mission of solving the dispute with Romania concerning the delimitation of the continental shelf and the exclusive economic zone in the Black Sea" (September 2004)

- “On the situation of the Ukrainian peacekeeping contingent in Iraq” (September 2004)
- “On the development of relations with NATO and the results of summit joint sessions of the Ukraine-NATO Commission from June 29, 2004” (July 2004)
- “On withdrawing the Ukrainian peacekeeping contingent from the Republic of Iraq” (March 2005)
- “On the participation of Ukraine in the settlement of the situation in Transnistria and the measures regarding the assurance of national interests accomplishment in this region” (May 2005), etc.

3. External political challenges in CNSDU activity

Analyzing the place of CNSDU within the national security system and within the process of elaboration of the state strategic course, we cannot but mention the prerogatives of the Council within the field of adopting decisions on external policy. The external side of security tackled by the Council stipulates the creation of some favorable conditions for the development of the state under modern conditions, the defense of the territorial integrity of the country, of its political and social structure from external threats and the accomplishment of national Ukrainian interests on the international arena. In this respect external, diplomatic and military means are applied.

Together with the approval in June 1996 of the Constitution of Ukraine, the confirmation of the constitutional function of coordination and control over the activity of the executive bodies, as well as the adoption of decisions of external policy, modified cardinally the distribution of prerogatives in this extremely important field in favor of the Council. Thus, in accordance with the Ukrainian “Law on the Council of National Security and Defense of Ukraine” from 5 March 1998, one of its new functions was determined by the proposal of the President of Ukraine regarding the achieving of the main objectives of the external policy in the field of national security and defense.

This modification transformed objectively the Secretary of the Council, one of his deputies (the one dealing with the supervision of the aspects of external policy of national security) and the CNSDU Apparatus into active actors in the process of external policy. As a result, within the structure of CNSDU were created the Department of external policy issues of national security, its main goal being the coordination and control over the activity of the executive bodies, the Ministry of External Affairs in the first place and the assistance offered to the President of Ukraine in accomplishing his prerogatives in the area of external policy.

At the moment, the CNSDU and its Apparatus carry out their activity in the field of external policy in the most important directions of national security and defense of our state. In Particular, the Council maintains under its field a large spectrum of issues

related to the integration of Ukraine into the European and Euro-Atlantic structures; its activity within the UN, OSCE, Council of Europe and CIS; the development of the relationships of our state with NATO and the European Union; and the profound strategic relations with the USA, Russia and other states important for us from the point of view of our national interests.

The field of competence of the CNSDU also extends over the legal settlement of the state border of Ukraine; peacekeeping activity, including the ex-Yugoslavia, Sierra Leone, and Iraq; solving the problems related to stationing of the Black Sea Navy on the territory of Ukraine; control over armament and disarmament; observation of non-proliferation regimes; participation of our country in the development of a new architecture of the European security; maintenance of stability and security in the Black Sea region; technical-military collaboration with foreign states; relations with “problematic” countries and transfer of double destination technologies; activity within GUUAM and other regional organizations, etc.

A real examination of the CNSDU’s capacity to react to critical situations threatening the national security of Ukraine was the case of building the dam towards the Ukrainian isle of Tuzla by the Russian Federation in September – October 2003 without coordination with the Ukraine, after which there was a jeopardy for violating the border of our country in the region of the Straits of Kerch.

According to the opinion of the Ukrainian experts the real goal of the Russian side of building this dam was the unification of the Russian territory with the isle of Tuzla as it used to be until 1925, which would allow the Russian Federation to claim this part of the Ukrainian territory. On the other hand, by carrying out further engineering works, the Russian side aimed to artificially “erode” the Ukrainian isle because the building of the dam had as a consequence the increase of the maritime streams towards the isle. In both cases, these actions aimed at changing to the benefit of Russia the state borderline, and could influence radically the process of delimitation of maritime waters into the Azov Sea and the Straits of Kerch, being followed by ecological consequences as well.

From the very beginning of the tension in the dam building zone the CNSDU apparatus, in close cooperation with the Ministry of External Affairs and the coast Guard Service of Ukraine, took an active part in the development of mechanisms that would straighten out the crisis. In accordance with its prerogatives, the Council Apparatus examined in emergency regime all the existent information and assessed the jeopardy to national security arising from the actions of the Russian party in the Straits of Kerch. Within the CNSDU Apparatus there was created an Anti-crisis Centre under the supervision of the Deputy Secretary who used to deal with permanent monitoring of the critical situation, coordination of the actions of the law enforcement agencies of Ukraine with the aim of preventing the violation by the Russian party of the state borderline of Ukraine.

According to the conclusions of the Council Apparatus regarding the high level of threats to the national interests of Ukraine the decision was adopted to convene a CNSDU session on this topic.

The CNSDU administration (Secretary and Deputies) negotiated with the administration of the Security Council of the Russian Federation in order to elucidate the intentions of the Russian party and to provide support in the urgent solving of the problem at the interdepartmental level. While negotiating, the Russian party expressed worry regarding the situation created after the building of the dam towards Tuzla. It was emphasized that by no means could the situation be allowed to degrade into a military confrontation, which could take place if the Russian party violated the state border of Ukraine.

In October 2003 a CNSDU session was convened immediately. During the session the situation concerning Tuzla was examined with the appreciation of the actions of the Russian party and the approval of the decision of the Council in accordance with which separate assignments were set to respective Ministries and Departments. Thus, for instance, one assignment was to take immediate measures in order to exclude the construction by the Russian party of the dam on the territory of Ukraine in the region of Tuzla, to assure an adequate security regime of the state border of Ukraine in this region, and to assure a permanent supervision over the hydrological situation in the region of the Straits of Kerch.

In the process of the execution of the CNSDU's decision, the Supreme Rada of Ukraine was informed about the essence of the critical situation in Tuzla as well as the threats to the national security of our state that appeared as a result of the unilateral actions of the Russian Federation. During the session of the Supreme Rada on 14 October 2003 was presented the report of the Deputy Secretary of the CNSDU P. Shatcovski who informed the Members of the Parliament regarding the character of the threats to the national security of Ukraine and the actions undertaken by the executive bodies in order to minimize them. As a result of the session of the Supreme Rada were adopted the respective appeals of the Ukrainian Parliament to the State Duma of the Russian Federation and the Parliamentary Assembly of the Council of Europe.

In conclusion, it is necessary to mention that the role of the CNSDU and its Apparatus during the "Tuzla Crisis" was indeed a key one. It is their involvement that allowed the prevention of further building of the dam across the state borderline of Ukraine and the avoidance of a dangerous precedent when such important principles as the respect of territorial integrity and inviolability of the borders between the two states that could be jeopardized by some unilateral actions undertaken by one of the parties. As a result of the CNSDU's efforts in regulating the crisis, Ukraine not only managed to keep Tuzla as an integral part of its national territory, but also eliminated the danger of a military confrontation between Ukraine and the Russian Federation and kept as much as possible a high level of strategic partnership between the two states.

The conclusions drawn after the “Tuzla Crisis” served as the basis for the development by the CNSDU Apparatus of a series of reports and notices addressed to the President of Ukraine and of analytical materials regarding new tendencies in the relationships between the Russian Federation and Ukraine, as well as perspectives of delimitation of territorial waters in the Azov Sea and the Straits of Kerch.

A sensitive aspect of the Ukrainian-Russian relations that are always under the attention of the CNSDU are the problems related to the stationing of the Black Sea Navy of the Russian Federation on the territory of Ukraine. The unwillingness of the Russian Federation to observe the legislation of Ukraine and to fulfill precisely the provisions of the basic agreements regarding the problems of dislocation of the Black Sea Navy of the Russian Federation (the accomplishment of which is extremely important for Ukraine) may create conditions that make it impossible to withdraw this navy from the territory of Ukraine after the signing in 2017 of the action term of the basic agreements between Ukraine and the Russian Federation regarding the problems of Navy in the Black Sea from 28 May 1997.

Therefore, for several years there has been an evaluation of the infrastructure, real estate and lots granted on lease to the Russian Federation for the needs of the Black Sea Navy of the Russian Federation aimed at establishing lease relations in a strict accordance with the legislation of Ukraine. This process is complicated by the fact of non-authorized use of the lots and infrastructure objects that are not within the Agreement on sharing the property of the Navy, which can be considered as illegal seizure.

The problem of transmitting the navy and hydrographical means of assuring the security of maritime navigation in Crimea to Ukraine remains still unsolved. Due to these considerations, Ukraine has no possibility to fulfill the international assignments assumed regarding the assurance of maritime navigation security in its own territorial waters.

In addition, of significant importance is the use by the Russian Federation of the dislocation of its military forces in the city of Sevastopol aimed at consolidating its positions and image in the Crimea, as for instance the informational space of the Autonomous Republic of Crimea: the use of pro-Russian mass media means to influence public opinion, creation and maintaining of the image of Sevastopol as a city of Russian origin, the existence of which would be impossible without the navy of the Russian Federation and the status of which will be kept by the Russians regardless of the position of state authorities.

In order to solve these problems, as well as those related to the dislocation of the Black Sea Navy of the Russian Federation on the territory of Ukraine, the CNSDU Apparatus repeatedly submitted reports and analytical materials to the President of Ukraine, L. Kuchma. However, due to the lack of political will of the country’s leadership of that period, no decisions for the practical solving of these problems were taken. Possibly, during the following period the whole complex of problems related to the sta-

tioning of the navy of the Russian Federation on the territory of Ukraine will become the subject for some special CNSDU meetings.

As an important instrument of influence from the side of the CNSDU Apparatus and Secretary upon the issue of solving the most acute problems in the relations between Ukraine and the Russian Federation is the Russian-Ukrainian Interstate Commission (the so-called Yuschenko-Putin Commission), formed recently. The coordination of the activity of this commission is assigned to the CNSDU Secretary and the Secretary of the Security Council of the Russian Federation. The aim of this Commission is to become an efficient mechanism of solving existent bilateral problems. In this respect, within its competence were set the issues of economic cooperation (especially issues of commercial-economic cooperation, of the energetic-oil complex, of the industrial policy, of the agro-industrial complex, property issues, technical-scientific cooperation, collaboration in the field of aeronautics and space, finance and loan issues), as well as issues of political cooperation in the humanitarian and security fields.

Another area of activity in the field of external policy that has a direct influence upon the national security and defense of Ukraine are the issues of the relations between Ukraine and Romania. Since the declaration of independence by Ukraine, the issues of Romanian-Ukrainian relations are among the most difficult for our state. The spectrum of Romanian-Ukrainian discrepancies upon which the CNSDU and its Apparatus focus their attention is very large. Among these is the issue of reestablishing the shipping canal "The Danube – The Black Sea" through the branch of Bystroye from the delta of Danube and the issues raised as the result of the activities of Romania with a negative anthropogenic impact, especially in the permanent contamination of the border waters of Ukraine with noxious substances. The list of discrepancies is to be added with the issue of delimitation of the continental plateau and the exclusive economic zones of Ukraine and Romania at the Black Sea, the issue that reached the UN Court of Justice after the unilateral address of the Romanian party to this international institution in September 2004. The issue of finalizing the constructions of the industrial complex for enriching ferriferous mineral deposits from Krivoy Rog, as well as the extremely sensitive issue for both parties related to the situation of national minorities is also in the attention of the Council.

The special attention of the Council Apparatus was impelled by some negative tendencies manifested during the process of negotiations with Romania regarding the sharing of territorial waters in the Black Sea. Their evaluation allowed the organization of two CNSDU sessions and the development of respective Decrees of the President of Ukraine (regarding the stimulation of the role of Ukraine during the Romanian – Ukrainian negotiations on these issues and the adequate protection of the rights and interests of Ukraine by the UN International Court of Justice's examination of the file on the delimitation of the continental plateau and the exclusive economic zones of the two states on the Black Sea).

In order to coordinate the activities of the state power bodies of Ukraine on this issue, a highly qualified interdepartmental working Group was created, aimed at assuring the submission of the rights and interests of Ukraine in the UN International Court of Justice, which included a representative of the CNSDU.

An extremely sensitive issue in Ukrainian-Romanian relations that is under the attention of the CNSDU and its Apparatus is the one related to the construction by Ukraine of the shipping canal in the delta of the Danube, as well as the cases of negative influence of the anthropogenic activity of Romania over the ecological situation in Ukraine.

A special attention was paid by the CNSDU Apparatus to the control over the fulfillment of the decrees of the President of Ukraine related to the biological Reservation from the Danube and the reestablishment of the tonnage shipping route "The Danube – The Black Sea". Thus, during the year 2004 – the first half of the year 2005, the Apparatus of the Council assured the accomplishment of the mission empowered by the President of the State regarding the creation of the biological Reservation of the Danube and the building of the shipping canal The Danube – The Black Sea.

Within this context, a complex and intense activity has been carried out by the Apparatus of the Council in order to defend the national interests of our state in the relations with Romania after the decision adopted by the Government of Ukraine to re-establish the shipping canal The Danube – The Black Sea. Anticipating the negative reaction of Romania to the loss of monopoly upon an important fluvial artery, in March 2004 proposals were submitted to the President of Ukraine regarding the organization of support for this project through of external policy.

Due to this fact, it became highly possible to neutralize the consequences of a far-reaching informational campaign declared by the Romanian side. Romania did not manage to gain total support from the UN ecological organizations and the European Union regarding the accusations of our state of violating the requirements of the international law provisions regards environmental protection.

The CNSDU Apparatus also maintains control over the issues related to the dangerous effects of the anthropogenic activity of Romania, especially the permanent contamination of the border waters of Ukraine with noxious substances such as hard metals and cyanide. During the years 2000-2004 only, due to actions of the Romanian side, nine exceptional cases of this kind were registered that led to the contamination of the river Danube and trans-border effects. Consequently, there have been important damages to the flora and fauna of the Romanian part as well as to the Ukrainian part of the biological Reservation of the Danube. Within this context, analytical materials and respective recommendations of the CNSDU Apparatus were submitted to the President of Ukraine regarding the issues of defending the national interests in this field.

In conclusion, it is necessary to mention that, notwithstanding the likelihood of the relatively unimportant transformation in the nearest future of the problematic aspects

of the Romanian-Ukrainian relations in a dangerous conflict situation, the CNSDU Apparatus is ready to take them from a hypothetical level to a real level of threats to the national security of the state and is ready to take adequate measures to prevent the negative evolution of the situation.

4. The role of the CNSDU in Euro-Atlantic integration

The importance of the role of the CNSDU and its Apparatus in the processes of Euro-Atlantic integration is undoubtful. The adoption in 2002 by the Supreme Rada of the political decision on the prospective accession of Ukraine to NATO became a turning point in the relations between our state and the North-Atlantic Alliance. This fact was a logical step behind the transformation of the block from a military-political organization into a political-military one, the globalization of the international security space after the events of 11 September 2001, and the accomplishment of the strategy of NATO enlargement to the East. This decision is extremely important for the future of Ukraine as a European state and a regional leader due to the fact that it established definitely the internal political priorities and the external political objectives. It also put on the agenda before the state bodies the complicated and, at the same time, concrete missions regarding the Euro-Atlantic integration and put an end to the hesitation and long-term undetermined situation.

By the adoption of this strategic decision, Ukraine was involved actively in the development of the common European security system, the refusal of the participation in which would objectively make our state find itself on the outskirts of the European procedures of integration. The active participation of the Apparatus of the Council, consisting of the examination, evaluation, interdepartmental coordination and analytical assistance of the respective initiatives, as well as of the coordination of the actions of all ministries and departments involved in European integration, at the summit of NATO in Prague contributed to the adoption of the General Plan of Action and the Individual Plan of Action for the year 2003. Further, the Individual Plans of Action for the years 2004 and 2005 were adopted, which, to a certain degree, are close to the Plan of Action for the adherence to the alliance. The very participation of the Council of National Security and Defense made it possible to carry out the Defense Evaluation, to develop the Strategic Defense Bulletin of Ukraine for the period until 2015, to develop joint Ukraine-NATO actions, and to re-train the effective force of the Armed Forces of Ukraine in accordance with NATO standards.

In April 2005, the summit in Vilnius took place. It became a turning point for a qualitatively new stage in the relation between Ukraine and the Alliance – *The Intensified Dialog* with the primary subject focused upon the accomplishment of the adherence aspirations of Ukraine and the respective forms of action. The concept regarding

“The deepening of Ukraine-NATO cooperation relations: prospective short-term actions” adopted in Vilnius includes the consolidation of democratic institutions, activation of political dialog, collaboration in the reform of the defense and security sector, increase and control of the effort in the field of political dialog, extension of assistance in settling the issues related to the economic consequences of the military reform. The implementation of this concept is under the permanent attention of the Apparatus of the Council.

Taking into account the fact that the *Intensified Dialog* constitutes the first stage in the official preparation for entering the Alliance, the CNSDU began an intense activity regarding the implementation of the objectives adopted in Vilnius.

Thus, according to the decision of the Council of National Security and Defense of Ukraine from 14 March 2005 “On the reform principles of the system of the state central administrative bodies” a complex reform of the whole administrative system was initiated that aimed at deepening the level of structural and content transformation of the security sector of our state.

In this respect, it is necessary to mention the expertise activity of the specialists from the CNSDU Apparatus in preparing the sessions of the joint Ukraine-NATO Working Group Concerning the issues of military reform. Another decision examined by the CNSDU Apparatus was to provide this joint Working Group with the planning and coordination prerogatives of the process of reorganization of the whole security and defense sector of Ukraine. In this case, its main functions would be depicting the fundamental issues dominating in the real situation in the defense sector of Ukraine and developing an integrated strategy of reforming the security sector and overcoming the advanced issues “with different speeds” of the respective state institutions by means of their organizational and content transformations.

A better understanding by the high NATO representatives of the attitude of the Ukrainian state towards the new dimensions of European security and the accomplishments of Ukraine toward European integration are favored also by the multiple meetings of the CNSDU Secretary with his Deputies and the leadership of the Alliance.

5. The CNSDU in settling the “frozen conflicts” and participation of the Armed Forces of Ukraine in peacekeeping operations

The role of the CNSDU is very important in accomplishing the most significant initiatives of Ukraine in the field of external policy. Thus, on 13 May 2005 under the presidency of the President of Ukraine V. Yushenko, a session of the Council on National Security and Defense of Ukraine took place during which a number of issues related to activating the participation of Ukraine in settling the situation in Transnistria were examined. The most important result of the session was the elaboration of Ukrainian proposals as

regards the ways of solving the Transnistrian conflict announced by the President of Ukraine on 22 April 2005 during the summit of GUUAM states in Chisinau.

In addition, a complex of actions were approved regarding the assurance of the interests of our state in the Transnistrian region of the Republic of Moldova, especially regarding the defense of the rights and liberties of the Ukrainian citizens in the conflict region, adequate assurance of our economic interests in Moldova, opening on the territory of this country of additional counseling offices and cultural centers, creation of necessary conditions for the national-cultural development of the Ukrainian community in Moldova, including the free functioning of the Ukrainian language, etc.

This session of the Council was preceded by an intense coordination activity of the Ukrainian coordination plan for settlement of the Transnistrian issue with all the interested parts. In this respect the Secretary of the CNSDU had a series of meetings with the leadership of the Republic of Moldova and Transnistria. Due to the activities undertaken, the Ukrainian initiatives on the regulation of the conflict were positively appreciated by the Chairman-in-Office of the OSCE Jan Kubis, the special representative of the European Union on Moldovan issues Adriaan Jacobovits de Szeged, and other high officials.

The CNSDU Apparatus constantly analyses the issues of placement of the Ukrainian peacekeeping contingent in Iraq. Thus, in April 2004 sessions of the Council were organized regarding as regards the specific character of the presence in Iraq of the peacekeeping forces with the stabilization mission and measures of reinforcement of the security of the Ukrainian peace-keeping contingent. According to the results of these sessions, the Council confirmed the continuity of the position of Ukraine's participation within the Stabilization Forces in Iraq within the limits of the commitments established by "The Memorandum of understanding among the Ministry of Defense of Ukraine, the US Department of Defense and the Ministry of National Defense of the Republic of Poland on the subordination order within the multinational division (Central South) from the Stabilization Forces in Iraq and due issues" and recommended the development of necessary activities concerning the enforcement of the security of the effective Ukrainian contingent of the peacekeeping troops in Iraq.

In September 2004 a series of sessions of the Council were organized on maintaining the Ukrainian peace-keeping contingent in Iraq. In accordance with the results of these sessions a complex of actions were determined regarding the gradual withdrawal of the Ukrainian military formations from the territory of Iraq.

In March 2005, the Council of National Security and Defense made the decision to remove the Ukrainian peacekeeping contingent from the Republic of Iraq according to which, in April 2005, the President of Ukraine issued the proper decree.

In addition, in order to accomplish the separate decision of the President of Ukraine in March 2005 the Ukrainian delegation led by the CNSDU Secretary visited the Republic of Iraq. During the visit, together with the Multinational Force Commandment from Iraq, the order to withdraw the Ukrainian peacekeeping contingent and the for-

mat of further presence of Ukraine on the territory of Iraq were coordinated. Issues related to the collaboration with the Transit Government of the Republic of Iraq in economic, military, technical-military and humanitarian fields were also discussed. As a result of the negotiations, the delegations of Ukraine and the Republic of Iraq signed a Memorandum of agreement concerning the prospects of the development of the technical-military collaboration.

In addition to the issues related to the withdrawal from Iraq of the Ukrainian peacekeeping contingent and the format of the further presence of Ukraine in that country, during the last year the CNSDU also adopted decisions to approve sending the Ukrainian peacekeeping contingent on other missions. These included the participation of Ukraine in the UN Forces monitoring the observance of the agreements of hostility cessations and withdrawal of the Israeli and Syrian military troops from the contact line, and the participation of Ukraine in the UN Operation in Burundi. The CNSDU further authorized the access to the territory of Ukraine of the military subunits of other states for the participation in the joint military applications with the military subunits of the Armed Forces of Ukraine carried out within the international military collaboration.

At the moment, the Apparatus of the Council continues the monitoring of the activities of the Ukrainian military contingents, analyses permanently the political-military and social-political situation in the districts where they are engaged in accomplishing peacekeeping missions.

6. Control and coordination of the activity of the law enforcement agencies and counteraction of terrorism by the CNSDU

An important aspect of the activity of the CNSDU and its Apparatus is the control and coordination of the activity of the law enforcement agencies to combat international terrorism, illegal migration, trans-border crime, illegal drug circulation and corruption.

In 2004 a CNSDU session was organized regarding the state program of the activities counteract terrorism for the years 2003-2005, the elaboration of which was carried out in accordance with the special disposal of the President of Ukraine with the active participation of the Council Apparatus.

In order to improve the action capacities of the state bodies in combating terrorism during the months of November 2003 and September 2004, the Council Apparatus assured the preparation and development of the interdepartmental sessions on this subject.

The Secretary of the CNSDU participates regularly in different international activities based on the issue of combating terrorism, inclusively during the quadrilateral sessions of the Secretaries of the Security Councils of Byelorussia, Ukraine, Russian

Federation and Poland concerning the coordination of efforts in combating international terrorism, illegal migration and trans-border crime.

A special attention is also paid by the Council Apparatus to the legislative framework of anti-terrorist activities. For instance, the experts within the CNSDU Apparatus revised twice the draft of the Ukrainian Draft “Law on combating terrorism” and submitted the respective comments and proposals to the Supreme Rada of Ukraine.

Within the framework of cooperation with the qualified institutions an examination of the situation and issues related to the organization of efficient counteraction of the most dangerous forms of illegal migration from the country were carried out. In order to raise awareness of the real situation in this field, meetings were organized with the specialists responsible for the actions in this field within the framework of the Administration of the President of Ukraine, State Frontier Guard Service, Ministry of Internal Affairs, other qualified Ministries and departments. The President of Ukraine is being regularly informed about the situation on counteracting of illegal migration by state bodies.

Taking into account the tendencies of worsening the threats towards the national security of the state that are related to illegal drug trafficking during the first semester of the year 2005, CNSDU sessions were organized on this issue. As a result, a complex of actions were developed concerning the improvement of the state system of counteracting illegal drug trafficking.

In accordance with the order of the President of Ukraine on carrying out the control over the accomplishment of the Decrees of the President of Ukraine “On the system of actions regarding the neutralization of reasons and conditions favoring the appearance of criminal phenomena and corruption” from 9 February 2004, “On the decision of the Council of National Security and Defense of Ukraine from 25 April 2002”, “On the enforcement of state frontier security of Ukraine regarding the international efforts to combat terrorism, illegal trafficking and narcotic substance trafficking” from 11 June 2002, the CNSDU Apparatus organized a systematic presentation of the activity reports by the state institutions engaged in the enforcement of these Decrees with the aim of analysis and generalization. The respective conclusions are being regularly submitted to the President of Ukraine.

7. The CNSDU, democratic control over the Armed Forces and budgetary processes (control capacities over budgetary priorities)

Finalizing the examination of the CNSDU’s role in the security sector and defense, it is necessary to pay special attention to its responsibilities in the field of civil and democratic control over state military structure and law enforcement agencies. It is ax-

iomatic that for any contemporary state an effective civil control over power bodies is a necessity, a condition of power's transparency and responsibility, and an instrument of protection against abuses and of ensuring human rights. Civil control is not limited exclusively to military structures of enforcement. It covers broader fields – from operative actions and policy in the field of armament to establishing the budget of power structures and of social guarantees for military personnel.

According to Article 14 of the Ukrainian “Law on democratic control over state military structure and law enforcement agencies”, the CNSDU is a body exerting such a control. One of the main directions of activity of the Council Apparatus in the field of defense is preparing analytical-informational materials, proposals and decision drafts according to the Council's prerogatives that refer to the basis of Ukraine's military policy, contemporary conditions and military reform. In particular, the Council exerts control over the implementation of reform programs of Ukraine's Armed Forces, of other military formations and of Ukraine's industrial-military complex, and of the provision of their adequate financing. In the sight of the CNSDU are also the issues of social adaptation and professional re-training of military personnel who are to be discharged from the Armed Forces or put in reserve, settling issues of exempting the Ministry of Defense regarding the retaining of surplus military equipment and armament, infrastructural facilities, as well as of military sites that are vacated during the process of reducing the Armed Forces, etc.

In April 2004, these issues were examined during a special meeting of the CNSDU that was dedicated to the realization of reforming Ukraine's Armed Forces and to the social protection of military personnel and members of their families.

In the process of preparing materials for the Council's meetings an economic-financial analysis of substantiation was carried out of the Ukrainian Draft “Law on the reform of the Armed Forces” (further passed on June 14, 2005 by the Supreme Rada of Ukraine entitled “The Law on assuring social security of the discharged military personnel and their family members due to the reform of the Armed Forces of Ukraine”), of the Plan of reducing the effectives of the Armed Forces of Ukraine by the end of 2005, of the conversion issues of military objectives, social adaptation and professional re-training of discharged military personnel released from the Armed Forces or put in reserve, of inadequacies in providing military personnel with pensions, the volume of supplementary financing to assure the reform's activities was evaluated, and the implementation was monitored of other actions according to the Council's decisions.

Great attention is paid to the matter of adequate financing of the Armed Forces of Ukraine in the activity of the apparatus. That is why a systematic monitoring of the situation of financing the Defense Ministry of Ukraine is carried out, as well as the control on the enforcement of Decrees of the President of Ukraine, and the control on the enforcement of Decrees of the President of Ukraine on State Budget expenditures for assuring the needs of Ukraine's Defense Ministry.

In order to settle the matter of raising expenditures of the Main Intelligence Department of the Defense Ministry for 2005 addresses of the CNSDU Secretary to the Prime Minister of Ukraine were prepared. According to the results of these addresses, the Ministry of Finance received the mission of taking into account the proposals forwarded during the development of proposals for the Draft State Budget of Ukraine 2005 that was later on partially achieved.

In order to analyze the situation in the field of assuring state security, the CNSDU Apparatus on a yearly basis carries out constant monitoring of the enforcement of the Ukrainian “Law on the State Budget” regarding Ukraine’s expenditures in the military sphere, as well as the programs of quartering military personnel, discharged persons or those put in reserve and their family members; the Programs of social adaptation and professional re-training of military personnel discharged or reserved in the period up to 2005; the Program of converting former military facilities during the reform of the Armed Forces and other military formations.

Based on the results of these evaluations, informational-analytical notes and proposals of the CNSDU are developed and addressed to the Defense Ministry of Ukraine, National Coordination Center and State Commission on the issues of reform and development of the Armed Forces of Ukraine and other military formations, armaments and military equipment.

An important aspect of civil control over the system of the state military structure, according to the Ukrainian “Law on the Council of National Security and Defense of Ukraine”, is the prerogative of the CNSDU in the field of development and examination during its meetings of Ukraine’s “Draft Law on the State Budget” analyzing separately every article referring to the assurance of Ukraine’s national security, as well as of the issue of material, financial, personnel, organizational and other types of support, and of carrying out activities in the field of national security and defense.

If we were to analyze the activity of the Council in this sphere during the last years, we would ascertain that until 2002 the CNSDU in fact did not examine the Draft Budget of Defense. In the last three years, the situation radically changed and currently, the Council is an active participant in the Budgetary Planning process. Concomitantly, without taking into account the undoubtful wording of CNSDU prerogatives regarding the control on budgetary priorities, the real situation sometimes does not correspond to the law’s stipulations. Thus, for example in 2003, in spite of the decision of the CNSDU that was approved by the respective Decree of the President of Ukraine and that provided the allotment of 6,4 bln. Ukrainian Hrivnas introduced in “*Defense*” chapter of the State Budget 2004, in the Law on the State Budget that was approved by the Supreme Rada at the request of the Government, this sum was reduced by approximately one billion Hrivnas.

At the end of 2004, the Apparatus of the CNSDU in cooperation with the ministries and other respective central institutions of the executive power examined issues on

expenditures from the state budget regarding the assurance of national security and defense of Ukraine for 2005. Taking into account the scope of the reform processes of the Armed Forces and other military formations of Ukraine planned for 2005, meetings of the Council were held on the issue of financing the necessities of defense for the respective year.

8. Reserves and imperatives for improvement. Suggestions

The analysis of the national security system of our state demonstrates the fact that the Council of National Security of Ukraine is a key element of this system and one of the most important participants in the political process. The Council is not only a coordinating body of national security and defense issues, but frequently appears as a body that initiates political decisions by forwarding respective proposals to the President of Ukraine on achieving basic objectives of internal and external policy in the field of national security and defense. During the second term of President Leonid Kuchma this body lost to a certain extent some of its importance, becoming limited only to the function of an instrument giving political approval to separate decisions of the President of Ukraine, which was a rare case.

At the same time, after the “orange revolution” and coming to power of a new leadership we have noticed a cardinal re-establishing of the CNSDU’s role in the process of making strategic decisions in the field of national security, in the extension of prerogatives of the Council’s Secretary, and in the increase of efficiency of the decisions made by the Council. Not uselessly, commenting on the structural changes he was planning to carry out in the first days of his presidential term, Victor Yushenko stressed the fact that his purpose was to obtain a clear, well-structured and efficient system of making and implementing decisions, and the CNSDU in this context will play the role of a “crossing where various systems of power encounter”.

In order to provide adequate settlement of the issues of national security and state defense significant attention is currently paid to security issues. In this context, the CNSDU itself is undergoing reform. In the new political conditions, the role of the CNSDU has significantly increased, and the prerogatives it was assigned exceed by far the framework of prerogatives of a deliberative body. We may state that the CNSDU has gained characteristics that are typical of Western specialized bodies that are responsible for security issues in the broad meaning of this term (such as the US National Security Agency). This fact demonstrates that the state leadership undertakes maximum efforts to organize state administration work in the security sector at a high level, and Ukraine will gain an adequate capacity of reaction to various internal and external challenges to state security.

The achievement of this objective is also supported by a cardinal reform of the system of central bodies of state executive power. Thus, for example, according to the decision of the CNSDU from March 14, 2005 “On the reform of the system of central bodies of state executive power” the Interdepartmental Commission on the reform issues of the Armed Forces of Ukraine, other military formations and the military-industrial complex were created within the CNSDU.

It is necessary to mention the participation of the Council in intelligence reform. In the new conditions that have emerged after the victory of the “orange revolution” the necessity has arisen of identifying a new model of activity of intelligence services that would provide not only a radical re-distribution of intelligence and counter-intelligence activity, but also a change of activity format of the counter-intelligence service simultaneously with depriving it of prerogatives typical of a law enforcement agency. Therefore, the Interdepartmental Commission on the reform issues of law enforcement agencies was created within the CNSDU.

It is this element of the security sector that requires direct civil and democratic control, the strengthening of which will favor the balance and understanding between the power and the state.

The success of reforming Ukraine’s security sector will depend, to a great extent, on the fulfillment by our country of the following objectives:

- Developing an incorporated strategy of adjusting all elements of the security sector to common European norms and standards that will be included in the new Strategy of National Security of Ukraine.
- Establishing, at an adequate level, the necessary forces and means of state bodies that are responsible for national security in order to neutralize modern challenges and threats with the exclusion of interdepartmental doubling.
- Introducing the respective changes into the national legislation and other normative acts on the functions and missions of all component parts of the state military structure.
- Providing an adequate realization of reforming processes (financial, technical-material, etc.).

Thus, the reorganization of the security and defense sector is, currently, one of the priority directions and, at the same time, an index of the CNSDU’s efficiency. A successful realization of the reforms in this field will allow the acceleration of reforming the other fields of the state public field.

Recently, the activity of the CNSDU and its apparatus has significantly promoted the collaborative relations between Ukraine and NATO to an absolutely new qualitative level by establishing new objectives of Ukraine’s Euro-Atlantic integration, as well as deepening international military and technical-military collaboration, intensifying the participation of Ukraine in peacekeeping operations, etc.

Taking into consideration the priorities set by the President of Ukraine, first and foremost should be the issues of settling Russian-Ukrainian collaboration, re-establishing the spirit of mutual trust and of a high level of cooperation.

In addition, the streamlining of the Council's functioning is planned, especially by increasing the role of the CNSDU in the activity of normative regulation through a more active participation of the CNSDU and its Apparatus in the development and coordination of normative and legislative bills on issues dealing directly with national security. An intensification of the informational policy of the CNSDU is planned, as well as the move from practice of reaction-response to critical and threatening situations to national security of our state towards a system founded on preventing such situations.

9. Legal Framework of CNSDU – realities and perspectives

The Council of National Security and Defense was created in accordance with the Decree of the President of Ukraine in 1992 as a consultative-deliberative body within the Presidency of Ukraine as a component part of the system of state executive bodies. It existed within this competence until 1994 when, again in accordance with the Decree of the President of Ukraine, the Council was empowered to carry out organizational and coordination prerogatives. The offer of some coordination prerogatives together with carrying out some activities to create an adequate informational assurance system made it possible for the Council and its Apparatus to act much more efficiently, to tackle much more complex and difficult issues of state activity. In addition, respective limitations have also been experienced due to the fact that the status of the Council was established at the level of presidential decrees, whilst its activity actually had an influence upon the actions of the President of Ukraine, the Government, law enforcement agencies, etc., themselves and objectively needed to be stipulated at the constitutional and legislative level.

The first attempt to establish adequately the status of the Council of National Security and its position within the system of state bodies of Ukraine was the conclusion in 1995 of the Constitutional Agreement between the Supreme Rada and the President of Ukraine by which the President of Ukraine was empowered to carry out the function of guarantor of national security of Ukraine and Head of the National Security Council of Ukraine. This issue is approached in a much more detail in the Constitution of Ukraine of 1996.

- First, a new state body – the Council of National Security and Defense of Ukraine – has actually been constitutionalized in it. It inherited the functions of the two previous structures – The Council of Defense and The Council of National Security.

- Second, the constitution established the main objectives of this body – coordination and control over the activity of executive bodies in the field of national security and defense.
- Third, in the very text of the Constitution have been established the main principles of CNSDU formation and, finally, the Constitution contains direct indications about the elaboration of a special law that would determine the functions and prerogatives of the Council.

Thus, at the present time the Council of National Security and Defense of Ukraine is a specialized state body with constitutional status that is an organic part of the system of presidential power and its task is to assure the accomplishment of one of the most important constitutional functions of the President – to guarantee independence and national security of the state.

Functions and Prerogatives

In its activity, the Council of National Security and Defense of Ukraine is led by the Constitution of Ukraine, the Ukrainian “Law on the Council of National Security and Defense of Ukraine”, the Decrees of the President of Ukraine and the Laws of Ukraine.

Article 107 of the Constitution of Ukraine establishes: “The Council of National Security and Defense of Ukraine is a body with the function of coordinating the issues of national security and defense by the President of Ukraine. The Council of National Security and Defense of Ukraine coordinates and controls the activity of the executive bodies in the field of national security and defense.”

Under the term “national security and defense” we ought to understand the field of activity that is related to prevention, depiction and counteraction of the events that endanger destructively the stability and the existence itself of the state and its citizens, of the important public and state institutions.

The Constitution establishes that the CNSDU is the body that coordinates the activity of the state bodies on issues of security and defense. Even though the Law does not establish the main objectives of the CNSDU, in accordance with the main content of the activities, they are as follows:

1. Determination of priorities and national interests of vital importance for Ukraine.
2. Determination of internal and external threats towards national security and defense of Ukraine.
3. Development of the strategy and programs to assure national security and defense.
4. Coordination of the activity of state administration bodies in the process of planning and accomplishment of the implementation of the adopted decisions.
5. Improvement of the system of assurance of the national security of Ukraine.

6. Anticipation of the results of the decisions of the state bodies on issues of internal and external policy.
7. Development of proposals addressed to the President of Ukraine with the aim of adopting decisions in the security sector assurance of the citizens, society and state.

In accordance with the Ukrainian “Law on the Council of National Security and Defense of Ukraine” (from 5 March 1998 nr. 183/98-BP), its main responsibilities are the following:

1. To submit proposals to the President of Ukraine regarding the accomplishment of main activities in internal and external policy.
2. To coordinate and enact control over the activity of the executive bodies in the field of national security and defense during peace.
3. To coordinate and enact control over the activity of the executive bodies in the field of national security and defense during war, in exceptional situations and in case of critical situations that jeopardize the national security of Ukraine.

The analysis of these responsibilities allows us to state that the legislative power has limited the functioning capacities of the Council exclusively to two fields: to control over the activity of executive bodies during peace and during some special periods (war time, special legal regime of the exceptional situation, critical situations). However, performing its duties, the Council introduced into this model another duty and perhaps, the most important one.

We are dealing with the responsibility of **strategic planning and forecasting**. The reasonableness of such a statement is presented by the prerogatives of the Council stipulated in Article 4 of “the Law on the Council of National Security and Defense of Ukraine”. Thus, item 1 of this article stipulates that the Council, in accordance with its responsibilities debates and examines at its meetings the issues that, in accordance with the Constitution and Legislation in force, attribute themselves to the field of national security and defense. The Council then submits to the President the proposals regarding:

- Establishment of the national interests of strategic character of Ukraine, of conceptual approaches and main directions in assuring national security and defense in the political, economic, social, military, scientific-technological, ecological, etc. fields
- Projects of state programs, doctrines, Ukrainian laws, decrees of the President of Ukraine, Directives of the Commander-in-Chief of the Armed Forces of Ukraine, international treaties, other acts and documents with normative character on issues of national security and improvement of the system of assurance of national security and defense, creation, re-organization and abrogation of the executive bodies in this field.

- Activities with political, economic, social, military, scientific-technological, ecological and other character in accordance with the eventual and real threats to the national interests of Ukraine.

The mentioned responsibilities of the Council are accomplished de facto by the activity of the Council and its Apparatus, as well as by the assistance and consultative bodies.

Taking into account the fact that the top function of the CNSDU is performed by the President of Ukraine and the Council itself is a body the activity of which aims to accomplishing the responsibilities of the President in the field of national security and defense, its functions and missions are accomplished exclusively by the prerogative of the President to preside at the sessions of the Council.

Thus, the President of Ukraine:

- directs the activity and performs the general conduct of the activity of the Council of National Security and Defense of Ukraine;

Through this responsibility we refer to the establishment by the President of the main strategic issues in internal and external policy that affect the interests of national security and defense of Ukraine and over which the attention and the activity of the Council and its Apparatus are to be concentrated.

- approves the prospective and current working plans of the activity of the Council of National Security and Defense of Ukraine, the time and order of carrying out the meetings;

The very establishment of political priorities of security and defense should be reflected in planning the activity of the Council. The number and intensity with which the meetings of the Council are carried out represent a qualitative criterion of appreciation of the weight of the Council within the constitutional system of the state bodies.

- presides over the meetings of the Council of National Security and Defense of Ukraine;

This norm stipulates personal responsibility of the President for the functioning of the Council, the impossibility, in accordance with the Constitution of Ukraine, to delegate his duties to someone else and makes impossible the activity of the Council in the absence of the President of State during its meetings.

- authorizes (empowers) the members of the Council of National Security and Defense to act to fulfill the responsibilities with which the Council is empowered.

The accomplishment of the coordination function of the Council and namely the function of collaboration and coordination of its actions by the participants of the policy in the security sector and defense is accomplished by means of issuing by the President of orders – authorizations (empowerments) and their fulfillment.

- examines the reports of the Secretary of the Council of National Security and Defense on the accomplishment of the decisions of the Council and, if necessary, submits the issue regarding the degree of fulfillment of the decisions of the Council of National Security and Defense of Ukraine to its sessions.

Permanent control over the execution of the decisions of the CNSDU and the assignments of the President to the members of the Council is carried out by the Secretary of the Council and the degree of their implementation is reported to the President of Ukraine. If necessary, the President of Ukraine may submit the examination of these issues to the session of the Council in order to observe the accomplishment of the decisions, assignments and results or to improve the situation related to the fulfillment of the decisions and hearing of the responsible persons.

The accomplishment of the functions of the Council of National Security and Defense and the fulfillment of its responsibilities are carried out as well by accomplishing the prerogatives of the members of the Council. Thus, in accordance with Article 12 of the Legislation, members of the Council of National Security and Defense of Ukraine:

- suggest to the Council of National Security and Defense of Ukraine the examination of any issue that is within its competence;

Taking into consideration the structure of the CNSDU, the right to suggest the examination of any issues that are within its competence by the members of the Council is a possibility to accomplish the duties of the Council as well as of the state institutions which they represent. Thus, the issues that may be suggested for examination within the meetings of the Council cover all eventual threats to national security in any field of public interest.

- carry out the preliminary investigation of the issues and participate in their examination within the Council of National Security and Defense of Ukraine;

The adoption of the decisions by the Council is possible only on the condition of a thorough, calculated and balanced preparation of the decisions by all members and participants in this process. Due to these reasons, participation in the process of development of decisions of the Council by its members allows the definition of the most favorable decisions, even at the preparation stage.

- introduce amendments and proposals, vote on the issues examined by the Council of National Security and Defense of Ukraine;

This provision establishes certain procedures of issue examination and decision-making by the Council.

- if necessary, they express separate opinions regarding the draft decisions of the Council of National Security and Defense of Ukraine;

The procedural norms stipulate the possibility for each member of the Council to express a separate opinion regarding the issues discussed, and this should be reflected in the decision.

- participate in planning the activity of the Council of National Security and Defense of Ukraine;

The participation in planning of the activity of the CNSDU of its members is one of the mechanisms of coordinating the activity of the institutions of state administration

which they represent with the aim of determining the priorities in the field of national security and defense.

- coordinate and control, within the limits of their functional responsibilities, the accomplishment of the decisions of the Council of National Security and Defense.

Taking into consideration the fact that the CNSDU is represented by all leaders of all power branches, the accomplishment of the coordination and control function by the CNSDU is carried on as well by means of mechanisms related to the activity of the respective legislative, executive, supervision, and judicial institutions.

In addition, the fulfillment of CNSDU responsibilities is carried out by accomplishing the prerogatives of the CNSDU Secretary. At the legislative level, the status of the Secretary of the CNSDU and the mission “of assuring the organization of the activity and the accomplishment of CNSDU decisions” is established by Article 7 of the Legislation and the prerogatives, actually rather limited, are stipulated in Article 13. In accordance with these norms, the Secretary:

1. develops proposals on the current and prospective planning of the activity of the Council of National Security and Defense of Ukraine;
2. submits for examination to the President of Ukraine the draft decrees on the enforcement of the decisions of the Council of National Security and Defense of Ukraine, including the proposals and recommendations for accomplishing the main activities of internal and external policy in the field of national security and defense;
3. organizes the activity related to the preparation and running of the meetings of the Council of National Security and Defense of Ukraine, as well as the control over the fulfillment of the adopted decisions;
4. informs the President of Ukraine and members of the Council of National Security and Defense of Ukraine about the degree of accomplishment of the decisions adopted by the Council;
5. coordinates the activity of the working and consultative bodies of the Council of National Security and Defense of Ukraine;
6. with the authorization of the President of the Council of National Security and Defense of Ukraine, represents the position of the Council of National Security and Defense of Ukraine in the Supreme Rada of Ukraine, in the relations with the executive bodies and local self-administration bodies, with political parties, public organizations, mass media and international organizations.

In the effort to create an efficient body for accomplishing the constitutional prerogatives of the President, Mr. Victor Yuschenko by his Decree nr. 208/2005 of February 8, 2005 stipulated the mechanisms of activity of the Secretary of the CNSDU and enlarged significantly his functional prerogatives by offering him the possibility of influencing to a certain extent the accomplishment of the functions of the President of

Ukraine. In addition to the prerogatives stipulated by law, the Secretary of the Council has been empowered with 13 additional prerogatives that can be grouped into the following areas of influence:

First – the right to have an influence upon the decisions of executive power. Thus, in accordance with item 3 of the Decree, the CNSDU Secretary received the possibility of influencing the establishment of the agenda of the Council of Ministers of Ukraine (CMU) by “initiating an urgent examination by the CMU of the issues related to the accomplishment of the decisions of the CNSDU”, to take part in the sessions of the CMU with the right of consultative vote, to assign tasks to central executive bodies, to control their fulfillment and to require accounts and reports.

Second – the assurance of accomplishing the prerogatives of the President on issues of national security and defense by “coordinating the respective draft acts of the President of Ukraine”. Thus, another procedure has been introduced of countersigning all decisions of the President in the area of national security and defense by the Secretary of the CNSDU.

Third – the possibility of influencing the accomplishment by the President of investiture and staff functions. This influence has been reflected in the prerogatives of the Secretary of the Council regarding the coordination and submission of proposals about the appointment in leading positions in all “force structures”, the appointment that is made by the President of Ukraine, the coordination of candidates for leading positions in all state bodies, whose activity is related to assuring national security and defense. Moreover, the judicial force has found itself under the influence as well. Thus, it is the Secretary of the CNSDU who was offered the right “to submit for examination the proposals..., regarding the candidates for the position of judges, members of the Supreme Court of Justice and members of the Supreme Commission of Attestation of Judges of Ukraine, whose appointment is made by the President of Ukraine”.

Taking into account the fact that the respective Decrees in the staff area are prepared by the Secretary Office of the President, there arises the question related to the possibility of practical accomplishment of these prerogatives by the Secretary of the CNSDU.

Consequently, the status of the Secretary has been raised within the general political context and in relationship with the CNSDU itself. Thus, in accordance with the Decree of the President, the Secretary has the right to sign the decisions of the Council and run the meetings of the CNSDU in the absence of the President. This and other prerogatives of the Secretary are indisputable considering the norms stipulated in Article 19 and 106 of the Constitution that are to be referred to below.

Structure

The Head of the Council of National Security and Defense of Ukraine is the President of Ukraine. The structure of the CNSDU comprises ex officio:

- Prime Minister of Ukraine;
- Minister of External Affairs of Ukraine;
- Minister of Defense of Ukraine;
- Minister of Internal Affairs of Ukraine;
- Head of the Security Service of Ukraine;
- The Speaker of the Supreme Rada, **with his agreement**.

The Nominal Structure of the Council is determined by the President of Ukraine

At the moment the nominal structure of the Council is approved by the Decree of the President of Ukraine of February 8, 2005. Besides the persons that are members in accordance with the Constitution of Ukraine in the structure of the Council there have been included the Chief of the Supreme Court of Ukraine, President of the National Bank (with his agreement), as well as the General Prosecutor of Ukraine, Secretary of State and Secretary of the CNSDU. At the moment, the total number of members of the Council constitutes twelve persons.

The number of temporary members of the CNSDU was different during different periods of independence of Ukraine, depending upon the present political options and due to the methods of political favoritism that was wide spread during the Presidency of Leonid Kuchma. During the last years, beginning with Decree nr. 605 of the President of July 7, 2001 a certain continuity is observed regarding the inclusion into the structure of the Council of the Chief of the Apparatus of the President, Ministers of Finance, Economy, Exceptional Situations, the Chief of the State Committee on issues of state border guards, the Chief of the General Staff of the Armed Forces of Ukraine and the President of the National Academy of Sciences of Ukraine. The last to be included in the structure of the Council in 2004 was the Chief of the External Information Service of Ukraine. During the whole of this period only the persons performing the respective functions were changed.

In our opinion, the decisive factor in the issue of determining the nominal structure of the CNSDU might be the principle of “responsibility for the counteraction of the determined threats towards national security” and solving the strategic medium-term problems of far-reaching perspective that are faced by the state.

Taking into consideration the fact that the principles mentioned above and Article 7 of the Legislation of Ukraine “On the bases of national security” (number 964-IV of June 19, 2003) that establishes the dangers and threats towards national security of

Ukraine in clearly defined fields of state activity, the division of responsibilities with the aim of counteracting threats has been accomplished as follows:

In the field of external policy:

- threat towards state sovereignty and territorial integrity of Ukraine, territorial claims on the part of other states;
- attempts of intrusion into the internal affairs of Ukraine on the part of other states;
- politico-military instability, regional and local wars (conflicts) in different parts of the world and, in the first place, near the borders of Ukraine;

The responsibility for the counteraction of these threats is within the competence of the Ministry of External Affairs, the Security Service of Ukraine and the Service of External Information.

In the field of state security:

- Informational-subversive activity of foreign special services;
- threats and attempts on the part of some separate groups or persons towards national sovereignty, territorial integrity, economic, technical-scientific and defense potential of Ukraine, the rights and liberties of citizens;
- spread of corruption among state bodies, intergrowth of business and policy, organized criminal activities;
- criminal activity directed against the peace and security of humanity, in the first place, the spread of terrorism;
- threat of using, in terrorist purposes, nuclear and other kinds of facilities on the territory of Ukraine;
- possibility for illegal introduction on the territory of the country of weapons, munitions, explosive substances and means of mass destruction, radioactive and narcotic substances;
- attempts to create and activate of illegal paramilitary formations and attempts to use, in the interest of certain forces, the actions of military formations and legal bodies of the state;
- separatism manifestations, attempts to create autonomous formations in accordance with ethnic criteria in separate regions of Ukraine.

The responsibility for the counteraction of these threats is assigned to the Ministry of Internal Affairs and Security Service of Ukraine.

In the military field and in the field of state border security of Ukraine:

- proliferation of arms of mass destruction and means launching those arms;
- reduced efficiency of the existent structures and mechanisms of international security and global stability;
- Illegal migration;
- possibility for the involvement of Ukraine in regional military conflicts or in situations of confrontation with other states;

- deploying by other states near the borders of Ukraine of forced groups and armaments that undermine the balance of established forces;
- dangerous reduction of the level of provision with military and special technology and arms of new generation of the Armed Forces of Ukraine, and other military formations that might provoke the reduction of their combat capacities;
- hesitation in the implementation and insufficient financial assurance of the programs to reform the military organizations and the industrial-military complex of Ukraine;
- accumulation, without any need, of an important quantity of military technology, armaments and old, outdated, explosive substances;
- non-finalizing of the legal regulation and insufficient equipment of the state border of Ukraine;
- insufficient level of social protection of the military staff, citizens discharged from the military service and members of their families;

The counteraction of these threats is within the competence of the Ministry of External Affairs, the Security Service of Ukraine, the Ministry of Defense of Ukraine and the State Frontier Guard Service of Ukraine.

In the field of external policy:

- violation by the state bodies and bodies of local administration of the Constitution and Legislation of Ukraine, of the rights and liberties of the person and of the citizen, including during the electoral campaign, the lack of efficiency of the control over the observance of the Constitution's requirements and lack of respect of the Legislation of Ukraine;
- possibility for breaking out of some conflicts in the field of inter-ethnic and inter-confessional relations, radicalization and manifestation of extremism in the activity of some associates of national minorities and religious communities;
- threat presented by the manifestation of separatism in some regions of Ukraine;
- structural and functional imbalance of the political system, incapacity of some component parts of the system to react operatively to the threats towards national security;

The threats in this field have a sufficiently large and complex character and their counteraction is on behalf of a wide range of executive bodies and undoubtedly of the judicial branch of Ukraine. Generally, the area of responsibility might be shared among the Cabinet of Ministers of Ukraine (CMU) in the person of the Ministry of Internal Affairs, the Ministry of Justice, the State Cabinet on migration issues and the judicial bodies of Ukraine in the re-establishment of the rights and liberties of the person and the citizen that have been undermined.

In the economic field:

- a significant reduction of the Gross Domestic Product; diminution of investment and innovation activity, of the technical and technical-scientific potential, reduction of research in important strategic directions of innovation development;
- degradation of the state regulation and control system in the economic field;
- instability in the legal regulation of relations in the economic field, including the state financial (tax) policy;
- lack of an effective program of preventing financial crises;
- increase in credit risks;
- a critical situation in the main production funds in the industrial branches, the agro-industrial complex and the systems of life insurance;
- aggravation of the issue of maintaining the adequate technical situation of the nuclear facilities on the territory of Ukraine;
- insufficiency in the rate of reproduction processes and overcoming the structural deformation in economy;
- critical dependence of the national economy on the conjuncture of foreign markets; reduced rates in the process of enlarging the internal market;
- irrational structure of exports with a preponderance of raw material and reduced range of production with a high level of added value;
- major dependence of the state on loans, reaching critical points in internal and external state loans;
- dangerous increase for the economic independence of Ukraine of the percentage of foreign capital in the strategic fields of the economy;
- inefficiency of the antimonopolistic policy and of the mechanisms of state regulation of natural monopolies that complicate the creation of competitive environments in economy;
- a critical situation in the provision of the population with foodstuffs;
- inefficient use of energy resources, an inefficient rate of diversifying the supplying sources and the lack of an active policy of energy provision that endangers the energy security of the state;
- “shadowing” of the national economy;
- predomination in the activity of the leading structures of personal, corporative and regional interests over the national ones.

In the social and humanitarian fields:

- lack of correspondance of the programs of reforming the economy of the country and the results of their implementation with the determined social priorities;
- inefficiency of the state policy regarding the increase in the incomes of the citizens, of overcoming poverty, and of the balanced productive utilization of the labor forces of the active population;

- crisis in the system of health protection and social protection of the population and, consequently, the danger of worsening the health of the population, spread of drug abuse, alcoholism and social diseases;
- aggravation of the demographic crisis;
- decrease in the possibility of receiving a qualitative education by the representatives of the socially vulnerable strata of the society;
- manifestation of a moral and spiritual degradation of the society;
- increase of the level of lack of supervision over children and minors, of care assistance and vagrancy.

The counteraction of the threats in the economic, social and humanitarian field is totally based upon the corresponding subdivisions of the Government, an essential role that is to be played by the Ministry of Finance, Ministry of Economy and Issues of European Integration and the National Bank of Ukraine.

In the scientific-technological field:

- reduction of the scientific-technological lagging of Ukraine behind developed countries;
- inefficiency of the innovational policy promoted by the state, of the mechanisms stimulating innovative activities;
- low competition capacity of Ukrainian products;
- sub-development of the internal market of the products of high technology and the lack of its efficient protection from the external technical and technological expansion;
- diminution of the internal demand in technical-scientific staff preparation for scientific, projection, technology institutions and enterprises of high technology; the insufficient level of salary payment in the technical-scientific field, decrease of its prestige, inefficiency of the protection mechanisms of intellectual property;
- exodus of qualified scientists, specialists and labor forces beyond the boundaries of Ukraine.

The correct evaluation and organization of counteraction of these threats represents the mission of the Ministry of Science and Education and National Academy of Sciences of Ukraine.

In the ecological field:

- significant anthropogenic detriment and overloading of technical character of the territory of Ukraine, the increased risk of the appearance of exceptional situations of a technical and natural character;
- irrational and exhaustive usage of natural resources and mineral resources with regeneration capacity as well as those that do not have such a capacity;
- persistence of negative social-ecological consequences of the catastrophe of Chernobyl;

- aggravation of the ecological situation of the aquatic basins, of the issue of trans-border contamination and diminution of the quality of water;
- aggravation of the technical situation of the hydro-technical systems of the falls of the accumulation reservoirs on the Dnepr river;
- uncontrolled import to Ukraine of dangerous technologies, substances, materials and plants with genetic mutations, of incipients of diseases dangerous for people, animals, plants and organisms, usage of plants, organisms, substances and derivative products with genetic mutations without the necessary ecological substantiation;
- inefficiency of the activities of overcoming the negative consequences of military actions and other dangerous activities from the ecological point of view;
- persistence of dangers of a technical character, including nuclear and biological dangers; persists of terrorism;
- intensification of the influence of negative genetic effects in microorganism subsystems, especially of the organisms with genetic mutations, and of biological technologies;
- distressing and reduced efficiency of the complexes of utilization of toxic and ecologically hazardous wastes.

Undoubtedly, the counteraction of the threats towards ecological security is within the priority of the Ministry of Exceptional Situations and the Ministry of Ecology and Natural Resources.

In the informational field:

- manifestations that limit the liberty of expression and access of citizens to information;
- promotion by mass media of the culture of cruelty, violation, and pornography;
- crime and terrorism by means of computerized networks;
- disclosure of information that is classified as a state secret or another type of secret in accordance with the legislation, as well as confidential information that is state property or aims at assuring the national needs and interests of the society and the state;
- efforts of manipulating the public opinion, especially by spreading erroneous, incomplete or tendentious information.

The informational field is a very sensitive mechanism the running of which is made by the state institutions as well as by the whole society. Due to these reasons the counteraction of the threats in this field may be attributed to the Ministry of Transportations and Communications, the State Committee on Television and Broadcasting as well as by the National Council on issues of television and broadcasting.

Such a structure of the CNSDU, remaining rather compact (16 persons), from the professional point of view covers all the existent and eventual threats towards

national security and has the possibility of adopting independently fundamental decisions in almost all issues put within its competence.

Thus, generalizing these conclusions we will reach the integrated structure of the CNSDU. Taking into consideration the fact that the position of the Ministries “of economic character” within the Council might be expressed by the Prime-minister of Ukraine, alongside the persons who have already been included into its structure it is possible and necessary to introduce the Chief of the External information Service, the Chief of the State Border Guard Service (External Security and border defense are fields of national security, the responsibility for which is put within the charge of the President of Ukraine in accordance with the Constitution. Due to these reasons it is logical and necessary for these interests to be presented independently by the leaders of these institutions that, in the meanwhile, as leaders of informational structures have the right to inform directly the President of Ukraine on issues within their competence.), the President of the National Academy of Sciences of Ukraine and the Chief of the National Committee on Television and Broadcasting.

Structure

The structure of the Council of National Security and Defense comprises the Apparatus of the Council the activity of which is regulated by Decree nr. 927/96 of the President of Ukraine of October 4, 1996 “on the Apparatus of the Council of National Security and Defense of Ukraine” with further modifications (Decrees nr. 673/97 of the President of July 24, 1997; nr. 980/98 of September 4, 1998; number 62/2000 of January 13, 2000; number 41/2001 of January 24, 2001). Unfortunately, the other four Decrees of the President were issued under the note “not for publishing”, a fact that makes their examination impossible in this work.

In accordance with this Decree, the Regulation of the Apparatus of the CNSDU was approved establishing its legal status, main missions and responsibilities.

Thus, the Apparatus of the Council was established as a **body of executive power** that assures the activity of the Council of National Security of Ukraine. This interpretation is rather contradictory from the point of view of including the Apparatus in the system of executive power. In the situation when the Council is not subordinated, does not submit reports and is not controlled by a superior body in the system of executive power – the Cabinet of Ministers of Ukraine – we cannot state that this body is part of the executive branch.

The main mission of the Apparatus as the main body of information and analysis of the CNSDU is to prepare informational-analytical materials, suggestions and draft decision in accordance with the duties of the Council and its Secretary.

The Council of National Security and Defense of Ukraine functions in accordance with Article 8 of the Ukrainian “Law on the Council of National Security and

Defense of Ukraine” approved by Decree nr. 907/96 of the President of Ukraine of October 4, 1996.

The main responsibilities of the Apparatus are to prepare informational-analytical materials, suggestions and draft decisions in accordance with the responsibilities of the Council.

In this respect, the Apparatus of the CNSDU performs the following functions:

- collects, accumulates and processes information related to the condition and development of the situation of external and internal policy;
- develops prognosis as regards the modifications of the conditions and factors that influence the situation in the field of national security and defense;
- examines and evaluates potential and real threats towards national interests, establishes ways and means of their counteracting and localization;
- substantiates the priorities of external policy and external economic policy, military, technical-military, nuclear, ecological, informational policies and other fields of the national security policy;
- coordinates the development of analytical and forecasting research of strategic, geopolitical, social-economic, legislative and other character in the field of national security;
- analyses the activity in the field of national security and defense of the executive bodies within the duties of whom is the implementation of state policy in the fields of external policy, external economic policy, military and technical-military policies; reviews the suggestions and recommendations with respect to the integrated assurance of national interests, as well as the conclusions regarding the drafts of legal acts and international agreements on these issues of Ukraine;
- assures the permanent monitoring of the situation and the process of implementation of the state concepts and programs, legal acts and orders of the President of Ukraine on the issues of national security and defense;
- performs the organizational and methodological assurance of the activity of interdepartmental commissions and other consultative-deliberate bodies in the field of national security and defense;

generalizes suggestions regarding:

- the improvement of the mechanisms of coordinating the activity of executive bodies in the field of national security and defense;
- the improvement of the activity of legal bodies regarding the defense of the territorial integrity of the country, the strengthening of state security and public order, increase of efficiency in combating crime, observance of human rights and liberties;
- the drafts of military doctrine, of state concepts and programs regarding the organization of the Armed Forces of Ukraine, other military formations of Ukraine, structures, number of effective force and dislocation as regards the

improvement of armaments and military techniques, of the attributions, organization and activity of the military bodies;

- the creation of interdepartmental commissions and other bodies in the field of national security and defense, their responsibilities and their personnel;
- the draft of the State Budget of Ukraine and reports of its accomplishment regarding the financing of national security and defense;
- the structure of Ukrainian delegations and the directions for participating in international activities on issues of national security and defense, develops proposals to the reports on their activity;
- performs other functions related to assuring the activity of the Council.

Thus, in accordance with Decree nr. 208/2005 of the President of Ukraine of February 8, 2005, the Council's Apparatus assumed the responsibilities of the former General Department on the issues of judicial reform, activity of military formations and law enforcement agencies of the Administration of the President of Ukraine.

Consequently, the Apparatus of the CNSDU was empowered to carry out the mission of assuring analytical, consultative, informational and organizational expertise of the exercise of presidential responsibilities:

- to control the activity of the Armed Forces of Ukraine, the State Border Guard Service of Ukraine and other military formations created in accordance with the Legislation of Ukraine as well as the formations supervising them such as the Commander-in-Chief of the Armed Forces of Ukraine;
- to perform state policy in the field of national security and defense especially regarding technico-military collaboration and control over export, to strengthen the defense capacity of the state;
- to guarantee the observance of the Constitution and Legislation of Ukraine, the rights and liberties of citizens by legal bodies;

The CNSDU Apparatus has become responsible for assuring cooperation with the military bodies and formations mentioned above, with justice and judicial bodies, as well as for assuring the coordination of the activities constituting a new judicial system.

In order to assure the accomplishment of the mentioned attributions the CNSDU Apparatus has the following rights:

- to solicit the necessary information,
- to use the most diverse data bases and informational systems,
- to form groups of experts in order to examine concrete issues,
- to attract scientific workers, specialists, workers from the ministries and other executive bodies.

The respective staff members of the Apparatus of the Council have the right to take part in the sessions of the Council of Ministers of Ukraine, Ministry Boards, other central executive bodies and interdepartmental commissions while examining the is-

sues of national security and defense. Since the issue of Decree nr. 208 of the President of Ukraine of February 8, 2005, the Secretary of the CNSDU received the right to take part in the sessions of the Council of Ministers of Ukraine with the consultative right to vote. In practice, the Apparatus of the CNSDU processes in advance the materials prepared by the Secretary of the Council of Ministers of Ukraine for the sessions of the Government and prepares the position of the CNSDU Secretary on the issues related to national security and defense.

During the process of fulfilling its responsibilities, the Apparatus of the Council of National Security and Defense of Ukraine cooperates with the respective Ministries and other central executive bodies, local bodies of state administration and local bodies of public administration, as well as with scientific institutions.

The Apparatus of the Council is ensured with special physical and technical guard, with respective means of governmental, special and departmental transmission.

The structure and the limitation of the effective strength of the CNSDU Apparatus is approved by Decrees of the President of Ukraine. The present structure is approved by Decree nr. 1181/2003 of the President of Ukraine of October 15, 2003 (with modifications introduced by Decrees nr. 194 of February 16, 2004, nr. 1306 of October 22, 2004, nr. 1477 of December 13, 2004).

The Structure of the CNSDU Apparatus:

Administration:

- Secretary of National Security and Defense of Ukraine
- First deputy Secretary of the Council
- Deputy Secretaries of the Council
- First deputy Chiefs of the Apparatus of the Council
- Deputy of the Apparatus of the Council

Subdivisions according to the fields of assurance of national security and defense:

- Department of external policy security
- Department on issues of economic, social and ecological security
- Department on issues of internal and state security
- Department on issues of military security
- Legal Service
- Department of analytical assurance
- Departmental of informational assurance
- Department of technical-organizational assurance
- Council Secretary Service
- Expertise Commission
- Group of Counselors of the Council's Secretary
- Control Division

- Strategic Development Division
- First deputy Council Secretary Service
- The Service of the deputies of the Council's Secretary

The administration of the Council's Apparatus is performed by the Secretary of the Council. He establishes the duties, obligations and responsibilities of the staff members of the Apparatus, and approves the estimate of the expenses of the Council's Apparatus.

The administration of the CNSDU Apparatus as such is performed by the Chief of the Council's Apparatus.

The Chief of the Council's Apparatus, two of his deputies, the first assistant of the Secretary of the Council, the chiefs of the separate divisions and subdivisions of the Council Apparatus are appointed and dismissed by the President of Ukraine at the suggestion of the Secretary of the Council. The other staff members of the Council Apparatus are appointed and dismissed by the Secretary of the Council.

The staff members of the Council Apparatus are civil servants.

The military personnel of the Armed Forces of Ukraine and other military formations might be delegated in order to satisfy their military service, in the Apparatus of the Council at the request of the Secretary of the Council in an established order. In fact, within the Apparatus of the Council highly qualified specialists with higher education and in most cases with a scientific degree an adequate experience are selected. They are state officials and delegated military officers. The structure of these specialists is varied – military officers, lawyers, economists, finance experts, diplomats, ecologists that act within the subdivisions of the Apparatus in accordance with their qualification. The staff members of the Council Apparatus might, in an order established in advance, be decorated with state distinctions, appointed to senior ranks and degrees, etc.

The new changes in the duties of the Secretary of the Council, in accordance with Decree nr. 208/2005 of the President of Ukraine of February 8, 2005, the liquidation of the Coordination Committee for combating corruption and organized crime by the President of Ukraine and the former General Division for judiciary reform issues, the activity of military bodies and law enforcement bodies that have previously been part of the Administration of the President, condition the need for re-examining the Regulations on the Apparatus of the Council, of its structure and staff limit.

Affiliated institutions

Within the CNSDU the following function as affiliated institutions: the National Institute of International Security Issues within the Council of National Security and Defense of Ukraine; the Institute of National Security Issues within the Council of National Security and Defense of Ukraine, the Interdepartmental Centre of Scientific

Research within the Coordination Committee for combating corruption and organized crime within the Presidency of Ukraine.

The National Institute for International Security Issues was created in accordance with Decree nr. 173 “On the National Institute of International Security Issues” of the President of Ukraine of March 16, 2001. The Institute carries out fundamental and applicative research in current issues of global and regional security, international relations and external policy, and research on the impact upon the evolution of the internal processes in Ukraine.

The main missions of the Institute are as follows:

- assurance of the President of Ukraine, of the Council of National Security and Defense of Ukraine, of the Cabinet of Ministers of Ukraine with conceptual and informational-analytical materials on current issues regarding the evolution of international processes, as well as with scientifically fundamental suggestions regarding the formation and implementation of the strategy of relations with the most important states in the world, important international organizations and alliances regarding decision-making at the state level in the fields of national security and external policy;
- development of forecast scenarios regarding the policy of the most important countries in the world in relation to Ukraine, its strategic friends and immediate neighbors;
- forecast of the coming out of tense situations or economic, political or social crises in Ukraine that might have a negative impact upon the processes of integration of Ukraine into the European and world community;
- expertise of the projects, normative acts and decisions at the state level on the issues of global and regional security;
- monitoring of the processes of evolution of political and military-political unions and alliances, of the situation in the world conflict regions or regions with conflict potential;
- analysis of the issues of informational security and the presence of Ukraine within global informational space;
- publishing and broadcasting of the results of scientific research that is carried out under the tutorship of the Council of National Security and Defense of Ukraine.

In accordance with its missions, the Institute conducts thorough research in the following main areas:

- global security and European integration;
- international relations;
- regional and interregional relations;
- internal processes in the most important countries of the world;
- economic relations;

- issues of developing international communication networks;
- issues of social-economic and demographic security;
- humanitarian relations;
- issues of military policy and security;
- relations within the informational sphere.

Forms of scientific-organizational activity:

- organization and conduct of fundamental scientific research and projects with an applicative character;
- coordination of scientific research on the issues of international security that are carried out by other scientific institutions;
- preparation of scientific staff members by means of post-graduate courses;
- organization of scientific conferences, seminars and debates on the most important issues of global and regional security;
- reviewing and publishing of the magazine “Strategic panorama”, of the analytical report on issues of international security, of monographs, collections, etc.;
- expertise of the drafts of the legislative and normative acts on security issues;
- development (including on a contractual basis) of forecasts of a scientific character;
- provision of scientific-methodological assistance to the specialized organizations, mobilization (counteraction) of scientific institutions and top specialists with the aim of carrying out the most important research within the field of activity of the CNSDU and the Institute;
- analysis of the research and developments on the issues of interest in other countries.

The Institute collaborates with institutions from other countries and maintains relations of a scientific character on the most important issues of international security, exchanges the results of scientific research and specialists, and takes part in international conferences, round table sessions and meetings as well.

Sources of financing

The activity of the Institute is financed from the State Budget of Ukraine. The development of the scientific projects that are carried on an agreement basis is financed by the public, private and state organizations of Ukraine and other countries.

The Institute for National Security Issues (INSI) is a state institution of scientific research. The Institute was created with the purpose of assuring the development of the scientific basis of national security, the increase of the level of scientific grounding and the efficiency of the state policy regarding the defense of national interests of Ukraine and with the purpose of guaranteeing the security of the person, society and state in proportion to internal and external threats in all fields of activity. Its purpose is also to

improve the level of consultative-deliberative assurance of the activity of the President of Ukraine and the Council of National Security and Defense of Ukraine on this issues. Within its activity, the Institute bases its activity on the Constitution and the Legislation of Ukraine, the decrees and orders of the President of Ukraine, the decisions of the Council of National Security and Defense of Ukraine, the decisions of the Cabinet of Ministers of Ukraine as well as the Statute (the Regulation) of the Institute. The Institute is subordinated to the Council of National Security and Defense of Ukraine.

The main missions of the Institute are as follows:

- development of scientifically grounded suggestions regarding the assurance of national security and the analysis of international experience of activity in this field;
- assuring of the President of Ukraine, the Council of National Security and Defense of Ukraine, the Cabinet of Ministers of Ukraine with conceptual and informational-analytical materials on issues of national security;
- forecast and evaluation of eventual internal and external threats towards national security, development of suggestions regarding their counteraction and neutralization, solving the most complex issues of economic, socio-political, ecologic and other character that could generate the appearance of such threats;
- development and grounding of suggestions regarding the implementation in Ukraine of international standards and the most advanced international experience on the issues related to the research spheres of the Institute;
- creation of informational-analytical systems with the purpose of assisting high level administrative decisions;
- improvement of the qualification of the specialists and experts on the issues of national security.

In order to accomplish its missions, the Institute:

- develops drafts of the Strategy of National Security of Ukraine, of the concepts and programs; develops drafts of scientific research; reviews the annual and prospective topical plans of scientific research and ensures their accomplishment; develops analytical reports, methodological materials and recommendations on issues of ensuring the efficiency of the process of implementing state policy within the field of national security;
- participates in the scientific-methodological and informational assurance of the process of development and accomplishment of the programs of sustainable development of Ukraine;
- collects, processes and generalizes the data and knowledge necessary for the accomplishment of the missions of the Institute, creates respective data, informational systems, and develops technologies for their usage;
- studies international experience and develops suggestions for its usage in Ukraine, maintains cooperative relations and collaborates with scientific and

other kinds of institutions and organizations from abroad, with famous scientists, creates joint scientific working groups, exchanges specialists as well as the results of scientific research and publications;

- carries out scientific expertise of the results of the research accomplished by other institutions and organizations, organizes scientific conferences, seminars and meetings on issues related to their field of activity;
- carries out editing, improvement and re-training activity for the specialists from the system of state administration bodies in the process of informing the population regarding issues of national security and actions that are undertaken in order to settle them.
- coordinates the implementation of the results of the accomplished research.

In order to accomplish its missions, the Institute has the right:

1. to solicit free presentation of the necessary information by the state bodies, institutions and organizations;
2. to organize conferences, seminars, scientific gatherings, etc.;
3. to publish materials regarding the results of scientific and other kinds of research;
4. to create branches of the Institute and other separate divisions and approve their statutes and regulations;
5. to perform other actions stipulated by the Legislation of Ukraine.

The general administration of the Institute is performed by the Secretary of the Council of National Security and Defense of Ukraine. The Institute is run by the Director who is appointed and dismissed by the President of Ukraine at the suggestion of the Secretary of the Council of National Security and Defense of Ukraine.

At the moment of development of this survey, the statute of the Institute has not yet been finalized and the Institute itself is being reformed.

In accordance with Decree nr. 2005 of February 8, 2005 the **Interdepartmental Center of Scientific Research** also falls under CNSDU supervision. This Center was created by the Committee on Coordination and Counteraction of Corruption and Organized Crime by the President of Ukraine with the purpose of assuring scientifically its activities with respect to Decree nr. 714/94 of the President of Ukraine of December 1, 1994, in accordance with the Ukrainian “Law on the organizational and legal bases of combating organized crime” with the aim of scientific assurance of combating organized crime and corruption.

In accordance with the Decree of the President of Ukraine, the main missions of the Centre are the following:

- generalization of the needs of the state in assuring scientific assistance for the process of combating corruption and organized crime, coordination at the high state level of scientific research in the field, determination of the fields for their implementation, organization of experience exchange in this field;

- conducting, with own forces and with the assistance of famous scientists, specialists of legal bodies and other organizations, of scientific research on issues of combating corruption and organized crime, development of analytical documents, forecasts, drafts of normative acts, suggestions and practical recommendations regarding the tactics of the state and non-governmental bodies in this field;
- study and research of the possibilities for implementation in Ukraine of the international experience in the field of combating organized crime and corruption.

During the period after the issue of the Decree of the President, in accordance with the its mission, the staff members of the Interdepartmental Center of Scientific Research focused their efforts upon:

- conducting scientific research on the issues of combating organized crime and corruption;
- accomplishment of the decisions of the Committee on coordinating the activities of combating corruption and crime by the President of Ukraine and the assignments stipulated by the President of the Committee on coordination;
- insurance of control on the accomplishment by the Ministries and Departments of the Decrees and Orders of the President of Ukraine in the field of combating organized crime, of the National Program of combating corruption, of the implementation of the Legislation of Ukraine in this field;
- insurance of the activity of the Committee on coordination of the activities of combating corruption and crime by the President of Ukraine;
- development of the drafts of legislative and normative acts as well as of the suggestions regarding the improvement of the Legislation in force and the normative basis of issues of counteracting organized crime and corruption;
- implementation of the applicative results of the scientific and analytical researches of the Centre within the activity of the special subdivisions of combating organized crime and corruption, of the law enforcement agencies and control bodies within the process of study of the institutions of higher education from the law enforcement system;
- development of practical recommendations regarding the combating of corruption and organized crime, etc.

As result of these missions and accomplishing the decision of the Committee on coordinating the activities of combating corruption and crime by the President of Ukraine, during the period of 1995-2000, with personal forces of the scientific staff of the Interdepartmental Center and with the engagement of the scientists from the area, of the specialists of the legal bodies and other organizations, study and research were carried out of the issues related to combating banditry, terrorism, racket, organized crime (especially in the external and banking economy), corruption, illegal migration, “contracted” murders, crimes related to the use of information technologies, etc.

These activities served as scientific grounds for accomplishing some coordinated activities of the law enforcement agencies and other state bodies in combating corruption and crime, as well as of the decisions related to the leadership of the Committee on coordination of the activities of combating corruption and crime by the President of Ukraine.

The Interdepartmental Center maintains cooperative relations with the representatives of the Ministry of Internal Affairs of Ukraine within the Commonwealth of Independent States, and the Embassies of Ukraine abroad. A close collaboration has been established with the Informational Centre within the Presidency of Ukraine, the Department of Computerized Informational Systems and Networks within the Secretariat of the Supreme Rada of Ukraine, the Centre of Information and Documentation of the Council of Europe, V. I. Vernadskii National Library of Ukraine, and with numerous Ministries and Departments, and Scientific and Educational Institutions. The staff members of the Interdepartmental Center regularly participate in conferences, symposiums, international and republican seminars on issues in this field.

This activity allows the monthly publishing of analytical information bulletin on current issues for their practical use by the law enforcement agencies.

In accordance with Article 14 of the “Law on the Council of National Security and Defense of Ukraine”, in order to examine and solve the complex issues of an interdepartmental character, to assure analytic-scientific and forecast assistance of the activity of the Council, in accordance with its decision, within the limits established by the State Budget of Ukraine, there can be created temporary interdepartmental working commissions and consultative bodies.

The functions and duties of these bodies are determined by separate regulations that are approved by the President of Ukraine.

The analysis of the Legislation of Ukraine allows us to state that during the activity of the CNSDU, in accordance with the Decrees of President Leonid Kuchma, as well as on the basis of the results of examining the respective issues within the meetings of the Council of National Security and Defense of Ukraine, four interdepartmental commissions have been created: The interdepartmental Commission on issues of scientific-technological security (Decree nr. 1170/2001 of the President of December 3, 2001); the interdepartmental Commission on information policy and issues of information security (Decree nr. 294/2001 of the President of Ukraine of May 7, 2001); and the Interdepartmental Commission on issues of biological and genetic security (Decree nr. 672/2004 of the President of Ukraine of June 13, 2004). Some of the information about the activity and the results of creating these commissions were not found in accessible information sources.

President Victor Yushenko by his Decree nr. 658/2005 of April 15, 2005 engaged the Secretary of the CNSDU in creating two more interdepartmental commissions: (1) on issues of reforming the Armed Forces of Ukraine, other military formations and the military-industrial complex; (2) on issues of reforming the law enforcement agencies of Ukraine.

The existence within the structure of the Council of National Security and Defense of Ukraine, beside its Apparatus, of the institutions and structures mentioned above, of temporary working bodies, allows us to state that from the point of view of its functions and prerogatives, the Council is able to adopt decisions on the basis of some scientific research and analytical forecast of the highest quality. The engagement within these institutions of the highest intellectual potential of the country allows the transformation of the CNSDU into the main constitutional body of adopting the most important state decisions in all fields of national security and defense policy.

The CNSDU and the constitutional framework,
the role of the CNSDU within different constitutional systems
(parliamentary, presidential, half-presidential), in cases of governmental
and parliamentary coalitions, the efficiency of the CNSDU
in a parliamentary state in case of a lack of parliamentary majority

The bodies, the competence of which coincides or is similar to the ones of the Council of National Security and Defense of Ukraine, in many countries hold the role of the most active participants in the political process. They take part not only in the development of suggestions addressed to the head of the state (the Government) but can be independent initiators of political decisions as well, or can even lead the country in a critical situation (such prerogatives are stipulated, for instance, for the Council of National Security of Poland). In Ukraine, during the period of the second mandate of President Leonid Kuchma, this body lost its importance, becoming just an instrument of public approval of the decisions of Leonid Kuchma and it met very seldom. At the moment, most experts foresee the re-establishment of the importance and authority of the CNSDU, especially taking into account the important number of personalities from the associates of Victor Yushenko who aspire to independent political roles.

In the contemporary world, the importance and the functions of the Councils of National Security (CNS) in different states are rather different. The volume of prerogatives and the influence may transform the Council into the top state body. This situation is characteristic, in the first place, of the states that face complex, difficult and threatening provocations in many of the fields of state activity, and which have special strong armies and services that influence directly the process of state administration (Turkey, Pakistan, etc.). For instance, by July 2003 in Turkey, the CSN was the most important state body and the democratic reforms related to the intention of integration within the European union conditioned the introduction of constitutional modifications that have limited the influence of the Council of national security during peace.

Within another model of constitutional organization, the Council of national security is rather a body of exceptional situations that, under normal conditions, seems to be in a conserved state (Hungary and some European states). There are also known

cases when the Council functions in a regime similar to the one of an administrative-bureaucratic body that, in accordance with its missions and functions, is much closer to the executive system than to the political leadership. In such cases, the CNS is rather used as a kind of “refugee-storage” for the top officials during “disgrace periods”. We can observe examples of accomplishing such a model in the contemporary history of some states within the CIS.

Examining different forms of CNS activity, we can also mention the example of the Kingdom of Morocco where the council reigned by the king reunites the leaders of the political parties of this country beginning with the extreme right and including the local communists; and plays an important consolidating role within the political system of the country.

In general, the functions and the role of the Council of National Security (CNS) in the system of state power is determined by three main factors – the power of military and administrative structure of the state, the distance between the political leadership of the state and military and governmental bureaucracy, and the level of challenges to the society and the state. The influence of national traditions cannot be usually ignored, as well as the personal individual traits of the country’s top leadership.

At present, practically in all countries of the world, the CNS carries out three basic missions. First, it is a mechanism of forecasting and strategic planning; second, it represents a link between governmental, military bureaucracy and law enforcement agencies on the one hand, and the head of state and political circles on the other. Third, the CNS is the administrative body in cases of emergency, and the institution that has to assure the adequate level of state governing in exceptional or critical situations.

The CNS can also settle other issues at the state level in addition to and during the fulfillment of these basic functions. First of all, we are dealing with the assurance of functioning of political mechanisms for preparing the most important state level decisions in the sphere of national security.

We cannot overlook another function of the CNS, namely that of activity coordination, interest granting and promotion of an adequate level and contents of reciprocal contacts between army leadership, intelligence services, law enforcement agencies and top levels of governmental bureaucracy. What is extremely important for a political democratic regime is that this process takes place through and with the assurance of control of civil leaders and state political leadership. This function currently obtains a significant importance under conditions of launching the reform of the Armed Forces, law enforcement agencies, Security Service of Ukraine and creating a national intelligence community decreed by the President of Ukraine.

In general, the CNS is an element of a paramount importance in the system of civil and democratic control over the functioning of state military structure. It is difficult to overestimate the importance of this mission, especially under conditions of realizing a cardinal reform of the Armed Forces, intelligence services and law enforcement agencies.

It is through the Council of National Security, the commissions created within it and other consultative bodies that the coordination of positions can be carried out, as well as the consensus on the most important issues of social development can be reached. The CNS and, first of all, its apparatus can play the role of a liaison body, a channel of intellectual personnel exchange between the state and expert and academic communities to provide high quality expertise of state decisions. We would like to remind you that the principles of approaching these issues were developed at the end of 1990s. During the previous period, it was demonstrated that structures of scientific research and analytical forecast of the Councils of national security can play an extremely important role.

Last but not least, we would like to mention the following: within the framework of systems of presidential and presidential-parliamentary form of government, the CNS can be used as one of the basic influence levers of the head of state over the functioning of state power, and also over state public life in general. The Council of National Security and Defense of Ukraine is a single state body under the administration of the President of Ukraine, the existence and status of which are stipulated by the Constitution.

At the same time, it is necessary to mention that from January 1, 2006 the Ukrainian “Law on the introduction of modifications in the Constitution of Ukraine”, or the so-called “Constitutional reform” will come into effect. After this, the CNSDU may become the only constitutional body to carry out directly presidential prerogatives. According to this Law, the Cabinet of Ministers of Ukraine receives the status of an absolutely independent body of the executive power that is subordinated to and presents its reports exclusively to the Parliament. Even if the time limits of coming into effect of this law are postponed, very soon the obligatory redistribution of prerogatives from the President to the Prime Minister will be imposed, due to the fact that it will correspond to the logic of the development of the Ukrainian state and transition to a parliamentary system.

At the same time, the role of the Prime Minister will increase in the decision-making process within the CNSDU. According to “the Law on the Council of National Security and Defense of Ukraine” the decisions of the Council are adopted by at least two thirds of the votes. If, in accordance with the provisions of the existent Constitution, out of seven members of the CNSDU *ex officio* only the Speaker of the Supreme Rada of Ukraine is not appointed by the President of Ukraine, then after the “constitutional reform” comes into effect two more members of the CNSDU will become formally independent from the president’s decisions, namely the Prime Minister and Minister of Foreign Affairs, who will be appointed by a parliamentary majority. Particularly, we will take into account the fact that the Minister of Internal Affairs will be rather dependent on the Prime Minister and the parliamentary majority that will delegate him in the framework of the Government.

Thus, the Prime Minister as a representative of a parliamentary majority obtains a greater influence over the process of making decisions by the CNSDU. As head of the

Government and representative of the parliamentary majority, the Prime Minister can control votes and decisions of Governmental ministers – he controls votes of the Speaker of the Supreme Rada, Minister of Internal Affairs, Minister of Defense and Head of the Security Service, who will also be appointed by the Parliament. In addition, according to Article 106 of the Constitution of Ukraine, all Decrees of the President, as well as those issued for the enforcement of CNSDU decisions are countersigned by the Prime Minister and a minister responsible for the enforcement of the corresponding decisions. Thus, after the “constitutional reform” the CNSDU can become the only constitutional mechanism of coordinating political positions of top state leaders who are, de facto, reciprocally not dependent – the President of Ukraine, Prime Minister and Speaker of the Supreme Rada.

At the same time, we have to draw your attention to the danger of using the Council not for taking strategic decisions, but, first, for accomplishing the president’s tactical missions of a politico-economic nature. In case such a model is realized, the authority and efficiency of this body, and through it of the President of Ukraine, will soon be devalued as a result of the tough competition coming from the Cabinet of Ministers and the Parliament.

Practices of administration of the Council of National Security and Defense of Ukraine (analysis of structure and administration)

1. The Process and practice of the CNSDU’s decision-making

In accordance with the practice of decision-making, the CNSDU is a board-based body. The order of making decisions is also set by the legislation. The CNSDU’s decisions are adopted by at least two-thirds of the votes of its members. Members of the CNSDU vote personally. They are not allowed to delegate voting to other persons who take part in the meetings of the Council.

In accordance with “the Law on the Council of National Security and Defense of Ukraine” the Speaker of the Supreme Rada of Ukraine can participate in the meetings of the CNSDU. He can offer his opinion on the adopted decisions. His opinion is registered in the minutes of the meetings.

At the same time, in accordance with Article 2 of Decree nr. 208 of the President of Ukraine of February 8, 2005 “On some aspects of the organization of the activity of the Council of National Security and Defense of Ukraine” the Speaker of the Supreme Rada of Ukraine (with his express consent) is included in the structure of the CNSDU. Thus, his vote is taken into account during decision-making.

At the invitation of the Head of the Council of National Security and Defense of Ukraine, the participants in the meetings of the Council can be the following: heads of commissions of the Supreme Rada of Ukraine, other parliamentarians, heads of

central bodies of the executive branch and other persons who are not members of the CNSDU. Such a practice exists in order to examine comprehensively the issue and to make efficient and well-balanced decisions. Heads of specialized commissions of the Supreme Rada of Ukraine are involved in order to participate in the activity of the Council – Commission on national security and defense, Commission on legal policy, Commission on combating organized crime and corruption, etc.

During the examination of the issues of decision-making in concrete spheres – economic, social, military, scientific-technological, ecological, information and others, heads of the respective bodies of state executive power, scientific employees and specialists are invited to the meetings.

In the practice of its activity, the CNSDU has repeatedly faced the necessity of making urgent decisions on a certain subject. In that case, the coordination of the draft decision is allowed without holding the meeting as such.

The agenda is offered to the Council's examination by the President of Ukraine. The initiation of various issues in the agenda is the prerogative of all subjects involved in the assurance of national security. Members of the CNSDU, as well as the parliamentarians and public organizations, can address the President or the Secretary of the Council with a request to examine certain issues at the Council's meetings. Thus, one of the CNSDU's field meetings was initiated by the Head of regional administration of Lvov, Mr. Petro Oleinik. Mr. Oleinik had a meeting on these issues with the President and Secretary of the Council and offered for the examination a range of issues important for a border region – trans-border collaboration, preservation of the traditions and cultural heritage of the city of Lvov and the situation in the sphere of chemical industry.

As a rule, topics of the meetings are planned annually and stipulated in the Plan of meetings of the CNSDU that is approved by the President of Ukraine, a fact that allows the organization of activities at the level necessary for carrying out these meetings. On average, such meetings have been previously held at least once in two months. With the election of a new state administration, the CNSDU's meetings are held twice a month.

Emergency issues that have appeared due to exceptional situations, for example at the military range of Novobogdanovka, or due to the political need are held at extraordinary meetings.

Basic organizational activities and general requirements regarding the materials that are prepared for holding the meetings, preparing the decisions of the Council of National Security and Defense and their coming into effect are set by a special Regulation that is approved by the decision of the Secretary of the CNSDU.

In order to prepare the materials for the meetings of the CNSDU, working groups are set up by the ruling of the Secretary of the Council, as well as the time limits and main missions. The competence of the working group includes experts of the CNSDU Apparatus and lower-level scientific institutions. In addition, representatives of executive, legislative and judicial power bodies, as well as those of independent institutions

and independent experts, etc. may be included (with their consent) in the above-mentioned group.

Working groups are usually headed by a deputy of the Secretary of the CNSDU, Head of the Council's Apparatus, his deputies or a head of one of the departments of the Council's Apparatus in accordance with the specialization. The responsibility for organizational-technical assurance of the meeting is placed upon the head of the CNSDU's Apparatus.

A working group has the following missions:

- to preliminarily analyze the issue that is being forwarded for examination during a meeting of the CNSDU;
- to edit and forward requests to the respective bodies and organizations regarding the presentation of informational-analytical materials on some aspects of the examined issues, as well as proposals on possible ways and mechanisms of assuring national interests, counteracting the identified threats to national security and neutralizing the factors of their appearance;
- to analyze and generalize materials and proposals;
- to prepare an informative note for the meetings of the Council of National Security and Defense of Ukraine;
- to develop a draft decision of the Council of National Security and Defense of Ukraine;
- other activities related to the organization and assurance of meetings (establishing the list of meeting participants and guests, preparing and sending out meeting invitations, participating in copying and distributing the materials, preparing additional informational materials, etc.)

The duration of preparing the materials for the planned meetings of the CNSDU is determined by the program of meetings, and the duration of preparing the materials for the extraordinary meetings varies depending on the consistency of the discussed issues.

Materials prepared for the meetings of the CNSDU that are presented to the President and Council members include: the agenda, plan of meeting that includes the agenda, list of meeting participants indicating the position of both the Council members and guests, informative notes on each separate issue of the agenda, and the CNSDU draft decision. The working group also prepares theses of the report (speech) of the President or the Secretary of the CNSDU and a press release.

Materials prepared for the meeting of the CNSDU are documents of strict record and that is why printing, copying, keeping and returning of these is carried out and controlled in accordance with established regulations.

Informative notes on the issues that are discussed at a CNSDU meeting have an introduction, body and conclusion. The introduction contains subject matter and general wording of the issue that is being examined by the Council, substantiation of the opportunity of its examining in the context of assuring national security and defense

or in the context of assuring Ukraine's national interests. In case of a repeated examination of the issue, the introduction is to contain the evaluation of situational changes after the preliminary examination, present state and the results of enforcing preliminary decisions of the Council that were aimed at counteracting threats to national security in the given field.

The body of the document is based on informational-analytical materials of the executive power bodies and specialized institutions, as well as expertise evaluations received by the CNSDU Apparatus in the preparatory period of the meeting. The materials are structured on the most important spheres and aspects of the issues with the emphasis on real or potential threats to national security, of basic factors that have conditioned their appearance, existence or evolution, etc. Special attention should be paid to the analysis of the state and efficiency of the legislative-normative framework, as well as to the existent structure of state administration and regulation of processes in the examined sphere. As a rule, the body of the document is supplied with examples, relevant facts and data that are verified with the greatest attention. The materials should not contain subjective or emotional assessments of the situation and activities of specialized bodies and responsible persons, as well as unverified data and information.

The closing part of the informative notes should contain generalizing conclusions that logically emerge from the recommendations to the President of Ukraine and that are presented in the draft Decision of the Council of National Security and Defense of Ukraine.

The Draft Decision of the Council of National Security and Defense of Ukraine is exposed, as a rule, in the following formula: „Having examined the complex of issues on (*the examined topic or subject*) the Council of National Security and Defense of Ukraine states (*main conclusion of the examination*)”.

Further on, there should be exposed briefly the most significant threats to national security in the field under examination during the meeting, the most significant drawbacks and deficiencies of the state administration system, legislative regulations, enforcement of previous decisions and legislative and normative acts in the given field, etc.

The body of the Decision is formed based on the recommendations of the Council of National Security and Defense of Ukraine concerning the compelling tasks and activities and aims at removing the identified drawbacks, counteracting and neutralizing threats. The tasks should be named as well as their executors and the time limits of the actions.

The note and draft Decision that are forwarded at the Council meeting **must be countersigned by all members of the working group**. In exceptional circumstances, it is allowed that in cases of divergences regarding the conclusions and proposals a separate opinion may be offered that, in its turn, is countersigned by the authors and attached to the meeting's materials. It is also allowed to inform and coordinate the informative note with the state administration central bodies and respective institutions. The draft deci-

sion is not a subject to previous coordination (except by the persons responsible for its development) before the examination within the CNSDU meeting. The CNSDU decision is signed by the Secretary of the Council of National Security and Defense of Ukraine.

After the meeting of the CNSDU and adoption of the Council's Decision, the next day it is forwarded to the President of Ukraine – the Head of the CNSDU for its putting into motion in accordance with Article 103 of the Constitution of Ukraine and Article 10 of the Ukrainian “Law on the Council of National Security and Defense of Ukraine”. The head (coordinator) of the working group preparing the materials for the meeting of the CNSDU takes obligatory part in the development of the respective draft Decree of the President of Ukraine.

The development of the respective draft Decree is carried out in accordance with the Regulation on the way of preparing and presenting draft decrees and directives of the President of Ukraine, approved by Decree nr. 346/93 of the President of Ukraine of August 20, 1993 with the subsequent modifications.

2. Practices of enforcement, coordination and control

The decisional part of the decrees of the President of Ukraine through which CNSDU decisions are enforced, as a rule, contain a detailed enumeration of actions that are undertaken in order to settle an issue. The control over the enforcement of the decrees is ascribed to the Secretary of the Council of National Security and Defense of Ukraine.

In practice, state power bodies that are indicated in the decrees as responsible for the enforcement or organizing the accomplishment of missions, or, better to say, subjects of national security (the Cabinet of Ministers of Ukraine, National Bank of Ukraine, Security Service of Ukraine, etc.) can issue their own decisions and delegate the accomplishment of certain missions, elaborate plans of actions and undertake other activities in order to accomplish the missions stipulated by the Decree.

Direct control over the enforcement of the Decree of the President of Ukraine on putting into motion the decision of the CNSDU Council is ascribed to the respective subdivision of the Council's Apparatus in accordance with the sphere of specialization. The responsible subdivision carries out implementation of the decision and generalizes information for the report of the Council's Secretary. Usually, one draft of the letter on the given issues is written out to the President of Ukraine. In terms of control, the state of enforcing the Decision is reported by the Council's Secretary to the President of Ukraine. In case of need, a definite issue can be forwarded for re-examination within the CNSDU and is included in the Plan of meetings of the Council.

In case the actions established by the Decision were not carried out due to objective reasons, the respective subdivision of the Council's Apparatus analyzes and generalizes relevant information and suggests ways and actions of settling the issue. Relevant materials are prepared for the Secretary of the Council for the subsequent reporting to

the President of Ukraine. In case when the respective Decision was not carried out by state bodies or specific public officials due to subjective reasons a report is to be filed to the President of Ukraine.

In order to carry out control on qualitative and timely enforcement of the decisions adopted by the Council of National Security and Defense of Ukraine, control, inspection and supervision bodies functioning in the system of the executive power are involved. Namely, these are the Department of Revision and Control, General Prosecutor's Office, State Fiscal Administration, ministers and other central bodies of the executive power.

3. Practical role of the CNSDU in the structure of national security and defense system. Reserves and imperatives of modification

The Ukrainian "Law on the bases of national security of Ukraine" establishes the content notions of "national security", "national interests" and subjects of national security. The national security of Ukraine is assured through promotion of a well-grounded and balanced state policy based on a clear-cut delimitation of prerogatives and cooperation of all subjects of the system of assuring national security.

Implementation of state policy is possible due to the existence of a single board-based decision-making body, which, at the same time, carries out functions of coordination and control. At present, the Council of National Security and Defense of Ukraine includes heads from all branches of state power and has the possibility of involving necessary experts in the process of preparing decisions. In this context, due to the reasons that the main subject represents national interests, i.e. material, intellectual and spiritual values of vital importance of the Ukrainian nation as a carrier of sovereignty and the only source of power in Ukraine, which also determines demands of the society and the state, and the realization of which guarantees state sovereignty of Ukraine and sustainable development, the position of the President of Ukraine Victor Yushenko is absolutely logical who is trying consolidate around the idea of national security, in the first place, all branches of state power as the most important and legitimate elements of the state mechanism.

Taking into account the universality of the issue of national security – it is always actual and requires development and constant updating, we should admit that currently of CNSDU must exist within the state also as a decision-making mechanism, as well as a mechanism of acquiring technologies and experience that are accumulated during the activity process. Evidently, it requires a constant improvement of the legislative-normative basis, due to which the most justified and experience-based norms remain in the normative framework.

During the previous political regime, flaws of the existent mechanisms, divergences between the power branches on the most important issues, when each of them was

acting separately, created a situation when the CNSDU consisted only of the persons subordinated to the head of state. This fact undermined the legal authority of this body because members of the board-based body can only hold and defend their own opinion in conditions of independence.

Present existence of the make up of the Council of heads of all state power branches, the National Bank and other constitutional bodies allow the Council to become effectively an efficient institute of board-based decision-making, due to the fact that each member of the Council can insist on defending his own position, thus taking effective and active part in assuring national security, which influences to a certain extent the making of relevant decisions in this sphere.

Legislative and imperative reserves of improvement

Currently, in our opinion, the process of CNSDU prerogative forming has not finished yet. The Decree of the President of Ukraine who grants additional prerogatives to the Council and the Secretary according to many experts is not perfect from the viewpoint of corresponding to the Constitution of Ukraine. Even though the prerogatives of the Secretary are limited to the right of executing only those actions stipulated in the Decree that enforce “written acts and orders of the President of Ukraine or enforcing CNSDU decisions” (Paragraph 1, Item 3 of the Decree), the scope of these prerogatives is extended taking into account Paragraph 2, Article 19 of the Constitution of Ukraine. This legal provision stipulates that “state power bodies and local administration bodies, as well as the responsible officials representing them are to act only in the limits of attributions and the way established by the Constitution of Ukraine and Ukrainian legislation”. Thus, the Constitution strictly limits the way that state functions are carried out and does not allow a detailed interpretation of state bodies’ prerogatives. A Presidential Decree is not a law, and prerogatives of the Secretary of the Council stipulated by Article 13 of the Ukrainian “Law on the Council of National Security and Defense of Ukraine” from the point of view of meaning and volume do not correspond to the prerogatives stipulated by the Decree and are not listed completely.

At the same time, we will take into account the fact that a group of parliamentarians of Ukraine forwarded an interpellation to the Constitutional Court of Ukraine that is requested to rule whether this Decree does not contravene the Constitution and Ukrainian Legislation.

Thus, admitting the constitutionality or non-constitutionality of the Decree will determine the main directions of reform of the CNSDU. In case the Court decides that the decree does not contravene the Constitution, then the subsequent modifications may follow the path of legally investing the Secretary with new prerogatives and mandates, as well as of adopting a new Regulation on the Council’s Apparatus with respective missions and prerogatives. In case the Decree is ruled unconstitutional, then there will emerge the issue of legislative confirmation of the extended Council’s

prerogatives. In any case, the only legitimate way of extending the attributions is the development and adoption of a new edition of the Ukrainian “Law on the Council of National Security and Defense of Ukraine”.

Proposals

Currently, the contents of the Ukrainian “Law on the Council of National Security and Defense of Ukraine” does not correspond to the public relations existing de facto and require changes. The Law does not correspond to legislative acts of the same level that have subsequently been passed – the “Law on the bases of national security of Ukraine” and Ukraine’s “Law on civil and democratic control of the state military structure and law enforcement agencies of Ukraine”. The structure of the Law has a range of deficiencies and does not correspond to the requirements that similar acts should abide by.

An important issue is the efficient functioning of the subjects providing national security in the following fields:

- development and periodical review of the National Security Strategy of Ukraine. At present, it has not been approved yet and has to be created based on new principles of external and internal policy, taking into account the political course of the new leadership with the involvement of all subjects;
- creation of a normative-legislative basis necessary for efficient functioning of the system of providing national security;
- streamlining the organizational structure, complete provision with human resources, as well as the financial, material, technical and informational ones, and other types of the system’s structural elements.

An important element of these functions that requires constant improvement and adequate provision is the continuous monitoring of the influence over Ukraine’s national security of the processes that occur in all fields: forecasting, identifying and evaluating potential and real threats, destabilizing factors and conflicts, reasons of their appearance; elaborating scientifically grounded proposals and recommendations on adopting administrative decisions in order to protect national interests; preventing and neutralizing the influence of threats and destabilizing factors, etc.

Ideally, all state institutions are to undertake active efforts for the realization of these functions and improvement of the normative-legislative basis that is, in fact, the carrying out of constitutional norms. This is the purpose of the reforms that have been launched by the new President of Ukraine.

At present, the Council of National Security and Defense has a significant development potential as a body with a mission to consolidate the efforts of all branches of power in order to protect the state’s interests. It is a mechanism of complex, comprehensive and objective examination of the most acute issues of the state and society, a

board-based body for passing fundamental and balanced decisions during a creative and complex process.

Among the definite problems requiring solution we would mention the structural reform of the Council's apparatus according to modern conditions, provision of an efficient functioning of interdepartmental commissions within the CNSDU, as well as of scientific institutions. Concerning the legislative-normative field, we might mention the improvement of legislation in the field of national security and defense in accordance with the requirements of the constitutional reform and new political course of the state leadership. We are dealing with the development of the National Security Strategy and the Concept of foreign policy of Ukraine. An urgent solution is required by the problem of Transnistria, the reform of Ukraine's Armed Forces, the settlement of real estate issues, etc.

The international collaboration of the Council of National Security and Defense of Ukraine in the conditions of a consecutive development of the state has reached a qualitatively new level. During only the first three months from the moment of resignation of Mr. Petro Poroshenko from the position of the Council's Secretary, eight events of paramount importance took place in the field of international collaboration (comparing to three activities of the same importance in 2004). We would like to mention the meetings with the Secretary of the Council of National Security and Defense of Georgia Ghela Bejuashvili, Secretary of the Council of National Security of the Russian Federation Igor Ivanov, and head of the Bureau of national security of the Republic of Poland Eji Bar. The CNSDU Secretary took part in the International Summit on democracy, terrorism and security that was held in March 2005 in Madrid. In April, the Secretary of the CNSDU had meetings with the leadership of Romania and the Republic of Moldova on the issues of the settlement of the Transnistrian problem. On the initiative of Ukraine in Kiev there was held a consultative meeting of the Secretaries of the Councils of national security of the four member-states of GUUAM. As a result of international collaboration, the Memorandum of collaboration with the CNS of Georgia and the Plan of collaboration for 2005 with the CNS of the Russian Federation were signed, and numerous practical agreements were achieved.

In this period, the efforts of the CNSDU Secretary aimed at developing international collaboration in the sphere of security that will correspond to Ukraine's tendencies to European integration and its role of a new regional leader. In this context, a new impulse will be given to CNSDU collaboration with international bodies working in the field of assuring security at the regional and global level based on common interests.

The Council of National Security and Defense of Ukraine can participate in this collaboration on issues requiring settlement at the global level:

- combating terrorism;
- combating international organized crime;

- minimizing consequences of natural disasters and catastrophes of a technical nature;
- preventing military conflicts, etc.

According to the Deputy Director of the Institute of Strategic Research O. Litvinenko, the main missions of the CNSDU in this period should be concentrated on the following fields:

1. **The consolidation of the Ukrainian society based on civic democratic values**, overcoming the dangerous consequences of divisions in Ukraine during the electoral period. It is necessary to urgently develop and start the consecutive implementation of an efficient state policy regarding the neutralization of political speculations on regional differences, creation of mechanisms of presenting and coordinating regional interests at the national level, and development of Ukraine's socio-political integration strategy. Defining a complex and comprehensive solution is necessary with respect to the functioning of state power bodies in conditions of a multilateral democratization of all public spheres and the increase of the role of society. In addition, it is necessary to create a normative-legislative base of public protest actions.

2. **The reform of law enforcement agencies and intelligence services**. Their activity should first of all be directed towards the assurance of rights of a person and a citizen and it has to be supported by implementing an efficient system of civil democratic control on state military structure. It is necessary to achieve the compatibility of Ukraine's security forces with the corresponding structures of the EU and NATO states. It is necessary to have a program of reforming the Ministry of Internal Affairs in order to transform the post-Soviet militia into an efficient police force based on the European model by reducing excessive personnel, carrying out the respective re-training, and eliminating excessive centralization. There is a need to change mission priorities of intelligence services and, respectively, their structure to settle the issues of security of state power bodies' personnel, access to state secrets, combating the threats of political radicalism and separatism, and assurance of economic security. An important direction of the intelligence services' activity must be offering assistance to Ukrainian business and participation in the fight with terrorism.

3. **Army reform**. It is necessary to accelerate the setting up of the Armed Forces of modern Ukraine that are ready for combat and that can accomplish the most complicated missions of state leadership. The development of the Armed Forces and strategic planning in the military field should be based on Ukraine's participation in the activities of NATO and other systems of European security. It is necessary to accelerate the implementation of the Alliance's standards in the Armed Forces of Ukraine and, in the first place, the Allied Rapid Reaction Forces. Practical research of the issue of modifying the methods of staffing the Armed Forces with military personnel is indispensable. Priority should be given to the Air Forces, intelligence and research agencies, as well as special troops. It is necessary to clarify strategic missions of development of

the Maritime Military Forces of Ukraine, providing the organization of a program of constructing maritime ships. The budget of Defense should take into account the development requirements of the industrial-military complex.

4. Development of the industrial-military complex and technical-military collaboration. An extremely important mission should be the passing from the inertial model of using Soviet armaments towards the creation of new types of armament and modern military equipment, carrying out scientific and technical-experimental research, first of all, in aerospace, radio-electronic fields, etc. It is necessary to accelerate the settlement of issues of creating some complete cycles of production, gradual reorientation of the industrial-military complex enterprises towards collaboration with EU states, implementation of EU and NATO standards, and maintaining the necessary level of relations with the Russian Federation. It is necessary to introduce efficient mechanisms of assuring national interests during the privatization of the industrial-military complex enterprises. In addition, the sphere of military-technical cooperation requires the improvement of mechanisms necessary to respect the interests of Ukraine's strategic partners from the viewpoint of the absolute priority of national interests.

5. Fight with corruption and “de-shadowing” of the economy. Priority should be given to overcoming the situation when corruption becomes a condition for survival and a prerequisite for the efficient functioning of the state system. It is necessary to obtain a much greater transparency of state mechanisms of resource distribution. It is necessary to introduce the civilized lobby levers of economic interests in the process of making state decisions. It is required to make decisions to overcome the lack of coordinating efforts in the fight with corruption and to create a specialized body in the structure of law enforcement agencies. In addition, it is essential to accelerate the implementation of the state policy regarding the “de-shadowing” of the economy, stipulating efficient measures regarding the increase of the transparency level of privatization processes, of managing state property, introducing the respective amendments in the budgetary and fiscal system, etc.

6. Energy security and Ukraine's transit country status. State policy in the energy sector should be based on the corresponding state strategy that would assure the diversification of sources providing energy resources, improvement of efficient use of Ukraine's transit capacities, and up-dating infrastructure and the enterprises of the national energy complex. This strategy should be correlated with the European concept of energy security and should take into account the legitimate interests of the Russian Federation. It is necessary to accelerate the creation of a complete energy-nuclear cycle as a basis for sustainable development of nuclear energy.

7. Euro-Atlantic integration and relations with the US. In relations between Ukraine and the US, the priority should stay with the issues of security, including Ukraine's accelerated integration into NATO. Ukraine should undertake the necessary efforts to obtain the support of the US in the issues of the European integration

and relations with Russia. The issues of energy security and transit of energy resources should become an important direction of collaboration.

8. Relations with the European Union and member states as a priority direction of European integration. In the framework of settling this mission, we should take into account three basic priorities. First, it is essential to develop relations with the most important and influential European States, especially Germany, France, Italy and Great Britain. Second, it is necessary to use the objective interest of the EU states that are Ukraine's neighbors – and, especially, of Poland and Hungary, in deepening the bilateral relations as a source of increasing its own status within the European Union. Third, special attention should be paid to the direction of developing relations with such EU institutions as the European Commission, the European Parliament, prospect president and foreign affairs minister of the Union. Considerable importance should be paid to the issue of streamlining close collaboration in the security sector and defense and Ukraine's participation in strengthening and developing the relevant structures of the European Union.

9. Development of relations with the Russian Federation and CIS member states. Ukraine's relations with the Russian Federation should become an important source of progress for the processes of European integration. In this context, it is essential to develop a respective strategy in this sphere that should be based on the missions of transforming the relations with Russia to bring them into an international format, to increase their transparency and their predictability. It is absolutely imperative to speed up the evaluation of the normative framework of bilateral relations, especially in the sphere of national security and defense, and to assure strict enforcement of mutually advantageous bilateral agreements. In addition, the issue of the common European area requires confirmation of Ukraine's position on the free enterprise zone as a realization of the highest level of integration. It is necessary to urgently settle the issue of GUUAM intensification. It is necessary to accelerate the development of economic collaboration, first, in the energy sector and high technologies fields, emphasizing the realization of definite common projects. An important direction should become the consolidation of Ukraine's borders in order to increase the level of efficiency in combating illegal migration, smuggling, illegal trafficking of narcotic substances, etc. It is necessary to continuously develop humanitarian contacts, contributing to the amelioration of relations between the structures of civil society of Ukraine and the Russian Federation.

10. Relations with neighbor states should be based on the principles of partnership and mutual advantage. Special attention should be paid to relations with Romania and, in the first place, in the sphere of assuring national interests at delimiting the continental shelf of the Black Sea. The foremost objective of the Ukrainian policy in relation to Moldova should be the settlement of the Transnistrian issue as a source of danger to national security based on the principles of assuring sovereignty and territorial integrity of Moldova and taking into account the interests of the Ukrainian

minority in the region and other national interests of Ukraine. Relations with Poland and other states from the basin of the region from the Baltic Sea to the Black Sea will remain prioritized. The main mission in relations with Belarus for the next period will be the determination of the necessary balance between the relations with the state power and contacts with the opposition.

All these priority directions of activity of the Council of National Security and Defense of Ukraine should be reflected in the new edition of the “Law on National Security and Defense of Ukraine” and the National Security Strategy of Ukraine.