

An Assessment of the role of Independent Oversight bodies in Security Sector Reform in Albania

SPEECH HELD AT THE OPENING OF THE CONFERENCE ORGANIZED TOGETHER WITH THE INSTITUTE FOR DEMOCRACY AND MEDIATION IN ALBANIA (TIRANA, 8 NOVEMBER 2011)

It is a great pleasure for me to welcome you to today's conference on behalf of the RLP SEE of the Konrad Adenauer Foundation. [...]

We are today presenting a research paper that was written after our partner the Institute for Democracy and Mediation suggested to us to launch a project about the Rule of Law in Security Sector Reform in Albania which is an Accession Criterion to the European Union.

Let me express my profound thanks to Mr Sotirag Hroni, Executive Director of IDM and all those who took part in this project for the excellent cooperation that we enjoyed during the past months. We share IDM's objectives, namely to strengthen Albanian civil society, to monitor, analyze, and facilitate the Euro-Atlantic integration processes of the country and to help the consolidation of good governance and inclusive policy making.

And I would like to extend these thanks to the Geneva Centre for the Democratic Control of Armed Forces, which contributes to security sector governance through security sector reform. The Centre's work to support effective, efficient security sectors which are accountable to

the state and its citizens is based on the acknowledgement that security, development and the rule of law are essential preconditions for sustainable peace.

We as Konrad Adenauer Foundation share the conviction that the principles of the rule of law must be enforced in the four main actors in the security sector such as Police, Military, Judiciary and Prisons.

So when the project proposal was submitted by the Institute for Democracy and Mediation I immediately agreed to support it. I did it because the rule of law is not confined to modern constitutions and laws, working democratic institutions and an independent, impartial and professional judiciary but must comprise all sectors of society and thus also the security sector.

And I did it because I am a commissioned officer in the German Army Reserve and when I wrote my job description last year I expressed my wish to extend the work of the RLP SEE to the security sector.

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The conviction that the security sector cannot be disconnected from the principles of rule of law is now common sense.

But in Germany in the first decades of the twentieth century this was not the case. At that time it was a common conviction that in certain sectors of society citizens by becoming part of that sector – voluntarily as soldiers or policemen, or involuntarily as prisoner- became part of the state and thus no longer had a right to exercise their civil rights. For example in the first German republic soldiers did neither have the right to vote nor to get elected. The old German term for this “*besonderes Gewaltverhältnis*” can simply not be translated.

In Germany it was the Bundeswehr, the German Army, that was the first institution that put a question mark behind this theory. The new German army of the Federal Republic of Germany should neither be a “state within the state” nor have a special status. In 1953 the doctrine of “*Innere Führung*” was officially adopted. It is a concept that permeates all areas of military life, designed to shape militarily efficient, democratically controlled and socially integrated armed forces.

The basic assumption of the founding fathers of the Bundeswehr and the concept of *Innere Führung* was that the democratic idea and military necessity can be harmonized with each other. To that end, they had to develop a framework that would transfer the basic principles of a democratic state governed by the rule of law to military forces which were to be operational and efficient in accomplishing their tasks. Since the inception of the Bundeswehr, *Innere Führung* has aimed to achieve and maintain the proper balance of functional effectiveness on one hand and society’s democratic values on the other. To that end, *Innere Führung* pursues four objectives that are addressed at both the institutional level and the individual level:

1. Integration
2. Legitimacy
3. Motivation, and
4. An internal order that treats soldiers like human beings.

The objective of this concept is to maximize military security at the least sacrifice of other social values. Military institutions which reflect only social and democratic values may be incapable of performing effectively their military function. On the other hand it may be impossible to contain within society military institutions shaped purely by functional imperatives. The interaction of the two forces is the nub of the problem of civil-military relations.

While the German military was progressive jurisdiction in Germany was not. Only in 1972 the Federal Constitutional Court gave up the theory of a “*besonderes Gewaltverhältnis*” All citizens regardless of their position in society enjoy civil rights, They can only be limited in special cases and only to extent where it is indispensable to carry out their professional duties or where the neutrality of the state is at risk. An example: A police officer cannot work as a missionary for a religious community while performing his professional duties but as a citizen he enjoys the civil right of religious freedom and an exercise it when he is not on duty.

Please excuse me if I have spoken extensively about the military sector, this due only to my personal background, the other sectors that are implied in the project are of course of equal importance.

Good Governance is not possible without good legislation and good legislation leads to nothing if there is no implementation.

And implementation will normally not work satisfactorily if you don’t have independent oversight bodies – this is true for Albania but it’s also true for countries in Central Europe like Germany.

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This is why I was very happy when IDM proposed to write a study in which the role of the independent oversight bodies in Security Sector reform in Albania would be assessed.

And we agreed that such a research should be based on the analysis of the legal framework, the capacities, and expertise, the independence of the IOB, as well as their relations with the security sector institutions, the executive and the parliament.

I am very pleased that we can today present the study and its main findings. It was our intention to write a fair but also a critical study that shows up where there is room for improvement.

I will resist the temptation to comment on the findings of the study because these will be presented by Mr Arian Dyr-mishi, Senior Researcher at IDM whom I would like to thank such as much as to his colleagues Ms Besjana Kuci and Mr Egest Gjokutaj.

Last but not least I thank all those who work at and for the institutions which are in the focus of our study. The People's Advocate, The Commissioner for Personal Data Protection, The Commissioner for Protection from Discrimination, the State Supreme Audit Institution, The High Inspectorate on Declaration and Audit of Assets and the Procurement Advocate. I hope that you perceive this study as a helpful instrument that can serve the improvement of your work in the future. A work which is not always easy, but for which you deserve respect and support. I look forward to your comments and hope that we will have a close cooperation in the future.