

ASSESSMENT TOOL

*United Nations Development Programme/ Geneva Centre
for the Democratic Control of Armed Forces*

Questionnaire for Parliamentarians on Security Sector Oversight

Introduction

This questionnaire is intended to help map the status of security sector governance in a given country. It is important to point out that the questions are not related to the security sector itself, but are limited to cover issues of parliamentary oversight of agencies providing public security. The data collected will be used as a baseline for conference discussions and will subsequently be made available in a conference publication (in both English and Russian). The publication will also include comparative analysis to map out regional challenges and opportunities.

Instructions for Completing the Questionnaire:

- Respondents remain anonymous but are requested to indicate their country.
- If the requested information is not available, please state that it is not available rather than providing no answer. Similarly, if the respondent does not know the answer to a question, please simply state “I don’t know”.
- Respondents are asked to add any additional information that may be useful.

Definitions*

Security Sector:

Includes all state services and agencies that have the legitimate authority to use force, to order force or to threaten to use force. Normally the security sector agencies include the military, paramilitary units (like military police), police, border guard and other law-enforcement services and the intelligence services. This questionnaire, however, does not cover issues related to intelligence services.

Security Sector Governance (SSG):

A concept in which the security sector is not only under the direct control of and accountable to democratically-elected and legitimate civilian governments and within which each segment is assigned legislatively-specified roles, but also in which the instruments of the entire security sector are people-centred, equitable, accountable, transparent, subject to the rule of law, open to legal recourse, and capable of engendering both expert and public participation and consultation in planning and decision-

* All definitions are derived from materials in the ‘Glossary’ of DCAF Document No. 4. Available at: http://www.dcaf.ch/docs/dcaf_doc4.pdf

making via efficient public sector management, the assimilation of relevant international norms, and the involvement of civil society and media in security issues.

Thus, security sector governance is an inclusive concept, legitimised by participatory processes embodied in the rule of law, undertaking of anti-corruption efforts, bureaucratic accountability, effective use of resources, and the promotion of the active involvement civil society, the judiciary and the private sector to counteract vested interests often generated by the unique activities and responsibilities of the security sector. (Such as, for example, efforts to disclose as little information as possible about the work of an agency.)

Undoubtedly, the specific character of security sector agencies calls for certain limitations to transparency and civil oversight when it comes to, for example, operational planning and investigative activities. Determining legal frameworks, setting budget roofs, preventing and confronting misconduct and corruption are all legitimate and necessary methods of civil oversight that have an important place in a democratic society.

Security Sector Reform (SSR):

The reform of the Military (Army, Navy, Air Force), Intelligence, Border Guard, Paramilitary institutions in order to create systematic accountability and transparency on the premise of increased, substantive and systematic democratic control.

Questionnaire

Please indicate your country:

1) Legislative and Policy Framework

- 1) What legislation on security sector issues has been passed been implemented since independence?

Please specify:

- a) laws
 - b) presidential decrees
- 2) Has the legislation been applied systematically?
 - 3) Are there any contradictory elements or gaps in the legislation?
 - 4) Is the full text of security sector relevant laws publicly available and in what format(s)?

- a) Are the formats comprehensive?
 - b) What measures are taken to publicise the content of the laws?
- 5) When new legislation is being written, what form does the public consultation process take, if any?
- a) What form does the legislative process for these laws typically take (standard procedures, closed sessions)?
 - b) Is it common for parliament to approve laws as drafted by the executive or can substantive changes be made as a consequence of parliamentary debate?
- 6) What national and international precedents are used when compiling laws?
- 7) What types of legal instruments are usually used for security sector laws?
- a) Act of parliament
 - b) Presidential decree/ executive order
 - c) Other (please specify)
- 8) Does the legal framework foresee parliamentary access to classified information?
- a) What are the provisions to secure confidentiality of classified information?
 - b) In practice, can parliament review classified information?
- 9) What international and regional agreements in the defence and security spheres has your government signed?
- a) Who negotiates or decides about other regional and international obligations?
 - b) Are you satisfied with their implementation?
 - c) Are the agreements publicly available, and translated into local language?
- 10) Are policy documents that are exchanged with NATO and other international defence and security organisations and/ or partner countries (agreements on collective security etc.) publicly accessible in the local languages?
- 11) Does your country have a national security policy? Is it publicly available?
- a) What role did parliament play in formulating/ approving it?
 - b) What does it say about civilian oversight?

2) The Role of Institutions

- 1) What role does the Parliament play in the following and what are the reporting (or other) requirements?:

- a) Ensuring financial oversight of the armed forces, police, border guards and intelligence?
 - i) Prior to parliament's approval of the security sector budget, what level of financial information is submitted?
 - ii) Does parliament discuss the budget provisions?
 - iii) Is the budget detailed or is parliament expected to approve an aggregate budget without much detail?
 - b) Appointing security services 'cadres'?
 - c) Formulating and approving national security policy documents
 - d) Overseeing and monitoring security sector procurement
 - e) Creating laws that can be used by the independent judiciary to prosecute infringements
 - f) Could the Parliament's role be improved? If so, how?
- 2) What is the statutory role of the Parliamentary Defence Committee in overseeing the security sector?
- a) What powers and capacity (including staffing structure, level of technical expertise, budget) does it have to affect policy and practice?
 - b) Can you specify concrete capacity constraints?
- 3) What role does the President play in
- a) Ensuring financial oversight of the armed forces, police, border guards and intelligence
 - b) Cadre appointment
 - c) National policy documents
 - d) Procurement
 - e) Judicial oversight
 - f) Complementing the role of Parliament and the Parliamentary Defence Committee?
- 4) If not to Parliament or the President, to whom are the relevant parts of the security sector accountable to in your country? Please specify by institution (military, intelligence service, customs and border guards, civilian police, penitentiary staff).
- 5) Are there parts of the security sector to which parliament and the public have no information or access and which are unaccountable?

- 6) Baseline: On a scale from 1 to 10 (1 being the lowest and 10 the highest):
 - a) How would you rate the effectiveness of your parliament's oversight in the security sector?
 - b) How would you rate the need for technical assistance on strengthened parliamentary security sector oversight in your country?
- 7) What is the role of the current Defence Ministry and the Chiefs of Staffs? What powers do they have to affect policy and practice?
- 8) What is the judiciary's role in overseeing the security sector?
 - a) Can/ Do the judiciary prosecute offences committed by security sector personnel?
 - b) What independent powers does it have to affect policy and practice?
- 9) How is transparency and accountability within the defence and security sphere safeguarded? What mechanisms exist (e.g. audits, ombudspersons) to affect transparency?
- 10) As a process, which institution(s) make the most important decisions about procurement issues for the security sector? Is the process transparent and accountable?

3) Empowerment and Capacity Building

- 1) Are there specialised parliamentary staff on defence and law enforcement matters? How are these staffers trained? How are their competencies regulated?
- 2) Do parliamentarians interact with civil society groups active in the areas of security sector oversight/ human rights?
 - a) What is the process?
 - b) Are there established procedures for information exchange?
 - c) Do you regularly convene consultation meetings with civil society groups/ civilian experts such as academics?
- 3) To what extent do civilians, civil society groups and the media assist with the oversight of the security sector?
 - a) Are there NGOs dealing with soldiers' rights?
 - b) Are there NGOs dealing with oversight issues?
 - c) Are there media experts dealing with security issues?

- 4) Are armed forces and other uniformed services trained in human, political and civil rights law to ensure that rights of citizens are not violated by the armed forces and other uniformed services?
 - a) What are the disciplinary measures to prosecute human rights violations by armed forces and other uniformed services?

4) Imposition of Legislation on Emergency Situations

- 1) Is there, in your country, a law adopted by the Parliament regulating the imposition of legislation on emergency situations?
- 2) Is there a certain time limit after which the imposition of legislation on emergency situations has to be renewed?
- 3) According to the procedures for imposing legislation on emergency situations, is there a role to be played by the Parliament?
 - a) If so, which?
 - b) The Parliament has to confirm a presidential decree imposing legislation on Emergency situations?
 - c) The Parliament has to confirm the renewal of the imposition of legislation on emergency law?
 - d) Other role?
- 4) Can the Parliament be dissolved under legislation on emergency situations?
- 5) Is there a law forbidding elections under legislation on emergency situations?
- 6) Has the Parliament used any of its powers as outlined above since the beginning of the 1990's?

5) Other Issues

- 1) Is the opposition represented in your parliament? Do they sit on relevant defence and security committees?
- 2) Can the military and/ or representatives of the security services be elected as parliamentarians?

6) Current Agenda

- 1) Has the parliament recently endorsed an increase/ decrease of the security sector budget? Have any significant increases been made to a particular part of the security sector?

- 2) Are plans underway to reform the security sector? If yes, what are the main components of envisaged reform? What role does parliament play in this process?
- 3) Are plans underway to develop/ revise a national security policy? Is parliament expected to participate in this process? How?