

Who controls whom in the intelligence arena in Macedonia?

Being considered as uncommon by many, the Parliamentary Committee supervising communication interception¹ was one of the most energetic among the many Committees in the Macedonian Parliament last December. The public was able to witness many unfortunate events which finally led to boycotting this Committee in exercising its core task - examining the lawfulness in the application of the communication interception techniques by the Ministry of Interior and the Ministry of Defense.

Macedonia needed long time in order to legally regulate this area. In accordance with the adoption of the Law on Communication Interceptions (adopted in 2006) the Parliament has formed a Parliamentary Committee especially designed to perform oversight over the legality of the use of the interception of communications as a special investigative measure. Legally speaking, this particular Committee has an advantage compared to (for example) the Committee tasked to follow the work of the Intelligence Agency and the Directorate for security and counterintelligence in respect to its composition. Namely it is the only parliamentary committee in the Macedonian Parliament where the majority of its members come from the opposition parties and at the same time it is being headed by an opposition MP. Since its establishment in 2008 it has showcased disappointing results vis-a-vis its mandate. Such an outcome can be both addressed as a result of technical but sometimes politically driven limitations (i.e. lack of security clearances for the members of the committee) on one hand and the lack of political will among members of parliament for their greater engagement in this particular field on the other.

The strength of the committees in overseeing the work of the intelligence agencies can be seen in their possibility to conduct field visits in the partic-

ular ministries authorized to employ special investigative measures such as wiretapping. Through the field visits MPs can assess whether (in this case) the interception of communications was done legally, whether there was a special approval by the Public Prosecutor or the Investigating Judge, what is the length of the following of communications, the equipment used etc. In the case of Ljube Boskovski² for example, it was the first time that a Parliamentary Committee showcased willingness to pay a visit to the the Ministry of Interior and look through the documents about this particular case.

Unfortunately there is a gap that exists in the current legal solutions making the field visits somewhat problematic. It is not defined whether the Committee needs prior approval by the respective Ministry or not. The practice in many European countries shows that these committees are empowered to conduct field visits without prior communication with the relevant ministry. This is considered to be good solution because the staff working in these ministries can have enough time to manipulate with information in case the field visits are pre-arranged.

In the case previously mentioned the Ministry of Interior has made several very confusing public statements all leading towards the conclusion that it is still not open for a visit by any Parliamentary Committee. Even though it is blurred whether and what kind of committee decision there was, the Ministry is not entitled to reject and redirect the Committee to the Macedonian Courts dealing with this subject, simply because the Committee has the mandate to only oversee the work of that particular Ministry (plus the Ministry of Defense). Regardless to this particular case the Ministry is obliged to open the archives and the documentation to the Parliamentary Committee, no matter whether they are saying the truth or not. Even without such a politicized case they should be able perform regular field visits.

It is also worth mentioning that there is a lack of coordination in the committee itself. According to the Committee composition (majority coming from the opposition) they could have easily come to an agreement to visit the Ministry. It was also evident that the members of the ruling political parties were

intentionally blocking the work of the committee by postponing the overall process. For example it was evident that for days and numerous times VMRO and DUI were still not clear who should appoint which member to this specialized working body.

To conclude, the willingness and readiness of Mr. Tito Petkovski (President of the Committee) to finally put the committee on the right track is for applauding. This is good in terms of hoping that this case is not an isolated incident and that the committee will act in many more cases and that it will help develop a practice for conducting field visits. Their engagement sends a signal to the public that the oversight mechanisms slowly start to function. At the same time this case seems to be an eye opener. It has highlighted the grey pockets that exist in practice. The lack of political will and openness displayed by the Ministry of Interior puts to the test its credibility as an institution that should be working in accordance with the legal framework of the country especially in cases where heavy violations of human rights can occur.

¹ For easier read the Parliamentary Committee tasked to oversee the legality of the application of communications interception techniques by the Ministry of Interior and the Ministry of Defense is referred here as Parliamentary Committee supervising communication interception.

² In June 2011 Opposition party leader Ljube Boskovski was arrested under the suspicion of illegal financing of the election campaign and abuse of official position. After the trial Mr. Boskovski was sentenced to seven years of imprisonment over illegal funding of election campaign. Clash between the President of the Parliamentary Committee supervising communication interception and the Ministry of Interior occurred when the President of the Parliamentary Committee accused the Ministry of Interior for illegally intercepting the telephone conversations of Mr. Boskovski, something which the Ministry of Interior rejects as unfounded.

Written by Andreja Bogdanovski, Research Fellow, Security Policy Program – Analytica Think Tank

abogdanovski@analyticamk.org