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HISTORICAL DEVELOPMENT OF CORRUPTION PREVENTION MECHANISMS IN SOUTHEAST EUROPEAN COUNTRIES

1. Introduction

A key feature of the public administrations of Southeast European countries under Communism was its role as an instrument of suppression. Law was perceived as an expression of the will of the ruling class and its implementation guaranteed by the power of the state apparatus. The Communist inheritance included the dogma of the monopoly of the Communist party, a fragmented and party-politicized personnel system and an executive that was not used to having to build broad political and social acceptance around the policies pursued.[1]

The political and social systems were based on the ideological premise of a conflict-free society, i.e. a system in which there is no conflict between the "public" and "private" levels.[2] Such a background did not enable the development of corruption prevention mechanisms and comprehensive integrity building frameworks.

Anti-corruption measures instead traditionally focused on *sanctions* for bribery and abuse of power in the public sector.[3] Corruption *prevention* was not as politically attractive and well-publicised as investigations and sanctions. Therefore,

[1] K. Goetz, H. Wollmann, «Governmentalizing central executives in post-communist Europe: a four country comparison», *Journal of European Public Policy*, 8 (6), 2001, p. 868.

[2] S. Lilić, "Državni službenici i sukob interesa" u *Sukob interesa kod javnih funkcionera i javnih službenika u Srbiji – regulative i nadzor nad njenom primenom*, Belgrade, 2003, p. 23.

[3] In former Yugoslavia, Criminal Code from 1951 envisaged several criminal offences in relation to corruption: the abuse of office or official authority, accepting or giving bribes and the obligation of officials to discharge official duties and dispose of entrusted assets conscientiously. It may be argued that these regulations constitute precursor of the regulations on prevention of conflict of interest. The Yugoslav 1977 Criminal Code introduced also the criminal offence of imparting a state secret, sanctioning persons who have imparted a state secret after the termination of their capacity as a public officer. This criminal offence can be construed also as the precursor of the modern institution of the prohibition to disclose information after the termination of the civil service appointment.

the political leadership opted initially for a sanctions-oriented approach, in most cases directed against political opponents. Nevertheless, it may be argued that the corruption sanctions also had an important preventive function.

The ideology of a conflict-fee society has also hindered the development of public procurement regulations, as a high-risk area susceptible to corruption. The procurement procedure was usually not governed by the law. The use of budget funds for purchasing goods was instead subject of autonomous regulation of the public-law entities. In case that the public procurement regulations did exist, they did not regulate the overall public procurement procedure, the sanctions for failure to comply with the procedure, or the protection measures in the public procurement procedure.[4] Public procurement implied the negotiation procedure, which was the main source of corruption and abuses, as it left room for favouring tenderers who were for some reason suitable for the contract authority. All that resulted in harmful contract awards and waste of resources from the budget and other sources of public finance. In former Yugoslavia, the only exception was the procedure for the award of investment type construction works, where the public procurement procedure was applied, due to the requests of the international financial institutions that required former Yugoslavia to implement procurement for externally-financed investments in accordance with special procurement methods. [5]

In all Southeast European countries analysed in this study there was no division of powers, but a system of so-called unity of power. Instead of a 'Government' or 'Council of Ministers' there was an executive body of the Parliament charged with implementing the policies adopted by the Parliament. In ex Yugoslavia, for example, at the federal level, there were also no ministries, or bodies with this designation. The key administrative institutions were called instead 'Secretariats of the Executive Council'.

2. Special Features of Socio-Political Development of Former Yugoslavia

It may be argued that former Yugoslavia differed from the general pattern of communist rule in Central and Eastern Europe with resect to both economic and political organisation. Following the break with Stalin in 1948, Yugoslavia began to build a distinct brand of socio-political system called - socialism. In 1950, 'workers' self-management' was launched, together with the concept of so-called 'social property' and elements of market economy. In spite of this, however, the ruling party (League of Communists in Yugoslavia) was entitled to a privileged position, similar to that in countries adhering to the Soviet bloc.

[4] Lj. Dabić, B. Nenadić, V. Đurić, *Javne nabavke u uporednom zakonodavstvu*, Institut za uporedno pravo, 2003, p. 234.

[5] A. Lukić, S. Stojanović, *Komentar Zakona o javnim nabavkama*, Centar za javne nabavke, 2004, p. 9.

The Yugoslav brand of communism, however, rested on two contradictory pillars: (i) the top down control of society exercised by the communist party, based on the concept of 'democratic centralism' and (ii) bottom up principle of 'social ownership.'[6] The term 'democratic centralism' denoted an organizational method whereby members of the political party had a freedom to discuss and debate matters of policy and direction (element of democracy), but once the decision of the party is made by majority vote, all members and lower bodies were expected to uphold that decision (element of centralism).[7] The idea of the principle of 'social ownership', on the contrary, was to empower workers and their councils to change society from bottom up, rather than the top down. Such a fundamental contradiction that was built into the structure of the Yugoslav state could not, unfortunately, be easily overcome.[8] Nevertheless, it appears the 'social self-management' has served as a measure to loosen the grip of state and bureaucracy on society[9] and develop a distinct 'socialist system' that enjoyed a number of benefits.

In spite of the dominance of the communist ideology, the party and the state in former Yugoslavia were considered as separate entities, in contrast to the other countries of the Eastern Block which were characterised by the party and state unity.[10] Against such a background, elements of traditional values of public administration, such as professionalisam and political neutrality, were preserved at least to a certain extent.[11] There was also an inherent tendency for state bodies to become increasingly more independent, to extricate themselves from political control and eventually to become a threat to the socialist society.[12]

Favourable socio-political background facilitated the introduction of legal mechanisms to curb the power of state bodies. Some of these legal arrangements, particularly the system of Constitutional Courts and detailed regulation of administrative procedure were uncommon or unknown elsewhere in the Communist World.[13] Judicial control of administration, that existed in Kingdom of Yugoslavia, was reinstated in 1952 by the adoption of the Law on Administrative Disputes, which showed the willingness of the political elite to overcome resistance to submitting

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[6] S. Eriksen, *Studies of Communism*, unpublished manuscript, p.11.

[7] *History of the Communist Party of the Soviet Union (Bolsheviks). Short Course.* New York: International Publishers, 1939, *http://www.marx2mao.com/PDFs/HCPSU39.pdf*

[8] L. Schultz, «Die jungste Verfassungsreform der Sozialistichen Foderativen Republik Jugoslawien», *Jahrbuch fur Ostrecht*, 1972, Vol XIII/1, p. 16, Cf: Eriksen S, p. 11.

[9] S. Eriksen, *ibid.*

[10] L. Schultz, p. 16.

[11] Z. Sevic, A. Rabrenovic, "Civil Service of Yugoslavia: Tradition vs. Transition", in T. Verheijen (ed.) *Civil Service Systems in Central and Eastern Europe,* Edward Elgar, pp. 47-82.

[12] S. Eriksen, p. 11.

[13] *Ibid*, p.12.

administrative acts to the control of the courts.[14] Since then, the administration was subject to relatively independent judicial review which distinguished Yugoslavia from the rest of the socialist block.

In the following sections we shall analyse in more depth the corruption prevention mechanisms which were, at least to a certain extent, present in the former Yugoslavia. We shall continue the analysis with the parliamentary (quasi) control of defence sector under the system of unity of power; existence of limited freedom of access to information; precursors of ombudsman institution; systems of internal and external audit; human resource management system in the civil service and oversight of intelligence agencies.

3. System of Unity of Power and the Defence Sector Oversight and Control

Former Yugoslavia was one of rare countries in the world, and the only socialist country, that opted for the assembly parliamentary system, resting on the principle of unity of power. In order to be able to understand the assembly system and the characteristics of the parliamentary control over the defence sector in such a system, it is necessary to explain in more depth the concept of the unity of power.

In contrast to the division of powers, the essence of the unity of power lies in the supremacy of one authority over other authorities in discharging of powers. That allows specific social groups, political parties or other social forces connected to that authority to have a predominant influence on the execution of power and the formulation of policy.

As the historical practice has shown, unity of power can be achieved by having one authority concentrate completely or partially all government functions in its own hands. This, essentially primitive, execution of the unified power through a complete concentration of all functions does not mean that there are no other authorities performing specific functions. However, these other authorities are functionally and organisationally dependent on the authority that executes the unity of power.[15]

With respect to the government system in Yugoslavia, after a short initial period (1946-1953) during which the government system was operating in accordance with the Soviet model, immediately in 1953, the Constitutional Law established a formal assembly system, resting on the unity of power principle. All other Yugoslav constitutions adopted prior to 1990 were formally based with more of less consistency on the assembly system of government.

In the legal theory, an important feature of the assembly system is the principle of democratic unity of power. In accordance with this principle, a democratic

[14] I. Kopric, "Administrative Justice on the Territory of Former Yugoslavia", SIGMA/OECD, p. 3.

[15] P. Nikolić, *Ustavno pravo*, Prosveta, Beograd, 1995, p. 304.

representative body (parliament, assembly, etc.) appears as the executor of all the legal functions of the state, and primarily the legislative function. In discharging the legislative function, the assembly exclusively and independently adopts the highest-level acts relating to this function (constitution, laws, etc.). That means that the other authorities cannot adopt acts that would be of higher or equal legal force as those adopted by the assembly, i.e. adopt acts in the areas that have not been regulated by the acts of the assembly. All other authorities have only certain dimensions of power, and are in a specific relation of dependency and control by the assembly,[16] even though they do not always and in all have to be in a hierarchically subordinate position. They do not have any authorities over the assembly, while it in turn the assembly has considerable rights over them (appointment, removal from office, etc.). In that way, the assembly appears as the ultimate power in the system as a whole.[17]

With respect to the legislative and judiciary functions, the unity of power is reflected in a stronger influence of the assembly on the judiciary. In rare and exceptional historical and social circumstances (revolutionary period), the assembly may also be directly engaged in executing the judicial function though the adoption (or verification) of judicial acts. However, carrying out of the judiciary function in the assembly system is delegated to separate judicial authorities that implement the law, whereby enjoying their independence, which is a consequence of the nature and the role of the judicial function and the judiciary in a modern state. In the execution of the judiciary function, the assembly is involved, as a rule, only in granting amnesty.[18]

It is interesting to note that in the assembly based system the executive power (the executive) in the classical sense and in the classical form does not exist. The exercise of the democratic unity of power deprives the executive of significant powers in the execution of specific legal functions, and its authorities over the representative body. This is also the reason why the system did not recognise bodies such as ministries, but only administrative institutions which were called 'Secretariats of the Executive Council'.

Although the Yugoslav political system was based on the system of democratic unity of power, there could be no question of the real implementation of the assembly system in practice. Against the background of the monopoly of the leading communist party, i.e. the League of Communists of Yugoslavia, and the ultimate personalisation of power in the President of the Republic and the party president, the democratic unity of power mechanism could not function properly. Political decision-making was concentrated in the hands of the party, and the relevant public authorities became mere executors of its will and policy.[19]

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[16] J. Djordjević, *Politički sistemi*, Savremena administracija, Beograd, 1988, p. 594.

[17] P. Nikolić, *Skupštinski sistem*, p. 131; P. Nikolić, *Ustavno pravo*, Prosveta, 1995, pp. 304-305.

[18] P. Nikolić, *op. cit*, pp. 323-324.

[19] *Ibid*, p. 333.

Essentially, all government systems established from 1946 to 1990 were quasi assembly systems. Thus, the political system established in accordance with the Constitution of the Federal People's Republic of Yugoslavia (FPRY) form 1946 was a quasi assembly system. In its real meaning, which was naturally only formal, the assembly system was established by the Constitutional Law on the Foundations of the Social and Political Regulation of the FPRY and on the Federal Authority Bodies. The 1963 Constitution of the Socialist Federal Republic of Yugoslavia (SFRY) confirmed the postulates of the existing assembly system, showing two main tendencies. Firstly, the tendency of enforcing and strengthening the position of the Federal Assembly, and secondly the tendency of establishing a single efficient executive government, and especially strengthening the position of the President of the Republic, which became a separate and independent political and executive federal body. Certain inconsistencies in the implementation of the concept of the assembly system were persistent even in the 1974 SFRY Constitution, even though, in principle, it remained (formally) loyal to its main postulates.[20]

With respect to the parliamentary control over the security and defence sector, as the assembly was bicameral,[21] the Defence and Security Committee was established by the Council of Citizens and the Council of Republics. As an internal body of the councils, the Committee was responsible to consider the issues and hold inquiries into the issues that fell under the councils' competence (law proposals, other acts, etc.). After an inquiry was held, the Committee was obligated to submit the report to the Council including its amendments, opinions, and proposals. In the discharge of their duties, the Committee was authorised also to request data and information that are relevant to its work from the line ministries and other federal authorities and organisations.

The standing committees of the Council of Citizens were comprised of a Chairman and fourteen members, and the committees of the Council of Republics comprised a Chairman and six members. The Chairman and the members were appointed by the Council itself in open voting, by a majority vote of the Council members. The list of candidates for the Committee Chairman and members was proposed by the Chairman of the Council in consultations with the chairmen of the parliamentary caucuses (in the Council of Republics with the coordinators of

[20] *Ibid,* pp. 333-336.

[21] The structure of the federal parliament in the socialist Yugoslavia was revised on several occasions, following, in principle, the general development of the Yugoslav political system and the federal organisation. The 1963 SFRY Constitution went much further and introduced a quint-cameral structure of the Federal Assembly. In addition to the Federal Council (including the People's Council), four workers community councils were established - the Economic Council, Educational-Cultural Council, Social-Health Council and the Organization-Political Council. However, in the 1974 SFRY Constitution this concept was revised. The Assembly was comprised of two chambers: the Federal Council and the Council of Republics and Regions. What gives a special mark to such structure of the Yugoslav federal parliament and what makes it completely untypical is that both the chambers were characterised as federal chambers. The Assembly remained bicameral until the breakup of SFRY.

the delegates from the Member Republics). In the Council of Citizens, the list of candidates was compiled in accordance with the principle of equal representation of the delegates from the parliamentary caucuses in the Council, and in the Council of Republics, the list of candidates included equal number of delegates from each Member Republic. The term of office of the Committee Chairman and members corresponded to that of the Council.

The Defence and Security Committee operated in its sessions called by the Chairman, on his/her own initiative or at the initiative of at least one quarter of the Committee members (one third in the Council of Republics). In addition to that, the Chairman was obliged to call a session at the request of the Council Chairman, and in case he failed to do so, the session was called by the Council Chairman. The quorum requirement for sessions was a majority of Committee members present, and the decisions were adopted by a majority of the members present.

Regardless of the fact that the Defence and Security Committee formally existed and that it was operational, the assemblies failed to understand and exercise the parliamentary control over the army and the security agencies in Yugoslavia, in the meaning and with a significant socio-political influence that it gets today in most countries. Therefore, it may be concluded that the understanding of the economic and political importance of the control over the defence and security sector did exist in theory, but was not reflected in practice.[22]

4. Free Access to Information

In the Yugoslav legal theory and practice, the right to information was perceived for the most part as the right to be informed. As Vida Čok[23] points out, the applicable SFRY regulations, both federal and republic, recognised the right to be informed, which was followed by the obligation to provide information.[24] This right was granted primarily to journalists and public bodies dealing with the information activity. The provision of information to other entities was conditioned by the legitimate social interest.[25]

With respect to the individual's right to receive information, it did not exist in the SFRY regulations. Moreover, in her review of the comparative legal theory and

[22] J. Djordjević, *op. cit*, p. 601.

[23] V. Čok, "Javno informisanje Javnost rada i dostupnost informaciji - pravna teorija i zakonodavstvo", Savremena administracija, Belgrade 1982, p. 80.

[24] Truth be told, the legislation of individual Republics stipulated it as an explicit obligation, while the regulation of other Republics kept a less accurate formulation on general or equal access to information. V. Čok, *ibid*.

[25] SFRY Constitution.

practice, Čok[26] states that the behaviour of information sources, "depends to a large extent on the nature of the interest of those seeking such information – which can be personal or broader interest. If there is no broader interest, the rules for behaviour of information sources could not easily fall into the category of legal obligation (to provide information), analogous to the obligation of the press."[27]

At the same time, with respect to the public authorities, the principle of administrative transparency was established ever since the 1963 Constitution.[28] The 1963 Constitution granted the right of citizens to "be informed about the actions of the representative bodies and their agencies, social self-management agencies, and organisations performing tasks of public interest" and particularly the right to "be informed about the material and financial situation, and the execution of plans and performance of the organisation of work in which he/she is employed or in another organisation in which he/she exercises his/her interests, with the obligation to keep business and other secrets."[29] Based on this formulation alone, it is clear that the right to be informed was closely connected with the idea of social self-management – more specifically, the idea that the worker had to be informed to be able to participate in self-management in a meaningful way.

The proclamation of the 1974 SFRY Constitution confirmed the view that information was an important precondition for further development of the self-management socialist relations. In this Constitution as well, the holder of that right was "the worker and citizen,"[30] and he/she was granted the right to be informed about all events relating to his/her life and work and the issues relevant for the community.[31] The right, but also the obligation of the worker to be informed was specified in more depth under the Law on Associate Labour (Zakon o udruženom radu). In this Law, the quintessence of informing the workers was considered in the function of satisfying the individual's right to self-management, and availability of information was recognised primarily as an element for the decision-making in the self-management process.

From the above discussion, it is clear that the right to information of public importance, as it is defined in today's legal theory and practice, did not exist in the former SFRY. At the same time, the proclaimed principle of freedom of information needs to be considered carefully. As Čok[32] points out, the media were recommended

[26] V. Čok, *op. cit*, p. 78.

[27] *Ibid*.

[28] The civil service authorities' administrative transparency and some of its aspects had been recognised as a need even before that - See S. Popović, "Odnosi uprave i građana - sa pravnog aspekta", Belgrade, 1692, p. 14. The administrative transparency is immanent to self-management.

[29] Article 34, Item 5, of the Constitution.

[30] As pointed out by V. Čok (p. 55), even though this pertains to Chapter III of the Constitution, which is titled "Freedoms, Rights and Duties of the Individual and Citizen."

[31] Article 168, Para. 1, of the 1974 Constitution.

[32] V. Čok, *op. cit*, pp. 141-142.

not only which subject they would cover, but also the method of treatment of an issue. The journalists were asked to exercise self-control, i.e. auto-censorship, and the media were given "the authorised views".

At the same time, notwithstanding the proclaimed principle of the public authorities' administrative transparency, it has to be taken into account that former SFRY had hundreds of regulations defining the term "secret".[33] The problem, as Sabic points out[34] lies not only in the enormous number of sources of law and their mutual inconsistency, but also in the fact that these regulations were outdated. At the same time, the prescribed criteria for pronouncing a document classified were often used lightly, where the disclosure of data from such documents was considered as endagering national or public security and defence, international relations and other security-related data. [35]

It may therefore be stated that Kregar is right in his argument[36] that SFRY, to a certain degree, nurtured the culture of secrecy, in which some issues were not to be discussed, and that the majority simply kept quiet and accepted tacitly the division of the allowed and prohibited issues. Although there were public discussions, free press, occasional demonstrations, criticisms, it must not be forgotten that SFRY was not a democratic state, and hence its democratic elements were limited. Only after the opening and modernisation of the post-socialist legal systems in the last decade of the 20th century, during the transition period, which was guided by the requests for democratisation by way of the introduction of the legal and political accountability, the right to information is becoming one of the preconditions for the acceptance among the states with a developed democratic tradition.[37] As it would turn out, the intensive legislative activity in this area in the countries created in the territory of the former SFRY ensued only in the first decade of the 21st century.

5. Precursors to the Ombudsman Institution

Although former Yugoslavia was not a democratic state, it did have institutions that in many aspects were overwhelmingly reminiscent of the Ombudsman as it is known by the Western democracies. The reasons for this should be sought in the

[33] J. Popović, " Legislative Regulation of Data Confidentiality in the Countries on the Territory of the Former Socialist Federal Republic of Yugoslavia", *Atlanti*, Vol. 20, Trieste 2010, pp. 229-238.

[34] R. Šabić, "Otvorena pitanja primene zakona o slobodnom pristupu informacijama od javnog značaja u periodu nakon usvajanja zakona o tajnosti podataka", zbornik radova "Pristup informacijama od javnog značaja izaštita tajnih podataka", OEBS i CUPS, Beograd, 2012, p. 26.

[35] J. Popović, op. cit. 229-238

[36] J. Kregar, V. Gotovac, Đ. Gardašević, "Regulacija prava na pristup informacijama", Transparency International Hrvatska, 2004, p. 4.

[37] *Ibid*, p.13.

different, more open nature of the political and economic system in comparison to the countries of the Eastern Block, as was pointed out in the introductory section. Some authors argue that while it was professedly "communist" in philosophy, Yugoslavia was increasingly "democratic" in practice, as it recognised that the agreed state interests did not necessarily mean a lack of attention to the individual rights.[38]

The first institution that in many aspects resembled the Ombudsman was established after the adoption of 1963 Constitution. The 1963 Constitution guaranteed its citizens the right to complain against actions of the administrative authorities, pose questions and request that they are answered, and also to submit proposals of general interest. As the citizens had a right to submit such proposals and complaints to all state authorities, this caused problems in practice, as the authorities did not have sufficient the capacity to deal with these complaints. As a result, the Commission for Applications and Complaints was established. Although it was a dependent body, this Commission, similar to the Ombudsmen, had the right to investigate and propose, i.e. request official explanations from the competent authorities relating to the issues against which it received complaints.[39]

In the 1960s and early 1970s, several articles were published by renowned authors and several public debates held on the issue of the need to introduce the Ombudsman institution.[40] All that culminated in 1974 with the introduction of the social self-management protector institution, which was established by the Federal and Republic Constitutions, and specified in more depth at the level of the Republics.

Article 131 of the 1974 SFRY Constitution stated: "The social self-management protector, as an independent body of the social community, executes measures and legal remedies, and performs other statutory workers' and social ownership rights and duties. The social self-management protector initiates before the assembly of the socio-political community, constitutional court, or a court of law, the procedures for the protection of the workers self-management rights and social ownership, as well as the procedures for the annulment or abolishment of all decisions and other acts violating self-management rights and social ownership. The social self-management protector initiates the procedures for the protection of the workers self-management rights and social ownership at its own initiative or at initiative of the workers, organisations of associated labour, or other self-management organisations and communities, trade unions, and other socio-political organisations, state authorities and citizens. At the request of the social self-management protector, the state authorities and self-management organisation bodies are obligated to provide him/her all data and information relating to the performance of his/her function."

The social self-management protector was established at the federal level,

38 W. Gellhorn, *Ombudsmen and others*, Harvard University Press, Cambridge 1967, p. 256.

39 *Ibid*, p. 284.

40 For more details see S. Lilić, D. Milenković, B. Kovačević – Vučo, *Ombudsman*, Komitet pravnika za ljudska prava, Belgrade 2002, pp. 256 - 258.

in each of the Republics and Autonomous Provinces, and could also be established in smaller territorial units (e.g. municipalities). It can be argued that it enjoyed a relatively high degree of institutional independence, and although it was established by the state, it was a social body, i.e. "body of the social community", a predominantly sociological, rather than a legal category.[41] The constitutional and statutory guarantees, as well as the term of office at four years, which could be shortened only in a small number of cases,[42] went in favour of the independence of this institution. However, in the circumstances of the single-party system and appointment by the assembly of the relevant "socio-political community", clearly there could be no question of *de facto* independence. Even the normative framework left a clear possibility in a number of instances for the appointment of distinguished party officials without the required qualifications, and thus the paradoxical requirement was specified for the deputy social self-management protector that the candidate must have a legal background, which was not a requirement for the social self-management protector.

Although it had relatively broad investigative and initiative powers, the social self-management protector was notably different from the Ombudsman, also on account of its much narrower authorities, which were limited to the self-management rights and social ownership only. The protection of the concept of "associated labour" and the theoretically (and practically) problematic concept of "social ownership" alone excludes primarily the citizen as a subject of protection.[43] Given that today's Ombudsman ensures human rights protection, it is clear that, regardless of its considerable similarities with the Ombudsman, the social self-management protector could be considered only as a quasi-ombudsman institution.

By the end of the 1980s, with the breakup of SRFY, this institution completely disappeared. Although it cannot be argued that former Yugoslavia did have an ombudsman institution, it should be taken into account an institution with similar characteristics did exist in the communist Yugoslavia for more than fifteen years. That is another indication of the differences between the state and social system and the environment in SFRY in relation to the other neighbouring communist countries.

6. Internal and External Audit

The countries in the region do not have a tradition of internal audit, as that is a completely new profession, which was established in these countries after 2000. Prior to that internal audit did not exist, as there was no modern internal financial control system in the public sector.

[41] D. Radinović, *Ombudsman i izvršna vlast*, Službeni glasnik, Belgrade 2001, 285.

[42] At personal request, and also in the event of a valid judgment sentencing him/her to unconditional imprisonment, and finally, if he/she lost his/her work capacity for the performance of the function.

[43] S. Lilić, D. Milenković, B. Kovačević – Vučo, *Ombudsman*, Komitet pravnika za ljudska prava, Belgrade 2002, p. 260.

The security and defence sector in the former Socialist Federative Republic of Yugoslavia (SFRY) did not recognise modern concepts of internal and external audit and hence it is understandable why there were no separate internal or external audit regulations in this respect. However, it may be argued that there were some forms of internal control in the then Federal Secretariat for People's Defence, i.e. the ministry of SFRY responsible for defence affairs, as the Secretariat had its units responsible for internal control, which carried out both *ex ante* and *ex post* control of the Secretariat's operations and performance.

Within the Secretariat for People's Defence, there were formally different internal control mechanisms (oversight, expert internal control, inspection, etc.) that were applied concurrently with the regular operating procedure, inbuilt into that process as its integral parts, and a part of continued oversight over the staff of the Secretariat. However, these types of controls do not correspond to today's meaning of internal financial control, and surely they cannot be equated with the meaning of internal audit. They were of little practical importance, considering that irregularities and illegal actions in the operations in the security and defence sector were rarely identified.

Internal control was implemented as a part of the regular control of resources and activities performed by the managers, and as a part of the control of regularity and compliance of financial transactions performed by the financial service and other professional service bodies. In performing the tasks relating to the Secretariat's financial management, the financial service performed *ex ante* control of the documentation that supported payments, and the control of the stocks and movements in the business books and records (in order for the manager to be able to give approval or no objection for a specific act or action). In the *ex post* control procedure, internal controllers assessed the legality, accuracy and regularity of transactions in relation to revenue, expenditures, and state-owned assets management.

The defence inspection activities were traditionally delegated to the defence inspectorate, which was known in the late 1980s as the General People's Defence Inspectorate. The defence inspectorate was a state authority, within the Secretariat for People's Defence, responsible for inspection activities relating to the implementation of regulations within and relating to the security and defence sector, and which *inter alia* performed a type of control of the financial and material performance of the Defence Secretariat (material-financial inspection). The implementation of oversight inspections, in accordance with separate laws, was delegated also to the Budget Inspection, which performed external control of the revenue proceeds, control of legal compliance of material-financial operations, and the control of restricted use of budgetary resources by way of a direct insight into the operations and acts. These forms of oversight were classic inspection controls of the Defence Secretariat, and can be considered *ex post* control of the rationality and effectiveness of spending.

In contrast to internal audit, the former SFRY countries have a long tradition of external audit that dates back to Kingdom of Yugoslavia. Namely, the Kingdom

of Yugoslavia (before the World War II) had the institutional control of budget expenditures that was performed by the Main Control the Kingdom of Yugoslavia – a Supreme Audit Institution under collective management, that performed almost all the functions of the modern Supreme Audit Institutions, and especially those in countries with the accounting court model. The Main Control was independent and had discretion to decide on its organisation, audit plans, and entities to be audited, and no other authority could impose it mandatory instructions and orders. The most important functions of the Main Control included *ex ante* and *ex post* budget execution controls.

After the II World War, external audit function was entrusted to the Social Accounting Service (SDK), which was established in 1959 as a *sui generis* institution performing external control and oversight of the financial-material operations of the social recourses (budget) spending units and commercial entities. The SDK was a public service, i.e. an autonomous and independent organisation that executed social accounting activities and payment transactions.[44] Its independence was guaranteed by Article 77 of the 1974 SRFY Constitution, which stipulated that the SDK operated independently, in accordance with laws and other regulations, and that it was accountable, within the scope of its rights and obligations, for implementation thereof. For their actions in the course of the performance of its tasks, the SDK was accountable to the SFRY Assembly, which oversaw its activities and received its annual performance reports.[45]

As a part of its multiple competencies, the SDK also performed the control of the budget execution. As such control included some elements of external audit of budgetary resources is a special form, it can be argued that the SDK did perform the function of the state auditor, i.e. Supreme Audit Institution, even if it did not comply with the international standards for Supreme Audit Institutions. Furthermore, the SDK played a very important role for the overall SFRY system, as it enabled the state to have full control over the economic movements, which was contrary to market economy. All budget spending institutions and commercial entities were obligated to open their account with the SDK, which established independently if the obligations towards the state were settled, and which deducted tax payments directly from the legal entities' accounts.

The SDK performed the control activities within its organisational units and in the social funds spending institutions, based on the data from their records, reports, financial management orders, and based on the accounting and other statements, annual financial statements, and other accounts of the social funds spending

[44] See Article 4 of the Law on Social Accounting Service (Zakon o Službi društvenog knjigovodstva,) *Official Gazette SFRJ*, No. 70/83, 16/86, 72/86, 74/87, 61/88, 57/89, 79/90, 84/90, 20/91.

[45] Articles 13, 19-20 of the Law on Social Accounting Service.

institutions.[46] In case the control identified that an assets position was not accurately estimated or that the bookkeeping records were not orderly and up-to-date, the order was issued to conduct assets stocktaking and evaluation within the specified timeline. In case illegal actions and irregularities were identified, the authorised persons had the right and obligation to adopt a decision, ordering measures for the elimination of the identified irregularities.

The economic-financial audit activities included the audit of annual financial statements, and audit of the social funds spending institutions' performance.[47] The activities on the audit of annual financial statements included the examination and assessment of the applied accounting procedures and the accuracy of data, and issuing opinion on that basis about the reality and objectivity of the financial positions and sources and performance results shown in the annual financial statements of the social funds spending institutions.[48] The economic-financial performance audit included examination and assessment of the rationality and efficiency of operations and the overall business performance, and proposing measures for the improvement of the operations and performance of the social funds spending institutions. The performance audit was conducted at the request of a social funds spending institution.[49]

The SDK performed also *ex ante* control of the social funds spending institutions by executing their payment orders only if they were issued in accordance with the regulations and if adequate funds were available for the payment in the issuer's giro and other accounts. Otherwise, the Service refused to execute payment orders that did not satisfy the requirements, and informed the social funds spending institutions about the reasons for the refusal to execute the payment order.[50] The restricted use of social funds was controlled by matching the purpose codes in the payment order (grounds for payment), i.e. transfer order, and the budget to establish if the funds were allocated for those purposes. The orders could not be effected if no funds were allocated in the budget for that purpose, so that is can be argued that the control by the SDK had some features of the specific internal control of the budget spending institutions.

The SDK performed the tasks under its scope of activities relating to army corps and military institutions through its separate organisational unit, to assess how the army corps and military institutions managed finances in their accounts. Through its separate organisational unit, in accordance with its competences, the SDK performed also a special control of the organisations of associated labour

[46] Article 48 of the Law on Social Accounting Service. The previous Law on Social Accounting Service (*Official Gazette SFRJ*, No. 2/77, 22/78, 35/80, 43/82, 41/83) stipulated that the SDK performed the control activities by way of preventive and inspection controls and financial-material performance audits (Article 45).

[47] Article 69 of the Law on Social Accounting Service.

[48] Article 70 of the Law on Social Accounting Service.

[49] Article 77 of the Law on Social Accounting Service.

[50] Article 107 of the Law on Social Accounting Service.

manufacturing weapons and military equipment, under the procedure that applied also to other social funds spending institutions.[51]

7. Human Resources Management

From the end of the World War II and until the late 1980s, human resources management in the civil service had three main stages of development. The first stage begins from the adoption of the 1946 Law on Civil Servants (Zakon o državnim službenicima), the second stage from the adoption of the 1957 Law on Public Servants *(*Zakon o javnim službenicima), and the third state begins after the adoption of the 1978 Law on the Basic Principles of the State Administration System, the Federal Executive Council and the Federal Administrative Organs (LBPSAS).[52] This Law remained in force, in some segments, at the federal level until the breakup of the State Union of Serbia and Montenegro in 2006.

While in the first two stages of civil service development the law clearly differentiated between the civil/public servants and private sector employees, the third stage of development is characterised by gradual equalisation of civil servants and private sector staff status. The 1946 Law on Civil Servants governed the status of civil servants in a narrow sense (covering only the personnel in state authorities) and introduced centralisation of the human resources function, based on the then USSR model. [53] The Law on Public Servants, adopted on 12 December 1957,[54] broadened the scope of regulation, governing the legal status of not only staff of state authorities, but also of public services (education, science, and culture institutions; health institutions; social insurance funds and social security institutions).[55] Finally, the Law of 1978 abolished the terms 'civil servant' or 'public servant' and introduced a simple term 'employee'. Nevertheless, the status of federal and republican Government personnel was not fully equalised with private sector workers, as the 1978 Law did regulate their status in a special manner, but more in line with practices in the private sector. Such change is a result of the development of self-management and the approximation of the human resources systems in the civil service and in the private sector.

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[51] See Articles 80-82 of the Law on Social Accounting Service.

[52] Zakon o osnovama sistema državne uprave, Saveznom izvršnom veću i saveznim organima uprave [Law on Basics of the System of State Administration, Federal Executive Council and Federal Administrative Organs- LBSSA], *Official Gazette SFRY*, No. 23/78, 58/79, 21/82, 18/85, 37/88, 18/89, 40/89, 72/89, 42/90, 44/90, 74/90, 35/91, and Official Gazette of SRY, No. 1/92, 31/93 and 50/93.

[53] E. Pusic, *Nauka o upravi*, Zagreb 1973, p. 196.

[54] *Official Gazette* FNRJ No. 53 1957.

[55] Articles 15-22 of the Law on Public Officials.

In all three periods, competitions were the basis for entering into an employment relationship to ensure merit-based recruitment. Hence, for example, Article 90 of the Law on the Basic Principles of State Administration System (1978) emphasised that in the recruitment process in the administration authorities special attention has to be given to: 1) the need to ensure staff with appropriate professional and other qualities required for service in the administrative authority; and 2) consistent application of the competition institution as the democratic form of recruitment in the administration authorities. In the federal administration, after 1974, public competitions had to be published in the Official Gazette of SFRY and they could also be published in the official gazettes of the Republics and Autonomous Provinces, and in several daily newspapers.

However, there were also some important exceptions from the principle of carrying out competitions as a basis for recruitment. Thus, for example, in accordance with the provisions of the Law on the Basic Principles of State Administration System, the Federal Executive Council could prescribe that for the performance of specific functions and tasks in a federal administration authority, employment relationship could be established also without a public competition, if that was required by the nature of the functions and tasks or responsibilities for the performance of tasks or other special working conditions.[56] Exceptionally, temporary employment for a maximum period of three months when due to the urgency of the need it was not possible to hold a public competition, and seasonal employment for the staff that had performed those same tasks in the administrative authority in the previous season, could be established without a public competition.[57]

It is interesting to note that there was no obligation to hold written examinations in the recruitment process, and that that was left only as a possibility. This solution was in accordance with the general labour regulations, which stipulated that, "a working community *may* test a worker's professional and other working capacities even before he/she is admitted to employment in the organisation of work (workers' audition, written test or other forms of preliminary competency assessment).[58] Thus, in the federal administration, the public official managing a federal administration authority *could* decide to test the applicants' professional and other competencies and their other qualities in the recruitment procedure for specific tasks and activities. If the decision was made in the course of the recruitment procedure to test the applicants' professional and other competencies and qualities, that had to be indicated in the competition announcement.[59]

From 1978, the competition procedure was implemented by a competition commission, which operated in accordance with the transparency principle. The

[56] Article 320 of the LBSSA.

[57] Article 319, Para. 2 of the LBSSA.

[58] Article 21 of the Basic Law on Labour Relations (Osnovni zakon o radnim odnosima).

[59] Article 324 of the LBSSA.

commission would be established by the so-called "working community," which was a form of self-management organisation and the workers decision-making. The competition commission was obligated to consider the submitted applications and prepare a short-list of applicants based on the requirements met by individual applicants. As the work of the competition commission was public, the applicants had the right to be present at its meetings and to comment its work and the specified order of the short-listed applicants.[60] The competition commission maintained also minutes from their sessions. For senior positions, the competition commission would be established by the Federal Executive Council.[61] The members of this commission included: the public official managing the federal administration authority or a person he/she authorised, a representative of the working community, and a representative of the union organisation.

The only mandatory examination that traditionally had to be taken in the state administration authorities (as is the case in most of the former Yugoslav republics even today), was the so-called "state examination" at the end of the internship. The state examination was public, and it was taken before a special examination commission. The examination comprised the general and the specialised part, and it was taken both orally and in writing.[62] The general part was the same for all public servants, while the specialised part was tailored to the needs of specific services.[63] The 1957 Law on Pubic Servants stipulated a possibility for public servants in the highest pay grade in the lowest rank who do not meet the general requirements for promotion to take a special examination for promotion to a higher rank.[64] If an intern failed to pass the state licensing examination within the specified period, his/her employment in the federal administration authority, i.e. federal organisation, would be terminated.[65]

The career advancement procedure changed over time, and it was most thoroughly regulated under the 1957 Law on Pubic Servants. The general criteria for advancement for all public servants were: 1) professional competence, 2) commitment, 3) performance, and 4) years of service. The advancement implied the promotion to a higher rank, a higher office or a higher pay grade (Article 185 of the Law on Public Servants) for civil servants.

The 1957 Law also introduced civil servants' performance assessment. The PA was conducted by comparing of the actual performance with the requirements specified in the job description, rather than on the assessment of the workers' personal characteristics, which is fully in line with the modern civil servants' assessment tendencies. The civil servants were marked on a scale of one (the lowest, fail mark) to

[60] Article 232 of the LBSSA.

[61] Article 231 of the LBSSA.

[62] I. Krbek, *Lica u državnoj službi*, Zagreb, 1948, p. 80, as cited by E. Pusic, *Nauka o upravi*, Zagreb 1973, p. 196.

[63] Articles 173 – 174 of the Law on Public Servants.

[64] Article 188, Para. 2, of the Law on Public Servants.

[65] Article 336 of the LBSSA.

five (the highest mark). The assessment was done by a commission on an annual basis. The assessment commission was, as a rule, the board of the authority, and it decided on a general mark (one of the five marks) based on the questionnaire filled in by the immediate superior in the authority. The assessment had significant consequences on the public servant's legal position (withdrawal of promotion, exceptional promotion, etc.).

Public servants were promoted to a higher rank after they had spent three years in the highest pay grade in the immediately lower rank, provided that they got a "good" mark in the previous two years.[66] There was also a possibility of accelerated advancement for the civil servants excelling at work. Although the system depended to a large extent on the civil servants' competencies, the tendency to give more weight to years of service than was envisaged in the theoretical rules for the system was undoubtedly present in practice.

The pay was based on performance as well, which is also in line with the modern tendencies in terms of the civil service performance assessment and remuneration. The pay grade promotion was, in principle, automatic, at every three years, but a public servant could be promoted even earlier if he/she excelled at work. A public servant could also be withdrawn promotion – the year in which he/she did not get a positive assessment mark would not count towards the three year term.

The 1978 Law formally moved away from the merit-based promotion, introducing broad discretion of managers to appoint civil servants to higher positions. The main advancement method was a civil servant's reallocation within the administrative authority in accordance with the decision by the manager of the administrative authority. The Law on the Basic Principles of State Administration System stipulated that a public official managing a federal administrative authority might decide to reallocate a worker in the federal administrative authority to another function that was appropriate to his/he professional qualifications, in accordance with the criteria specified in the act on the systematisation of functions and tasks. Reallocation was the main promotion method in other administration authorities as well, and it was based on agreements between their managers.[67] The reallocation of a worker from one position to another was done without his/her consent, if in line with the nature of the activity of the federal administration authority, i.e. federal organisation, unless otherwise specified by law.[68]

The grounds for termination of an employment relationship in all three periods were taxatively listed in the law. In accordance with the provisions of the Law on the Basic Principles of State Administration System, a worker's employment relation would be terminated in the following events:

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[66] Article 187, Para. 1, of the Law on Public Servants.

[67] Article 358 of the LBSSA.

[68] Article 361 of the LBSSA.

1) if he/she stated in writing that he/she did not wish to be employed in that authority;

2) based on an agreement in writing between the worker and the federal administration authority, i.e. federal organisation;

3) if he/she refused to perform functions and tasks to which he/she had been reallocated, and which were appropriate for his/her professional qualifications and work experience;

4) if he/she refused to work in other appropriate functions and tasks to which he/she had been reallocated by not performing specific functions and tasks in a satisfactory manner;

5) based on a valid decision by the disciplinary commission imposing him/her a measure of termination of employment;

6) as of the date of submission of a valid judgement sentencing the worker to imprisonment for more that six months;

7) if he/she reserved or gave inaccurate information at the point of entering into employment relationship, and such information was relevant for the performance of the functions, i.e. tasks for which the employment relationship was established.

In conclusion, it is quite interesting to note that former Yugoslavia did have a fairly well developed system of human resources management not only in the civil service, but also in the public sector, especially during the period of 1957-1978. Such as system did recognise all modern institutes of human resources management that promote the merit principle, such as a competition procedure, performance assessment, promotion based on merit, civil service stability and performance related pay. Unfortunately, the 1978 law, which to a high extent aligned the status of civil servants with private sector workers, did not keep the majority of the advanced human resource management instruments that existed beforehand. Due to the imminent passage of time, the regulations that existed at the end of 1980s (i.e. 1978 Law) have to some extent been kept in the memory of civil servants, while those from the earlier period have been largely forgotten, leaving an important part of the ex Yugoslav tradition covered with a veil of oblivion.

8. Development of Intelligence and Security Services Control and Oversight

By the mid 1960s, the intelligence and security functions in the Federal People's Republic of Yugoslavia/ Socialist Federal Republic of Yugoslavia had a distinctly centralist character, with a concentration of authority at the federal level, which, in addition to national defence, included internal affairs and state security. Before the enactment of the constitutional amendments in 1967 and 1968, the Federation had had the exclusive competence in the field of the protection of the constitutional order, security and national border control.

The Fourth Plenum ("Brioni Plenum") of the Central Committee of the Yugoslav Communist Party (SKJ) was held on 1 July 1966 in order to establish full control of the Party over the security services and abolish the structures within the State Security Administration (UDBA) that had been described as statist-centralist.[69] The immediate cause for the organisation of the Fourth Plenum were the accusations that the State Security Administration had planted listening devices in the residence of Josip Broz Tito in 15 Uzicka Street in Belgrade.

In the period between the Brioni Plenum and the dissolution of the SFRY, the further course of the development and direction of the Yugoslav intelligence-security system was determined by the 1971 constitutional amendments, the Communist Party congress documents, the 1974 SFRY Constitution,[70] establishing the concept of national defence and social self-protection, the Law on the Foundations of the State Security System, [71] the Federal Law on National Defence[72] and the republic laws in that area.

The provisions of the 1974 SFRY Constitution stipulated that, "the Federation, through its federal administrative agencies, regulates the fundamentals of the protection of the order stipulated by this Constitution (state security), ensures the State Security Service activity necessary for the exercise of the federal agencies' responsibility, as specified in this Constitution, and coordinates the activities of the state security authorities."[73]

In accordance with the **Law on the Foundations of the State Security System**,[74] "the Federation, through its agencies authorised by the SFRY Constitution,[75]

[69] "Ekspoze saveznog sekretara za unutrašnje poslove Milana Miškovića povodom donošenja Osnovnog zakona o unutrašnjim poslovima," *13. maj – časopis Saveznog sekretarijata za unutrašnje poslove*, godina XIX No. 12, Belgrade, December 1966, pp. 1011-1013.

[70] *Official Gazette SFRY*, No. 9/74.

[71] *Official Gazette SFRY*, No. 1/74.

[72] *Official Gazette SFRY,* No. 21/82.

[73] Article 281, Item 8, of the SFRY Constitution.

[74] *Official Gazette SFRY*, No. 15/84 and 42/90.

[75] SFRY Presidency and Federal Executive Council.

establishes the general policy relating to the protection of the SFRY constitutional order, coordinates the activities of the state security authorities, and performs other duties specified by the federal law."[76] The same law stipulates that, "the Republics and Autonomous Provinces organise and directly perform the national security function in accordance with the SFRY Constitution, federal laws, and the policy established by the SFRY Assembly in this area." [77]

The Law on the Foundations of the State Security System stipulated that, "after the SFRY Presidency has determined, on their own initiative or at the proposal of the Federal Executive Council, that special security reasons so require, the competent federal authorities shall cause the performance of or perform the necessary SFRY constitutional order (state security) protection activities in the overall the territory or in specific parts of the territory of the Socialist Federal Republic of Yugoslavia, to suppress the activities aimed at undermining or overthrowing the order established by the SFRY Constitution."[78] Article 9 the same Law stipulated that, "the national security functions at the federal level shall be performed by the Federal Secretariat for Internal Affairs and other federal administrative agencies when it is expressly specified, and in the Republics and Autonomous Provinces - republic or provincial authorities responsible for internal affairs," and that, "the Federal Executive Council shall determine which national security functions and to what extent shall be performed by specific federal agencies."

Within this framework, in addition to specific intelligence coordination and control authorities and bodies, the SFRY intelligence and security system comprised the federal state security secretariat for internal affairs and the internal affairs authorities at the level of the Republics and Autonomous Provinces, the Yugoslav People's Army (JNA) Headquarters Second (Intelligence) Directorate, the Security Office of the Federal Secretariat for National Defence and Security Agencies, the Territorial Defence, and the Research and Documentation Service of the Federal Secretariat for Foreign Affairs. In some respect, the national security function was exercised also by the Security Institute, which was founded in 1976, as a part of the Federal Secretariat for Internal Affairs (SSUP).

The work of the state security agencies in this period was **coordinated**, within framework of the SFRY constitutional rights and duties, by the *President of the Republic* (until 1980), *the SFRY Presidency,* and *the Federal Executive Council* (SIV). This coordination included the political and security guidance of the state security agencies' operations and identification of their common tasks - from the aspect of the security interests and the needs of the country as a whole.

The Federal Council for the Protection of the Constitutional Order was a collective working body of the SFRY Presidency, and a security coordination body

[76] Article 7 Para. 2 of the Law on the Foundations of the State Security System.

[77] *Ibid*, Article 7, Para. 3.

[78] *Ibid*, Article 8, Para 1.

that operated continuously since 1975, although it was officially established only in 1983, by the federal law.[79] The Chairman and two members of the Federal Council for the Protection of the Constitutional Order were appointed by the SFRY Presidency from among its members, while the other members included the Chairman of the Presidency of the Central Committee of the Communist Party, the Chairman of the Federal Executive Council, while one member was a senior public officer from the socio-political organisation bodies at the federal level, and was appointed by the SFRY Presidency, in consultations with these bodies. The work of the Council was open for the participation by the federal secretaries (ministers) for national defence, foreign and internal affairs, and heads of the State Security Service of the Federal Secretariat for Internal Affairs, Security Administration of the Federal Secretariat for National Defence (SSNO), and the Research and Documentation Service.[80] The work of this body was open also for the representatives of the SFRY Assembly, socio-political organisation bodies (SKJ, SSRN, etc.), and the relevant authorities of the Republics and Autonomous Provinces.

On its own initiative or at the request of the SFRY Assembly and the SFRY Presidency, i.e., the relevant republic and provincial authorities, the Federal Council for the Protection of the Constitutional Order considered specific materials relating to security issues, and particularly to the issues of special importance for the cooperation of professional services and other social self-protection entities. The Council provided appropriate recommendations and suggestions to the SFRY Presidency and socio-political organisations in relation to the considered security situation. This body was authorised to adopt views and opinions that were binding for the SFRY intelligence and security services.[81]

In the period following the declaration of the Federal Republic of Yugoslavia on 27 April 1992, at the federal level, there was no longer any body responsible for the coordination of services similar to the Council for the Protection of the Constitutional Order. In a certain sense, its functions were taken over by the *Supreme Defence Council*.[82]

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[79] The legal basis for the establishment of the Federal Council for the Protection of the Constitutional Order was the provision of Article 331 of the SFRY Constitution, according to which the SFRY Presidency could establish other councils or other bodies, necessary for its operations. In accordance with that, on 26 December 1974, the President of SFRY, Josip Broz Tito, proclaimed the Law on Federal Councils.

[80] O. Djordjevic, *Osnovi državne bezbednosti – Opšti deo*, VŠUP, Belgrade, 1998, p. 298.

[81] In addition to the Federal Council for the Protection of Constitutional Order, which was a separate body, established by a separate law, with its special functions, there were also Councils for the Protection of Constitutional Order at the level of the Republics and Autonomous Provinces, which had a different position and functions.

[82] In accordance with the provisions of Article 135 of the SFRY Constitution, the Supreme Defence Council comprised the President of the Federal Republic of Yugoslavia, who chaired the body, as well as the Presidents of the Member Republics.

In order to exercise control over the activities of the federal state security agencies, in 1985, pursuant to of Article 17 of the *Law on the Foundations of the State Security System*, the Federal Assembly established a **Commission for the Oversight of the State Security Service**. It was stipulated that the Commission controlled the legality of the state security agencies, particularly in terms of their compliance with the SFRY Constitution and the statutory civil and citizens' rights and freedoms, and in terms of the methods and tools used by the authorities in the performance of their competencies. The law stipulated that the Chairman and the members of the Commission were appointed by the SFRY Assembly, and that the body was obliged to report on its work at least once a year to the Assembly.

In the period between 1985 and 1991, the Commission for the Oversight of the State Security Service performed the activities within its jurisdiction to the extent it was possible, and existed formally until the declaration of the Federal Republic of Yugoslavia, on 27 April 1992.[83] The Rules of Procedure of the Federal Assembly of FRY, which were adopted in the 1990s, did not provide for the establishment of the Commission for the Oversight of the State Security Service, so that this area at the federal level was no longer under a direct parliamentary oversight. Instead, the Federal Assembly had a **Committee for Defence and Security**, which was authorised to the consider draft laws, other regulations and general acts relating to security, citizenship and passports, the status of aliens, border crossings, all types of safety in traffic, production, trade and transport of weapons, explosives, and other hazardous materials, as well as to consider all issues relating to the control of the activities of the Federal Government and other federal agencies and senior officials reporting to the Federal Assembly.

The integrated state security service operating principles were specified by the heads of the federal state security agencies, subject to the consent of their superior political bodies, i.e., the Federal Executive Council (later also the SFRY Presidency) or their authorised bodies.[84] The integrated principles regulated when and to what persons, foreign agencies, institutions and organisations the State Security Service instruments and methods could be applied and under what conditions. They also stipulated the responsibility for the use or potential abuse of these instruments and methods.

In 1975, the Federal Council for the Protection of the Constitutional Order adopted special *Guidelines* stipulating that certain public office holders (e.g., federal and republic senior officials) could apply operational and technical measures only subject to the approval of the Council. The Rulebooks stipulated that certain State Security Service methods could be used in case of threat to the constitutional order,

[83] From 1985 to 1991, the Commission for the Oversight of the State Security was chaired by Jovica Lazarević, Dušan Pekić, Rajko Ječmenica, Ljubomir Petrović, Živko Vasilevski, and Jože Šušmelj.

[84] The 1974 Law on the Foundations of the State Security System stipulated that the operating principles were adopted by the heads of the federal state security agencies, subject to the consent of the SFRY Presidency.

i.e., socio-political arrangement, and other criminal offenses within the scope of the Service, but in accordance with a special procedure, with maintaining records and files on the implemented measures and actions.

It can be concluded that throughout the period of the Socialist Federal Republic of Yugoslavia the intelligence and security services had very wide competences that were not defined clearly enough by law, which is characteristic for all authoritarian regimes. This is confirmed by the fact that from the end of World War II and until the break up of SFRY, no federal or republic legislation had explicitly referred to any civilian or military service. When the Law on the Foundations of State Security System was finally adopted in 1984, after the death of the lifetime president of SFRY, Josip Broz Tito, and under the pressure by the more liberal wing of the Yugoslav Communists Party leadership, it governed only the general issues in this area, leaving it to the executive and the heads of services to regulate the common legal matters - the establishment, functions, powers, organisation, method of operation, and responsibilities of the intelligence security and services under their internal guidelines. Throughout that period, the most important regulation relating to the operations of the security services was the Rules of Procedure of the State Security Service, which was a secret and publicly inaccessible by-law of the Federal Secretary for the Internal Affairs. Finally, it should be noted that in the period of existence of SFRY there were also no mechanisms for judicial review of the legality of the security and intelligence services and their operations.