

NEW SECURITY CHALLENGES  
Series Editor: Stuart Croft



**Security, Democracy  
and War Crimes**

Security Sector Transformation in Serbia

*James Gow and Ivan Zveržhanovski*



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# Security, Democracy and War Crimes

## Security Sector Transformation in Serbia

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and

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# Preface and Acknowledgements

We discussed doing this book many times over the years, especially in the mid-2000s, when we were working together on a research project, funded under the UK Economic and Social Research Council's New Security Challenges Programme. Ivan was employed as a post-doctoral research associate and James was an investigator at King's College London. We did some research on media and security, in relation to the war crimes issue in Serbia (published separately), but, inevitably, given our longstanding interest – in James' case, particularly longstanding, dating back 30 years – in the Belgrade military, we could not ignore other aspects of the war crimes legacy in Serbia, such as security sector reform, all part of the new security challenges' agenda. We began work on this book, heavily burdened with other commitments (including becoming parents along the way), and we agreed that the book would always be incomplete until the issue of General Ratko Mladić – under the command of whom 8000 Bosnian Muslims were killed at Srebrenica in July 1995 – was settled. Sometime after Mladić, by that point somewhat surprisingly, was arrested in May 2011, we returned to that conversation and decided to make the book real. However, by this time, Ivan had left the academy to work as a practitioner, making a real difference in the sphere of international peace and security, coordinating UNDP small arms control and security sector reform projects in South Eastern Europe. He had done the majority of the earlier research, at the coalface, as it were, but it fell to the professor, still engaged in academic industry at King's, to complete the research and the manuscript (also benefitting from research conducted as part of a project on visual material and war crimes funded under the UK Arts and Humanities Research Council's Beyond Text Programme). After many frustrations along the way, bringing this particular book project to completion is a matter of great satisfaction to two scholars whose roots lie in PhDs on the Belgrade military, and both of whom remain engaged at the cusp of research and practice with the aspiration to make a difference to peace and security, in a region blighted by the war crimes of the 1990s.

Many people helped us both along the way. To begin with, we owe a great debt to each other. We are enormously grateful to one another for all the help, support and friendship, back and forth, over more

than 15 years. We also owe big thanks to those with whom we worked at King's, where Ivan lectured (as well as working as a post-doctoral research associate) and James has worked for more than 20 years, as well as those elsewhere who were influential. At King's Rachel Kerr, our 'co-conspirator' in war crimes research and co-director of the War Crimes Research Group always provided help and inspiration. Our appreciation goes to Brian Holden Reid, Joe Maiolo, David Betz, John Stone and Ruth Deyermond, Barrie Paskins, Jan Willem Honig, Phil Sabin, Michael Dockrill and his late, wonderful wife, Saki, Andrew Rathmell, Christopher Dandeker, Brian Bond, Sir Lawrence Freedman and Mervyn Frost. Others with a King's link, at some point, include Zoran Pajić, Dov Lynch, Madoka Futamura, Tony Millett, Claire Gunter, Jessica Lincoln and Zahbia Yusouf. The support, friendship and companionship offered by all of those associated with the War Crimes Research Group at some point was invaluable.

Those who worked with us on the New Security Challenges Project and Programme also deserve major thanks. Marie Gillespie, Andrew Hoskins and Ben O'Loughlin were fabulous collaborators on a brilliant project. Stuart Croft, the New Security Challenges Programme Director, was always an immense support, both in the course of the project and beyond. We are particularly grateful to him for supporting publication of this book in the Palgrave New Security Challenges series.

The Geneva Centre for Democratic Control of Armed Forces (DCAF), in particular, Mr. Darko Stančić and Ms. Miriam von Borcke, gave Ivan opportunities to present work there, at the Young Faces Network. Others who deserve particular thanks include General Blagoje Grahovac, who was an invaluable fountain of information and a mine of documents that Ivan was otherwise unable to get. Maj. General John Moore-Bick, Major General Ljubiša Jokić, Mr. Jack Petri, General Ninoslav Krstić, H.E. Dr. Branko Milinković and General Momčilo Perišić all gave Ivan time and assistance, as did Ms Svetlana Djurdjević Lukić and Dr. Nebojša Vladisavljević. Those who gave James particular help include Gen. Bojan Zrnić, Gen. Petar Čornakov, Gen. Zdravko Ponoš and Col. Goran Desančić (the RCDS alumni!), as well as Nenad Dimitrijević, Simon Wilson and Iva Vukušić.

On the personal level, Ivan is grateful to Dawda Jobarteh, for being a great friend and an even better *kum*. He has made this whole experience so much more worthwhile and fulfilling. Thanks also to his friends, Nathalie Włodarczyk and Tanja Schuemer, and their respective significant others, for their friendship and intellectual stimulation, and Garfield and Giovanna.

We must express thanks to our three late and one surviving parents, without whom nothing would have been possible. Ivan's father, the one parent still with us, was always supportive, particularly to Ivan, when he was debating what to do after the MA at King's, over a glass of cognac, and helped make the decision to continue at King's for a PhD and, then, employment. He has been an endless source of support and advice. Dunja, Ivan's mother was a great treasure, who instilled enthusiasm for international relations in him, and was always there. She was always a source of friendly support, wisdom and love for James, as well. Her influence on this book is greater than could be recognised in any normal way. Ivan is grateful for the love and support of his brother, Andrej, who just makes everything look easy, and his late grandmother. Finally, we would like to thank our respective parents in-law (or Bake i Deke), Peter and Dušica, and Giovanni and Lena, for being so understanding and supportive.

Above all, on the most personal level, we both give immense thanks to our wives, Monica (Ivan's) and Milena (James'), and sons, Luka and Marko (Ivan's) and Gabriel (James') for all the love and support throughout the years. Enduring us over the years has been fun, at times, but a great pain, at others, we can be sure. Finally, they – and we – are free of this project. We apologise and take ownership of any mistakes that remain (which, alas, they always do), but we have endeavoured to ensure that everything is accurate and as it should be.

# List of Abbreviations

BIA	Bezbednosno-informativna agencija (Security and Information Service)
CEE	Central and Eastern Europe
CMR	Civil-military relations
DB	Državna Bezbednost (State Security)
DOS	Demokratska opozicija Srbije (Democratic Opposition of Serbia)
DPS	Demokratska Partija Socialista (Democratic Party of Socialists)
DS	Demokratska stranka (Democratic Party)
DSS	Demokratska stranka Srbije (Democratic Party of Serbia)
FRY	Federal Republic of Yugoslavia
GS	General Staff
ICTY	International Criminal Tribunal for the Former Yugoslavia
JNA	Jugoslovenska narodna armija (Yugoslav People's Army)
JSO	Jedinica za Specijalne Operacije (Special Operation Unit)
KOS	Kontra-obaveštajna služba (Counter-intelligence Service)
KLA	Kosovo Liberation Army (see also UÇK)
MoD	Ministry of Defence
MUP	Ministarstvo Unutrašnjih Poslova (Interior Ministry)
NATO	North-Altantic Treaty Organization
NS	Nova Srbija (New Serbia)
OTP	Office of the Prosecutor
PfP	Partnership for Peace
SFRY	Socialistička Federativna Republika Jugoslavija (Socialist Federative Republic of Yugoslavia)
SDB	Služba Državne Beszbednosti (State Security Service)
SNP	Socialistička Narodna Partija (Socialist People's Party)
SPO-NS	Srpski Pokret Obnove (Serbian Renewal Movement)
SRS	Srpska Radikalna Stranka (Serbian Radical Party)

UBVJ	Uprava Bezbednosta Vojske Jugoslavije (Security Directorate of the Army of Yugoslavia)
UÇK	Ushtria Clirimtare E Kosoves (Kosovo Liberation Army)
UDBA	Uprava Državne Bezbednosti (Directorate of State Security)
UNSC	United Nations Security Council
VBA	Vojno-bezbednosna agencija (Military Security Agency)
VJ	Vojska Jugoslavije (Army of Yugoslavia)
VMA	Vojno-medicinska akademija (Military Medical Academy)
VOA	Vojno-obaveštajna agencija (Military Intelligence Agency)
VRS	Vojska Republike Srpske (Bosnian Serb Army)
VS	Vojska Srbije (Serbian Army)
VSO	Vrhovni Savet Odbrane (Supreme Defence Council)

# 1

## Introduction

On 6 October 2000, Serbia embarked on a process of democratic change, a decade after the rest of Central and Eastern Europe.<sup>1</sup> The regime of Slobodan Milošević crumbled under popular pressure and democratic forces finally took centre stage. The transition from a hybrid post-communist dictatorship, authoritarian hegemony and façade democracy (or, as Andy Wilson had dubbed it in the Russian and Ukrainian contexts, ‘virtual’ or ‘fake’ democracy<sup>2</sup> – though ‘veneer democracy’ might be another, even more accurate, term), all combined, could begin in earnest. However, this was no more than the start. While no democratisation project can ever be considered complete, most former communist countries made fairly rapid progress to a consolidated position, where political processes were broadly in line with those in established liberal democracies. Central to those processes of transformation had been assuring both democratic accountability and reform of the security sector. Serbia was different. Serbia did not really find its democratic feet fully for another twelve years. The arrest of war hero turned war crimes fugitive General Ratko Mladić marked the closing bracket to the period begun with the fall of Milošević. The subject of this book is a particular aspect of that change: the transformation of civil-military relations and the war crimes legacy. This was core to the friction that delayed Serbia’s transformation, with a failure to address the war crimes legacy already embedded in the denial of the Milošević era, in which the crimes were committed. Our aim is to provide a comprehensive analysis of the process of transition, from a post-communist, or post-authoritarian defence and security system to a model based on the Western liberal experience, while seeking to explain the achievements and failures of the democratic regime.

A central problem for the democratic transition in Serbia and its ability to join Euro-Atlantic integration processes was its readiness to

address the legacy of the Milošević years and, in particular, the issue of war crimes committed during the Yugoslav War. The armed forces were a crucial part of this legacy and, as such, were central to the ability to resolve it. As in other Central and Eastern European countries, in Serbia the transformation of civil-military relations was a function of the combination of restructuring of the defence system, the establishment of a democratic legal and institutional framework which enables democratic and civilian oversight of the armed forces, and the development of capacity for an effective democratic management of security policy. However, the added dimension of the war crimes legacy complicated the issue and remained central to the problem of democratic control of the armed forces. The failure to resolve the problem of this legacy impeded the transformation of civil-military relations and in turn jeopardised the consolidation of democracy.

Before setting out the remainder of the book, this chapter will establish the two primary contexts for addressing the question of how the war crimes legacy impeded the democratisation of civil-military relations in Serbia. (A third, closely related context, but contingent to the primary focus of this study, is that of Serbian politics and history, which are briefly introduced in Chapter 2 and run throughout the volume.) The first primary context concerns the literature on civil-military relations in Yugoslavia and Serbia, the core focus of our analysis. The second is the wider context of civil-military relations and democratisation in Central and Eastern Europe's formerly communist countries. While our study is primarily a contemporary history of the security sector transition in Serbia and the peculiar challenges of confronting the legacy of war crimes that was the Serbian armed forces' and the country's heritage,<sup>3</sup> the theoretical literature on post-communist civil-military transition in Central and Eastern Europe is a significant context, for two reasons. First, Serbia's war crimes questions presented a distinct dimension that did not fit any of the templates developed. Second, although the war crimes legacy made Serbia an exception and presented a challenge to the theoretical models established, parts of that literature are used to inform the structure of our contemporary history, which progresses thematically, rather than using a purely chronological narrative. In turn, our study, by addressing this exception, can add reflectively to theoretical considerations of security sector reform. In doing all of this, we build on our well-received past work on the Belgrade military,<sup>4</sup> both as the JNA in Yugoslavia and in federal Yugoslavia's dissolution and war, and its successors, during the years of war (discussed below), as well as research conducted in the context of a project funded under the ESRC's

'New Security Challenges Programme', before Ivan Zveržhanovski left academic life for the world of the practitioner, and the AHRC's 'Beyond Text' Programme.<sup>5</sup>

The purpose of this book is twofold. First, on a more general level, it seeks to fill the gap in the field of study of the former Yugoslavia by examining one of the crucial aspects of the democratic transition in Serbia, while at the same time advancing knowledge on a topic of particular importance for the security of South Eastern Europe. Second, it seeks to advance general knowledge in the field of democratisation of civil-military relations in post-communist and post-conflict societies. The significance of this research is its attempt to advance knowledge and understanding of one of the central problems in the Western Balkans, namely the contribution to future conflict prevention in the former Yugoslavia through a democratic and civilian control of the security structures in Serbia and the tackling of the war crimes legacy. Therefore we shall argue that the transformation of civil-military relations and the establishment of democratic civilian control over the armed forces is crucial to ensuring long term security and preventing future conflict in the region, but that transformation of civil-military relations in Serbia could not be successful without addressing the war crimes legacy and successfully dealing with it. This legacy was an impediment to reforms, democratisation and the achievement of Western standards in the Belgrade armed forces.

## **State, society and military in Serbia**

The transition to democracy in Serbia was less straightforward than in most other former communist states. It was made possible by a mixture of the will of the people and military intervention in politics. The rule of Slobodan Milošević created a gap between the communist Socialist Federative Republic of Yugoslavia and a Serbia that was ready for democracy, as its people overthrew the Milošević regime on 5 October 2000. This gap was a state created out of violent break-up of the former Yugoslavia, whose transition to democracy was delayed by ten years of authoritarian rule. However, this authoritarian rule had a semblance of democracy with regular elections, a functioning parliament and a large and vocal opposition. While some aspects of pluralist arrangements existed throughout the 1990s, power was really exercised by a small group of people, lead by Milošević.<sup>6</sup> Hence, Serbia's transition was both post-communist and post-authoritarian and involved a decade of conflict on the territory of the former Yugoslavia. Serbia was a hybrid, with

some parts evolving towards democracy, while an authoritarian regime clung to power through any means necessary.

In addition, the state that the new democratic rulers inherited in October 2000 was in crisis. Milošević's rule had left Serbia with an inflated security sector and duplicating structures with their own vested interests.<sup>7</sup> As in all transitional countries, these structures, if left with no civilian control, could seek to establish themselves as 'states within states' and were inefficient, not only because they lacked clearly defined spheres of responsibility, but also because they formed a constant source of friction and the threat of civil or international conflict. In addition, the benefits of controlling security structures could become a focus of internal political struggle as they sought to play political actors against each other. Serbia provided a perfect example of this threat with the assassination of its first democratically elected Prime Minister, Zoran Djindjić, by members of the special security forces working together with organised crime groups.

As reforms and transition got under way, Serbia faced a bigger challenge than any other Central and East European country. Its military, although in some aspects highly professional, was still living in the shadow of the Yugoslav People's Army (JNA), was compromised by allegations of corruption and saw itself as legitimate actor in politics. Additionally, although there was formally one military, there were a number of other forces such as the Ministry of Interior (MUP) forces, as well as the remnants of the paramilitary forces from the war in Croatia, Bosnia and Kosovo. The presence of NATO troops on what was still formally the territory of Serbia and Montenegro as well as the remnants of the UÇK (Ushtria Çlirimtare E Kosoves)<sup>8</sup> and its offshoots, added to the confusing web of actors. Such a situation made transformation more difficult as well as more pressing and crucial.

For their part, the Serbian armed forces existed in a climate of almost ten years of international isolation, conflicts in the near abroad, a conflict on their own territory, and an authoritarian regime and economic hardship. These conditions, coupled with the legacy of the JNA strained the relations between society and the military.<sup>9</sup> Although shifting, this relationship was primarily shaped by factors such as domestic pressures, economic problems, the current threat perception, international engagement and most importantly the lack of obvious correlation between armed forces and society.<sup>10</sup>

There is a gap in the study of the former Yugoslavia, namely civil-military relations in Serbia. Only limited examples of serious scholarship exist to date, all of which are assessed below. Serbia is important

because of the central role that it played and will continue to play in the Western Balkans.<sup>11</sup> Having in mind the part Serbia played throughout the 1990s and the fact that its security structures were central to the fuelling of hostilities in the early 1990s, democratic civilian control of these services was a necessary step in the process of peace building and reconciliation in the former Yugoslavia, and these issues needed to be addressed. As we show in the following paragraphs, while the period of the JNA and the wars of the 1990s had received attention – notably, but not exclusively, our own – there has been no more than a limited attempt, until now, to address the post-conflict and, crucially, post-Milošević era.

Gow's *Legitimacy and the Military* examined civil-military relations in the Socialist Federative Republic of Yugoslavia (SFRY) through the development of a new approach based on the concepts of regime legitimacy and military legitimacy. He argued that Yugoslav civil-military relations were a function of regime legitimacy and military legitimacy and that this helps explain the state of civil-military relations through different stages.<sup>12</sup> In the case of the last days of the SFRY, military legitimacy was dependent on regime revitalisation, which, in turn, required a profound transformation of the armed forces. Without redefinition of the bases of military legitimacy, any regime re-legitimation would be virtually impossible.<sup>13</sup> Later work, developing from this, identified the Belgrade exception to post-communist patterns of civil-military relations, but offered only an overview, which is used as a departure point for the present book. Similar issues of legitimacy and civil-military relations confronted Serbia to those that confronted and, in the end, resulted in the demise of the SFRY, to which Serbia was one of the successor states.<sup>14</sup>

Serbia was the European exception in its pattern of civil-military relations in three ways: the absence of a clear break with the communist power structures and the past pattern of civil-military relations; the correlation of armed forces to statehood; and an uncertain national-international context.<sup>15</sup> Although under the regime of Slobodan Milošević Belgrade had some semblance of democracy (such as elections, a multi-party system, a parliament etc.), it was mainly run as a dictatorship relying on a strong internal security service and ultimately the control of information flows. Milošević never fully trusted the armed forces and relied heavily on the Ministry of Interior Police and Special Forces.<sup>16</sup> Nevertheless he was quite successful in mobilising them in line with his own goals.<sup>17</sup> Milošević's rule resulted in the creation of a complex of other forces (interior ministry and paramilitary) that had to be taken account of in discussing the transformation of civil-military

relations. The existence of two MUP forces with their special units, as well as semi-autonomous paramilitary units controlled by the Serbian Security Service (JSO – Jedinica za Specijalne Operacije), an insurgent force with its offshoot (UCK/KLA in Kosovo and UÇPMB in Southern Serbia), and the international presence in the form of KFOR all contributed to the unique complexity of the Belgrade security sector.<sup>18</sup> Hence, the basic civil-military question for Belgrade, after a decade of statehood defining war, concerned legitimisation and the correlation of statehood and regular armed forces.<sup>19</sup>

A number of works have dealt, in a limited fashion, with the problem of the armed forces after the break-up of Yugoslavia. Most of them treat the role of the armed forces only as part of a wider theme (be it war crimes, or a history of the Yugoslav war), but still provide useful background for this study. In one of our own earlier works, *The Serbian Project: A Strategy of War Crimes*, it is argued that the Serbian project was at the core of the Yugoslav war and that the essence of this project was the commission of war crimes due to the strategic decision to control territory through the removal of non-Serb population.<sup>20</sup> The chapter on the armed forces established the role of the armed forces, the paramilitary forces, the Serbian Security Service and the irregulars as the means in Milošević’s strategy. We analysed how the Serbian leader co-opted the armed forces to become willing executioners of his strategy, as well as his inability to establish full control over the *Vojска Југославије*, until late 1998. This account charted the full complexity of the elements that took part in the Serbian project, as well as the uneasy civil-military relations of the 1990s.

Another example of our own work forcefully addressed the question of war crimes and their link to the transformation of civil-military relations, asserting that, in spring of 2002, there was significant progress on this important, yet painful, aspect of security sector reform – although, at that point, confrontation of the war crimes record was no more than nascent and remained essential to the transformation of the army.<sup>21</sup>

The importance of the war crimes legacy was also noted, albeit briefly, by Biljana Vankovska and Håkan Wiberg<sup>22</sup> in their partly successful attempt to provide an overview of the state of civil-military relations in the post-communist Balkans, as a whole, while, at the same time, acknowledging the disparity and heterogeneity of the countries and their military traditions. The chapter relating to Belgrade was a particularly lengthy account of the Kosovo conflict, although it was not clear how it fitted with the post-Milošević military ethos and how the authors measured its importance. The authors identified the link formed

between Milošević and the army top brass, and their joint responsibility for the commission of war crimes.<sup>23</sup> However, they did not go far enough in explaining the central role war crimes played in Milošević's strategy during the 1990s, and hence the importance of dealing with such a legacy in democratising civil-military relations in Serbia.

In 1996, in the context of an analysis of civil-military relations in the Soviet and Yugoslav successor states, Robin Alison Remington provided a short analysis of the state of Belgrade civil-military relations.<sup>24</sup> Remington noted the impact of the war on both the state and the armed forces, but unfortunately spent the bulk of her study giving a historical background of the army, starting from the battle of Kosovo in 1389. She did note, however, in line with Gow, that civil-military relations were 'dominated by Serbian president Milošević's Byzantine campaign to get rid of remaining JNA officers unable to make the transition from the mission of preserving Yugoslavia' and that, 'in his drive to remake and subordinate' the army, Milošević had created 'a strong, well-equipped Serbian police force' that competed with the federal armed forces 'for manpower, weapons and budget'.<sup>25</sup>

The process of defence reform in Serbia generated a number of shorter publications, which sought to address some of the issues relating to the transformation of civil-military relations. Tim Edmunds sought to examine the process of defence reform in Croatia and Serbia and Montenegro.<sup>26</sup> He provided an interesting overview, by looking at democratic civilian control of the armed forces, military reform and the role of the international community. Edmunds believed that 'partly because of the war crimes issue' and also 'the political importance' that the government placed on joining Partnership for Peace, civil-military reform was 'a growing political priority'.<sup>27</sup> Edmunds' interest in the war crimes legacy, however, mainly concerned the operation and effectiveness of external conditionality of cooperation. However, he looked at it from a pragmatic point of view as an issue that needed to be dealt with in order to fulfil key demands from the West, rather than as a question of military and civil-military reform per se, or the development of democracy in Serbia. In addition to this limitation of perspective, and so empirical detail, Edmunds' work, published in 2003, only covers the very earliest phase of life after Milošević, prior to the main confrontations over the real challenges, including, ultimately, the war crimes legacy. Therefore, as with Gow's and Gow's and Zveržhanovski's earlier work, a critical gap remained to be filled.

Susan Woodward did not look at Security Sector Reform in Serbia, as such, but across the Balkans as a whole. She identified two preconditions

for Security Sector Reform in the Balkans.<sup>28</sup> Internally, there would have to be an impetus for radical change and transformation of the security sector similar to the one in post-Apartheid South Africa. Externally, there would need to be a stable security environment. According to Woodward, neither of these conditions was present in the Western Balkans. She recognised the possibility that for Serbia, internally, the fall of Milošević would have a long-term impact. However, she saw the instability of the Western Balkans as a major impediment and argued for a new conceptual framework that would tackle the real underlying political and economic insecurities that remained in the region. This fairly standard political economy approach, from within the conflict and development sphere, while not generally inappropriate, was analytically misjudged, as the success of defence reform, despite fragile socio-economic and political and security conditions in even Bosnia and Herzegovina, showed. This was true of Serbia, as Edmunds had effectively already made clear at an early stage; certainly, the material we present in the substantive chapters of this book shows that these concerns were barely prominent, in terms of Serbian reform.

In addition to the dominant English language work discussed above, there exists a relatively small, but growing, literature in Serbian (or 'BCS', or Serbo-Croat). However, these sources have limited academic value, as they lack in-depth research and academic rigour, even though they remain interesting and useful for the material and reflection they provide. Most notable among these studies are several works by Professor Miroslav Hadžić,<sup>29</sup> one of the few experts on the topic in Serbia. However, his books tend not to engage with innovative approaches. His personal experience with the armed forces left him writing with an agenda, which often comes out in his publications. In particular, his book *The Yugoslav People's Agony* (the Serbian version appeared in 2001 under the different, and perhaps stronger, title *Sudbina Partijske Vojske* – the Fate of the Party Army) provided a good overview of the role of the JNA in the break up of the SFRY, but failed to explore some crucial issues in depth and rightly pointed to the need for a more variegated study of what happened to the military in the course of the break-up, and of its role in that break-up. The book failed to acknowledge the centrality of war crimes in the Yugoslav war and the need to address these before moving forward with defence reform.<sup>30</sup>

A number of other works in Serbian provide interesting insight on particular events, and even though they lack academic rigour are very useful as sources of information on key events. The biography of General Nebojša Pavković,<sup>31</sup> the former Chief of General Staff, has a wealth of

information on events that took place behind the scenes, especially on the night of 5–6 October 2000, as well as background on the relationship between the top military officers and Milošević. Somewhat less useful is the autobiography by Colonel Dragan Vukšić,<sup>32</sup> a former military intelligence officer. His account of the period prior to the Kosovo war provides interesting information about the dynamics of some of the relationships within the military, as well as between the military and the Milošević circle, but is often personal and anecdotal, appearing more like an attempt to distance himself from the policy of the Milošević regime than anything else.

In addition to this literature, the democratisation process was marked by a flurry of shorter and policy-oriented publications, mostly emerging from activity, in the form of seminars organised by various international organisations, NGOs and Western governments, on the topic of democratic civilian control of the armed forces, and increasingly other security actors – a great personal moment, indeed, for the elder of the authors of the present volume was the chance to lecture on democratic civil-military relations to officers attending a seminar in the parliament in Belgrade, in late 2001, after almost two decades of studying this armed force in its various guises (made all the more poignant by the warm reception for the tongue-twisting effort to deliver it in Serbian!). In particular, the army periodical *Vojno Delo* published a special edition in 2003 with articles from several Serbian and foreign academics and practitioners that dealt with aspects of the reform process. The most interesting of these was Professor Predrag Simić's contribution, which argued that there were three aspects of the Serbian case that made reform necessary: the legacy of the Milošević period; the absence of a tradition of democratic civilian control; and the lack of consensus on the rationale for, speed of and objectives for the defence reform process.<sup>33</sup> Simić noted key points, in general terms, but failed to look at them in depth. He also looked at the deficient legal framework for democratic control of the armed forces and argued for a broad approach to reform of the security sector. However, he did not look at the practical issues surrounding reform, such as cost and feasibility. More important, although Simić noted the importance of the burden of the Milošević legacy, he only saw it in terms of continuity with the military tradition of the SFRY and the fact that, after the fall of Milošević, most of the top brass continued to serve, without displaying significant support for reform.

Overall, it is evident that neither the testing period of post- Milošević security sector reform, nor the peculiar predicament of the war crimes legacy has been treated to date. Thus, within the study of Serbia's

democratic transformation, Yugoslav and Serbian civil-military relations and Belgrade's war crimes legacy, there is an important gap to be filled. However, Serbian security sector reform and the war crimes legacy are also relevant to the wider study of post-communist civil-military relations, which context is treated in the following section, particularly as it informs the remainder of our study.

### **Democracy and the transformation of civil-military relations: the theoretical framework**

Although this is not a theoretically driven study, it is important to address the civil-military relations scholarship on post-communist democratisation, in order to establish the context and the singularity of the case. At its core, this volume has the study of civil-military relations. It seeks to examine the interaction between the armed forces and the society of which they are part. It is will be taken here that 'civil-military relations' encompasses all aspects of relations between armed forces and society, and is concerned with the 'study of interaction of the military with the civilian socio-political system, [whereby] we may understand those bodies that are responsible for the management of restrained, coercive violence to achieve a political end'.<sup>34</sup> The military hence possess a monopoly on the use of coercive force and exert political influence in all societies, presenting a 'latent threat to the societies they were raised to preserve'.<sup>35</sup> The central question in the study of civil-military relations is how governments control armed forces, and more to the point in the case of post-communist states, how do democratically elected governments control the military? The core civil-military question was famously posed and inverted by Samuel Finer, who also asked, why militaries did not use their capacities to intervene in politics more often – all part of the canon of civil-military study that has considered the relationship between armed services and society, evolving from Huntington's clear boundary set by military professionalism, to Finer's depth of political culture and maturity, the managerialism of Janowitz and the later post-modern and fusion perspectives of Moskos and Feaver.<sup>36</sup> However, this Western and conventional civil-military literature was not necessarily suited to the study of communist systems, where a separate literature developed,<sup>37</sup> and subsequently a further separate literature on post-communist transition emerged. This is discussed in the remainder of this section.

After the Cold War, states in Central and Eastern Europe faced the challenge of transition from communism, with its particular characteristics associated with state control, to an uncertain future. The change from

communist-type civil-military relations, which were, to a large extent, one-dimensional and where the military was subjugated to civilian – but not democratic – control, to the model of democratic civilian control over the armed forces, as practised in Western liberal democracies, was a crucial element in securing the newly formed democracies. Without reform of civil-military relations, there could be no consolidation of democracy and hence no prospects of achieving the stated goal of joining the 'West'. Societies that were 'transforming from a command to a market economy' had 'to reform fundamentally their entire framework of defence and national security'.<sup>38</sup> Establishing a reasonably effective system of democratic civilian control over the military was a prerequisite for a consolidated democracy, emphasised by the inclusion of this process in the criteria for NATO membership. As Chris Donnelly noted, defence transformation was a problem that had to be solved, as it would otherwise pose a threat to society.<sup>39</sup>

The experience of transition in Central and Eastern European countries showed in practice the interdependence between the transformation of civil-military relations and the consolidation of democracy.<sup>40</sup> Democratic reform of the security sector served as a catalyst for transformation of the rest of the political system. The civil-military transition and the democratisation of the political system of the state were inseparable. In addition, the transformation process in former communist states posed a conceptual problem for the reformers and their partners in the West, as there were no adequate frameworks for dealing with this essential aspect of the democratisation process. Despite initial fears, the armed forces overall did not try to intervene and it soon became clear that

the problem of civil-military relations in Central and Eastern Europe was not a matter of preventing direct military intervention in politics; rather it was a problem of how democratically-elected civilians could exercise efficient management, direction and oversight of their armed forces.<sup>41</sup>

A key aspect of the post-communist transition for CEE countries, which would have a huge impact on the whole democratisation process, was the ability to 'secure democratic control over their armed forces, or at least acquiescence of the military to the democratic transition'.<sup>42</sup> However, there were no templates from which to work, or which could be easily applied to the individual cases. As David Betz and John Löwenhardt noted, there were no ready 'guidelines set in stone for eager (and not-so-eager) reformers in Central Europe to hold on to'.<sup>43</sup>

The immensity of the change, following the fall of the Berlin Wall and the gradual realisation that civil-military relations theories could not adequately address the problem, prompted a number of authors to attempt to define the scope of the transition to democratic control of the armed forces from a more practical point of view. In response to growing demand for information on military reform in the post-communist period, Chris Donnelly argued that all European forces were undergoing a sort of transformation, but that the burden was heavier on former communist states. Donnelly maintained that 'countries which aspire to build effective economies and open societies must develop armed forces of a strength relative to their national size and wealth'.<sup>44</sup> These forces nevertheless needed to be effective, as they would otherwise be useless. The need to combine effective armed forces that could contribute to a common defence system with still developing and sound economies left Central and Eastern European nations with only one choice – restructuring.

Donnelly presented four principles, which he believed began to address the problem. First, it was necessary to recognise that tensions between civilians and the military always existed. Second, each country needed to figure out its own solutions to its own version of the problem. Third, transforming civil-military relations could not be ignored. Finally, 'democratic control was a two-way process between army and society, not one where politicians simply dictate to soldiers'.<sup>45</sup>

In response to Donnelly's articles, Marco Carnovale argued that although there was no 'correct model', there were 'common denominators, which [...] should be present everywhere'.<sup>46</sup> According to Carnovale, the common denominators were: an appropriate legal/constitutional framework, civilian domination of the Ministry of Defence, substantive parliamentary oversight, transparency of decision-making and public scrutiny, and an informed national debate on security.<sup>47</sup> Carnovale acknowledged that there was no optimal solution and the transformation of civil-military relations would take time, while the emphasis had to be on process.<sup>48</sup> Both Donnelly and Carnovale wrote from the perspective of practitioners who were dealing with these particular issues daily. While Donnelly concentrated on reform and restructuring of armed forces, Carnovale underlined the need for an institutional and legal framework, and the role of civil society, in an informed and transparent debate on security matters. Gow and Birch also identified this theme, at an earlier stage, with the concept of democratic security policy communities (see below).

Despite Donnelly's work to define the issues of democratic control of armed forces, for many understanding remained a problem. As Cottey,

Edmunds and Forster noted, 'the debate on democratic control of armed forces has been characterized by some conceptual confusion, with terms such as "democratic control", "civilian control" and "democratization" of civil-military relations often used interchangeably'.<sup>49</sup> Conceptual clarity was significant, as communist armies were always under civilian control – that of the Communist Party, which was not, by any means, democratic control. Hence 'democratic civilian control' should be understood in terms of political control of the military by legitimate, democratically elected authorities of the state. There were three distinct but interrelated components: the relationship between the military and domestic politics (that is, the military should remain apolitical); control of defence policy by democratic, civilian authorities; and the military's role in foreign policy (in particular decisions on the use of force).<sup>50</sup> Cottney, Edmunds and Forster argued that democratic civil-military relations were neither determined by a single factor, nor a common combination of factors (as has been argued in some parts of the traditional literature on civil-military relations), but instead, 'a wide range of domestic and international factors'.<sup>51</sup> The factors were: historical legacies; domestic political, economic and social context; the international context; institutional factors; and military culture and professionalism. The relative importance of these factors varied from country to country, each facing different problems in specific aspects of pursuing the goal of democratic civilian control of the armed forces. Leaving aside the questions that could be posed against this approach in theoretical terms, given that it really only adds up to 'everything' in a way that useful theory – including some of that on civil-military relations – does not, it is evident that there was no clear space for Serbia's war crimes legacy to be addressed as a distinct feature (even if it might have been embraced under several of their headings).

In later work, Cottney, Edmunds and Foster refine their understanding and instead suggest that the transition should be conceptualised in terms of 'democratic legitimacy, governance and accountability of a state's civil-military relationship', which they define as representing 'wider democratic governance of the defence and security sectors'.<sup>52</sup> This reconceptualisation, they argue, marks a shift between what they call a first-generation problem (reforming core institutions for the political control of the military) to a second-generation problem (establishing effective structures for the democratic governance of the defence and security sector).<sup>53</sup> The second-generation problematic acknowledges that the establishment of democratic civilian control of the armed forces was part of a much wider process of Security Sector Reform.<sup>54</sup> This concept

recognised the ‘importance of militarised formations, other than the regular armed forces, in civil-military reform efforts’ and that the role of security sector actors in political and economic reform was important and complex, and ‘not simply limited to questions of military praetorianism and civilian control over the armed forces’.<sup>55</sup> However, the inherent complexity of the holistic approach to Security Sector Reform gave rise to a debate about its definition, scope, strategy and even the correct terminology.<sup>56</sup> Security Sector Reform remained a problematic concept,<sup>57</sup> albeit one that could be applied sensibly in academic research, given its multidisciplinary nature drawing on a number of fields. It is what Christopher Dandeker termed a more inclusive definition within the field of civil-military relations,<sup>58</sup> which construes civil-military relations as extending from the political axis to include all aspects of relations between the armed services and society, much in the tradition set by Morris Janowitz.<sup>59</sup> It is in this sense that the terms ‘security sector’ and ‘civil-military relations’ are used in the present study.

However, our research also deals with the particular question of the link between transition and democratisation in post-communist countries and the transformation of civil-military relations. Because of this, it is necessary to address other sources, which particularly inform our investigation. Douglas Bland’s attempt to create a unified civil-military framework that could apply to Western liberal democracies and post-communist countries alike is worthy of note. He stated his thesis thus:

civil control of the military is managed and maintained through the sharing of responsibility for control between civilian leaders and military officers. Specifically, civil authorities are responsible and accountable for some aspects of control and military leaders are responsible and accountable for others.<sup>60</sup>

Bland’s model brought out the practical problems faced by Central and Eastern European countries since the early 1990s, as they attempted to reform their civil-military relations in order to consolidate their democratic transitions. This included the sense that, in reality, nothing would ever be simply one way or another – and that, in a period of transition, this was all the more so. However, Bland’s approach remained limited because it did not take account of either the specific character of communist rule and communist civil-military relations, as had Donnelly, or the qualities of liberal democracy as such.

Establishing a system of effective management of defence was a common problem for all Central and Eastern European countries. It involved

overcoming the inheritance of the communist system whereby autonomous elements were not allowed to function in society. This particular difficulty was missed in the early years of post-communist transition in most Central and Eastern European countries, where the emphasis was on the civilianisation of defence, rather than on establishing the necessary autonomy and capacity of those bodies tasked with exercising this control. As Betz noted, 'creating the institutions and imbuing them with the legal force was very much the easy part of the job; [...] breathing life into the system, enabling it to give real substance to the notion of civilian control was very much the more difficult task'.<sup>61</sup> It was necessary to develop a large pool of independent expertise.

Numerous mechanisms are employed by democratic states in their exercise of control over the military, and different states will have different agencies that will form the defence sector: parliament and its dedicated committee(s), the National Security Council, the President's Military Staff, the Ministry of Defence, to name a few. Not all of these are present in all countries, as the models of democratic civilian control vary from case to case. However, what is certain is that 'the presence of civilians in the ministry of defence is only one side of the coin'. The other side is to have effective institutions of 'civilian oversight in the parliament, the presidency and the government'.<sup>62</sup>

James Gow and Carole Birch combined understanding of both communist roots and the qualities of liberal democracy in their examination of civil-military relations in Central and Eastern Europe as part of the process of democratisation, and recognised that the 'real problem, in post-communist countries, therefore, was the functioning of autonomous institutions in a democratic and liberal framework'.<sup>63</sup> These institutions needed the capacity to function autonomously and to be able to scrutinise defence policy and contribute to its formulation in a constructive manner. This then, would constitute effective management of defence. They argued that 'the evolution of security will be dependent on the fostering of democracy and the deepening of democracy will be dependent on the emergence of security'.<sup>64</sup> According to their research, development of democratic control of defence matters rested on the creation of 'vibrant, broad democratic security policy communities', which would allow the management of defence policy through the provision of expert advice.<sup>65</sup> Gow and Birch argued that there were four imperatives, which conditioned a successful transition:

- *restructuring*,
- *rules* (embracing both laws and procedures)

- *effective democratic management* (involving questions of accountability, structures and personnel, especially civilians, in policy making),
- *democratic security policy communities* (involving the institutions and arenas necessary for public discussion of policy previously closed societies, forming part of the general policy communities).<sup>66</sup>

Despite the differences in tackling the problem, most theories agree that there are a number of imperatives for building democratic civilian control, which are most effectively framed in this way. Yet, there is no obvious space, even in this theoretical approach, for the war crimes legacy.

The present analysis, therefore, is structured by this framework, which allows the range of issues in civil-military transition and democratic control of the security service to be examined, but is then supplemented by consideration of the war crimes legacy as such – the single most important feature of Serbia’s security and democracy transition. Thus, the following chapters look at the restructuring of armed forces; the legal and institutional framework; and the development of civilian capabilities for managing defence policy, both bureaucratically and socially. Crucially, however, we argue that democratic governance of the defence and security sectors in Serbia had an added dimension that most Central and East European countries, fortunately, did not have to deal with, and which added a further stumbling block to the efforts to transform civil-military relations and consolidate democracy: the war crimes legacy. All the elements of the Serbian security sector were, to a greater or lesser degree, involved in the Yugoslav war. It is necessary to consider the central role that war crimes played in the Yugoslav war and in Serbian strategy during the war. Addressing the war crimes issue and understanding that dealing with its legacy was central to reforming successfully the armed forces and ensuring democratic civil military relations in Serbia helps us comprehend the state of civil-military relations in Serbia throughout its post-Milošević life. The failure to address the war crimes legacy impeded Serbia in its efforts to transform its military and consolidate its democratic achievements.

### **A brief note on nomenclature**

In the present book, we use the name ‘Serbia’ throughout to refer to the country and the polity at the heart of our study. Similarly, we use the names and abbreviations *Vojska Jugoslavije* (VJ) and *Vojska Srbije* (VS) throughout, where appropriate. We do so in the interests of simplification of focus and ease of reading. However, we recognise that this choice is made at the expense of technical accuracy, at times. However, not to

use Serbia in this way would result in the use of various other formulations at certain points, and a potentially more complex and confusing text. In addition, this decision is reinforced by the sense that Serbia is the focus of this study, even at those points where technical accuracy might dictate the use of an alternative formulation. Belgrade, as the political capital of Serbia, where the relevant political and military leaderships were to be found throughout this history, unifies everything at the core of this study. So, therefore, does Serbia. Whatever the moment in civil-military transition, it was Serbia that mattered and that lay at the heart of developments. Hence, we use that term.

To explain this usage, it is necessary also to clarify what the alternatives were, over a period in which the name of the state claiming international personality changed three times. First, there was the Federal Republic of Yugoslavia (a rump state declared, in April 1992, to have succeeded the previous Socialist Federative Republic of Yugoslavia, which had dissolved amid war and atrocity, and involving the states of Serbia and Montenegro). This could be abbreviated by the acronym 'FRY' or 'SRJ', depending on whether English or the original was informing the acronym. At a few points, where it is the only appropriate option, this label is used. Secondly, there was the State Union (or Community) of Serbia and Montenegro, born out of the Belgrade Agreement, signed on 14 March 2002, and brokered by the EU. The State Union replaced the Federal Republic of Yugoslavia. This State Union could be referred to by that label, or by Serbia and Montenegro, or by the acronyms SAM (in English) and SCG (in Serbian). The State Union came into effect in February 2003. The Constitutional Charter adopted at this point put a moratorium on Montenegro's full independence for a period of three years. As that period elapsed, Montenegro's citizens voted, on 22 May 2006, for independence in a referendum that marked the end of 88 years of Serbian-Montenegrin unity. Finally, from 2006, Serbia has been the one and only applicable label. However, as already suggested, whatever the point in time and the particular situation, in effect the security sector and the polity involved in reform, were Serbian; hence, Serbia and Serbian are used in the book that follows.

Just as the formal name of the state in question changed, so did that of the military in question. The Socialist Federative Republic of Yugoslavia had been host to the Yugoslav People's Army, more frequently known by its acronym the JNA. As the SFRY gave way to the Federal Republic of Yugoslavia, that part of the army remaining with Belgrade became the Army of Yugoslavia, *Vojska Jugoslavije*, or VJ. When that entity became the State Union of Serbia and Montenegro, the

Belgrade military became the Army of Serbia and Montenegro, *Vojska Srbije i Crne Gore*, or VSCG. Finally, after Serbia's independence, in 2006, the Army of Serbia, *Vojska Srbije*, or VS, came into being. We could have used each of these terms. Instead, we opted to use two of them, *Vojske Jugoslavije* and *Vojska Srbije*, but not *Vojska Srbije i Crne Gore*. The rationale not to use the last of these was that its inclusion would add to complexity and possibly make it sound as though a different entity was involved. That logic could have been applied to the first two, as well, except that the first of them, *Vojske Jugoslavije* and the acronym VJ had become fairly widely used, making this the appropriate term to use for the years 1992–2003, on one hand. On the other hand, it would not make any sense to continue to use that label to refer to the armed forces after 2003. The compromise was to use *Vojska Srbije* and VS to refer to the army, by name, post-2003. We believe that this has worked out well, in practice, creating a balanced use in which, with VS applying to the whole post-2003 period, no confusion arises.

Which names to use was a matter of considerable reflection and discussion, both between us, as authors, and with others whom we consulted, in an effort to establish a workable balance. To have used each technically-accurate name or acronym where that would be correct, would have created a mix of names and letters that would have shown trees, where the wood of Serbia needed to be seen. For at every point, whichever name might be technically used, we were dealing with the same military and the same politics, which were located in Belgrade, primarily, and those throughout, of Serbia.

## **The book**

The structure of the book broadly follows the Gow and Birch framework discussed above, following the chapter's setting out of the contexts and the analytical framework for the volume as a whole, including the importance of democratic civilian control over the armed forces and defence reform for the process of democratisation. It established our analysis within two fields: Yugoslav and Serbian civil-military relations, war and defence reform; and post-communist security sector reform and democratic transition, more generally, in Central and Eastern Europe. This concludes that Gow and Birch offer a viable framework for analysis of democratic control and security sector reform, albeit that the specificity of the Serbian case – the legacy of war crimes – also needs to be taken into account. Therefore, chapters reflecting this framework need to be supplemented by chapters addressing that legacy.

Chapter 2 examines Belgrade civil-military relations from 1991 and the break-up of the SFRY to the fall of Slobodan Milošević in October 2000. It covers an important aspect in the understanding of the role of the armed forces in society in Serbia through an overview of its origins, from the JNA and the transformation that occurred in 1991–2. The chapter offers the first account of Belgrade civil-military relations, of any kind, from the time of the Kosovo conflict in 1999 to the fall of Milošević in October 2000, as well as the role of the armed forces and other security actors in the fall of the Milošević regime.

Chapter 3 examines the issue of continued politicisation of the armed forces following the fall of Milošević and the relationship between the top brass and the new democratic leaders in Belgrade. These relations had a profound impact on the reform efforts. The failure to de-politicise the military as a matter of urgency led to a delay in tackling the transformation of the armed forces and the re-enforcement of democratic oversight. While the situation improved following the dismissal of General Nebojša Pavković, attempts to use the armed forces for political purposes continued to challenge the democratisation of civil-military relations. The issue was compounded by the readiness of the top brass to identify potential allies among the political elite and skilfully to take sides in political debates and conflict. Such a situation has made the two other aspects of restructuring – civilianisation and reform – more difficult.

Chapter 4 examines efforts to civilianise defence and reform the defence system in Serbia after the fall of Milošević. It demonstrates that long-delayed reforms had finally started to move in the right direction, under the leadership of Defence Minister Boris Tadić and his successors. Important achievements are analysed in detail, and the various actors who facilitated reforms are mentioned. Within this chapter the role of international factors in the transformation of civil-military relations is addressed. From the numerous advisors and the support given by certain governments to the promise of membership of NATO's Partnership for Peace programme, the international dimension had an important influence on reforms. The restructuring of forces, as well as the assertion of the authority of the Ministry of Defence, were all positive signs. However, numerous problems remained, and reforms were slow and painful. Positive achievements were just a step in the right direction and their effect was tempered by the piecemeal approach to re-structuring, while some important changes still needed to be made – as subsequent chapters explore.

The legal dimension of and institutional setting for democratic control of the armed forces are examined in Chapter 5. This chapter looks

at the evolution of the legal framework for democratic civilian control by analysing the legacy of the Milošević era. It addresses the inadequacy of legal provisions for democratic civil-military relations, and sets the stage for analysing the role of parliament. It is argued here that, due to a lack of political will, the necessary legal framework for democratic civilian control of the armed forces could not be established. This, in turn, contributed to the inability of parliament to perform an oversight role, leaving a gap in the necessary system of checks and balances that characterise democratic civil-military relations. However, it is also recognised that this problem was compounded by a lack of civilian expertise and interest in defence matters, as well as the poor state of the *democratic security policy communities*, dealt with in the following chapter.

Chapter 6 analyses efforts to establish effective democratic management of security policy and the lack of democratic security policy communities in Serbia, and the central role these play in democratic civil-military relations. It examines the role and work of the Supreme Defence Council, the Ministry of Defence and parliamentary activity, as well as the capacity of the non-governmental sector to contribute to the framing of policy. In Serbia, as in most transitional countries, lack of knowledge and expertise among autonomous institutions (such as academic institutions, NGOs, media) was compounded by the same lack of expertise on the official side, where a lack of understanding of both technical issues and guiding principles of democratic civil-military relations was evident.

Chapter 7 deals with the war crimes legacy as the central aspect of the transformation of civil-military relations in Serbia, as well the de-criminalisation of the armed forces. Although its main focus is on war crimes, this chapter also deals with links between security actors and organised crime groups, and their effect on the consolidation of democracy. It is argued here that, as war crimes were an integral part of the Serbian strategy in the Yugoslav war after 1991, and since the armed forces were a central actor or tool in that war, the need to address the issue of war crimes allegations by transferring indictees to the International Criminal Tribunal for the Former Yugoslavia (ICTY) and to make sure that any allegations of war crimes were investigated, as well as preventing the cooperation of the armed forces with indictees, was crucial to consolidating democracy in Serbia. From a pragmatic point of view, conditionality for joining Partnership for Peace and the EU was tied to cooperation with the ICTY, and hence non-cooperation prevented an important stage in the transition process. The international community recognised, through the creation of the ICTY, that war crimes

and crimes against humanity are a serious threat to international peace and security. The murder of Prime Minister Zoran Djindjić showed not only that dealing with the war crimes legacy could have fatal consequences, but also that ignoring it could be even more dangerous. Due to the nature of the Yugoslav war, dealing with the war crimes legacy in Serbia was crucial to promoting peace and reconciliation in the former Yugoslavia, by removing a potential cause of future conflict. The importance of the issue is analysed from both the point of view of the consolidation of democracy in Serbia, and regional peace and stability. In addition, the chapter recognises the close link between the armed forces, organised crime and the legacy of war crimes.

Chapter 8 offers a conclusion to the study as a whole, following analysis of the way in which the war crimes legacy was addressed by breaking networks linked to the unreformed security sector protecting war crimes suspects, including the most wanted man of all, General Ratko Mladić. The chapter establishes the link between war crimes and the democratisation of civil-military relations by recalling the findings of the previous chapters. It establishes that transforming civil-military relations was crucial to consolidating and securing democracy, a process that, in the case of Serbia, was hampered by the inability for many years to deal with the war crimes legacy. While Democratic civil-military relations were a function of four imperatives (restructuring, rules, and democratic management of security and the operation of autonomous elements of a security policy community), the achievement of these imperatives, in Belgrade's case, was delayed by lack of progress on the war crimes issue. Only once that issue had been addressed head on, the last vestiges of security sector protection of war crimes fugitives removed and suspects transferred to the Tribunal in The Hague could democratic control of the security sector in Serbia be said earnestly to have made progress.

# 2

## Civil-Military Relations from the Break-Up of Yugoslavia to the Fall of Milošević

Understanding the challenges of transition requires some knowledge and understanding of that which came before. The starting point for reforms is rarely if ever a blank sheet and, as the concept of transition implies, is a change from one system to another requiring the modification of crucial parameters, behaviour patterns, rules, values and beliefs as well as in some instances a clear break with the past and a confrontation with its legacy. Hence fully to understand the transition process, it is essential not only to analyse its achievements and failures, but also to be fully aware of the legacy of the previous regime and how it influences the present political arena. This is true for all aspects of transition, including the transformation of civil-military relations, which requires an understanding of the nature of the state, as well as that of the military. Consequently, so too is study of the transformation of relations between the military and the state, which is conditioned, among other things, on their nature and heritage. Past experience of both military and the civilian leaderships, as well as the nature of the state and its recent history, all offer invaluable clues to current developments. Without this knowledge, it is impossible to fully understand the events and developments of transitions.

While subsequent chapters deal with different aspects of the transformation of civil-military relations in Serbia, after the fall of Milošević, this chapter provides the necessary background to understanding this transformation. It does so by outlining the transformation of the state from the communist model particular to the SFRY to that of a polity whose own statehood was challenged. It also looks at the evolution of the role of the military and its relationship to the state, during this period, contributing to a better understanding of some of the attitudes and actions in the post-Milošević period. The chapter does not dwell

on all the particular legacies (the politicisation of the armed forces; the structure of the force; the lack of civilian expertise; the legal and institutional framework of civil-military relations; war crimes) as these are dealt with in the following chapters, but it provides an account of general developments in the political arena and the place of the armed forces from the break-up of the SFRY to 5 October 2005, when Milošević was removed from power. It seeks to clarify the nature of the state, as well as to provide an overview of the relationship between the regime and the military.

## Transition from communism: Politics and the state

Understanding the nature of relations between the state and the military requires an understanding of the nature of the state in question as well as its recent past. Yugoslavia embarked upon its transition away from the communist one party system towards pluralism and democracy at the same time as most Central and Eastern European countries. However, the violent break-up of the former Yugoslavia has slowed, or even frozen the progress of the successor states. Serbia had not realised the transition to pluralism in the 1990s, despite adopting 'some of the formal attributes of *democracy* without the stable institutional underpinning associated with that system'.<sup>1</sup> There were regular elections, and Serbia witnessed an inflation of political parties (many of which were formed in an interminable breaking off by dissatisfied elements of the major parties); however, democracy remained elusive. Although most institutions were in place and had well defined constitutional roles, power was exercised by a small group of people centred round Serbia's President and his wife.<sup>2</sup> While parliaments continued to function and laws were being passed, all this activity took place under the terms set by the ruling Socialist Party of Serbia (SPS) and Slobodan Milošević. As Robert Thomas demonstrated, the reality of Serbia's political life under Milošević made it difficult to classify in terms known to political science. He defined it as a 'classificatory limbo where stunned *democratic* institutions mix uneasily with authoritarian structures'<sup>3</sup> with Milošević as the personification of the regime and its only and ultimate arbiter. The nature of this polity was probably best captured by Eric Gordy, who, with brilliant insight that had escaped everyone else until that point (and for some time afterwards), identified the Serbian leader's ability to atomise, ensuring a range of autonomous elements in society, and avoiding a complete focus on him, or his regime, while, at the same time, also being able to control the development of those

autonomous elements, always able to suppress movements before they could develop a critical mass, or coherently come together.<sup>4</sup> Hence Serbia under Milošević's rule was not a typical dictatorship nor was it still a communist state. In many ways it was an authoritarian state (especially in its final days) but Milošević was remarkably keen to give it a semblance of democracy, and give the institutions a semblance of importance. However, *de facto*, the only power that really mattered was concentrated within a small circle around Milošević and his wife, Mira Marković, creating a powerful personification of the state.

The unusual nature of the polity under Milošević prompted some to seek better explanations of its essence. An excellent description of Serbia (and by extension Yugoslavia) under Milošević is provided by Nenad Dimitrijević who argued that Serbia was an unfinished state, a lot like the SFRY, in the 1980s.<sup>5</sup> In the SFRY, socialism created a system of 'façade stateness', with the existence of constitution, laws, political institutions valid on a certain territory and with authority over certain subjects, giving the appearance of modern statehood. However, this institutional order served the aims of a particular ideology (in the SFRY this was represented by the Communist Party), which found itself outside the constitutional make up and functioning as a 'sort of metaphysical sovereign, who was, in principle, free to determine at any time the character, mission and the scope of the state and law'.<sup>6</sup>

Similar to the former Yugoslavia, Milošević's Serbia was an 'entity which resembled a state, and was ruled by a regime with a semblance of institutionalised political order'.<sup>7</sup> The normal institutional mechanisms were replaced by arbitrariness, as the constitutional order was perceived by the ruling party as an instrument to be used arbitrarily. However, the dominant socialist ideology of the SFRY was replaced by 'nationalist democracy and façade democracy'.<sup>8</sup> Hence, according to Dimitrijević, Serbia was ruled by a 'para-state cartel made up of "official" state institutions, the ruling party and its coalition "satellites", the army, various police formations, the mafia, intellectuals, with the President of the Republic as the centre of a spider's web and the personification of the system'.<sup>9</sup> In such an order, it was difficult to establish who had the monopoly of the use of physical coercion and one could only note the lack of 'rules which would demarcate what was permitted from what was not'.<sup>10</sup>

Although one can disagree with Dimitrijević on the arbitrariness of the use of institutions in the 1990s,<sup>11</sup> one can only agree with his remark on the personification aspect as well as the multitude of 'members' of the ruling cartel, and he is right to point out that there are certain crucial differences between the unfinished stateness of the SFRY and

Milošević's Serbia. While socialism remained the unique ideology of the state in former Yugoslavia, Milošević used nationalist ideology to cover up for the diverse interests of the members of the 'cartel'. This is most evident in the 1990s and the changes in Serbia's relations with Bosnian Serbs during 1994, together with the abandonment of the nationalist and pro-war rhetoric by the Serbian government.<sup>12</sup>

The need to diversify the support base and create a divide and rule situation as described above, led Milošević's regime to promote multiple sources of institutional physical violence, hence stepping away from a modern state's assertion of its monopoly in that field.<sup>13</sup> The large number of actors in the institutional security sector (the armed forces, the police, special police units, customs, secret and intelligence services, etc.) was joined by paramilitary groups and armed gangs, all of whom were associated with the ruling cartel defined by Dimitrijević, and all of whom had some form of official cover for their use of coercive power. As will be argued below, the creation of these was necessary not only for maintaining the regime in power, but more importantly for the successful prosecution of the war and the creation of 'new borders and political realities' as it was necessary not only 'to gain control over the regular military, but also to ensure that there were alternative armed forces available for practical, political and personal purposes'.<sup>14</sup>

Within such a system the military, and especially its leadership, was competing for power and influence, resources and prestige with a number of other actors, who formed part of this cartel. It was hence denied the monopoly of the use of coercive physical violence. Throughout the 1990s, the Yugoslav Army found it difficult to fit within this system, finding its association with Milošević uncomfortable for most of the period. At the same time the VJ could not escape Dimitrijević's 'spider's web' as he calls it, as its institutional survival depended on its association with the state, even one whose attributes were contested. The nature of the system helps in comprehending the relationship between the armed forces and the political leadership throughout the 1990s. However, it is only one dimension, the civil one, of the explanation, while the other should be sought in a closer analysis of the military aspect of the relationship. The legacy of the VJ's predecessor, the JNA, from its mantle as the national liberator to its legitimating experience of the early 1970s and its role in the crisis that developed in the 1980s, to the break-up of Yugoslavia and the siding of the top brass with Serbia's government, all shed some light on the behaviour of generals and the dynamics of their relationship with the civilian leadership. Hence, lacking the crucial parameters for democratic civilian control of the armed

forces, Yugoslav civil-military relations were conditioned by relations between the regime and the top brass, as well as the historical involvement and place of the JNA in Yugoslav politics.

## **The military in communist Yugoslavia<sup>15</sup>**

History plays a significant part in the development of cultural identities that condition civil-military relations. Hence understanding aspects of the relationship between the civilian leadership, the military and society requires some knowledge of the history of that relationship. In the case of Serbia, it is difficult to discuss the democratisation of civil-military relations without some awareness of the historical context. After all, the Belgrade military was the direct successor of the JNA, and, as such, was heavily influenced by history. This section provides a brief overview of civil-military relations in the SFRY, an understanding of which is crucial to grasping the dynamics of the relationship between the military and society in the post-communist period.

The JNA played a prominent role in post-Second World War Yugoslav politics. Its place in the political order was determined by its ties to the Communist Party, its historical role during the Second World War as well as its special relationship with Josip Broz Tito. The army was 'created by the Communist Party to conduct the simultaneous war of national liberation and revolution which began in 1941'.<sup>16</sup>

The constitutional amendments of 1971 and the new Constitution of 1974 brought back the leading role in defence for the JNA. At the same time, it institutionalised it as a political player, giving it equal status in the League of Communists of Yugoslavia (*Savez Komunista Jugoslavije* – SKJ) with the two autonomous provinces.<sup>17</sup> The improvement in status came as a result of political involvement in the crisis of 1971 when Croatian nationalist demands for a separate army and membership of the United Nations threatened to end Yugoslavia.<sup>18</sup> Although the crisis was resolved with an anti-nationalist campaign and an intervention by Tito, the JNA provided him with the necessary support to deal with the nationalist threat.<sup>19</sup> With Yugoslavia on the verge of a break-up in 1971, 'the JNA leadership became essential in maintaining the stability, cohesion and authority of civilian political institutions'.<sup>20</sup> Rather than being opened to society like in the 1960s, the JNA 'was being co-opted on the premise that it would impart a measure of its cohesion, stability and strength to the Federation'.<sup>21</sup> The pan-Yugoslav nature of the Army allowed it to redress the legitimacy of the federation.<sup>22</sup>

Hence, by the end of the 1970s, the JNA had a constitutionally defined role to play in politics and was expected not only to be familiar with military affairs, but also with political affairs and developments. It had the responsibility to participate in the political life and socio-economic development of the country.<sup>23</sup> Its legitimating role in the Croatian Spring crisis re-enforced its strong ties with Tito, as well as Tito's belief that the best guarantor of the continuity of the existing socio-economic order and unity of the state would be the JNA as the only truly Yugoslav institution. The Army's role in providing a defence capability against external threats was enriched with the expectation that the JNA would defend the revolution internally as well. His closeness to the military leadership showed an increasing reliance on the Army to defend the achievements of the revolution, and the 'legitimate political role of the JNA was based on the notion that it would ensure a "pan-Yugoslav" voice in politics, inheriting Tito's mantle when he died'.<sup>24</sup> At the same time the Army was aware of the limits of its role in politics and declined to intervene beyond the limits set by the constitution, not allowing itself to 'extend its role too far' for fear of de-legitimising the system on which it depended for its own survival.<sup>25</sup>

The JNA became increasingly present in public life, especially following the death of Tito in 1980, when its 'power and influence became even greater'.<sup>26</sup> Various events during the decade led an increasingly bold and intrusive JNA to attempt to use its weight in the crisis that was already looming in Yugoslavia. Military leaders were, by the second half of the decade, frequently making public references to the 'restoration of national unity, the inviolability of Yugoslavia's borders, the determination resolutely to resist all foreign aggression and the imposition of public order in society'.<sup>27</sup> Intensified public activity by the Army leadership was accompanied by a progressive withering away of the federal state as the Republics and autonomous regions sought fully to benefit from the 1974 Constitution's provisions on decentralisation.<sup>28</sup>

As the 1980s drew to a close, the army was suffering a legitimacy problem, as well as a disintegrating state on which it depended. The generals' response was slow and conditioned by their inability to divorce the military from the socialist ideology on which Tito's Yugoslavia was based. As the country moved towards a multiparty system, the JNA seemed incapable of shedding the links with the SKJ.<sup>29</sup> The SKJ was so deeply entrenched in the JNA that the generals rejected any idea of a multi-party system, as a threat to the unity of the country and the unity of the army. According to Miroslav Hadžić, there was a strong belief that the ideology was so deeply entrenched in the officer corps that it would fight for it to

the death. However, by the time the Slovenian 'Ten Day War' was over, it was clear that the army had sided with Serbia and rejected, at least on the surface, the communist ideal.<sup>30</sup>

As Yugoslavia began to slide into war in late 1990 and the spring of 1991, the JNA leadership was still intent on safeguarding the Federation despite pressures from Milošević for them to side with Serbs in Krajina. After all, they believed it was their constitutional responsibility and they were firmly convinced of the need to preserve a unified Yugoslavia.<sup>31</sup> At the same time, a gradual process of Serbianisation of the JNA was afoot. The officer corps had been predominantly Serbian at the junior and middle level, although for high-ranking appointments a balance between nationalities was established.<sup>32</sup> Hence, some 60 per cent of the officer corps was Serb (or Yugoslav, which meant that they were likely to have been of Serb origin).<sup>33</sup> As Yugoslavia slowly disintegrated, these officers (as well as the conscript element of the JNA) could not be unaffected by the events and were likely to develop a similar political outlook to that of the Serbian leadership.<sup>34</sup> In practical terms, the Serbianisation of the JNA in 1990 and 1991, created the necessary conditions for the Army's support of Serbs in the Krajina and later in Bosnia. With the increased autonomy of Military Districts allowing the local commanders to support Serbs in their areas, the Serbian population gained important access to arms and equipment, while the basis for a Serbian force was created.<sup>35</sup>

The JNA was officially split up and renamed in May 1992, and was replaced by three forces: the *Vojска Југославије*, the *Vojска Републике Српске* (VRS), and the *Српска Вojска Крајине* (SVK).<sup>36</sup> The VRS was proclaimed by the Bosnian Serb Assembly in Pale on 12 May, while the VJ was renamed on 20 May. Internally, Milošević was aware of the legacy of political involvement and potential strength of the VJ and needed to ensure the loyalty of the army, as well as its continuing Serbianisation. This led to purges, in the first years, of the main successor to the JNA, with many senior officers either being pensioned off or leaving of their own free will, either for their non-Serb origins or their pro-Yugoslav tendencies. At the same time, Milošević was determined to show that he would not tolerate military intervention in politics, and that the remaining military leadership would need to learn to stay out of political life, or face the sack. The early days after the creation of the VJ led to the pensioning of some 20 generals and admirals in March 1992<sup>37</sup> (following Kadijević's resignation) and a further 38 generals and admirals in May 1992, when the likes of Blagoje Adžić (Chief of Staff under Kadijević, and later Federal Secretary of Defence) and Aleksandar Vasiljević (the head of Military Counter-Intelligence, KOS) were deemed unnecessary.<sup>38</sup>

The purges were followed by a silent takeover of the VJ by hardliners of the Yugoslav Air Force. In particular, the appointment of Colonel General Božidar Stevanović to the position of head of the Air Force was designed by Milošević to speed up the removal of unreliable and non-Serb elements from the VJ. Stevanović was one of several Serbian officers recruited by the Serbian Security Service (SDB), in 1990 and 1991, as part of an informal clandestine network that became known as *Vojna Linija* (Military Line) and which supported the Serbianisation of the JNA.<sup>39</sup> He took up his task with zeal and set off to purge the non-Serb and moderate elements within the VJ. Stevanović's reliance on Air Force intelligence led to its dominance in intra-military politics, while the Batajnica Air Force base, outside Belgrade, became the focal point for Serbian Paramilitaries' supply and organisation.<sup>40</sup>

Initially, the new Chief of General Staff, General Života Panić, seemed to be supportive of the Government formed by Milan Panić, an American citizen of Yugoslav origin. However, disagreements over the Prevlaka Peninsula, which had strategic importance to the VJ but was part of Croatia's territory, led to a cooling of relations. When Serbian Interior Ministry troops invaded the Federal Ministry of Interior and took away the entire archive of documents, the VJ stood by and did not come to the rescue of the government. While the official explanation was that the VJ would not be involved in politics, the reality was that by this stage the VJ was on the side of Milošević.

Although the military was almost fully forced out of politics through a series of purges and pressure on its purse, as well as through constitutional mechanisms, Milošević was not satisfied with the subordination of the VJ thus far and a second wave of purges took place in 1993. At a meeting of the Supreme Defence Council on 25–26 August 1993, 41 generals were retired, leaving only nine officers already holding the grade of General, and only one (Colonel General Momčilo Perišić) with field experience.<sup>41</sup> While all of this took place amid accusations of corruption against General Panić, the fact of the matter was that Milošević was pursuing his strategy of establishing a trustworthy Serbian force.

Although purges were rumoured and expected throughout 1993, the real surprise was the sacking of General Stevanović, who only 24 hours previously had been seen as the new Chief of Staff, together with a score of other generals considered as hardliners. At the same time, the promotion and appointment of Perišić to the post of Chief of Staff was seen as a neutral move, aimed at solving some of the problems in the army, notably corruption, inefficiency and social problems. In this way, Milošević preserved the balance of hardliners, neutrals and liberals in the military,

while significantly clipping its wings. He also removed some of those that were too exposed and had been too active in the previous years to remain useful.<sup>42</sup>

Civil-military relations in the period between 1993 and Perišić's sacking in October 1998 were not as smooth as Milošević would have hoped. The continuous weakening of the military through lack of suitable funding, and the constant rumours of sacking of the Chief of Staff and his associates, created a climate of uncertainty.<sup>43</sup> In such a way, Milošević continued to exercise control over the VJ's leadership, ensuring their loyalty. At the same time, he continued the practice seen in the early years, whereby he always had 'insiders' on whom he could rely for information, but more importantly whom he could use as a bargaining chip, a credible threat to those in key positions in the military. While the Assistant Chief of Staff, General Dragoljub Ojdanić, would be the most prominent 'insider' during Perišić's time (although not the only one, as the head of the Air Force, Ljubiša Veličković would switch sides after the student protests in 1997), and eventually replace Perišić in 1998, General Nebojša Pavković, commander of the Priština Corps, would become Ojdanić's 'minder'.<sup>44</sup> Milošević made sure that he continuously had a lever over the generals, and that there would always be someone he found trustworthy and loyal close enough to the Chief of Staff.<sup>45</sup>

By October 1998, Perišić had grown increasingly frustrated by his own position as well as what he considered to be an unrealistic policy of direct confrontation with NATO. He became increasingly vocal against the policy of the regime. In an unprecedented speech, he criticised the regime for forcing a conflict with NATO that would threaten the survival of the state and the nation. He accused Milošević and his cronies of pushing the country to war with the rest of the world, a position he believed would be untenable for any state.<sup>46</sup> Days later, Perišić was dismissed, following a new series of purges which started with the dismissal of Jovica Stanišić, the head of the SDB. The dismissal of Perišić and the appointments of Generals Ojdanić and Pavković on the eve of the confrontation with NATO finally gave Milošević control over an obedient VJ.

Perišić became more vocal and forceful in his opposition to the policies of the regime. Throughout 1998, it became clear that the general would stick to his opposition to using the VJ in internal matters. Hence Milošević would not be able to rely on the military if he needed to use force.<sup>47</sup> The VJ was increasingly proving to be an unreliable pillar of power for a regime preparing to face NATO and deal with internal enemies.

## Civil-military relations from the Kosovo campaign to the fall of Milošević

The appointment of Ojdanić and his supporters to key posts was a crucial step in subjugating the VJ to the authority of the regime. While Perišić had no political allegiance and was adamant that the army should not be involved in politics, Ojdanić had attended the party conferences of both Milošević's SPS and his wife's JUL party, and was an open supporter of the regime.<sup>48</sup> Despite being Assistant Chief of the General Staff, he was not seen as a trusted Perišić ally.<sup>49</sup> Milošević finally had a grip on the VJ at a time when the confrontation with NATO was looming. More importantly, Milošević had a trusted ally in the main theatre of operation: Nebojša Pavković was commander of the Third Army (appointed on 13 January 1999), based in Niš with responsibility for Kosovo. As one observer noted, in the spring of 1999 the Yugoslav military was run by a 'patriotic lobby' fanatically devoted to Milošević and his idea that patriotism was about facing up to the mightiest military Alliance in history.<sup>50</sup>

As the war progressed, Pavković became increasingly outspoken in his calls for Serbia to defend its soil and stand up to NATO. Within the first months, he was not only the commander of the Third Army, but also the unofficial spokesman for the entire campaign. Pavković was always in the public eye, his media presence increasingly used to further the image of Milošević as the great Commander in Chief and the victorious VJ.<sup>51</sup> Following the withdrawal from Kosovo in June 1999, Pavković praised his forces for preventing a NATO land invasion and sustaining only minimal loses. He also praised repeatedly the leadership of the country.<sup>52</sup> Hence despite the defeat in Kosovo, Pavković continued to appear in the media, claiming a moral victory in statements coloured with fiery politico-patriotic rhetoric. While he seems to have been popular during the Kosovo war, the partial nature of his public remarks following the withdrawal from Kosovo increased his reputation as a loyal supporter of the Milošević regime.<sup>53</sup>

However, neither the regime nor its now loyal military could fully escape the reality of life in Yugoslavia after Operation Allied Force. With NATO troops in Kosovo, difficulties with Montenegro and economic problems exacerbated by the destruction of the 78-day air campaign, the regime and its followers were forced increasingly to open attacks on all critics. Branding opposition leaders as traitors became commonplace, while the VJ was now seen as the main tool in countering opposition parties. Fear that the regime would use the military in case of political tensions rising from daily protests in Serbia spread through opposition

ranks.<sup>54</sup> Pavković, in particular, increasingly gave interviews and public statements branding all those who disagreed with the regime as foreign mercenaries and traitors.<sup>55</sup>

Milošević, believing the opposition to be divided and weak, called early elections, despite his term ending in July 2001. Having changed the constitution to allow for direct elections, the regime, together with the military, was preparing for a showdown with Serbia's newly united opposition under the name of Democratic Opposition of Serbia (*Demokratska Opozicija Srbije* – DOS) and its Presidential candidate, the Democratic Party of Serbia (DSS) leader, Vojislav Koštunica.<sup>56</sup> However, Milošević and his entourage had miscalculated the appeal that Koštunica would have. On election day, Koštunica took over half of the vote, making him the outright winner.<sup>57</sup> However, the regime was not about to give up easily on power. While DOS election observers reported that Koštunica won some 52.54 per cent of the vote to Milošević's 35.01 per cent, the Milošević controlled Federal Electoral Commission announced that Koštunica had won 48.96 per cent to Milošević's 38.62 per cent, thus forcing a run off.<sup>58</sup> According to DOS, the FEC stole some 200,000 votes from Koštunica and gave them to Milošević.<sup>59</sup>

The defeat, on the 24 September, and the subsequent attempt by Milošević to change the result, and call for a run off led to mass a demonstration being convened for 5 October in Belgrade. In the days prior to the demonstration, it became increasingly clear that the regime was crumbling. Milošević had lost the 'democratic underpinning of his authority' but 'he refused to acknowledge his defeat by means of a peaceful and orderly transfer of power'.<sup>60</sup> Milošević had become 'a discredited and delegitimated leader without any real legal authority'.<sup>61</sup> As a large mass of protesters converged on Belgrade's Nikola Pašić square, riot police failed in a half-hearted effort to prevent them from storming the Parliament building.

The fall of the regime, on 5 October, was as much due to the military and police abandoning Milošević, as it was to the popular uprising. While the critical mass was necessary to topple the Serbian strongman, it was the reluctance of the VJ in particular to intervene that was crucial to the successful outcome of the popular revolution. The details of what the top brass was doing during 5 October and in the morning of 6 October are not fully known, although Stojadinović provides a detailed account based on interviews with some of the participants.<sup>62</sup> The top brass monitored the situation throughout the day, while receiving constant orders from Milošević to intervene.<sup>63</sup> Elite units, such as the 63rd Parachute Regiment, based in Niš, were put on a high state of alert, and alert levels were raised in all the barracks in and around Belgrade. It seems that

Pavković was preparing to send troops to break up the demonstrations, but that in the night of 6 October he wavered and did not go through with the plans.<sup>64</sup> Despite increasingly panicked calls from Milošević, the top brass failed to intervene. As will be discussed in Chapter 3, this gave Nebojša Pavković immense clout with Košturnica.

The incredible volte-face performed by Pavković in making his shrewd decision to back the newly elected President, while not ordering tanks onto the streets in scenes reminiscent of demonstrations of 9 March 1991, can only be compared with that of the police, the regime's favourites. The VJ was not the only security actor to have switched sides at the last moment. According to some accounts, Milorad Ulemeš Luković 'Legija', the commander of the elite MUP Special Operations Unit (JSO), infamous for its role in the war in Croatia and Bosnia, reportedly met with Democratic Party (DS) leader, Zoran Djindjić on the eve of the demonstration, and promised his allegiance to the democratic opposition.<sup>65</sup> According to others, Legija positioned himself in such a way as to protect the unit whatever the outcome of the demonstration.<sup>66</sup> Either way, he earned himself and the JSO a special and protected place in the post-Milošević period, something that, as will be shown in Chapter 7, would cost Zoran Djindjić his life. The unit that personified the destruction caused by Milošević's policy in the former Yugoslavia aligned itself with the new rulers in Belgrade.

The only clear thing about the events on 5–6 October was their outcome: a popular uprising helped by a lack of reaction from the security forces led to the overthrow of Slobodan Milošević and his regime. The exact role of the VJ, MUP and paramilitary forces such as the notorious JSO are still debated. The exact sequence of events in which the security forces switched sides is still contentious. What is certain is that the military did not intervene in order to save its Commander in Chief despite significant preparations on the eve of the event. The generals decided against acting and sided with their new masters in Belgrade.

## Conclusion

As the DOS leaders were taking stock of their achievement on the morning of 6 October, they were well aware that their success in toppling Milošević was due to the intervention of the military, which, by abandoning the regime at the crucial time, contributed a decisive blow and enabled a bloodless revolution to overthrow the Serbian strongman. At the same time, those leaders were completing the need to transform civil-military relations in order to establish a system of democratic civilian control over the armed forces. The military they inherited was

a highly politicised force, which although used to obeying civilians, was also accustomed to playing an active role in politics. From the JNA days, when the military had a non-voting member of the Federal Presidency, to the highly politicised activities of the Chief of the General Staff, Nebojša Pavković, the VJ believed in its rightful place in the political arena. Drawing its roots from both the communist era legacy of the JNA and the experience of war in the former Yugoslavia, and having evolved in a system of 'soft dictatorship' where it had to compete for influence and resources with other security sector actors, the VJ was nonetheless used to a certain degree of autonomy in managing its own affairs. While it was instrumental to Milošević's policies and war strategy, it nevertheless kept a certain distance, and despite the regime's attempts to assert full control over the VJ, the army remained outside Milošević's total control until late 1998. Such a background made the VJ unlikely to accept, without opposition, the central premises of democratic civil-military relations, namely transparency and accountability.

The complexity of civil-military relations in post-Milošević Serbia was a result of the legacy of the JNA and its central role in legitimating the regime in the SFRY, coupled with the nature of the Milošević regime and the wartime experience. The VJ had allowed itself to be used to shore up the regime in the period between 1998 and 2000, and it had a history of political activity, as could be witnessed from the actions of General Kadijević and his successors, during the break-up of the SFRY. At the same time, its willingness to submit itself to civilian authority was conditional on it maintaining enough autonomy to manage its own affairs without interference.

This chapter has provided the background necessary to understanding developments in civil-military relations in post-Milošević Serbia. The following chapters will deal with the legacy of the Milošević regime, in terms of politicisation of the military, the lack of civilian bureaucracy and expertise for the control of the military, the inadequate legal framework, developed in order to protect the regime, and finally the legacy of war crimes. Transforming civil-military relations was central to the ability to consolidate the achievements of 5 October, and to begin to develop a truly democratic political system. This posed a particular challenge because while the necessity of transforming civil-military relations was apparent, the military demonstrated the length to which it was ready to go for self-preservation. At the same time, the complexity of the system would need a high level of political maturity to reform and for all the legacies to be tackled. As the next chapter shows the new rulers in Belgrade were no match in terms of political skill for the VJ top brass.

# 3

## De-Politicisation and Transition Delayed

On the morning of 6 October 2000, it was obvious to all involved that the military had played an important role in facilitating the overthrow of Milošević. The tanks did not roll onto the streets to shore up the crumbling regime, and the generals refused to obey some of the more destructive orders given by Milošević in his moments of despair.<sup>1</sup> That this happened through inaction rather than through a concerted effort by the top brass to intervene only served to underline the fact that the military was an independent actor that the new democratic authorities would have to learn to control in order to help consolidate democracy. In order to do that they would need to tackle a number of aspects of the civil-military relations dynamic inherited from Slobodan Milošević's era.

The first imperative of transition to democratic civilian control of the armed forces was the process of restructuring of both civil-military relations and the armed forces as a whole. In the case of post-communist Central and Eastern Europe, this constituted the first and often most important step taken by new democratic authorities. There were three levels restructuring could take. First, *restructuring* meant de-politicisation, with a particular emphasis on the de-communisation of the armed forces, as well as ensuring that other parties did not replace communist control. Secondly, the policy-making apparatus of the Ministry of Defence needed to be civilianised, through the appointment of a civilian as minister, as well as through a programme of civilianisation of the defence bureaucracy which would ensure that the control of policy-making passed from the military to the civilian authorities. Finally, reshaping the armed forces would need to be given due attention.<sup>2</sup> While the other two levels of restructuring, namely civilianisation of the Ministry of Defence and military reform and re-organisation, are dealt with in Chapter 4, this chapter assesses the first level of the process of

restructuring, de-politicisation, in the period from the fall of Milošević in October 2000 to Montenegro's independence in May 2006. It looks at the impetus for change in Serbia and provides an assessment of de-politicisation efforts and their failure in the early years of transition.

## **Understanding de-politicisation**

De-politicisation of the armed forces in Central and Eastern European countries had two aspects: de-communisation and the prevention of ties to new political parties.<sup>3</sup> Initially de-politicisation entailed a process of de-communisation. The central role played by the Communist Party structures in political life and by extension in military affairs in all former communist states made removal of these structures a precondition of successful transition. The military needed to be an apolitical force of professionals in the service of their democratically elected political masters. Communist ideology and bureaucratic structures had no place in democratic civil-military relations. The removal of the formal structure of the party-army system was a clear priority. In practice it meant ensuring that:

all main political departments, especially the MPA, were dissolved; the responsibilities of political officers were abolished or radically changed; committees, cells and Party workers in the armed forces were disbanded and abolished; military representation on Communist bodies removed; and military education remodelled.<sup>4</sup>

This proved the easiest part of the process and one that was completed early. The exception was the remodelling of the military education system, which would take longer to achieve, and would form part of the larger issue of dealing with communist influence in the military. The problem 'was the need to differentiate between those officers loyal to the former regime and those loyal to the state'.<sup>5</sup> While dismantling the formal structures was easy and getting rid of the political officers seemed straightforward, the real problem lay in the need to secure the loyalty of those who remained. In practice this created a number of challenges including a loss of personnel and the deepening of distrust between the military and civilians.

The second aspect of the de-politicisation problem involved the fortification of what had been achieved. Once disbanding of formal structures was completed, it was important that these were not replaced by ties to any other political party, or parties, as this could lead to military

involvement in politics and a potential attempt to reverse the transition process. It was reasonable to suppose that some in the armed forces, used to having patrons, would seek new ones among the large number of new parties in order at least to try to maintain the levels of privilege to which they were used, or 'in the worst (highly unlikely) case [act] in a praetorian manner'.<sup>6</sup>

Although no two countries experienced the same transition, Serbia faced a particularly different task in terms of de-politicisation. Its post-communist transition theoretically began in the late 1980s, but was diverted by the regime of Slobodan Milošević. As Robert Thomas correctly notes, 'by utilising the tensions and ambiguities of the federal constitution, Milošević's faction of the ruling elite had been able to bypass the processes of "transition" which were taking root in the other countries of Central and Eastern Europe'.<sup>7</sup> The pluralist system that developed in Serbia in the 1990s was 'a strange distorted hybrid creature'.<sup>8</sup> It was a departure from the previous communist regime as 'the formal structures of a democracy, such as the existence of multiple parties, the holding of elections and the formation of an operational parliament, had come into being'.<sup>9</sup> However, these institutions only functioned partially and were no more than a 'hollow shell, real power was located with the Serbian President and in the political-economic bureaucracy'.<sup>10</sup> Hence, by October 2000, most of the communist structures within the Army had been removed in favour of a system of political patronage designed to ensure the longevity of Milošević's rule. The Army had, by 1993, completed its move away from its communist origins towards a more nationalistic set-up. This involved removing the official Communist Party structures (which by this time had been transformed into the Milošević-led Socialist Party of Serbia), Serbianising the officer corps and accepting a tacit alliance with Milošević and an endorsement of his policies. Although Milošević's influence on the VJ was an important underlying factor, it was not until the appointment of Dragoljub Ojdanić, and later Nebojša Pavković, to the post of Chief of General Staff that the Army took a truly party line.<sup>11</sup> Nevertheless, the leaders of the DOS had to ensure the loyalty of the armed forces (as well as other elements of the security sector) in order to prevent them from trying to reverse the changes that occurred on 5 October.

Rather than having to deal with removing the political officers and Party structures within the Army, the elite that replaced Milošević and his cronies had to grapple with a combination of problems: distinguishing between those officers that would be loyal to the state, and those that could pose a threat to the democratisation process; dismantling the

informal (rather than formal) structures of patronage that the Socialist Party of Serbia and the JUL (Yugoslav United Left, led by Milošević's wife, Mira Marković) developed throughout the 1990s; and ensuring that these informal structures were not replaced with any new links to the parties that came to power under the DOS banner. All three proved problematic, but it was the third of these problems that posed a particular challenge and which hampered the fulfilment of the other two. The failure not only to address effectively the problem of de-politicisation in the first two and a half years of the DOS regime, but a conscious choice to leave the military leadership in its place, directly hampered the transformation of civil-military relations and the establishment of democratic civilian control over the Army.

### **De-politicising the armed forces**

De-politicisation, as noted above, was even less straightforward in Serbia than it was in other parts of Central and Eastern Europe. The interim between the end of formal communism and the start of real democratisation meant that formal structures had already given way to embedded informal ones, which reflected the old ways of working but had been adapted to the new quasi-democratic, quasi-communist and de facto gangster environment that prevailed while Milošević remained in charge. As a result, there were two major failures to commence de-politicisation before the military began to withdraw from politics.

#### **Failure no. 1: 'For the sake of stability' – keeping Pavković as Chief of Staff**

The politicisation of the Army began, or rather continued in a new form, as early as 6 October 2000, when the first glimpse of Koštunica's intentions vis-à-vis the VJ top brass began to emerge. DOS, in general, and the Democratic Party-Democratic Party of Serbia (DS-DSS) in particular, had a single common goal: the removal of Slobodan Milošević from power and the start of the democratisation process. Everything beyond that was up for debate as the year 2000 witnessed the effort of the Serbian opposition to unite and focus on the one common policy goal they could. The temporary accord that existed between Djindjić and Koštunica could only ever last until Milošević was ousted. The deep distrust that existed between the two, as well as their differing visions of a democratic Serbia (Djindjić was more western orientated, while Koštunica remains more traditional, or even nationalistic) and

their mutually exclusive ambitions, would inevitably lead to a split and a power struggle. After all, Košunica and Djindjić, along with other opposition leaders failed to see eye to eye throughout the 1990s.

Košunica's own rise to power was mainly due to the other DOS leaders having compromised themselves in one way or the other throughout the Milošević rule. For his part, Djindjić agreed on supporting Košunica's election campaign in the full knowledge that the post of FRY President was constitutionally largely symbolic. Having won the Presidential elections on 24 September with a clear majority, Košunica was aware that his huge popularity was offset by the fact that the President of the FRY's position both *de jure* and *de facto* held little real power – for the man he ousted, it was a formal position from which to exercise his real power, a privilege not available to others. The Federal Republic of Yugoslavia was almost defunct, as Montenegro's ruling party had boycotted the Federation for most purposes since 1997, and was actively moving towards an independent international personality. Although Milošević enjoyed real power, the newly elected democratic President could not use the same tactics. In addition, the power sharing arrangement that made Košunica the sole DOS candidate also meant that the Prime Ministerial post would go to Zoran Djindjić in the Serbian parliamentary elections. Košunica understood that his position would be undermined once Djindjić was in power and moved immediately to gather support in the one place where he knew he would find it readily available. The newly elected President decided he would need allies, in order to maintain 'fictional federal power'.<sup>12</sup> His quest for support led him not only to prevent 'lustration' of the Army leadership, but also to give the generals 'a new lease of life'.<sup>13</sup>

Hopes for an immediate start to the reforms process were therefore frustrated by Košunica's decision to keep Nebojša Pavković as Chief of General Staff, despite the opposition of his DOS colleagues. Košunica justified his decision on the grounds of preserving stability (hence implying that one man could be irreplaceable) even though it was clear, by then, that a deal had been struck between the new President and the Chief of Staff that would both allow Pavković to stay and preserve many of the Army's privileges in exchange for military support for democratic changes. Košunica's stance was that he opposed hasty replacements of the police and army chiefs who served under Milošević, as such action could lead to instability and could threaten democratic change'.<sup>14</sup> As one observer noted 'Košunica ensured that, at least as far as the Army is concerned, everything would remain the same after 5 October'. The Generals who used to support Milošević remained in the Army 'and additionally strengthened their positions'.<sup>15</sup>

There were two compromising aspects to this deal: Pavković's known proximity to the Milošević regime (despite the fact that he was important in ousting him); and the fact that Pavković was the commander of the VJ's Third Army, which operated in Kosovo during the ethnic cleansing operations there, and had himself, therefore, been compromised by allegations of war crimes.<sup>16</sup> Additionally, the US (and because of this NATO) was making his removal a condition of any meaningful cooperation. For his part, Pavković used his position to continue interfering in politics, often commenting on DOS policies, as well as attacking some of its leaders.<sup>17</sup> It became increasingly apparent that Pavković was intent on playing a role on the political scene.

Although Pavković was seen as a problem by DOS leaders other than Košunica, it was also obvious that most of them had failed to push strongly enough for a change at the helm of the Army. While some DOS leaders (such as Vuk Obradović, a retired general and leader of Social Democracy, and Momčilo Perišić, former Chief of Staff and now one of the DOS leaders) advocated a large scale purge of the top brass,<sup>18</sup> others called on the Generals to resign;<sup>19</sup> but overall, most politicians sought to distance themselves from the problem by saying that the 'ball was in Košunica's court'.<sup>20</sup> Nevertheless, most could not understand how Košunica could insist that the stability of the country and one of the most important institutions (the Army) depended on a general who, only days earlier, had been threatening the use of force against DOS and its followers. By late October, many were asking why Pavković was still in place.<sup>21</sup> At this stage, it must be noted that the VJ did perform a crucial role in the days after 5 October and was acting as a guarantor of stability. DOS could not, by any means, be certain of the loyalty of the police, who had changed sides on the crucial day, nor could they know whether Milošević's supporters were planning a comeback. Rumours of a counter-revolution abounded in Belgrade and throughout Serbia.<sup>22</sup> Košunica's decision not to rush dismissals at a sensitive time could have been a wise move had he, once the changes had been secured, embarked on a reformist course.

The relationship between Košunica and Pavković was based on their common need for support. After the initial scare, in the early hours of 6 October 2000, when the top brass attended a meeting with the newly elected President, believing that they would be sacked, Pavković realised that Košunica was receptive to his intervention on the importance of the Army as an institution for the stability of the country. That meeting marked the beginning of the 'myth' of the VJ leadership's role in the changes. According to Košunica, the Army had behaved in accordance

with the constitution, which was true of most of it, but clearly not of its top generals. Through this assertion this, Košunica effectively covered up the fact that Pavković had been ready to use force against the people, but was dissuaded at various points, during the night of 5 October, by some of his subordinates, most notably General Branko Krga, who would go on to succeed Pavković as Chief of the General Staff.<sup>23</sup> At the same time, it gave Pavković the impression that he could have free reign over the Army and that Košunica would protect him from those calling for his resignation.<sup>24</sup> That same evening, the General Staff issued a press release in which General Nebojša Pavković, on behalf of the Army, congratulated Košunica on his electoral victory and stated that:

Yugoslav Army members, duly respecting the provisions of the Constitution, have taken no part in political confrontations, demonstrating their readiness to accept the will of the people and all legitimate decisions of electoral bodies and institutions [...]. The Yugoslav Army will continue carrying out its constitutional tasks professionally and honourably and will pursue the initiated process of its modernization and reorganization aimed at creating a modern, efficient and respectable armed force of the Serb and Montenegrin peoples and all citizens of the Federal Republic of Yugoslavia.<sup>25</sup>

This was the first in a flurry of statements from the General Staff in which they pleaded loyalty to the Constitution, the people, and Košunica. Pavković's remark was an indication of a number of things. First, that the VJ gave its support to Košunica. Secondly, that they intended to continue business as usual, as the reference to the process of modernisation indicates. Finally, Pavković reasserted the importance of proceeding according to the constitution, thus appealing to Košunica's proclaimed respect for the rule of law, while sending a warning to those advocating his forceful removal. A further warning came on 9 October, when Pavković stated that 'no one in the Yugoslav Army is against personnel changes, but they have to be carried out in accordance with the existing procedures, not arbitrarily. The only condition for someone to get to a certain position must be his expertise, not his political opinion'.<sup>26</sup> Finally, to make it clearer, Pavković warned on 11 October that 'there will be negative consequences if [unnamed] political leaders continue to discredit members of the military leadership'.<sup>27</sup>

Pavković moved quickly to advertise his and the Army's loyalty to the new president. Days after the first meeting with Košunica, he

stated that 'the election of the President, Mr. Košunica, resolved the issue of supreme command over the Army, which is of the utmost importance for the military'.<sup>28</sup> He not only proclaimed Košunica as the new Supreme Commander, but also tried to indicate that the VJ's only concern was their need to have a clear chain of command, in order to act in a constitutional manner.

It seems that other DOS leaders were slow in catching up to what was going on, and the developing relationship between the President and the General. On 10 October, Košunica's statement that 'the army will have to be consolidated' was interpreted as his willingness to fire Pavković and other key commanders, such as Air Force Chief General Spasoje Smiljanić,<sup>29</sup> despite the fact that an aide to Košunica stated, on the same day, that the President did not intend to sack anyone for the time being.<sup>30</sup> In early November, Zoran Djindjić and Vuk Obradović expressed their belief that the dismissal of the Chief of General Staff was only a matter of time. When the Supreme Defence Council convened on 3 November for the first time since the fall of Milošević and failed to dismiss Pavković, Djindjić stated that DOS leaders had unanimously agreed, in mid-October, that Pavković needed to go, and that this would happen in the near future.<sup>31</sup> He seemed more concerned about the lack of debate on the role of the military leadership since 1997, when the VSO had effectively ceased to function.<sup>32</sup>

The failure to dismiss Pavković 'caused significant turmoil within the coalition, with all other government parties aligned against Košunica's DSS'.<sup>33</sup> Košunica came under attack from his coalition partners, many of whom held the belief that the democratisation process might be delayed by the presence of some of the leaders of Milošević's security forces.<sup>34</sup> The keeping of Pavković and other generals also led some to express fears of a 'clericalist-nationalist-militarist' government under Košunica's leadership.<sup>35</sup> It also further alienated the Montenegrin President, Milo Djukanović who had asked for Pavković's removal as a necessary condition for improving relations between Belgrade and Podgorica, while at the same time giving him an excuse to claim that Milošević's power structures were still in place.<sup>36</sup> Djukanović's refusal to attend the sessions of the Supreme Defence Council left Košunica with sole control over the VJ. In addition, as calls for Pavković's dismissal multiplied, a crisis erupted in southern Serbia where the majority ethnic Albanian population of the Preševo Valley began an uprising in the wake of the Kosovo war. This had a double effect of both securing Pavković's position by giving more weight to Košunica's belief that changes at the top could destabilise the country, and pitting the Chief

of Staff against a Deputy Prime Minister of Serbia and leader of the Democratic Alternative party, Nebojša Čović.

The eruption of violence in the Preševo Valley proved an important test for the DOS leaders. It occurred in November 2000 while Serbian institutions were still run through a power-sharing agreement between DOS, the Socialist Party of Serbia and the Serbian Renewal Movement of Vuk Drašković (SPO). The killing of four Serbian policemen in the vicinity of the village of Dobrosin threatened to re-ignite the war and spread to Kosovo. The *Ushtria Clirimtare Presheve Medveja e Bujanovac* (UÇPMB – Liberation Army of Presevo, Medvedja and Bujanovac), an offshoot of the UÇK, was attempting the same strategy that served the Kosovo Liberation Army well in 1998–1999. By attacking police forces they hoped for disproportionate retaliation that would eventually lead to NATO intervention. However, the new Serbian authorities displayed a better understanding of how to deal with the crisis than the Milošević regime did. Despite a large massing of troops, the Serbian authorities declared that they would seek to solve the crisis ‘with all available means, but primarily through diplomacy’.<sup>37</sup> In the following months, the crisis in the Preševo Valley would overshadow even the 24 December Parliamentary elections in Serbia, in which DOS gained a two-thirds majority and was officially in charge.<sup>38</sup>

Despite their patience in choosing the diplomatic route, the Serbian authorities had to prepare for the eventuality of war. It was obvious that the UÇPMB was using the Ground Security Zone (a five kilometre strip along the administrative line separating Kosovo from Serbia proper and agreed under the Kumanovo Agreement<sup>39</sup> signed between NATO and the Belgrade military, in June 1999) to attack Serbian security forces. However, under the Kumanovo Agreement, VJ and MUP forces could not enter the GSZ (although local police could, but they were unable to deal with armed groups). On 27 December, the Federal Government issued a list of requests to the international community, calling on NATO forces in Kosovo to prevent further terrorist activity from the province, and threatening that if NATO failed to respond, Yugoslav Security Forces would take necessary measures to defend the territory of Serbia.<sup>40</sup> Koštunica and his staff believed that in such a time of need they could not forfeit the service of an experienced and, in their opinion, skilful general like Nebojša Pavković.<sup>41</sup>

The Governments of Serbia and Yugoslavia appointed Nebojša Čović as Special Coordinator for Southern Serbia, giving him effective responsibility for the crisis. In early March, it was decided that Police and Army actions should be coordinated within a new mechanism.

On 4 March, the Joint Security Forces (*Združene Snage Bezbednosti* – a combination of special police units and VJ) were created and the head of the VJ Inspectorate, General Ninoslav Krstić, was appointed as Commander.<sup>42</sup> He was Čović's military counterpart and had, at least on paper, the command responsibility for all units in the area. However, Pavković and Čović disliked each other intensively and never hid it.<sup>43</sup> The tension between the two men was evident throughout the period, and Čović once referred to Pavković as 'the Sun-General, going by the logic of "the army is me"'.<sup>44</sup> In addition, Pavković believed that Krstić was a potential threat to his authority in the VJ and he made sure to curtail Krstić's effective authority by placing trusted commanders in key positions. General Vladimir Lazarević, the Commander of the Third Army (and former Commander of the Priština Corps), under whose authority VJ units in southern Serbia were, commanded the Army. In addition, another Pavković confidant, General Momčilo Momčilović, was appointed as Krstić's deputy.<sup>45</sup> In this way, Pavković made sure that he had direct command and in the following months he went 'out of his way to show that [the Joint Security Forces] barely existed and that all the work in southern Serbia was done by Generals who had already performed the most significant tasks in Kosovo'.<sup>46</sup> It also created a complicated web of officials who were 'responsible' for Southern Serbia. Čović became increasingly irritated with Pavković and what he perceived as his desire for a militaristic solution to the problem in the Preševo Valley.

Crucially, Pavković refused to accept that Čović had any authority in southern Serbia despite being appointed by the Government as Coordinator. The conflict between the two was exacerbated after 14 March 2001, when Yugoslav forces entered the southernmost part of the Ground Security Zone under agreement with NATO. Pavković led the troops in a move that might have evoked memories of 1999 for many Albanians in the region.<sup>47</sup> In a press conference held without the presence of Čović and Krstić, Pavković referred to Čović as the 'Marshall', referring to his wish to command.<sup>48</sup> A few days later Čović noted that Belgrade needed to do much to improve its image in the region and the world in order to help defuse the crisis in southern Serbia. According to Čović, there was need for a permanent peace in the region in order to show 'the "dogs of war", who are attempting to demonstrate how [they are needed] in these or other posts'.<sup>49</sup> Despite official attempts to deny a rift between the Army and the Deputy Prime Minister, it became increasingly obvious that 'Pavković's strategic concept is completely different from that of Čović'.<sup>50</sup>

A distraction from the Čović-Pavković dispute was created by the decision of the Djindjić government to arrest Slobodan Milošević in late March 2001. The action took place over two days and saw a somewhat botched special police force action that failed to secure Milošević's capture. After 5 October Milošević continued to occupy the Presidential Residence in the Belgrade suburb of Dedinje, officially a military facility, and hence guarded by the elite Guards Brigade. On the evening of 30 March 2001 it was surrounded by heavy police forces as well as some pro-Milošević protesters. The initial attempt to arrest the former president seems to have failed mainly because of the 'conflicting loyalties exhibited by the Serbian commandos who were ordered to go into the villa and the Yugoslav Army units guarding the residence',<sup>51</sup> although what exactly happened remains shrouded in mystery, with differing versions of events. The day after the first attempt to arrest Milošević, the Serbian government accused the Army, and Pavković in particular, of obstructing justice and preventing the police in the fulfilment of its duties.<sup>52</sup> Pavković responded that his forces were doing their duty and protecting a military installation by manning the gates, but that the inside of the compound was the responsibility of special MUP units.<sup>53</sup> That same day, Pavković consulted with Košturnica and ordered the withdrawal of the Guards Brigade detachment protecting Milošević.<sup>54</sup> The episode left a bitter row between the Djindjić camp, which repeatedly insinuated that the Chief of the Staff was acting in league with Košturnica and that the Army was a repository of pro-Milošević supporters.

In June 2001, Pavković once again created a crisis within DOS and the Serbian political scene, by re-appointing General Krstić to his previous post of Chief Inspector of the VJ, thus relieving him of command of the Joint Security Forces in the Preševo Valley. The move created a flurry of media activity and, although officially sanctioned by Košturnica, it was taken by Pavković's opponents, and by Čović in particular, to indicate the desire to remove any threat to his own position. Čović could barely control himself during a press conference, when he accused Pavković of 'mental distortion and an attempt to use military intelligence against Krstić'.<sup>55</sup> Despite the General Staff pointing out that Krstić was merely re-appointed to his previous position, Čović maintained that it was an 'insidious dismissal and it seems that only Pavković is un-dismissible'.<sup>56</sup> The dismissal of Krstić was the opening salvo of a dispute between the Djindjić camp and Pavković. Pavković had understood that calls for his dismissal multiplied and that it was important to remove all potential competition and General Ninoslav Krstić's popularity with the media and the armed forces in southern Serbia made him a dangerous opponent.

The Serbian Government stood behind its Deputy Prime Minister and requested that Koštunica re-appoint Krstić and dismiss Pavković. Koštunica used his legal authority as president to note that appointments in the VJ were not the prerogative of the government of Serbia.<sup>57</sup>

At the same time, Pavković's past involvement in Milošević's policy returned to haunt him and gave further arguments to his opponents. In early June 2001, the MUP disclosed information about bodies of Kosovo Albanians buried in Serbia as well as a systematic policy of terrain sanitation during the Kosovo campaign in 1999.<sup>58</sup> The discoveries sparked a media war between the VJ and the MUP, where mutual accusations were exchanged about their respective roles during the Kosovo war. Pavković and the Army claimed that they had nothing to do with the bodies and that it was an MUP problem. He was promptly reminded by the Minister of Interior, Dušan Mihajlović of his own role as commander of all security forces in Kosovo.<sup>59</sup> Days later a Belgrade weekly published an order by General Vladimir Lazarević, then head of the Priština Corps, regarding terrain sanitation, and claiming that the 'military leadership knew about the crimes, and gave orders to the police'.<sup>60</sup> Both Pavković and Lazarević reacted furiously. Lazarević claimed that his order was perfectly legitimate and legal and was even a requirement under the Geneva Conventions.<sup>61</sup>

For the remainder of 2001, speculation mounted about Pavković's early retirement.<sup>62</sup> Both he and the VJ attempted to improve the image of the Chief of Staff through a relentless media campaign to show that the Army would be worse off without him. At the same time, Pavković consolidated his position within the Army, in August 2001, when a decree by the president retired the six most senior officers of the Air Force and the Air Defence force, thus strengthening Pavković's grip on the military.<sup>63</sup> Nevertheless Pavković could not shake off the legacy of his whole-hearted involvement with Milošević's regime. In October 2001, the ICTY Prosecutor's office announced that it was investigating Pavković and Lazarević, along with two MUP Generals. The Deputy Chief Prosecutor stated, on 6 December that year, that Pavković was 'a member of the joint criminal enterprise and that he might be indicted'.<sup>64</sup> Although this announcement seemed to spark renewed calls for Pavković's dismissal,<sup>65</sup> Koštunica seemed as keen to defend the General. On 27 December, he paid tribute to Pavković's 'successful defence of the country'.<sup>66</sup>

### **Failure no. 2: The Perišić scandal**

A number of events involving Pavković in the first half of 2002 showed the extent of the continual politicisation of the Army and the damaging

effect this had on the process of democratisation. These events and their consequences demonstrated the dangers of the failure to de-politicise the armed forces. On 25 December 2001, Pavković offered his resignation to Košunica, after acknowledging the mounting pressure from the other DOS parties.<sup>67</sup> The President refused to accept the resignation and Košunica's office stated that 'in light of the occurring changes in the military, the President has asked the Chief of Staff to remain in his post'.<sup>68</sup>

However relations between the two allies had already begun to cool by late 2001 and early 2002. On 28 December, Košunica's Military Office announced the retiring of 22 active Generals in light of the changes to the force structure of the VJ, and that were expected to be implemented from January 2002. Among those removed was one of Pavković's key supporters in the VJ, Commander of the 1st Army, General Miodrag Simić.<sup>69</sup> His move to a different position and subsequent retirement followed the dismissal in the autumn of 2001 of the head of the Military Security Service (*Služba Bezbednosti VJ* – counter-intelligence service of the VJ, also known as KOS), General Milan Djaković.<sup>70</sup> Djaković was replaced by General Aco Tomic, a previously little known officer, who was responsible for security in the Third Army while Pavković was commander in 1998–9. At the time, Tomic's appointment caused little apparent concern, despite his failure to meet the formal criteria for his rank and post,<sup>71</sup> and that Tomic was appointed by Košunica's office without the recommendation of the General Staff.<sup>72</sup> His closeness to the President of the Federal Republic of Yugoslavia seems at the time to have escaped the attention of most actors on the political scene, including Pavković himself. Tomic became Košunica's inside man in the VJ and his close links to the President's chief of staff, Ljiljana Nedeljković and Presidential advisors, Rade Bulatović and Gradimir Nalić, enabled him to report the increasing contacts between the head of the VJ and the Djindjić camp.<sup>73</sup>

The political struggle between Djindjić and Košunica, and the cooling of relations between Pavković and the President, was therefore creating another damaging effect on the reforms process. The alliance between Košunica and Tomic made the powerful KOS gain even more importance as Košunica was trying to secure his position while distancing himself from Pavković. This alliance resulted in the single most important crisis for the DOS coalition to that point: the arrest of the former Chief of Staff, then Deputy Prime minister of Serbia, Momčilo Perišić on charges of espionage in March 2002, in an action designed and executed by Tomic and his staff on behalf of Košunica's office. This

incident was viewed by many as a direct warning to reformist forces in Serbia that the military was still around and a force to be reckoned with, one that could both use and be used by the political parties.<sup>74</sup> The scandal that followed revealed a great deal about the power of the KOS and its special links to Koštunica's office, as well as the extent to which they were ready to go to preserve their privileges.<sup>75</sup> Although Pavković's decline had started before the arrest of Momčilo Perišić, this incident and the political crisis that followed revealed the fact that his days at the helm of the Army were numbered. Koštunica had bypassed the Chief of Staff and established direct links with the Military Security Service, headed by Tomić, thus politicising not only the VJ, but also its counter-intelligence service, a move reminiscent of the early 1970s.<sup>76</sup>

On the eve of 14 March 2002, Momčilo Perišić and a US diplomat, John Neighbour (who would later be named by the media as the CIA Station Chief in Belgrade) were arrested by VJ Counter-Intelligence officers acting on orders from Tomić. Perišić and Neighbour were reportedly found in possession of secret documents (including orders given during the Kosovo campaign) as well as recordings from sessions of the Supreme Defence Council, the Collegiums of the General Staff and various other meetings. According to officers participating in the arrest, Perišić was also in the possession of a large sum of money, indicating that the CIA was paying him for providing information.<sup>77</sup>

The arrest seemed to take everyone by surprise. The Serbian Government found out the day after and mounted a staunch defence of its Deputy Prime Minister, accusing Koštunica and Tomić of a smear campaign aimed at discrediting the Government. The President himself claimed he had no prior knowledge of the arrest, and General Pavković stated that he was only informed the morning after. This situation posed the question of whether KOS, the Military Security Service, was acting without political authority. However, it was soon revealed that Koštunica signed the order for the surveillance of Perišić in November 2001, that his Advisor for National Security, Rade Bulatović, was coordinating the operation on behalf of the President, and that Tomić had failed to inform his commanding officer, Pavković, of the action. Hence, since KOS was organisationally within the General Staff, Tomić had bypassed the normal chain of command.<sup>78</sup> He should have 'informed the Chief of Staff, the Defence Minister Velimir Radojević, the Federal Government and the Supreme Defence Council'.<sup>79</sup> Instead he was content to have only contact with the office of the President.

The impact of the arrest was immense. It served to show the state of affairs in the sphere of democratic control over the armed forces and to

highlight the fact that the Army, in general, and the KOS, in particular, had escaped reform. The aftermath of the arrest saw revelations about how Koštunica and his staff, as well as the DSS, of which he was president, used the Military Security Service. On 15 March, the morning after the arrest, while Koštunica was still in Barcelona for an EU Summit, an emergency joint session between the Government of Serbia, the Federal Government and the General Staff summoned Tomić to explain the events. Tomić refused, stating that 'the only man to whom I can answer to is not present'.<sup>80</sup> Pavković is reported to have said to those present, 'you see, I call him and he does not answer'.<sup>81</sup> Djindjić would reveal that Pavković claimed he had no control over the counter-intelligence service and that key internal meetings were always attended by Koštunica's advisor, Bulatović.<sup>82</sup> It became publicly obvious that Pavković was not in Koštunica's camp anymore. It also became obvious that the President was ready to use the counter-intelligence service against his political rivals. Dragan Maršićanin, Vice-President of the DSS, called for the Serbian Government to resign, although they would later settle for Perišić's resignation which would come after a meeting between the most senior government figures, Koštunica, Pavković and Tomić.<sup>83</sup>

As a result of the arrest, the Serbian Prime Minister, stated that he would cease all cooperation between his government and Koštunica on matters of national security.<sup>84</sup> On 19 March, Djindjić asked Perišić to resign, while calling on Koštunica to dismiss Aco Tomić. He also vowed to fight to 'establish civilian control over the Army and its security service'.<sup>85</sup> After all, the VJ and its counter-intelligence service had, by arresting a US diplomat and a Deputy Prime Minister 'blatantly and physically crossed the line that should separate the political and military realms'.<sup>86</sup> The VJ was obviously using the Perišić affair to try and discredit the pro-reform bloc in the Serbian government. However, a little mentioned fact was that the arrest happened two weeks before the US Congress-imposed deadline (31 March) for Belgrade to show improvement in its cooperation with the ICTY. The government had been preparing the public for 'another round of arrests and transfers to The Hague [...] clearly the leading circles within the VJ oppose the Hague process and have reinforced Koštunica's stance'.<sup>87</sup> Perišić is also rumoured to have been supplying documents that could be used in a prosecution case against key military personnel.

The arrest also provided Koštunica with the opportunity to get rid of Pavković. Apart from having lost confidence in the Chief of Staff, Koštunica seemed to be holding against Pavković his distancing from the whole arrest incident.<sup>88</sup> Considering the amount of pressure that

was brought to bear on Košunica after October 2000 in relation to Pavković, the President expected that his dismissal would be a simple task. Feeling that he did not need Pavković anymore in late March 2002, conscious of the General's attempts at a rapprochement with Djindjić's faction, and under pressure from the US administration (which was making Pavković's removal a condition for Partnership for Peace talks), Košunica decided to suggest his retirement to the Supreme Defence Council on 24 March.<sup>89</sup> Milo Djukanović, then President of Montenegro and Milan Milutinović, then President of Serbia, declined to vote on the issue without proper discussion and the session of the VSO had to be postponed for a week.<sup>90</sup> At the continued session of the VSO, on 1 April, Košunica once again failed to secure Pavković's dismissal. However, it was clear that the Chief of Staff's days at the helm of the Army were numbered. At the same time, pressure for Tomić's dismissal began to mount on Košunica, who maintained that the General and his service had just been doing their job. Djindjić was left in the difficult situation of asking for Pavković's and Tomić's removal while banking on the reluctance of both Milutinović and Djukanović to agree. Expectations that the Perišić scandal could lead to de-politicisation of the military were dispelled when it became obvious that it was just another battle on the Belgrade political scene. Pavković was still Chief of Staff, although this time his protectors came, somewhat ironically, from the other side. Košunica refused repeatedly to dismiss Tomić, claiming that the arrest was in accordance with the constitution, laws and regulations.

Pavković's departure in June 2002 was no less an indication of the continued politicisation of the VJ than his whole career under Košunica's presidency. Having again been denied the approval of the other two members of the VSO (who had suddenly found an interest in this all but defunct body) at a session on 24 June 2002, Košunica resorted to a presidential decree to dismiss the Chief of Staff. Pavković initially refused to obey the orders claiming that the decree was unconstitutional and that he would remain as head of the Army.<sup>91</sup> Although it seemed at first that an army revolt might take place, Pavković was eventually denied the support of the top brass, who realised that they had nothing to gain by keeping him.<sup>92</sup> The sacking of Pavković, reminiscent of Milošević's sacking of Perišić, was widely criticised in Serbia, although most political actors agreed that it was long overdue.<sup>93</sup> Rather than the action itself, Košunica was reproached for sidelining the system, which although imperfect and a relic of Milošević's rule was still the legal framework. As Košunica would point out, the decision on appointments was in his remit, but the move reminded many of the Milošević era. Although the President's staff and friendly media had been preparing the public for

the possibility of a Presidential decree being used, they hoped that it would not come to that, and that Košunica would be able to persuade the Presidents of Serbia and Montenegro to agree to the sacking, precisely in order not to come under such criticism.<sup>94</sup>

Pavković's initial reaction and refusal to obey orders was taken as an example of the state of civil-military relations in the FRY. The accusations he levelled at Košunica and his staff revealed once again the extent of the politicisation of the armed forces and the failure of the democratic forces that took power in October 2000 to prevent influence by Milošević and his party being replaced by that of another party. At a press conference Pavković held shortly after Košunica announced his sacking, the General accused the President and his staff of having ordered him on the night of 7 to 8 June 2001 to use VJ Special Forces to storm a Serbian Government agency. Allegedly the President, Aco Tomić, an inebriated Gradimir Nalić, advisor to Košunica, and the President's chief of staff, Ljiljana Nedeljković summoned Pavković for a meeting and asked him to storm the building from which Košunica claimed the Serbian Government was eavesdropping on him. Pavković refused to carry out the order as he deemed that it was not in the remit of the military. He claimed that it was from that moment that Tomić, at Košunica's behest, began to work against him. Pavković's version of events was supported by two retired Generals, Simić and Djaković, who were both allegedly present.<sup>95</sup>

Košunica maintained that Pavković's retirement was part of necessary changes at the top of the armed forces, and that he had consulted the other two members of the VSO, and, although he could not get their agreement, they did not oppose it.<sup>96</sup> Nevertheless, the manner of the sacking as well as the allegations made by Pavković provoked calls for explanations from the President. The Serbian government called for an investigation into the accusations, while the Yugoslav Parliament held a special session to discuss the crisis.<sup>97</sup> In late July, the Serbian Parliament established a Special Commission to investigate the allegations.<sup>98</sup> The DSS refused to participate and Košunica's staff refused to testify, while the party asked the Yugoslav Constitutional Court to rule on the legality of the commission.<sup>99</sup>

Although Košunica tried to present the sacking of Pavković as a move aimed at consolidating democratic civilian control over the armed forces, and despite the numerous good reasons for the dismissal, the scandal highlighted:

important stumbling blocks facing the establishment of democratic, civil control of the military in FRY: first, inertia in the military caused

by uncertainty over Pavković's position; second, flaws in the FRY's institutional and legal mechanisms for civil control of the military; and finally, the way in which civilian politicians have attempted to use the security sector to further their own partisan interests in domestic political power struggles.<sup>100</sup>

Despite the initial uncertainty over the VJ's reaction, it was clear that Pavković's successor was chosen for his apparent lack of political ties and ability to get on with the civilian leadership. General Branko Krga, former head of Military Intelligence and special advisor to Slobodan Milošević during the NATO bombing campaign, took over from Pavković as Acting Chief of the General Staff on 26 June 2002. His tenure would see the VJ gradually retreat from politics.

### **The Army's slow withdrawal from politics**

The series of scandals highlighted the extent of the problem in civil-military relations in the country. It also revealed the willingness of the new political elite to use the security sector for their own personal gain. In the period between 5 October 2000 and the assassination of Serbian Prime Minister Zoran Djindjić, very little had been achieved in the transformation of civil-military relations. The appointment of General Branko Krga saw a gradual withdrawal of the Army top brass from the media and public life. An intelligence officer by training (and the first to lead the Belgrade military), Krga was far more reluctant than Pavković to comment on any issues beyond his own remit as Chief of the General Staff. In what seemed to be a clear departure from previous practice by the military top brass, he stated, in an interview in February 2003, that:

soldiers are used to not commenting on decisions made by competent state authorities. It is our task to simply implement them.<sup>101</sup>

Nevertheless, the silence from the military did not mean that changes were underway.

It took an event of the magnitude of the assassination of Prime Minister Zoran Djindjić finally to kickstart reforms, as it revealed the depth to which elements in the security sector were involved with organised crime, as well as the length to which they were ready to go to preserve their positions and hinder reforms (this issue is developed further in Chapter 7). The aftermath of the assassination saw the arrest of Pavković and Aco Tomić, on charges of corruption and links with organised crime,

putting the spotlight on the Army. It also saw the appointment of a new defence minister. Hence, these events 'removed many of the personalities and rivalries that contributed to the Army's politicisation from 2000'.<sup>102</sup>

At the same time, the new Defence Minister, Boris Tadić, moved quickly to assert his control of the armed forces through re-organisation of the MoD, and the subordination of the General Staff and the intelligence and counter-intelligence services to the Minister. Among his first moves was the removal of Aco Tomić who was dismissed in late March 2003,<sup>103</sup> before being retired and arrested on 8 April 2003.<sup>104</sup> He publicly declared his plans on reform and, in the summer of 2003, dismissed a number of high ranking officers, who were believed to be tainted by their association with the previous regime, allegations of war crimes and corruption. Among those to go was General Vladimir Lazarević, Deputy Chief of the General Staff for Ground Forces, former head of the Third Army and the Priština Corps, and a close associate of Nebojša Pavković.<sup>105</sup> Tadić explained his sacking by the fact that he was being investigated by the ICTY. Although no formal reaction came from the VS (as the military was now renamed,<sup>106</sup> as Serbia and Montenegro left 'Yugoslavia' behind), Košturnica's party accused Tadić of being more strict than the ICTY itself and a friendly press branded Lazarević 'the most popular commanding officer in the Army'.<sup>107</sup>

Despite the progress, questions remained about the changes and the political role of the VS and its officer corps. It was not until the appointment of General Dragan Paskaš to the post of Chief of Staff that the armed forces and the political elite managed to find and agree on someone who was not an exponent, or supporter, of the previous regime. His appointment was not without difficulty though. Rumours mounted in Belgrade that the military was unhappy at the fact that it was not consulted on the appointment and questions remained on the level of support that Paskaš enjoyed within the military. In addition, the key question of cooperation with the ICTY remained. These led Branko Krga to make his only public statement that had an air of times past. As the ICTY made public indictments of Nebojša Pavković and Vladimir Lazarević, the unease on the political scene and in the Army became apparent. Krga stated that the armed forces, at all levels, were worried by the indictments and that they deemed command responsibility to be an unacceptable ground for prosecution.<sup>108</sup>

The deaths of two soldiers on patrol in the Topčider Army barracks in Belgrade in October 2004 brought back the spectre of war crimes and showed the extent to which the military still conducted business as usual. Amid speculation that the two were killed because they had seen

something that they were not meant to see (many believed that Bosnian Serb Commander Ratko Mladić himself could have been hiding in the barracks), the Military Police moved very quickly to dismiss the incident as a homicide and suicide, claiming that there was nothing suspicious. However, the public outcry, coupled with rumours about Mladić's presence and ICTY investigators' interest, led to the creation of a State Inquiry Commission to work in parallel with the Military Investigators. The two came to different conclusions: while the military had no doubt that there was nothing controversial, the independent inquiry called for a full judicial investigation, claiming that they could not reach a verdict. The VS was notably irritated at the prospect of having civilians roaming through one of its most secretive facilities. The Chairman of the State Commission accused the Military Prosecutors of deliberately obstructing their inquiry.<sup>109</sup> The military justice system, in the final days of its existence, mounted a defence of its work and claimed that the State Commission was unconstitutional and that it highlighted the 'negative stance of the political leadership towards the military justice system and the army as a whole'.<sup>110</sup>

For most of the period between the fall of Milošević and the end of 2005, defence reform was the domain of Serbia's politicians. There was also, however, an undercurrent of tension regarding Montenegro, with Presidential Advisor for Military Affairs, retired Air Force General Blagoje Grahovac running a media 'war' with Defence Minister Boris Tadić and the VS, accusing Tadić of amassing unprecedented power and deliberately ignoring the concerns of Montenegro, as well as calling for Krga to be removed as a remnant of the old regime.<sup>111</sup> In July 2005, there was tension over the use of a helicopter for clearly non-military purposes – transporting the frame for a Serbian Orthodox Church being erected on a hill in Montenegro,<sup>112</sup> which constituted unacceptable political interference.<sup>113</sup> As an investigation was called,<sup>114</sup> it became clear that Paskaš's days at the helm of the General Staff were numbered. Finally, on 6 October 2005, he was retired together with a number of other Generals and Admirals, born before 1952.<sup>115</sup>

While attempts to politicise all aspects of the reforms persisted, there were, nevertheless, signs of improvement in 2005. The new military leadership withdrew from politics, as Paskaš was much less present in the media than his predecessors, and refrained from commenting on day-to-day politics. However, the circumstances of his retirement in the autumn of 2005 were symptomatic of the new politicisation of defence and military matters. The appointment of younger and western educated officers to lead the VS was a positive development,<sup>116</sup> but

continued political uncertainty also meant continuing politicisation of the military.

## **Conclusion**

De-politicisation had a slow start in Serbia. The lack of political consensus between the major players in the days after the fall of Milošević allowed the Army to continue playing a role in politics and to be used in the political infighting of the ruling coalition. The dismissal of Pavković saw some improvement, but it was the establishment of the new State Union and the Djindjić assassination that kick-started changes. The period after March 2003 saw gradual de-politicisation of the military through a purge of the top brass and a re-assertion of civilian control over the Army. However, questions on links with war crimes suspects, among other issues, continued to make reform a political issue. The high standing of the military, until the last months of 2004, often managed to hide the degree of politicisation, as well as the slow and painful progress of reform. Incidents at the end of 2004 and throughout 2005 indicated the need for further progress in democratic civilian control over the armed forces.

Hence, while progress had indeed been made, de-politicisation was by no means completed. The tendency of civilian leaders to seek and establish better personal control over the military, and the determination to drag the military into political disputes continued to present a challenge to reform efforts. At the same time, the division and disputes between Serbia and Montenegro created an environment in which each decision, no matter how benign, could be interpreted as a threat to the other side's position. The military became the central battleground between Montenegro's leaders and Košturnica. Such a situation created difficulties for progress to be made in the other two areas of civil-military restructuring – civilianisation of the Ministry of Defence and the structural reforms of the defence system.

# 4

## Civilianising Defence Policy-Making and Military Reform

The first element of the restructuring imperative proved a serious challenge for the democratisation of civil-military relations in Serbia. However, it was only one element in a large and often confused picture. While de-politicisation of the military is a necessary pre-requisite for democratic changes, reform efforts need to address two additional aspects of the restructuring of civil-military relations. The policy-making apparatus of the Ministry of Defence (MoD) needed to be civilianised, through the appointment of a civilian as minister, as well as through a programme of civilianisation of the defence bureaucracy which would ensure that the control of policy-making passed from the military to the civilian authorities. Thus, a civilian bureaucracy within the ministry of defence, able to formulate defence policy, and in turn lead, and manage, reform efforts, needed to be developed. The dominance of military personnel in defence policy-making, which was characteristic of the communist system, posed a particular problem for new democracies as they had no readily available pool of civilian experts on whom they could rely to take over. At the same time, the transformation of the armed forces would need to be tackled. This involved not only policy decisions, but also a re-assessment of threat perceptions and the availability of financial means. It is essential for a state to strike the balance between an effective armed force that is the smallest possible drain on its economy and its security needs. As Donnelly notes, 'countries which aspire to build effective economies and open societies must develop armed forces of a strength relative to the national size and wealth'.<sup>1</sup>

The civilianisation of defence policy-making faced a number of serious challenges, not least the lack of readily available civilian expertise. In addition, the military objected to what they saw as civilian interference in affairs they believed they were better qualified to run themselves. In

turn, this situation had an impact on the restructuring of the armed forces, as reform remained for most of the period the domain of the military, with limited civilian input. Hence, the other two levels of the restructuring imperative – civilianisation of the defence bureaucracy and the restructuring of the armed forces – proved as challenging as, although often less public than, the issue of de-politicisation.

A civilianisation process had begun in 1992 when Milan Panić was appointed as the first civilian Minister of Defence,<sup>2</sup> followed by Pavle Bulatović, another civilian. Only the death of Bulatović in 2000 would lead to a re-militarisation of the MoD with the appointment of General Dragoslav Ojdanić to the post. Nevertheless a gradual de-militarisation of the MoD has been set in motion through a strengthening of the General Staff at its expense. In reality, by October 2000, the MoD was nothing more than a front, powerless and burdensome, and with no control over the military. In addition, there was a failure to civilianise the bureaucracy, leaving serving officers to staff all levels of the bureaucracy. This twin problem of irrelevance and lack of a competent and sizeable civilian component would make the task of civilianisation all the more difficult.

In terms of force structure, the Army was a relic of the Cold War. After a decade of isolation, the Army was not able to follow the trends and developments of western militaries, which were changing from their Cold War set-ups to ones more suitable to the challenges posed by the post-Cold War security environment. The future shape and purpose of the armed forces was a contentious issue and had been discussed even prior to the fall of the Milošević regime. One of the last policies adopted by Slobodan Milošević had been a new defence doctrine, which came into force in late August 2000, a month before his fall from power. Throughout the following period, defence reform was in the media spotlight. It seemed that no other aspect of the post-Milošević reforms had generated so much attention and polemics. Nevertheless, the period 2000–2006 saw only limited progress, which will be analysed below.

This chapter assesses the efforts to civilianise defence policy-making through civilianisation of the defence bureaucracy, while at the same time attempting to restructure the military, in the period between October 2000 and May 2006.

## **Civilianising defence policy-making**

The problem of de-politicisation of the military in Serbia, after the fall of Milošević in October 2000, with the political elites unable to establish

sufficient control to prevent direct Party-Army relations, fed into the challenges experienced in dealing with the second-level imperative of restructuring civil-military relations. This involved the demilitarisation, or civilianisation, of defence policy-making. In former communist countries, defence policy-making was entrusted to the professionals (the military) while democratic civil-military relations needed a more developed civilian component within the policy formation process. The consolidation of democratic civilian control over the armed forces required 'a degree of civilianisation of the defence bureaucracy, particularly of leadership positions'.<sup>3</sup> In the first instance, the civilianisation of defence policy-making meant a civilian minister of defence, departing from the communist-era practice of having a man in uniform run the MoD. In Serbia, as in most Central and East European countries, this was relatively straightforward to implement, and, after 1992, all the Ministers except for Dragoljub Ojdanić (February–November 2000) were civilians. However, on another, more complicated level, civilianisation meant the creation of a cadre of civilian administrators to run defence affairs. This proved a much more complicated issue, as a sufficient body of personnel could not be established overnight. As Tim Edmunds noted, beyond the provision for a civilian defence minister, there was 'no serious attempt to implement a civilianisation programme'.<sup>4</sup> In addition, the Army's traditional dominance of the MoD and defence policy matters created a shortage of qualified civilians.

The following section deals with the experience of civilianising defence policy-making. Between 5 October 2000 and May 2006, five civilians were at the helm of the MoD, with a mixed record of success in civilianising defence policy-making. The first two were notable only for their lack of competence for the job and their failure to establish control over the armed forces. The other three made progress in asserting the dominance of the Ministry over the military, although none of them achieved full civilianisation.

### **The powerless ministry: Krapović, Radojević and the Army**

As with the de-politicisation aspect of democratic restructuring of civil-military relations, the nature of the regime in the 1990s meant that the political forces that had overthrown Milošević faced a somewhat different challenge in terms of civilianising defence policy-making. As noted in Chapter 2, the first civilian minister of defence was appointed in 1992 and until February 2000 civilians remained at the helm of the MoD. However, the 1990s saw a gradual weakening of the MoD by the

direct link established between the Supreme Defence Council and the General Staff of the VJ. This arrangement relegated the MoD to the meaningless task of serving as the official money provider for the Army, although in reality Milošević had ultimate control over the dispersion of budget funds. The immediate period after the fall of Milošević did not bring any improvements. The presence of General Pavković at the helm of the Army, his close relationship with Košunica and disregard for the MoD, the Federal Government and the Supreme Defence Council, made civilianising defence policy-making extremely difficult. In addition, the MoD remained mainly staffed with active military officers whose careers depended on the General Staff, and who would, in any case, feel more inclined to side with the Army than the civilians. Finally, capability remained an issue, as the bureaucracy lacked a large number of competent individuals with the necessary expertise to successfully manage a defence system in transition.

On 4 November, Zoran Žižić became Prime Minister, while his party colleague and surgeon Slobodan Krapović was nominated as Defence Minister, in a coalition government. By his own admission, Krapović had neither interest nor qualification for the position and was wary of the reception he would get from the top brass.<sup>5</sup> Throughout his tenure, Krapović played a minor role in defence policy-making and failed to push through the reforms he was advocating. His role became merely one of advocate for the armed forces in their quest to get more funds, while being excluded from major policy-making regarding military transformation.<sup>6</sup> Between October 2000 and June 2002, Pavković was behind all reform efforts, with the MoD having a marginal, consultative role.

Krapović's task was an almost impossible one. He was caught up in the Serbian power struggle between Djindjić and Košunica, while his own party lacked political weight. Not being a political heavyweight as well as possessing close to no experience of military affairs made it difficult for him to implement any policy and to assert his authority over the VJ. Krapović also found himself on the wrong side of Nebojša Pavković who refused to cooperate with the Minister or to submit to the authority of anyone but Košunica.<sup>7</sup>

Despite his inability to start real reform, Krapović made some minor changes and showed awareness of what needed to be done.<sup>8</sup> He claimed that he set up an expert group within the MoD to study ways of promoting reforms and stated his willingness to listen to civil society and academic institutions.<sup>9</sup> Krapović had a half-hearted attempt at strengthening the ministry through more efficient public relations efforts, appointing a former VJ officer and journalist for the daily *Politika* to help

set up a new information service for the MoD, better to inform the public about reforms: Ljubodrag Stojadinović.<sup>10</sup> Stojadinović would resign in January 2002, saying that he wanted to escape the feeling of uselessness, as nothing had been achieved in reforming the security system.<sup>11</sup>

Krapović resigned on 16 January 2002, citing health problems. However, the true reason was conflict with the Chief of the General Staff, Nebojša Pavković, who had managed to push through the retirement of 21 generals, without consultation, including five generals posted at the MoD as advisors to the Minister. This was the final straw in a difficult relationship in which the General Staff was said to 'be acting towards the MoD as an older brother'.<sup>12</sup> Krapović's resignation helped highlight the pre-eminence of the General Staff. Days before the Minister's departure, the Supreme Defence Council adopted a number of important decisions, including a new organisational concept for the Army and changes to the border management system. All of these changes were planned, devised and proposed by the General Staff.

The departure of Krapović signalled the height of Pavković's power. He was evidently fully in charge of all matters in the military sphere, including personnel policy. In addition, when Koštunica rejected Pavković's resignation in December 2001, he explained that the Chief of Staff had designed the current reforms and 'was personally pushing them through, and hence it would be unreasonable to replace him'.<sup>13</sup> Pavković's deputy and future Chief of the General staff, Branko Krga, stated that the reorganisation 'hasn't been carried out because of pressure from within the country and abroad, but that reforms came as an effort to modernise the VJ'.<sup>14</sup> It became clear that the military had no intention of submitting reform proposals to civilians.

Following the appointment of Velimir Radojević to succeed Slobodan Krapović, the problems remained. Pavković and Koštunica continued to maintain that only the Army had the expertise to conduct the transformation and reform of the armed forces, while the President kept a personal and direct link with the General Staff, bypassing the MoD. Even following Pavković's sacking, the impression remained that the Army was best left to itself to reform. The VJ's stance was best seen through the articles in its weekly magazine, *Vojska*, which mainly aimed at uniformed personnel. These trumpeted reform achievements, while voicing concerns about the difficult material situation of the military.<sup>15</sup> Radojević was, from the start, content to leave reforms to the professionals.<sup>16</sup> The MoD, far from pushing for civilianisation of defence policy-making, continued to serve merely as purse holder for the Army. In February 2002, Pavković requested that the General Staff disposed of 25 per cent of the

MoD's budget, as it saw fit, while Army finances remained top secret.<sup>17</sup> Hence, between October 2000 and March 2003, the lack of democratic civilian control over the Army, the continued autonomy of the General Staff and its direct links to President Košturnica impeded efforts by ministers of defence to serve as 'formal or informal restraints on the VJ'.<sup>18</sup>

## **The minister and his civilian advisors**

The months following the fall of Milošević were mainly marked by a consolidation of the electoral gains and negotiations with Montenegro. Precious little had been achieved in terms of improving civil-military relations, and in particular asserting civilian dominance of the MoD. The first signs of improvement came unexpectedly – and only following a catastrophic, tragic event. On 9 March 2003, Zoran Djindjić, the Prime Minister of Serbia, was assassinated while getting out of his car, in the courtyard of the Serbian Government building in central Belgrade.<sup>19</sup> Due to Zoran Živković's replacing Djindjić as Prime Minister, Boris Tadić unexpectedly became Minister of Defence in March 2003. Thereafter, Tadić was instrumental in getting reforms under way. He formulated a ten-point approach to reform of the armed forces in order to create a 'modern non-aggressive Army that is under strict civilian control' and promised the passing of several laws relating to the armed forces and national defence by the end of 2003.<sup>20</sup> These, it was hoped, would help clarify the roles of the different institutions regarding control and oversight of the armed forces.<sup>21</sup>

Tadić benefited from four sets of circumstances that enabled him to assert his authority over the Army. First, the establishment of the State Union of Serbia and Montenegro in February 2003 saw the exit of Vojislav Košturnica as well as a changed constitutional framework (see Chapter 5) which denied the President a direct link to the General Staff and put the onus on the Minister of Defence as a formal connection between the Army, the government and the Supreme Defence Council. Secondly, the assassination of Djindjić clearly revealed the need for civilians to have better control over the security sector in general. Tadić received overwhelming support and encouragement for his efforts to tame the military. Thirdly, his own growing strength inside his party, as well as the mandate given to him and the circumstances of Operation Sabre and the State of Emergency in place,<sup>22</sup> gave him ample room for manoeuvre, which he managed to exploit well in the early months of his leadership. Finally, Tadić developed a close working relationship with General Branko Krga, the Chief of General Staff, who was a qualitative

change from Pavković, and very adept at resolving conflicts between increasingly powerful civilians and resentful senior officers. His handling of the GS contributed without doubt to a smoother working relationship than would have otherwise probably been the case.<sup>23</sup>

Hence, early on, Tadić was able to push through some important changes with very little opposition from within the military. On 6 May 2003, he abolished the General Staff's independence from the Ministry and streamlined some of its responsibilities, including personnel policy, education and procurement, all of which went to the MoD.<sup>24</sup> On 17 May, he incorporated the military intelligence and counter-intelligence services into the MoD.<sup>25</sup> He also announced personnel changes, which came through in the summer of that year. What became obvious was that Tadić was taking charge of both the institution and its policy-making. Tadić seemed to have understood well how the civilian expertise needed to run his department was lacking. The Minister brought in a number of advisors, who were all civilians, and most of whom had not even done military service. In November 2003, the MoD announced the appointment of a retired British Major-General, John Moore-Bick, as Special Advisor to the Minister of Defence. This presented the overwhelmingly military staff of the MoD with a new experience. Moore-Bick's arrival, in particular, was greeted with suspicion by many in the military and he received a hostile welcome from some of the more conservative press. Tadić himself revealed overhearing an officer say that the military 'did not need an Englishman to come in and tell [them] how to run an army'.<sup>26</sup> Nevertheless, the arrival of civilians and foreign advisors signalled a change in the approach to reform: the new Minister would not only rely on military personnel, but would seek assistance for whatever aspect it was necessary and from wherever it was forthcoming. The plan was to rely on foreign advisors as a short-term measure while domestic civilian expertise was being developed.<sup>27</sup> Tadić also sought to establish contacts and develop assistance programmes with international organisations such as the United Nations Development Programme, the OSCE and the Geneva Centre for Democratic Control of Armed Forces (DCAF), as well as the governments of NATO countries.<sup>28</sup> Finally, Tadić sought out the assistance of civil society in order to fill the gap, but this was more on a consultative basis than as pool for the recruitment of experts.<sup>29</sup>

However, on the policy side, Tadić did not achieve as much as hoped, despite a huge media campaign surrounding his every move in terms of reforms. With hindsight, it seems that Tadić used his time at the helm of the MoD to further his own career as much as to implement reform.<sup>30</sup> His failures were due to three factors. First, the lack of qualifications

among some of his advisors,<sup>31</sup> and the poor relations they developed with the military, created an atmosphere of distrust at the management level. The military resented the civilians and the civilians saw most senior officers as remnants of the former regime who could not be trusted, and who would use any opportunity to slow down reform efforts. As one senior officer noted, the problem was that 'those taking the posts of advisors were young people [...] who did not serve in the military, do not understand the military, but they seek to advise the Minister on how to arrange the military'.<sup>32</sup> For their part, civilians complained of delaying tactics. They complained for example that, having sent the draft National Defence Strategy to the General Staff for comments, it was taken up by every directorate and section imaginable, and the sheer volume of comments and suggested amendments was judged to have made it a pointless exercise.<sup>33</sup> Such poor inter-personal relations led to a lack of coordination between the MoD and the General Staff, as well as within the Ministry itself. It also led to the establishment of selection criteria seemingly based on the opinions of Tadić's young advisors,<sup>34</sup> who failed to grasp the complicated hierarchical structures of the military and thus created confusion.<sup>35</sup>

Secondly, Tadić could not give his undivided attention to the MoD, as Serbia was about to go through another spate of elections. On 16 November 2003, Serbia held Presidential elections, which failed due to low voter turnout. They were followed by Parliamentary elections on 28 December 2003 and a new round of presidential elections in June 2004. As John Moore-Bick noted, everything was at a standstill from late November 2003 until April 2004, as Tadić turned his attention to the internal power struggle in the DS and positioned himself to take over as party president in February 2004.<sup>36</sup>

Finally, the lack of consensus on the direction and content of reform rendered changes difficult.<sup>37</sup> The prime example of this difficulty was Tadić's failure to push through the adoption of a Strategy of National Defence (something that Tadić had made his priority)<sup>38</sup> Nevertheless, Tadić managed to push through crucial changes, which paved the way for further improvement by his successors. Crucially, he managed to establish the primacy of the MoD and began introducing civilians into the leadership of the defence policy-making bureaucracy.

## **NGOs and policy-making**

Prvoslav Davinić replaced Tadić as Minister of Defence in March 2004 following Serbian elections in December 2003 and some uncertainty over

whether Tadić would stay at the helm of the MoD, despite his party's exiting government.<sup>39</sup> As a result of the agreement between the DSS, the G17+ and the SPO-NS,<sup>40</sup> a Serbian Government was formed. Davinić was the G17+ candidate for the Defence portfolio. In his brief period at the helm of the Ministry he managed to push through some internal organisational changes, get the National Defence Strategy adopted in parliament, and publish a Defence White Paper. At the same time, he faced a number of serious crises, which eroded the popularity of the military as an institution, staining his reputation. Davinić inherited a good relationship between the Minister and the Chief of Staff, a draft strategy of national defence, as well as the numerous assistance programmes that Tadić had been instrumental in setting up. He brought in his own expertise, as well as that of a number of civilians, to the leadership of the Ministry. While Tadić relied on a group of young, foreign educated DS activists and supporters, Davinić enjoyed the support of two large NGOs, the G17 Institute and the Atlantic Council, both of which proved instrumental in shaping the policy of his Ministry and providing crucial advice and support. Nevertheless, his inability to deal with corruption inside the MoD and improve financial controls, as well as his dispute with the Ministry of Finance of Serbia over defence spending, would ultimately force him out of his job.

In terms of subject matter expertise, Davinić was probably the best qualified of the civilian Defence Ministers. However, he proved to be a less than competent manager, and his term of office was marked by scandals and corruption. After a successful career as an academic, he spent his working life at the UN Disarmament Programme. Between 1999 and 2000 he served as Ambassador at Large, responsible for security issues. He joined the G17+ group of experts (which later grew into a party following a dispute with the late Zoran Djindjić) and was a member of the Atlantic Council.<sup>41</sup> These two organisations provided the backbone to his staff at the MoD. However, despite his own qualifications and the support of two organisations with some interest in security issues, Davinić lacked political weight. Although chairman of the security committee of the G17+, he was not one of the key players within his own party, a fact that came back to haunt him in the summer and early autumn of 2005. However, despite this, Davinić managed to continue the reforms started by Tadić. After just over a month at the MoD, Davinić had reorganised the Ministry, streamlining its organisation and further integrating the General Staff. He noted that a number of tasks were being duplicated by the General Staff, which, despite having been incorporated into the MoD, continued to preserve some responsibility

relating to personnel, procurement and human resources. His new system ensured further efficiency and 'better control in breadth and depth' of the work of the armed forces.<sup>42</sup> The MoD was reduced from 15 sections to five, plus the General Staff. Most non-military functions were completely taken out of the General Staff and centralised in the MoD.<sup>43</sup> However, this did not necessarily increase the civilianisation of the MoD. As one observer noted, General Slobodan Kosovac had been appointed as head of one of the five sectors (human resources) increasing his power significantly.<sup>44</sup>

The new Minister chose as his most senior advisors a number of people from the NGO sector. Pavle Janković, Director of the Centre for the Study of Defence and Security of the G17 Institute, became advisor for reforms, and later Assistant Minister in charge of defence policy,<sup>45</sup> while the Secretary General of the Atlantic Council (a lobby organisation advocating entry into NATO), Veljko Kadijević became advisor for intelligence and counter-intelligence services and Miloš Ladičorbić, also a member of the Atlantic Council assisted him.<sup>46</sup> Both were retired military officers. In addition, the newly created Fund for the Reform of the Defence System, which was supposed to manage the sale of military assets, was headed by Vladan Živulović, President of the Atlantic Council.<sup>47</sup> All of these were active in advocating reforms before being appointed and had, on a number of occasions, presented plans and programmes for various aspects of transformation of the armed forces.<sup>48</sup> In addition, there was an attempt to lure young educated experts to work in the MoD on specific projects.<sup>49</sup> The supremacy of the civilian leadership became apparent when, in December 2004, Branko Krga became the first Chief of General Staff since 1992 to retire in normal circumstances.<sup>50</sup> However, despite the progress achieved by Davinić and his team, problems emerged between civilians and soldiers, and the reluctance of some of Davinić's advisors to rely on military personnel, led them to micromanage issues.<sup>51</sup> In January 2005, Kadijević and Ladičorbić both resigned, citing lack of progress and understanding of reforms in the Army.<sup>52</sup> A further illustration of the increasing reliance on former military officers was offered when retired General Aleksandar Dimitrijević, who was the head of the military counter-intelligence service between 1992 and 1999, was appointed assistant minister for intelligence in April 2005.<sup>53</sup> The inability to find suitable civilians to manage aspects of the defence bureaucracy seemed to have reached new lows.

As Davinić became increasingly entangled in the various scandals facing the military in 2005, it became clear that defence had become a liability for the G17+ party. The party of technocrats, economists and

public finance experts was finding it hard to reconcile its desire for tighter fiscal control with the needs of the military and the contradictions that marked financing and budgetary oversight.<sup>54</sup> All of this had the potential to dent its already small electoral prospects. However, it was a defence procurement scandal that actually tipped the balance. Davinić seems to have become a scapegoat and the publicity given to the procurement contract between the MoD and Mile Dragić, a local defence company, led to his removal in the fall of 2005.

While Davinić protested his innocence until the end, his own party, whose vice-president, Mladjan Dinkić, the Serbian Finance Minister, revealed the scandal, turned on him and cancelled his membership.<sup>55</sup> In the end, the scandal was pushed off the media agenda by other events. But the episode revealed the inability of civilians properly to control military spending. While the scandal had a political background, it signalled the need for better oversight of procurement and the military budget.<sup>56</sup> Corruption in this domain remained rampant.

## **Back to the generals?**

Davinić's resignation, in September 2005, tarnished his record at the helm of the MoD. The achievements were overshadowed by continuous accusations of corruption. For their part, the ruling coalition faced the difficult task of finding Davinić's replacement, someone competent and authoritative enough to clean up the Ministry's practices, while being on message with the Serbian government. The best answer according to the DSS in particular was a retired General and formed head of the Military Medical Academy (*Vojno-medicinska Akademija – VMA*), Zoran Stanković.<sup>57</sup> Stanković's appointment raised numerous questions, not least, his status as retired officer and his onetime proximity to General Ratko Mladić, one of the Yugoslavia Tribunal's most-wanted. His appointment seemed, to some extent, to reverse the achievements of civilianising the MoD. While Stanković was a pathologist by training, he nevertheless spent his entire career in the Army, raising concerns that his appointment would be a step back in the reform of civil-military relations.<sup>58</sup> Although he had a reputation for fighting corruption, forged during his time at the helm of the VMA, the new Minister was close to Vojislav Koštunica, and his relations to the top brass remained unclear. Stanković dismissed the whole of Davinić's team of advisors, and initially decided to take personal control of the departments of procurement, finance and budget, and public relations.<sup>59</sup> In one of his early interviews he vowed to help recover 'the old reputation for the army', to draw on the expertise of

a number of retired generals, continue the efforts to reform, while re-assessing defence needs of the country.<sup>60</sup> Stanković also promised to conduct business in a more open and public manner than was previously the case.<sup>61</sup> However, he also stated that he would be relying on the expertise and experience of retired generals who participated in the war in the former Yugoslavia, although it was not clear to what extent he really did so.<sup>62</sup>

Despite the early fears about Stanković's appointment, he established a good working relationship with Boris Tadić and the VSO from the start of his appointment. As expected, he was more vocal in advocating the financial needs of the military.<sup>63</sup> In particular, he focused on the financial situation of the defence system, ordering a re-examination of all expenditure and procurement from the period of his predecessor.<sup>64</sup> While he originally assembled a team of dubious competence and insisted on keeping a number of sectors under his own leadership,<sup>65</sup> Stanković, scarred by the experience of his predecessor, initially almost refused to make any major decisions beyond the strictly necessary for the day-to-day running of the ministry and the military.<sup>66</sup> At the same time, the MoD faced growing inertia. As the new Chief of the General Staff, Ljubiša Jokić, noted, it was increasingly difficult to get political support for changes.<sup>67</sup> Nevertheless, under Stanković's leadership the implementation of the reform strategy established in the White Paper on defence continued, despite constant financial constraints.

Most importantly, however, Stanković decided to attempt to establish firmer control over the intelligence sector of the MoD. He disbanded the Intelligence Section of the Ministry, making the two Agency heads directly accountable to him.<sup>68</sup> The immediate impetus for such a decision was the lack of cooperation by both the VBA and VOA with ICTY investigators and their apparent inability to locate Ratko Mladić. While this particular aspect will be discussed in detail in Chapter 7, it should be noted that this presented one of the rare examples, together with the subordination of the General Staff to the MoD in 2003, of a bold initiative to cement civilian oversight of the military in general and the intelligence services in particular.

Civilianisation efforts proved particularly difficult for a number of reasons. In the early period, the politicisation of the Army and its direct subordination to the President bypassed the MoD. Early Ministers had neither the interest, nor the knowledge to push through civilianisation of the defence bureaucracy. They also lacked the political weight to assert their Ministry in the face of the General Staff-Presidential axis. The first two Ministers after the Djindjić assassination, Tadić and Davinić, had far

more success in imposing themselves on defence reforms, and went some way towards assuring civilian dominance of defence policy-making. However, they both suffered from a lack of readily available civilian expertise (see Chapter 6), as well as the inability of their civilian advisors and senior military personnel to find a common language. Tim Edmunds correctly assessed that 'in the long term, it [was] likely that the MoD will have to undergo a more fundamental process of reform, including civilianisation that will force it to confront issues of institutional adaptation'.<sup>69</sup> For the time being, the Minister and his advisors would need to rely on a bureaucracy mainly staffed with serving military officers.

The appointment of the retired General, Dr Zoran Stanković, to succeed Davinić following the procurement scandal of August–September 2005, raised the prospect that the achievements of civilianisation could be reversed. It also demonstrated the degree to which Serbia's politicians remained uncomfortable in managing the military. The fact that the ruling coalition, in general, and the DSS in particular, could not find a heavyweight among their ranks to take up such a significant post at a time of crisis showed that habits had not changed and that the belief remained that the job of Minister of Defence was best left to the military. This was a clear sign of immaturity.

## **Military reform 2000–2006**

Reforming the armed forces is a central aspect of the process of transformation of civil-military relations, and a crucial third element of the restructuring imperative identified by Gow and Birch. In many ways it is the most high profile and one that the armed forces in particular like to concentrate on. In Serbia, this process was rendered even more important by both the legacy of the JNA, and the events of the 1990s, as well as by the need to match the capabilities of an obsolete army (although one with combat experience) with changed threats and geopolitical realities. 'Reform of the Army' (*reforma vojske*) became a convenient expression used by officials, military experts and the media alike to describe the process of transformation of civil-military relations.

The third level of the restructuring imperative, regarding the issues of military restructuring, or reform, proved to be the most problematic in most transitional states, as it involved 'the need to work out what both the shape and the purpose of the armed forces would be'.<sup>70</sup> At the same time, a worsening economic climate added to the already difficult task of reform. As Chris Donnelly observed, 'an army should be as small a drain on [a country's] economy as is consistent with national security'.<sup>71</sup>

Transitional former communist countries needed to develop effective armed forces in order to assert their sovereignty, which made developing armed forces of strength relative to their national size and wealth a necessity.<sup>72</sup> The basis of all this was a sound policy expressed through a national security strategy, from which both a national defence strategy and a military doctrine could be devised.

Belgrade faced a similar problem to Warsaw Pact countries, as the issue was how to change what already existed, although, in some ways, the military should have been easier to reform than the armed forces of other CEE countries. The SFRY had developed throughout the Cold War a capability for independent planning and action. In many ways, its problem was one in between that faced by former Soviet bloc countries and that of NATO armed forces in the post-Cold War period. Belgrade had to deal with 'a fluid and uncertain international environment characterised by risk-assessment complexity [which] required changes of doctrine and policy, taking into account security in its widest context, as well as nuts and bolts changes in the structure of the armed forces as they faced a new environment',<sup>73</sup> while at the same time having to deal with a conservative armed force deluded by its own propaganda of success and whose main concern was modernisation of weapons systems and the protection of its privileges. In the 1990s, the country had gone through a period of economic isolation, war in its 'near abroad' and a conflict with NATO. After October 2000, it had to adapt to a security environment based on partnership rather than hostility, cooperation rather than competition. However, adaptation required political consensus and independent expertise (both of which were lacking), which would enable the formulation of a clear policy, and which, in turn, would facilitate reform efforts. Hence the military faced 'serious and pressing reform challenges'. These related to the evolution of its 'role and purpose in the new security environment, restructuring and re-equipping, and the challenge of professionalisation'.<sup>74</sup>

Although reforms, modernisation and transformation of the Army constituted a central theme in political discourse, and their importance and urgency had not been lost on the major political actors or the Army, in the period between October 2000 and March 2003 the VJ had been reforming itself.<sup>75</sup> However, progress proved slow. The changes trumpeted by the Army, in the period before Djindjić's assassination, were mostly without proper guidance and policy support, and also represented 'a reduction and not re-organisation'.<sup>76</sup> In any case, proper reform was missing. The most important changes happened under Tadić and Davinić, although these two were hampered by the inability to

achieve consensus on national security policy, as well as an increasingly difficult financial situation. Stanković implemented some of the earlier initiatives, but he also proved too politically insignificant to achieve real progress, despite efforts by the Chief of the General Staff to speed up the implementation of the reform programme.<sup>77</sup> Financial difficulties continued to prove a significant challenge as the MoD sought ways to improve the difficult material situation affecting military personnel and the military as a whole. Problems of weapons system modernisation, training, manpower and the challenge of dealing with the surplus of employees and the repercussions on the social system as a whole were all present. At the same time, continuous uncertainty regarding both national and international environments (threats in southern Serbia, status of Kosovo, future of the State Union, delayed Euro-Atlantic integration, the war crimes legacy) contributed to a paralysis of proper long-term planning and implementation.<sup>78</sup>

### **Deciding roles, elaborating new policies**

The need to revise the role of the armed forces was a crucial aspect of the reform process. In normal circumstances, it would provide the basis from which to work out the shape and size of the force, decide on the issues of conscription and plan procurement. The elaboration of a new security policy in post-Milošević Serbia proved one of the most difficult tasks for three principal reasons: the lack of political consensus; the uncertain international environment; and the war crimes legacy. All three combined, at different times, to slow down the formulation of policy. The lack of consensus on the future role and direction for the Army became apparent as early as 6 October and was shaped by the same factors that led to the politicisation of the armed forces. The Army and defence policy remained the domain of President Koštunica, who was on the same wavelength as the Chief of the General Staff. At the same time, parallel to the intra-Serbian disagreements, policy-making was hampered by the lack of consensus on the polity, making accord on defence issues close to impossible. In such an atmosphere, the Army was left without guidance in the early years of democratisation and with only limited, if often contradictory, policy in the following period. However, by 2006, Belgrade had a new National Defence Strategy and a Defence White Paper, and work had begun on a Strategic Defence Review. However, as will be argued in the next chapter, Serbia lacked a number of key documents, such as a doctrine, and a legislative framework for future reform.

Despite the lack of a concrete, well-defined security and defence policy, all those concerned managed to reach consensus on the need to join the Euro-Atlantic integration processes in the sphere of security. In practice, this meant that there was broad agreement on the desirability (in fact for some it was almost inevitability) of joining NATO's Partnership for Peace (PfP) programme.<sup>79</sup> This consensus came somewhat late (in March 2002) and masked disagreement on the speed, cost and details. Nevertheless, it can be said that a broad consensus emerged on the need to make a contribution to international peace and security through PfP membership, as well as participation in peacekeeping missions.<sup>80</sup> In addition, it became increasingly obvious that Serbia would need to reduce the size of the armed forces, but the exact number, in the absence of a policy, became a hot topic for debate and political wrangling. While the MoD floated the figure of 50,000 to 55,000 troops, one political advisor, retired air force General Blagoje Grahovac, outlined a new concept based on the premise that a full scale war in the Balkans was highly unlikely and that the country would need only some 25,000 professional soldiers, enough to meet international obligations and provide defence and security.<sup>81</sup> Grahovac's plan was the only publicly available reform project at the time, as the MoD declined to make drafts of its version of the National Defence Strategy public. It was based on a threat assessment as well as financial calculations. It hit a sore point with the military, who objected to such a drastic reduction of their numbers. Nevertheless, the lack of clear and official force level projections persisted into late 2005, as Stanković became Minister of Defence, was indicative of the ad hoc approach to restructuring.<sup>82</sup>

At first, it seemed that Tadić's aim of adopting a national defence strategy as a matter of urgency was having an effect. The first draft of the National Defence Strategy was ready in late July 2003,<sup>83</sup> three months after Tadić became minister. In September, a roundtable discussion was organised with experts from the MoD, the military, the Ministries of Foreign Affairs and Internal Affairs, as well as a small group of experts chosen from think tanks. The draft strategy was heavily criticised on several counts, including the fact that Belgrade was trying to draft a national defence strategy without first having adopted a national security strategy.<sup>84</sup> In addition, the document was criticised as too long and full of un-explained terminology.<sup>85</sup> The Minister of Defence pointed out that this was the first time such a document was being drafted and proposed to remedy the lack of national security strategy through an incorporation of its key elements (threats to national security and foreign policy goals) in a revised draft.<sup>86</sup> In this way, the MoD

was left with the responsibility of drafting a document that was wider than its own remit.

After this bruising experience, Tadić and his team did not submit another draft. The changing political situation in the country as well as in-fighting in the DS (of which Tadić was Vice-President) created 'a situation of paralysis in the MoD'.<sup>87</sup> The next document was submitted by Davinić's team and was adopted by the Supreme Defence Council, in May 2004. However, it was not ratified because of reservations about the possibilities of internal use of the Army, which created a huge uproar, leading the minister and the General Staff had, once again, to go back to the drawing board.

The Strategy of National Defence adopted in November 2004<sup>88</sup> finally provided a clear and official definition of the role the military would play, after a series of failed attempts to settle the problem posed by the lack of a normative framework for reforms. It crystallised the issues, threats and key directions for reform and provided a platform for further change, while clearly stating an orientation towards NATO and Euro-Atlantic integration, and stressing the importance of global and regional security processes, in line with contemporary thinking in the West. At the same time, it pointed to an improved security environment, especially when compared with the last decade of the 20th century, predicting that inter-state conflict could only occur in case of a global or regional crisis, which, according to the document, was highly unlikely to happen. The National Defence Strategy identified a number of potential military and non-military threats. As military threats, the strategy listed: traditional military threats (such as aggression, which although reduced are still possible); regional or global conflicts provoked for example by the reversal of democratisation in the region coupled with social, economic and religious problems; and armed rebellion (defined as a 'specific kind of armed conflict motivated by unconstitutional and violent desire for border change'). These would be dealt with through the use of force in accordance with the rules and customs of international law, while the main agency for dealing with those was the Army. Non-military threats were perceived as an increasing problem in international relations and defined as: terrorism; organised crime and corruption; and other less likely threats such as environmental catastrophes, industrial and other accidents and epidemics.

Serbia's vital defence and security interests were: traditional defence; joining Euro-Atlantic integration processes; cooperation with international organisations;<sup>89</sup> confidence and security building in the region; and respect for UN Security Council Resolution 1244 (ending

the Kosovo conflict). The strategy was a clear break with the past and brought Serbia closer to global security processes.

Finally, it should be noted that in the absence of political guidance in the shape of a defence policy, NATO's PfP programme played the role of lighthouse for policy-makers. In addition, despite the clear vision provided in the end by the National Defence Strategy, key statements, such as one by Tadić to the North Atlantic Council,<sup>90</sup> helped outline the broad aspects of current policy and future developments. These formed the basis for reorganisation of the forces, which occurred between March 2003 and early 2005. The armed forces, however, continuously expressed their discomfort at the lack of clearer guidance, and repeatedly called for the normative documents to be adopted before reforms continued.<sup>91</sup> Despite severe impediments and some delay, the role and missions of the military were successfully redefined by late 2004, although it would need to wait until April 2005 for a White Paper on Defence to clarify the future shape and form of the military.

### **Reorganising the military: Changes to force structure**

After October 2000, reorganisation of the military proceeded, despite the lack of crucial policy documents and a clear vision on the future role and shape of the armed forces. Reform was driven by the need to downsize and modernise rather than by a long-term strategic choice.<sup>92</sup> The need to address the legacy of the JNA (on whose structure the VJ was partially based) was evident and urgent, in order to take into account the changed level of threat in the region as well as the new geopolitical and financial circumstances of the countries. However, apart from the lack of policy guidance outlined above, a weak Defence Minister, coupled with a president sympathetic to the armed forces and a top brass that did not look kindly on civilian interference in what they perceived as strictly military matters, threatened to paralyse reforms. The military was conscious that its set-up was not adequate to the nature of threats faced and also that the financial situation would get worse, while the number of employees of the armed forces remained at unsustainable levels. The generals decided to act to pre-empt any civilian initiative that could have enough political weight to bring about changes with which they might not agree or that could threaten their privileges.<sup>93</sup>

Despite a lack of agreement and direction from the politicians, the VJ embarked on a set of changes, in late 2000, highlighting the military leadership's view (and to a lesser extent the view of President Koštunica) that reforms were best left to the professionals, with only

limited civilian involvement. In the autumn of 2001, the General Staff devised a 'Dynamic Plan for Restructuring and Reorganisation', which was adopted by the Supreme Defence Council in December 2001. In reality, this plan was based on a previously agreed programme of rationalisations and downsizing which the General Staff devised in 1996 and called *Model Vojske Jugoslavije*. The plan's implementation did not really take off, apart from a reduction of regiments from 178 to 125 in March 1997.<sup>94</sup> However, the General Staff dusted it off in 2001 and presented it as major innovation, in terms of defence reform, a view that was supported by Koštunica. At the same time, work apparently continued on key documents, with General Branko Krga announcing their imminent completion, in the summer of 2001.<sup>95</sup> In the event, none of the mentioned documents (Defence Strategy, Military Doctrine) would ever be published.

The VJ's new organisational structure involved abolishing the old formations of 'armies', in favour of a 'corps' structure, and streamlining the chain of command.<sup>96</sup> Although this change was publicised as a major reform achievement, it was nothing more than the elimination of an unnecessary level of command between the Chief of Staff and the concomitant operational units as well as a reduction in numbers, with some 4,000 officers becoming redundant.<sup>97</sup> The disbanding of the commands of the three armies as well as the commands of the air force and the navy and their replacement with six corps of the Army, the Anti-Aircraft Defence Corps, the Air Force Corps and the Navy Corps gave the Chief of Staff direct command of all land forces, while the Navy and the Air Force saw their status downgraded to corps and their separate commands abolished. The immediate benefits were simplification and streamlining of the chain of command and the reduction of posts, and, hence, the number of officers and civilians. However, in the long run, this proved to be nothing more than an attempt to save some money, while the changes were executed without proper policy guidance, long-term objectives or civilian control. The re-organisation was the work of Pavković and his team, with no civilian input, either from the civilian bureaucracy or civil society.<sup>98</sup>

Following the arrival of Boris Tadić at the helm of the MoD, another wave of reorganisation took place with the introduction of sectors (for ground forces, for the air force and air defence and for the navy), while at the same time the MoD devised a three-phase plan of re-organisation, meant to achieve a leaner, more modern and better equipped force by 2010.<sup>99</sup> This plan, although presented by the civilian leadership, was formulated by the General Staff in the period prior to Tadić's appointment.

Nevertheless, it continued the trend of reducing the number of employees in the Army and in the MoD through the closure of posts. The focus of this transformation effort was a gradual move towards an all-volunteer force (AVF) and a reduction in civilians employed by the armed forces, while at the same time planning for future weapons systems modernisation. The first phase, which was completed at the end of 2004, resulted in a further reduction of posts, units and institutions of what was, by then, the VS. According to the MoD, the number of garrisons was reduced by nine and the number of commands by 30 per cent.<sup>100</sup> A level below this, the military underwent important re-organisation. As many as 21 brigade-size units were disbanded, or re-assigned, and a further 20 were reorganised with particular emphasis on the reduction of posts.<sup>101</sup>

Tadić left the post before seeing through the end of the first phase of his plan. Davinić's team kept the broad outlines of the three phases, while changing some aspects of the plan.<sup>102</sup> As a result, the VS entered a different second phase to the one intended by Tadić (although it remained unclear to what extent the second phase had been worked out by Tadić's people).<sup>103</sup> This second phase of reforms, which began in 2005 and was intended to run until the end of 2006, would cover the re-organisation of the General Staff, the formation of an Operational Forces Command, the disbanding of the Corps commands and the creation (or in a way re-creation) of three service commands (for the Army, Air Force and Air Defence, and Navy), together with the re-organisation of logistics, education and training, and the re-examination of the usefulness of a number of institutions providing health care and cultural programmes.<sup>104</sup> In addition, as part of this phase, the military began to surrender border control to the Serbian MUP.<sup>105</sup> This would, it was hoped, leave the VS free to prepare to implement the third phase of reform, which would complete the restructuring and speed-up the modernisation of weapons systems. The third phase was expected to concentrate on the development of a rapid reaction force, regular defence force, territorial defences and logistics.<sup>106</sup> The hope was to reach, by the end of 2010, a functional organisation of the defence system, with professional, well-equipped and well-trained rapid response units, based on a NATO model, and capable of quick deployment.<sup>107</sup> It was left to the Army of Serbia to continue the implementation of the reforms.

As part of the reorganisation effort, the MoD presented, in April 2005, its new organisational structure and announced that the commands of four corps were abolished (Belgrade, Užice, Niš and Priština) and replaced with an Operational Forces Command and Land Forces Command.<sup>108</sup>

The Air Force Corps and the Air Defence Corps were merged into the Air Force and Air Defence Command, while the Navy Corps was also upgraded to a Command. The Logistics Command was formed for the first time, enabling the VS to start developing a more rationalised and efficient system of support for troops.<sup>109</sup>

The major innovation was the formation of the Operational Forces Command, which was envisaged as the most efficient joint force in the VS, comprising Special Forces, parachute units, military police, motorised and armoured units, artillery, engineers, air defence, NBC defence, and communication and electronic warfare units.<sup>110</sup> It was composed of 57 per cent of professional soldiers, and would be able to deploy at short notice and to participate in a variety of operations, including anti-terrorism and peacekeeping.<sup>111</sup> In addition, Logistics was given a prominent position in the new organisational structure, in accordance with the need to support future operations. Such a structure would facilitate a further streamlining in phase three of the transformation, planned for the period 2007–2010. This would see the creation of a joint operational command, which would encompass all active units of all three services. The formation of the Land Forces Command was another innovation put in place in 2005. The Land Forces Command, based in Niš, initially comprised 13 brigades, two regiments, 16 battalions, four training centres and 13 other institutions.<sup>112</sup>

The re-organisation that occurred in 2005 had another significant element, namely the relocation of commands away from Belgrade. Hence, the Operational Command was based at Kragujevac, while the Land Forces Command was established in Niš, deemed to be closer to the most immediate security challenges – Southern Serbia and Kosovo. The Logistics and Air Force and Air Defence Commands remained in Belgrade and Zemun respectively.<sup>113</sup> However, ultimately all the changes that took place in 2005 were temporary measures in the development of the military and the defence system.

## **Military reform and funding problems**

Between October 2000 and May 2006, the Army's financial situation progressively worsened. The sizeable military debt, together with pension liabilities, which were largely a legacy of a past, oversized defence system, and which were slowing down reform efforts. For example, in 2005, out of the 46.5 billion dinars<sup>114</sup> in the defence budget, only 2.5 billion were earmarked for procurement, while 13 billion were for wages and a staggering 10 billion (over one fifth) for pensions.<sup>115</sup> The rest was for

daily costs, including the servicing of debts. Such a situation prompted the Minister of Defence to claim that the VS was barely functioning in the summer of 2005, with half of its annual budget spent in the first five months of 2005, leaving it without cash flow.<sup>116</sup> By mid-2005, the military was in crisis, with debts of over five billion dinars to suppliers.<sup>117</sup>

The main problem was the inability to agree a workable formula for the financing of the defence system. In 2004, disputes threatened to paralyse the whole of the military. The new Serbian Minister of Finance, Mladjan Dinkić, refused to cover the deficit with funds from the Serbian budget.<sup>118</sup> The cash flow situation was not improved by this measure. In March 2005, the Chief of the General Staff complained that the money allocated to the VS was insufficient and arrived irregularly, forcing the military to struggle to maintain necessary levels of combat readiness.<sup>119</sup> In June 2005, the Supreme Defence Council stated that it was concerned with the financing situation of the defence system, and called for regular payments to the defence budget.<sup>120</sup> At the same time, Davinić continued to advocate the sale of surplus equipment and real estate in order to finance reforms across the system, but in fact trying to revive his plans in Serbia whose Finance Ministry refused to authorise the sales.<sup>121</sup> However, as will be seen in Chapter 6, the proposed mechanism, the Fund for the Reform of the Defence System, had weaknesses, most notably the lack of transparency and accountability that put off the Serbian Finance Ministry. The VS was referred to as the 'billionaire popper':<sup>122</sup> It sat on great wealth, in terms of unused real estate and equipment, but could not release the cash necessary to sustain it and push forward reforms.

Hence, the modernisation and procurement of weapons systems remained a distant dream throughout the period. The size of the armed forces, its huge debt towards third parties, the inefficiency of its supply system and disputes over the allocation of funds for the military contributed to an inability to modernise armaments. In the period following the fall of Milošević, no new weapons systems were procured.<sup>123</sup> At the same time, reductions were made through the sale, or decommissioning, of old weapons systems. In 2004, the MoD began to sell a large number of T-55 tanks, old armoured personnel carriers, and artillery pieces.<sup>124</sup> At the same time, the navy sold a number of ships and submarines in order to reduce the size of the force.<sup>125</sup>

The increasingly difficult financial situation challenged the viability of the Air Force and the Navy. The Air Force was severely damaged during NATO's Operation Allied Force, losing some 30 per cent of its aircraft. In addition, years of under-investment in spare parts led to a

situation in which the air force was barely able to perform its duties by late 2005. The military weekly magazine, *Vojska*, reported in February 2005 that fighter pilots had an average 10 hours of flight time during 2004, due to lack of funds for spare parts and fuel.<sup>126</sup> There was of course no question of procuring more modern aircraft, while the situation was, according to General Paskaš, most critical regarding fighter planes and transport helicopters.<sup>127</sup> The increasing difficulties of the Air Force prompted speculation that Belgrade would have to pay other nations to protect its air space, something deemed even more costly, both in financial and morale terms.<sup>128</sup> At the same time, a preference was expressed for developing helicopter and transport units. However, this remained beyond the financial capabilities of the defence system.<sup>129</sup>

The future of the Navy depended, of course, on relationships between Serbia and Montenegro, given that the fleet was based in Montenegro. Its other component, the River Fleet, based in Serbia, was the largest such fleet in South Eastern Europe, tasked with the protection of internal waterways from enemy and terrorist threats, as well as intervention in case of environmental disasters, such as floods.<sup>130</sup> However, it was an expensive and antiquated part of the defence system, which demanded significant investment in terms of manpower and money. The state of the sea fleet was even more worrying than that of the air force or its river counterpart, with the bulk of the reform efforts concentrated on the reduction of the force.<sup>131</sup> The sheer cost of keeping a fleet afloat was felt throughout the system and the navy was forced to decommission its large submarines, keeping only four midget ones for Special Forces' use, while reducing the number of frigates to two.<sup>132</sup>

While financial problems impacted on the pace of reforms and the ability to modernise, they also influenced personnel issues, discussed below. The MoD tried unsuccessfully to solve its funding problems by calling for disputes to be resolved.<sup>133</sup> However, it became clear that the military found itself in a vicious circle: it needed the money to continue reforms in order to become more efficient and begin modernisation. At the same time, its structure, and in particular the large number of social cases, including pensioners, it had to take care of, prevented the available funds being spent on reform.<sup>134</sup>

### **Human resources issues: Conscription, personnel policy and redundancies**

The reorganisation outlined above created a number of personnel issues that needed to be tackled. First, there was the question of recruiting

combat personnel and the future of the conscription system. At the same time there was a second and related issue of implementing democratic standards, in terms of conscientious objection and the rights of citizens not to bear arms. Finally, the reorganisation generated a large number of redundancies, whether civilians employed by the MoD, or military personnel, who needed to be re-trained or socially taken care of in order to avoid large unemployment problems or social unrest. All of this proved highly costly and problematic.

The restructuring of the armed services prompted a debate on conscription, as economic constraints, the desire to build a smaller more modern force capable of dealing with both domestic terrorism and participating in international missions, the growing unpopularity of the mandatory military service and falling numbers of recruits necessitated a rethink of the system.<sup>135</sup> The debate on conscription was mainly shaped by three factors: the falling number of recruits, financial problems and threat perception. All three served to highlight the difficulties of adopting an all-volunteer force (AVF) model, while, at the same time, underlining the need to do so, in order to increase efficiency and the ability to respond to security challenges. However, the financial difficulties made professionalisation even more difficult, while the cost and growing unpopularity of the mandatory service, coupled with the limited usefulness of conscripts, led to a reduction in the period of mandatory service. In the period 2000–2006, the length of mandatory service was reduced from 12 months to nine (in 2003) and then again to six months (in 2006). This was achieved against considerable opposition from some quarters of the military, where illusions of needing to maintain a large standing force could still be found.<sup>136</sup>

By 2005, there was near universal agreement in military and policy-making circles that professionalisation was the way forward.<sup>137</sup> Although many believed that the adoption of an AVF was the optimal solution, the Army was well aware, as late as 2006, that it was some way away from achieving this,<sup>138</sup> while some political parties were pushing for a quick end to conscription.<sup>139</sup> As General Branko Krga noted in an interview, following his retirement in January 2005, Belgrade and the military had still not decided 'when a model of full professionalisation needed to be implemented'.<sup>140</sup> Concerns about the cost of such a system were at the forefront of the debate.<sup>141</sup>

The debate on recruitment generated another issue: that of conscientious objection and the ability to accommodate those who did not want to bear arms, or serve, in uniform.<sup>142</sup> As conscription still formed the bulk of the effective armed forces, a way of conforming to European

values and human rights had to be adopted. The Constitutional Charter allowed for conscientious objection, and the MoD devised a plan, in 2003, for those not wishing to serve in uniform. However, the difficulty in raising the required number of conscripts prompted a re-organisation of the system, with senior officers expressing concern about the combat readiness of some units and the perceived widespread abuse of the system.<sup>143</sup> The changes to the rules, adopted in February 2005, made it more complex to apply for exemption on the basis of conscientious objection and, at the same time, forced institutions taking on recruits for civilian service to refund the costs to the MoD. It was a small victory by the military that indicated that some attitudes were slow to change.

Finally, the reform process and the gradual reduction of the size of the defence system created the dilemma of dealing with surplus personnel, both civilian and military while, at the same time, being able to retain those qualities vital to the MoD and the military. The reform process resulted in changes in personnel structure throughout the system, which, in turn, highlighted the need for a special programme dealing with redundant personnel, including retraining.<sup>144</sup> The result was *Prizma*, a programme which, through a network of regional centres, would re-train redundant personnel and offer them the opportunity to acquire skills necessary for immersion into the civilian employment market.<sup>145</sup> A wide-ranging programme, *Prizma* enjoyed the support of foreign donors including the UK and US governments.<sup>146</sup>

The human resource aspect presented a number of other challenges that were not tackled. Among these was reform of the military education system and its modernisation to standards required by the transformation of the military. While work on this started at the conceptual level, in 2005, improvements were not forthcoming, as other aspects took precedence.<sup>147</sup> However, short term measures, such as the education of officers at foreign military institutions (among these Major General Žarko Ponoš, the Deputy Chief of General Staff between October 2005 and June 2006, attended a year long course at the Royal College of Defence Studies, UK Defence Academy), and a late measure to improve the foreign language skills of junior and mid-ranking officers were put in place, in order better to prepare the military for future Euro-Atlantic integration.<sup>148</sup>

### **Control of the military-industrial complex**

A final aspect of restructuring was the establishment of a system of control over the military industrial complex. In the Yugoslav case, reforming this should have been an important part of the restructuring

process. The defence industry was an integral part of the defence system of both the old Yugoslav federation and its various successors with Belgrade as the capital. This was a situation inherited from the drive for military autonomy during the communist period. A number of major firms had serving military officers as directors,<sup>149</sup> while Yugoimport SDPR (the umbrella company tasked with marketing and exporting all defence products) was headed, until 2002, by a serving general, and exports were managed by an MoD department, headed by military officers.<sup>150</sup> The bulk of the defence industry remained within the defence systems, with some six out of 15 companies under the direct control of the MoD.<sup>151</sup> Hence, the removal of these close ties between the military and the arms production companies was an important element that the reform process needed to deal with.

A concrete example of the dangers of weak civilian control were seen in 2002, when it was revealed that Belgrade was supplying arms to Iraq, despite UN sanctions.<sup>152</sup> The embarrassment caused, coupled with US dissatisfaction and a threat of sanctions, led the government to take measures and increase its control of the sector, in particular, of Yugoimport SDPR. A new director was appointed in 2003, while the role of the Board of Directors, which included government representatives, including as the Minister of Defence, was given a more powerful role and responsibility for tighter control of the work of the company.<sup>153</sup>

## Conclusion

As far as the problems of civilianisation of the MoD and questions of reform were concerned, Serbia made significant progress in the period between the fall of Milošević and May 2006. While the problems of politicisation, discussed in the previous chapter, had an impact on the ability of the Minister of Defence to assert his authority over the military, there was a stronger civilian bureaucracy. Following March 2003, the problem became one of finding civilian expertise and devising policies, and each of the three Ministers approached the issue in his own way. Nevertheless, by May–June 2006, Serbia had a MoD, which had a stronger civilian component, and in which civilians had a leading role in policy-formulation.

Parallel to this, efforts to reform the military and the defence system as a whole were hampered by the inability of the Ministers of Defence, prior to 2003, to impose their authority over the military. Following a period in which the Army reformed itself away from the gaze of the civilian bureaucracy, the arrival of Boris Tadić marked the beginning of

the civilian leadership of military reform. In the period between March 2003 and May 2006, the armed forces' roles were re-defined through a National Defence Strategy, adopted in 2004, which in turn provided the basis for restructuring of both the MoD and the military, a three-phase process aimed at creating a leaner, modern force, capable of joining Euro-Atlantic security institutions. The mandatory military service term was reduced to six months and was phased out by 2010, and a system of civilian service was introduced, despite some opposition from the military. Although progress was made and the basis of a future force was created, the difficult financial situation that the defence system faced conditioned developments and made reforms slower. A move towards an AVF was delayed, while procurement was virtually non-existent. At the same time, social consideration for those made redundant in the reform process proved complex and costly, and some key issues like education were never tackled. Reform continued *de facto*, even though some basic documents, such as a military doctrine and a strategic defence review, were not in place, and the delay in publishing others, such as the Defence White Paper, created uncertainty. The inadequate legal and institutional framework held back reform efforts. One of the most damaging aspects, however, was the inability to join NATO's Partnership for Peace and take full advantage of its possibilities and tools for reform. The failure to tackle the war crimes legacy (discussed in Chapter 7) was a crucial impediment.

# 5

## Rules: The Legal and Institutional Framework for Democratic Control

Changes in force structure, reduction in personnel and shortening the time conscripts spent in uniform absorbed most of the reform effort, after October 2000. However, as noted in Chapter 1, the legal and procedural framework is the foundation of democratic management of defence. In other words, the rules governing both the place and role of the military in the polity, as well as the mechanisms of control, oversight and policy-making, had to be established, in order to consolidate the democratic control of civilians over the armed forces, complemented by both formal and informal procedural arrangements, which are crucial in establishing clear lines of responsibility and accountability.<sup>1</sup> As Cottey, Edmunds and Forster note, the central problem in democratic control of the military is one of 'democratic management and implementation of defence and security policy'.<sup>2</sup> However, implementation needs a functioning democratic framework of constitution, laws, rules and procedures understood by all involved in order to work towards consolidating democracy through the establishment of a military which would be an apolitical servant of a democratically elected government.<sup>3</sup> There is no correct model that can be applied to all countries. However, as Marco Carnovale notes, there are 'common denominators [which include] a constitutional and legislative structure with clearly defined responsibilities and appropriate checks and balances among state institutions'.<sup>4</sup> Hence, the creation and 'existence of clear, consistent and efficient legal framework that shapes the relationship between the military and political institutions, as well as their respective spheres of competence, has been underlined as one of the prerequisites of civilian and democratic control of armed forces'.<sup>5</sup>

The continued politicisation of the army after the fall of Milošević was possible because the normative framework established for that precise

purpose by the previous regime continued to be relevant. The early inability to impose democratic control over the military was, in part, due to the lack of a legal framework. Hence, the rules imperative proved particularly challenging, as democratic control over the armed forces was difficult and controversial. In addition the politicisation of the question of democratic control over the armed forces and the political struggle between Košunica and Djindjić in the post-Milošević period created inertia, reinforced by a lack of knowledge, interest and expertise. Serbia entered the democratic transition facing some of the same problems faced by most former communist countries. However, in addition to an inadequate and outdated set of laws and procedures, it had to deal with a complicated and dysfunctional constitutional framework, which was devised less with democratic rules in mind than the prevailing political considerations of the day.

This chapter addresses the legal and procedural framework, and the institutions it established, for democratic civilian control of the armed forces, as well as laws and procedures governing defence policymaking. The inadequate framework provided by the previous constitution was replaced by an improved one, which, however, suffered because of continuing uncertainty.

### **The changing constitutional framework**

The need to tackle the framework for civilian control of the armed forces was apparent as early as October 2000. The Constitution and accompanying laws relating to defence were designed in a period of transition and with the policy goals defined by Milošević in mind. They formed an inadequate framework for democratic control over the armed forces, as they left open a number of possibilities for abuse. Changing them proved difficult due to two principal constraints: the political rivalry between Košunica and Djindjić and relations with Montenegro. While Košunica's interest was the preservation, for as long as possible, of the framework that gave him direct control over the VJ, it was the slow and painful progress of negotiations between Serbia and Montenegro in the post-Milošević era that made devising a new framework challenging.

### **The Constitution of the Federal Republic of Yugoslavia and defence**

The Constitution of the Federal Republic of Yugoslavia was promulgated on 27 April 1992 by the federal chamber of the Assembly of the Socialist

Federative Republic of Yugoslavia (by that time only 73 out of 220 deputies were present) in an attempt to establish continuity between the SFRY and the new federation of Serbia and Montenegro. From the beginning, the new constitution was incompatible with the constitution of the Republic of Serbia. Among the articles in conflict, the reference to defence matters was the most relevant here. The Serbian Constitution, promulgated in 1990, stipulated that it was the responsibility of the Republic of Serbia to provide the defence and security of the Republic and its citizens.<sup>6</sup> In addition, the President of the Republic was commander of the armed forces during peacetime, as well as war.<sup>7</sup> Hence, in theory, the President of Serbia was the Commander-in-Chief of (non-existent) armed forces. At the same time, the FRY Constitution stated that defence and security were under its authority.<sup>8</sup> This apparent contradiction was resolved through Article 134 of the Serbian Constitution, which provided for the supremacy of federal legislation, while Article 115 of the FRY Constitution stated that member states' legislation should conform to federal law. Despite this last provision, the Serbian Constitution, by 2005, had not been amended to be compatible with federal laws. Such a discrepancy had the potential to cause confusion, if not abuse.

The incompatibility of the constitutions was also evident, and even exacerbated, by the nature of the state. The FRY was a federation, which at the federal level was (at least constitutionally) a parliamentary democracy, while the Republics enjoyed a presidential or semi-presidential system. In addition, until 2000, the President of the FRY was elected by the Federal Assembly, while the Presidents of Serbia and of Montenegro were elected through direct suffrage. Hence the FRY President was accountable directly to the Assembly and could be removed by a majority of two thirds.<sup>9</sup> At the same time, the Assembly was given the power to declare war, decide on peace and proclaim the state of war, state of imminent threat of war, and state of emergency.<sup>10</sup>

From this premise stemmed a number of arrangements for commanding the armed forces. The FRY Constitution stipulated that 'in wartime and peacetime the Army of Yugoslavia shall be under the command of the President of the Republic, pursuant to decisions by the Supreme Defence Council'.<sup>11</sup> The Supreme Defence Council (*Vrhovni Savet Odbrane* – VSO) was composed of the President of the Republic, the Serbian President and the President of Montenegro, and chaired by the President of the Republic. It was probably the most problematic institution in the framework of the FRY Constitution as its functioning was ill defined and lacked accountability. The decision-making mechanism of

the VSO was not clear from the text of the Constitution, and it was left to practice to decide whether the VSO made decisions through consensus, or by majority vote. It was also not clear what the decision-making procedure would be in case of an incomplete VSO through absence of one or more members. Although the implementation of the decisions was left to a single member of the VSO, namely the President of the Republic, the Constitution failed to clarify 'the procedure for establishing compliance of the FRY President's command with the Council's decisions'.<sup>12</sup> The President would, in addition, 'appoint, promote and dismiss from service' officers in the army, as well as 'the president, judges and judge assessors of military tribunals and military prosecutors'.<sup>13</sup> It was not clear how, or to whom, the Council and the President were to be accountable for their decisions regarding the army. Although the President was accountable to the Assembly, the rest of the Supreme Defence Council was not.

The problems stemming from the FRY constitution did not stop there. The role of the army was also defined by the Constitution. According to the Constitution, the army was tasked with defence of 'sovereignty, territory, independence and constitutional order' and the army could be under the command of an international institution.<sup>14</sup> The provision on the defence of constitutional order provided the legal basis for the use of the army in internal matters (such as Kosovo in 1998–9, or Milošević's plan to use the Army against the Montenegrin government in 2000). As Miroslav Hadžić noted, it was never clear when the Army would be used against 'the democratic opposition and citizens of Serbia [while] there was a clear possibility for the army to intervene invoking its obligation to protect the Yugoslav territory' and prevent a bid for independence by Montenegro.<sup>15</sup> The protection of the constitutional order was inherited from the SFRY, when the JNA was tasked with protecting self-management and socialism. Nevertheless it remained unclear who determined the threats to the constitutional order in the new era, and what responses were available to the VJ in order to protect that order.

The Constitution of the Federal Republic of Yugoslavia failed to provide an efficient framework for democratic control of the armed forces. Apart from the incompatibility of constitutions, the Federal Constitution left supreme command decision-making procedures unknown and open to abuse. There were few provisions for accountability of the Supreme Defence Council and the President of the FRY and the threat of dismissal by the Assembly was only ever going to be an extreme measure. In practice, the President was given responsibility for the implementation of decisions, with wide autonomy in matters of personnel policy.

However, improving this framework depended on political consensus between Serbia and Montenegro, which was difficult to achieve in the immediate period following the fall of the Milošević's regime.

## **Democratic control of the military and the Constitutional Charter**

The Belgrade Agreement<sup>16</sup> formed the basis for negotiations on a new constitution for the State Union of Serbia and Montenegro, which was adopted on 4 February 2003. While the establishment of the State Union and the adoption of its constitutional charter resolved, at least temporarily, the problem of defining the state, they also left a large number of provisions, which would need to be resolved in order to avoid a gap in the rules governing civil-military relations. However, what was evident was an attempt to remedy some of the problems encountered with the provisions of the FRY Constitutions, notably in the domain of the prerogatives of the Supreme Defence Council, which was tempered by the political realities of Montenegro's drive for independence. The writers of the Constitutional Charter did not have the best mechanism of civil-military relations in mind, but rather one that would prove the least threatening to Montenegro, while giving it maximum oversight. Although this was not all negative, and actually provided some degree of accountability of key players, it was still designed for the least possible action, as Montenegro's government intended to have a referendum on independence by 2006. Hence, their major concern was to prevent anyone exploiting gaps in the law to prevent them from gaining an independent international legal personality, as relations between Serbia and Montenegro were in accelerated transition.<sup>17</sup>

The State Union was temporary holding pattern, based on equality of the two member states<sup>18</sup> and had a President, a Council of Ministers (composition decided by the president who was also the head of the council), a unicameral Parliament, a Supreme Court and the army. It was given five functions: foreign affairs; defence; international economic relations; internal economic relations; and the protection of human and minority rights, although the constitutional charter stipulated that it could be given additional responsibilities by the member states.<sup>19</sup> In practice only defence was fully a 'federal' function as Montenegro had its own Ministry of Foreign Affairs, while the economic ministries were tasked with improving compatibility of the domestic markets (Montenegro had adopted the Euro as currency and different tax rates to Serbia), and coordinating foreign trade (although the remit of this Ministry was very

narrow, as most foreign trade was in fact managed by the member states). Hence the constitutional framework was a practical illustration of the lowest common denominator in relations between Serbia and Montenegro and institutionalised the growing separation between the two member states, despite its single international personality.<sup>20</sup> It was the product of political compromise between the Montenegrin government's desire for independence and the pressure of having to stay in one country at least until 2006, something that transpired from the body of the text.

From the negotiating stages, the considerations of the member states and the need to appease Montenegrin fears of Serbian dominance, extreme care was taken to strike the right balance. The election of deputies to the Parliament was a hugely contentious issue both during negotiations of the Belgrade Agreement and in late 2004 as Montenegro insisted on deputies being appointed from the Parliaments of the member states (which at the time gave the DPS of Milo Djukanović a majority of Montenegrin seats).<sup>21</sup> In the end, a compromise was reached by having the first parliament delegated for a period of two years, after which there would be direct election for the legislature.<sup>22</sup> This proved contentious, however, and in the event direct elections never took place.<sup>23</sup> The government in Podgorica was planning to hold a referendum on independence in the spring of 2006,<sup>24</sup> and maintained that only once the result was known could elections take place, providing Montenegro was still part of the Union.<sup>25</sup> The Parliament had one chamber composed of 126 deputies (91 from Serbia and 35 from Montenegro). It elected the President and the Council of Ministers, and was also tasked with such matters as the declaration of a state of war, as well as adoption of laws on issues in accordance with the Constitutional Charter and defence matters.<sup>26</sup>

The equality requirement was evident in the definition of roles for the other key institutions. The President was accountable to the parliament.<sup>27</sup> He could not be from the same member state as the Speaker of the Parliament and was tasked with, representing Serbia and Montenegro and presiding over the Council of Ministers, the proclamation of laws, and, crucially, sitting on the Supreme Defence Council.<sup>28</sup> He could be removed from office by the Parliament if found in breach of the Constitutional Charter.<sup>29</sup>

The Council of Ministers (composed of the Ministers of Foreign Affairs; Defence; Internal Economic Affairs; International Economic Affairs; Human and Minority Rights) was tasked with implementing policy, in accordance with member states policy; propose laws to the Parliament; and adopt by-laws, decisions and other general acts. Two Ministers

were expected to be from the same member state as the President, while three would come from the other member state. According to the Constitutional Charter, the Ministers of Defence and Foreign Affairs could not be from the same member state and would have to swap places with their deputies (who are from the other member state) after a period of two years. However this particular provision was ignored between 2003 and 2006 as both the Minister of Defence and the Foreign Affairs Minister were from Serbia.<sup>30</sup>

Although the provisions relating to the Army and defence are found in Section XII of the Constitutional Charter, the first references to defence issues is found earlier. The fact that the President sat on the Supreme Defence Council has already been mentioned, while Article 41 defined the role of the Minister of Defence. He was expected to 'coordinate and implement the defined defence policy and run the armed forces in accordance with the law and the powers vested in the Supreme Defence Council. The Minister of Defence [would] propose to the Supreme Defence Council candidates for appointment and [would] appoint, promote and relieve of duties officers in accordance with the law'.<sup>31</sup> In addition, the Minister of Defence had to be a civilian, a provision grounding a key component of democratic civil-military relations in the constitution. The article relating to the Defence Minister hence gave some guidance to the role of the Supreme Defence Council, the implementation of whose decisions was delegated to the Minister. The MoD was tasked with the day-to-day running of the military as well as implementation and coordination of the defence policy.

The authors of the Constitutional Charter kept the institution of Supreme Defence Council as collective supreme commander of the armed forces,<sup>32</sup> seeking to guarantee the equality of the member states, while the President was denied the exclusive authority over, and direct access to, the armed forces he had enjoyed under the previous constitution. Nevertheless, the framework established for the VSO suffered from two important deficiencies. The first problem was a lack of precision regarding to whom, if anyone, the Supreme Defence Council was accountable. The VSO as a body was not directly and formally accountable to any particular institution. This provision needed to be tackled in order to increase transparency and accountability of the supreme command, although it never was.

Secondly, the VSO was to make decisions by consensus. Although there were good democratic grounds for a procedure based on consensus, such an arrangement had the potential to pose serious problems in peacetime, as well as in times of conflict. In peacetime, it provided a

potential basis for inaction, making deadlock over key decisions more likely. In the case of armed conflict, establishing consensus as the only way to make a decision created a dilemma over what would happen in the event of an act of aggression.<sup>33</sup> In the end, the VSO was never tested in conflict.

The relationship between the Minister of Defence and the VSO was not entirely clear, although it was possible to read that further clarification should be sought in the letter of the law, which was never adopted. The Charter did clarify that the Minister would implement and co-ordinate defence policy as agreed by the VSO and that he/she would manage the armed forces in accordance with the law and the powers vested in the Supreme Defence Council.<sup>34</sup> However, Hadžić noted that it remained unclear whether and how the VSO would delegate its power to the Minister.<sup>35</sup> The exact mechanism for the management of defence matters was left to the Law on Defence, which never left the drafting stages, leaving a vacuum. Nevertheless, the Charter represented a notable improvement as it gave the Ministry of Defence authority over the armed forces while making the Minister (and not the Chief of General Staff) the link between the Military, the Supreme Command and the Parliament. The power of parliament was limited, but did have the potential further to regulate the work of the VSO and could query the military budget. Military issues and defence remained the prerogative of parliament, although it did not exercise direct control over the budget.

In addition to the provisions on democratic control of the armed forces, the Constitutional Charter prescribed a small number of other defence-related issues. Recruits were given the right to conscientious objection (Article 58) as well as a guarantee of serving their national service on the territory of the member state of which they were nationals, except if they chose to do otherwise (Article 57). These provisions went some way towards entrenching safeguards on human rights in the constitution.

Finally, a major innovation was the abolishment of the military justice system and its incorporation into the civilian justice systems of the member states.<sup>36</sup> This was expected to happen within six months as prescribed by the Law on the Implementation of the Constitutional Charter.<sup>37</sup> However, the military judicial system was only abolished in December 2004, after the necessary legislation was adopted on 18 November 2004. In this way, a strong lever of power for the military was dismantled, while giving the civilian justice system some oversight of military affairs.<sup>38</sup>

It is clear from a close examination of the Constitutional Charter that progress had been made in devising the basis for a legal framework

for democratic civilian control of the armed forces. The position of the parliament had been improved, while the civilianisation of the post of Minister of Defence was guaranteed. In addition, great care went into securing the equality of the member states and removing the possibility of abuse of the armed forces, by framing a more democratic Supreme Defence Council. However, the framework was far from perfect and a large number of difficult issues were left for legislators to deal with at a later date. One of the major criticisms of the Constitutional Charter was the scarce space it devoted to the armed forces and its failure to deliver a precise framework for democratic civil-military relations.<sup>39</sup> There was only one chapter (with five articles) relating directly to the armed forces and covering their task, the supreme command, and conscription. Although the Charter established an armed force under democratic and civilian control, the provisions for such control were not built into the constitutional document. The Supreme Defence Council, although much more democratic than in the past, remained formally unaccountable, while parliament faced an uphill struggle to assert its authority.

### **The legal framework: Laws on defence and the Army**

In terms of a legal framework for civil-military relations, constitutional and legal arrangements relating to defence had serious deficiencies. They gave a supreme command role to a body that was barely accountable, while failing to determine the functioning of this institution. The downgrading of the Ministry of Defence to an institution parallel to the General Staff, and tasked with only providing financial and administrative support, was a clear deficiency, although it served the purpose of the Milošević regime at the time it was written. The lack of space devoted to the relationship between the Parliament and the armed forces was also a deficiency of this legal framework, while the question of the functioning of the Supreme Defence Council left space for abuse. The framework established by these laws allowed Košturnica, for example, to push through the dismissal of a number of high ranking officers, despite the opposition of the Minister of Defence, who later resigned over the issue. In the same manner, it provided a platform for politicisation of the VJ (as discussed in Chapter 3).

In addition to the inherited deficiencies from the past, various laws were incompatible. For instance, according to the Constitutional Charter, the Supreme Defence Council commanded the army, while the Minister of Defence managed it on a day-to-day basis. In many ways, the role of the President had been significantly watered down. In contrast,

the laws on defence and the army still give the President direct command over the armed forces. The Law on the Implementation of the Constitutional Charter confirmed the continued validity of previous legislation, so long as it did not contravene the new constitutional document.<sup>40</sup> It would have been preferable to draft new and compatible legislation immediately. In practice, the defence system functioned within an incomplete legal framework.

Despite its inability to draft new legislation relating to defence, the Ministry of Defence and the Council of Ministers had pushed through the Assembly amendments to the Law on the VJ,<sup>41</sup> as well as a Law on Participation in Peacekeeping Missions. In addition, a number of other laws were introduced that strengthened democratic civilian control and improved decision-making rules. Amendments to the Law on the VJ concerned provisions on employment in the armed forces, rather than any substantial changes, as the latter were expected to be introduced once a new law was passed. The Law on the Participation in Peacekeeping Operations,<sup>42</sup> passed on 22 December 2004, set up a more elaborate decision-making mechanism for sending troops and civilians to peacekeeping missions<sup>43</sup> devised with the need for checks and balances in mind. The decision to commit troops (whether individuals, or as part of a unit) rested with the Assembly,<sup>44</sup> which did so at the suggestion of the Council of Ministers.<sup>45</sup> Once the Assembly had given authorisation, the VSO reached a decision on sending the army to a peace operation. This decision was executed by the Minister of Defence. At the same time, after Assembly approval, the Council of Ministers would decide on the sending of civil defence staff and other employees to peace operations, or other missions.<sup>46</sup> Furthermore, the Minister of Defence was given the right to decide, upon receiving authorisation from the VSO, to send professional soldiers to military exercises abroad.<sup>47</sup> Finally, if those on missions were judged to be in extreme danger, the Council of Ministers could decide on their withdrawal, and seek approval for the decision from the Assembly, at the first opportunity.<sup>48</sup> Hence, participation in peacekeeping missions was regulated in such a way as to allow efficient functioning (by authorising the Defence Minister to make decisions), while at the same time providing the basis for parliamentary and member state oversight.

Another piece of inherited legislation was the Law on the Security Services, which regulated the two military agencies (intelligence and counter-intelligence) and two based in the Ministry of Foreign Affairs (Investigation and Documentation Service and Security Service).<sup>49</sup> The law came as a result of the Perišić scandal in 2002 (see Chapter 3) and was

hailed as a major improvement in the democratic control of the security forces. It enabled the setting up of a Parliamentary Oversight Committee for the security services and tasked the latter with submitting annual reports on their operation to the government and the Security Services Oversight Committee.<sup>50</sup> In addition, it placed the task of controlling the services in the hands of the Assembly, the government, courts of competent jurisdiction and the public.<sup>51</sup> While the government appointed the heads and deputy heads of the services, it did so on the recommendation of the Supreme Defence Council and following consultation with the Oversight Committee.<sup>52</sup> Most important, the security services were accountable for their work to the appropriate Minister and/or Federal Government.<sup>53</sup> Hence, for the first time, the security services became, at least formally, accountable to civilian authorities. This provision, in the case of the military security and intelligence services was not implemented until April 2003, when the VSO decided to subordinate the Military Security Department and the Military Intelligence (later renamed the Military Security Agency and the Military Information Agency respectively) to the Minister of Defence.<sup>54</sup> Additional control was to be exercised by the government through the General Inspector, whom it was supposed to appoint.<sup>55</sup> The legislation also gave increased oversight power to parliament, which was tasked with controlling the work of the security services. Article 49, in particular, provided extensive powers for the Oversight Committee to control the security services' compliance with the legal and constitutional framework, and national security policy, as well as observance of human rights and freedoms.<sup>56</sup> Additionally, it allowed the Committee fully to oversee the use of special means and methods for secret collection of data, control the use of budget funds and the political, ideological and personal neutrality in the work of the services.<sup>57</sup> The heads of services were legally obliged to submit at least one report to the Committee during the regular sittings of the Parliament, while they would have to submit a report upon the request of the committee.<sup>58</sup> However, the services were not allowed to provide sensitive information on intelligence sources and actions underway.<sup>59</sup> Nevertheless, the provisions for parliamentary control were a huge improvement and a great step in the right direction, although, as will be seen in the next chapter, implementation was more difficult.

Finally, as noted above, control over the arms trade and defence industry was a crucial aspect of democratic control, due to the systemic connection that existed between the army and the military industrial complex. The embarrassment caused by revelations of arms sales to Iraq and Liberia, while they were under UN sanctions, prompted a drive to

pass laws that would make arms traders more accountable and increase government control over the issue.<sup>60</sup> The responsibility for granting export certificates was taken away from the MoD and given to the Ministry for External Economic Relations,<sup>61</sup> although the MoD continued to grant licences for the production of weapons and military equipment.<sup>62</sup> With the provisions for parliamentary oversight of the arms trade in place, there seemed to be a tightening regulatory policy aimed at gaining democratic control over weapons production and sales.

Therefore, the legal framework for democratic civilian control over the armed forces saw some gradual improvement, notably with the introduction of the Law on Security Services, as well as the Law on Participation in Peace Operations. These significantly increased the power of the legislature, while providing a mechanism of checks and balances to ensure that decisions were made in accordance with democratic principles, and in full accordance with the policy priorities of the member states. They also contributed to a clarification of the powers of the different institutions charged with formulating, executing and managing defence and security policy. Nevertheless, the inability to pass key legislation, such as the Law on Armed Forces and the Law on Defence, left a gap in the framework for control of the armed forces. This legislation was crucial, to providing necessary clarification of the roles of institutions in defence and military matters. In its absence, policy makers were left with a gap that needed to be filled.

### **Procedures: Statutes, by-laws and other decisions – replacing legislation?**

It is evident that the constitutional and legal framework for democratic control of the military left a number of unresolved issues regarding civilian oversight and command of the armed forces. There was, therefore, a need to complement legislation with procedures (including statutes, decisions, ordinances, bylaws, rules of procedure and decrees), in order to complete the legal framework of control and oversight. In addition, delaying passing laws on defence and the armed forces created a vacuum, in which abuse remained a possibility, while confusion and paralysis of some institutions often reigned. The need to continue this work, coupled with the inability to push legislation through parliament, led to an increased use of orders and bylaws, as well as other ordinances. In the absence of a clear and efficient framework, the onus was on individual politicians to push through policy and change. For example, one of the most important decisions regarding civil-military

relations, the incorporation of the General Staff into the MoD, was taken at the suggestion of the Minister and decided by the Supreme Defence Council.<sup>63</sup> It was, however, expected that this would be fortified in future legislation. Similarly, the direct subordination of the military intelligence and counter-intelligence services to the Minister of Defence was pushed through by a decision of the VSO, acting on a suggestion from the Minister of Defence, although there was some basis for this arrangement in the Law on Security Services.<sup>64</sup> It became clear that an increasing number of important steps were being taken through by-laws rather than legislation.

Democratic civilian control of the armed forces was exercised through a number of institutions. The Supreme Defence Council was the commander of the armed forces, while the day-to-day running of defence matters was left to the Minister of Defence, with a number of issues decided in the Council of Ministers. In addition, the Assembly played a crucial role in overseeing the work of the Council of Ministers, the Ministry of Defence and the federal security services.

The VSO had to use its power to make decisions on defence matters increasingly frequently, as the parliamentary procedure of adopting legislation proved too slow and burdened with political disputes, inactivity and an inability to constitute the relevant committees (as will be seen in Chapter 6). Although this course of action increased efficiency, it also left open the question of VSO accountability open and that of the Minister of Defence, in particular, who often proposed measures to the Supreme Defence Council. In particular, the difficult questions on recruitment and the right to conscientious objection created a need to establish a system of civilian national service. This particular aspect should have been governed by law, but the realisation that this would take time, as well as the reluctance to go through lengthy parliamentary procedures, forced the VSO to adopt a Statute on National Service that prescribed the mode of civilian service.<sup>65</sup> This statute was modified in early 2005 after pressure from the military, who feared that an overly liberal approach might lead to recruitment problems and eventually to lower combat readiness in units.<sup>66</sup> They had hence managed to change the requirements for civilian service without prior consultation, debate or scrutiny.<sup>67</sup>

The ad hoc approach was evident in most defence related decisions. After receiving approval by the VSO, the Council of Ministers created a Fund for Reforms, which would be responsible for the financing of reform efforts.<sup>68</sup> The Fund was, according to the Defence Minister, an indispensable tool without which the plan for reforms could not be executed.<sup>69</sup>

Although many observers agreed in principle that the Fund was a necessary tool for reform of the military, its creation through the VSO, rather than through legislation, raised criticism. At the least, it was not clear how the fund could dispose of the real estate occupied by the military, as the Constitutional Charter clearly gave ownership of this to the member states on whose territory the property was located.<sup>70</sup> Although the Fund was established with expediency in mind, it could not start its work properly, so long as the issue of which property it could dispose of was settled. In addition, it was criticised for lacking transparency and openness to parliamentary oversight. The MoD sought, unsuccessfully, to cement the Fund's status through the National Defence Strategy. The fact that the Fund failed to function properly for the duration of its life shows the pitfalls of pushing through important decisions without necessary backing from the legislature and political consensus among all stakeholders.<sup>71</sup>

The Ministry of Defence's role was further clarified through the Statute on the Establishment of Ministries, Organisations and Services of the Council of Ministers.<sup>72</sup> This stipulated that the Ministry was responsible for the formulation and implementation of defence policy (including key documents, such as defence strategy and military doctrine) and the preparation of the country for defence, including mobilisation, organisation and planning. The Ministry also had responsibility for the members of the armed forces, including their education, status and welfare. In addition, it was responsible for international cooperation in defence matters.<sup>73</sup> Furthermore, the Ministry of Defence's role in the defence system was strengthened by a decision of the Supreme Defence Council, on 26 May 2004, by which it became directly accountable to the VSO for defence policy matters.<sup>74</sup> This decision also reinforced the subordination of the General Staff, as well as its further reorganisation, which aimed at leaving it with strictly military functions.<sup>75</sup> The statute further emphasised the key role played by the Ministry of Defence in managing defence policy, as well as its role as mediator of the relationship between political authority and the armed forces.

The importance of parliamentary control was emphasised in a set of procedures regarding the Assembly. The Assembly adopted its Rules of Procedure, which, among other areas, covered the work of the Committee on Defence, as a permanent committee of the Assembly.<sup>76</sup> The role of the committees was to facilitate parliamentary control. The Committee on Defence, which was regulated by Article 60 of the Rules of Procedure, was tasked with reviewing draft laws and other legal acts regarding the military, defence, integrated border management, and

arms trade and production, as well as reviewing the National Defence Strategy and questions relating to the democratic control of the armed services. The Committee could also review the financial needs of the armed forces and control the spending of the allocated funds.<sup>77</sup> Hence, beyond reviewing the various documents, it was not clear from the Rules of Procedure what power existed beyond this. Bearing in mind the provisions in the Constitutional Charter, which limited the Assembly to the passing of legislation, it was hardly surprising that deputies did not venture beyond this limited right.

The National Defence Strategy (adopted on 18 November 2004) was also among the procedures that contributed to the establishment and clarification of rules governing civil-military relations as it provided another piece of the necessary normative puzzle for the establishment of democratic civilian control of the armed forces.<sup>78</sup> The Strategy clarified the missions of the military and reaffirmed that the defence system was under democratic civilian control. The army, whose defence mission was unclear, was given tasks and missions defined and established by the Assembly. The missions were defence from an external armed threat, participation in peace-building in the region and worldwide, and support to the civilian authorities in cases of natural catastrophes. Tasks were defined as deterrence of armed threats, defence of territory, participation in peace operations, and other tasks as decided by the Assembly or the Supreme Defence Council.<sup>79</sup>

The Defence Strategy provided a welcome clarification on what the missions of the military were and where the limits of its use could be found. In addition to its provisions on the defence system, the National Defence Strategy confirmed the importance of the Fund for Reforms, which was built into the text as a crucial element of reforms.<sup>80</sup> The Fund was given necessary legitimacy when it was promulgated by statute.<sup>81</sup> It would be able to start working and start devising a strategy for the financing military reforms. However, despite this, the problem of transparency, as well as oversight capacity, remained.<sup>82</sup>

Procedures discussed above served to complement the legal framework established by the constitution. Their role was to clarify the functions of key institutions in the system of defence and to establish a normative and legal framework for democratic civil-military relations. The increasing reliance on by-laws was evidence of the difficulty encountered by the executive branch in drafting legislation to be passed by the Assembly. At the same time, it highlighted the problems of transparency and legitimacy that changes made in such a way might create. As the military periodical *Vojska* noted, the widening practice

of using by-laws and statutes created a sense of insecurity in the army and its relations with the state institutions.<sup>83</sup> Hence, there was a need to establish an effective normative framework in which military reform and the transformation of civil-military relations could occur, and that could give the armed forces enough confidence in the system, and also provide the basis for improved efficiency, good governance and transparency in the policy-making process. Eventually, in late 2009, with new legislation to replace or complement extant laws, all the elements of this framework were in place.<sup>84</sup>

## Conclusion

The democratic forces that swept Milošević from power had to contend with a dysfunctional and inadequate legal framework for establishing democratic control of the armed forces. As a result, transformation of civil-military relations progressed at a very slow pace in the first years after Milošević's fall, while the continued politicisation of the military revealed the need to devise a more efficient mechanism for democratic civil-military relations. This exercise was, in turn, hampered by a political power struggle between Zoran Djindjić and Vojislav Koštunica, as well as difficulty in defining relations between Serbia and Montenegro. Furthermore, there seemed to be a lack of political will to develop the necessary mechanisms, such as parliamentary oversight, as well as an apparent lack of understanding regarding the urgency of setting-up such a framework. These issues will be discussed in the following chapter.

Inherited deficiencies contributed to the slow pace of civil-military reform, in the period following the fall of Slobodan Milošević, as well as opening a number of possibilities for abuse. The framework itself was devised in order to provide Milošević with levers of control while denying the possibility of real checks and balances. It was incomplete and often contradictory, while almost always deliberately unclear. In this way, Milošević could use the confusing premises in the framework to model his own manner of control, something that was, to a lesser extent, adopted by Vojislav Koštunica. Furthermore, the role of the military remained unclear and equally open to abuse. The Constitutional Charter provided a better basis for democratic civil-military relations. It suffered from its own deficiencies, none the less, and was never adequately complemented by legislation.

The Constitutional Charter kept the Supreme Defence Council as the top decision making body in defence matters. It provided for consensus in decision-making and established the equality of the members.

This showed commitment to democratic principles. However, it also left a potential problem in terms of commanding the armed forces during war in cases of disagreement, or the absence of one member. The Minister of Defence and the Council of Ministers were given key decision-making roles and complemented the VSO (although the latter had final say). The MoD, which was tasked with the day-to-day management of defence policy, finally giving it control over the armed forces, was given a central role, which improved democratic civilian control. As a result, the General Staff was incorporated into the MoD and subordinated to the Minister of Defence, together with the military intelligence and counter-intelligence services. Additionally, the MoD took the lead in defence policy formulation, as well as military reform in general.

The role of parliament was improved significantly and, building on the Law on Security Services, the Assembly was given increased power to oversee the armed forces and civilian management of these. It was also given the possibility to oversee armaments procurement and arms trade. The Assembly formed its Committee for the Oversight of Security Services and had the prerogative of approving the military budget. However, being limited to passing laws made it less able to exercise effective oversight.

The lack of legislation led to an increased reliance by the executive branch on by-laws and statutes, in order to push through changes in the functioning of the defence system. Although this resulted in important decisions being made and improved the overall framework for managing the defence system, it also brought to light the potential problems of legitimacy, as well as lack of accountability. More often than not, decisions were not discussed in public and the lack of debate in parliament and the need to deal with difficult questions reduced oversight of defence policy. Decisions on the most important issues, such as personnel policy, recruitment and the rights of conscripts, if brought by the executive without due process in the Assembly, created an atmosphere of insecurity and a lack of transparency, whereby those concerned often lost faith in the rule of law and felt that they lacked the protection of the legal system.<sup>85</sup> Finally, the recourse to statutes, rather than legislation, undermined the work and role of the parliament and its ability to exercise oversight. Hence, the executive managed to avoid accountability for particular acts.

Overall, while the framework remained deficient in many ways, a workable mechanism for democratic control was devised. The military's tasks were defined in accordance with the principles and practices in

Western liberal democracies. The operating mechanisms of government provided for a division of power as well as a system of checks and balances, while the power of the legislature was increased and provisions made for them to be able to hold both the executive and the military accountable. The new legal framework for democratic civilian control of the armed forces was therefore an improvement, while remaining deficient. Once the rules were in place, it became important to look at their implementation and the need to ensure efficient management of defence policy.

# 6

## Effective Management of Defence Policy: The Role of Democratic Security Policy Communities

Rules (comprising constitutions, laws and procedures) are an imperative for the transformation of civil-military relations from the communist model to one in line with those practised in liberal democracies. However, the framework provided by rules is not enough if those who are meant to be controlling and overseeing the military (the executive, the parliament and civil society) are not efficiently making use of them. For this reason, effective management of defence policy is central to democratic control of the military and involves the democratic control of defence policy and the democratic control of the military dimension of foreign policy.<sup>1</sup> It is about the capacity and willingness to exercise control within the framework established by the constitution, laws and procedures. This capacity, in turn, is determined chiefly by the availability of independent civilian expertise, which facilitates the formulation of policy, as well as its scrutiny, and hence increases the chain of accountability. That civilian expertise needs to be found not only in government, but also in the autonomous institutions found in civil society in liberal democratic societies.

Most of the debate in the early years after Milošević's fall centred on civilian control of the army. However, as in other CEE countries, civilianisation was not the real problem, as the JNA and its successors had always been under civilian control, in principle. For over half a century, they had answered to a civilian (although not democratic) leadership and continued to be under strong civilian control throughout the Milošević era.<sup>2</sup> Following Milošević's departure from power, the military leadership quickly proclaimed its loyalty to the new Supreme Commander, Vojislav Koštunica, a civilian. Furthermore, they repeatedly insisted on their respect for the constitutional order and the rule of law. Hence, as shown in Chapter 3, the problem was not having a

civilian directing the military, but having a system of democratic control, whereby autonomous institutions could act as checks and balances to each other in an efficient and constructive way, in order to prevent abuse of political office, as well as alliance formation between certain political parties and the army. As noted in the previous chapter, the legal framework inherited from the Milošević era was inappropriate for democratic civilian control, as it excluded any real presidential accountability. Yet, the President was chiefly responsible for defence policy and the military. An improved framework replaced the Milošević era arrangements, which provided for power sharing between the executive, the member states and the parliament. However, the exercise of this power sharing needed to be tested. There were three institutions to be examined: the Supreme Defence Council, the Ministry of Defence, and parliamentary committees and direct parliamentary oversight. The first part of this chapter is devoted to the agencies of civilian control and oversight of defence matters. As will be seen, their effectiveness depended on the availability of autonomous civilian expertise, distinct from that provided by the military, which would enable informed decisions, ask the right questions and formulate good policy. Civilian expertise needed to be developed in the Ministry of Defence, the parliamentary staff and the civil service in general. However, the crucial role was that of the non-governmental sector, such as institutes, think-tanks, the media and academics, which are the most significant sources of independent advice and accountability challenges. Together they form what Gow and Birch have termed 'democratic security policy communities', and the second part of the chapter deals with these in the Serbian context.

## **The Supreme Defence Council and defence policy management**

As the body responsible for defence, the Supreme Defence Council had the potential to play an important role. However, as shown earlier, in practice power rested with the President, although he was meant to be acting in accordance with decisions of the VSO. As the mechanisms were not defined, the President was left with effective and direct control of the army and of defence policy. The President acquired exclusive control of defence policy-making, while implementation was left to the General Staff. This situation continued even after the fall of Milošević, as the VSO failed to meet regularly. In such a situation, Vojislav Koštunica and the Chief of Staff took charge of military affairs, while the VSO was only called upon to confirm key decisions, such as the re-organisation

of the armed forces in December 2001, and personnel changes in the spring of 2002. The long drawn out episode of Nebojša Pavković's sacking showed the powerlessness of the VSO. Despite opposition from the two other members, Košturnica proceeded to dismiss the Chief of General Staff using a presidential decree. Thus, the Supreme Defence Council was shown to be a body with nominal, but no real, power.

The succeeding legal framework for democratic control of the armed forces kept the Supreme Defence Council. However, the body, as a whole, rather than just the President, was given the role of commander-in-chief of the armed forces and, as such, became the principal institution through which the equality of member states, in terms of defence policy, was to be exercised and guaranteed. All decisions were made by consensus, which denied the President any particular direct authority over the armed forces. At the same time, the VSO was given authority over key defence questions, including defence strategy, key appointments and the use of the armed forces.<sup>3</sup> However, some of the authority of the VSO was also delegated to the Minister of Defence, who was responsible for the day-to-day running of the armed forces in accordance with VSO-approved policy. In practice, this delegation of responsibility meant that the VSO was just another layer of accountability, rather than a real player in decision-making and policy formulation. Its role was more to make sure that the decisions and action of the Minister of Defence were in accordance with the interests of the member states rather than to formulate and execute policy. Hence, sessions of the VSO served to rubber stamp decisions reached behind the scenes by political consensus.

Despite some criticism that it was a relic of the Milošević era,<sup>4</sup> the VSO appeared to be a good mechanism and met regularly between March 2003 and May 2006, improving on its previous record. However, despite its apparent power, the VSO was a marginal player in defence policy-making and management of the defence system. Although it had become more active, and in some ways fully operational, its true influence could only begin to be felt after the election of Boris Tadić as President of Serbia in June 2004. Prior to that, Serbia had only an interim president, the Speaker of the Parliament, after various failures to elect a President.<sup>5</sup> After the dissolution of the Serbian Parliament, on 13 November 2003, Serbia had no president – the Speaker of the Parliament's mandate had ceased, while a new one would not be in place until 4 February 2004. During that period, the Minister of Defence, Tadić, commanded great authority and respect in terms of defence policy, military reform and management of the defence system. He was left almost unchallenged by the VSO throughout his one year

in the role, which prompted some to complain that Tadić was imposing his will on the Supreme Defence Council.<sup>6</sup> In any case, it seemed that although more active, the VSO was not really doing anything more than confirming decisions of the MoD and the Council of Ministers. This did, however, provide it with a lever of control over the executive in order to ensure that policies were not formulated contrary to national interests, a practice all too common in the Milošević years.

The Military Cabinet of the President, whose head acted as the Secretary to the VSO was not regulated in any explicit way. But its role was to assist the President on military matters as well as to liaise with the MoD and the members of the VSO. It was staffed by five to seven officers, and headed by a general.<sup>7</sup> It was also tasked with preparing documents for VSO meetings and following up on the implementation of VSO decisions.<sup>8</sup> It was only accountable to the President himself, and provided him with his only source of expert advice.<sup>9</sup> President Svetozar Marović, however displayed little interest in defence matters beyond the strictly necessary and relied on the initiative of the MoD in defence policy formulation.<sup>10</sup> The reliance on the MoD and the Military Cabinet pointed to a further problem faced by the Supreme Defence Council, namely its lack of independent civilian expertise, which would allow it better to scrutinise proposals submitted by the MoD. Developing an autonomous capability in the form of a permanent staff should have been a priority for the VSO, which could have helped it avoid embarrassments, such as the one with the draft defence strategy, as well as playing a more active role in formulating defence policy. While the lack of readily available expertise within the civil service is discussed below, the VSO could have developed a consultation mechanism, which would have allowed it to tap into the pool of expertise outside of government for less sensitive questions. However, the lack of political will and top-level interest in defence matters resulted in the Supreme Defence Council's taking a hands-off approach.

## **The Council of Ministers and the Ministry of Defence**

The sheer lack of importance the MoD had, both during the Milošević regime and after its fall, makes any discussion of its role in managing defence policy in the period prior to March 2003 superfluous. The MoD only achieved its status of mediator between the army and the government with the arrival of Minister Tadić at its helm. He began a re-organisation of the Ministry with the incorporation of the General Staff and its subordination to the Minister of Defence.<sup>11</sup> At the same time,

the Military Security Service and the Military Intelligence Service were subordinated to the Minister, while Parliament retained nominal control over these. From April 2003, the Ministry seemed to have taken the lead in defence policy formulation. However, internal Serbian politics in the period following September 2003 meant that most of the hard issues were put on hold.<sup>12</sup> The formation of a new government in Serbia in February 2004, which also saw the departure of Tadić, and the arrival of Davinić at the helm of the MoD, ushered in a new era of activity and injected some energy into the reforms process.

Tadić was the first minister to come into office with clear policy goals.<sup>13</sup> These, together with his political capital, enabled him to take the initiative on questions of military reform. Even before his appointment was confirmed, Tadić stated his intention to subordinate the military to a democratically elected civilian leadership in the shape of the executive.<sup>14</sup> The speed at which he proceeded to do this after his appointment won him important praise both in the country and abroad.<sup>15</sup> In addition, he moved to assert his control by removing those generals seen as openly and vocally opposed to swift and all-encompassing changes, and, more importantly, those whose past involvement in the war could compromise the pace of reforms. He did so despite possible opposition from within the army.<sup>16</sup>

Tadić was also the first to introduce a more significant number of civilian advisors and to see the benefits of tapping into 'donor' potential for advice. He brought with him a group of young and mainly foreign educated people<sup>17</sup> he presented as experts, while at the same time calling upon NATO countries to send advisors to help him implement reforms, at one stage suggesting the creation of a board of international consultants.<sup>18</sup> Among these, Narcis Serra, a former Spanish Deputy Prime Minister and Minister of Defence, played an important role in the early days, while British Major General John Moore-Bick, who arrived in Belgrade in November 2003, would go on to play a decisive part in the drafting of key documents, such as the National Defence Strategy and the Defence White Paper. Together with Tadić's young experts, they would proceed to have a huge influence on the way the MoD was run and policy formulated.<sup>19</sup>

However, this did not go unnoticed by the military, many of whom objected to having young people barely out of university, together with foreign military personnel, telling them what to do.<sup>20</sup> What they objected to most was the fact that most of the young advisors had very limited knowledge of the army and its internal workings, and seemed not to have an understanding of key issues for the MoD.<sup>21</sup> At the same

time, having a senior serving NATO officer as part of the inner team proved difficult to swallow. This kind of friction was evident at different levels, but mainly between the advisors and senior military leaders. An example of this was recounted by General Ninoslav Krstić, who explained how one of Tadić's advisors tried to prevent him from seeing the minister, as he was not previously announced. Krstić, according to his own account, just ignored him and walked into the office, telling the stunned advisor, in passing, that he 'was not going to see the Turkish minister, but his own'.<sup>22</sup> Krstić would later complain that all decisions were being taken by people who had no idea what the inside of a tank looked like and who did not understand the basics of military organisation.<sup>23</sup> The relationship was not perceived to be any easier by the civilians. One advisor complained that the top brass 'had an antiquated way of thinking' and was unwilling to embrace the full extent of reforms together with the need to adapt to new realities.<sup>24</sup> These anecdotes illustrate the difficulties soldiers and advisors had in dealing with each other.

The tension between the minister's civilian advisors and the military was evident to most observers, and was in many ways due to the attitude of the young advisors to the men in uniform.<sup>25</sup> They took over running policy and the MoD, which was, at the time, depleted of any other expertise. However, their own expertise and experience remained thin, and following Tadić's increasing concentration on Serbian politics, their power inside the ministry increased, while the bureaucracy withered away.<sup>26</sup> The rising tensions led to a dangerous situation of potential conflict between the civilians and the soldiers, which was, however, kept under control by the skill of the Chief of General Staff, General Branko Krga.<sup>27</sup> At this stage, it became apparent that there was little coordination between the ministry and the General Staff, while the combination of top brass passive resistance and the MoD's leaders' lack of experience in coordinating the work of a bureaucracy, led to conflict, and an inability to set-up good communication between different types of experts.<sup>28</sup>

Tadić's success in making his mark on the military and on reform efforts was due to the fact that, as he personally acknowledged, the Minister of Defence played the key part in controlling the armed forces due to the paralysis of parliamentary committees<sup>29</sup> In fact, the MoD took an increasingly strong position in military matters, prompting accusations that Tadić was imposing his views and decisions on the VSO.<sup>30</sup> To some, the concentration of power in the minister's hands (through direct control of the security services, the military justice system, and military diplomacy) was a dangerous precedent that could lead to politicisation of the military.<sup>31</sup> Although exaggerated, these

remarks did point to a serious problem in terms of democratic control: the inability of parliament to hold the Minister accountable begged the question of to whom he was accountable.

At the same time, there was huge media emphasis<sup>32</sup> on Tadić's early achievements, creating the impression of important progress, while hiding the fact that nothing significant happened between September 2003 and March 2004, in terms of military reform.<sup>33</sup> The exception to this was the renaming of the two military security services into the Military Security Agency (*Vojno-bezbednosna Agencija* – VBA) and the Military Intelligence Agency (*Vojno-obaveštajna Agencija* – VOA), which took place in December 2003.<sup>34</sup> The constant announcement of imminent changes, of the imminent publication of the defence strategy, or of new achievements, successfully covered the fact that reforms had stalled once again.<sup>35</sup>

As an example of the true pace of reforms, it is worth looking at the key normative document: the National Defence Strategy. The formulation of national defence strategy was earmarked as the most important first step in reforms, as it would allow the completion of the legal and normative framework for democratic civilian control of the military.<sup>36</sup> Apart from leading the reform efforts since 2003, the MoD was responsible for the formulation and drafting of the National Defence Strategy, a key document for future defence policy formulation as well as the continuation of military reform. Tadić's team produced a draft strategy in September 2003, but this document was so heavily criticised for its lacunae that a revised version would not be presented until June 2004, three months after Tadić's departure, despite numerous statements that the revised draft was ready.<sup>37</sup> In fact, the Strategy would only be adopted in November 2004, after much revision and political games. In this time, the military was being transformed without an agreed framework, and mainly based on the decisions of the Minister and his team.

The subordination of the General Staff to the Ministry of Defence and the creation of the VBA and VOA, were the most significant achievements of Tadić's Ministry. However, as Amadeo Watkins correctly noted, these were 'in reality only cosmetic changes; ... MoD structures remain unchanged, characterised by an oversized, bureaucratic and complex system of command and control with significant segments of duplication and competition'.<sup>38</sup> The task of tackling this bureaucracy had to be left to Tadić's successor at the MoD. Hence, it was only with the arrival of Davinić that further re-organisation occurred. Davinić continued to have very good relations with Krga, while at the same time pushing for more integration of the General Staff. He streamlined the bureaucracy

in a significant way, reducing the dozens of directorates to just five and the GS, at the same time avoiding duplication by subordinating all non-operational functions to the Ministry.<sup>39</sup> In addition, under Davinić, the re-organisation of the armed forces was completed, with the creation of three commands (ground forces, Navy and Air Force/Air Defence) subordinated to the MoD.<sup>40</sup>

Tadić and Davinić seemed also to have established control over the military budget and procurement system through the creation of the Directorate for Public Procurement and later the Sector for Material Resources. In this way, they sought to get better control of the spending mechanisms as well as to prevent the fledgling corruption that characterised this sphere of the VJ, after 1992. As proof that the MoD and the military were putting an end to a decade of financial malpractice, General Vukosav Arsić, head of the infrastructure division, was retired and then arrested for corruption in August 2003.<sup>41</sup> However, these changes failed to bring about greater transparency as the procurement system remained shrouded in mystery, something that ultimately proved Davinić's undoing. The scandal concerning the procurement of body armour and helmets, made public in September 2005 by Serbia's Minister of Finance, Mladjan Dinkić, eventually forced Davinić's resignation, and provided the evidence that defence procurement was still an area ripe for corruption and political point scoring.<sup>42</sup> Although the scandal generated significant media attention, and resulted in the resignation of the Minister of Defence, the dismissal of the Chief of General Staff and his deputies, and arrests of a number of high ranking officers (including General Milutin Kokanović, head of the Procurement Department of the MoD), the public remained in the dark about its true nature.<sup>43</sup> There was a general feeling that the revelations of malpractice were little more than a settling of political scores between Dinkić – who wanted control over military spending – and Davinić, while other key political figures such as Košunica had their own calculations.<sup>44</sup> Within a month, the scandal was seemingly forgotten, a new minister and military leadership were in place, and defence procurement did not appear to be any better scrutinised.<sup>45</sup>

This was not the only example of the lack of clear and enforceable framework of oversight of defence procurement leading to an inability to root out corruption within the system. At about that time, another scandal relating to an agreement between the MoD and an Israeli company concerning the leasing of a military satellite was made public.<sup>46</sup> Serbia's Ministry of Finance denied any knowledge of it and efforts were made to dispute the validity of the agreement on the pretext that the

Minister of Defence was not authorised to sign such contracts. However, as one legal expert close to the President of Serbia indicated, the agreement was valid and needed to be acted upon.<sup>47</sup> The scandal provided another example of why scrutiny and oversight of defence spending were necessary. It also provided an interesting glimpse into civil-military relations, when Dinkić stated that the Serbian Government found out from its intelligence sources about the satellite contract.<sup>48</sup>

The Ministry of Defence struggled to assert its control in one crucial but often overlooked area: the war crimes legacy. Although this is discussed in detail in the next chapter it should be noted here to underline the difficulties faced in terms of managing the defence system. Among Tadić's first moves was disbanding the General Staff Commission for Cooperation with the ICTY, a group of retired and serving senior officers who were tasked with reviewing requests for evidence from the Office of the Prosecutor in The Hague. In addition, Tadić sought to dispel these suspicions by ordering an inquiry into whether the military was protecting war crimes suspects.<sup>49</sup> Nevertheless, doubts persisted. On numerous occasions both Tadić and Davinić had publicly to deny military involvement with indictees. The appointment of Zoran Stanković, a retired General and self-declared friend of Ratko Mladić,<sup>50</sup> to succeed Davinić raised doubts on the seriousness of commitments to deal with the war crimes legacy within its armed forces. Stanković, however, sought to dispel those doubts by publicly calling on Mladić to surrender to The Hague.<sup>51</sup> As time went by, it became clear that despite the officially stated policy, elements within the armed forces were protecting Mladić.<sup>52</sup>

An example of the brewing tensions between civilians and the military as well as proof that civilians still had some way to go before they established full control was seen in the case of the Topčider scandal, involving the death of two soldiers in a secret military facility, in October 2004 (discussed in more detail in Chapter 7). Davinić used this opportunity to clean up the military ranks. The Minister relieved the commander of the Guards Brigade, responsible for the installations, of his duties, and there was a sense that these were the last days for a number of officers appointed under Boris Tadić. By the end of the year, General Krga had gone into retirement, while the Ministry of Defence completed its full take over of the General Staff, whose duties were reduced to troop training and development, and operational decisions. In December 2004, the military justice system was finally disbanded. The MoD had managed to move out of the shadow of the military and to assert its authority, both on paper and in practice. The General Staff remained a force to be reckoned with throughout this period, but

Krga's political maturity and understanding of the times helped them get through the changes while avoiding confrontation with the civilians. The MoD bureaucracy remained mainly staffed by serving military personnel, and their ties to the army rather than the politicians were understandable. In many ways, the GS continued to formulate policy at some levels, despite the increasing presence of civilian advisors in the MoD. An example of this was the proposed three-phase change towards professionalisation which were pioneered by the GS and which proposed the adoption of an all-volunteer force by 2015.<sup>53</sup> In addition, the debate on the size of the armed forces seemed to indicate that the MoD was taking the General Staff's case. In particular, it is worth noting that the Chief of General Staff and the Minister of Defence were advocating the same figure of some 50,000 troops, against the 25,000 suggested by General Blagoje Grahovac.<sup>54</sup> The arguments between the MoD and the President's advisor escalated, and became even more heated as the military warned the Minister that Grahovac's public statements created unrest in the ranks.<sup>55</sup> Tadić for his part called upon the President to control his advisor.

However, military influence was most evident in the case of civilian national service. Civilian national service was a pet project of Tadić's advisors, as well as a requirement under Belgrade's membership of the Council of Europe and its acceptance of human rights principles.<sup>56</sup> Although the military had somewhat grudgingly accepted the imposition of this option for conscripts (prior to December 2003, it was possible to serve in uniform without weapons, but not as a civilian), it continuously complained about it. Throughout 2004, the military weekly *Vojska* ran a number of pieces warning of the negative effects of civilian service as well as its potential abuse. At the same time, some media labelled it 'a way to avoid national service' due to the 'system of connections and protection'.<sup>57</sup> The system was often abused, with examples of recruits 'serving' while being full time students abroad. Even more worrying was the case of an advisor to Boris Tadić, who reportedly enlisted, but never showed up for duty. Nevertheless, this was part of the system of western values to which Belgrade wanted to subscribe.<sup>58</sup> The debate was exacerbated by the case of the two dead soldiers in the Topčider barracks, following which it was reported that there was a sharp rise in requests for civilian national service.<sup>59</sup> By early 2005, the military began publicly to express its concern that what they perceived to be widespread abuse of the system might endanger unit strength and weaken the defence system. The Chief of the General Staff, General Dragan Paskaš, blamed the increasing number of those serving as civilians for the strain placed

on some units, as well as a deficit of some 10,000 conscripts in 2004.<sup>60</sup> The head of the Directorate for National Service at the MoD, Colonel Petar Radojčić, even called it a 'screen for the avoidance of national service'.<sup>61</sup> At this point, the General Staff, as well as the senior officers serving in the MoD, managed to push through a change in the regulations for civilian service which would enable better control while reducing the timeframe for applications for civilian service.<sup>62</sup> The new regulations came into force on 5 February 2005, but the crucial directive on its implementation was not made public until early March. In the meantime, senior officers could not help commenting on the need better to control the right to conscientious objection, as it ran the risk that, if the abuse continued, 'we all have a collective conscientious objection to the defence and freedom of the country'.<sup>63</sup> Subsequently, the MoD was at pains to point out that the changes were aimed at giving a greater possibility of civilian service.<sup>64</sup> The military had its way by forcing institutions to which conscripts were sent to pay compensation to the MoD, while increasing the number of institutions likely to be less than appealing to the conscripts (such as garbage removal firms).<sup>65</sup>

The General Staff and the military proved that they still had the power to influence policy as well as to embarrass the MoD. The Topčider scandal, the changes to civilian service and the continuous problem of the war crimes legacy all showed that the authority of the MoD, although increased, was not absolute. Shaking off the legacy of the JNA and the VJ years, and the total autonomy that the army enjoyed in military affairs, was difficult to achieve. Among senior military personnel, the memory of those times and the wish to revert to the old system often remained.<sup>66</sup> Nevertheless, the MoD managed to establish itself as the crucial body of defence policy management and one that often seemed to be above any system of accountability. This was partly due to problems with the functioning of the parliament, discussed below. Finally, the MoD faced a significant problem in terms of civilian expertise, which was lacking at all levels. It also proved increasingly capable, however, of using externally available expertise to balance the military.

### **Parliamentary oversight: The role of the assembly Defence Committee**

The role of parliament in defence matters was very limited under Milošević and in the first years after his ouster. The constitution made no specific reference to its powers and authority in relation to the armed forces and defence matters, and nor did the subsequent legislation (as

discussed in the previous chapter). Nevertheless, parliament had some authority over the government. In addition, it could call a vote of no confidence, as well as hold the government accountable through deputies' questions and interpellations. However, this was no real power, if one bears in mind that command of the army rested with the President and the Supreme Defence Council, over which parliament had no authority.<sup>67</sup> In addition, defence policy and the army were outside of the realm of the Ministry of Defence, and hence it could hardly be held accountable for the actions of the military.

In terms of policy-making, parliament, through the Defence Committee, could only 'examine draft laws, and other regulations and general legal acts in the sphere of defence and security'.<sup>68</sup> It was not able to ask the relevant minister or ministers about their work in order to get an insight into their operations. The only way to do that would have been through questions in an open session of parliament. Hence, as Gordana Perišić, the head clerk of the Defence Committee pointed out, 'constitutionally and legally, democratic control was not feasible'.<sup>69</sup> The situation was even more difficult with the VJ, which could not be scrutinised by the Defence Committee in particular and parliament in general, due to its subordination to the President and the VSO.

As argued in Chapter 5, parliament was increasingly given a much more prominent and explicit role in defence policy-making than its predecessor. The Assembly became tasked with drafting laws in defence areas, as well as adopting the National Defence Strategy, a key document for the reform and control of the armed forces, and adopting the annual revenue and expenditure for institutions. At the same time, it inherited legislation, such as the Law on Security Services, which allowed it to have direct control over the work of some elements of the security sector. It also held the executive, including the President and the Minister of Defence, accountable for their actions. At the same time, the Assembly suffered a lack of legitimacy: it had not been elected in direct elections. In a way, this removed it from the people, as the constituencies of the deputies were not clear, beyond the immediate interests of their political parties.

The most important deficiency, however, was the limitation placed on the Assembly's powers. Although it held the executive accountable, it had no power over the Supreme Defence Council as a body, and could only question the President.<sup>70</sup> More important, according to the Constitutional Charter, the role of the Assembly was solely legislative. As noted above, the Assembly was limited and deputies did not seem to have any input on issues, such as procurement programmes,

personnel policy or senior appointments. Despite some of its deficiencies, the legal framework for parliamentary oversight was an important improvement on the past. However, what was more important was the deputies' political will and capacity to act within the full extent of this framework. This proved much harder to achieve.

In most Western liberal democracies one of the key roles of parliament is budgetary control.<sup>71</sup> At the same time, this is a key mechanism for oversight, as the 'power of the purse' 'can, and has, to be used to ensure the best allocation of resources, in a manner accountable to the public'.<sup>72</sup> It allows parliaments to oversee spending by the armed forces and to withhold budget approval, if it is not satisfied with the explanations and information provided. While the exact breakdown of the military budget was considered a state secret and parliament could only adopt the total figure, the Assembly could adopt laws on annual revenue and expenditure (i.e. the budget). But in reality it had little control over spending. The budget was a tricky question.<sup>73</sup> In practice, the military budget was set by the Serbian government.<sup>74</sup> At the same time, the Minister of Finance of Serbia and the Serbian parliament did not have the power to summon and question the Minister of Defence, or the military leadership, over their expenditure. Hence, those with immediate interest were not those with constitutional power, while those with constitutional power were not those who controlled the purse, a fact that irritated the Serbian Minister of Finance, Mladjan Dinkić.<sup>75</sup>

An example of this problem was seen in late 2004, when the Ministry of Finance of the Republic of Serbia blocked all payments and accounts of the Ministry of Defence, after a dispute over the Fund for Reforms.<sup>76</sup> Legally speaking, the MoD was a budget user of the Republic of Serbia, and as such had to open an account with the Ministry of Finance's Treasury from which the Fund for Reforms could operate and into which payments could be made. As the MoD failed to do so by the required deadline, 31 August 2004, the Ministry of Finance, after a number of unsuccessful attempts to compel the Fund to open the account, temporarily stopped all payments to the military, causing a crisis.<sup>77</sup> After the MoD Finance Department warned that 'the army would not have food to eat within days', and Dinkić's perseverance, the Fund opened the account,<sup>78</sup> and a Ministry of Finance statement expressed its regrets for having to adopt harsh measures to 'compel individuals from the Fund to respect the law', while clarifying that all the money from that new account would go to the military for the purpose of reform, but that the Government of Serbia wanted to have some possibility of controlling how much money went in, from where, and how it was spent.<sup>79</sup>

In this whole argument, the Assembly and its defence committee stayed mute, while the Government of Serbia seemed to be asserting control and oversight of the military, which was nominally out of its direct reach, and should have been exercised by parliament.

A crucial role in parliamentary oversight was played by parliamentary committees.<sup>80</sup> There were two such committees: the Defence Committee, tasked with overseeing the armed forces and the defence system; and the Committee on the oversight of Security Services, which gave parliament the control of the armed forces. Their roles were somewhat extended in the Rules of Procedure of the Assembly of Serbia and Montenegro, and they were tasked with not only examining draft legislation relating to the military and the defence system, but also with issues relating to border control, arms production and trade,<sup>81</sup> as well as the draft National Defence Strategy.<sup>82</sup> Crucially, they were tasked with controlling how the money allocated to the Ministry of Defence and the military was spent. However, strengthened Defence Committee powers did not necessarily mean better control. The political will to 'use the tools and mechanisms' at the disposal of Parliamentarians 'is a crucial condition for an effective parliamentary scrutiny of the security sector'.<sup>83</sup> In fact, from March 2003 to March 2004, the Defence Committee never met due to disagreement about the post of chairperson.<sup>84</sup> Similarly, the Commission on Oversight of Security Services could not meet in the aftermath of the Djindjić assassination, as its first chairman, Boris Tadić, had become Minister of Defence, while members of that committee could not agree on a new chairperson.<sup>85</sup> It took 14 months for the commission finally to begin its work in May 2004.<sup>86</sup> This perfectly exemplified the lack of political will and maturity among those responsible for oversight of the armed forces.

Following the change of government in Serbia, in February 2004, and the subsequent changes in the Assembly, there was improvement, at least in terms of meetings of the committees. The Committee for Oversight of the Security Services was finally constituted on 27 May 2004 and met three times in its first 18 months (the first time was to elect the chairman and deputy chairman of the committee).<sup>87</sup> At its second meeting (which lasted two days) the Committee's sole agenda item was its view on the MoD candidate for the post of General Inspector of Security Services. After meeting the candidate, Zoran Dragišić, an academic from the Faculty of Civil Defence of the University of Belgrade, the Committee decided to give a negative opinion on the candidate, without publicly stating its reasons.<sup>88</sup> No further public reference was made to this post and the Committee did not meet between 18 November and December 2005.<sup>89</sup>

The Defence Committee was more active in the same period, although it only had limited success in its work. It met regularly between May 2004 and March 2006 (on average every month) and had input on every piece of legislation regarding defence matters.<sup>90</sup> However, as its only task was to review the draft legislation and other legal acts, from the start, it had less potential to influence and control than the Committee for the Oversight of the Security Services. It proved more successful, however, in establishing some credibility in the early months. An early indication of the changing attitude of the executive was the decision of the new Minister of Defence, Prvoslav Davinić, to address the Defence Committee at its first full session, where he talked about current trends, threats and problems in the military.<sup>91</sup> However, Davinić appeared on his own initiative, rather than being summoned to give evidence by the committee. In addition, in June 2005, he submitted a report on the work of the MoD for 2004, which the committee scrutinised.<sup>92</sup>

The Defence Committee's most significant contribution in this period was its examination of the draft National Defence Strategy, which it debated on three separate occasions. It provided an insight into the potential for oversight this committee could have, as well as the potential contribution to defence policy-making. The first session dedicated to the draft strategy took place on 28 June 2004, when Minister Davinić and Chief of General Staff Krga presented the document, which was then debated by the Committee, as well as a number of experts present at the session.<sup>93</sup> Following the session, the MoD withdrew the draft strategy, in order to incorporate the suggestions, criticism and comments made by the deputies and experts present.<sup>94</sup>

The Council of Ministers re-introduced the draft strategy and requested its passing as a matter of urgency, in late September 2004.<sup>95</sup> The strategy was rejected, on the grounds that the committee did not have enough time to examine and analyse such a crucial document, and the Council was forced to withdraw the document once again and re-introduce it in normal procedure.<sup>96</sup> This gave the Committee one month to examine it and reach a verdict. The draft strategy was discussed again on 18 October 2004, when it was finally adopted, and forwarded to the Assembly, together with 16 amendments proposed by the Defence Committee.<sup>97</sup> The final document did not contain any precise reference to ICTY cooperation, while members of the Defence Committee could not agree on whether to include a reference to NATO membership, or just Euro-Atlantic integration processes.<sup>98</sup> The final document, adopted by the Assembly on 18 November 2004, stated explicitly that Belgrade's

orientation was towards NATO, if expressed by the democratic will of the citizens.

This episode that the MoD and the Council of Ministers had taken parliament for granted, and failed to conduct wide enough consultations before presenting the document for approval. It also showed that the Defence Committee could have a say in policy formulation and had the potential to force the executive to make changes. What was needed was the political will to do so.

The Defence Committee was also active in trying to obtain more information from the executive on defence policy matters and military reform, in particular. On 4 November 2004, it requested further information on the Fund for Reforms, while in December it decided to begin a programme of visits to army units and organisations, in order to gain further knowledge and understanding of the defence system.<sup>99</sup> Finally, following the defence procurement scandal of August–September 2005, the Defence Committee requested further information on the controversial contracts. It also requested that the MoD informed it in due time of any procurement plans and intentions, as well as of the proposed defence budget for 2006.<sup>100</sup> However, throughout this period, the Committee, more often than not, failed to obtain the information requested.<sup>101</sup>

These positive developments remained, nevertheless, hampered by two factors. First, despite some effort, the Committee remained unable to get greater oversight of the MoD and the military. As an appearance of the minister in May 2004 showed, the executive still chose when to submit its work for parliamentary scrutiny. While Minister Davinić seemed to be giving importance to improving the role of parliament, the absence of an efficient procedure left no guarantee that parliament would have this role in the future, and also allowed the MoD to ignore requests from the Committee.<sup>102</sup> The Committee had no power, beyond developing good relations, as its inability to obtain information regarding defence procurement contracts in October 2005 showed.<sup>103</sup> There was a need to devise mechanisms by which the executive reported to the Defence Committee on its activities, on a regular and compulsory basis, in order to maintain scrutiny of reform and defence policy in general. However, this did not happen.

A second problem was that of civilian competence. Members of the Defence Committee were there on party instructions, not necessarily because of their expertise or interests.<sup>104</sup> At the same time, despite the presence of a few experts at one session, there was a lack of support, as well as a lack of knowledge, on how to use the expertise that was available.

The Defence Committee had an expert attached to it and was financed by the Organisation for Security and Cooperation in Europe (OSCE). However, during his first year on the job, the expert was never consulted, as the Committee did not work, while the questions he received indicated the sheer lack of any understanding of the most basic principles of security, defence and international relations.<sup>105</sup> As a foreign expert working on security sector reform noted, when issues such as strategy, defence, military doctrine or any aspect of the role of parliaments in democratic civil-military relations were raised, deputies 'were like a deer in the headlights'.<sup>106</sup> There was also a continued fear of, and respect for, the military which was notable among many of those sitting on the Committee. As one deputy noted, during a seminar on democratic control of the armed forces, 'the Army knows best how to run their business, and who are we to probe into their affairs'.<sup>107</sup>

One of the key indices of transition was the functioning of the defence and security committees. That is, their ability to scrutinise policy, the defence ministry and the armed forces through use of formal and regularised procedures, and the exercise of appropriate powers on behalf of parliament as a whole. The ability of the Defence Committee of the Assembly to do all this was hampered by the lack of an adequate legal framework, as well as the more general lack of civilian expertise for them to know what to look for. Above all, however, parliamentarians lacked the political will to seek and establish their authority and use the full spectrum of tools and mechanisms at their disposal. Although progress had been made, a lot more needed to be done to enable the Assembly and its relevant committees efficiently to scrutinise defence policy making and the work of the Ministry of Defence. Not least, they needed to find political will and acquire expertise.

## **Democratic security policy communities**

The provision of an adequate legal framework is crucial to making effective democratic management of defence possible. However, effective democratic management and central aspects of restructuring require the existence of a 'critical mass of civilians able to play a role in the elaboration and criticism of viable security policies'.<sup>108</sup> In other words, transforming civil-military relations required not only restructuring, a legal framework and effective democratic management, but also 'the complementary emergence of democratic security policy communities' – that is to say, the 'fostering of those autonomous elements in society which are essential to a vibrant democracy'. The emergence of independent civilian expertise

was vital to the establishment of an efficient civilianised bureaucracy and effective parliamentary oversight of defence matters, as these were the cornerstones of accountability and transparency, vital to a democratic society. Effective parliamentary scrutiny requires parliamentarians to have access to 'autonomous' sources of information. The 'creation and thriving of a critical mass of independent sources of and arenas for policy debate' is essential to the transformation of civil-military relations in post-communist societies. The need for civilian expertise to underpin the civilianisation of defence policy-making, as well as parliamentary oversight of defence policy, required the emergence of broad policy communities within civil society. This could only be achieved through the creation of 'a knowledgeable public, as well as a reservoir of academics, journalists and non-governmental organisations (NGOs)', which would ensure that defence matters were 'debated as openly and knowledgeably as possible'. With the civilianisation of the defence bureaucracy in its early stages, these communities provided a vital source of ideas and policy suggestions, while providing 'checks on the work of political authorities, officials and (especially in the absence of significant numbers of civilians in the Defence Ministry) the armed forces'.

There are two key aspects of this process that need to be addressed: transparency and accountability. These are key characteristics of democratic societies, which provide the possibility of oversight of the government and underpin the political system. Transparency is the basis of open government, allowing the people to be informed about policy and decision-making processes, as well as the content of those decisions. Accountability is the process by which a chain of responsibility and control is established between the people, the government and, in the case of civil-military relations, the armed forces. In communist societies such as the SFRY, defence matters were subject to utmost secrecy and the nature of the system prevented autonomous entities from commenting on them. As democracy is consolidated, there is a need for increased openness and transparency in policy-making, especially in the security and defence sphere. These autonomous elements, as well as the general public, need to have access to information in order to be able to contribute to the policy-making process, as well as exercise control over the government and the military.

The system is based on the principle of accountability, whereby the army is accountable to the Ministry of Defence, which is accountable to the Minister – the most senior figure in the ministry. The Minister of Defence is accountable both to the government and to parliament. Parliament holds the government as a whole, and the Minister of

Defence in particular, accountable, through the work of specialised committees, as well as through the whole of the parliament. Finally, parliament (and the government) are held accountable to society through periodic elections, but also, more continuously, by public discussion and pressure. Discussion and pressure emerge from non-governmental organisations, journalism and academic research – which together also provide material for parliamentary scrutiny. Creating these policy communities, whose support is so vital to the functioning of democratic civil-military relations, is a difficult task for most transitional countries and the necessary base of expertise takes time to develop.

As with most former communist states, Serbia lacked the autonomous elements of a policy-making community. Defence matters were dealt with by the military and civilians were (and to some extent were to remain) looked down upon. Nevertheless, a number of research institutes, NGOs, academic institutions, and news media developed in the 1990s to form the basis of an emerging community of experts.<sup>109</sup> More often than not, they were close to the anti-Milošević opposition to and contributed to the formulation of clear policies for a more democratic society.<sup>110</sup> Some had grown out of state institutes, such as the Institute for Comparative Law, while others, such as the Centre for Civil-Military Relations, were set-up as NGOs. Nevertheless, they provided a relatively small basis from which to start. There was also a tradition of close cooperation between the Institute for International Politics and Economics from Belgrade and the Ministry of Foreign Affairs, while the military had a number of its own research centres.<sup>111</sup> However, the FRY lacked independent sources of research and writing, and elements at the University of Belgrade's Faculty of Political Sciences and the Faculty of Civil Defence were far below the necessary levels of quality.<sup>112</sup> Hence by October 2000, despite the presence of some experts, there was an overall lack of high quality individuals with understanding and knowledge of security and defence policy who would be able to contribute substantially to formation of a broad democratic security community.<sup>113</sup>

After the fall of Milošević, defence and security became a fashionable topic, and an increasing number of NGOs chose to deal with it. They managed to bring the debate on security issues to the forefront and contributed to the creation of a growing number of people with the knowledge and expertise to contribute to discussions and activities in the policy community.<sup>114</sup> Among these, three are worth particular mention. The Centre for Civil-Military Relations played a central role in the early years of the post-Milošević period as the only dedicated research outlet dealing with defence matters.<sup>115</sup> Its programmes of publication and close

cooperation with the donor community helped it establish a reputation as the main outlet for policy pieces and research on civil-military relations, military reform and defence policy. It organised or co-organised a large number of seminars, workshops and conferences, raising a number of key issues. Its programmes on reform of the armed forces had an important impact.<sup>116</sup> Above all, it provided a source of criticism on policy issues as well as a discussion forum. It also managed to establish close cooperation with the Ministry of Defence, which culminated in the signing in November 2004 of a Memorandum of Understanding on further cooperation with the Ministry of Defence.<sup>117</sup> The G17 Institute's Defence and Security Studies Centre dealt primarily with educational, social, financial and policy aspects of security sector reform.<sup>118</sup> It sought to contribute to a better understanding of problems and to increase the expertise of civilian practitioners through a series of 'schools' on security sector reform.<sup>119</sup> Finally, the Atlantic Council, a lobby group whose aim was to help Serbia's Euro-Atlantic integration processes, organised numerous seminars and workshops, as well as training days. In May 2003, it organised a large one-day conference bringing together Ministers, General Staff representatives and foreign military envoys, as well as local and international experts.<sup>120</sup> It also provided a number of expert advisors to the Ministry of Defence as well as the Defence Committee.<sup>121</sup>

Although the activities of these and other centres contributed to the overall debate, they were, as Tim Edmunds notes, of variable quality and reach.<sup>122</sup> In the early days there seemed to be a concentration on organising seminars of little academic, or even policy value, at which important personalities from the government and the VS would mix with civilian experts. With time, the onus moved to training. For example, Professor Miroslav Hadžić started a postgraduate course on security at the Faculty of Political Sciences of Belgrade University.<sup>123</sup> These ran in parallel to other courses on terrorism, diplomacy and international relations,<sup>124</sup> and many of the students were employees of the MoD, the Ministry of Interior or the armed forces.<sup>125</sup> At the same time, the Faculty of Civil Defence began to run a number of postgraduate courses in subjects such as human security, international security and defence studies.<sup>126</sup>

While the early post-Milošević period was marked by small turf wars and competition for funding between different NGOs and institutes, gradually increasing cooperation seemed to emerge, especially where there were complementarities. In February 2005, the Centre for Civil-Military Relations signed a cooperation agreement with the Institute for Comparative Law, with the aim of using each others' expertise better to contribute to the processes of defence and security sector reform.<sup>127</sup>

Together with this process, there was also an increased number of NGOs with an interest in security issues. The Helsinki Committee for Human Rights in Serbia, the Forum for Ethnic Relations, as well as the Forum for Security and Democracy, all contributed to an increasing public debate on and scrutiny of defence policy.<sup>128</sup> Finally, it should be noted that the presence of people, like Blagoje Grahovac, Zoran Dragišić and Ninoslav Krstić, who were always ready to enter the media spotlight with comments on policy, kept the government on its toes and forced it publicly to explain its position. Despite some problems with his views, Grahovac contributed to more open discussion of policy. Nevertheless, there continued to be a vital lack of knowledge and expertise in the field.

The media showed immense interest in defence policy issues. Although reporting was often sensationalistic, it nevertheless contributed to increased openness. Some journalists even developed considerable expertise (like those working for *Politika*, *Vreme* and *NIN*), while others continued to follow politically biased lines (such as the tabloids *Večernje Novosti*, *Kurir* and *Blic*).<sup>129</sup> Defence matters were in the media spotlight, with the National Defence Strategy or financial problems in the military. Continued politicisation of the military provided a wealth of media stories, many of which produced informed and constructive commentaries.<sup>130</sup> This indicated increasing transparency in defence policy-making, as well as significant public interest.

Finally, an important role was played by foreign donors and organisations, which were engaged with the reform process. Their contribution was vital to the continuous development of a democratic policy community. Organisations such DCAF from Geneva, NDI, the OSCE, the British Embassy and Freedom House, to name just a few, provided crucial support, in terms of money, expertise and training, which helped to develop the civilian expertise pool in Belgrade. However, even here lack coordination hampered efforts to achieve better results, as different organisations had different agendas and priorities. It was not uncommon to find two seminars on security sector reform in Belgrade on the same day, but organised by different organisations.<sup>131</sup> After 2004, there were efforts to coordinate the work of the donor community through a Security Sector Reform Forum, which would bring together all donors engaged in the field, although problems of turf wars persisted.<sup>132</sup> As one participant noted, these efforts brought at least the possibility of knowing what other organisations were doing, although the ad hoc nature of the forum created problems of coherence.<sup>133</sup>

Hence, by 2006 defence policy matters were debated and discussed openly in a number of forums. However, transparency continued to

be a problem, as was demonstrated by the drafting of the National Defence Strategy. The document was never made available to the public throughout the drafting process, despite the fact that a more public debate would probably have helped. Instead, some experts were allowed to comment, at different stages, but overall, the document was never presented for public scrutiny, until it was finally adopted. Budget details, as well as procurement programmes and military education, were still kept secret or semi-secret, precluding 'not only any serious engagement of civil society', but also the 'reluctance of those within the system to participate actively in discussions and actions relating to advancing these arguments'.<sup>134</sup>

Building a democratic security policy community was essential for the system of accountability, which underpinned effective democratic management of defence. The existence of autonomous groups of civilian experts to provide a crucial pool of independent advice for both the government, but more important, to parliament, while fostering debate on key issues, was essential to providing checks on defence policy. However, most post-communist countries did not have a readily available pool of civilian experts, academics and journalists with sufficient knowledge to form the democratic security policy communities. Instead, they had to engage in a long and difficult process, which led towards the creation of strong institutions in both the governmental and non-governmental sectors. These would provide alternative sources of information and expertise to those provided by the military and, to a lesser extent, the defence bureaucracy.

Serbia faced a similar problem to that of other post-communist countries in its lack of expertise in the field of defence and security policy and its need to develop the small, but growing, group of institutes, think tanks, academic programs, NGOs and expert journalists that could build the democratic security community needed for a fully functioning system of democratic civilian control of the armed forces. There was a need for improved training programmes and education of specialists, together with fostering debate. At the same time, the Assembly needed to improve its approach by tapping into the existing pool, which, although not huge, could still provide some alternative advice.

## **Conclusion**

Effective democratic management of defence was an important aspect of the transformation of civil-military relations in post-communist countries. It involved establishing efficient mechanism of democratic

management based on the rules (legal framework) provided by the constitutional, legal and procedural instruments. The central aspect of this problem was the establishment of a ministry able to administer defence policy, together with working mechanisms for oversight, while negotiating the lines of accountability and responsibility in the formulation and management of defence policy.

Democratic management in Serbia was formally in the hands of three institutions: the Supreme Defence Council, the Ministry of Defence and the Assembly. Political realities gave the Ministry a leading role in defence policy-making, while denying the Assembly and its committees the necessary instruments of oversight. This left a situation in which the Ministry was able to impose its own policy on both the Supreme Defence Council and the parliament, while struggling to assert full control over the armed forces. Although the MoD was officially in charge of defence policy, it found itself nevertheless constrained by the reality of political power. At the same time it struggled to achieve a sufficient level of civilianisation, while the military, although officially subdued, seemed to maintain an important influence on policy-formulation. Despite the slow and inglorious start of the Assembly, there were signs that its work was improving and that it was capable of exercising a limited degree of oversight. However, it remained hampered not only by the limits of the framework of rules, but also by its own lack of expertise and inability to tap into the limited, albeit useful, potential of the autonomous institutions dealing with defence and security issues.

A crucial underlying problem remained that of civilian expertise in the field of defence and security matters. The need to 'provide bodies of policy-making officials, analysts, journalists, academics and trainers' was driven by the importance of reaching a 'critical mass of civilians able to play a role in the elaboration and criticism of viable security policies'.<sup>135</sup> These civilians were needed to provide the necessary input, in terms of opinions and knowledge of defence matters, to facilitate defence policy-making, and parliamentary oversight. They were crucial to providing the material for parliamentary committees to control the work of the Ministry, as well as the army. However, these were only achievable, in the long term, through the training and education of experts, future policy-makers, observers, analysts and journalists in order to create a broad community of knowledge – the democratic security policy community. At the same time, the continuous lack of transparency and access to information hampered proper analysis on which policy recommendations and critiques could be built.

# 7

## The War Crimes Legacy

The war crimes legacy made Belgrade's civil-military relations and security sector reform an exception to the patterns of civil-military relations in post-communist countries. The involvement in Croatia and Bosnia and operations in Kosovo left the VJ (and its successors) with a dark shadow of war crimes allegations hanging over it. Over time, cooperation with the ICTY became a key condition for the new democratic authorities in Belgrade. It also poisoned relations between the armed forces and some of the reformers. In addition, relations with the VRS (Vojska Republike Srpske – Army of Republika Srpska), which was an integral part of the VJ and whose officers' wages were still being paid from Belgrade in 2002, served as a constant reminder of the VJ's role throughout the 1990s. At the same time, the inability or unwillingness to apprehend General Ratko Mladić and transfer him to the ICTY significantly delayed Belgrade's transition process. These issues proved a formidable obstacle to integration in Euro-Atlantic processes and consequently hindered the consolidation of democracy.

The war crimes legacy was made even more important by the nature of the Serbian war project, in which 'the commission of war crimes was the essence of Serbian strategy'.<sup>1</sup> It was identified as such in the ICTY indictment against Slobodan Milošević<sup>2</sup> and formed the basis of the Prosecutor's case against the former President. Milošević's policy meant a war of a particular kind, as the core of the Serbian strategy was 'control of territory through the removal of its population'<sup>3</sup> and the participation of all security actors in that project created an alliance between the regime and the top brass of the Belgrade armed forces. As Vankovska and Wiberg have argued, the two elites shared 'the responsibility for war crimes committed all over the territory of the former federation',<sup>4</sup> forming a tacit alliance between the generals and the politicians. Only

the realisation, in October 2000, that sticking to the alliance might be more detrimental than trying to negotiate with the opposition broke the bond, making the military the key to Milošević's downfall, something that the democratic leaders ended up paying for dearly.

The nature of the Yugoslav war created a particularity in Belgrade's civil-military relations and added an extra hurdle to the already difficult task of establishing democratic control over the armed forces. Security sector actors were participants in a war whose very purpose entailed the commission of war crimes. These actors helped bring about the fall of Milošević, but they only did so out of an instinct for self-preservation. They intended to protect their privileges and positions by any means necessary. Their refusal to face up to their role in the war and to accept that dealing with the war crimes legacy was a necessary step in the consolidation of democracy made them a threat to the polity they were meant to protect.

This chapter addresses the war crimes legacy that Serbia had to deal with, both as part of its effort to put its military under democratic civilian control and to promote regional peace and stability. It starts by establishing the nature of Serbian involvement in the war and in generating the war crimes legacy. It then looks at the track record of dealing with war crimes since the end of the Milošević rule and argues that dealing with the legacy of war crimes was crucial for four reasons: democratisation, internal stability, regional stability and reconciliation, and integration with Western institutions. Finally, it demonstrates that the failure to do so prevented reform efforts, and, most notably, attempts to reform civil-military relations and establish democratic civilian control over the armed forces.

### **The war crimes legacy and international judicial intervention**

In order better to understand the centrality of the war crimes legacy in the post-Milošević Balkans, it is important to define this legacy and explain how it came into being. It was noted above that the commission of war crimes was at the heart of Serbia's strategy in the Yugoslav war, a strategy that relied on control of territory through the removal of non-Serb population, a practice that became known as 'ethnic cleansing'.<sup>5</sup> Over nearly a decade of war, the evidence of war crimes and crimes against humanity on an exceptional scale was overwhelming, confirming them to have been the very purpose of the war.<sup>6</sup> The commission of the worst atrocities in Europe since the Second World War prompted far-reaching

developments in the sphere of international law. It led to the establishment of the ad hoc Tribunal for the former Yugoslavia, which, in turn, led to further developments of international criminal law (such as the establishment of the International Criminal Tribunal for Rwanda and speeding up of the creation of the International Criminal Court<sup>7</sup>).

The aim of this section is both to establish the background to the problem of the war crimes legacy and to provide clarification of the nature and role of the ICTY. The former will increase understanding of why the legacy of war crimes is such a central issue, and the latter will help dispel some of the most common misapprehensions about the ICTY put forward by its critics, and not least the Serbian government. Although the Serbian side was not the only one to commit crimes during the war, the scale of the crimes committed by Serbian forces in Croatia, Bosnia and Kosovo far surpassed those committed by their adversaries.

### **The Serbian project and the strategy of war crimes: Creating the legacy<sup>8</sup>**

The Yugoslav war was a clash of state-making projects. Among these, the Serbian project aimed at re-drawing the territorial boundaries left by the dissolving Socialist Federative Republic of Yugoslavia in order to create an almost ethnically pure territorial whole for the Serbs. The aim was control of large swathes of territory through ensuring the loyalty of the population. The scale, range and consistency of the methods used to terrorise the non-Serb populations of many different areas in Croatia, Bosnia and Kosovo did not and could not have resulted from a spontaneous eruption of local resentment. The purpose of this terror was to ensure that the population remaining in the secured areas would be 'reliable'.<sup>9</sup> This strategy of terror was based on the use of ethnic cleansing – the use of excessive violence against the civilian population centres, demonstrative atrocity and mass murder in order to remove that population and all prospects of opposition through use of terror applied for strategic purpose, the principal elements of which comprised preparation and provocation, takeover and the use of force, mass detention in brutal and sometimes murderous prison camps, and elimination through expulsion and execution, at the tactical level.<sup>10</sup>

As an example of the extent of the crimes committed, Sabrina Ramet noted that a particular 'feature of the Bosnian war has been the incidence of organised systematic rape – or rather, forced impregnation, since pregnancy was a conscious goal of the Serbs'.<sup>11</sup> According to Dorothy

Thomas and Regan Ralph, rape was neither incidental, nor private, but served a strategic purpose, acting as a tool for the achievement of a particular military purpose. In the former Yugoslavia, 'rape and other grave abuses committed by Serbian forces [were] intended to drive the non-Serbian population into flight'.<sup>12</sup>

In Kosovo, the Serbian strategy involved the mass expulsion of the non-Serb population together with attempts to wipe out their identities by confiscating documents and destroying records.<sup>13</sup> Although a debate persists over the existence of the infamous 'Operation Horseshoe' (an alleged Serbian plan to expel the population of Kosovo through a horseshoe-shaped attack on the province),<sup>14</sup> it is nevertheless 'very clear that there was a deliberate organised effort to expel a huge part of the Kosovar Albanian population and such massive operation cannot be implemented without planning or preparation'.<sup>15</sup>

As discussed in Chapter 2, Milošević's strategy relied on Belgrade's appearing not to be taking part in hostilities in Bosnia and Croatia. This imperative, combined with Milošević's distrust of the VJ, led to the creation of a complicated web of security actors and forces. The application of terror for strategic purpose meant that all these elements had a role to play in the different stages of the campaign. Regular army artillery would normally shell non-Serb neighbourhoods of towns under siege, while the paramilitaries and irregulars would engage in street fighting, and once a town was taken would systematically identify, collect and segregate the non-Serb population.<sup>16</sup> The commission of war crimes was a product of joint planning and implementation by the political leadership, the Security Service, the regular army and the paramilitaries of an 'armed campaign in Croatia, Bosnia and Kosovo that involved systematic use of terror to establish the borders of a new Yugoslavia'.<sup>17</sup> Hence, the security sector as a whole was tainted by its wholehearted participation in the commission of war crimes in the former Yugoslavia. The scale of the crimes committed, combined with a disregard for international norms and international public opinion, provoked an outcry in the international community, and damaged the reputation of the country and the armed forces. It led Serbia down the path of confrontation with NATO and to the 78-day bombing campaign in 1999.

### **The international response: Creating the ICTY**

The scale of violations of international humanitarian law during the conflict in the former Yugoslavia prompted the establishment of an ad hoc international tribunal to deal with such abuses by punishing the

perpetrators and bringing justice to the victims.<sup>18</sup> From the early stages of the conflict the international community was under pressure from numerous NGOs, humanitarian organisations and public opinion to act on what were seen as the worst atrocities committed in Europe since the Second World War.<sup>19</sup> As early as May 1991, there were calls for a Nuremberg-type tribunal,<sup>20</sup> and a year later, serious talk began among diplomats, with the German Foreign Minister, Klaus Kinkel, calling for the establishment of a tribunal and Acting US Secretary of State Lawrence Eagleburger calling for the prosecution of the likes of Milošević, Karadžić and Mladić.

The UN Security Council, monitoring the situation in the former Yugoslavia and after numerous reports from NGOs and media, as well as UN agencies in the field decided to investigate the claims of grave breaches of humanitarian law in the conflict.<sup>21</sup> In July of 1992, the Security Council declared that the persons responsible for commission or ordering of crimes would be held individually responsible.<sup>22</sup> In August of the same year, the Security Council called upon all states to submit evidence of atrocities committed in the former Yugoslavia.<sup>23</sup> In October, it set up a special Commission of Experts to investigate.<sup>24</sup> The commission found substantial evidence of crimes against humanity as well as violations of laws or customs of war and Geneva Conventions.<sup>25</sup> Under mounting pressure from public opinion, humanitarian organisations as well as the media, the Security Council adopted Resolution 827 25 May 1993, invoking Chapter VII of the UN Charter and establishing the Statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed on the Territory of the Former Yugoslavia since 1991.<sup>26</sup> This was the first case of international judicial intervention and the first instance of an international tribunal set up to prosecute individuals since the Nuremberg and Tokyo trials after the Second World War.

Hence the ICTY was an important innovation, as it was created by a UN Security Council resolution and not by treaty. It represented a landmark in international law, as it clearly established the individual as a subject of international law, and confirmed that grave violations of international humanitarian law represented a threat to the security of international society. Having established that the violations of humanitarian law in the former Yugoslavia constituted a threat to international peace and security, the Security Council took action under Chapter VII (Action with Respect to Threats to Peace, Breaches of Peace and Acts of Aggression) in order to restore and maintain international peace and security.<sup>27</sup> This was reiterated in the first paragraph of the ICTY statute,

and caused a lot of controversy and contention concerning the jurisdiction of the ICTY.<sup>28</sup> This use of Chapter VII powers by the UN Security Council, turning on the nexus of international security and international law, represented a new step regarding the position of the state and its qualification of sovereignty.<sup>29</sup> To others, the Security Council had abused its powers, and many argued that it had no basis upon which to create a judicial organ.<sup>30</sup>

Officially, the reasons for the establishment of an international tribunal were fourfold: to bring to justice persons allegedly responsible for violations of international humanitarian law, to render justice to the victims, to deter further crimes and to contribute to the restoration of peace by promoting reconciliation in the former Yugoslavia.<sup>31</sup> This was a result of number of developments in international relations. First, the complementarity of peace and justice came to be accepted by most UN member states. Secondly, establishing a war crimes tribunal was seen as a good PR exercise for the Security Council, showing that the UNSC was 'doing something'. It was, for some members of the Security Council, a substitute for real action.<sup>32</sup>

Following the establishment of the ICTY, there was a division between those who believed that the Tribunal would be an impediment to peace in the Balkans and those who believed it to be a necessary ingredient. For many, it was clear that 'the pursuit of justice for yesterday's victims should not be pursued in such a manner that it makes today's living the dead of tomorrow'.<sup>33</sup> It was widely held that indicting the likes of Karadžić and Mladić would damage prospects for a negotiated peace in Bosnia.<sup>34</sup>

The key to a balanced solution was the concept of *catharsis* – 'a process that discharges emotions thus decreasing tension, clarifying thoughts and enabling the subject to reach a harmonious state'.<sup>35</sup> In the 'peace versus justice' debate it is important to note that 'international justice is a process which in itself has significance'<sup>36</sup> and that although the proof of any international tribunal will be the numbers of people it has successfully tried, the focus should be on the impact of the process of seeking justice through telling the stories – testifying – and indicting alleged war criminals rather than the quantitative results.

As an enforcement measure of the UN Security Council, the ICTY was given the political purpose of restoring and maintaining international peace and security. As such, it was also a judicial body, which depended on preserving due and proper process in order to be successful in its task. Judicial process was seen as the road to a political goal, and, as such, had to be 'purer than pure'.<sup>37</sup> Finally, although judicially independent, the

ICTY acted in a political arena and depended on a number of political tools such as diplomacy and cooperation with international bodies (for example IFOR, KFOR, UNMIK etc.) in order successfully to carry out its mandate. This delicate balance between the political and judicial aspects of the Tribunal was crucial to its success, both in its daily work and in its ultimate aim of restoration and maintenance of international peace and security.<sup>38</sup>

The war crimes legacy was indeed a heavy burden for the security sector in Serbia. Many of its members were torn between the desire to forget and move forward, and the imperatives of the myths of defending Serbs in Croatia, Bosnia and Kosovo.<sup>39</sup> However, it was crucial that this legacy should be dealt with in order to help prevent future conflict, bring about reconciliation and improve confidence and trust between the communities of the former Yugoslavia. Since the armed forces (broadly understood) were the means through which the strategy of war crimes was made a reality, the process of reform and transformation had to take the crimes into account and deal with the past.

### **Cooperation with the ICTY after 5 October 2000**

For many things in Serbia, the Djindjić assassination in 2003 was the catalyst for real change, and the approach to the war crimes legacy within the security sector reform policy was not an exception. In terms of policy towards the ICTY and dealing with war crimes, the most important achievement of the post-Milošević rulers was the former president's transfer to the Tribunal on 28 June 2001.<sup>40</sup> However, a number of incidents, such as the JSO protest in November 2001 (discussed below),<sup>41</sup> and above all the assassination of Prime Minister Djindjić, served to highlight that more needed to be done. The Serbian authorities' record of cooperation remained poor, despite some efforts to show that Mladić was being actively sought. However, a number of other, less famous (or infamous) indictees remained at large in Serbia, or had been allowed by Serbia's authorities to escape,<sup>42</sup> and the government was criticised for its reluctance to share key documents with ICTY prosecutors.<sup>43</sup>

The expectations for security sector reform raised by the 5 October democratic changes were not met and, in some way, security sector reform efforts in the post-Milošević era were disappointing. Although the importance of SSR in general, and of democratic civilian control over the armed forces in particular for the democratic transition was not lost on the major political actors, they chose, as argued in Chapter 3, to use the security sector to shore up their own positions, leaving the

transformation of civil-military relations aside. Faced with a legacy of poor civil-military relations, an inadequate institutional framework, a history of political abuse, financial and political corruption and, above all, a lack of legitimacy for both the state and the armed forces, the new masters in Belgrade were expected to take quick, efficient and decisive steps towards establishing democratic civilian control over the armed forces. Instead they chose political infighting and personal interests.<sup>44</sup> The VJ and MUP (the Serbian interior ministry forces, which included special forces units under the security service) became important allies in the power struggle between Vojislav Koštunica and Zoran Djindjić. Koštunica found loyal supporters within the armed forces who found his brand of moderate nationalism and public opposition to the ICTY very appealing.<sup>45</sup> Hence, the VJ was loyal to the President, whereas Djindjić established control over the Serbian Ministry of Interior and its forces – the MUP.<sup>46</sup> Attempts at reform were tainted by scandals, both within the armed forces and in the political arena.<sup>47</sup> In this climate of political struggle between Belgrade's new masters, both the VJ and the MUP managed to find protectors who would ensure their positions were not threatened.

Koštunica's insistence in keeping General Nebojša Pavković as Chief of Staff despite the opposition of his DOS colleagues, and their persistent calls for him to be sacked, dampened expectations for an immediate start to the reforms process.<sup>48</sup> Koštunica insisted that his aim was to preserve stability, even though it was clear that allowing Pavković to stay would preserve many of army's privileges in exchange for less than wholehearted support for democratic change. Pavković's known proximity to the Milošević regime (despite the fact that he was important in ousting him), as well as the fact that he was the commander of the VJ's Third Army, which operated in Kosovo during Operation Allied Force, compromising him too with allegations of war crimes,<sup>49</sup> undermined the deal Koštunica had made with the top brass. Additionally, the US (and NATO) was making his removal a condition of any meaningful cooperation.<sup>50</sup> Pavković continued to use his position to interfere in politics and openly attack DOS policies and leaders.<sup>51</sup> Hence, in terms of SSR, the power struggle between Djindjić and Koštunica meant that no meaningful reform of the security sector was possible, a situation used by both the political factions that took power in Serbia in 2000 and the armed forces, who could count on their new-found protectors.

The ability of the FRY and Serbia to cooperate with the ICTY was damaged by the ambiguous stance that the democratic authorities had towards the tribunal, as well as the inability to find a compromise. Early

on, the stand off between Djindjić and Košunica was most evident with regard to the issue of the transfer of Slobodan Milošević to the ICTY, where he had been indicted in 1999. Amid scenes of confusion, starting on 30 March 2001 and concluding on 1 April 2001, Milošević was arrested on domestic charges relating to corruption during his time as president.<sup>52</sup> It took two attempts however, to arrest him, as an MUP special unit clashed with the army guards in front of the residence where Milošević continued to live following his loss of power.<sup>53</sup> Djindjić accused the VJ General Staff and the elite Guards Brigade of obstructing the MUP in their attempt to apprehend the former President.<sup>54</sup> This was denied by both the VJ and Košunica's party, whose vice-president, Dragan Maršićanin, claimed that the military had acted in accordance with its constitutional obligations.<sup>55</sup> As the Djindjić government, under international pressure, prepared to transfer Milošević to the ICTY in June, it faced opposition from Košunica, who remained convinced that Milošević should face trial in Serbia.<sup>56</sup> Košunica claimed that the government decree regulating cooperation with the ICTY was unconstitutional, and, as such, should not be applied. He was supported by a decision of the Constitutional Court, which, on 28 June, ruled the decree to be in contravention of the Constitution.<sup>57</sup> The Serbian government was, however, ready for such obstruction. It proceeded with an elaborate plan to transfer Milošević from Belgrade's Central Prison, to the ICTY Detention Unit. By 11pm on 28 June 2001, Milošević was in The Hague.<sup>58</sup> Košunica reacted by calling the transfer illegal and unconstitutional and accusing the Serbian government of using the same tactics as the previous regime, while not informing him of the action.<sup>59</sup> The ensuing dispute led to a further weakening of the DOS and set in motion events that would eventually lead to the DSS leaving the coalition.

The Milošević saga overshadowed small improvements in cooperation. On 23 March, the former mayor of Prijedor in Bosnia, Milomir Stakić, was arrested and transferred to The Hague, in the first example of the new government's cooperation with the Tribunal.<sup>60</sup> Soon after, on 27 June 2001, Serbian police arrested Miroslav Radić, a former commander of a military police unit in Vukovar in 1991.<sup>61</sup> Radić was indicted, together with Mile Mrkšić and Veselin Šljivančanin, for crimes committed in the Vukovar area in the summer of 1991.<sup>62</sup> However, despite the increasing international pressure to cooperate, further cooperation remained limited, due to the inability fully to control the military and other security actors.

The link between the unreformed security elements and war crimes was seen in November 2001, when the notorious 'Red Berets' (*Jedinica za*

*Specijalne Operacije* – JSO) mutinied and started what they called a protest by blocking the highway in Belgrade.<sup>63</sup> The JSO protest came after they had been involved in an operation to arrest two ICTY indictees and in response to rumours that some of their members would be transferred to The Hague in the near future.<sup>64</sup> This emphasised the importance of security sector reform and the need to gain full control over its components. In any case it was a warning to the reformers that there were powerful forces in the country who, although helpful in October 2000,<sup>65</sup> were not supportive of some steps taken by the new government. It provided a further example of the willingness of politicians to involve elements of the security sector in their political struggle, as well as the security elements' preparedness to take sides in order to protect their positions. Koštunica's DSS issued statements supporting the rebellion, claiming that it was sparked by the refusal of the Serbian Government to set up a legal framework within which the country's institutions, among them those of the security sector, could cooperate with the ICTY.<sup>66</sup> Within days, the JSO was advocating the same line, accusing the government of forcing them to perform illegal acts (something that they had had no problems with throughout their history, since being founded in 1991) by participating in cooperation with the Tribunal.<sup>67</sup>

The Serbian Government was unable to deal with the JSO challenge in November 2001.<sup>68</sup> Feeling in debt to the JSO's former commander, Milorad Ulemeš Luković 'Legija' for his role on 5 October 2000, but more importantly, lacking the capability to stand-up to the JSO with force, the Djindjić government had to negotiate the end of the protest, accepting the demands for the dismissal of the Director and Deputy Director of the State Security Service (SDB), and the appointment in their place of Andrija Savić, an academic, and Milorad Bracanović, the former head of counter-intelligence within the JSO.<sup>69</sup> In a face saving exercise, the unit, rather than being disbanded, was directly subordinated to the Government of Serbia and the Minister of the Interior, thus giving the pretence of reform and change.<sup>70</sup> As will be seen below, this would prove fatal for Djindjić, fewer than 18 months later. The fact that a security sector actor mutinied against the state, occupying a main road in the capital, but faced no immediate consequences for its actions, indicated the weakness of the Serbian Government, and showed the dangers of the Koštunica-Djindjić power struggle. Koštunica and his party defended the protest as legitimate and gave it rhetorical support, claiming that the JSO had no other option, after having been involved with the ICTY cooperation action.<sup>71</sup> The lack of intervention, or even a show of force, by the army, which was a constitutional role for the

military (see Chapter 5), was an indication that Djindjić preferred to accommodate the JSO, rather than risk shoring up Nebojša Pavković's position by making him the saviour of the Serbian Government.<sup>72</sup>

The JSO protest was also the driving force in the passing of the Law on Cooperation with the ICTY, on 12 April 2002,<sup>73</sup> aimed at regulating the cooperation with the ICTY. This established the National Council for the Cooperation with the ICTY, a body initially chaired by the Minister of Foreign Affairs, and tasked with fulfilling the international obligations towards the Tribunal.<sup>74</sup> However, what many in the government failed to see was that it was the opening salvo in the war between those with most to lose by the state's cooperation with The Hague and the reformers.<sup>75</sup> Furthermore, the reformers failed to grasp the opportunity to deal with the security elements, who enabled them to take power, but whose implication in war crimes made them a burden to further consolidation of Serbia's nascent democracy. The deferral to the JSO was a sign of weakness that would have dire consequences. Reformers also failed to change their approach to explaining the need to cooperate from a negative ('US/International Community pressure') to a more positive one.

The consequences of the inability and reluctance to deal with the war crimes legacy were numerous. However, the most poignant evidence of the importance of the war crimes legacy within the Serbian security sector came when Prime Minister Zoran Djindjić was assassinated. This was because of his readiness to cooperate with the ICTY, by the deputy commander of the JSO, in an operation organised and coordinated by 'Legija' and the leaders of the Zemun Clan, the most powerful organised crime group.<sup>76</sup> On 12 March 2003, he was shot while getting out of his car in the courtyard of the Government building in Belgrade.<sup>77</sup> The perpetrators labelled the assassination plan Operation 'Stop The Hague' in a clear attempt to send a message to all those who tried to threaten their positions.<sup>78</sup> It took an event of the magnitude of the Djindjić assassination to kick start reforms in the security sector. Far from preventing further cooperation, the assassination resulted in the transfer to the ICTY detention unit of a number of important indictees (such as Jovica Stanišić and Franko Simatović 'Frenki').<sup>79</sup>

A crucial first step, post Djindjić, was the disbanding of the JSO on 26 March 2003.<sup>80</sup> While Zvezdan Jovanović, the JSO deputy commander, was accused of pulling the trigger in the assassination of the prime minister, several JSO members were arrested and put on trial for their involvement in the Djindjić assassination, as well as the murder of Ivan Stambolić, former Serbian president and potential challenger to Milošević, in 2000. Stambolić had gone missing in the summer of 2000

and his body was finally recovered three years later.<sup>81</sup> Crucially, the JSO's famed former commander, Milorad Ulemek Luković 'Legija', was indicted for his role in the assassination attempt.<sup>82</sup> After 14 months in hiding, Legija decided to surrender to the authorities, on 2 May 2004, and was brought to trial for instigating the assassination, as well as for his involvement with organised crime groups.<sup>83</sup> Investigations revealed the extent to which the unit he commanded, until 2001, was linked to the Zemun Clan, the largest organised crime group in Serbia, with which it cooperated in numerous racketeering and extortion operations. Their cooperation went back to the years of war in Bosnia and Croatia, when many of the 'special units' were staffed with former (in some cases future) criminals.<sup>84</sup>

However, it was the new Minister of Defence, Boris Tadić, who proved the most willing to tackle the war crimes legacy, as this was proving a serious hurdle in his efforts to achieve membership of NATO's Partnership for Peace.<sup>85</sup> He dismantled the shadowy Commission of the General Staff for Cooperation with the ICTY, which was undermining the process and was believed to have been assisting Slobodan Milošević during his trial.<sup>86</sup> The commission was set up under Pavković, in order to lead a semi-official effort to 'sabotage the transfer of military documents to the tribunal'<sup>87</sup> through a process of vetting and selection of documents that could be transferred. This process enabled the commission members, retired officers loyal to Slobodan Milošević, to withhold documents requested by the Office of the Prosecutor, while at the same time searching the archives for any documents that could be helpful to indictees.<sup>88</sup> Dismantling this commission did a lot to clear the way for improved cooperation with the ICTY.

In addition, Tadić ordered all members of the armed forces to report any contact they might have had with any of the indictees, since early 2002, and started an internal investigation to establish whether any ICTY indictees were sheltered by the armed forces.<sup>89</sup> Predictably, the result of the inquiry exonerated the military, although it did point out that Mladić was under the protection of some VJ members, until 15 March 2002, after which period the army apparently lost trace of him.<sup>90</sup> Although at the time the results of the investigation were publicised as evidence that the army was not sheltering Mladić, Tadić's advisors later admitted that it would have been impossible for them to know whether that was true due to the sheer size and number of military installations, and, more important, their inability to trust the Military Security Service to tell them the whole truth.<sup>91</sup> The credibility of the investigation was further damaged by the constant accusations that Mladić was being sheltered

by the army, and, in particular, the intelligence and counter-intelligence services.<sup>92</sup> At the same time, the Office of the Prosecutor claimed several times that it had information that Mladić was protected and aided by the military.<sup>93</sup> Carla Del Ponte, the Chief Prosecutor, stated in March 2005 that the Belgrade authorities confirmed her suspicions that Mladić was in Serbia and that he was being protected by elements within the military.<sup>94</sup> Further evidence of this came in the autumn of 2006, when Aco Tomić, the former head of military counter-intelligence, was arrested on suspicion of having aided the support network of Ratko Mladić.<sup>95</sup> (This is developed in Chapter 8.)

Tadić's action had limited success in the longer term, while exposing him to criticism for his stance that cooperation with the ICTY was necessary. No similar order to investigate was issued for either MUP or BIA personnel, and no internal inquest into the extent of support from within the security services for ICTY wanted persons took place. This left a gap in the application of the policy. At the time, Tadić seemed isolated in his determination to cooperate with the ICTY. The DSS, in particular, criticised him openly for relieving General Vladimir Lazarević of his function in August 2003 because of the possibility that he would be indicted by the ICTY, which he was in October 2003.<sup>96</sup>

In an apparent show of cooperation with the ICTY, the Ministry of Interior Special Anti-Terrorist Unit (SAJ) – a body with its own war crimes record – arrested retired Colonel Veselin Šljivančanin, the last member of the Vukovar troika, accused of responsibility for the mass murder of civilians in Eastern Slavonia, in 1991.<sup>97</sup> The arrest took place after a protracted siege of the apartment building in which he was hiding, and after police forces had battled with protesters seeking to disrupt the arrest.<sup>98</sup> Šljivančanin's detention and subsequent transfer to the ICTY, in late June 2003, seemed to herald a new approach, in which the Serbian authorities would do more to cooperate with The Hague Tribunal. This approach was rewarded by the US, when, on 16 June 2003, Secretary of State Colin Powell decided to certify Serbia for continued financial assistance, despite expressing 'concern over the fact that Mladić and Radovan Karadžić remained at large'.<sup>99</sup>

However, the cooperation was to be short lived. In October 2003, four police and army generals were indicted for their commanding role in the Kosovo campaign.<sup>100</sup> From the military, the indictees were Nebojša Pavković, former Chief of Staff and Vladimir Lazarević, former commander of the Priština Corps and subsequently commander of the Third Army and Deputy Chief of Staff for Ground Forces. Although Pavković was sacked in June 2002, and Lazarević was relieved of his duties in

August 2003,<sup>101</sup> both proved an embarrassment, as they served in the post-Milošević period. Indeed, Lazarević had been promoted on two occasions.<sup>102</sup> Their co-accused from the MUP were Vlastimir Djordjević and Sreten Lukić. Djordjević was the head of the Public Security Department in the MUP (*Resor Javne Bezbednosti*) and Deputy Minister of Interior during the Milošević era, and had been unavailable to the authorities since shortly after 5 October 2000.<sup>103</sup> He was long-rumoured to be the secret witness for the prosecution in the Milošević trial, but the indictment and the end of the trial dispelled any such speculation.<sup>104</sup> He was identified by a number of witnesses in the Milošević trial as responsible for the policy of *terrain sanitation*, which involved removing the bodies of victims of war crimes from Kosovo and burying them in other locations.<sup>105</sup> However, Sreten Lukić proved to be the most embarrassing for the Serbian government. He served as head of MUP in Kosovo, in 1998–99, and had subsequently been appointed as Assistant Minister of the Interior, succeeding Djordjević.<sup>106</sup> He played a crucial role in leading Operation Sabre in the post-Djindjić assassination period and was seen as close to the DS-led government, and, in particular, to the Liberals of Serbia political party (*Liberali Srbije*).<sup>107</sup> At the time of the indictment's publication, Lukić was in that post and remained there until Koštunica's cabinet was sworn in on 3 March 2004.<sup>108</sup>

Reactions from the government, the public and, above all, the security actors, highlighted the depth of the war crimes problem in Serbia, as well as the potential the ICTY indictments had to destabilise the country. The Živković government expressed indignation at the indictments and refused to transfer any of the indictees to The Hague, suggesting that they should be tried in Serbia and that, in any case, command responsibility was not admissible as a charge.<sup>109</sup> The public was clearly against any more transfers and the mood was well summarised by Vladan Batić, the then Minister of Justice, who said that it seemed that Carla Del Ponte's indictments of Serbs seemed to be coming from a conveyor belt and would never stop.<sup>110</sup> However, the crucial reaction came from the armed forces. The Chief of the General Staff, General Branko Krga, expressed the concern at all levels of the military at the indictments. According to Krga, the military had cooperated with the ICTY, through the National Council for the Cooperation with The Hague Tribunal, and had been very interested in bringing to justice those who had perpetrated war crimes. However, Krga said that, for the army, any command responsibility indictment was unacceptable.<sup>111</sup> A similar reaction came from the Ministry of Interior, whose employees organised a well-publicised protest, gathering in large numbers, and in uniform,

in Belgrade's central square. The Minister himself, Dušan Mihajlović, stated he would refuse to be the one to arrest Lukić<sup>112</sup> and some extreme right-wing members of parliament called for the police to take power in a coup.<sup>113</sup>

This last episode prompted Chief Prosecutor Carla del Ponte to claim that the level of cooperation from the Belgrade authorities was inadequate and called for further pressure from the international community.<sup>114</sup> This pressure did not immediately materialise, as the US State Department suggested that the arrest of Ratko Mladić might open the way for a domestic trial for the four generals. Nevertheless, as Mladić remained a fugitive, the US stopped economic aid to Serbia on 31 March 2004,<sup>115</sup> and ICTY President Theodore Meron reported that 'extremely serious and persistent failures' to cooperate with the United Nations war crimes tribunal for the former Yugoslavia were 'threatening to push the trials of key suspects beyond the target completion date of 2008'.<sup>116</sup> He qualified cooperation as non-existent. However, it was precisely the arrest and transfer of Ratko Mladić that remained the crucial problem in Belgrade's dealing with war crimes. By May 2006, his freedom had cost Serbia economic aid from the US, delays in the prospect of EU and Partnership for Peace membership and was threatening satisfaction in the armed forces, many of whose junior officers saw in Partnership for Peace the potential for career development.

The inauguration of a new Serbian government under new Prime Minister Vojislav Koštunica on 3 March 2004, the third since 5 October 2000, led to a further slowing down of cooperation with the ICTY. Koštunica's cabinet took an ambiguous stance towards the Tribunal. In one of his early statements on the issue, Koštunica said that cooperation with the ICTY was not high on his government's priority list and called for dialogue rather than conditionality.<sup>117</sup> As a consequence, one of the first moves by his government was the adoption of a Law on the Rights and Assistance to ICTY indictees.<sup>118</sup> This controversial legislation, prescribing financial assistance to families of those indicted by the ICTY, took over six months to be cleared by the Constitutional Court and was widely seen by the pro-Western parties as contrary to national interest and damaging to Serbia's attempts to deal with the legacy of war crimes.<sup>119</sup> At the same time, the government re-iterated its policy that the indicted generals would not be arrested, explaining that this would threaten the security of the state.<sup>120</sup> The Justice Minister, Zoran Stojković, claimed that the previous government had reached the same conclusion, and that only two options were being considered: surrender or domestic trials.<sup>121</sup> This assertion was further strengthened when an

advisor to Košunica stated, a few days later, that 'the Generals did their jobs ... they are popular. Any attempt by the government to arrest them would affect the stability of the country'.<sup>122</sup>

Košunica's stance seemed to have become more conciliatory when, a few months later, he stated in an interview that Serbia had 'no alternative but to cooperate with the Hague Tribunal', adding that Serbia would only meet this international obligation 'in a way that neither endangers the political stability of [the] country, nor strengthens radicalism'.<sup>123</sup> He nevertheless reiterated the belief that arrests would threaten security. His coalition partner, the Foreign Minister Vuk Drašković, stated, after a meeting with the US Secretary of State Colin Powell, that 'full cooperation with the ICTY will remove the current obstacles to US economic assistance' and 'will pave the way for US support for Belgrade's efforts to join Euro-Atlantic integration processes'.<sup>124</sup> This small, but significant, shift in position for Košunica, who, while President, said in 2001 that 'The Hague was not in [his thoughts] ... Cooperation with The Hague Tribunal does not mean accepting everything and trampling national dignity for a few dollars'<sup>125</sup> was more indicative of a split in the governing coalition than of a real change of heart. The ICTY remained a divisive issue in Serbia and one that threatened continuously to bring down the government. The Serbian Renewal Movement (*Srpski Pokret Obnove* – SPO) and G17+ party, on the one side, and the DSS on the other, seemed to have been drifting further apart on the issue of cooperation with the ICTY, and threats from Drašković's SPO to leave the coalition had been multiplying over the summer and in early autumn 2004.<sup>126</sup> Similarly, the war crimes issue provided an additional point of disagreement between Serbia and Montenegro.<sup>127</sup>

Early on in his tenure as head of government, Košunica's policy towards the tribunal remained one of defiance, believing that cooperation should be a two way street. As the Prime Minister said, the government 'is in favour of collaborating with the tribunal ... but [the government is] in favour that the Tribunal does something for [Serbia] too. Those who voluntarily surrender should be allowed to return to their country and remain there until the trial begins'.<sup>128</sup> When this intransigence met the inflexibility of Carla Del Ponte, the result was unavoidably instability in Serbia. Del Ponte's view that 'it is not for the prosecutor to be diplomatic ... the OTP are trying to keep politics out of prosecutions, and I have no time to care about politics in countries in question'<sup>129</sup> is indicative of her lack of understanding of the role the Prosecutor of the ICTY plays.<sup>130</sup> The Tribunal was a political tool (a UN Security Council enforcement measure, under Chapter VII of the Charter) with a judicial

nature. This did not mean it was politicised. But the Chief Prosecutor did need to be aware of its political impact. It was also a serious problem for prime ministers in Serbia, trying to juggle conditions set by the international community with widespread opposition to the ICTY, in Serbia. Despite continuing official support for the ICTY, even some senior US Administration figures were quoted as saying that Carla Del Ponte and her team were a threat to stability and the promotion of democracy in the region.<sup>131</sup> Although the prime responsibility for dealing with the war crimes legacy lay in Belgrade, and, ultimately, with the people of Serbia, the OTP needed to show more care for the fragile democratisation process in Serbia and its pro-Western government, in line with the Tribunal's mission regarding the maintenance of international peace and security.

The war crimes legacy remained a sensitive issue for Serbia, its armed forces, other security actors and society as whole, and the pressure mounted. Despite the difficulties outlined above, and the continuing reluctance to take decisive steps, there were some positive developments. The first war crimes trial in Serbia started, on 9 March 2004, with five former JNA soldiers accused of war crimes in the Vukovar area in 1991. The Belgrade District War Crimes Chamber seemed to be a step in the right direction and was viewed as a test for the Serbian judicial system and its ability to conduct a fair war crimes trial respecting due and proper process.<sup>132</sup> Additionally, reports emerged of MUP paramilitary units, the *Žandarmerija* (*Gendarmerie*), repeatedly attempting to seize Ratko Mladić, near Valjevo, in western Serbia, albeit unsuccessfully.<sup>133</sup> The first attempts were reported in late April 2004, while on 28 September 2004 news agencies reported that elite units of the police and military were hunting for Mladić, with the help of foreign forces.<sup>134</sup> The second report was neither officially confirmed nor denied, but officials did confirm that the military and the police were looking hard and using all available means.<sup>135</sup>

More concretely, Koštunica put in motion a policy of cooperation, based on understanding the need to meet Belgrade's international obligations, without risking the fall of his government, which relied on the support of the Socialist Party of Serbia. The new approach resulted in an attempt to appease Del Ponte, in early October 2004, which seemed to bring short-term benefits, while actually achieving nothing more than buying some time for the Koštunica government.<sup>136</sup> Ljubiša Beara, one of The Hague's most wanted indictees, turned himself in to the authorities in Belgrade on 10 October, a day after Carla Del Ponte ended an official visit to Serbia.<sup>137</sup> Beara, a former Colonel in the VRS at the time

of the events in Srebrenica, was wanted for his presumed role in the massacre. Beara was Chief of Security at the Main Staff of the VRS, with responsibility for Military Police units, monitoring enemy activity and dealing with captured Bosnian Muslims. The indictment against Beara charged him with genocide, or complicity to commit genocide; crimes against humanity; and the violation of laws and customs of war.<sup>138</sup> Two previous attempts to arrest Beara and transfer him to The Hague had been unsuccessful: a decision by the Živković government to transfer Beara in October 2003 was changed as a sign of protest, after the publication of the indictment against the four generals, and an attempt to arrest him in March 2004 failed after Beara disappeared, following a tip off.<sup>139</sup>

Beara's surrender was a thinly veiled attempt by the Serbian Government to show its willingness to cooperate with the ICTY, a few days before a meeting of EU Foreign Ministers in Luxembourg.<sup>140</sup> The EU expressed its satisfaction that progress was being made on the issues of cooperation. The EU High Representative for Common Foreign and Security Policy's (CFSP) spokesperson commented that the EU 'hoped that other indictees would follow [Beara's] example'.<sup>141</sup> However, doubts existed about the veracity of the claim that Beara had surrendered, with the OTP contesting that version of events and claiming that instead he was arrested by the Serbian authorities, after a tip-off from Carla Del Ponte's staff, and then convinced to surrender to the ICTY.<sup>142</sup> The Beara transfer was an illustration of the Serbian government's new approach, relying on persuading indictees to surrender, in exchange for guarantees to the ICTY and financial and legal support. Before long, Košunica's associates began a series of secret negotiations with a whole host of indictees hiding in Serbia.<sup>143</sup>

Carla Del Ponte was not satisfied with the new approach, however. She complained to the NATO Council, in November 2004, that she faced a problem with Serbia, because the government had told her that it would not arrest any of remaining the fugitives.<sup>144</sup> At the same time, the lack of coordination in Belgrade was evident, as Foreign Minister Drašković and Minister of Defence Davinić both promised more active cooperation with the ICTY,<sup>145</sup> and urged the Serbian government to face the seriousness of Del Ponte's dissatisfaction as she reported Belgrade to the UN Security Council.<sup>146</sup> Pressure on Serbia mounted towards the end of 2004 and the beginning of 2005, as Košunica had to stay the course and argue that arrests were not the only form of cooperation. By January, Belgrade needed Košunica's strategy to start working. The EU's High Representative for Common Foreign and Security Policy, Javier Solana, cancelled a visit to Belgrade in January 2005, stating that

since no progress had been made in improving cooperation with the ICTY there was no point in his coming.<sup>147</sup> Serbia faced the possibility of further delays to its EU accession ambitions.<sup>148</sup> Questions about the feasibility study for the start of Stabilisation and Association Agreement talks with the European Union were raised,<sup>149</sup> while the UK Secretary of State for Defence, Geoff Hoon, told Belgrade that only full cooperation with the ICTY and the transfer of all indictees would lead to joining NATO's Partnership for Peace.<sup>150</sup>

The first success for Košunica's approach came in early December 2004, when former VRS general, Dragomir Milošević, surrendered voluntarily and was transferred to the Tribunal.<sup>151</sup> However, the real flood of surrenders started in late January. On 28 January, General Vladimir Lazarević announced that he had decided to surrender to the ICTY, citing the need to help the country improve its international position.<sup>152</sup> Lazarević was followed closely by Ratko Mladić's unofficial wartime spokesman, General Milan Gvero, who announced his decision to surrender on 21 February 2005, three days before his indictment was published.<sup>153</sup> At the same time, another Bosnian Serb officer, Radislav Miletić, arrived at the ICTY voluntarily.<sup>154</sup> All of them held talks with Serbian officials prior to their surrender, indicating that the Serbian government was busy negotiating surrenders, and prompting Košunica to claim that his approach was working.<sup>155</sup> He was further vindicated, when, it was announced, on 2 March, that former Chief of the General Staff of the VJ and former Deputy Prime Minister (in the Djindjić government), General Momčilo Perišić, had decided to surrender to the ICTY.<sup>156</sup> Others followed: Mićo Stanišić (11 March); Gojko Janković (15 March); Drago Nikolić (16 March); General Vinko Pandurević (21 March), Republika Srpska police General Ljubomir Borovčanin (29 March); Col. Vujadin Popović (14 April). The last group were all VRS, or Republika Srpska, officers, and all were citizens of the RS. Nevertheless, they surrendered to the authorities in Belgrade – a sign, in itself, of Belgrade's role in the war and war crimes of the 1990s.<sup>157</sup>

While these indictees surrendered without too much fanfare (apart from Lazarević, who was received by the Patriarch of the Serbian Orthodox Church),<sup>158</sup> Sreten Lukić and Nebojša Pavković were more difficult to persuade. Lukić delayed his surrender several times, citing ill health, until he was flown to the Netherlands on 4 April 2005, where ICTY medical staff asserted that he was fit to stand trial. Lukić's surrender was less voluntary than it first appeared.<sup>159</sup> Pavković posed even more problems. Having announced previously that he would not go to the ICTY alive,<sup>160</sup> he went into hiding in late March, before finally

surrendering on 23 April, after his assets had been frozen and his house raided by Serbian police.<sup>161</sup> Košunica's decision to start cooperating with the ICTY was rewarded when, on 26 April, the EU announced that it would start work on the feasibility study for negotiations on the Stabilisation and Association Agreement, expecting to start negotiations in the autumn of 2005.<sup>162</sup>

The euphoria did not last long. The central problem, in terms of Serbia's addressing its war crimes legacy, remained. While 14 fugitives had been transferred to the ICTY detention unit between October 2004 to April 2005, Ratko Mladić was still free. Košunica's government attempted several times to negotiate his surrender, and rumours abounded that he was ready to do it in exchange for a large sum of money.<sup>163</sup> True to his approach, Košunica refused to take any direct action, preferring instead to try to approach the general through intermediaries, in the hope that he would see sense and follow his wartime friends to The Hague.<sup>164</sup> Košunica continued in the belief that, if an arrest attempt was made, it would end in either a shoot out or Mladić's committing suicide, both of which would be detrimental to his position, and could bring down his government.<sup>165</sup>

Following years of denying any knowledge of Mladić's whereabouts, and vehement denials that he was in Serbia, it became clear, by the end of 2005, that he had indeed been in Serbia for most of the time since 2002.<sup>166</sup> By December 2005, the goodwill produced by the 'voluntary' surrenders in the winter and spring of that year had all but disappeared. Belgrade felt the pressure of the international community once more.<sup>167</sup> In February, Del Ponte demanded that EU negotiations be directly tied to the arrest of Ratko Mladić.<sup>168</sup> At the same time, the US Ambassador to Belgrade urged the authorities to apprehend and transfer Mladić to the ICTY, without delay.<sup>169</sup> Finally, on 3 May 2006, the EU postponed its negotiations on the Stabilisation and Association Agreement with Serbia. This proved a major blow to the Serbian government, with Deputy Prime Minister and chief negotiator Miroljub Labus's resigning, and the rest of the G17+ ministers promising to do the same if negotiations did not resume by 1 October.<sup>170</sup>

As time went by Mladić showed no signs of surrendering, and it became clear that he would probably never do so. It could safely be assumed that money was not an issue, as Serbia's government found willing oligarchs ready to foot the bill.<sup>171</sup> Fresh attempts to locate and arrest him seem to have failed, in early 2006, although the government remained vague about them.<sup>172</sup> At the same time, Mladić continued to enjoy the protection of elements of the military and the intelligence services. Foreign

Minister Vuk Drašković stated that he was convinced that the military and civilian security services knew where Mladić was.<sup>173</sup> According to one well-informed source, it would otherwise have been impossible for him to hide for such a protracted period, while continuously avoiding capture.<sup>174</sup> In a report published in November 2005, the Republika Srpska police claimed that VRS and VS members and former members were assisting Mladić.<sup>175</sup> The Ministry of Defence denied that this was the case, claiming that military intelligence was actively checking all military installations, ensuring that Mladić could not hide there.<sup>176</sup> At the same time, the Supreme Defence Council instructed the intelligence services to cooperate with foreign services in locating Mladić.<sup>177</sup> The growing frustration in Belgrade with the Mladić situation led to increased activity and further attempts to locate him, although these were unsuccessful. Nevertheless, in early May the police and intelligence services claimed to have dismantled Mladić's entire support network, arresting several former officers and soldiers.<sup>178</sup> Despite numerous predictions that Mladić was only days away from arrest,<sup>179</sup> or even that he had been arrested,<sup>180</sup> from the summer of 2006 to his eventual arrest, in June 2011, Serbia was still hostage to the former Bosnian Serb commander.

### **Dealing with the war crimes legacy**

The difficulty and urgency of tackling the heavy burden of the war crimes legacy within the Serbian security sector was clear. However, any delay made the problems more profound. The assassination of Zoran Djindjić, the use of various security actors by political leaders to further their immediate goals, as well as the autonomy some security actors showed to protect their positions, all highlighted the dangers of leaving the war crimes issue unresolved. Dealing with the war crimes legacy was an essential task for a democratising Serbia, and an important part of the transformation of civil-military relations in four crucial and inter-linked areas: continuing democratisation, Euro-Atlantic integration process, domestic stability, and regional peace and stability.

First, the process of democratisation, which involved breaking with the past pattern of civil-military relations and establishing democratic civilian control over the armed forces and an oversight of security actors, was severely challenged by the presence within the armed forces of elements with close ties to war crimes indictees. It was known that Ratko Mladić was protected by some powerful elements within the army and the military security services, which claimed to have no

knowledge of his whereabouts. Although the authorities in Belgrade went to great lengths to show that Mladić was not under the protection of the military, rumours persistently put him at locations owned, or manned, by the armed forces. This was evident in the events at the Topčider barracks in October 2004. This was clearly an example of the tensions behind the civil-military scenes, and confirmation that the army was still something of a world of its own. The suspicious death of two elite unit soldiers, on patrol at the army establishment in Belgrade, was linked to the presumed presence of war crimes indictees inside a secret complex that had served as command centre for Belgrade leaders since Tito's time.<sup>181</sup> The official military inquiry quickly decided (almost in panic) that there was nothing suspicious about the deaths and that they were the result of an argument, in which one of the soldiers killed the other and then committed suicide. However, as indications and rumours became more numerous that there was more to it than the official military version, the MoD was at great pains to demonstrate that the incident had nothing to do with war crimes suspects, although there was a glimmer of doubt, when Defence Minister Prvoslav Davinić revealed that he had not been informed properly about the incident, and when it was revealed that the ICTY believed that Mladić had been hiding in the installation.<sup>182</sup> This was accompanied by rumours that the location was visited by ICTY investigators looking for Mladić, who was presumed to have been hiding in the maze of underground installations dating from the Cold War.<sup>183</sup> The Ministry of Defence and the military denied the rumours.

However, a few days after the incident, Davinić called for an urgent session of the Supreme Defence Council, because of doubts about the accuracy and the timeliness of the information he had received regarding the investigation into the deaths of the soldiers.<sup>184</sup> Although the communiqué following the VSO meeting concerned only the investigation itself, there were widespread suspicions that Mladić might have been on military premises again. Although military justice had set-up its own enquiry, the Supreme Defence Council judged that there should be an independent commission to investigate the killing. The military investigators took this move badly and a public spat ensued whereby they publicly demanded to know why they were being doubted, while obstructing the independent inquiry.<sup>185</sup> This was taken as passive resistance to civilian oversight by the military bureaucracy. The attitude of military investigators pointed to their refusal to acknowledge that times had changed and there was no more space for cover-ups under the label of military secrecy, to which those not in uniform could not be privy.

As Božo Prelević, the chairman of the independent enquiry commission noted, 'it seemed as if the military prosecutors had not heard Stalin had died'.<sup>186</sup> In the end, as the findings of the two inquiries differed, there was a sense that the military was hiding something.<sup>187</sup>

The removal of the elements of the Security Sector who had most to gain from preventing cooperation with the ICTY served a number of positive purposes: it permitted the reformers to get on with the pressing tasks of building a 'modern, non-aggressive army under strict civilian control',<sup>188</sup> as well as a security sector that would contribute to consolidating the achievements of democratic transition, rather than be a constant source of threat. The ability of the security actors to escape scrutiny by their political masters was a serious problem for a nascent democracy. Their natural propensity to seek to avoid civilian control and oversight was exacerbated by the fact that they could potentially be called to answer for some of their actions during the 1990s. Dealing with the war crimes legacy was crucial if Serbia was ever to move beyond the Milošević legacy. The military's acknowledgement of its role in that legacy would be an important step in 'the transition to post-authoritarian norms of behaviour',<sup>189</sup> including respect for international laws and norms.

Secondly, cooperation on war crimes issues was the key condition for joining NATO's Partnership for Peace, one of the Belgrade government's two principal goals in foreign and security policy. This was increasingly sought by the armed forces and most of the military establishment. Yet, as Tim Edmunds has noted, defence reform in Serbia remained 'inextricably linked to the question of war crimes and cooperation with the ICTY'.<sup>190</sup> The lack of progress had already had negative effects, in terms of future developments and participation in Peacekeeping Operations. In 2001, there were three key demands for membership of Partnership for Peace: the dismissal of Nebojša Pavković and other Milošević appointed officers in high positions; cooperation with the ICTY; and the cutting of ties with the VRS and the Republika Srpska.<sup>191</sup> By mid-2002 Pavković was retired and the wages of the officer corps in Banja Luka were no longer paid from the budget in Belgrade.<sup>192</sup> However, the most difficult condition was full and unconditional cooperation with the ICTY. On 16 March 2004, US State Department Ambassador-at-large for War Crimes Issues, Pierre-Richard Prosper stated that membership of Partnership for Peace and, ultimately, NATO, was linked to the arrest of Ratko Mladić.<sup>193</sup> His statement was followed by the suspension of US economic aid to Belgrade on 31 March 2004 and the assertion by NATO Secretary General Jaap de Hoof Scheffer that, despite previous predictions, Serbia

would not be invited to open talks on joining Partnership for Peace at the NATO Istanbul Summit in June 2004.<sup>194</sup> A year later, Scheffer was more explicit, stating that Ratko Mladić had to 'answer in front of The Hague tribunal', and that his failure to appear in the trial chamber there was a 'major hurdle' for Serbia to jump, in order to join Partnership for Peace and NATO, concluding with the message 'Do it! As soon as possible, today or tomorrow, but do it'.<sup>195</sup>

Scheffer's statement constituted a major blow to the process of civil-military relations transformation in Serbia. It was one of only two countries in the Euro-Atlantic area (Bosnia and Hercegovina was the other) at that point not part of Partnership for Peace, and membership was a key foreign policy goal after April 2003. The political leadership originally hoped that Partnership for Peace membership could have come by the end of 2003, but the failure to detain Mladić, as well as the indictment against the four generals, prevented this from happening. Nevertheless, constant announcements of imminent membership, as well as increased international cooperation through visits and educational exchanges increased the desire of many within the military for integration with international processes. The consequences had already been felt. Despite announcements of the imminent sending of a brigade of Special Forces from the VS and the MUP to Afghanistan to participate in operations against Taliban forces,<sup>196</sup> this did not materialise, mainly due to the past of some of those who were put forward.<sup>197</sup> NATO feared that many of the troops and officers could be potential candidates for the ICTY and the awareness of a potential PR disaster denied the Belgrade Special Forces the possibility of participating in important overseas missions.<sup>198</sup> In turn, the lack of participation slowed down reform efforts. It was hoped in Belgrade that the force to be sent to fight alongside coalition forces in Afghanistan would form the nucleus of the future armed forces – a small, mobile highly trained and efficient force, capable of rapid deployments.<sup>199</sup> At the least, this would have enabled the military to take the first steps towards interoperability with NATO forces and would have provided a much needed financial boost. Finally, as noted by a senior British officer, further delay in membership could spell frustration and unrest among the junior officers, and some troops, many of whom have high hopes for their personal prospects, once the country joined Partnership for Peace.<sup>200</sup> In the same way, the failure to arrest and transfer Ratko Mladić to the ICTY, a totem of the war crimes legacy, delayed Serbia's EU accession process.

Thirdly, domestic stability depended on successfully dealing with the legacy of the Yugoslav war and the implications this legacy had for the

armed forces. The assassination of Zoran Djindjić, the JSO protest, and the power that the security actors held in Serbia constituted a Praetorian threat to democratic processes. Security actors had already displayed a willingness to intervene in politics in order to prevent cooperation with the ICTY. Additionally, the lack of a Disarmament, Demobilisation and Reintegration policy after 1995, which would have dealt with the large number of young men with combat experience and dubious connections, coupled with the isolation of the state, created a large organised crime sector, with very tight links to the security services, the police and the army. These links stemmed from the recruitment drive, inspired by Milošević's strategy in the Yugoslav war. Unable openly to use large armed forces from Serbia, Milošević and his cronies had relied on paramilitary units and Special Forces under MUP command, most of whose members were recruited from the criminal underworld and were led by former mafia leaders, who often worked for the security services.<sup>201</sup> Among the most prominent examples were the Serbian Volunteer Guard, better known as the 'Tigers', led by the notorious Željko Ražnatović 'Arkan'.<sup>202</sup> These elements all had vested interests in preventing cooperation in any way, and attempted to destabilise the country. The assassination of Zoran Djindjić backfired, as it served as a catalyst for reforms (although these were, by no means, complete), but it was intended to provoke fear in the political elite, and maybe, even, to foreshadow a coup.<sup>203</sup> On a different level, the Djindjić assassination's effects would be felt for a long time to come. Prime Minister Koštunica's government blamed its lack of action regarding the four indicted generals on the potential instability that would result.<sup>204</sup> The mere fact that cooperation with the ICTY could result in domestic instability showed both the level of fear that existed in the political elite, after the Djindjić assassination, and the real, or perceived power, of some conservative elements. In either case, action was needed to deal with it.

Finally, from the point of view of regional peace and stability, and Serbia's pivotal role in the South East European security complex, successful de-criminalisation of Belgrade's military would have far reaching positive effects, in terms of reconciliation and confidence building measures with its neighbours. Removing those elements most responsible for war crimes from the security sector was an important step in building trust and confidence between the security actors in the region, paving the way for future cooperation. One of the crucial roles the ICTY played in establishing peace and security was to remove those most responsible for the crimes from the political arena and society at large, thus reducing their influence and their power to hinder efforts to deal

with war crimes. In the same way as troops tarnished by accusations of war crimes were not allowed to participate in international missions, those same troops could hardly be expected to inspire confidence in civilian populations of the former enemy territories.

In the same way, it was vitally important for Serbia and Montenegro's people to come to terms with the crimes that had been committed in their name. Dealing with the war crimes legacy would serve as an important catalyst for Serbian society as a whole to attempt to deal with 'the horrible "black hole" of its own traumas and the traumas it caused to others'<sup>205</sup> thus opening the way for meaningful reconciliation in the region, and, as a consequence, to durable peace. In order to prevent future conflicts, Serbia needed fully to participate in the process that established the truth about the war and the role of Serbian security actors in them. It also needed to reject impunity by helping bring to justice those responsible for the abuses that characterised the Yugoslav war.

## Conclusion

War crimes were a defining feature of the Yugoslav war. As such their legacy has had an impact on all aspects of society, but this is especially true of civil-military relations. The armed forces were central to the policies implemented by Milošević and his cronies throughout the former Yugoslavia. They provided the driving force behind a strategy based on the commission of war crimes, in order to achieve consolidation of ethnically pure territory. The military and other security actors provided the capacity and were willing participants in what was described as a 'joint criminal enterprise' by the Office of the Prosecutor at the ICTY. The regular army, the security service and the paramilitaries joined the Serbian political leadership in conceiving, planning and executing a strategy based on the application of terror for strategic purpose. This formed the most long-lasting legacy of the Yugoslav war, namely the large scale breaches of International Humanitarian Law.

The particularity of the security sector in the Serbia and its crucial role, both as an instrument of Milošević's internal and external policy, and as the catalyst for his downfall, made reform of the security sector in general, and democratisation of civil-military relations in particular a matter of urgency. The failure to de-politicise the armed forces, while creating a civilian capacity effectively to manage them, coupled with the Belgrade's failure to devise and implement an efficient framework of democratic civilian control of the armed forces, prevented the democratically elected civilian leadership from tackling the challenge of the war crimes legacy.

While there were various ways of addressing past abuses, the primary one was cooperation with the ICTY. Although domestic courts were slowly beginning to build the necessary capacity to take on cases, addressing the past was almost exclusively measured through the willingness to cooperate with The Hague. Cooperation with the ICTY could range from information sharing (including access to sensitive archives), to the apprehension of indictees and their transfer to the detention unit in The Hague. Serbia had a mixed record on both. Prosecutors had a hard time gaining access to some documentation, while the government, despite transferring Milošević and convincing some 14 indictees to surrender, failed to apprehend Ratko Mladić. Most worryingly, Mladić continued to be protected by elements within the military and intelligence apparatus. Belgrade's inability to control its military and prevent elements within it aiding Mladić was an indication that democratic civilian control still had progress to make.

This failure fully to cooperate prevented Serbia from beginning the process of accession to the Partnership for Peace. At the same time, talks with the EU on Stabilisation and Association were suspended, following the failure to arrest Mladić. While Zoran Djindjić was responsible for transferring Slobodan Milošević to the ICTY, the government of Vojislav Koštunica displayed an ambiguous approach towards the ICTY, stating early on that cooperation was not a priority, but later settling on a policy of convincing indictees who were in Serbia to surrender voluntarily. While this approach worked in a number of cases, in the case of Ratko Mladić it failed. By May 2006, it became obvious that Mladić had no intention of surrendering, while the Serbian government had no intention, or capacity, to apprehend him. Koštunica's policy had failed where it mattered the most: convincing the European Union that Belgrade was making genuine attempts to deal with the war crimes legacy.

Successful reform of civil-military relations would have had a positive effect on the democratisation process as whole, helping its consolidation, aiding the establishment of good governance, helping economic growth as well as providing a crucial conflict prevention mechanism. Ultimately, security sector reform could prove the crucial element in facilitating Serbia's integration with Western institutions. The need to address the war crimes legacy as part of the process of civil-military transformation was central to democratisation efforts in Serbia. Failure to tackle the war crimes legacy ensured that Serbia failed to progress in terms of Euro-Atlantic integration.

# 8

## Passing the Mladić Test

Despite its lack of progress on the apprehension of Ratko Mladić, and contrary to all predictions, Serbia was invited, along with Bosnia and Herzegovina, and Montenegro, to join NATO's Partnership for Peace, at the Riga Summit, on 29 November 2006.<sup>1</sup> The Partnership for Peace accession was hailed as a major triumph for Serbian diplomacy, and was greeted with relief by the more reform minded elements in the military.<sup>2</sup> It was an important step on Serbia's road to democracy and integration. It was expected that membership would provide Serbia with increased assistance in defence reform matters, helping it to tackle restructuring and reform, and building a more efficient system of defence management. Partnership for Peace membership would open the door to increased cooperation with NATO and Partner countries, as well as providing necessary support in pursuing reforms. However, the Secretary General of NATO warned Serbia that its membership carried the obligation to cooperate fully with the ICTY, and that NATO would continue to monitor the progress of this cooperation.<sup>3</sup> However, Serbia's perspective on NATO remained ambiguous, at least, a legacy of the 1999 conflict over Kosovo. There was no groundswell of popular support for joining the Alliance, in contrast to the rest of Central and East Europe. The EU was a different matter, however. Joining the EU was seen as re-joining Europe and would represent Serbia's rehabilitation from the shadows of the Milošević era, war and war crimes. Yet, any prospect of EU membership was categorically conditioned on full cooperation with the ICTY, which meant (for some EU member states, such as the Netherlands, at least) nothing short of delivering the remaining war crimes suspects to The Hague, above all General Ratko Mladić. At the same time as being crucial to the EU path, the general's arrival at the Tribunal would also be the key to addressing the war crimes legacy and

allowing completion of the transformation of security and democracy in Serbia itself.

In this concluding chapter, we tackle the test that was breaking the security sector protection that allowed Mladić not to be transferred to the Tribunal in The Hague, but which had to be passed for the war crimes legacy properly to be addressed. In the first section, we explore democratic Serbia's attempts to deal with the war crimes legacy. This is followed by an account of the problems of ensuring democratic control over the security sector, in particular the difficulties of breaking and peeling away the intelligence, security and military network protecting the war crimes suspects, culminating in the arrest of former Bosnian Serb leader – and war crimes suspect – Radovan Karadžić. The next section deals with the eventual arrest of Mladić and the effective democratic control of the security sector, in Serbia, that this represented. The final section concludes the book, drawing together broader issues of security and democracy in transition, the peculiar salience of the war crimes issue in Serbia, and possible implications for other cases.

### **Civil-military relations and the war crimes legacy**

The exceptionality of Belgrade's civil-military predicament stemmed from the war crimes legacy. This legacy of the Milošević era was a particularly serious burden for the democratic leadership that ousted him, in October 2000. Milošević and his cronies were the driving force behind a strategy based on the commission of war crimes in order to achieve their aim of consolidating ethnically pure territory. The security sector, as well as providing the means, was a willing participant.

The war crimes legacy was the central aspect of civil-military transformation in Serbia, and the factor that distinguished it from other Central and Eastern European countries. The presence of this legacy was not, however, completely unique. Croatia also had to deal with the question of cooperation with the ICTY and the arrest and transfer of indictees (and one day, perhaps, Russia and its armed forces would have to deal with their record in Chechnya and other places). However, Croatia's challenge was more limited and the conditionality attached to it was less stringent.<sup>4</sup> What was also distinct was the extent of the crimes, both temporal and territorial. At the same time, while the war crimes question was central to all efforts to transform the military in Serbia, it was only peripheral in Croatia.<sup>5</sup> Almost as soon as the new rulers in Belgrade took power, cooperation with the ICTY became a key condition for re-integration in the international community and joining Euro-Atlantic

integration processes. It contributed to the deterioration of relations between the armed forces and some of the reformers, and was, in many ways, central to the disintegration of DOS. The war crimes legacy hindered the consolidation of democracy.

The war crimes legacy was a result of the nature of the Serbian war project, a war of a particular kind, whose core was a Serbian strategy of controlling territory through the removal of its population. The often wholehearted participation of all security actors in that project created an alliance between the regime and the security sector top brass. The particular nature of the Yugoslav war created a particularity in Serbian civil-military relations and added an extra hurdle to the already difficult task of establishing democratic control over the armed forces. The military and other security sector actors were willing participants in a war whose very purpose was the commission of war crimes. These security sector actors helped bring about the fall of Milošević. But they only did so out of a self-preservation instinct. They intended to protect their privileges and positions by any means necessary. Their refusal to face up to their role in the war and to accept that dealing with the war crimes legacy was a necessary step in the consolidation of democracy made them a threat to the polity they were meant to protect.

The particularity of the Belgrade security sector and its crucial role, both as an instrument of Milošević's internal and external policy, and as the catalyst for his downfall, made reform of the security sector a matter of urgency. Successful reform could have had a positive effect on the democratisation process as whole, helping its consolidation, but it could also have influenced the establishment of good governance and economic growth, as well as offering a crucial conflict prevention mechanism. Ultimately, security sector reform in general, and the transformation of civil-military relations in particular would prove the crucial element in facilitating the integration of Serbia with Western institutions. Multiple elements were necessary to ensure the success of the SSR effort. But the need to address the war crimes legacy was the central element in this. Therefore, for Serbia, successfully dealing with the war crimes legacy was crucial to consolidating democracy.

The political factions that overthrew Milošević were largely unsuccessful in fully addressing the legacy of war crimes. Despite the transfer of a number of high profile indictees to the ICTY, Ratko Mladić remained free and continued to be protected by some elements from within the military. Belgrade's hopes for EU membership were put on hold until Mladić was in the custody of the ICTY. In the period prior to the Djindjić assassination, cooperation had been difficult and frustrating for both the

Tribunal and Belgrade. Although it resulted in the transfer of Slobodan Milošević to the ICTY, it was still marred by lack of access for investigators to key documents, by military obstruction and the inability and unwillingness of civilian leaders to apprehend and transfer indictees to The Hague. While cooperation improved after March 2003, the indictment of four generals resulted in its suspension, as Serbia's DOS government refused to arrest the three who were in Serbia. From March 2004, the government of Vojislav Koštunica displayed an ambiguous approach to the ICTY. After initial reluctance to cooperate, Koštunica's government implemented a policy of voluntary surrender. The policy relied on Belgrade's ability to convince, bribe or blackmail as many indictees as possible to surrender, in exchange for financial provision for their families and legal support for them. This approach showed impressive results, in the period between October 2004 and April 2005. But it stalled, as Ratko Mladić refused to surrender and the government refused to arrest him.

There were a number of reasons for the track record in dealing with war crimes. First, the unpopularity of the ICTY within Serbian society was exacerbated by the negative approach of the political elites to explaining the need to cooperate, plus the clumsiness of the Chief Prosecutor's approach.<sup>6</sup> Cooperation was advocated in response to pressures from the West, rather than being a positive development that could lead to reconciliation in the former Yugoslavia. This, in turn, made cooperation with the ICTY a political liability for most governments. It also provided the extreme conservative parties, such as the Serbian Radical Party (SRS), with political capital with which they could threaten the consolidation of democracy. The Belgrade political elite's fear that any attempt to transfer indictees forcefully could jeopardise national security showed the reality of civil-military relations and the continuing influence of those in the security sector, whose interest lay in preventing – or at least hampering – the process of reckoning with the past. At the same time, it provided an illustration of the lack of control over the military that still existed. All of this, however, made tackling the war crimes legacy even more pressing, as it threatened security and the consolidation of democracy.

Serbia's democratic direction was in doubt, with every election result that showed the Serbian Radical Party's continuing popularity.<sup>7</sup> The reluctance to apprehend and transfer those considered most responsible for atrocities in the former Yugoslavia also contributed to this uncertainty about Serbia's future. However, Serbia's path was almost irreversibly, if often reluctantly, Euro-Atlantic. The incentives of EU, NATO and

Partnership for Peace membership drove reform of the military and the adoption of most of the standards of democratic civilian control of the armed forces. Reform-minded senior officers, such as Chief of the General Staff General Zdravko Ponoš, publicly showed their frustration with the Mladić issue, and called on the authorities to apprehend him.<sup>8</sup> Despite fears of unrest in Belgrade, in the eventuality of Mladić's arrest the greatest risk was further delay in Serbia's progress.

Tackling the war crimes legacy was, and would remain, an imperative for transforming Belgrade's civil-military relations. As former Prime Minister Zoran Živković admitted in May 2006, the government was unable to arrest Mladić, as it never had control of the military.<sup>9</sup> Despite attempts to deny this by Serbian officials, it was evident that Mladić could only remain free and in Serbia, with extensive assistance from elements within the security sector in general, and the army and KOS in particular. This, in turn, meant that Belgrade, through the failure to establish democratic civilian control over the military, was delayed in its primary security policy goals: accession talks with the EU and Partnership for Peace membership.

The centrality of the war crimes legacy, and Serbia's failure to tackle it fully, did not mean that Serbia was immune to the influences of Euro-Atlantic processes. In this respect, it was similar to other Central and Eastern European states. Euro-Atlantic integration remained, without doubt, the single most important driving force behind the process of civil-military transformation. The driving force behind reforms was not genuine understanding of the civil-military problematique and the full spectrum of requirements for genuine and functional democratic control over the armed forces, but a desire among most of Belgrade's new masters to catch-up with the rest of Europe, and to take what they perceived as Serbia's rightful place in the Euro-Atlantic community. Throughout the post-Milošević period, the impetus for change came from requirements to meet standards set by NATO and the EU. The drive was a desire to become fully compatible with practices, modes of operation and sets of rules that were perceived as the only viable models for the future. It was most obvious in the process of military reform, where NATO standards were quickly adopted, despite the events of the 1990s.

Many of the problems faced in transforming civil-military relations remained and needed to be tackled. The need to eliminate those elements of the security sector tarnished with the legacy of war crimes was, and remained, crucial to the democratisation and stability of Serbia, as well as reconciliation and stability within former Yugoslavia. On a practical level, increased cooperation, in the guise of the arrest and transfer to

the ICTY of Ratko Mladić and the remaining indictees, would open the doors to accession talks with the European Union, which were suspended in May 2006. It would signify that Serbia was ready to move on from the Milošević period and take its place in the Euro-Atlantic community. This, indeed, is what happened, as we show in the following section.

### **Breaking the war crimes protection network and reforming intelligence and security agencies**

The degree of protection offered to war crimes suspects in, and by, Serbia began to diminish after the political architect of the war, Milošević, fell from power and was transferred to the ICTY to face trial. Nonetheless, it continued, at diminishing levels, until as late as 2008, although the key watersheds were 2002, when official protection was removed, and 2007, when continuing protection from within the security sector (with at least some awareness at government levels, as the 2004 incident confirms) was significantly removed, as major changes in the intelligence and security services occurred and formal cooperation with Western intelligence organisations on locating war crimes fugitives began. However, not even that cooperation was the end of protection efforts that it appeared to be, as we show below.

Until 2007, the Belgrade Military Security Service (VBA) had continued formally, if contrary to official policy, to provide protection to Mladić and others, such as Karadžić. By the time of Karadžić's detention and transfer to The Hague, in July 2008, the ring of protection organised by VBA General Aco Tomić had been drastically altered, as Tomić was also arrested. From 2007, the Serbian government intelligence service, the BIA, had begun to cooperate with the US Central Intelligence Agency and the UK Secret Intelligence Service in the hunt for war crimes fugitives, with Mladić top of the wanted list – however, even this was compromised, until the arrest of Karadžić, a year after co-operation began. The cooperation was still in place in the hunt for Mladić as he came to be captured.

The process of breaking the protection network for war crimes suspects and, with that ensuring democratic control of the security sector and tackling the war crimes legacy was slow. On 25 June 2007, on a visit to Zagreb, Serbia's President, Boris Tadić apologised to Croatia's citizens for his country's war crimes there in the 1990s and claimed that this and the arrival in The Hague of two more war crimes suspects (Generals Zdravko Tolimir and Vlastimir Djordjević) signalled full cooperation with the ICTY, which, as noted above, was a condition for Serbia's

association with the EU. This improvement in cooperation was a sign that Tadić's control and influence over his country's intelligence and security services had been established, finally – even though this was not complete and his version of 'full' cooperation was still not sufficient for the ICTY and the EU.

Tolimir and Djordjević were two of the six remaining war crimes suspects wanted by the ICTY, with the remaining four including the most notorious cases of Mladić and Radovan Karadžić. Both transfers provided strong indications that Tadić's control of the intelligence and security services was indeed firm and established. This was the guarantee of cooperation with the ICTY he was promising. Tadić had previously had influence over reform of military security and intelligence as Defence Minister, but obstacles remained at that time, including the BIA. He gained effective control of the BIA, as part of the deal to establish a new government in May 2007, and as a result of external intervention by EU Security Envoy Javier Solana, who had strongly indicated that Tadić's DS should be given control of the organisation. The two arrests each confirmed Tadić's control, but for different reasons.

The arrest of General Tolimir had two important implications. The first was that an inner wall of protection around the military security service had been broken. As the wartime chief of Bosnian Serb military intelligence and security, de facto part of the Belgrade military security service that paid him, including after the war in Serbia, Tolimir had retained the protection of those loyal to him and with whom he worked clandestinely. His arrest in Serbia indicates that reform in the military, driven by Chief of Staff Zdravko Ponoš and begun by Tadić, had begun to bite and that the 'war crimes club' protection offered to those at the heart of the system no longer remained. The second implication, following from this, was that, despite personal loyalties, it could be assumed that the most notorious war crimes suspect, Mladić, no longer had the full protection that once he had – a sign that Tadić's control and influence had strengthened, even if it might not yet be complete.

Tadić's claims regarding Djordjević were particularly interesting, given that the Chief Prosecutor at the ICTY had previously declared him to be in Russia and he was actually detained in Montenegro. The President's claim that this marked cooperation with the Tribunal indicated that, despite the Russian and Montenegrin links, it was Serbia's intelligence community that was pivotal in using its influence and creating the circumstances for arrest. This could also be attributed to Tadić's leadership and effective control over each part of the country's intelligence community.

The Belgrade intelligence and security community had four elements, including the non-operations Archive and Research Service. The three operational branches – the BIA (the Security and Information Agency), the VOA (the Military Intelligence Agency) and the VBA (the Military Security Agency) – were shared between government service and the military. The BIA formally carried out information gathering and counterintelligence on behalf of the government. It was the successor to the SDB and the RDB, the Serbian security service, which had formed the core of former leader Slobodan Milošević's power and of his political and military campaigns throughout the Yugoslav territories. Under Milošević, the security service was formally part of the Ministry of the Interior (MUP) and had its own military special forces, in addition to the general police and paramilitary units of the MUP. It was these forces, including the 'Red Berets' and the 'Scorpions' who spearheaded ethnic cleansing in Croatia and Bosnia, and it was elements of the 'Red Berets' who assassinated then Prime Minister Zoran Djindjić, in March 2003. Although the head of the BIA, Rade Bulatović, was initially accused of involvement in the assassination, it is notable that he has remained in charge of the service as it has reformed. Head of the RDB in the last years of Milošević, he remained in charge, when the new name, new organisation and new legal basis were established in 2002, and continued in charge, despite control of the BIA's moving from Prime Minister Koštunica to Tadić.

The VOA – Military Intelligence Service – was the least important of the services, although, in other countries, its intelligence-gathering role might be the most important. In the past, its predecessor, the UBVJ, was one of the last parts of the security apparatus to come under Milosevic's control, as the result of an internal coup by the head of its air force branch, at the height of the Bosnian War. Since the fall of Milosevic and the start of reforms in 2002, it had come more under the influence of democratic forces, and was loyal to Tadić during his time as Defence Minister.

Reform of the Military Security Agency – the VBA – was one of the hardest issues to tackle in post-Milošević Serbia. In the old Yugoslavia, under the name KOS, the Counter-Intelligence Service, it was a force in its own right, an army within the army, and during the run up to war and war itself, it was the core of Belgrade control, as Milošević had to engineer control of the military in the early 1990s. Elements of it then worked with the Serbian security service (the SDB) to create the 'Vojna linija' ('military line'), a network of officers within the military loyal to Milošević's plan to create new borders for Serbia.<sup>10</sup> The most significant member of that network was Mladić. After the fall of Milošević, it was

the military security service that gave core protection to war crimes suspects, such as Mladić. Former head of the service General Svetko Kovač, appointed in 2004, told ICTY publicly that, although the army had protected Mladić and others (giving them accommodation, money and protection), this had stopped in 2002. However, the reality remained that Aco Tomić had been the coordinator for an inner-inner circle within the service (and possibly implicitly remained so, even after his sacking, in 2007), which was involved in the protection of all the major war crimes suspects, including those normally outside Serbia, such as Karadžić and Djordjević. Former head of the army, Gen. Nebojsa Pavković, openly told the ICTY to ask Tomić if they wanted to know where Karadžić and Mladić were hidden. After Tomić's ouster, although clearly protective circles remained it was evident that these had been penetrated and become fewer, and also that, while elements of the VBA no doubt continued to be loyal to Mladić and some were probably aware of his whereabouts, these became fewer. Under Ponoš' leadership of the army, the process of reform meant it cooperated on the war crimes issue.

However, that cooperation was not complete – and nor was that with Western intelligence organisations, begun as Tomić was removed and democratic control largely asserted. Over a number of years, the BIA, in particular, developed positive, though not entirely unproblematic, relations with Western intelligence services.<sup>11</sup> One of the advantages of effective control shifting to Tadić was political leadership that encouraged, rather than resisted, these links. As a result, the BIA worked with the US CIA and the British Secret Intelligence Service to locate war crimes suspects. It seemed likely, although nothing was said publicly, that this cooperation, as well as the political leadership, played a role in breaking the network protecting war crimes suspects, which included its own members and former members, but was controlled by elements in the VBA. This resulted in a situation in which the remaining four war crimes suspects, notably Mladić, were less well protected than ever – although efforts to capture Mladić by the new government were probably not wholehearted and more for show than actual achievement – or even, in one case, to warn him to move on (where the police seemed bafflingly to go to only one, and that the wrong one, of two houses in a village where some of Mladić's relatives were living (and he might well have been in the other house).

It was clear that shifting political control to democratic forces, reform and evolving relations with Western intelligence agencies created conditions in which Serbia's intelligence community became ever more engaged in tackling the war crimes issue than in protecting suspects,

although elements of the old guard remained. Cooperation had improved. But it could still be frustrated at times. It was reasonable to suppose that the previous protection coordinated from within the VBA had been removed and that, while some elements were likely helping Mladić and the others still, each suspect was, by this stage, more likely than not to have no more than two trusted guards, who were with them and actually knew where they were at any particular moment, making capture at the same time both easier and harder.

The reality was that the cooperation was like a two-way mirror, in some respects. As many as half those involved were actively involved in cooperation, the other half were double agents, in effect. The latter were part of the official cooperation, but their real mission was to know what was happening in the cooperation and to deflect, where necessary, warn off, when needed, and to appear to cooperate, leading to near misses, while, in effect actually still protecting the remaining suspects.

This ended with the arrest of Karadžić in 2008, which followed Saša Vukadinović's appointment as the new BIA chief. In his previous post, Vukadinović was highly successful as head of investigations breaking organised crime. Vukadinović was associated with the DS (Democratic Party), the party of President Boris Tadić, and is a close ally of his. His appointment to succeed Rade Bulatović, who had remained in charge after major changes in recent years, consolidated Tadić's grip on the BIA, already evident in 2007, when the BIA was significant in weakening the military security agency – VBA – involved in the protection of war crimes suspects, arresting and transferring to The Hague one of the chief coordinators of war crimes suspect protection, General Zdravko Tolimir.

The action confirmed the strength of BIA cooperation with foreign intelligence services, notably those in the US and the UK, with information from one foreign agency important in locating Karadžić in Belgrade. The final layer of protection and the role of the double agents was uncovered, when one Western intelligence officer noticed that a telephone number for one member of the cooperation team was the same number as had been given a few years earlier in connection with a liaison for a possible surrender by Karadžić, in a context that did not, ostensibly, involve the Belgrade security and intelligence community. Realising that this member of the cooperation team must have been part of the Karadžić protection detail, questions were raised and the answers revealed that perhaps half those involved in cooperation were playing a double role. With their removal and also Bulatović's, the way was cleared to remove the final, thin layers of protection for the war crimes suspects – but not before the identification of this dual

agency had been used to enable the quest to find the suspects to close in on their targets. It might well have been significant that only on the Friday before Karadžić's arrest had UK Ambassador Stephen Wordsworth emphasised that 'someone in Serbia' knew where the suspects were and that US spokesmen immediately pointed to the significance of the new BIA chief. As with the earlier action, the BIA carried out the detention of Karadžić alone, a fact of significance in Serbian politics, making it effectively a DS operation, with SPS Interior Minister Ivica Dačić confirming that the MUP (interior ministry forces and police) were not involved in the arrest.

Former Bosnian Serb President Radovan Karadžić was one of the most wanted war crimes suspects. The wartime leader of the Bosnian Serbs who was widely seen as responsible for the policy of 'ethnic cleansing' carried out in Bosnia by forces under his political leadership, was formally detained in Belgrade late on 21 July 2008. The 63 year-old Karadžić was indicted with genocide, crimes against humanity and war crimes in relation to the crimes committed while he was president of the self-declared Republika Srpska, the Serbian entity in Bosnia, in the early 1990s. Over 100,000 people were killed during the conflict, around 80 per cent of them ethnic Muslim civilians, killed in the course of the 'ethnic cleansing' policy. Karadžić was initially indicted jointly with Mladić, the Bosnian Serb military leader, by the ICTY, in July 1995, in the wake of the massacre at Srebrenica. Since that time, he had been a wanted person.

Although he initially continued as Bosnian Serb leader and maintained a public political profile, even after the Dayton Accords of November 1995 had brought the Bosnian War to an end, he had last been seen in public in July 1996, close to the Bosnian Serb military headquarters at Han Pijesak, in eastern Bosnia. Since that time he had been in hiding, one of the most wanted men in the world. For much of the time, his precise whereabouts were unknown, as he moved backwards and forwards across the borders of Bosnia and his native Montenegro, often believed to be taking sanctuary in monasteries. For long periods, he disappeared completely. In 1998–99, after a long spell undetected, he was found to be hiding, in complete secrecy, at home in Bosnia. However, EU Special Envoy Carl Bildt made the discovery of this fact public, making a detention operation impossible. Other attempts were made, including by US forces, as part of the NATO-led stabilisation force, in Bosnia, SFOR, where Karadžić eluded capture. From 2004, those involved in the hunt were convinced that he had moved to Serbia, as the situations in Bosnia and Montenegro made hiding there increasingly untenable, and those in the military security service protecting Mladić also began to coordinate

Karadžić's protection as well, at the point where official backing for protection had been withdrawn. Detaining suspects under such protection was never an easy objective, either for those in the international community, or in Serbia. In both cases, precise advance information of the suspect's whereabouts was needed, security issues were paramount on dangerous operations, and, in the case of Serbia, there were significant political risks, evidenced by the 2003 murder of Prime Minister Zoran Djindić, as he prepared to transfer all suspects to The Hague. Many believed that Karadžić was protected by a secret agreement, either with the French military, or with US diplomat Richard Holbrooke. While the latter alluded to protection in private discussions with Karadžić, which the latter might have taken as more substantial, there was no agreement. Karadžić's detention finally put an end to conspiracy theories about his protection, which Holbrooke was among the first strongly to welcome the arrest, condemning Karadžić as a 'major thug'.<sup>12</sup>

The detention of Karadžić had important implications for Serbia. It signalled the growing strength of Tadić as president, Serbia's rapid movement towards EU candidacy and a new life for the ICTY. The importance of the DS in Karadžić's detention reflected new-found confidence, following the recent formation of a coalition government involving the SPS, following elections in May. The May elections had produced a surprisingly strong result for pro-EU forces; moving ahead with the arrest of war crimes suspects was a clear effort to maintain momentum and to secure EU-candidate status within months (another fugitive, Stojan Županjanin was transferred to the The Hague, a few days before the Karadžić detention). Oli Rehn, EU envoy for the region, immediately welcomed the move and signalled that this was an important further step in Serbia's relationship with the Union. The French Presidency of the Union also welcomed the step as bringing eventual membership closer, while other EU countries made clear that with the EU itself divided on the issue of Kosovo, only the war crimes issue could be an obstacle to candidacy and accession (although Kosovo would still need to be dealt with, in some way). Thus, Belgrade was moving swiftly to address the key conditionality issue in its relations with Brussels. As a result, Belgrade expected a 'green light' for its candidacy, even though two suspects – Mladić and Hadžić – remained at large. In Serbia, many judged that their days of relative liberty were numbered after the Karadžić detention and given the strength and determination of Tadić's leadership on the EU path. This proved to be right, although the effect was achieved more slowly than initially anticipated – and because of this, the EU light was also far slower in turning to green than

had been expected. Even though positive noises continued generally to be offered by the EU about prospective candidacy and in support of Tadić's government, full cooperation continued to be the standard, and that meant apprehension of the most notorious war crimes suspect of them all, Mladić.

### **Delivering Mladić and ensuring democratic control of the security sector**

There were two implications to the intelligence cooperation between Belgrade and Western countries for the situation surrounding Mladić's capture. As with the more dramatic death of Usama bin Laden, in Pakistan, in May 2011, which also came after a long manhunt, and other cases, such as Karadžić, all the military detention operations in Bosnia and the Israeli capture of Adolf Eichmann in 1961, it was clear that operations of this type required patience, that sightings of suspects did not necessarily mean the chance securely to detain them, but that when the hunted man was found and the circumstances were right, it would happen. Belgrade officials were keen to point out, privately at least, that countries such as the US and UK who had cooperated in the intelligence effort to trace Mladić knew that the Serbian authorities were serious in their quest to find him. And the dangers involved were underscored, in Serbia, by the assassination of Djindjić, in 2003, as a result of his transferring war crimes suspects to The Hague. There were sometimes misplaced criticisms of the length of time it took for Mladić to be found. The reality was that finding suspects and getting their capture right took great time and effort, as with the other cases mentioned.

Mladić commanded Serbian forces in Croatia and Bosnia during the 1990s. He was author of the strategy of ethnic cleansing that saw hundreds of thousands of people killed, forcibly deported or fleeing in fear. While the campaign in Bosnia during 1992–3 saw genocide committed across northern and eastern Bosnia by Mladić's forces and other Serbia security units, according to judgements from the ICTY (albeit that not all judgements concur on this issue<sup>13</sup>) it is the massacre of over 8,000 Muslim men and boys following his forces' capture of the town of Srebrenica in July 1995 that sealed his reputation as a 'war criminal'. Mladić directly commanded forces there, spoke directly to those who were about to be deported or killed, and arranged for the logistics of mass murder – buses to transport Muslims to killing sites, the forces obliged to carry out the mass murder, sometimes under duress, and the bulldozers to carry out earthworks for mass graves. Because of this role

as the architect of genocide in Bosnia during 1992–3 and most notably the massacre of over 8,000 Muslim men and boys from Srebrenica in July 1995, which he commanded directly, Mladić was indicted for genocide, war crimes and crimes against humanity by the ICTY in 1995. However, he continued as commander of Serbian forces in Bosnia until November 1996. After that time he was in hiding, primarily in Serbia, but on occasions in Serbian dominated areas of Bosnia.

Mladić was the most wanted man in Europe, closely followed by Serb political leaders Slobodan Milošević and Radovan Karadžić. This meant that he was wanted internationally and, in particular, that there were constant calls to arrest both Mladić and Karadžić, who were believed to be, or have been seen, in that country while under international rule in the late 1990s. These placed great pressure on international actors in Bosnia. As a NATO-led international force deployed to Bosnia in 1995–96 to underpin the Dayton Peace Accord, there were immediate calls for it to detain Mladić, who was still commander of the Bosnian Serb military and a public figure, and Karadžić, who was still a Bosnian Serb political leader. However, the security risks of such a move at that stage were deemed considerably to outweigh the prospects of success. Even after his retirement to Belgrade, Mladić was still seen occasionally in Bosnia and was not afraid to be seen in public at times.

In June 2004, Mladić ventured into Bosnia, but an operation by Italian NATO-SFOR (the NATO-led Stabilisation Force deployed under UN authority in Bosnia) troops failed to capture him.<sup>14</sup> Secret intelligence identified what was believed to be Mladić crossing into Eastern Bosnia, where he headed to the area around Han Pijesak, where the JNA and later his own VRS had operations command and control facilities deep underground. Other SFOR units with Special Forces attached to them were alerted and mobilised, but were too far away to reach Han Pijesak in time, while Italian SFOR was deployed in that area and so were the nearest and able first to be on the scene. As the Italian troops moved in, Mladić and his guard fled into one of the many tunnels around Han Pijesak. The Italians followed him into the tunnel and chased him through it. However, they had not deployed troops to the exits of the tunnel networks, which had become fairly well known to SFOR in its eight years of deployment – something that other contingents, such as the British, French or Americans would have expected to do. Because the exits were not covered, Mladić managed to escape, returning to Serbia once the Carla coast was clear.

Although Mladić evaded capture, this was a move that proved that he had official protection in Serbia. He was obliged to cross from Serbia

into Bosnia, so that Prime Minister Košunica could receive a visit from ICTY Chief Prosecutor Carla del Ponte and tell her categorically that the general was not in the country. True as this statement was at that particular moment, the situation clearly revealed that Serbia was involved in his protection. The Prime Minister, who surely had no idea where Mladić was, or even who was actually protecting him, could still make it be known that the general had to be outside the country for that visit, and that outcome could be achieved. This in itself confirmed what was well suspected – that someone in Serbia was protecting the war crimes suspects and that there were circles of people knew who knew something, at least, about that protection. The fugitive would be increasingly isolated in the following years, above all after the collapse of the final thread of security sector protection around the time of Karadžić's detention in 2008. However, the demise of the protection network, from which he had anyway been increasingly detached in efforts to protect himself, did not mean that finding him ceased to be a question of looking for a needle in a haystack – indeed, it made it more even more so.

Eventually, 16 years after his indictment by the ICTY, Mladić, the most wanted war crimes suspect in the world, was detained in Lazarevo, in the northern Serbian Province of Vojvodina, on 26 May 2011. He indisputably bore the greatest responsibility for genocide at Srebrenica in Bosnia, in July 1995. His remaining at large made it hard for Serbia to persuade some in the EU that it was cooperating fully with the ICTY, a condition for progress on Serbia's path towards the Union. The impact of Mladić's was great. It accelerated Serbia's path to EU candidate status and it meant that the ICTY's mandate needed to be extended – as well as also, possibly, sending a signal (as did the killing of al-Qa'ida leader Usama bin Ladin, another fugitive in long-term hiding, by US forces, only two weeks before Mladić was detained) that even those best hidden and most securely protected would eventually be caught. It was certainly such a major and culminating moment in the Yugoslav war crimes story that barely anyone really noticed the arrest of Goran Hadžić, the Croatian Serb leader whom Mladić had left as the last person at large from the 161 individuals indicted by the ICTY, less than two months later.

Mladić had been living in the village of Lazarevo, where was arrested, in almost complete secrecy since 2008, at the latest (when Karadžić had been detained and the final membrane of protection had been removed), in a dilapidated farmhouse on a cousin's property. The cousin was probably the only one who ever saw him. Eventually, having had a stroke, the family members aware of his existence there, who otherwise

never saw him, were concerned for his health and, unusually, called the cousin in the village twice, raising the interest of the authorities, who were monitoring the family for any signs of contact. On 26 May, an ordinary police patrol was dispatched to check on the cousins in Lazarevo, when a single policeman exploring the property found the frail fugitive general, who surrendered.

The Special War Crimes Court in Belgrade carried out DNA tests to confirm the suspect's identity and held proceedings over the following week, regarding Mladić's transfer to the ICTY, in The Hague. While lawyers for Mladić argued against extradition and also raised questions of his health and fitness for transfer, it was always extremely unlikely that he would not be transferred to The Hague, as, indeed, he was. With Mladić's transfer to The Hague, the EU, as expected, started to move quickly towards eventually offering Belgrade EU candidate status, which would mean subsequent EU membership and significant financial, investment and economic benefit for Serbia, even with the necessary painful adjustments.

While there was clearly a general connection between Serbia's EU aspirations and the capture of Mladić, which encouraged Belgrade's efforts, the majority of commentators were wrong in suggesting that it occurred at this point only because of the EU. The capture of Mladić was the culmination of years of effort both to identify where the war crimes suspect was to be found, and, crucially, also to break the network protecting him and other war crimes suspects. Cooperation with Western intelligence organisations over a number of years on the hunt for Mladić, including the period of dual agents and duplicity in 2007–8, confirmed that Serbia was seeking both the man and the opportunity to detain him. Working through the obscure layers of those protecting him in Serbia was part of that process. In the end, while there was some method to locating him, there was also a large element of chance.

The whimper of this arrest stood in stark contrast to the bullying arrogance and bombast of the general who had presided over the humiliation of Dutch UN military at Srebrenica in 1995, as well as the mass murder of over 8,000 Muslims there. It meant the establishment, finally, of full democratic (and civilian) control over a security sector, and, in particular, parts of an army, that, as the inheritor of Tito's Partisans and the JNA, was something of a world unto itself. The arrest was the quiet confirmation that, whatever problems still lay ahead for Serbia, the war crimes legacy had been punctured and the major obstacle to civil-military reform had been removed.

## **Serbia, the EU, the ICTY and the war crimes legacy**

Serbia had been moving towards candidate status with increasing speed since 2007. As the EU and a majority of its member states prepared for Kosovo's declaration of independence in 2007, Brussels planned to be highly magnanimous to Serbia and, in effect, to seek to soften the blow and compensate it by rapidly bringing Belgrade into the Brussels family.<sup>15</sup> In December 2010, the European Council, the governing body of the EU, announced that it would offer Serbia candidate status and referred the matter to the European Commission to assess the terms on which this would be offered. It was implicit that this positive signal would only meet with positive developments if the final suspects, most notably Mladić, were detained and transferred to The Hague. While the EU, as a whole, and most member states, recognised the war crimes cooperation actually taking place, the Netherlands, in particular, continued to insist that Mladić's transfer would be the only genuine sign of cooperation. His detention therefore paved the way for rapid progress on Serbia's path to candidate status and, possibly, EU membership between 2014 and 2016. However, completion of this would not be possible without some kind of arrangement over Kosovo – but the record was always that candidate status made things happen.

The detention of Karadžić and Županjanin represented an important boost to the ICTY, which had been preparing to wind down. Its completion strategy needed revision to accommodate the new trials and those of the two remaining suspects at large. The Karadžić trial would be more straightforward than that of Serbian President Slobodan Milošević, who died before completion of his trial. The latter involved adding charges and cases once the accused was in custody. In 2000, the Prosecutor had already consolidated the two sets of charges against Karadžić into one indictment, removing some accusations and effectively de-coupling the case from that of Mladić.

Mladić's transfer to The Hague meant that the ICTY's mandate need to be extended, as happened after the Karadžić arrest in 2008. The Tribunal was entering a phase of winding down, as most cases were settled, and a residual mechanism had been developed in case Mladić, or the one other accused, still at large, came into custody at some point. However, Mladić's detention and transfer to The Hague meant the start of a new trial at the ICTY itself, not at the residual mechanism, and extended the Tribunal's successful operation.

That success included the psychological impact that the April 2011 initial judgement and conviction of Croatian Generals Ante Gotovina

and Mladen Markač had in Serbia,<sup>16</sup> which made it politically easier to proceed with the Mladić detention when the chance came. The Gotovina verdict had a positive impact in Serbia, in the military in particular, among the political elite and, so far as could be gauged, among the people, according to senior army and ex-army views expressed in focus group research in spring 2011.<sup>17</sup> It was felt by all participants in research among military practitioners that the judgement, above all, and its effective conviction of the deceased former President, Franjo Tuđman, and his deceased former defence minister, Gojko Sušak, gave some sense in Serbia that crimes against Serbs had really been recognised and dealt with by the ICTY, otherwise generally regarded as a political, unfair and anti-Serbian institution. It was strongly felt that this could ease difficulties in dealing with war crimes issues in Serbia, including the detention and transfer of indictees. Indeed, one participant strongly asserted that there would no longer be 'any problem' if General Ratko Mladić (one of two remaining indictees and the most notorious of all) were to be transferred to The Hague, if he could be found (and as, of course, happened a few weeks later). There was strong consensus about this in the group, as well as support for the notion that Serbia was committed to finding Mladić but had not been able to do so. The same participant who had said there would be no problem also stated that 'the British and Americans are looking with us, they know we are looking – the Dutch aren't so ... they always ask and criticise ...' The view among senior military figures was that cooperation between ICTY and Western intelligence was good and that there would no longer be any real concern if Mladić were to be found and arrested – indeed, it would probably more be felt as relief.

Although the Gotovina verdict made the prospective Mladić transfer easier did not mean that the Belgrade generals necessarily judged Gotovina really to be guilty, however, as a developed sense of war and war crimes showed. The shelling of Knin, central to the case, occurred after the two-day 'Oluja' campaign, by which time Gotovina had moved on, as the forces he was commanding swept forward through Western Bosnia. At the same time as recognising the Croatian general's limited links to the shelling crimes alleged at Knin, they were also ready to see action by Serbian commanders as criminal – and not only the clearly egregious action of Mladić and similar figures, but also that of those engaged in more obvious military roles. For example, when prompted to consider the case of General Stanislav Galić, the Serbian artillery commander convicted of indiscriminate bombardment, among other offences, the group – somewhat surprisingly, perhaps – completely

agreed that this constituted a war crime. 'Sarajevo? Without doubt!' said one participant to the strong agreement of the others. 'They fired out once, then there were hours of bombardment', said one participant, that's not proportionate, it's against the law'. There was complete agreement around this point. Some participants, however, raised the question of different definitions of 'proportionality' and noted that the United States, for example, could be noted for having a sense of proportionality – 'however much it takes to make absolutely sure with no doubt' – that could be seen as inherently disproportionate, because it did not discriminate carefully but preferred to apply overwhelming force.

The same participant continued to assert that, from the Belgrade perspective, Kosovo's status was a far bigger problem than Mladić for relations with the EU. The group as a whole strongly concurred on this. The group also concurred with the same participant's suggestion that Kosovo could be solved: 'the solution is 11 per cent, all it needs is 11 per cent'. There was not, however, any clear sense of what this meant – only that Serbia needed to be 'given' something tangible that could ease the loss of Kosovo. It was agreed that this would probably take a long time and that 'for now it is necessary to be pragmatic and find a way around things: we are always pragmatic – if they don't have a name tag, we won't have a name tag, we want to find ways to talk and be pragmatic, to find ways round, to let things develop'. The group also agreed, albeit in hesitant and weaker terms, that Kosovo had implications for Republika Srpska in Bosnia and Herzegovina. 'We are separate from them, but Dodik looks at Kosovo. He will want the same', said one participant. All agreed with a subsequent statement that 'even if there are technical differences between Kosovo and Republika Srpska – if – this does not matter in terms of politics and passions'. The group strongly concurred that Belgrade's relationship with the EU would be shaped by these factors more than war crimes cooperation. The group was divided over the exact relationship between Kosovo's status and EU membership, with some supporting a suggestion by one participant that 'EU membership will not happen that quickly anyway because of Kosovo, and old factors in the region are more important than the EU, Russia is here, Turkey is here – Turkey is the most important factor in Sarajevo – and where is its EU candidacy?' Others felt that because of the Kosovo question, as well as some other unidentified factors, Serbia might gain EU candidate status more rapidly, especially as 'Croatia has slowed down and Gotovina will make it slower' and 'the EU always deals in packages', meaning that Serbia's path to candidate status could be speeded up as Croatia's slowed and the two were put together as part of a package. The group was also

divided to some extent over the significance of candidate status with a minority believing that it made no real difference – ‘the important thing is harmonising the laws and we are doing that’ – and a majority eventually gaining general support around the notion that ‘candidate status makes things real, makes things happen’. Thus, Serbia’s achieving candidate status with the EU would be an extremely important step – if a way around the Kosovo status question could be found.

In one sense, the EU question did not matter, *per se*. The readiness fairly painlessly to deal with the war crimes legacy was more important, intrinsically, in terms of Serbia’s path towards full democracy, democratic control of the security sector and reform of civil-military relations. It was important to have passed the EU’s and the ICTY’s Mladić test. But the far more important test passed at the same time was Serbia’s own security and democracy test, marking the transformation of civil-military relations.

### **Security and democracy and the transformation of civil-military relations**

The problem of transforming civil-military relations in Serbia was not, for the most part, one of Praetorianism and the danger of direct military intervention in politics to take power – despite the historic political role of the Belgrade military and its specific role in making Milošević stand down – something that has been the central premise of most civil-military relations theory since the 1950s. Post-communist civil-military relations presented a somewhat different challenge and required a new approach in the study of the relations between the military and society. The challenge for Central and Eastern European states was building a system whereby a democratically elected civilian government controls, in a transparent and accountable manner, the armed forces, while both civilians and soldiers cooperate in devising and implementing policies that maximise the security of the country. In Serbia, this challenge was made more complex by the war crimes legacy. Therefore, in terms of civil-military relations, Serbia should be viewed as an exceptional case. While other former Yugoslav states had to deal with a war crimes legacy of their own, nowhere was this as significant as in the case of Serbia.

For the purpose of this study, the framework offered by Gow and Birch was adopted to structure the analysis, albeit that our account is broadly a history, rather than a theoretical investigation.<sup>18</sup> This operated around four broad imperatives: restructuring, rules, effective management and the creation and fostering of democratic security policy communities.

Restructuring involved a process of depoliticisation of the military in order to ensure that the old ties with the communist party were not replaced with new ones. It also involved the civilianisation of the Ministry of Defence by creating a civilian bureaucracy with a civilian as Minister. Finally, the reform of the armed forces needed to be tackled in order to build a modern military, capable of efficiently executing its tasks while being the smallest possible burden on the economy. In addition, democratically elected governments needed to devise legal and institutional frameworks that would allow them to control the military in an efficient, transparent and accountable way. Finally, the capacity to devise and implement defence policy was a crucial factor in transforming civil-military relations. Civilians needed to develop the ability and expertise to manage the military. In turn, this expertise needed to be complemented by an independent knowledge base, in order to facilitate accountability and transparency in defence policy-making. This could only be achieved through the development of democratic security policy communities, with the media, academics, NGOs and civil society all providing an independent source of knowledge, expertise and analysis.

However, in Serbia, this analytical framework could only provide an incomplete picture of the transformation of the civil-military relations *problematique*. For Belgrade, the involvement in wars in Croatia, Bosnia and Kosovo had left the military with a dark shadow of war crimes allegations hanging over it. Hence, as the framework failed to take into account the central role of the war crimes legacy in the process of implementing democratic civilian control of the Belgrade armed forces, it needed to be modified. As dealing with this legacy was central to democratising civil-military relations, this needed to be analysed.

Serbia's transition was difficult and hampered by a number of problems. It was also much slower than originally expected. The first imperative of transformation, restructuring, proved particularly difficult. Its three aspects, depoliticisation, civilianisation and reform, were hampered by the political divisions within the coalition that took power from Milošević, the lack of knowledge and understanding of the problems of democratic control of the armed forces, and the inexistence of a competent civilian bureaucratic structures. These were compounded by financial difficulties and the complexities involved in restructuring a post-communist defence system.

The most significant damage in the early period of the post-Milošević era was inflicted by the shortsightedness of DOS leaders. The nature of the coalition that brought down Milošević meant that as soon as it was in power disagreements emerged on how to run the country. Nowhere

was this more evident than in the case of the military. The schism between Zoran Djindjić and Vojislav Košunica was skilfully exploited by the military, which remained, until 2003, beyond civilian oversight. Despite their proclaimed loyalty to the new president, General Nebojša Pavković and the army top brass were determined to keep civilians out of military affairs, while at the same time enjoying a political role as a lever of presidential power. Košunica prevented any changes in the military, in order to shore-up his political position, endangering the process of democratisation and delaying the transformation of civil-military relations. Progress could only be made once he was out of office in early 2003. Belgrade's armed forces accepted the need to remain outside the political arena. Despite initial delays, depoliticisation was ultimately successful. The unstable nature of Serbian politics, and the deep political divisions and cleavages, threatened the neutrality of the military and had to be kept in check by parliament and democratic security policy communities – however, these were far from in a position to do so.

Closely related to the process of depoliticisation was that of civilianisation, which also proved very challenging, and ultimately produced mixed results. Progress was made in subordinating the military to the Ministry of Defence, but a competent civilian bureaucracy remained a distant hope. While the military and its predecessors were always under civilian authority, this was expressed in terms of their loyalty to the regime. It did not involve submission to a civilian bureaucracy, in the Ministry of Defence. On the contrary, during Milošević's rule, and in the period up to the assassination of Djindjić, the army was directly linked to the President, by-passing government and parliament. Hence, the challenge was for a civilian Minister of Defence to exercise control and authority over the military. Only changes to the constitutional framework made in 2003 allowed this to happen, and ushered in a period of gradual supremacy of the MoD, with a concerted effort by successive Ministers to exercise their authority over the military. Progressively, the army retreated from the open interference in politics that had characterised the previous period, and somewhat grudgingly accepted new ways of operating. This achievement was, however, only one side of the coin. The much bigger and longer-term challenge was to create an efficient and competent civilian bureaucracy capable of managing defence affairs. Serbia only managed to make limited progress on this issue, by introducing a range of special advisors, both local and foreign, whose role was to assist the Minister. However, they, in turn, faced the challenge of lack of expertise and competence at the middle

management level of the bureaucracy. This bureaucracy remained inadequately equipped to deal with the needs of a modern defence system, its development, management and transformation.

The third aspect of restructuring was probably the most publicised aspect of the transformation, reform of the armed forces. While much talked about, military reform remained directionless and ad hoc. Belgrade was slow to develop key documents with which to provide a strategic rationale for reform, as well as the basis for defence planning. The National Defence Strategy was only adopted in late 2004, while the White Paper on Defence was published in the spring of 2005. A long promised Strategic Defence Review took even longer. In the meantime, a series of changes, driven by financial constraints rather than threat assessment, were implemented and often reversed. Troop number reduction was the main incentive, while the ability to plan at the strategic, programmatic and operational levels was missing. Nevertheless, Belgrade's military managed to embark on a programme of changes that would make it a smaller, more mobile force, compatible with NATO and ready to participate in international missions.

Financial difficulties dictated progress, as much as political will and planning. The military found itself struggling to maintain combat readiness, while the functioning of all but essential services was often jeopardised. There was no procurement of new weapons systems, while the old ones were often sold off, or in bad need of spare parts. The military had to adapt to new standards of human resource management, which involved major cultural shifts. The officer corps struggled to accept the right of young recruits not to bear arms, and, behind the scenes, fought hard either to restrict this option, or to make it as unappealing as possible. In many ways, the military was in a sorry state. By 2006, it was crippled by debt and the financial burden of salaries and pensions, while its ability to implement its reform projects was impeded by financial constraints, lack of expertise and failure to join the Partnership for Peace. Despite willingness to participate in peacekeeping missions, the army could only assemble small medical and sanitation teams, rarely comprising more than three members. Nevertheless, the foundations for a reformed force were created, with gradual re-sizing and personnel reduction, abandoning the old army structure, for a corps and battalion one, and beginning preparations for the shift to an all-volunteer force. Less than a decade after Belgrade's confrontation with NATO, NATO standards and practices were being adopted throughout the defence system. Serbia inherited a military force on the reform path. However, as with most things, the success of these reforms would, ultimately,

only be determined by a combination of political will and the ability to implement them. Serbia demonstrated little of either quality.

The restructuring process did not happen in isolation. The failure to develop a proper legal and institutional framework for democratic control of the armed forces provided a backdrop for civilian control of the armed forces, which had a number of deficiencies and contributed to the slow pace of reform. The framework was devised to provide Milošević with levers of control, while denying any possibility of real checks and balances. Hence, it was incomplete and often contradictory, and almost always unclear. In this way, Milošević could use the confusing premises in the framework to model his own manner of control, something that was, to a lesser extent, adopted by Vojislav Koštunica. Furthermore, the role of the military, as defined in the constitution and the relevant legislation, remained unclear and equally open to abuse. The Constitutional Charter provided a better basis for democratic civil-military relations and addressed a number of flaws in the previous framework. It suffered, however, from deficiencies of its own, and was never complemented by legislation. Milošević-era laws, despite their inadequacy, continued to be in force, as politicians failed to grasp the importance and urgency of passing necessary legislation. The reliance instead on ad hoc measures to push through changes challenged the legitimacy of the transformation. Overall, Serbia managed to devise a workable, though far from perfect, mechanism of democratic control. The military's tasks were defined in accordance with the democratic principles and practices of Western liberal democracies. The government operating mechanisms provided for a division of power, as well as a system of checks and balances. The constitutional power of the legislature was increased and provisions made for parliamentary committees to hold the executive, the bureaucracy and the military accountable. Full and efficient exercise of these new powers remained elusive, however.

While the legal and institutional framework provided a theoretically workable, albeit incomplete, setting for democratic civilian control of the armed forces, establishing a system of effective management of defence policy was another serious challenge. It depended both on the political will to tackle difficult issues and the capacity to do so. The lack of independent civilian expertise made the latter almost impossible. Civilians played an increasingly important role after February 2003, and it seemed that the foundations of a system of effective management were being established. However, many problems persisted. In particular, the role of parliament needed to be strengthened and a capacity to oversee defence matters developed. At the same time, strengthening democratic security

policy communities, through the development of independent civilian expertise, would provide the necessary basis for accountability of defence policy-making. These were long-term problems, like civilianisation of the defence bureaucracy. Expertise remained limited. Difficulties were also aggravated by a lack of political will and the reluctance of policy-makers to ask for assistance in exercising oversight.

The process of transforming civil-military relations had mixed results. There were a number of important successes, notably the depoliticisation of the military, the cementing of civilianisation and developing a reform strategy for the army. These were achieved despite numerous difficulties and pitfalls of transformation. But these successes were tarnished by the numerous failures that marked the post-Milošević period. The failure to adopt the necessary laws left the defence system in a legal limbo. The lack of strategic guidance for reforms led to inconsistencies in the process of restructuring of the army, creating discontent and insecurity in the officer corps. Constant re-drawing and re-drafting of military organisation without strategic planning left the army feeling disorientated and also endangered its combat readiness and efficiency. However, most significant was the failure, for many years, to fulfil international commitments, in the guise of cooperation with the ICTY and, thus, to deal with the war crimes legacy. While Serbia faced most of the same challenges as other Central and Eastern European states, it was burdened with an additional difficulty, the war crimes legacy, resulting from the Yugoslav war and the Serbian strategy in that conflict.

While this issue adds a significant dimension to the frameworks developed in theoretical analysis of post-communist civil-military relations, is it merely a *sui generis* malformation that affects Serbia and has no relevance elsewhere? It would be tempting to see the Serbian case as wholly unique. But, as noted at various points, other countries in the Western Balkans (or the former Yugoslavia) had their own war crimes legacies, albeit that these were less deeply ingrained and embedded than those in Serbia, which made them easier to tackle. However, even the characteristics found in Serbia were not entirely peculiar. Two of those traits were particularly salient. The first was a military organisation with deep indigenous roots under communism (in contrast to the majority of post-communist states, where deep roots were usually more nationalist and anti-communist, as in Poland, or shallow roots easily displaced, from the communist era, as in East Germany). The second was a record of atrocity and war crimes. These were traits shared by Russia and the Russian military, in particular. If Russia were ever fully to approach democratisation and democratic control of the armed services, tackling

Moscow's own war crimes legacy in Chechnya and its neighbouring areas, or in Georgia, would be essential. The Serbian example could offer guidance, thus making it relevant to add consideration of the war crimes question to theoretical frameworks, such as that used to inform the present study. Certainly, just as Serbia could not complete its transition without confronting the war crimes legacy, Russia had no chance to be set free, if it could not address its own war crimes issues. In addition, the Serbian experience was also of wider relevance to the study of post-communist security sector reform, or conventional civil-military relations, in the way it could inform understanding, especially around notions of legitimacy.

In the final analysis, tackling the war crimes legacy was a crucial aspect of the transformation of civil-military relations in Serbia. It slowed down progress in all other aspects of the democratic transformation, including negotiations on EU membership. Yet for all that it slowed change, in the end, as the removal of the network protecting war crimes suspects and the transfer of Mladić confirmed, it was necessary to engage with and resolve the war crimes legacy, not for the sake of EU membership, but for the sake of beneficial civil-military relations and the health of democracy in the country itself.

# Notes

## 1 Introduction

1. Serbia is the focus of this study and that label is used throughout. However, this is a simplifying device, where changing nomenclature and more complex, and sometimes, technically accurate, formulations might be used. This is explained towards the end of this chapter, where similar issues regarding military nomenclature are addressed.
2. Andrew Wilson, *Virtual Politics: Faking Democracy in the Post-Soviet World* (New Haven and London: Yale University Press, 2005).
3. The decision to take a contemporary historical approach in this study is influenced by the centrality of the war crimes issue. As the war crimes aspect is a peculiarity of the Serbian case, it could be theoretically redundant to introduce it into models of civil-military relations. There are nevertheless two ways in which theory remains relevant, as we develop in the book. The first is the legitimacy and civil-military relations approach, which argues that the civil-military relationship can be understood as a function of the interaction of regime and military legitimacies. The second approach would be to use the four imperatives devised by Gow and Birch and add the war crimes legacy to it. We use this approach to the limited extent that the framework shapes the study. But, it would stretch the evidence beyond its validity, or distort theory, to extrapolate theoretical inferences, given the overriding significance of the war crimes issue in the Serbian context. Judicious extrapolation might inform other cases, as we note briefly in the final chapter.
4. Sabrina Ramet, in particular, was positive about this work, reflecting both her own views and those of others: *Balkan Babel*, 3rd ed. (Westview Press, Boulder Co., 1999); *Thinking About Yugoslavia: Scholarly Debates About the Yugoslav Break-Up and the Wars in Croatia, Bosnia and Kosovo* (Cambridge: Cambridge University Press, 2005).
5. 'Shifting Securities: Television News Cultures Before and After Iraq 2003', New Security Challenges Programme, Economic and Social Research Council, ESRC Award RES-223-25-0063; 'Pictures of Peace and Justice: Documentation, Evidence and Impact of Visual Material in Relation to International War Crimes Prosecutions', Beyond Text Programme, Arts and Humanities Research Council, Award AH/H015566/1.
6. See Robert Thomas, *Serbia under Milošević: Politics in the 1990s* (London: Hurst and Co, 1999).
7. This is particularly obvious with regards to the issue of war crimes which is dealt with in Chapter 7.
8. The English acronym for the Kosovo Liberation Army is KLA and will be used intermittently with the Albanian one of UÇK.
9. James Gow, *Legitimacy and the Military: The Yugoslav Crisis* (New York: St Martin's Press, 1992); James Gow, *The Serbian Project and Its Adversaries: A Strategy of War Crimes* (London: Hurst and Co, 2003).

10. See James Gow and Ivan Zveržhanovski, 'Legitimacy and the Military Revisited – Civil Military Relations and the Future of Yugoslavia' in Cottey, A. Edmunds, T. and Forster A. (eds) *Soldiers and Societies in Post-Communist Europe: Legitimacy and Change* (London: Palgrave, October 2003).
11. There are a number of possibilities in naming the region of the former Yugoslavia. The term Balkans is seen to have a negative connotation and has in recent years been replaced in both academic and official writing by names such as Western Balkans (denoting the successor states to the former Yugoslavia plus Albania) or South East Europe (SEE). Western Balkans can still be seen as problematic as it contains 'Balkan', while South East Europe denotes a wider area, including Bulgaria, Romania, Greece, Turkey and even Moldova and Cyprus. Although the most appropriate name would probably be the Yugoslav lands, or former Yugoslavia, this is seen as unacceptable to many in the region. There is also a conceptual problem with defining something by what it is not anymore (former Yugoslavia). The Foreign and Commonwealth Office came up with an interesting solution, which was correct enough and neutral enough to satisfy all concerned: the Eastern Adriatic. Nevertheless, this study will intermittently use Western Balkans and South East Europe as the security challenges discussed have an impact beyond the immediate neighbourhood.
12. Gow, *Legitimacy*, p. 151.
13. Ibid.
14. James Gow, 'The European Exception: Civil-Military Relations in the Federal Republic of Yugoslavia (Serbia and Montenegro)' in Cottey, A. Edmunds, T. and Forster A. (eds) *Democratic Control of the Military in Postcommunist Europe: Guarding the Guards* (London: Palgrave, 2002), p. 195.
15. Ibid., p. 195. The uncertainty over the national-international context are confirmed by the change of name from Federal Republic of Yugoslavia to Serbia and Montenegro as well as the future of the UN (international) protectorate in Kosovo.
16. Gow, 'The European Exception'.
17. See, for example, the testimony of the former President of the FRY Zoran Lilić who explains how Milosevic systematically allocated resources to the MUP and Secret Service and denied them to the VJ, creating a system of dependency. *Prosecutor v. Slobodan Milošević – IT-02-54* Case transcripts (17 June 2003) available at <http://www.un.org/icty/cases/indictindex-e.htm>; *IWPR Tribunal Update No. 317* 9–13 June 2003.
18. Gow, 'The European Exception'.
19. James Gow, 'Serbia and the Politics of Yugoslav Armies: Communism, Federalism and Democracy' in Koonings, Kees and Kruijt, Dirk (eds) *Political Armies: The Military and Nation Building in the Age of Democracy* (London, New York: Zed Books, 2002), p. 298.
20. Gow, *Legitimacy*, pp. 1–30.
21. James Gow, 'Managing and Removing Conditions for Armed Conflict' in Badsey, Stephen and Latwski, Paul (eds) *Britain, NATO and the Lessons of the Balkan Conflicts 1991–1999* (London, New York: Frank Cass, 2004), p. 239.
22. Biljana Vankovska, and Håkan Wiberg, Håkan *between Past and Future: Civil-Military Relations in the Post-Communist Balkans* (London, New York: The Library of International Relations I. B. Tauris, 2003).

23. Ibid., p. 249.
24. Robin Alison Remington, 'The Yugoslav Army: Trauma and Transition' in Danopoulos, Constantine P. and Zirker, Daniel (eds) *Civil-Military Relations in the Soviet and Yugoslav Successor States* (Colorado, Oxford: Westview Press, 1996).
25. Ibid., pp. 166–7.
26. Timothy Edmunds, *Defence Reform in Croatia and Serbia-Montenegro* (Oxford: Oxford University Press, for the IISS, 2003).
27. Ibid., p. 25.
28. Susan Woodward, 'In Whose Interest Is Security Sector Reform: Lessons from the Balkan' in Cawthra, Gavin and Luckham, Robert (eds) *Governing Insecurity: Democratic Control of Military and Security Establishments in Transitional Democracies* (London, New York: Zed Books, 2003), pp. 276–302.
29. Miroslav Hadžić, *The Yugoslav People's Agony: The Role of the Yugoslav People's Army* (London: Ashgate, 2002); Hadžić, Miroslav *Sudbina Partijske Vojske* (Belgrade: Samizdat, 2001).
30. Ibid.
31. Ljubodrag Stojadinović, *General Sunce: Od uspona i servilnosti do pomračenja i pobune* (Belgrade: Evro, 2002).
32. Dragan Vukšić, *Vojska i Kosovo – Pukovnikov otkaz krvavom komandantu: Miloševićovo srljanje na mač NATO alijanse* (Bad Vilbel and Belgrade: Nidda, 2001).
33. Predrag Simić, 'Reforma Sektora Bezbednosti u Srbiji i Crnoj Gori' *Vojno Delo* No3/2003, pp. 74–89.
34. Gow, *Legitimacy*, p. 9.
35. David Betz, *Civil-Military Relations*, p. 7.
36. Samuel Finer, *The Man on Horseback: The Role of the Military in Politics*, 2nd ed. (Baltimore: Penguin Books, Harmondsworth, 1975), p. 4. Some of the key texts in the study of civil-military relations include: Samuel P. Huntington, *The Soldier and the State: The Theory and Politics of Civil-Military Relations* (The Belknap Press of the Harvard University Press, Cambridge MA, 13th Printing, 1957); Morris Janowitz, *The Professional Soldier: A Social and Political Portrait* (Illinois: The Free Press of Glencoe, 1969); Peter D. Feaver, 'The Civil-Military Problematique: Huntington, Janowitz, and the Question of Civilian Control' *Armed Force and Society* Vol. 23, No. 2, 1996; Charles Moskos, ed., *The Postmodern Military: Armed Forces After the Cold War* (New York: Oxford University Press, 2000); Martin Edmonds, *Armed Services and Society* (Leicester: Leicester University Press, 1988).
37. An introduction to this now defunct literature is included in Gow, *Legitimacy*, Ch. 1.
38. Christopher Donnelly, 'Defence Transformation in the New Democracies: A Framework for Tackling the Problem', *NATO Review* (January 1997).
39. Donnelly, 'Defence Transformation' (1997).
40. Cottéy, A. Edmunds, T. and Forster A. eds., *Democratic Control of the Military in Postcommunist Europe: Guarding the Guards* (London: Palgrave, 2002); Betz, *Civil-Military Relations in Russia and Eastern Europe* (RoutledgeCurzon: London, 2004).
41. Betz, *Civil-Military Relations*, p. 6.
42. Cottéy, Edmunds, and Forster (eds) *Democratic Control*, p. 1.
43. David Betz, and John Löwenhardt, *Army and State in Postcommunist Europe* (London: Frank Cass 2001), p. 4.

44. Chris Donnelly, 'Defence Transformation in New Democracies', *NATO Review* No. 6 (November 1996), accessed on 13/07/2003 at <http://www.nato.int/docu/review/1996/9606-5.htm>.
45. Donnelly 'Defence Transformation'.
46. Marco Carnovale, 'NATO Partners and Allies: Civil-Military Relations and Democratic Control of the Armed Forces' *NATO Review* No. 2 (March 1997), accessed on 26/10/2003 at <http://www.nato.int/docu/review/1997/9702-9.htm>.
47. *Ibid.*
48. *Ibid.*
49. Cottet, Edmunds, and Forster (eds), *Democratic Control*, p. 5.
50. *Ibid.*, pp. 6-7.
51. *Ibid.*, p. 10.
52. Cottet, A. Edmunds, T. and Forster, A., 'The Second Generation Problematic: Rethinking Democracy and Civil-Military Relations', *Armed Forces and Society* Vol. 29 No.1, Fall 2002, p. 36.
53. *Ibid.*, p. 32.
54. For a good introduction on Security Sector Reform see Maria Caparini and Philipp H. Fluri, 'The Relevance of Democratic Control of the Security Sector', *DCAF Working Paper No. 24*, Geneva (July 2000).
55. Timothy Edmunds, 'Security Sector Reform: Concepts and implementation', in German, Wilhelm and Edmunds, Timothy (eds) *Towards Security Sector Reform in Post Cold War Europe* (Baden Baden: Nomos 2003), p. 11.
56. For example, the OECD talks about the concept of Security Sector Transformation, while others, like the UNDP prefer the name of Justice and Security Sector Transformation. For a debate about SSR, see for example, Jane Chanaa, *Security Sector Reform: Issues, Challenges and Prospects* (Oxford, Oxford University Press for IISS, 2002); Dylan Hendrickson, *A Review of Security Sector Reform* (London: Conflict Security and Development Group, Centre for Defence Studies, Working Papers, 1999); Chris Smith, 'Security Sector Reform: Development Breakthrough or Institutional Engineering?' *Conflict Security and Development*, Vol.1 No.1 (Fall, 2001); *Justice and Security Sector Reform: BCPR's Programmatic Approach* UNDP November 2002; *Security Sector Reform DFID/FCO/MoD Policy Brief* (2003); *Towards a Better Practice Framework in Security Sector Reform: Broadening the Debate* (Clingendael/ International Alert/Saferworld, August 2002).
57. Heiner Hänggi, 'Conceptualising Security Sector Reform and Reconstruction' in Bryden, Alex, and Hänggi, Heiner (eds) *Reform and Reconstruction of the Security Sector* (Münster: LIT Verlag, 2004), p. 8.
58. Christopher Dandeker, 'Military and Society: The Problem, Challenges and Possible Answers', paper presented at the 5th International Security Forum, Geneva, 14-16 October 2002.
59. Morris Janowitz, *The Professional Soldier*.
60. *Ibid.*, p. 9.
61. Betz, *Civil-Military Relations*, p. 116.
62. Betz, *Civil-Military Relations*, p. 115.
63. James Gow and Carole Birch, *Security and Democracy: Civil Military Relations in Central and Eastern Europe* (London: Brasseyes for the Centre of Defence Studies, 1997), p. 34.
64. Gow and Birch, *Security and Democracy*, p. 1.

65. Ibid., pp. 1–2.
66. Agnieszka Gogolewska followed Gow and Birch, but incorporated democratic security policy communities into 'effective democratic management' and added another factor, that of 'stateness', following Stepan and Linz. Agnieszka Gogolewska, *The Stateness Matrix – Comparing and Explaining Post-Communist Civil-Military Relations: Poland, the Czech Republic, Hungary and Ukraine* PhD Thesis, University of London, 2001; Juan J. Linz, and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, Southern America and Post-Communist Europe* (Baltimore, London: Johns Hopkins University Press, 1996).

## 2 Civil-Military Relations from the Break-Up of Yugoslavia to the Fall of Milošević

1. Robert Thomas, *Serbia under Milošević*, p. 3.
2. The role of Slobodan Milošević's wife, Mira Marković, was important, as she was often perceived to be the real power behind the 'throne'. See, for example, Thomas, op. cit. p. 232.
3. Ibid.
4. Eric Gordy, *The Culture of Power in Serbia: Nationalism and the Destruction of Alternatives* (University Park, PA: Pennsylvania University Press, 1999), esp. p. 199ff.
5. Nenad Dimitrijević, 'Srbija kao nedovršena država' *Reč*, No. 68, 15 March 2003, pp. 6–20.
6. Ibid., p. 6.
7. Ibid., p. 7.
8. Ibid., p. 6.
9. Ibid., p. 7.
10. Ibid., p. 5.
11. The use of the word arbitrary is somewhat contentious. Dimitrijević is unclear on what he exactly means by this assertion and it can be argued that there was nothing arbitrary in the way Milošević used institutions, constitutions and laws. As an example, the use of the Serbian Parliament to reject the Rambouillet/Paris Agreement in 1999, served to bestow some sort legitimacy to the policy of the FRY leader.
12. Thomas, *Serbia under Milošević*, pp. 199–236.
13. Dimitrijević, *Srbija*, p. 7.
14. Gow, *Serbian Project*, p. 51.
15. This section only provides a short overview of Yugoslav civil-military relations in the post-war period. For a full account see Gow, *Legitimacy and the Military*, as well as Gow, *Serbian Project* (Chapter 3).
16. Gow, *Legitimacy and the Military*, p. 56.
17. Gow, *Serbian Project*, p. 53.
18. Gow, *Legitimacy and the Military*, p. 57.
19. Ibid., p. 58.
20. Gow, *Serbian Project*, p. 53.
21. Gow, *Legitimacy and the Military*, p. 60.
22. Ibid., p. 59.

23. See Gow, *Legitimacy and the Military*, p. 57.
24. Gow, *Serbian Project*, p. 53.
25. Gow, *Legitimacy and the Military*, pp. 60–61.
26. Marko Milivojević, 'The Political Role of the Yugoslav People's Army in Contemporary Yugoslavia' in Milivojević, Marko, Allcock, John B. and Maurer, Pierre (eds) *Yugoslavia's Security Dilemma: Armed Forces, National Defence and Foreign Policy* (Oxford, New York and Hamburg: Berg Publishers, 1988), p. 23.
27. Milivojević, 'The Political Role', p. 15.
28. See Dejan Jović's account of the break-up of Yugoslavia in *Yugoslavia – Država koja je odumrla* (Belgrade: Prometej, Samizdat, 2003).
29. 'Armija Partije' *Vreme*, 11 October 2001.
30. Hadžić, *Sudbina*, pp. 113–115.
31. Due to space constraints, this section is just a short overview of the early days of the Yugoslav War and the role of the military in the break-up of the SFRY.
32. Remington, 'The Yugoslav Army', p. 167.
33. Ibid., p. 142.
34. Ibid.
35. The JNA supported the Krajina Serbs through its commander in Knin, Col. Ratko Mladić, already a member of the *vojna linija*. See Gow, *Serbian Project*.
36. See Gow, *Serbian Project*, Chapter 3, pp. 51–89. The following section is a based on Gow's chapter.
37. Gow, *Serbian Project*, p. 58.
38. Jović, *Poslednji Dani*, p. 452.
39. Gow, *Serbian Project*, p. 61, Tim Judah, *The Serbs: History, Myth and the Destruction of Yugoslavia* (New Haven and London: Yale University Press, 2000), p. 170.
40. Gow, *Serbian Project*, p. 62.
41. Ibid., p. 68.
42. *Vreme*, 30 August 1993.
43. See *Vreme*, 25 July 1994, *Vreme*, 20 February 1995, 'Milošević reportedly to reshuffle Army Cadre', *BETA*, 11 July 1996, *BETA*, 19 May 1998.
44. Interview with General (ret.) Blagoje Grahovac.
45. *NIN*, 19 July 1996.
46. *Blic*, 20 October 1998.
47. Gow, *Serbian Project*, p. 74.
48. *NIN*, 13 December 1996.
49. *NIN*, 3 December 1998.
50. Stojadinović, *General Sunce*, pp. 31–32.
51. Ibid., pp. 33–38.
52. *BETA*, 17 June 1999.
53. *Glas Javnosti*, 16 February 2000.
54. *BETA*, 28 July 1999.
55. Stojadinović, *General Sunce*, pp. 79–81.
56. Lenard J. Cohen, *Serpent in the Bosom: The Rise and Fall of Slobodan Milošević* Rev. edn (Boulder: Westview Press, 2002), pp. 429–439.
57. Louis Sell, *Slobodan Milošević and the Destruction of Yugoslavia* (Durham and London: Duke University Press, 2002), p. 342.
58. Cohen, *Serpent*, p. 438.
59. Ibid.
60. Ibid., p. 440.

61. Ibid., p. 441.
62. Stojadinović, *General Sunce*, pp. 98–99.
63. Stojadinović, *General Sunce*, pp. 98–99.
64. Ibid., pp. 107–122.
65. Dragan Bujošević and Ivan Radovanović, *5. oktobar: Dvadeset četiri sata prevrata* (Belgrade: Medija Centar, 2001), pp. 47–48.
66. Miloš Vasić, *Atentat na Zorana* (Belgrade: Politika; Vreme; B92, Narodna Kniga, 2005), p. 24.

### 3 De-Politicisation and Transition Delayed

1. *Glas Javnosti*, 17 October 2000.
2. Gow and Birch, *Security and Democracy*, p. 12.
3. Gow and Birch, *Security and Democracy*, pp. 12–14.
4. Ibid. p. 13.
5. Ibid.
6. Ibid.
7. Thomas, *Serbia under Milošević*, p. 422.
8. Ibid.
9. Ibid.
10. Ibid., p. 423.
11. See Gow, *The Serbian Project*, pp. 51–89.
12. Stojadinović, *General Sunce*, p. 125.
13. 'New Rivals Protect Old Guard' *Jane's Intelligence Review*, 1 March 2001.
14. 'Koštunica Rejects Supporters Demands for Purge of Police, Military Leaders', *RFE/RL Newsline*, 6 November 2000.
15. Stojadinović, *General Sunce*, p. 158.
16. As well as VJ officers tainted by war crimes allegations, the MUP has kept and promoted, after October 2000, a number of its own officers formerly responsible for operations in Kosovo. Some such as Sreten Lukić would later be indicted by the ICTY. See Chapter 7.
17. 'Fighting to Control Yugoslavia's Military', *ICG Balkans Briefing* (Belgrade/Brussels, 12 July 2002).
18. 'Interview with Momčilo Perišić from Rossiyskaya Gazeta', *FBIS*, 21 October 2000.
19. 'Yugoslav Former General Urges Top Brass to Quit', *RFE/RL Newsline*, 2 November 2004.
20. Stojadinović, *General Sunce*, p. 126, see also 'Smirivanje tla: Koštunica na potezu', *Vreme*, No. 511, 19 October 2000.
21. 'Mera opreza i pripravnosti', *Vreme*, No. 512, 26 October 2000.
22. Ibid.
23. See Stojadinović, *General Sunce*.
24. Stojadinović, *General Sunce*, pp. 123–126.
25. TANJUG, 6 October 2000.
26. 'Milošević's General Pledges Loyalty to New Yugoslav President', *RFE/RL Newsline*, 9 October 2000.
27. 'Yugoslav Army Leaders Warn Opposition', *RFE/RL Newsline*, 11 October 2000.
28. 'Milošević's General Pledges Loyalty to New Yugoslav President', *RFE/RL Newsline*, 9 October 2000.

29. 'Košunica Ready to Sack Top General?' *RFE/RL Newsline*, 11 October 2000.
30. 'Yugoslav Army Leaders Warn Opposition'.
31. 'Košunica and Djukanović Hold Talks in Podgorica', *RFE/RL Newsline*, 2 November 2000.
32. 'FRY's Top Defence Body Fails to Discuss Dismissal of Army Chief' *BETA*, 03 November 2004.
33. *Belgrade's Lagging Reform: A Cause for International Concern*, ICG Balkans Report No. 126, 7 March 2002.
34. Interview with Vojislav Košunica, *Vreme*, 14 December 2000.
35. Christian A. Nielsen, 'Special Report Yugoslavia: DOS Version 2.0, In Serbia' *Transitions Online*, 7 November 2000.
36. 'Yugoslavia Continues to Disintegrate', *RFE/RL Balkan Report*, Vol. 4, No. 83, 28 November 2000. Djukanović also insisted on the removal of the 2nd Army Commander and the Commander of the Navy, both of whom had been a constant source of potential threat to the Montenegrin government. Having achieved this on 3 January 2001 (VJ Information Service, 3 January 2001 at <http://www.vj.yu/aktuelno/vesti/januar2001/v0301.html>, accessed on 10 September 2003), Djukanović showed remarkably little interest in the fate of the army leadership.
37. 'Zona visokog rizika', *Vreme*, No. 517, 30 November 2000.
38. 'Kumanovski nesporazum' *Vreme*, No. 521, 28 December 2000.
39. *Military Technical Agreement between the International Security Force ('KFOR') and the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia*, <http://www.nato.int/kosovo/docu/a990609a.htm>, accessed on 6 August 2013.
40. Ibid.
41. Stojadinović, *General Sunce*, p. 127.
42. 'Prvi korak na dugom putu', *Vreme*, No. 532, 15 March 2001.
43. Stojadinović, *General Sunce*, p. 128.
44. 'Kasno za Preševo, rano za pecanje', *Vreme*, No. 546, 21 June 2001.
45. Stojadinović, *General Sunce*, p. 128.
46. Ibid. p. 129.
47. 'Yugoslav General Pavković Leads His Troops to the Kosovo Frontier', *RFE/RL Newsline*, 15 March 2001.
48. Stojadinović, *General Sunce*, pp. 131–133.
49. Ibid. p. 132.
50. 'Košunica and Djindjić: A Team Destined to Split', *RFE/RL Analytical Reports*, Vol. 3, No. 14, 19 April 2001.
51. 'Raids Expose Rift between Reformist Leaders', *The Guardian*, 2 April 2001.
52. 'Sati hapšenja: Privodjenje za narodnu zabavu', *Vreme*, No. 535, 5 April 2001.
53. 'VJ Chief Pavković Denies Army Blocking Milošević Arrest', *BETA*, 1 April 2001.
54. 'VJ Chief Denies Responsibility for Army Attempt to Prevent Milošević Arrest', *FBIS*, 1 April 2001.
55. 'Kasno za Preševo, rano za pecanje', *Vreme*, No. 546, 21 June 2001.
56. Stojadinović, *General Sunce*, p. 137.
57. 'Kasno za Preševo, rano za pecanje', *Vreme*, No. 546, 21 June 2001.
58. 'Kako su uklanjani tragovi zločina, gde su završili leševvi is hladnjачe, da li je postojala Dubina 1', *Vreme*, No. 543, 31 May 2001; 'Nećemo prikrivati zločine', *NIN*, 7 June 2001.
59. Stojadinović, *General Sunce*, p. 134.

60. 'Izmišljanje zločina, ili ne biti human', *NIN*, 21 June 2001.
61. Ibid. A year later, the VJ would publish a book with a collection of orders from both commanders in order to show that their actions were strictly in accordance with International Law of Armed Conflict. See Ivan Marković (ed.), *Yugoslav Army and Kosovo and Metohija 1998–1999: Application of the Rules of the International Law of Armed Conflicts*, 2nd enlarged edn (Belgrade: Vojno-Izdavčki Zavod, 2002).
62. 'Pavkovićevi naslednici', *NIN*, 28 June 2001.
63. 'Ukaz iz vedrog neba', *Vreme*, No. 552, 2 August 2001.
64. 'Serbian General to Be Indicted?' *RFE/RL Newsline*, 6 December 2001.
65. 'Yugoslav Foreign Minister Says General Should Go', *RFE/RL Newsline*, 28 December 2001.
66. Ibid.
67. 'Fighting to Control Yugoslavia's Military'.
68. Ibid.; 'Zimski manevri', *Vreme*, No. 577, 24 January 2002.
69. VJ Information Service 3 January 2002 at <http://www.vj.yu/aktuelno/vesti/januar2002/v0301.htm>, accessed on 1 September 2004.
70. VJ Information Service 30 December 2001 at <http://www.vj.yu/aktuelno/vesti/decembar2001/v3012.htm>, accessed on 1 September 2004.
71. Tomić was the only General not to have attended the School of National Defence.
72. Stojadinović, *General Sunce*, p. 171.
73. Ibid., pp. 171–173.
74. *Serbia: Military Intervention Threatens Democratic Reform*, ICG Balkans Briefing (Belgrade/Brussels 28 March 2002).
75. Ibid.
76. Dennison Rusinow, *The Yugoslav Experiment 1948–1974* (Uni. of California Press: Berkeley & Los Angeles, 1977).
77. Igor Gajić, 'How "Cobra" Arrested Perišić', *Transitions Online*, 4 April 2002.
78. 'DS Demands Dismissal of Košturnica's Adviser, Military Security Chief', *BETA*, 16 March 2002.
79. *Serbia: Military Intervention Threatens Democratic Reform*.
80. Ibid.
81. Stojadinović, *General Sunce*, p. 173.
82. 'Noć generala', *Vreme*, No. 585, 21 March 2002.
83. Ibid.
84. 'KOS i DOS', *Vreme*, No. 585, 21 March 2002.
85. Ibid.
86. *Serbia: Military Intervention Threatens Democratic Reform*.
87. Ibid.
88. 'Odsudni napad i odbrana', *Vreme*, No. 586, 28 March 2002.
89. 'Yugoslav Army Chief's Fate to Be Determined', *RFE/RL Newsline*, 26 March 2002; '... As Yugoslav Leaders Suggest Joining NATO's Partnership for Peace', *RFE/RL Newsline*, 26 March 2002.
90. 'Generalni remont', *Vreme*, No. 586, 28 March 2002.
91. 'Former FRY Army Chief: Acceptance of Dismissal Depends on General Staff's View', *BETA*, 24 June 2002.
92. 'Fighting to Control Yugoslavia's Military'.
93. Ibid.
94. 'Na potezu je Košturnica', *NIN*, 28 March 2002.

95. See 'Tišina, snima se', *Vreme*, No. 600, 4 July 2002; 'Rafali časti', *Vreme*, No. 602, 18 July 2002; 'Generalova izgubljena bitka', *NIN*, 27 June 2002.
96. 'Košunica: Apologies for War Crimes Are Empty Phrases', *RFE/RL Analytical Report*, Vol. 4, No. 24, 25 July 2002.
97. 'Serbian Government Demands Investigation of Charge Against Košunica', *RFE/RL Newsline*, 28 June 2002.
98. 'Ko je smestio Košunici', *Vreme*, No. 603, 25 July 2002.
99. 'Košunica's Party Challenges Serbian Government's Pavković's Commission', *RFE/RL Newsline*, 24 July 2002.
100. Timothy Edmunds, *Crisis or Turning Point?* (Belgrade: Centre for Civil Military Relations, 2002), <http://www.ccmr-bg.org/analize/rec/word1.htm>, accessed on 12 December 2002.
101. 'Reforma nije haos', *NIN*, 20 February 2003.
102. Edmunds, *Defence Reform*.
103. 'Kraj tužne priče', *Vreme*, No. 638, 27 March 2003.
104. *B92*, 19 April 2005.
105. 'Serbia-Montenegro Supreme Defence Council Relieves Several Top Officers of Duty', *Radio B92*, 7 August 2003.
106. For a period, while the state union continued, prior to each state's gaining discrete independent international personality, the military was the Army of Serbia and Montenegro; for simplicity of reading, the single term VS will be used to refer to the post-VJ military both before and after the end of the state union.
107. 'DSS: S-M's Tadić More Strict Than Hague Tribunal Over War Crimes Suspects', *TANJUG*, 26 August 2003.
108. 'Krga: Vojska zbrinuta zbog podizanja optužnica' *B92 News Web edition*, <http://wwwb92.net/>, accessed on 22 October 2003.
109. *Večernje Novosti*, 27 October 2004.
110. *Politika*, 19 November 2004.
111. Internal memorandum to the Supreme Defence Council, 14 October 2003; *Vijesti*, 13 September 2003; *Vijesti*, 14 September 2003; *Danas*, 17 May 2004; *Vijesti*, 21 September 2003.
112. *B92*, 24 July 2005.
113. *B92*, 04 August 2005.
114. *B92*, 01 August 2005.
115. The new Chief of General Staff, General Ljubiša Jokić, was a former head of Marović's military cabinet and a Montenergrin close to the DPS. *B92*, 6 October 2005; *B92*, 7 October 2005.
116. Zdravko Ponoš was promoted to Major-General on 6 October 2005 and appointed Deputy Chief of the General Staff. He attended a one-year course at the Royal College of Defence Studies, part of the UK Defence Academy.

#### 4 Civilianising Defence Policy-Making and Military Reform

1. Donnelly, 'Defence Transformation'.
2. Gow, *Serbian Project*, p. 64.
3. Edmunds, *Defence Reform*, p. 33.

4. Edmunds, *Defence Reform*, p. 33.
5. 'Interview with Slobodan Krapović', *Vreme*, No. 524, 18 January 2001.
6. Interview with Blagoje Grahovac.
7. 'U senci velikog brata', *NIN*, 24 January 2001.
8. *TANJUG*, 7 November 2000; *TANJUG*, 25 January 2001.
9. 'Interview with Slobodan Krapović', *Vreme*, No. 524, 18 January 2001.
10. Stojadinović, *General Sunce*, pp. 223–227.
11. 'U senci velikog brata', *NIN*, 24 January 2001.
12. *Ibid.*
13. Svetlana Djurdjević-Lukić, *President's Army*, Transitions Online, 15 March 2002. <http://www.tol.org/client/article/3900-presidents-army.html?print>.
14. *Ibid.*
15. See, for example, *Vojska*, 9 January 2003; 6 February 2003; 27 February 2003; 6 March 2003.
16. 'A Minister with No Power', *BETA*, 6 February 2002.
17. *Belgrade's Lagging Reforms: A Cause for International Concern*, ICG Balkans Report No. 126, 7 March 2002.
18. *Ibid.*
19. For more details on the background to that tragedy see Vasić, *Atentat na Zoranu*.
20. H.E. Mr. Boris Tadić Address to the North Atlantic Council, Brussels, 7 May 2003.
21. However, the fact that the laws did not enter parliamentary procedure until 2004, and then only to be withdrawn quickly after, testifies to the inertia and inability of the political structure to undertake the complex task of creating a proper framework for oversight of the armed forces. Despite Tadić's promises, by mid-2006 Serbia still lacked a number of necessary legal documents to underpin democratic civil-military relations (see Chapter 5).
22. Following Djindjić's assassination, the Government of Serbia agreed on the proclamation of a state of emergency, which lasted from 12 March 2003 until 23 April 2003, giving it extraordinary powers in the pursuit of Djindjić's killers. In this period, over 10,000 people were detained and a number of high profile assassination and other crimes, which had been unresolved for years (including the assassination of former Serbian President, Ivan Stambolić) were solved. Operation 'Sabre' was the code name for the police operation which resulted in these arrests. The state of emergency period in general, and Operation 'Sabre' in particular, remain controversial in some political circles, and concerns were raised that the Government and the police used the situation to deal with political opponents. See *Danas*, 23 April 2003; *Vreme*, No. 663, 18 September 2003; see also Koštunica's interview with *Vreme*, No. 648, 5 June 2003.
23. Interview with John Moore-Bick.
24. *Danas*, 6 May 2003.
25. *Vojska*, 10 July 2003.
26. *Vojska*, 18 December 2003.
27. Interview with Maj. General John Moore-Bick.
28. *Ministry of Defence Civilian Oversight and Reform* UNDP and MoD Memorandum of Understanding signed on 17 July 2003, available at <http://www.undp.org.yu/>, accessed on 23 October 2003.

29. For example, he invited experts from the G17 Institute to discuss defence reforms. *Vojska*, 16 October 2003.
30. While this might sound somewhat unfair, this impression was echoed when one of Tadić's advisors Bojan Dimitrijević resigned his position because of mounting frustration with the slow pace of change and the lack of attention Tadić displayed after September 2003.
31. Narcis Serra, former Defence Minister of Spain and for a short while advisor to Tadić, commented that there was an important lack of knowledge on what military reform was within the Tadić team. LSE Centre for Global Governance Seminar, LSE, London, 12 November 2003.
32. Interview with Ninoslav Krstić; see also his piece in *NIN*, 23 December 2004 ('Vojska ne može sama sebe da menja').
33. Interview a senior government advisor.
34. A senior civilian commented that he and his colleagues could not trust the military and had to propose appointments based on their own judgment. (Interview with senior defence official.) One such example was Maj. Gen. Zdravko Ponoš, who was sent to the UK Royal College of Defence Studies entirely on Dimitrijević's initiative. Ponoš later became deputy Chief of the General Staff of the interim military and, as Montenegro became independent, acting Chief of Staff of the Army of Serbia (VS).
35. Dragomir Djordjević, 'Nepravilna raspodela', *Politika*, 21 June 2004.
36. Interview with John Moore-Bick.
37. Interview with Blagoje Grahovac.
38. *Vojska*, 10 July 2003.
39. *Politika*, 6 April 2004 and 8 April 2004.
40. *Srpski Pokret Obnove* (Serbian Renewal Movement, led by Vuk Drašković) and *Nova Srbija* (New Serbia).
41. Biography of Prvoslav Davinić, MoD website accessed at <http://www.mod.gov.yu/> on 10 July 2005.
42. *Vojska*, 10 June 2004 (Prvoslav Davinić interview).
43. *Vojska*, 10 June 2004.
44. 'Vojska ne može samy sebe da menja' *NIN*, 23 December 2004.
45. Interview with Pavle Janković.
46. *Danas*, 13 January 2005.
47. *NIN*, No. 2809, 28 October 2004.
48. *Večernje Novosti*, 17 September 2003.
49. Interview with Pavle Janković, Geneva, 4 October 2004.
50. *Danas*, 15 January 2005.
51. Interview with John Moore-Bick.
52. *BETA*, 8 January 2005.
53. *Glas Javnosti*, 01 April 2005.
54. This will be discussed in more details in Chapters 5 and 6.
55. *Politika*, 5 September 2005.
56. *B92*, 8 September 2005.
57. *B92*, 22 October 2005.
58. *B92*, 25 September 2005.
59. *B92*, 25 November 2005.
60. *Odbrana*, 1 November 2005.
61. *Ibid.*
62. *Odbrana*, 1 November 2005.

63. *Odbrana*, 15 November 2005; *Danas*, 26–27 November 2005 and 30 November 2005. Stanković would complain throughout 2006 of the dire financial situation in the army.
64. *Danas*, 10 February 2006.
65. The Assistant Minister for Defence Policy had no real qualifications, nor valuable experience, beyond a stint as director of a theatre in the late 1990s and a short spell as a mid-ranking official in the Embassy in Norway.
66. Stanković's early reluctance was mentioned by several people to one of the authors, among whom Maj. Gen. Ljubiša Jokić, Chief of the General Staff and a defence advisor to Serbian President Boris Tadić.
67. Interview with General Ljubiša Jokić.
68. *B92*, 19 January 2006.
69. Edmunds, *Defence Reform*, pp. 33–34
70. Gow and Birch, *Security and Democracy*, p. 18.
71. Donnelly, 'Defence Transformation'.
72. *Ibid.*
73. Gow and Birch, *Security and Democracy*, p. 19.
74. Edmunds, *Defence Reform*, p. 45.
75. As argued above, the MoD had no input in the restructuring of the VJ in 2001 and 2002.
76. Bojan B. Dimitrijević, *Fazno Reformisanje Ministarstva Odbrane i Vojske SCG* Reč Stručnjaka (Centre for Civil-Military Relations, Belgrade 2003), accessed on 10 January 2005 at <http://www.ccmr-bg.org/>.
77. Interview with Ljubiša Jokić.
78. Zoran Kusovac, 'Arrested Development', *Jane's Defence Weekly*, 8 June 2005.
79. *RFE/RL Newsline*, 25 April 2002.
80. Pavke Janković and Srdjan Gligorijević, 'Burying the Hatchet', *NATO Review*, Summer 2004.
81. While he was much criticised for his position at the time, Grahovac was ultimately proved right in 2006 when Serbia's Strategic Review predicted a force level of 25,000 to be achieved by 2010.
82. *Odbrana*, 1 November 2005.
83. *Strategija odbrane SCG – nacrt dokumenta* Savezno Ministarstvo za odbranu, Sektor za međunarodnu vojnu saradnju i politiku odbrane (Dokument Br. 89–12, Belgrade 22 July 2003).
84. In its final version adopted in November 2004, the National Defence Strategy was, in many ways, a combination of these two documents. However, the writers of the Constitutional Charter kept the name National Defence Strategy as a compromise with Montenegro's government, which maintains that each member state should adopt its own national security strategy. This was one of the anomalies of the State Union, whereby security was the remit of the member states, while defence was the remit of the joint state community.
85. *Politika*, 5 September 2003.
86. *Ibid.*
87. Interview with Major-General John Moore-Bick, Belgrade 20 July 2004.
88. *Strategija Odbrane Državne Zajednice Srbija i Crna Gora* – National Defence Strategy of the State Union of Serbia and Montenegro.
89. In the drafts of the strategy, this statement referred precisely to cooperation with the ICTY. It had to be removed as a number of parliamentary

parties, including the SRS, the SPS and the DSS, objected to such an explicit formulation.

90. H.E Boris Tadić, Address to the North Atlantic Council.
91. *Vojska*, 1 and 8 January 2004.
92. Zoran Kusovac, 'Yugoslav Army Embarks on Restructure Programme', *Jane's Defence Weekly*, 13 February 2002.
93. *Danas*, 23 September 2002.
94. *Dnevnik*, 13 December 2001.
95. *Danas*, 23 September 2002.
96. Kusovac, 'Yugoslav Army Embarks on Restructure Programme'.
97. *Ibid.*
98. Interview with Blagoje Grahovac.
99. *Vojska*, 15 January 2005.
100. 'Reforma Sistema Odbrane' *Vojska (Specijalni Prilog)*, 16 June 2005.
101. *Ibid.*
102. See White Paper on Defence, pp. 87–96.
103. Information on this is conflicting: Tadić's former advisors claimed that everything was left for Davinić and his team only to implement, while Davinić's advisors claimed a significant amount of re-thinking and re-adjustment was necessary. Interview with a senior defence figure; interview with Mr Pavle Janković.
104. 'Reforma Sistema Odbrane'.
105. *B92*, 16 December 2005.
106. 'Reforma Sistema Odbrane'.
107. *Ibid.*
108. *Vojska*, 21 April 2005.
109. Interview with Gen. Ljubiša Jokić.
110. *Ibid.*
111. *Ibid.*
112. *Vojska*, 21 April 2005.
113. *Odbrana*, 1 October 2005.
114. The equivalent, at the time of roughly £450 million.
115. *B92*, 24 January 2005.
116. *B92*, 12 June 2005.
117. *Ibid.*
118. *Ekonomist*, 24 May 2004.
119. *B92*, 3 March 2005.
120. *B92*, 2 June 2005.
121. *Ibid.*
122. *Ekonomist*, 24 May 2004.
123. *Odbrana*, 01 October 2005.
124. Andrić, Branko *Reforma Vojske Srbije i Crne Gore* (Centre for Civil-Military Relations, Belgrade) accessed on 5 July 2004 at <http://www.ccmr-bg.org/analize/rec/rec44print.pdf>.
125. *Odbrana*, 1 October 2005.
126. *Danas*, 11 February 2005.
127. *Politika*, 22 June 2005.
128. *Odbrana*, 15 December 2005.
129. *BETA*, 28 August 2008.

130. *Vreme*, 23 October 2003.
131. *Vojska*, 19 May 2005.
132. *Ibid.*
133. *B92*, 2 June 2005.
134. *Vojska*, 26 May 2005.
135. Interview with General Ljubiša Jokić.
136. Interview with Blagoje Grahovac. See also *Vojska*, 4 September 2003, where Maj. General Slobodan Kosovac, then head of human resources, claimed that a mandatory military service should always exist in some form.
137. Tony Skinner, 'Serbia-Montenegro Looks to Professional Army', *Jane's Defence Weekly*, 26 January 2005.
138. Interview with General Ljubiša Jokić.
139. *Danas*, 20–21 November 2004.
140. 'Intervju sa Brankom Krgom', *NIN*, 20 January 2005.
141. Interview with General Ljubiša Jokić. See also, *Odbrana*, 15 November 2005 and *Politika*, 22 June 2005.
142. The right not to bear arms was instituted in 1993, but rarely applied. Interview with Petar Milićević.
143. *Danas*, 2 February 2005. See a further discussion of this issue in Chapter 5.
144. Slobodan Tadić, 'Rešavanje Pitanja Viška Vojnog Kadra', *Reč Stručnjaka*, Centre for Civil-Military Relations, Belgrade 7 June 2004, accessed at <http://www.ccmr-bg.org/analize/rec/rec43.htm> on 7 July 2004.
145. See <http://www.mod.gov.yu/02ministarstvo/023-sljudske/prisma/prisma-projekat.htm> for more information.
146. Interview with General Ljubiša Jokić.
147. *Ibid.*
148. *Ibid.*
149. Such as *Zastava Oružje*, the largest producer of small weapons in Serbia and Montenegro. See *Serbia and Montenegro Defence and Security Survey*, Business Monitor International, 2004.
150. Interview with Blagoje Grahovac. Grahovac was a member of the Board until May 2006.
151. *White Paper on Defence*, p. 50.
152. *Arming Saddam: The Yugoslav Connection* ICG Balkans Report No. 136, 2 December 2002.
153. Interview with Blagoje Grahovac.

## 5 Rules: The Legal and Institutional Framework for Democratic Control

1. Richard Kohn, 'How Democracies Control the Military', *Journal of Democracy*, Vol. 8, No. 4, 1997, pp. 143–145.
2. Cottney, Edmunds and Forster, *Second Generation Problematic*, p. 32.
3. *Ibid.*, pp. 32–33.
4. Carnovale, 'NATO Partners and Allies'.
5. Dimitrios Koukourdinos, *Constitutional Law and the External Limits of the Legal Framing of DCAF: The Case of Croatia and the Federal Republic of Yugoslavia* DCAF Working Papers (Geneva, August 2002).

6. Art. 72(3), Constitution of the Republic of Serbia.
7. Art. 83(5), Constitution of the Republic of Serbia.
8. Art. 77, Constitution of the Federal Republic of Yugoslavia.
9. Art. 78(8), Constitution of the Federal Republic of Yugoslavia.
10. Art. 78(3), Constitution of the Federal Republic of Yugoslavia.
11. Art. 135, Constitution of the Federal Republic of Yugoslavia.
12. Hadžić, Miroslav, '(In)Ability of the Local NGOs to Influence Law-Making Process: Between Lack of Will and Lack of Knowledge' in Vankovska, Biljana (ed.) *Legal Framing of the Democratic Control of Armed Forces* (Belgrade, 2001), p. 177.
13. Art. 136, Constitution of the FRY.
14. Art. 133, Constitution of the Federal Republic of Yugoslavia.
15. Hadžić, '(In)Ability of the Local NGOs', p. 175.
16. The Belgrade Agreement's official name is the *Polazne Osnove za Preuredjenje Odnosa Srbije i Crne Gore* and it formed the basis for the drafting of the constitutional charter of the new state as well as defining its basic features. It was signed under the auspices of Javier Solana (EU High Representative for Common Defence and Security Policy) by Vojislav Koštunica (President of FRY), Miroljub Labus (Federal Deputy Prime Minister), Milo Đukanović (President of Montenegro), Zoran Djindjić (Prime Minister of Serbia) and Filip Vučanović (Prime Minister of Montenegro) on 14 March 2002, in Belgrade.
17. Hadžić, Miroslav, *New Constitutional Position of the Army*, DCAF Working Papers (Geneva, February 2003), p. 1.
18. Art. 2, Constitutional Charter of the State Union of Serbia and Montenegro.
19. Art. 17, Constitutional Charter of the State Union of Serbia and Montenegro.
20. *Danas*, 8–9 February 2003.
21. Voice of America Online, 17 April 2002, at <http://www.voanews.com/Serbian/archive/2002-04/a-2002-04-17-4-1.cfm>, accessed on 13 December 2003.
22. Art. 20, Constitutional Charter of the State Union of Serbia and Montenegro.
23. BBC Serbian Edition, 09 November 2004, accessed on 11 November 2004 at [http://www.bbc.co.uk-serbian/news/2004/11/041108\\_Serbiaparlelex.shtml](http://www.bbc.co.uk-serbian/news/2004/11/041108_Serbiaparlelex.shtml).
24. *Politika*, 20 February 2005.
25. See *Politika*, 27 February 2005.
26. Art. 19–25, Constitutional Charter.
27. Art. 28, Constitutional Charter.
28. Art. 26–32, Constitutional Charter.
29. Art. 31, Constitutional Charter.
30. Art. 33–45, Constitutional Charter.
31. Art. 41, Constitutional Charter of the State Union of Serbia and Montenegro.
32. Art. 56(1), Constitutional Charter. The relevant paragraph states that 'The Supreme Commander of the Army shall be the Supreme Defence Council, which will decide on the utilization of the army of Serbia and Montenegro'.
33. Hadžić, *New Constitutional Position*, p. 25.
34. Art. 41, Constitutional Charter.
35. Hadžić, *New Constitutional Position*, p. 25.
36. Art. 66, Constitutional Charter.
37. Art. 24, Law on the Implementation of the Constitutional Charter of Serbia and Montenegro.

38. *Zakon o prenosu nadležnosti vojnih sudova, vojnih tužilaštava i vojnog pravobranilaštva na organe država članica* (Official Gazette of SERBIA, No. 55, 2004).
39. Hadžić, *New Constitutional Position*.
40. Art. 20, Law on the Implementation of the Constitutional Charter.
41. See *Official Gazette of SERBIA*, No. 17, 2005 and No. 44, 2005.
42. *Zakon o učešću pripadnika Vojske Srbije i Crne Gore, osoblja civilne zaštite I zaposlenih u organima uprave saveta ministara u mirovnim operacijama i drugim aktivnostima u inostranstvu* (Official Gazette of SERBIA, No. 61, 2004).
43. Art. 1, Law on the Participation in PKOs.
44. Art. 7, Law on the Participation in PKOs.
45. Ibid.
46. Ibid.
47. Ibid.
48. Art. 8, Law on the Participation in PKOs.
49. Art. 5, Law on Security Services in the Federal Republic of Yugoslavia (*Official Gazette of the FRY*, No. 37, 2002).
50. Art. 17, Law on Security Services.
51. Art. 7, Law on Security Services.
52. Art. 21, Law on Security Services.
53. Art. 20, Law on Security Services.
54. *B92*, 15 April 2003.
55. Art. 56–57, Law on Security Services.
56. Art. 49, Law on Security Services.
57. Ibid.
58. Art. 50, Law on Security Services.
59. Art. 53, Law on Security Services.
60. Zoran Kusovac, 'Arms Scandals Reveal Illicit Serb Sales', *Jane's Intelligence Review* January 2003.
61. Art. 9, *Zakon o spoljnoj trgovini naoružanjem, vojnom opremom i sredstvima dvstrukne namene* (Official Gazette of SERBIA, No. 7, 2005) – Law on the Export of Weapons, Military Equipment and Dual Use Technologies.
62. Art. 28, *Zakon o proizvodnji i prometu naoružanjem i vojnom opremom* (Official Gazette of SERBIA, No. 7, 2005) – Law on the Production and Trade of Weapons and Military Equipment.
63. *Dnevnik*, 8 May 2003.
64. *Glas Javnosti*, 17 April 2003.
65. *Uredba o vršenju vojne obaveze* (Official Gazette of the SERBIA, No. 37, 2003 and No. 4, 2005).
66. MoD Information Service, 01 March 2005 at [http://www.mod.gov.rs/aktivnosti\\_Serbia/](http://www.mod.gov.rs/aktivnosti_Serbia/).
67. Interview with Petar Milićević, President of the Belgrade Office of the European Bureau for Conscientious Objection (EBCO).
68. *Uredba o fondu za reformu sistema odbrane Državne Zajednice Srbija i Crna Gora* (Official Gazette of the SERBIA, No. 28, 2004).
69. *Vojska*, 10 June 2004.
70. Interview with Blagoje Grahovac, Belgrade, January 2004.
71. The Fund will be discussed in more detail in Chapter 6.
72. *Uredba o obrazovanju ministarstava, organizacija i službi Saveta ministara* (*Službeni list SERBIA*, broj 25, od 13. juna 2003).

73. Ibid.
74. Andrić, *Reforma Vojske Srbije i Crne Gore*.
75. Ibid.
76. *Poslovnik Skupštine Srbije i Crne Gore* (Rule of Procedure of the Parliament of Serbia and Montenegro).
77. Art. 60, Rules of Procedure.
78. *Strategija Odbrane Državne Zajednice Srbija i Crna Gora* (Official Gazette, No. 55, 2004).
79. Ibid.
80. See Article 6 of the Strategy.
81. *Uredba o fondu za reformu sistema odbrane Državne Zajednice Srbija i Crna Gora* (Official Gazette, No. 28, 2004).
82. *Vreme*, 23 December 2004.
83. *Vojska*, 24 February 2005.
84. See Marko Milošević, 'The Law on Serbia's Participation in the (sic) Multinational Operations', *Western Balkans Security Observer*, No.15, October-December 2009, pp. 22–30.
85. This was particularly true in cases of reduction of personnel in the MoD and the ensuing redundancies.

## 6 Effective Management of Defence Policy: The Role of Democratic Security Policy Communities

1. Cottet, Edmunds and Forster, The Second Generation Problematic.
2. While the JNA was under civilian control for most of the SFRY years, there were times at which its influence rose dangerously, such as during the Croat Spring of 1971, as well as in the late 1980s and early 1990s, as seen in Chapter 2.
3. See *Constitutional Charter of the State Union of Serbia and Montenegro*.
4. See Hadžić, *New Constitutional Position*.
5. Between 5 January 2003 and 28 June 2004, the post of the President of Serbia was vacant. The role was filled by the Speakers of the Parliament, Nataša Mićić (January–November 2003), Dragan Maršićanin (February–March 2004); Predrag Marković (March 2004).
6. See Blagoje Grahovac, Internal memorandum to the President of the State Union of Serbia and Montenegro, 14 October 2003.
7. In the period between March 2003 and December 2004, this post was occupied by Maj. General Ljubiša Jokić, who went on to become the last Chief of the General Staff of the VS, when Dragan Paskaš retired.
8. Interview with Blagoje Grahovac.
9. Interview with Maj. General Ljubiša Jokić.
10. Ibid.
11. *Dnevnik*, 8 May 2003.
12. Interview with Maj. General John Moore Bick.
13. Interview with Dušan Spasojević.
14. *RTV B92*, 17 March 2003.
15. *Serbian Reform Stalls Again*, ICG Balkans Report No. 145 (Belgrade, Brussels), 17 July 2003.

16. *NIN*, 14 August 2003.
17. Among them Harvard Graduate and Cambridge University PhD candidate Vuk Jeremić, military historian Dr Bojan Dimitrijević and LSE graduate Dušan Spasojević, former Chief of Staff to Serbian Prime Minister Zoran Živković. Interview with Dušan Spasojević.
18. Interview with Boris Tadić, *RTS1 (Radio Televizija Srbije)* 24 April 2003; see also H.E Boris Tadić Address to the North Atlantic Council.
19. Interview with a senior defence figure.
20. As an example, the advisor for Euro-Atlantic relations, Vuk Jeremić, although Harvard educated was barely 27 years of age when he was appointed and had no experience of military affairs.
21. Interview with General Ninoslav Krstić.
22. *NIN*, No. 2817, 23 December 2004.
23. Interview with General Ninoslav Krstić.
24. Interview with a senior defence figure.
25. Interview with Major General John Moore-Bick, Belgrade 22 July 2004.
26. Interview with an advisor, who conceded that Tadić had lost interest after September 2003 and that a lot of the decision-making was left to him and his colleagues.
27. *Ibid.*
28. *Vojska*, 15 January 2004.
29. *Danas*, 21–22 June 2003.
30. Blagoje Grahovac, Internal memorandum to the President of the State Union of Serbia and Montenegro, 14 October 2003.
31. Interview with Blagoje Grahovac, Belgrade 11 June 2004.
32. Defence reform was an ever present topic in the media in this period. Constant announcements of seminars, conferences and conventions dealing with the topic made headlines almost daily. *Politika* and *Danas*, as well as weeklies such as *Vreme* and *NIN* run a number of stories about the defence strategy, about changes in force structure and about the need to reform the VS and the costs of such reforms. *Politika*'s defence commentator, Ljubodrag Stojadinović, noted Tadić's propensity to publicise future moves without result (*Politika*, 23 September 2004).
33. This fact was remarked upon by General Moore-Bick in an interview with one of the authors.
34. VS Information Service for 26 December 2003, at <http://www.vj.yu/>, accessed on 21 January 2003.
35. Interview with a senior defence figure.
36. See, for example, Bojan Dimitrijević, *Fazno Reformisanje Ministarstva odbrane in VS*, Centar za Civilno-Vojne Odnose, Belgrade, at <http://www.ccmr-bg.org/>, accessed on 12 December 2003.
37. See, for example, the news from VS Information Service for 20 January 2004, at <http://www.vj.yu/>, accessed on 21 January 2004.
38. Amadeo Watkins, *PfP Integration: Croatia, Serbia and Monetenegro*, Conflict Studies Research Centre, April 2004.
39. Branko Andrić, *Reforma Vojske Srbije i Crne Gore* Centar za Civilno-Vojne Odnose Beograd, at <http://www.ccmr-bg.yu/>, accessed on 21 January 2005.
40. See Annex 1.
41. *Politika*, 2 August 2003.

42. *Vreme*, No. 765, 1 September 2005; *Politika*, 2 September 2005; *Politika*, 5 September 2005; *NIN*, No. 2854, 8 September 2005; *Vreme*, No. 766, 8 September 2005.
43. *B92*, 7 October 2005.
44. *Republika*, 3 September 2005; *Monitor*, 23 September 2005; *NIN*, No. 2856, 22 September 2005.
45. *B92*, 21 October 2005.
46. *B92*, 14 November 2005.
47. Interview with Vladimir Cvijan.
48. *B92*, 15 November 2005.
49. See, for example, Boris Tadić's address to the Royal United Services Institute in London on 11 November 2003.
50. *Reuters*, 27 September 2005.
51. *B92*, 14 November 2005.
52. This is most evident through the arrest and the subsequent charging of a number of former and serving VS officers for adding and abetting a war crimes fugitive. See, for example, Daniel Sunter, 'Army Reform: Biting the Bullet', *Transitions Online*, 27 February 2005.
53. *Vojska*, 15 January 2004.
54. This particular debate made headlines for a number of months in 2003.
55. *Vijesti*, 14 September 2003.
56. *Vojska*, 19 June 2003.
57. *NIN*, 11 November 2004.
58. *NIN*, 23 December 2004.
59. *Ibid.*
60. *Srpska Dijaspora Info*, 3 February 2005, at <http://www.srpskadijaspora.info/>, accessed on 18 February 2005.
61. *Danas*, 2 February 2005.
62. *RTV B92*, 4 February 2005.
63. General Momir Stojanović, deputy commander of ground forces, 1 March 2005, as reported on the MoD website, at [http://www.mod.gov.yu/aktivnosti\\_vSerbia.htm](http://www.mod.gov.yu/aktivnosti_vSerbia.htm), accessed on 2 February 2005.
64. See the explanation of the new system on the Ministry of Defence website, at [http://www.mod.gov.yu/civilno\\_sluzenje.htm](http://www.mod.gov.yu/civilno_sluzenje.htm), accessed on 9 March 2005.
65. See the list of institutions as well as new rules on the Ministry of Defence website, at [http://www.mod.gov.yu/civilno\\_sluzenje.htm](http://www.mod.gov.yu/civilno_sluzenje.htm), accessed on 9 March 2005.
66. Interview with Major General Graham Hollands, UNDP Change Management Advisor, Belgrade 22 July 2004.
67. *Constitution of the Federal Republic of Yugoslavia*; see also Chapter 5.
68. Rule of Procedure of the Parliament of the FR Yugoslavia as cited in Gordane Perišić, 'Uloga odbora za odbranu i bezbednost veća građana Savezne Skupštine u demokratskoj kontroli Vojske Jugoslavije', in *Demokratska Kontrola Vojske zbornik radova za savetovanja* (Belgrade: Savezno Ministrstvo Odbrane, April 2001), p. 67.
69. Perišić, 'Uloga odbora za odbranu i bezbednost veća građana Savezne Skupštine u demokratskoj kontroli Vojske Jugoslavije'.
70. *Constitutional Charter*.
71. Admittedly this is not the case in the United Kingdom.

72. Hans Born, Philipp Fluri and Anders B. Johnsson *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices* DCAF/IPU Handbook for Parliamentarians No. 5, Geneva 2003, p. 129.
73. This is a clear example of failure to establish a workable framework of budgetary oversight based on the best practice models. See Born, Fluri and Johnsson *Parliamentary Oversight of the Security Sector*, pp. 129–145.
74. Radiša Djordjević, *Reforma Sistema Odbrane, Budžet za 2004. godinu i Finansiranje Reforme*, Belgrade: Centre for Civil-Military Relations, 2004, at <http://www.ccmr-bg.org/analize/rec/rec39print.htm>.
75. *B92*, 8 June 2005.
76. *B92*, 15 December 2005.
77. *Blic*, 15 December 2005.
78. Statement of the Ministry of Finance of the Republic of Serbia (16 December 2004), at <http://www.mfin.sr.gov.yu/html/modules.php?op=modload&name=News&file=article&xid=880>, accessed on 31 January 2005.
79. Statement of the Ministry of Finance of the Republic of Serbia (16 December 2004), at <http://www.mfin.sr.gov.yu/html/modules.php?op=modload&name=Subjects&file=index&req=viewpage&pageid=1071>, accessed on 31 January 2005.
80. See Born, Fluri and Johnsson *Parliamentary Oversight of the Security Sector*, p. 86.
81. *Poslovnik Skupštine Državne Zajednice Srbija i Crna Gora* (Rules of Procedure of the Assembly of the State Community of Serbia and Montenegro), Art. 60.
82. *B92*, 18 November 2005.
83. Born, Fluri and Johnsson *Parliamentary Oversight of the Security Sector*, p. 79.
84. Interview with Srdjan Petkanić.
85. *Vojska*, 18 December 2003.
86. *Dnevnik*, 28 May 2004.
87. *B92*, 27 May 2004, <http://www.b92.net/>.
88. Minutes of the 2nd Session of the Committee for the Oversight of the Security Services, 18 November 2004, at <http://www.parlament.gov.yu/>, accessed on 2 February 2005.
89. Interestingly, it was only in December 2005 that Dragišić's impending appointment resurfaced in the press and was confirmed by Dragišić himself in an interview for *B92* (2 December 2005).
90. Serbia and Montenegro Assembly website, <http://www.parlament.gov.yu/>, accessed on 1 August 2005.
91. Minutes of the 2nd session of the Defence Committee of the Assembly of Serbia and Montenegro, 20 May 2004, at <http://www.parlament.gov.yu/>, accessed on 2 February 2005.
92. Serbia and Montenegro Assembly website at <http://www.parlament.gov.yu/>, accessed on 1 August 2005.
- 93.. Minutes of the 3rd session of the Defence Committee of the Assembly of Serbia and Montenegro, 28 June 2004, at <http://www.parlament.gov.yu/>, accessed on 2 February 2005.
94. *B92*, 28 June 2004.
95. *B92*, 21 September 2004.
96. *Ibid.*
97. Minutes of the Committee Meeting, <http://www.parlament.gov.yu/>, accessed on 23 November 2005.

98. *RTV B92*, 18 October 2004.
99. See minutes of the Defence Committee sessions at <http://www.parlament.gov.yu/>, accessed on 23 November 2005.
100. Minutes of the 12th session of the Defence Committee of the Assembly of Serbia and Montenegro, 21 October 2005, at <http://www.parlament.gov.yu/>, accessed on 2 November 2005.
101. *Odbrana*, 1 January 2006.
102. *Ibid.*
103. *Danas*, 14 November 2005.
104. Actually, most had no expertise at all in defence matters. Interview with Srdjan Petkanić.
105. Interview with Srdjan Petkanić.
106. Interview with Jack Petri, NDI Serbia, Belgrade.
107. Remark made by a deputy to the Assembly at a seminar *Security Sector Budgeting, Arms Trade and Procurement* organised by the OSCE, the Centre for Civil-Military Relations, Belgrade and the British Embassy Belgrade, 20 February 2004 (Belgrade).
108. Gow and Birch, *Security and Democracy*, p. 37; the following paragraphs draw on pp. 35–39 of this monograph, and it is the source for other quotations, unless otherwise stated.
109. Among these, the Centre for Civil-Military Relations in Belgrade in particular has developed expertise in the field of democratic control of armed forces.
110. Probably the most important of these in Serbia was the G17 group of experts, which was credited with formulating most of the DOS policies in the late 1990s. Their think-tank, the G17 Institute, continued to influence economic policy in the post-Milošević era.
111. For example, the Military Historical Institute (*Vojnoistorijski Institut*), or the Centre for Military Science Documentation and Information (*Centar za vojnonaučnu dokumentaciju i informacije*).
112. Interview with Jack Petri.
113. In Milošević’s final days as President, DOS relied heavily on the retired military officers within its ranks – such as Momčilo Perišić, leader of the PDS, and Vuk Obradović, leader of the SD – for ideas on defence and security. See Stojadinović, *General Sunce*.
114. There was a proliferation of NGOs that masked as think tanks such as the Centre for Management, the CCMR, the G17+ Centre for Security Studies, to name a few.
115. See the CCMR website at <http://www.bezbednost.org/Bezbednost/1/BCBP.shtml>, accessed on 6 August 2013.
116. *Ibid.*
117. See the Memorandum on the Center’s website at <http://www.ccmr-bg.org/vesti/fromccmr/fromccmr0006.htm>, accessed on 10 January 2005.
118. See the DSSC website at <http://www.g17plus.rs/>, accessed on 6 August 2013.
119. Interview with Srdjan Gligorijević.
120. ‘Serbia and Montenegro – Way of Accession to Euro-Atlantic Integration’, Belgrade, 17 May 2003.
121. Vladan Zivulović, the Atlantic Council President, was the Director of the Fund for Reforms of the Defence System; Veljko Kadijević, the general

secretary of the Atlantic Council, was an Assistant Defence Minister in 2004; Srdjan Petkanić was the Committee Expert.

122. Edmunds, *Defence Reform*, p. 35.
123. See the CCMR website at <http://www.ccmr-bg.org/>, accessed on 6 August 2013.
124. <http://www.fpn.bg.ac.yu>, accessed on 6 August 2013.
125. See the CCRM website at <http://www.ccrm-bg.org/>, accessed on 6 August 2013.
126. See the Faculty of Security <http://www.fb.bg.ac.rs/>, accessed on 6 August 2013.
127. *Memorandum o Saradnji* available at <http://www.ccmr-bg.org/>, accessed on 21 December 2005.
128. While the first two mainly contribute to debates regarding human rights, war crimes and Kosovo, the Forum for Security and Defence's mission is to contribute to the improved democratic control and de-politicisation of the security sector. Interview with General Ninoslav Krstić.
129. In particular, *Večernje Novosti* tended to give significant space to the military. Although a good source of information, it tended to be uncritical to the army. See for example the reporting on the Topčider deaths of two soldiers – the article on 16 December 2004 had the title 'The Army established the truth' in relations to the findings of military justice.
130. In particular Miloš Vasić, Dejan Anastasijević and Filip Švarm writing for *Vreme* produced excellent and timely pieces on defence matters.
131. Interview with Jack Petri.
132. Ibid.
133. Interview with Petar Milićević.
134. Watkins, *PfP Integration*, p. 21.
135. Gow and Birch, *Security and Democracy*, p. 37.

## 7 The War Crimes Legacy

1. Gow, *Serbian Project*, p. 2.
2. *Prosecutor of the Tribunal v. Slobodan Milošević* Case No. IT-02-54-T.
3. Gow, *Serbian Project*, p. 118.
4. Biljana Vankovska and Håkan Wiberg, *Between Past and Future: Civil-Military Relations in Post-Communist Balkan States* (London and New York: I.B. Tauris, 2003), p. 249.
5. Gow, *Serbian Project*, p. 118.
6. Ibid., p. 302.
7. Jessica Lincoln, *Transitional Justice, Peace and Accountability: Outreach and the Role of International Courts after Conflict* (London: Routledge, 2011); W. Schabas, *The UN International Criminal Tribunals: Former Yugoslavia, Rwanda and Sierra Leone* (Cambridge: Cambridge University Press, 2006).
8. This subtitle is a play on *The Serbian Project and Its Adversaries: A Strategy of War Crimes*, which provides an account of the central role played by war crimes in Serbia's state project, which was at the core of the war in the former Yugoslavia.
9. Ibid., p. 119.
10. Ibid., pp. 118–144 *passim*.
11. Sabrina Ramet, *The Balkan Babel: The Disintegration of Yugoslavia from the Death of Tito to the Fall of Milošević*, 4th edn (Cambridge, MA: Westview Press, 2002), p. 218.

12. Dorothy Q. Thomas, and Regan E. Ralph, 'Rape in War: The Case of Bosnia' in Ramet, Sabrina (ed.) *Gender Politics in the Western Balkans: Women and Society in Yugoslavia and the Yugoslav Successor States* (University Park: The Penn State University Press, 1999), pp. 213–214.
13. See Tim Judah, *Kosovo: War and Revenge*, 2nd edn (New Haven and London: Yale Nota Bene, Yale University Press, 2002); Independent International Commission on Kosovo, *The Kosovo Report: Conflict, International Response, Lessons Learned* (Oxford and New York: Oxford University Press, 2000).
14. See, for example, House of Commons Select Committee on Foreign Affairs, *Fourth Report: Kosovo* (London: HM Stationery Office, HC 28-I), 7 June 2000; *Kosovo Report*, p. 88.
15. The Independent International Commission on Kosovo, *Kosovo Report*, p. 88.
16. Gow, *Serbian Project*, p. 134.
17. *Ibid.*, p. 144.
18. UN Security Council Resolution S/Res/827, 25 May 2003. Although there are more aspects and approaches to dealing with the war crimes legacy, such as domestic trials or a truth and reconciliation commissions (to mention just two), the focus was mainly on the International Tribunal. See Rachel Kerr, James Gow and Zoran Pajic (eds), *Prosecuting War Crimes: Lessons and Legacies of 20 Years of the International Criminal Tribunal for the Former Yugoslavia* (New York: Routledge, 2013).
19. Yves Beigbeder, *Judging War Criminals: The Politics of International Justice* (New York: St Martin's Press, 1999).
20. Mirko Klarin, 'Nuremberg Now', *Borba*, 16 May 1991.
21. See Rachel Kerr, *The International Criminal Tribunal for the Former Yugoslavia: An Exercise in Law, Politics and Diplomacy* (Oxford and New York: Oxford University Press, 2004), pp. 32–40.
22. UN Security Council Resolution S/Res/764, 13 July 1992.
23. UN Security Council Resolution S/Res/771, 13 August 1992.
24. UN Security Council Resolution S/Res/780, 6 October 1992.
25. See Kerr, *The International Criminal Tribunal for the Former Yugoslavia*, p. 34.
26. UN Security Council Resolution S/Res/827, 25 May 2003.
27. See Kerr, *The International Criminal Tribunal for the Former Yugoslavia*.
28. See the *Prosecutor v. Tadić* Case No. IT-94-1-I.
29. Gow, *Serbian Project*, p. 5.
30. See, for example, Aleksandar Fatić, *Reconciliation via the War Crimes Tribunal* (Aldershot: Ashgate, 2000). This is a poor account of the ICTY that illustrates well the misunderstanding of the ICTY that existed, and probably continues to exist, in many academic circles in Serbia.
31. ICTY website at <http://www.un.org/icty/glance/index.htm> accessed on 31 August 2002.
32. Gary J. Bass, *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals* (Princeton and Oxford: Princeton University Press, 2000), Chapter 6.
33. Cited in Anonymous (1996), 'Human Rights in Peace Negotiations', *Human Rights Quarterly*, Vol. 18, p. 258.
34. A.J. Colson, 'The Logic of Peace and the Logic of Justice' *International Relations*, Vol. 15, No. 1, 2000, pp. 53–56.
35. *Ibid.*
36. *Ibid.*
37. Kerr, *The International Criminal Tribunal for the Former Yugoslavia*, p. 11.

38. For an excellent discussion of this issue, see Kerr, *The International Criminal Tribunal for the Former Yugoslavia*, especially Chapter 8.
39. Interview with General Blagoje Grahovac.
40. See James Gow and Ivan Zveržhanovski, 'The Milošević Trial: Purpose and Performance' *Nationalities Papers*, Vol. 32, No. 4, December 2004, pp. 897–920.
41. See *Danas*, 28 October 2003.
42. At the time of writing Vlastimir Đorđević, Goran Hadžić, Radovan Karadžić, Ratko Mladić, Zdravko Tolimir and Stojan Župljanin were still at large. Former Serbian MUP General Vlastimir Djordjević is believed to be in Russia, while Goran Hadžić evaded arrest after a tip off from the Serbian security structures (see *South East European Times*, 3 February 2005); Tolimir was believed to be negotiating with the Serbian government terms for his surrender (*Beta*, 21 August 2006).
43. *Address by Carla Del Ponte, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia to the United Nations Security Council*, CDP/P.I.S./917-e, 23 November 2004.
44. See, for example, Miroslav Hadžić, 'Civilno-vojne osobnosti SR Jugoslavije', 2001, published online at <http://www.ccmr-bg.org/analize/istrazivanja/istraz3print.htm>, accessed on 10 May 2002; see also Chapter 3.
45. Hence the closeness between the VJ and the last President of the FRY.
46. Zeljko Cvijanović, 'Belgrade's Battle for the Police', *IWPR Balkans Crisis Report* No. 272, 17 August 2001.
47. See Chapter 3.
48. *RFE/RL Newsline*, 31 October 2000.
49. As well as VJ officers tainted by war crimes allegations, the MUP has retained and promoted, after October 2000, a number of its own officers formerly responsible for operations in Kosovo, such as Sreten Lukic.
50. Edmunds, *Crisis or Turning Point*.
51. *Fighting to Control Yugoslavia's Military*, ICG Balkans Briefing (Belgrade/Brussels 12/07/2002).
52. *B92*, 1 April 2001.
53. *Vreme*, 5 April 2001.
54. *B92*, 31 March 2001.
55. *B92*, 1 April 2001.
56. *Vreme*, 28 June 2001.
57. *B92*, 28 June 2001.
58. Sell, *Slobodan Milošević*, pp. 355–356.
59. *B92*, 28 June 2001.
60. *B92*, 23 March 2001.
61. *B92*, 28 June 2001.
62. *Prosecutor v. Mrkšić et al.* IT-95-13/1.
63. *Vreme*, 15 November 2001.
64. *Ibid.*
65. The JSO Commander in October 2000, Milorad Luković Legija, reportedly met Djindjić during the day of 5 October 2000 and promised not to intervene to save Milošević. See Vasić, *Atentat na Zorana*; Marshall, *Shadowplay*, p. 217.
66. 'Zoran Šami: Nije bilo po zakonu', *Glas Javnosti*, online edition at <http://arhiva.glas-javnosti.co.yu/arhiva/2001/11/13/srpski/T01111207.shtml>, accessed on 20 October 2003.

67. See *Jedinica: neispričana priča o Crvenim Beretkama*, Dokumentarni Serijal, *Vreme* and B92 Producija, 2006.
68. *Danas*, 15–16 May 2004.
69. Vasić, *Atentat na Zorana*, pp. 75–91.
70. *Ibid.*, p. 91.
71. *Glas Javnosti*, 15 November 2001.
72. *Ibid.*, p. 90.
73. Zakon o saradnji SR Jugoslavije sa Medjunarodnim tribunalom za krivично gonjenje lica odgovornih za teska krsenja medjunarodnog humanitarnog prava pocinjena na teritoriji bivse Jugoslavije od 1991. godine.
74. *VOA Online*, 4 January 2001.
75. Although not all. Deputy Prime Minister Momčilo Perišić warned that the protest was direct at those attempting to push through reforms. *NIN*, 15 November 2001.
76. For a detailed account, see Vasić, *Atentat na Zorana*.
77. *BBC News Online*, 12 March 2003, at <http://news.bbc.co.uk/2/hi/europe/2843433.stm>, accessed on 6 August 2013.
78. *Danas*, 24–25 Januar 2004.
79. 'Jovica Stanišić danas u Hagu', *Danas*, online edition 11 June 2003.
80. 'Vlada Srbije raspustila Jedinicu za Specijalne Operacije', *Danas*, 26 March 2003.
81. *Glas Javnosti*, 25 April 2003; 24 June 2004.
82. *Dnevnik*, 4 May 2004.
83. *Ibid.*
84. See 'Operacija Sablja: Na Krvavom Tragu', *Vreme*, No. 639; 'Paravojne formacije in MUP Srbije: Srce tame' *Vreme*, No. 618, 7 November 2002; See also Vinko Pandurović, *Rat u BiH i paravojne formacije* (Belgrade: Atelje 'M', 2004).
85. *Danas*, 5–6 July 2003.
86. 'Ukidanje vojne komisije za saradnju sa Tribunalom: Topčiderski Hag', *Vreme* No. 641, 17 April 2003.
87. Matić, Vladimir, *Serbia after Djindjić*, 2003.
88. 'Anti-Hague Army Unit Abolished' *IWPR Balkan Crisis Report* No. 424, 17 April 2003 accessed at [http://www.iwpr.net/index.pl?archive/bcr3/bcr3\\_200304\\_424\\_1\\_eng.txt/](http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200304_424_1_eng.txt/).
89. *Ibid.*
90. Bojan Dimitrijević, 'Comment: All Change for Serbia-Montenegro Military', *IWPR Balkan Crisis Report*, No. 430, 16 May 2003.
91. See interview with Bojan Dimitrijević, *Kažiprst*, B92 Website, 15 November 2000, at [http://www.b92.net/info/emisije/kaziprst.php?yyyy=2004&mm=11&nav\\_id=155827&fs=1](http://www.b92.net/info/emisije/kaziprst.php?yyyy=2004&mm=11&nav_id=155827&fs=1), accessed on 18 November 2004.
92. *B92*, 15 November 2005.
93. *B92*, 1 March 2005; *B92*, 12 January 2006.
94. *B92*, 2 March 2005.
95. *B92*, 27 October 2006.
96. *TANJUG*, 26 August 2006; *B92*, 26 August 2005.
97. The other two members were Mile Mrksić and Miroslav Radić.
98. 'Uhapšen Sljivančanin', *Danas*, 13 June 2003.
99. Edmunds, *Defence Reform*, p. 70.
100. See *Prosecutor v. Nebojša Pavković, Vladimir Lazarević, Vlastimir Djordjević and Sreten Lukić*.

101. 'Odlazak 12 Generala', *Politika*, 2 August 2003.
102. *Vreme*, 2 February 2005.
103. *Danas*, 16 February 2005.
104. *Vreme*, 23 October 2003.
105. *Vreme*, 1 November 2001; *The New York Times*, 24 July 2002.
106. 'Serbian Government Promotes Rights Abuser', *Human Rights News*, Human Rights Watch, New York 6 February 2001, at <http://www.hrw.org/english/docs/2001/02/03/serbia304.htm>, accessed on 24 June 2005.
107. *Osservatorio sui Balcani*, 23 December 2003.
108. 'Koštunica rides again' *Transitions Online*, 9 March 2004.
109. *Vreme*, 23 October 2003.
110. 'Hag optužio Sretena Lukića, Lazarevića, Pavkovića i Vlastimira Djordjevića' *B92 News Web edition* at <http://wwwb92.net/>, accessed on 20 October 2003.
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113. 'Ne politizovati protest policije' *Danas*, 25–26 October 2003.
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115. *Reuters*, 31 March 2004.
116. 'UN War Crimes Tribunal reports Serbia and Montenegro's lack of cooperation', *UN News Centre*, 4 May 2004, at <http://www0.un.org/apps/news/story.asp?NewsID=10614&Cr=icty&Cr1>, accessed on 4 May 2004.
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120. *B92*, 19 October 2004.
121. *Ibid.*
122. 'In Belgrade, unity falls into history', *International Herald Tribune*, 25 October 2004.
123. 'Wir brauchen Europas Verständnis', *Der Spiegel*, 3 May 2004.
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125. 'Svet više duguje nama nego mi njemu', *Politika*, 4 April 2001.
126. *RFE/RL*, 7 June 2004.
127. 'Saradbjia sa Hagom ili kraj SERBIA', *B92 Online*, 21 October 2004, at <http://www.b92.net/>, accessed on 23 October 2004.
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130. For an excellent account of the role of the Prosecutor see Kerr, *The International Criminal Tribunal for the Former Yugoslavia*. The role of the Chief Prosecutor is discussed in depth on pp. 177–207.
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139. *B92*, 11 October 2004.
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155. *Politika*, 22 February 2005.
156. *B92*, 3 March 2005.
157. See *Danas* 12 March, 15 March, 22 March and 30 March 2005; and *VOA Online* 16 March and 14 April 2005.
158. *B92*, 1 February 2005.
159. *NIN*, 7 April 2005.
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161. *B92*, 25 April 2005.
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164. *B92*, 10 June 2005.
165. *The Independent*, 11 June 2005.
166. *B92*, 4 October 2005.
167. *B92*, 16 December 2005.
168. *B92*, 18 February 2006.
169. *B92*, 10 February 2006.
170. *Glas Javnosti*, 4 May 2006.
171. *B92*, 16 November 2005.
172. *Vreme*, 23 February 2006.
173. *B92*, 30 March 2006.

174. *B92*, 16 November 2005.
175. *B92*, 17 November 2005.
176. *Danas*, 27 April 2006.
177. *NIN*, 23 February 2006.
178. *B92*, 4 May 2006.
179. *B92*, 4 April 2006.
180. *B92*, 22 February 2006.
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188. H.E. Mr. Boris Tadić, Address to the North Atlantic Council.
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197. *Time*, 6 October 2003, at <http://jcgi.pathfinder.com/time/magazine/article/0,9171,1005846,00.html> accessed on 23 November 2005.
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199. Watkins, 'Serb Special Forces prepare for overseas deployment'.
200. Interview with Major-General Moore-Bick, Special Advisor to the Minister of Defence of Serbia and Montenegro.
201. 'Paravojne formacije in MUP Srbije: Srce tame', *Vreme* No. 618, 7 November 2002.
202. Arkan was a pre-war criminal who made a fortune during the war. With his forces he formed an integral part of the tactics employed by Serbs in Croatia and Bosnia. After the war he was considered the most powerful organised crime boss in Serbia. He was assassinated in a Belgrade hotel on 15 January 2000. He was indicted by the ICTY on 30 September 1997 (Prosecutor v. Zeljko Raznatovic 'Arkan' Case No. IT-97-27-I).

203. See Vasić, *Atentat na Zorana*.

204. *The Independent*, 11 June 2005.

205. Vankovska and Wiberg, *Between Past and Future*, 2003, p. 257.

## 8 Passing the Mladić Test

1. NATO website, accessed at <http://www.nato.int/docu/update/2006/12-december/e1214a.htm>.
2. *Vreme*, 11 January 2007.
3. Jaap de Hoop Scheffer, Secretary-General of NATO, Opening Statement at the meeting of the Council, 14 December 2006, accessed at <http://www.nato.int/docu/speech/2006/s061214c.htm>.
4. Croatia was under particular pressure to arrest and transfer General Ante Gotovina. The EU refused to give Croatia accession status until Gotovina was at the ICTY. Ultimately Gotovina was arrested in the Canary Islands, with Croatia's assistance. See BBC News Online, 17 December 2004, at <http://news.bbc.co.uk/1/hi/world/europe/4104121.stm>, accessed on 16 October 2006; 10 March 2005, <http://news.bbc.co.uk/1/hi/1/europe/4337777.stm>, accessed on 16 October 2006.
5. Croatia became a PfP member despite its failure fully to cooperate.
6. *Serbia's U-Turn*, ICG Report No. 154, 26 March 2004.
7. In the first post-independence elections, held on 21 January 2007, the SRS emerged once again as the single largest parliamentary party, winning over 28% of the votes. See <http://www.b92.net/>, accessed on 22 January 2007.
8. *Beta*, 15 December 2006.
9. *B92*, 9 May 2006.
10. Gow, *Serbian Project*, p. 61; Judah, *The Serbs*, p. 170.
11. It might be noted that one part of this cooperation could be said to include the relationship established between Jovica Stanišić, head of Milošević's SDB, who, having helped him set war and ethnic cleansing in train, was also in a position to see the harm to Serbia and developed relationships with the US CIA and the British SIS, as emerged when he faced trial at the ICTY.
12. *BBC News*, 22 July 2008.
13. *Prosecutor v. Goran Jelisic*, Judgement, IT-95-10A, 5 July 2001; *Prosecutor v. Karadzic* Transcript (Rule 98 bis Decision), 28 June 2012.
14. This treatment is informed by discussions with an official and former official involved, Budapest and London, in December 2004 and April 2013.
15. EU officials in Belgrade made this clear during discussions in April 2007, where one of the authors was present.
16. The impact on Serbia was exactly opposite, however, when in November 2012 the ICTY Appeals Chamber acquitted both Gotovina and Markač, generating great confusion and resentment in Belgrade, which was amplified soon afterwards by the acquittal of Kosovo leader Ramush Haradinaj. See *Prosecutor v. Ante Gotovina, Ivan Cermak and Mladen Markac*, Judgement, Vols I and II, IT-06-90-T, 15 April 2011; *Prosecutor v. Ante Gotovina and Mladen Markac*, Appeals Chamber Judgement, IT-06-90-A, 16 November 2012; James Gow and Milena Michalski, 'Prosecuting with Pictures: Two

Decades of Experience and Evolution', and Iva Vukušić, 'Judging Their Hero: Perceptions of the International Criminal Tribunal for the former Yugoslavia in Croatia', in Rachel Kerr, James Gow and Zoran Pajić (eds) *Prosecuting War Crimes*.

17. Pictures of Peace and Justice Project, Focus Group 11, Senior Active and Retired Military Personnel, Belgrade, April 2011. The following paragraphs are based on the findings from this focus group.

18. Gow and Birch, *Security and Democracy*.

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