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Issue: 1

The Southeast European Countries and their Constitutional Provisions on Democratic Control of Armed Forces

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Albanian Constitution's Provisions on Democratic Control of Armed Forces

Constitution
(adopted on 21 October 1998)¹

PART FIFTEEN--ARMED FORCES

Article 166

1. The Albanian citizens have the duty to participate in the defense of the Republic of Albania, as provided by law.
2. The citizen, who for reasons of conscience refuses to serve with weapons in the armed forces, is obliged to perform an alternative service, as provided by law.

Article 167

1. Military servicemen on active duty cannot be chosen or nominated for other state duties nor participate in a party or political activity.
2. Members of the armed forces or persons who perform an alternative service enjoy all the constitutional rights and freedoms, apart from cases when the law provides otherwise.

Article 168

1. The Armed Forces of the Republic of Albania are composed of the army, navy, and air force.
2. The President of the Republic is the General Commander of the Armed Forces.
3. The National Security Council is an advisory organ of the President of the Republic.

Article 169

1. The President of the Republic in peacetime exercises the command of the Armed Forces through the Prime Minister and Minister of Defense.
2. The President of the Republic in wartime appoints and dismisses the Commander of the Armed Forces upon proposal of the Prime Minister.
3. The President of the Republic, upon proposal of the Prime Minister, appoints and dismisses the Chief of the General Staff, and upon the proposal of the Minister of Defense appoints and dismisses the commanders of the army, navy, and air force.
4. The powers of the President of the Republic, as General Commander of the Armed Forces, and those of the Commander of the Armed Forces, their subordination to constitutional organs, are defined by law.

¹ <http://www.ipls.org/services/kusht/contents.html>.

Bosnian Constitution's Provisions on Democratic Control of Armed Forces

Constitution
(adopted as Annex 4 of the Dayton Peace Accords,
on November 21, 1995)
adopted on 21 October 1998)²

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Article Paragraph 5 Standing Committee

(a) Each member of the Presidency shall, by virtue of the office, have civilian command authority over armed forces. Neither Entity shall threaten or use force against the other Entity, and under no circumstances shall any armed forces of either Entity enter into or stay within the territory of the other Entity without the consent of the government of the latter and of the Presidency of Bosnia and Herzegovina. All armed forces in Bosnia and Herzegovina shall operate consistently with the sovereignty and territorial integrity of Bosnia and Herzegovina.

(b) The members of the Presidency shall select a Standing Committee on Military Matters to coordinate the activities of armed forces in Bosnia and Herzegovina. The Members of the Presidency shall be members of the Standing Committee.

² http://www.uni-wuerzburg.de/law/bk__indx.html.

Bulgarian Constitution's Provisions on Democratic Control of Armed Forces

Constitution
(adopted in 1991)

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Article 9 [Armed Forces]

The armed forces shall guarantee the sovereignty, security, and independence of the country and shall defend its territorial integrity.

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Article 84 [Functions]

The National Assembly shall:

- 1) pass, amend, and rescind the laws;
- 2) pass the state budget bill and the budget report;
- 3) establish the taxes and their size;
- 4) schedule the elections for a President of the Republic;
- 5) resolve on the holding of a national referendum;
- 6) elect and dismiss the Prime Minister and, on his motion, the members of the Council of Ministers; effect changes in the government on a motion from the Prime Minister;
- 7) create, transform and close down ministries on a motion from the Prime Minister;
- 8) elect and dismiss the Governor of the Bulgarian National Bank and the heads of other institutions established by law;
- 9) approve state-loan agreements;
- 10) resolve on the declaration of war and conclusion of peace;
- 11) approve any deployment and use of Bulgarian armed forces outside the country's borders, and the deployment of foreign troops on the territory of the country or their crossing of that territory;

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Article 59 [Military Service]

(1) To defend the country shall be a duty and a matter of honor of every Bulgarian citizen. High treason and betrayal of the country shall be treated as crimes of utmost gravity and shall be punished with all the severity of the law.

(2) The carrying out of military obligations, and the conditions and procedure for exemption therefrom or for replacing them with alternative service, shall be established by law.

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Article 100 [Commander-in-Chief, War]

(1) The President is the Supreme Commander-in-Chief of the Armed Forces of the Republic of Bulgaria.

(2) The President shall appoint and dismiss the higher command of the Armed Forces and shall bestow all higher military ranks on a motion from the Council of Ministers.

(3) The President shall preside over the Consultative National Security Council, the status of which is established by law.

(4) The President shall proclaim general or partial mobilization on a motion from the Council of Ministers in accordance with the law.

(5) The President shall proclaim a state of war in the case of an armed attack against Bulgaria or whenever urgent actions are required by virtue of an international commitment, or shall proclaim martial law or any other state of emergency whenever the National Assembly is not in session and cannot be convened. The National Assembly shall then be convened forthwith to endorse the decision.

Croatian Constitution's Provisions on Democratic Control of Armed Forces

Constitution
(adopted in 1990)

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Article 7 [Armed Forces]

- (1) The armed forces of the Republic of Croatia protect its sovereignty and independence and defend its territorial integrity.
- (2) The defense system of the Republic of Croatia is regulated by law.

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Article 47 [Military Service]

- (1) Military service and the defense of the Republic are the duty of all citizens able to perform it.
- (2) Conscientious objection is allowed to all those who for religious or moral beliefs are not willing to participate in the performance of military duties in the armed forces. Such persons are obliged to perform other duties specified by law.

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Article 59 [Unions]

- (1) In order to protect their economic and social interests, all employees and employers have the right to form trade unions and freely join and leave them.
- (2) Trade unions may form their federations and associate in international trade union organizations.
- (3) Formation of trade unions in the armed forces and the police may be restricted by law.

Article 60 [Strike]

- (1) The right to strike is guaranteed.
- (2) The right to strike may be restricted in the armed forces, the police, government administration, and the public services specified by law.

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Article 100 [Commander-In-Chief, Proclamation of War and Peace]

- (1) The President of the Republic is commander-in-chief of the armed forces of the Republic of Croatia.

(2) The President of the Republic appoints members of the National Defense Council of the Republic of Croatia and preside over it, and appoints and relieves of duty military commanders, in conformity with law.

(3) On the basis of a decision by the Croatian Parliament, the President of the Republic may proclaim war and conclude peace.

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Article 133 [Ratification, Qualified Ratification]

(1) International agreements, which entail the passage or amendment of laws, international agreements of a military and political nature, and international agreements which financially commit the Republic are subject to ratification by the Croatian Parliament.

(2) International Agreements which grant international organizations or alliances powers derived from the Constitution of the Republic of Croatia are subject to ratification by the Croatian Parliament by a two-thirds majority vote of all representatives.

Macedonian Constitution's Provisions on Democratic Control of Armed Forces

Constitution
(adopted in 1992)

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Article 37

(1) In order to exercise their economic and social rights, citizens have the right to establish trade unions. Trade unions can constitute confederations and become members of international trade union organizations.

(2) The law may restrict the conditions for the exercise of the right to trade union organization in the armed forces, the police and administrative bodies.

Article 38

(1) The right to strike is guaranteed.

(2) The law may restrict the conditions for the exercise of the right to strike in the armed forces, the police and administrative bodies. The bodies of state administration in the fields of defense and the police are to be headed by civilians who have been civilians for at least three years before their election to these offices.

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Article 79

(1) The President of the Republic of Macedonia represents the Republic.

(2) The President of the Republic is Commander-in-Chief of the Armed Forces of Macedonia.

(3) The President of the Republic exercises his/her rights and duties on the basis and within the framework of the Constitution and laws.

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Article 86

(1) The President of the republic is President of the Security Council of the Republic of Macedonia.

(2) The Security Council of the Republic is composed of the President of the Republic, the President of the Assembly, the Prime Minister, the Ministers heading the bodies of state administration in the fields of security, defense and foreign affairs and three members appointed by the President of the Republic.

(3) The Council considers issues relating to the security and defense of the Republic and makes policy proposals to the Assembly and the Government.

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Article 122

(1) The Armed Forces of the Republic of Macedonia protect the territorial integrity and independence of the Republic.

(2) The defense of the Republic is regulated by a law adopted by a two-thirds majority vote to the total number of Representatives.

Romanian Constitution's Provisions on Democratic Control of Armed Forces

Constitution
(adopted in 1991)

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Article 37 [Association, Political Parties, Unions]

(1) Citizens may freely associate into political parties, trade unions, and other forms of association.

(2) Any political parties or organizations, which, by their aims or activity, militate against political pluralism, the principles of a State governed by the rule of law, or against the sovereignty, integrity, or independence of Romania shall be unconstitutional.

(3) Judges of the Constitutional Court, the Advocates of the People, magistrates, active members of the Armed Forces, policemen, and other categories of civil servants, established by an organic law, may not join political parties.

(4) Secret associations are prohibited.

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Article 39 [No Forced Labor]

(1) Forced labor is prohibited.

(2) Forced labor does not include:

a) any service of a military character or activities performed by those who, according to the law, are exempted from compulsory military service for conscientious objection;

b) the work of a sentenced person, carried out under normal conditions, during detention or conditional release; and

c) any services required to deal with a calamity or any other danger, as well as those which are part of normal civil obligations as established by law.

Article 40 [Strike]

(1) The employees have the right to strike in the defense of their professional, economic, and social interests.

(2) The law shall regulate the conditions and limits governing the exercise of this right as well as the guarantees necessary to ensure the essential services for the society.

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Article 50 [Public Office]

(1) Faithfulness towards the country is sacred.

(2) Citizens holding public offices, as well as the military, are liable for the loyal fulfillment of the obligations they are bound to, and shall, for this purpose, take the oath as requested by law.

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Article 52 [Defense, Military Service]

- (1) Citizens have the right and duty to defend Romania.
- (2) The military service is compulsory for all Romanian male citizens aged twenty, except for the cases provided by law.
- (3) To be trained in the active military service, citizens may be conscripted up to the age of thirty-five.

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Article 92 [Commander-in-Chief]

- (1) The President of Romania shall be Commander-in-Chief of the Armed Forces and preside over the Supreme Council of National Defense.
- (2) He may declare, with prior approval of Parliament, partial or general mobilization of the Armed Forces. Only in exceptional cases shall the decision of the President be subsequently submitted for approval to Parliament, within five days from adoption thereof.
- (3) In the event of an armed aggression against the country, the President of Romania shall take measures to repel the aggression, and he shall promptly bring them to the cognizance of Parliament by a message. If Parliament does not sit in a session, it shall be convened de jure, within 24 hours from the outbreak of the aggression.

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Article 117 [Armed Forces, Police]

- (1) The Armed Forces shall be exclusively subordinated to the will of the people, to guarantee the sovereignty, independence, and unity of the State, the Country's territorial integrity, and Constitutional democracy.
- (2) The structure of the national defense system, the organization of the Army, the preparation of the population, economy and territory for the defense, as well as the status of the military shall be regulated by an organic law.
- (3) Provisions under Paragraphs (1) and (2) shall apply accordingly to the police and security services of the State, as well as to other components of the Armed Forces.
- (4) The organization of military or para-military activities outside a State authority is prohibited.
- (5) No foreign troops may enter or cross the territory of Romania but on terms established by law.

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Article 118 [Supreme Council on National Defense]

The Supreme Council of National Defense shall organize and co-ordinate in unitary command the activities concerning the country's defense and national security.