

## PARLIAMENTARY OVERSIGHT OF THE INTELLIGENCE-SECURITY AGENCY OF BOSNIA AND HERZEGOVINA

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**Abstract:** The aim of this paper is to examine and present the importance and mechanisms of parliamentary oversight of the security sector in general and intelligence services as its specific and powerful components, with a special focus on the Intelligence-Security Agency of Bosnia and Herzegovina. This is a qualitative study, with data collected and analyzed from secondary sources using the qualitative content analysis method. Parliamentary oversight of the security sector is a process conducted by legislative authorities, i.e., elected representatives of citizens, to ensure transparency, accountability, and legality in the work of security institutions. Parliamentary oversight of the security sector establishes a link between the security interests of citizens and the executive authorities. Regarding intelligence services, parliamentary oversight has a threefold function: (1) drafting and monitoring the implementation of relevant laws; (2) financial oversight; and (3) oversight of policies and intelligence activities. The Intelligence-Security Agency of Bosnia and Herzegovina commenced operations on June 1, 2004, following the adoption and entry into force of the law regulating its establishment and functioning. The Joint Committee for the Oversight of the Work of the Intelligence-Security Agency of Bosnia and Herzegovina, consisting of 12 members from both houses of the Parliamentary Assembly of Bosnia and Herzegovina, is responsible for parliamentary oversight of this civilian intelligence service. Effective parliamentary oversight of this intelligence service is fundamental to strengthening public trust and building a stable democratic oversight culture, which is essential for addressing contemporary security challenges.

**Keywords:** Bosnia and Herzegovina, parliament, oversight, Intelligence and Security Agency of Bosnia and Herzegovina.

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## 1. INTRODUCTION

Parliamentary oversight of the security sector is a key mechanism of democratic governance in many countries worldwide. Designed to ensure transparency, accountability, and legality in the work of security institutions, this form of oversight plays a vital role in maintaining stability and public trust. Through the analysis of reports, budget approvals, hearings, and parliamentary investigations, parliamentarians actively monitor the activities of police agencies, intelligence services, and armed forces.

Parliamentary oversight of the security sector is not only a fundamental feature of democratic governance but also a critical element in protecting human rights and civil liberties. The transparency ensured by this oversight is crucial in building trust between citizens and security agencies, facilitating a more effective response to contemporary security challenges. Furthermore, oversight promotes accountability in the work of security agencies, preventing abuses of power and unethical conduct.

This is particularly evident in intelligence services, which represent a highly specific component of a state's security sector. Without adequate oversight and control, and considering their general *modus operandi*, the relative autonomy of these agencies (Masleša, 2001) can easily transform them into detached centers of power. Transitional states, such as Bosnia and Herzegovina (BiH), are especially vulnerable, as incomplete democratic institutions often stem from a lack or insufficient persistence of democratic culture. An integral part of this culture is oversight.

In the context of BiH, parliamentary oversight of the Intelligence-Security Agency of Bosnia and Herzegovina (ISA BiH) is conducted through the Joint Committee for the Oversight of the Work of ISA BiH, which role is crucial in ensuring the legality of the agency's operations. Through consistent legislative and oversight functions, the Parliamentary Assembly of BiH has the foundation to ensure that ISA BiH operates in accordance with constitutional principles, including respect for human rights and fundamental freedoms of all citizens.

The goal of this paper is to explore and present the mechanisms and effects of parliamentary oversight of the security sector and intelligence

services, with a particular focus on ISA BiH, primarily through qualitative content analysis of documents from open sources.

## **2. PARLIAMENTARY OVERSIGHT OF THE SECURITY SECTOR**

Parliamentary oversight<sup>2</sup> of the security sector is the process by which the legislative authority monitors and controls the activities of institutions responsible for maintaining individual, societal, and state security. This primarily pertains to police agencies, the intelligence and security sector, and the armed forces of a country. This form of oversight encompasses various activities that parliamentarians conduct to ensure transparency, accountability, and legality in the work of security institutions. As stated in the OSCE (1994) Code of Conduct on Politico-Military Aspects of Security, “democratic political control (...) is considered an inseparable component of stability and security” (p. 8). Within parliamentary oversight, parliamentarians, often through specialized security committees, analyze reports on operations, approve and monitor budget expenditures, pose inquiries, conduct hearings, and carry out parliamentary investigations to ensure that security agencies operate lawfully and respect human rights of citizens.

From the above paragraph, it can be concluded that parliamentary oversight of the security sector, in the broadest sense, represents one of the characteristics of democratic societies, where individuals, through their elected representatives, participate in governance. Therefore, parliamentary oversight should also be viewed as a broader form of civic oversight of the executive branch. Additionally, parliamentarians and parliamentary oversight serve as a bridge between citizens’ security interests and the executive authorities, which may not always be fully aware of such interests [Inter-Parliamentary Union (IPU) and the Centre for Democratic Control of Armed Forces (DCAF), 2003].

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2 Parliamentary oversight can be defined as “the review, monitoring, and supervision of the work of government and public organizations, as well as the implementation of policies and laws” (Yamamoto, 2007, as cited in OSCE Office for Democratic Institutions and Human Rights, 2017: 5).

Parliamentary oversight of the security sector has several key functions that are vital for democracy and the rule of law. First, it ensures transparency in the operations of security agencies. Through regular reporting and public debates, parliament allows citizens to be informed about the activities of the agencies responsible for their security. Transparency is crucial for building trust between citizens and security agencies, which is especially important in democratic societies. Trust is perhaps the most important element in the context of democratic policing structures, where police work should be based on citizens' consent (OSCE, 2007). Moreover, trust is the foundation of community policing and, consequently, citizens' participation in countering contemporary security threats.

Second, parliamentary oversight promotes accountability. Security agencies, due to the nature of their work, possess significant powers that can be susceptible to abuse. Parliamentary oversight helps prevent such abuses through mechanisms of control and accountability. Parliamentarians have the authority to hold security agency leaders accountable if unlawful or unethical behavior is discovered.

The third function directly builds on the previous one and pertains to the protection of fundamental human rights and freedoms. Security agencies in democratic states, given their complex operational tasks in responding to modern threats, often operate on the fine line between security protection and civil rights. Parliamentary oversight ensures that the measures taken by these agencies are implemented in accordance with the law and with respect for fundamental human rights. This means that such oversight, provided it truly exists (i.e., a culture of oversight is present) and is effective, is “the cornerstone of democracy in preventing autocratic rule” (IPU & DCAF, 2003: 25).

In addition to these functions, parliamentary oversight contributes to the efficiency of security agencies. Through constructive criticism and recommendations, parliament can help security agencies enhance their operational capacities and better respond to security challenges. In the context of contemporary threats, such as terrorism or organized crime, effective parliamentary oversight can significantly improve a state's ability to protect its citizens. However, to be effective, it requires

commitment, expertise, and resources. When discussing expertise, this can be particularly problematic for parliamentarians who may come from diverse social backgrounds and have varying professional experiences.

Additionally, the duration of parliamentary mandates can be a significant limiting factor in the development of the necessary knowledge and skills among parliamentarians. All of this is cited as one of the challenges of parliamentary oversight of the security sector (IPU & DCAF, 2003). In addition to adequate legal frameworks, one of the fundamental prerequisites for its efficiency and smooth operation is the existence of institutional frameworks, primarily an adequate number of well-educated professional staff as the bearers of “institutional memory.”

## **2.1. Parliamentary Oversight of Intelligence Services**

To highlight the importance of parliamentary oversight of intelligence services, which are highly specific entities within a country’s security sector, it is first necessary to emphasize the broader necessity for democratic society to exercise control over these institutions. Aidan Wills (2010), in his work „*Understanding Intelligence Oversight*“, identifies at least four reasons for this.

Firstly, elected leaders in democratic societies are accountable for the functioning of all state agencies and bodies funded by public resources, including intelligence services. Oversight of intelligence services is essential to ensure the responsible use of public funds for their staffing and activities. Secondly, intelligence services have special powers to collect information that are not available to other members of society. These powers can lead to serious violations of human rights. Therefore, democratic societies monitor intelligence services to ensure the protection of human rights for all individuals who come into contact with them. Thirdly, the intelligence-gathering function of these services can interfere with the activities of political parties, the media, and other key institutions. Thus, it is necessary for the state to oversee intelligence services to safeguard these essential components of democratic society. As a fourth reason, Wills points out that democratic societies must oversee intelligence services because the law permits them to operate covertly.

For instance, they may secretly intercept communications or conduct covert searches of individuals' homes, often without the individuals being aware they are under intelligence measures. Additionally, while intelligence agencies' secret activities may be legal, they are difficult for individuals and the general public to monitor and control. Moreover, since intelligence services are not subject to the same level of public oversight as other government agencies, there is significant potential for inefficiency or unlawful practices. Therefore, it is crucial to monitor secret operations to ensure that intelligence services function effectively and in accordance with the law.

The role of parliaments in overseeing intelligence services is threefold:

- 1) Legislative preparation and implementation – Parliaments draft and adopt laws that regulate the functioning of intelligence services, identifying and correcting deficiencies in existing legislation (post-legislative oversight).
- 2) Financial oversight – Parliaments oversee how intelligence services use public funds, approving future budgets and reviewing past expenditures.
- 3) Oversight of policies and activities – Parliaments monitor the management, policies, and activities of intelligence services to ensure they operate efficiently and lawfully (Ibid, 2010).

In practice, parliamentary oversight is organized through the establishment and functioning of security and defense committees or, as is increasingly common worldwide, special committees dedicated to overseeing intelligence services. This is also the case in Bosnia and Herzegovina, where the Joint Committee for Oversight of the Work of the Intelligence-Security Agency of BiH operates within the Parliamentary Assembly of BiH. Additionally, parliamentary practices in various countries include the establishment of external expert bodies to oversee intelligence services. An example of this is the Council for the Civilian Oversight of Security and Intelligence Agencies in the Republic of Croatia. Members of this Council are appointed by the Croatian Parliament, and their mandate includes monitoring the legality of security agencies'

activities in Croatia - among other things, overseeing the implementation of secret data collection measures (Security and Intelligence System Act of the Republic of Croatia, No. 105/2006).

### **3. PARLIAMENTARY OVERSIGHT OF THE INTELLIGENCE-SECURITY AGENCY OF BOSNIA AND HERZEGOVINA**

ISA BiH began its operations on June 1, 2004, following the adoption and entry into force of the Law on ISA BiH. Essentially, ISA BiH incorporated the entity intelligence services that were operating at the time - the Intelligence-Security Service of the Federation of BiH (commonly known as FOSS)<sup>3</sup> and the Intelligence and Security Service of the Republika Srpska.<sup>4</sup>

According to the consolidated Law on ISA BiH (2009), it is a civilian intelligence agency operating throughout the territory of BiH. Furthermore, the provisions of this law prohibit the establishment and operation of any other civilian intelligence structures. ISA BiH is responsible for “collecting, analyzing, and distributing intelligence data to protect security, including the sovereignty, territorial integrity, and constitutional order of Bosnia and Herzegovina” (Law on ISA BiH, 2009, Article 1, Paragraph 1).

Considering the aforementioned points regarding parliamentary oversight of intelligence services, particularly in relation to the first two roles of the parliament, the oversight function of the Parliamentary Assembly of BiH is enshrined in the Constitution of Bosnia and Herzegovina (1995). Article IV.4 of the Constitution states that this legislative body is responsible, among other duties, for enacting laws and approving budgets for BiH institutions.

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3 This service was established by merging the Agency for Investigation and Documentation of the Republic of Bosnia and Herzegovina (AID) and the National Security Service of the Croatian Republic of Herceg-Bosna (SNS). The Law on the Intelligence-Security Service of the Federation of BiH was adopted and came into force in 2002 (Kačar, 2019). However, employees of the previous agencies did not automatically transition to the newly established service. They had to reapply for their positions through a process that included, among other things, a security screening of potential employees (Hadžović & Dizdarević, 2011).

4 The Intelligence-Security Service of the Republic of Srpska was established in 1998.

In the context of policy and activity oversight, it is relevant to highlight the Law on Parliamentary Oversight of 2018. This law prescribes detailed procedures and powers that the Parliamentary Assembly of BiH has over various institutions, public administration bodies, and actors managing public funds or donations. Its objective is to ensure transparency, legality, and accountability in institutional work while preventing the abuse of public authority and resources. Parliamentary oversight, as defined by the law, includes various activities such as witness hearings, requests for reports from relevant officials and institutions, and more.

The bodies conducting oversight<sup>5</sup> have the authority to access all relevant documents and information necessary for performing their functions. They can also engage experts and auditors to support their investigations. It is important to emphasize that parliamentary oversight in BiH is based on the principles of constitutionality, legality, democracy, and respect for human rights. Through various methods, such as public debates or parliamentary inquiries, oversight bodies actively work to improve public finance management and ensure that institutions operate in accordance with legal and ethical norms. Finally, based on collected information and evidence, these bodies prepare detailed reports and recommendations submitted to the Parliamentary Assembly of BiH. These reports may include proposals for the dismissal of responsible individuals if their accountability for institutional irregularities or abuses is established.

The parliamentary body responsible for overseeing ISA BiH is the Joint Committee for the Oversight of ISA BiH. This committee consists of 12 members, six from each house (the House of Representatives and the House of Peoples). The committee is chaired by a president elected from among its members, who belongs to a political party that is not part of the ruling coalition in the Parliamentary Assembly of BiH.

The committee includes representatives of all constituent peoples - the chairperson and their two deputies must not come from the same

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5 Article 6 of the aforementioned law states that parliamentary oversight is conducted through the houses of parliament, standing committees, and, if necessary, *ad hoc* committees with specific tasks in conducting oversight. Additionally, members of parliament and delegates exercise parliamentary oversight by submitting parliamentary or delegate questions (Law on Parliamentary Oversight, 2018).



constituent people. The committee holds meetings at least twice a year<sup>6</sup>, which are mostly closed to the public. Its competencies include:

- a) overseeing the legality of ISA BiH's operations;
- b) conducting discussions on the appointment of the general director, deputy general director, and chief inspector of ISA BiH and providing opinions on these appointments;
- c) reviewing the chairperson's reports on matters within their jurisdiction, including measures taken to address any issues identified during inspections or investigations of ISA BiH;
- d) reviewing and adopting reports from the general director on the work, activities, and expenditures of ISA BiH, with a particular focus on budget spending;
- e) reviewing and adopting reports from the chief inspector;
- f) requesting that ISA BiH employees, through the chairperson, provide expert advice when necessary for oversight functions;
- g) providing opinions on the detailed budget proposal for ISA BiH;
- h) conducting investigations into ISA BiH's operations (Law on ISA BiH, 2009).

Regarding the last item, if the committee has reasonable grounds to suspect unlawful conduct by ISA BiH, it can initiate an investigation, during which it can question employees of the institution and access relevant documentation. If unlawful conduct is established, the committee can call upon the chairperson or general director to take necessary measures and initiate an investigation into accountability. The chairperson or general director is obliged to report the results of the investigation to the committee. Committee members are required to maintain the confidentiality of information and data accessed in their capacity as members. This obligation remains in effect even after their membership in the committee ends. However, in cases of public interest protection, the committee may decide to release members from the obligation of

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6 During the 2018–2022 mandate period, the commission held only two sessions in 2020. More information is available at: <https://www.parlament.ba/committee/read/42?mandateId=10&-committeeMandate=296>.

confidentiality, provided there is consent from the authorized official responsible for classifying information and at least eight committee members (Law on ISA BiH, 2009). Additionally, it is important to emphasize that the committee is also responsible for overseeing the implementation of the Law on the Protection of Classified Information.

#### 4. CONCLUSION

Parliamentary oversight of the security sector in democratic societies, particularly over intelligence agencies, is essential for ensuring transparency, accountability, and the legality of these institutions' operations. Through the analysis of security agencies' work, budget adoption, hearings, and investigations, parliaments actively contribute to maintaining stability and public trust. In the case of Bosnia and Herzegovina, the Joint Committee for the Oversight of the Work of ISA BiH holds a key position in ensuring that the agency operates in accordance with constitutional principles and respects human rights.

A qualitative analysis of publicly available documents reveals that parliamentary oversight of intelligence agencies serves three main functions: the preparation and implementation of legislation, financial oversight, and monitoring policies and activities. These functions enable parliaments to ensure the responsible use of public funds, the protection of human rights, and the efficiency of intelligence agencies. In BiH, through the aforementioned committee, the Parliamentary Assembly ensures that ISA BiH operates in compliance with the law and the constitution, preventing potential abuses of power.

However, the existence of adequate legal and institutional frameworks alone is not sufficient. The lack of a shared goal and responsibility among oversight actors in holding the executive branch accountable presents a significant challenge. Additionally, the underutilization of existing capacities by elected representatives further undermines the effectiveness of oversight. These challenges require commitment and resources to ensure effective oversight.

Despite these challenges, parliamentary oversight remains an indispensable mechanism for upholding the rule of law and protecting

democratic values. In the context of BiH, effective parliamentary oversight of ISA BiH is fundamental to strengthening public trust and fostering a stable democratic oversight culture, which is crucial for addressing modern security challenges. Efficient oversight can significantly enhance the state's ability to protect its citizens, provided that it is conducted with dedication, expertise, and the full utilization of available capacities (inclusivity).

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