

## Intelligence Institutions, between Transparency and Secrecy

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**Abstract:** *In the context of public rhetoric in recent years that raises the possibility of exceeding the legal framework for intelligence institutions and the need to make their activities transparent, the author presents the legal framework for access to information of citizens and institutional transparency, indicating legal limitations of exercising the right of access to information, for reasons related to national security. The author develops the idea of the need to open intelligence institutions to the relationship with civil society, while maintaining the institutional discretion assumed and respected by the social partners, essential for increasing their credibility and gaining the support of citizens, showing that, for this purpose, they have conceptualized and implemented security culture development programs, in the context in which it has become essential to indicate the right decisions, in a world of latent and permanent vulnerabilities that manifests itself globally.*

*Circumscribed to this modern approach, intelligence institutions have initiated partnerships with civil society, advocating for a change in specific approaches from the need to know to the need to share.*

**Keywords:** *intelligence, information, access, transparency, security, citizen, society.*

### 1. The role and necessity of intelligence services

The realities of recent decades, especially in the context of the spread of the „tentacles” of globalization in more and more coordinates of the world, have demonstrated, if necessary, the urgent needs for security and safety at individual and collective level (beyond the strictly military dimension of concepts), indispensable to societal life, subsumed both to the imperative of respecting the fundamental rights and freedom of citizens and to ensuring the favorable framework for their manifestation according to their own aspirations. Today, intelligence institutions play a special role in achieving the internal security balance, which, by knowing in advance the risks, vulnerabilities and threats to security values, provides the necessary support to state decision makers for optimal management of security issues facing society. In this context, the intelligence institutions became the „partner of the decision-makers” of the state, the specific activities being carried out respecting the functional separation that would ensure their objectivity and neutrality.<sup>1</sup>

The role of intelligence institutions must be perceived both in terms of the democratic space where they operate, but also related to the mission of preserving constitutional order, protecting the supreme values of the state and ensuring the unrestricted exercise of fundamental rights and freedom of citizens, established in the Romanian Constitution. Last but not least, it is

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<sup>1</sup> Cătălin, Peptan, „Knowledge and security in modern society through intelligence,” in *Annals of the „Constantin Brancuși” of Târgu Jiu, Letter and Social Science*, 1 (2020), p. 83-88.

necessary to report to the purpose of functioning of these institutions related to the maintenance of the rule of law, as a „constitutional state” in which the exercise of power is carried out within the limits set by law. Intelligence institutions must act not only to defend constitutional principles and values, but also in full compliance with their provisions. They are intended to defend the rule of law, but in full compliance with its guiding principles, because even the existence of a threat to national security, regardless of the form of manifestation and the possible consequences, cannot constitute a sufficiently convincing argument to justify a possible evasion of the provisions of the law.

The main operational dimension of intelligence institutions is the intelligence activity, in which actions and operations are secretly carried out, using specific means and methods, in order to identify, prevent or counteract risks and threats to national security, reduce or eliminate the effects in case of their materialization, or protecting and promoting the national interests or strategic allies<sup>2</sup>. This activity was defined as „the art of knowing the opponent's intention”<sup>3</sup>, but undoubtedly has much more complex valences, because it requires specific knowledge and procedures for collecting, analyzing, evaluating and interpreting information, capable of deciphering the meaning of the opponent's actions and initiating, in context, effective measures subsumed to the above objectives.

The result of the activity of intelligence institutions is information, obtained through fluid and multiple channels of internal or external relationships and communication (it is known that, as a rule, institutions capture and acquire knowledge from the relationship with the society to which they belong), including beneficiaries information established on the basis of legal provisions. The information acquires special valences because it has a classified character, conferred both by the capture methods<sup>4</sup> and by the content<sup>5</sup>, which makes it addressable to a specific recipient, any other unauthorized use being outside the legal provisions and being susceptible to criminal liability.<sup>6</sup>

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<sup>2</sup> Flavius Cristian Marceau, Mihaela Andreea Ciorei, “The vision about international security at the beginning of the XXI century”, in *European Scientific Journal*, 9 (2013), no. 11, p. 301-311.

<sup>3</sup> Steele, Robert David, *On Intelligence. Spies and Secrecy in an Open World*, Fairfax, AFCEA International Press, 2000.

<sup>4</sup> Exploitation of secret sources - human and technical, respectively of the open ones - official and public in the environment of interest.

<sup>5</sup> Addresses and highlights the indicators of threat to national security values or opportunities to promote the security interests of Romania or its allies. (See Ionel, Nițu, *Intelligence Analysis*, Bucharest, RAO Publishing House, 2012, p. 36.)

<sup>6</sup> Law no. 51/1991, art. 12 states: „No person has the right to disclose secret activities of national security, taking advantage of the unrestricted access to information, the right to disseminate it and the freedom to express opinions.”

In the context of the secrecy of the activity of intelligence institutions, public rhetoric in recent years brings forward the possibility of exceeding the legal framework of these institutions under the pretext of national interest, and to eliminate any such suspicion, the transparency of intelligence activities is proposed for analysis, invoking the citizen's right to information, especially since the national intelligence institutions are financed from the state budget and the contributing citizen has the right to know how public money is spent. Such an approach starts from a so-called action paradox of intelligence institutions in democratic countries, as, on the one hand, they are designed and act to protect citizens and the state as a whole, a context in which they are endowed with special powers<sup>7</sup>, and on the other hand, they can abuse these powers by violating the legal framework of manifestation<sup>8</sup>, compromising both the institution and the democratic process.

## 2. Considerations on access to information for citizens

It is necessary to specify that the right to information is a fundamental right of citizens stipulated in art. 31 of the Romanian Constitution, being taken over by the Romanian constitutional legislator from the international legal instruments<sup>9</sup> that have regulated this issue for more than half a century. Access to information allows the person the possibility of acquiring knowledge, in the sense of „science, news, knowledge. (of things.) ”<sup>10</sup>, being the basis of its development through the exercise of the rights and freedoms it enjoys. The

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<sup>7</sup> According to the law, they can obtain information by following and intercepting communications or other specific ways that restrict the „exercise of rights or freedoms” (see art. 53 of the Romanian Constitution), or they can undertake undercover operations in order to counter certain threats to national security.

<sup>8</sup> The media often circulates in the public space problematic aspects of the activity of intelligence institutions, such as human rights violations, involvement in political activities, intimidation of opponents of government authorities, partisan use of information held, improper use of available funds.

<sup>9</sup> The European Convention for the Protection of Human Rights and Fundamental Freedoms provides in art. 10 the right to freedom of expression which „includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.” (Available at [https://www.echr.coe.int/Documents/Convention\\_ROM.pdf](https://www.echr.coe.int/Documents/Convention_ROM.pdf), accessed: 06.05.2021); The Universal Declaration of Human Rights provides in art. 19 the right to freedom of opinion and expression, which is incumbent on „the freedom to seek, receive and impart information and ideas by any means.” (Available at [https://www.ohchr.org/en/udhr/documents/udhr\\_translations/rum.pdf](https://www.ohchr.org/en/udhr/documents/udhr_translations/rum.pdf), accessed: 06.05.2021); The International Covenant on Civil and Political Rights provides in art. 19 the right to free expression, which "includes the freedom to seek, receive and impart information and ideas of any kind." Available at PACT 16/12/1966 - Legislative Portal (just.ro), accessed: 06.05.2021.

<sup>10</sup> <https://dexonline.ro/definitie/cunoastere/> cunoăștere (=knowledge) s. 1. understanding, perception, skill. (Process of ~.) 2. (inv.) Science, news, knowledge. (~ things.) 3. skill, mastery. (~ several trades.) 4. possession, mastery. (~ several languages.)

right to information is the defining element of the person's participation in the life of society, in democratic accountability, as information has an essential role in the progress of society, in promoting social values, thus it must flow in a free flow, in two directions, from society to citizens and vice versa.<sup>11</sup> It is a truism to say today that „*information means power*”, which is why it is necessary to „give it due respect”, which largely explains the person's interest in accessing information, not only to meet certain particular needs, but especially to decipher many of the unknowns about the evolution of today's society.<sup>12</sup>

In this context, public authorities, according to the powers conferred by the legislator<sup>13</sup>, „have the obligation to ensure the correct information of citizens on public affairs and matters of personal interest”, within the deadlines established by law, acting in good faith. At the same time, „the mass media, public and private, are obliged to ensure the correct information of the public opinion”, without altering the information in any form, an imperative condition subsumed to the right to information.

The Romanian Constitution legislated that the right of the person to have access to any information of public interest cannot be restricted (limited), the process of improving the relevant legislation being in full evolution, under the pressure of civil society or international institutions. It should be mentioned that Law no. 544/2001 on access to public information<sup>14</sup>, together with its implementing rules, and Law no. 52/2003 (republished) on decision-making transparency in public administration<sup>15</sup> form the essential internal regulatory framework for institutional transparency and access to information. Other normative acts that regulate the right of access to information of citizens are: the Administrative Code<sup>16</sup>, the package of laws governing public procurement adopted in 2016, consisting of Law no. 98/2016 on public procurement (updated)<sup>17</sup>, Law no. 99/2016 on sectoral procurement and Law no. 100/2016 on works concessions and service concessions (updated)<sup>18</sup>, laws in the field of

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<sup>11</sup> Alina, V., Popescu, *The right to information between guarantees and limitations*, Summary of the doctoral thesis, Bucharest Academy of Economic Studies, Council for Doctoral Studies, Doctoral School of Law - p. 9, available at [http://www.doctorat.ase.ro/Media/Default/sustineri%20teze%20doctorat/PopescuV/3.%20Rezumat\\_romana.pdf](http://www.doctorat.ase.ro/Media/Default/sustineri%20teze%20doctorat/PopescuV/3.%20Rezumat_romana.pdf), accessed: 15.04.2021.

<sup>12</sup> Ștefan, Vladuțescu, *Information. From theory to science*, Bucharest, Didactic and Pedagogical Publishing House, 2002, p. 36.

<sup>13</sup> Romanian Constitution, art. 31, paragraphs 2 and 4.

<sup>14</sup> Published in the OFFICIAL GAZETTE no. 663 of October 23, 2001.

<sup>15</sup> Published in the OFFICIAL GAZETTE no. 749 of December 3, 2013.

<sup>16</sup> Promoted by EMERGENCY ORDINANCE no. 57 of July 3, 2019, published in the OFFICIAL GAZETTE no. 555 of July 5, 2019.

<sup>17</sup> Published in the OFFICIAL GAZETTE no. 390 of May 23, 2016.

<sup>18</sup> Published in the OFFICIAL GAZETTE no. 392 of May 23, 2016.

urban planning and spatial planning, the Labor Code and other normative acts<sup>19</sup> governing legal employment relationships, the list not being exhaustive.

### 3. Considerations on the transparency of public institutions

Closely related to the citizen's right to information, especially in societies with a rich democratic tradition, is the *transparency of public institutions*, both in terms of their actual activity and in terms of the decision-making process that characterizes them. In a broad sense, transparency aims, first and foremost, at ensuring the easy access of citizens to data, information and documents managed by state institutions, which allows them to actively participate in the decision-making process and thus ensure increased legitimacy, effectiveness and responsibility of state institutions towards the taxpayer citizen. Circumscribed to the analyzed problem, at least in the first years after the return to democracy, in Romania the opacity of public institutions and the limitation of citizens' access to information regarding the current activity and the decision-making process were mainly manifested, thus, the relationship between „citizen-public institution” was controversial and marked by excessive bureaucracy, which have fundamentally eroded trust in state institutions. Under the imperative of Romania's integration process in Euro-Atlantic structures, in order to guarantee the right to information of citizens and freedom of expression and too express the enshrinement of the notion of „transparency” in the activity of state institutions, Law no. 52/2003 (republished) regarding the decisional transparency in the public administration and Law no. 161/2003 on some measures to ensure transparency in the exercise of public dignity<sup>20</sup>, public office and in the business environment, the prevention and sanctioning of corruption were adopted.<sup>21</sup>

Specialized studies<sup>22</sup> show that Romanian institutions and authorities face great difficulties in applying the regulations limited to transparency, having a slight discomfort with the interaction with the citizen or civil society, which is why they often limit themselves to applying the legal provisions in force strictly and to the minimum parameters, although the technological, social and political developments imposed by the processes associated with globalization should be aware of the need for optimal communication between citizens and government decision-makers, characteristic of the concept of „open government”. Although the digitalization process has seen a significant

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<sup>19</sup> Note also the establishment of the right to information and consultation within the company through the EU Charter of Fundamental Rights.

<sup>20</sup> Published in the OFFICIAL GAZETTE no. 749 of December 3, 2013.

<sup>21</sup> Published in the OFFICIAL GAZETTE no. 279 of April 21, 2003.

<sup>22</sup> Study entitled "TRANSPARENCY OF PUBLIC INSTITUTIONS IN ROMANIA AND THE REPUBLIC OF MOLDOVA - A HARD IDEAL TO ACHIEVE", conducted in 2016, within the Project funded by EEA grants 2009-2014 - NGO Fund in Romania, by the Romanian Academic Society.

expansion in recent years at the level of public institutions, the accessibility of information posted in electronic format is still difficult and requires from those interested skills and knowledge in the field of information technology, thus generating serious access difficulties, an explainable issue if we refer to the Eurostat statistics for 2019 which show that 43% of Romanian citizens aged 16-74 had low digital skills, Romania being in first place in the European Union in this regard.<sup>23</sup> On the other hand, in terms of ex officio information on issues of public interest, the attitude of public institutions is not oriented towards commencement to the citizen, generating a serious deficit of knowledge of the issue by them. The same studies also highlight a significant gap between all normative acts that are adopted by public authorities and the number of those that are subject to public consultation based on Law no. 52/2003, the reasons invoked for these differences being dictated by the provisions of art. 6 of the normative act (*national defence, national security, strategic economic and financial interests, personal data, etc.*) and art. 7 para. 13 (*exceptional circumstances that require regulation in an emergency*), but in the specialized media it is considered that they are often unjustified. It should be noted that almost two decades after the adoption of this normative act, both citizens and civil society associations have not become fully familiar with the rights they can enjoy, not currently using them, which implicitly means *amputating citizens' rights to information*.

In order to eliminate the dysfunctions found, in 2018, the Romanian Government published the *Explanatory Guide for the elaboration and unitary implementation of the system procedure on ex officio communication of information of public interest in standardized and open format and ensuring decision-making transparency*<sup>24</sup>, without, however, significant progress being made neither in terms of the level of accountability and involvement of officials of the authorities and institutions, nor in terms of the degree of protection of the citizen's right of access to public information.

Another way in which the citizen's right to information, as a fundamental right, can be affected, is represented by the manipulation or censorship of information. An erroneous information, truncated and / or presented by the distortion or interested alteration of its content, partially or totally, is likely to manipulate society. The sender of such information is interested in the receiver being misinformed in order to act incorrectly or remain passive, although if he had been correctly informed he would have left this state to act otherwise. The Romanian Criminal Code punishes the

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<sup>23</sup> The strategy regarding the digitalization of education in Romania, available at <https://www.edu.ro/sites/default/files/SMART.Edu%20-%20document%20consultare.pdf>, accessed: 15.03.2021.

<sup>24</sup> Available at [https://sgg.gov.ro/new/wp-content/uploads/2019/04/GhidProceduraSistem\\_formatat\\_A4\\_12.10-1.pdf](https://sgg.gov.ro/new/wp-content/uploads/2019/04/GhidProceduraSistem_formatat_A4_12.10-1.pdf), accessed: 15.04.2021.

communication of false information<sup>25</sup>, but only in the situation where it endangers national security.

#### 4. Considerations on the limits of exercising the right of access to information

It is well known that there are legal limitations on the exercise of the right of access to information, for reasons related to national security, public order, non-property rights of the person (dignity, honor, private life of the person, right to self-image), as it is provided by art. 31 para. 3 of the Romanian Constitution, as they represent fundamental values of any society. It should also be noted that in situations where the information contained in a document affects certain values that benefit from special protection, public access to them may be refused, unless „*a higher public interest justifies disclosure.*”

In this context, shaping the demarcation line between the two areas - accessibility / inaccessibility of the citizen to information is a sensitive and complex approach, which must be analyzed with the utmost care and responsibility, as this delimitation must ensure the balance between guaranteeing the citizen's right to information and limiting that right.

The issue in question was regulated at European Union level by *Recommendation Rec (2002) 2 of the Committee of Ministers of the European Union to the Member States on access to public documents*, which provides for the possibility for Member States to limit the right of access to public documents, in accordance with the need to protect: „*national security, defence and external relations; public safety; prevention, investigation and prosecution of criminal activities; privacy and other legitimate private interests; commercial interests, as well as economic, private or public interests; fairness of the parties in a court of law; inspection, control and supervision missions of the administration; the confidentiality of deliberations within or between public authorities during the preparation of a file*”.<sup>26</sup>

Free access to public information has been a permanent concern of the civil society, of the opinion leaders or the experts in the field, both nationally and internationally. In this context, it is worth noting the drafting by a group of specialists in 1995 of the „*Johannesburg Principles*”<sup>27</sup>, which outlined the conceptual framework for establishing greater protection of access to information and freedom of expression for citizens, as opposed to limiting key

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<sup>25</sup> Art. 404, Penal Code provides „Communication or dissemination, by any means, of false news, data or information or falsified documents, knowing their false character, if this endangers national security, is punishable by imprisonment from one to 5 years.”

<sup>26</sup> Available at [https://www.standarde-justitie.ro/presasijustitia/Recomandarea%20Rec \(2002\) 2% 20a% 20Comitetului% 20Ministrilor% 20catre% 20statele% 20membre% 20privind% 20accesul% 20la% 20documentele% 20publice.pdf](https://www.standarde-justitie.ro/presasijustitia/Recomandarea%20Rec%20(2002)%20a%20Comitetului%20Ministrilor%20catre%20statele%20membre%20privind%20accesul%20la%20documentele%20publice.pdf), accessed: 10.04.2021.

<sup>27</sup> Available at the *Johannesburg Principles* ([resources-for-democracy.org](https://www.resources-for-democracy.org)), accessed: 10.04.2021.

factors available to the authorities in order to restrict the exercise of these rights by invoking circumstances subsequent to the issue of national security<sup>28</sup>.

The 12th principle limits the right of states to „*categorically refuse access to all information on national security*”, having the obligation to establish by law the particular categories of information, clearly limited, which may bear the imprint of secrecy in order to protect the legitimate interests of national security. Keep in mind that, in accordance with the 13th principle, normative acts concerning the right to obtain information should focus on the public interest in knowing information.

The balance between the right to information and the protection of certain information on national security has been the subject of several international regulations, one of the best known being the „*Global Principles on National Security and the Right to Information*”, developed in 2013, also known as *Tshwane principles*. Providing guidance on the development, review and implementation of various regulations concerning the authority of the State to withhold information for reasons of national security, they state that the legitimate interests of national security are best ensured when the public is informed with all the activities of the state, including also those carried out to defend national security.<sup>29</sup> Thus, once again, the need for transparency is emphasized as a condition sine qua non, the protection of national security not being a universal justification for the state authorities to allow the denial of the right to information.

The category of exceptions from free access to public information includes information classified as state secrets, a classification made for reasons related to the overall interest of society, taking into consideration that national security is limited to its interests and proper functioning. It is well known that the fundamental element of informative communication in the intelligence community is national security information, which provides decision makers with knowledge about potential threats, sources of risk or vectors that may affect national security interests.

The classified character of the national security information is regulated by the Romanian legislator by *Law no. 182/2002 on the protection of classified information*<sup>30</sup>, art. 15, amended and supplemented by Law no. 167/2015, which defines the information „*any documents, data, objects or activities, regardless of the medium, form, mode of expression or circulation*”, the classified information „*information, data, documents of interest for national security that must be protected due to the levels of importance and the consequences that would occur as a result of unauthorized*

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<sup>28</sup> Flavius Cristian Marceau, Mihaela Andreea Ciorei, “The vision about international security at the beginning of the XXI century”, in *European Scientific Journal*, 9 (2013), no. 11, p. 301-311.

<sup>29</sup> The Global Principles on National Security and the Right to Information (Tshwane Principles), available at <https://www.justiceinitiative.org/uploads/bd50b729-d427-4fbb-8da2-1943ef2a3423/global-principles-national-security-10232013.pdf>, accessed: 10.5.2021.

<sup>30</sup> Published in the OFFICIAL GAZETTE no. 248 of April 12, 2002.



*disclosure or dissemination*”, and state secret information „*information concerning national security, whose the disclosure may harm national security and the defence of the country*”. On the other hand, in H.G.(Government Decision) no. 353/2002 for the approval of the Norms on the protection of classified information of the North Atlantic Treaty Organization in Romania<sup>31</sup> can be found in point B.7. a brief and somewhat cryptic definition of information, as „*that notion which can be communicated in any form*”, while in point B.8. classified information is defined as „*information or material that requires protection against unauthorized disclosure, and is assigned a security classification for this purpose.*” Considering the general character of the last definition of the information, the use of the meanings offered by the explanatory dictionary of the Romanian language for the word „*notion*” offers three levels of analysis, relatively different but complementary, among them being no structural differences.<sup>32</sup>

Placing the three meanings of the „*notion*” in the immaterial space of knowledge, at first sight can create a relative contrast with the definition of information provided by Law no. 182/2002, which has a strong material / corporal character. In relation to the meaning of the term „*notion*”, the definition of the information contained in H.G (Government Decision). no. 353/2002 corresponds to the role and purpose of intelligence institutions, seen as providers of strategic knowledge for legal beneficiaries or for institutional partners in the architecture of the national security, national defense and public order system.

As previously mentioned, national security information is obtained through means specific to intelligence institutions, which makes it, implicitly, impossible to be achieved in other ways, thus giving it the character of uniqueness, which fully justifies the limitation of the right of access by unauthorized persons.

It should also be noted that, at present, access to classified information is subject to strict control over the persons authorized for this purpose, as they must hold a security certificate or access authorization and follow an instruction on the regulations on classified information, then signing a confidentiality agreement.

## **5. The new paradigm of intelligence institutions. Start to civil society**

Without neglecting their fundamental mission of „collecting secrets” and conferring action values in the interest of society, modern intelligence institutions have realized the need to „dose and calibrate” secrets, especially in the context of information explosion enhanced by the phenomenon of

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<sup>31</sup> Available at [www.orniss.ro/ro/legislatie/pdf/HG%20353.pdf](http://www.orniss.ro/ro/legislatie/pdf/HG%20353.pdf), accessed: 07.05.2021.

<sup>32</sup> *notion, notions, s. f. 1. Fundamental logical form of human thought that reflects the general, essential and necessary characters of a class of objects; concept. 2. General knowledge about the value, meaning, significance of a thing; idea, conception of something. 3. (Pl.) Knowledge, general basic principles in a particular field. [Pr.: -ți-n-] - From fr. *notion*, lat. *notio*, -onis.*” (<https://dexonline.ro/source/dex09>, accessed: 06.05.2021.)

globalization, respecting societal values and advocating for increased credibility and acquiring citizen support.<sup>33</sup> In fact, intelligence institutions are closely connected to society, if we refer only to the fact that most of the information is collected through secret human sources that operate in human communities, and on the other hand intelligence products are distributed to legal decision makers to adopt strategic decisions in the interest of society. The old practices that cultivated excessive secrecy and enveloped the intelligence activities in a halo of mysticism were likely to generate the ignorance of civil society, with negative consequences on the performance and credibility of institutions. Transparency in a reasonable way, with the limitations imposed by the specificities of intelligence institutions, may be able to contribute to their credibility and legitimacy, familiarizing citizens with the functioning, role and need of intelligence institutions in a democratic society<sup>34</sup>.

Included in this desideratum, the intelligence institutions conceptualized and implemented programs for the development of the security culture and initiated partnerships with the civil society, militating for the translation of specific approaches from „the need to know” to „the need to share”, even if the resistance to change is deeply rooted, given the secrecy of the activities carried out. This new approach was also possible due to the evolutions of new technologies that allowed the much easier access of the citizen to information, especially in the last year when the whole society was dominated by a sudden migration to online communication and work. The current geopolitical situation, characterized by the increase of asymmetric threats, has highlighted that the notion of security culture is no longer an optional issue, but is essential to guide the right decisions, in a world of latent and permanent vulnerabilities, and without such a component any public career remains unlikely to succeed, for the simple reason that decision-makers are in strong need of knowledge, information and skills to operate with modern notions and theories in the field of security.

An essential role in the „spread” of the security culture belongs to the relationship of intelligence institutions with academic institutions, many universities assuming all the three dimensions of responsibility with which they are invested in advanced societies - education, research and community involvement, becoming a real generator of security in which students are educated at the highest level, through programs belonging to the core of disciplines of social sciences oriented towards security strategies, even if, not infrequently in recent years there has been a biased discourse on attendance by

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<sup>33</sup> Remus, Ștefureac, „Intelligence Services and the Democratic Ethos in the 21st Century,” in George, Cristian, Maior, (coordinator), *A War of the Mind. Intelligence, information services and strategic knowledge*, Bucharest, RAO Publishing House, 2010, p. 337-338.

<sup>34</sup> Flavius Cristian Mărcău. "Dynamics of Deconsolidating Democracies of Poland, Hungary and Romania" in *Astra Salvensis*, VII (2019), no. 14, p. 293-305.

elites from various fields of postgraduate studies in the field of security and intelligence studies. Such an approach is not linked to the experience of North American or European democratic countries, in which state decision-makers use such specializations to gain knowledge in the field of global security strategies, allowing them to participate effectively in state decisions.

On the other hand, a major challenge for intelligence institutions is to raise public awareness of „ensuring their own security” through active conduct that recalibrates the elements of the security „consumer” / „generator” equation so that they understand that the institutions „are working for them, thus they should support them”.<sup>35</sup>

Often, the position of civil society and intelligence institutions in terms of the role, necessity, mode of action, legality or effectiveness of the latter seems to be antagonistic, therefore, there are many situations in which public rhetoric against institutions is virulent, likely to discredit them and affect their action capabilities.<sup>36</sup> In the context of the active behavior of civil society limited to the concerns of being part of state decisions, motivated by the need to eliminate the slippage of state authorities (given that democracy is still in the process of consolidation), intelligence institutions have shown willingness to dialogue and cooperation, including in the process of conceptualization, elaboration and implementation of the national security policy. Increasing the role of civil society, doubled by streamlining the dialogue with intelligence institutions, can contribute both to the coagulation of a competitive society and to the strengthening of the security culture.

Last but not least, the public communication made by the specialized parliamentary committees, charged with overseeing the work of intelligence institutions, is likely to elucidate many of the unknowns in this field, being of real importance from the perspective of defending citizens' rights and fundamental freedoms or for increasing their safety. The public reports of the mentioned commissions may provide clarification on how to use the allocated funds, compliance with the legality of actions taken by means and methods specific to intelligence institutions, or on how to carry out the task, even if there are conceptual differences between commissions and intelligence institutions, the former being characterized by democratic culture and the latter being oriented towards the cultivation of secrecy. In these circumstances, the role of these commissions is particularly delicate and very complex, as they must ensure a reasonable degree of transparency of institutions that traditionally act in secret and generate secret products, in the context in which only part of the commission's activities are brought to the public's attention.<sup>37</sup>

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<sup>35</sup> Sergiu Medar, *Romanian Intelligence Services in the 21st Century*, p. 319.

<sup>36</sup> Cătălin, Peptan, „The role of civil society in achieving the security equation,” in *Vitralii - Lumini și Umbre*, XI (2020), no. 42, p. 93 -98.

<sup>37</sup> Valentin, Filip, *Concordia discors: Dilemmas of the legislative-intelligence relationship in the democratic society*, pp. 355-366.

Remaining on the issue of supervision and control of intelligence institutions, it is necessary to clarify the need for more active involvement of civil society, neutral „supervisors”, as a real support for parliamentary committees appointed for this purpose, even if some intelligence experts argue the existence of a major deficit of „knowledge of journalists and researchers on this topic”<sup>38</sup>, which justifies, if necessary, the need to develop programs in line with the development of security culture by academic institutions.

## 6. Instead of conclusions

Beyond the public rhetoric that claims the need to make transparent the activities of intelligence institutions and their efforts in recent years to open up to civil society, it is necessary to recall a statement with axiom value: intelligence culture has always been characterized by a high level of confidentiality, cultivated secrecy and was oriented towards ensuring security, a concept that must, however, be seen as an insurer of security and stability needs, as well as of the citizen's aspirations for a free and unrestricted evolution.

Modern intelligence institutions have understood the need to be open to relations with civil society, while maintaining the institutional discretion self-assumed and respected by the social partners, in a context in which intelligence has become an exceptional power resource for any state entity.

Included in its fundamental role of guarantor of the fundamental rights and freedoms of the citizen, the state imposes its authority over the activity of intelligence institutions through the control exercised by its powers.<sup>39</sup>

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<sup>38</sup> Sidonia, Bogdan, *An expert in the secret services (...)*, available at <https://www.vice.com/ro/article/8xp87b/cum-ar-putea-fi-controlat-sri-ul>, accessed: 11.05.2021.

<sup>39</sup> Revised and added version of the article with the same title, written in Romanian, which was sent on 10.05.2021, and accepted for publication by Revista Vitralii - Lumini și Umbre, Bucharest (No. 46/2021).