

## PARTICULARITIES OF CONTROL IN THE ROMANIAN ARMY

### **Cristian-Octavian STANCIU**

Colonel, Associate Professor, Ph.D., "Carol I" National Defence University  
*Cristianstanciu73@yahoo.com*

### **Răzvan-Ștefan BICHIR**

Colonel, Ph.D. Student, "Carol I" National Defence University  
*brsro@yahoo.com*

**Abstract:** *The control and inspection corps was established on 20.02.2007 by merging the General Inspectorate of the Ministry of National Defense with the Control Corps, being the successor of the institution "Inspector General in the Romanian Army" established on April 1, 1910, by High Royal Decree no. 1217, signed by King Carol I. According to this document, the first inspector general of the army was appointed FERDINAND I, the heir to the throne of Romania, division general, commander of the Second Army Corps and inspector of the cavalry. Fields of activity, according to the provisions of art. 16 of Law no. 346 of July 21, 2006 with the subsequent amendments and completions regarding the organization and functioning of the Ministry of National Defense, are the following: 1) The control and inspection body elaborates the general regulatory framework of inspection and control activities in the Ministry of National Defense; 2) The control and inspection body investigates / verifies, on order, issues necessary to inform the ministry's management to substantiate decisions; 3) The control and inspection body elaborates policies and regulations specific to the Ministry of National Defense in the field of environmental protection and that of occupational safety and health, coordinates, monitors and controls their integration/application in the army.*

**Keywords:** *military system; control; inspection; Romanian army.*

### **Introduction**

Romania is a national, sovereign and independent state, unitary and indivisible, a state of legal, democratic and social; the form of government of the state is the republic. The state has that fundamentally the unity of the Romanian people. Citizens are equal before the law and with public authorities, without privileges and without discrimination, being public, civil or military functions and dignities equally accessible. Citizens have the right to choose and to be elected in the institutions of representative leadership of the state, as well as the obligation and the right to defend Romania.

The army is led and controlled, by democratic means, by the civil political structures policy of the rule of law. Parliament is the supreme representative body of the people Romanian and the only legislative authority in the country.

The Romanian Constitution establishes that "the army is subordinated exclusively to the will to guarantee the sovereignty, independence and unity of the state, territorial integrity of the state and constitutional democracy (Romanian Constitution 2003). At the same time, the Supreme Council of Defense of the Country is entitled to organize and coordinate in a united way "the activities that concern national defense and national security" (Romanian Constitution 2003).

In Romania's National Security Strategy, the purpose of state action in the sphere national development lies in "building a stable, prosperous and democratic Romania, able to participate effectively in the dynamics of international life" (Romania's National Security Strategy 20 decembrie 2001). Fundamental interests concerned are: maintaining the integrity, unity, sovereignty and independence of the Romanian state; guarantee fundamental rights and freedoms and ensuring the well-being and security of citizens Romania; asserting one's

national identity and promoting it as part of the community of democratic values; environment protection.

"Romania will act, through its defense policy, as part of national security, for: integration into Euro-Atlantic and European military structures; body reform military in order to develop a credible, modern and effective defense capability; strengthening civil and democratic control over the armed forces, in accordance with the principles and the values of democracy; consolidating Romania 's status as a security generator, through maintaining and improving the contribution to regional stability. [...] Use of military means is a last resort mean for defending the fundamental interests of the country”.

Romania's Military Strategy states that the general objective of the Romanian Army consists in strengthening the national defense capacity by developing a force structure flexible, modern, adequately equipped, deployable, interoperable both internally and internally Allied context, with multidimensional support and protection capability, with a system of order efficiently.

For the period 2021-2024, the national military objectives are:

- removing the effects of the COVID 19 pandemic and enhanced national resilience; - developing defense skills for knowledge, prevention, deterrence and rejection of any aggressive actions against our country;
- participation in the realization of the national system of integrated crisis management;
- strengthening the military profile of Romania, with an emphasis on the dimension of defense and deterrence within NATO, as well as the contribution to the CSDP;
- increasing the presence of allied and partner forces in the Black Sea region, facilitating mobility, their disposition and development;
- continue to participate in the development of NATO attack capabilities with ballistic missiles;
- active participation in measures to combat the effects of the new pandemic coronavirus, to restore and increase the resilience of the national health system;
- strengthening military cooperation in a regional context, in the spirit of maintaining the profile of Romania as a regional stability pole.

The national military objectives will pursue the following strategic level effects:

- prevention, deterrence and frustration of aggressive actions against Romania;
- limiting the duration or influence of a hostile military action likely to generate a crisis or a situation of instability;
- protection of the population and the territory;
- projection of military capabilities for participation in the extended national security; - strengthening the strategic credibility of our country;
- developing the resilience of the military system and contributing to ensuring national resilience (Military Strategy of Romania 2021).

The National Defense Law of 1994 stipulates: “Leadership of the national system of defense is an exclusive and inalienable attribute of the constitutional authorities of the state and carried out by: the Parliament, the President of Romania, the Supreme Council of National Defense, The Government of Romania, the Ministry of National Defense and the public administration authorities with attributions in the field of national defense ” (Law of national defense of Romania 1 Juli 1994). Diplomatic documents, signed by representatives of Romania contains explicit articles on the Army - society - civil society relationship, in the political regime of representative democracy. Partnership Framework Document for Pace, from 11 January 1994, calls on the Member States: “(a) to facilitate transparency the process of elaborating plans and budgets for defense; (h) determination of the exercise democratic

control over the armed forces." Democratic civilian control over the Army is highlights, moreover, as a priority condition for joining NATO and the EU.

Several laws regulate foreign military relations and security commitments Romania (ratification of the Armed Forces Treaty) in Europe since 19 November 1990; ratification of agreements on military relations with other states, including the Peace Partnership Agreement of 19 June 1995 etc.). Romania 's participation in international peacekeeping missions is, in turn, validated by decisions of Parliament.

Therefore, the Romanian society builds and controls its Armed Forces, in the first through specific political institutions: Parliament, the President of the State and The Government of Romania. This is an absolutely necessary and beneficial democratic control, regulated by law and exercised as such.

**Leadership and control of the Army in the rule of law system:** Parliament exercises leadership and control over the military institution in its capacity its supreme representative body of the nation and its sole legislative authority. As a legislative power, the Parliament establishes through organic laws: the structure and the missions Army and national security system; policy, doctrine and strategy in the field national security and armed defense; the system of alliances and external military relations; regime the state of siege and the state of emergency; the place and role of the Army in society, including insurance protection of military personnel in activity, reserve and withdrawal, etc. On this basis it was built in Romania a new subsystem of legislation with military content, agreed with the requirements the rule of law and the rules specific to the European and Euro-Atlantic institutions.

Until 2001, the Parliament regulated by law: the legal regime of defense national (Law no. 45/1994); preparing the national economy and territory for defense (Law no. 73/1995); preparing the population for defense (Law no. 46/1996); military personnel status (Law no. 80/1995) and their remuneration (Law no. 138/1999); organization and functioning of the Supreme Council of National Defense (Law no. 39/1990) etc.. Organization and the functioning of the Ministry of National Defense was established by an Emergency Ordinance (no. 14/2001), unlike the organization and functioning of the Ministry of Interior, the Romanian Intelligence Service, the Foreign Intelligence Service, the Special Telecommunication Service, which benefit of ordinary laws.

By virtue of the powers of the state leadership, the Parliament also establishes the directions of socio-economic, cultural, political and legal activities. Of particular importance in the highlighted context is the approval by the Parliament of the State Budget, which also includes the Army Budget.

The size of the Army Budget is established in relation to: the financial needs self-assessed by the Army; the Government's ability to respond to the general needs of society, in particular those of defense; the political will of parliamentarians. The specialists appreciate that the Parliament controls through the Budget in the most concrete, firm and definitive way the military institution (Tismăreanu 2017).

On the other hand, the same Parliament approves the declaration of partial or general mobilization, the declaration of a state of war, the suspension or cessation of military hostilities, the approval of the state of siege or emergency - all at the notification of the President of Romania. The Parliament also debates and approves the Annual Reports of the Supreme Council of National Defense and directs its activity through decisions of the plenum of the two Chambers.

Through its powers in the field of election, formation, appointment or removal of state authorities, Parliament proves a certain preeminence over other public powers; he may suspend the President, who is also the Supreme Commander of the Armed Forces; at the same time, the Parliament grants or not the vote of confidence to the Program and the list of the Government, of which the Minister of Defense is part of.

Finally, the Parliament has the right to directly control the observance and application of the Constitution and the laws, as well as the way in which the state authorities interpret their specific role in the state mechanism. This control is complete, in the sense that Parliament can assess the entire activity, annul illegal acts and revoke state bodies or senior officials. Parliamentary control is materialized through: reports, messages, reports, programs, questions, interpellations, information, parliamentary commissions (permanent, investigative, special). The Chamber of Deputies and the Senate have separate parliamentary committees for defense, public order and national security. The profile committees examine all Government projects and legislative proposals concerning the Army: normally, parliamentary committees should, in particular, facilitate the development of harmonious and beneficial relations between Parliament and the Army.

**The President of Romania** – as the holder of the executive power – represents the Romanian state and is the guarantor of the national independence, unity and territorial integrity of the country. "The President of Romania oversees the observance of the Constitution and the proper functioning of public authorities. To this end, the President exercises the function of mediation between the powers of the state, as well as between the state and society"(art. 80/2). The President promulgates the laws adopted by the Parliament, appoints the candidate for the position of Prime Minister and appoints the Government, on the basis of its validation by the Parliament. The President may take part in Government meetings when examining matters of national interest, including those of a military nature. The President also concludes international treaties on behalf of Romania and submits them to Parliament for approval. The military attributions of the President are well specified: the commander of the Armed Forces and president of the Supreme Council of National Defense; "He may declare, with the prior approval of the Parliament, the partial or general mobilization of the Armed Forces" (art. 92/2); "In case of armed aggression directed against the country, the President of Romania takes measures to repel the aggression and brings them without delay to the notice of the Parliament, through a message" (art. 92/3); The President also establishes the state of siege or the state of emergency and requests the approval of the Parliament for the measures adopted; The President awards decorations and titles of honor and grants the ranks of Marshal, General and Admiral (Dumitru Iacob 2017).

**The government** – as an essential component of the executive branch - ensures the implementation of the country's internal and external policy and exercises the general management of the public administration. The Government leads and controls the Army in the management system of the specialized central public administration ("ministries are organized only under the subordination of the Government"). The Armed Forces, primarily the Army, are part of the central and specialized public administration institutions. By law, adopts decisions and ordinances (under an empowerment law), is politically accountable only to Parliament, negotiates and signs agreements, conventions, agreements and treaties at governmental and departmental level.

If the Constitution states that "the structure of the national defense system, the organization of the Army, the preparation of the population, the economy and the territory for defense, as well as the status of military personnel are established by organic law", the Law on Government Functioning, no. 4/1991 letter n, stipulates: the latter "carries out the measures adopted according to the law, for the general organization of the armed forces, their endowment and the fixing of the annual contingents of citizens to be called to perform military service" (Law on the organization and functioning of the Government 1991). As a result, a series of Government decisions regulate: the organizational structure of the Ministry of National Defense (no. 282/1994); the functioning of the Medical-Military Institute, of the Academy of Higher Military Studies and of the Military Technical Academy; wearing a uniform; hiring the military on a contract basis; food and equipment rights of defense

personnel; measures to implement international conventions banning the production of weapons of mass destruction, etc. The government also issued emergency ordinances regarding: the state of emergency and the state of siege (no. 1/1999), social protection measures for military personnel and civilian employees (no. 100/1999), the transfer of military protection civil service units subordinated to the Ministry of Interior (no. 179/2000), the organization and functioning of the Ministry of National Defense (no. 14/2001). In turn, the National Defense Planning was the subject of an ordinance (no. 52/1998), while the Military Strategy of Romania was approved by a Government decision (no. 318/2000), as well as the organization of the central structures of the Ministry of National Defense (no. 489/2000).

**The Prime Minister** leads the government and coordinates the activity of its members, presents reports and statements to the Parliament on government policy, proposes to the President the removal and appointment of ministers, represents the government in relations with other state powers, etc. At the same time, he appoints and dismisses secretaries and undersecretaries of state, signs government decisions and ordinances, and some presidential decrees.

**The Minister of National Defense**, as a member of the government, applies his policy in the field of military subsystem represented by the army; at the same time, it promotes the specific interests of the Army in the Government, in relation to the other state institutions, to the political environment and to the civil society. Through the Chief of the General Staff, the Secretaries of State and the Chief Inspector, the Minister of National Defense exercises his authority over the entire army. At the same time, the Minister of National Defense coordinates the activity of the Military Section within the Supreme Court of Justice, the Military Prosecutor's Office and the Directorate of Military Courts within the Ministry of Justice. The Superior Military Council of the Army acts as an advisory body to the Minister of National Defense (Stoian 2015).

**The courts:** The Romanian Constitution and the Law on the Organization of the Judiciary (no. 92/1992) establish that the Judiciary is governed by the principles of independence and immovability of judges. The judges are appointed by the President on the proposal of a Superior Council of Magistracy, elected by the Parliament. Military courts prosecute crimes committed by the military, certain crimes committed by civilians (on property owned, administered and used by the Armed Forces or in connection with their military obligations), crimes committed by civilian military personnel. Civilian personnel committing civil offenses are tried by civilian courts. Under current law, military personnel and civilian personnel do not enjoy legal privileges.

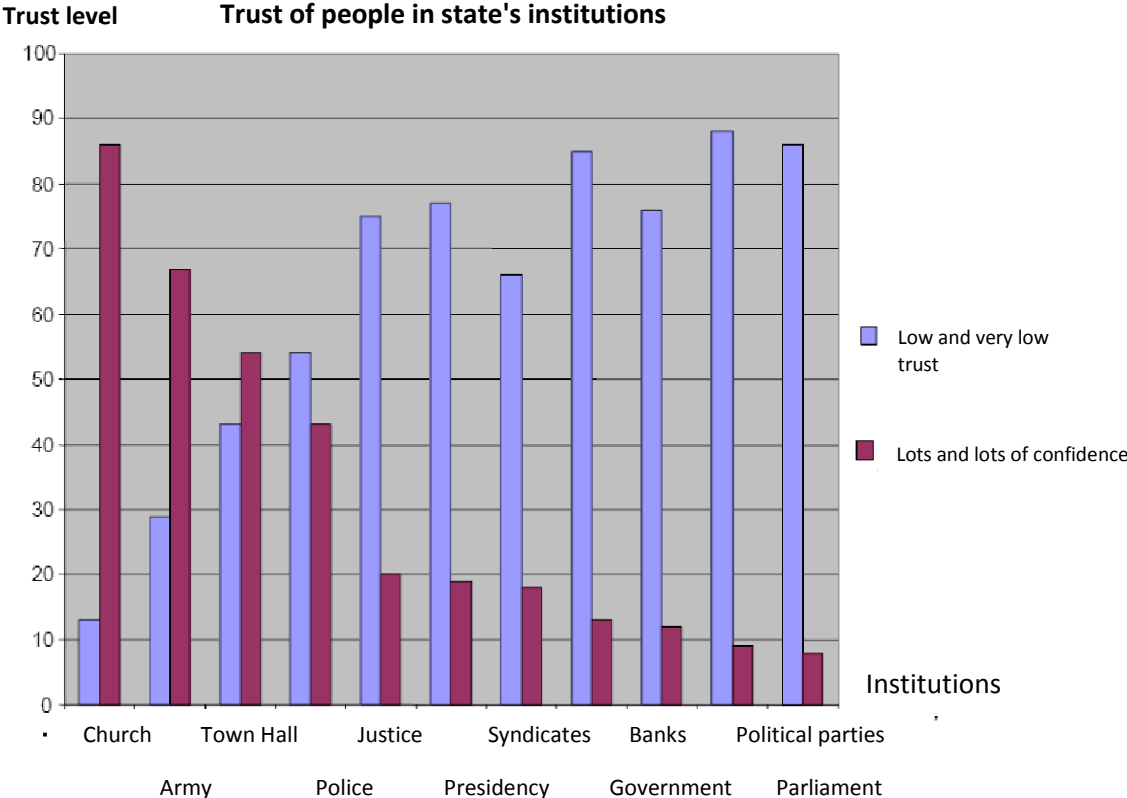
**Supreme Council of National Defense:** The Romanian Constitution stipulates: "The Supreme Council of National Defense organizes and unitarily coordinates the activities concerning the country's defense and national security." The Council is chaired by the President of Romania and includes the Minister of National Defense and the Chief of General Staff, in addition to the Prime Minister, the Minister of Foreign Affairs, the Minister of Interior, the directors of the Romanian Intelligence Service and the Foreign Intelligence Service, the Adviser for Defense and National Security of the President of Romania. This institution of the central public administration makes proposals addressed to the President and the Parliament and adopts its own decisions, in the sphere of national security. Thus, the Supreme Council of National Defense proposes for the approval of the Parliament: the fundamental concept of defending the country; the structure of the national defense system; declaration of state of war; suspension of hostilities; armistice etc. (Law no. 39/1990). SCND also analyzes the situations in which it is necessary to declare the state of emergency, the state of siege and the partial or general mobilization. Important are the SCND's responsibilities to analyze and approve: the organization of the national defense system; dislocation and

redeployment of large units, from brigade echelon upwards; the plan for mobilizing the national economy; military equipment endowment programs; the collaboration plan between MoD and Ministry of Interior for the defense of some important objectives on the national territory; maintaining and restoring the rule of law; basic guidelines in the field of international military relations; draft international military treaties and agreements; reports of the heads of the state administration bodies with responsibilities in national security, etc. The SCND is convened by the president and adopts decisions by open vote, by simple majority. Decisions adopted by the SCND are binding. Every year, the SCND presents a report to the Parliament on the activity carried out.

**Conclusions**

The existence of an army-civil society relationship is particularly important for maintaining and promoting national stability and security. The military influences social life and, at the same time, civil society exercises indirect control over the military body, a control that guarantees that the military maintains its constitutional role in ensuring national security and defense.

In Romania, this relationship is unfolding in an optimal way considering the degree of development of the civil society here. As proof are the results of opinion polls in which the army ranks second after the church in terms of public confidence in institutions:



Analyzing this data and correlating it with the analysis of the army as a social institution, the explanatory model of the phenomenon of society's trust in the military institution is revealed:

1. extra-institutional factors:

- confidence as an effect of history, as an inclination towards tradition – high confidence in the military institution is an effect of the positive presentation of the role of the Army in the history of Romania;

- confidence as an expression of the need for a support point in transition - the Army is associated with fundamental values (independence, sovereignty, territorial integrity) that cannot be the object of transitional transformations;

- confidence as a mechanism for reducing uncertainty – social transition determines the creation of unique situations that human individuals face. These situations generate strong states of uncertainty and insecurity that are manifested by awareness of real or imaginary threats, followed by the orientation towards and support of those social actors who may oppose the threat. In this context, the Army is appreciated and valued as the only one capable of promoting and safeguarding the vital interests of the nation; - trust as a component of the collective mind - the foundations of the credibility of the military institution belong to the deep structures of the collective memory crystallized throughout history.

2. institutional factors (these have been previously explained):

- the correlation between the army and the population;
- the military-culture relationship;
- the economic relations established between the army and society;
- the relationship between the army and politics.

It should be noted that for a complete analysis of the image of the army in Romanian society, the aspect of trust in the military institution is not enough. This issue is a study in itself based on a large-scale social survey, which was not carried out by the research team due to limited material and human resources.

It is absolutely necessary to establish the relations between the army and the civil society on the criterion of mutual credibility, in which the relationship becomes fluid, viable and operational. This state of affairs corresponds to the need derived from the imperative to democratize the process of rebuilding the country's security and defense, in accordance with the principles of the democratic world as a whole and with the requirements of European and Euro-Atlantic integration.

In the case of Romania, an appropriate proportion is achieved between subjective and objective control of society.

In terms of subjective control, the coalition of ruling political forces exercises constitutional political control.

## **Bibliography**

- Dumitru Iacob, Marian Stancu. 2017. "Relațiile armatei cu societatea." *Academia de Înalte Studii Militare. Relații Publice*. București.
- Law of national defense of Romania. 1 July 1994. "Law no.45." *Law of national defense of Romania* art 7.
- Law on the organization and functioning of the Government. 1991. "Law on the organization and functioning of the Government."
- Military Strategy of Romania. 2021. "Military Strategy of Romania." *Military Strategy of Romania*.
- Romania's National Security Strategy. 20 decembrie 2001. "Romania's National Security Strategy." *Official Monitor no. 822*.
- Romanian Constitution. 2003. "Romanian Constitution." *Romanian Constitution* art 118.
- Romanian Constitution. 2003. "Romanian Constitution." *Romanian Constitution* art 119.
- Stoian, Tudor. 2015. "Interațiunea dintre armată și societate." *Editura Militară*. București.
- Tismăreanu, Vladimir. 2017. "Reînvierea politicului." *Editura Polirom*. Iași.