

FUNCTIONS OF THE NATIONAL SECURITY COUNCIL AND PROBLEMS OF THE DRAFT LAW: ROLE OF THE PRESIDENT AND RULE OF APPOINTMENT OF THE NATIONAL SECURITY COUNCIL SECRETARY

Next week the Parliament of Georgia should hold II hearing of the amendments to the law on the National Security Policy Planning and Coordination, which envisages the establishment of the National Security Council under Prime Ministerial leadership.

LAW, INITIATOR

Law: Amendments to the [National Security Policy Planning and Coordination](#) and accompanying draft laws

Initiator:

Government of Georgia,

Initiator of the alternative proposal, the minority factions ("European Georgia", "European Georgia - Movement for Freedom", "European Georgia - Regions")

ESSENCE OF THE DRAFT LAW:

Following the oath of the new President of Georgia, the new Constitution went into force. According to the new Constitution, the advisory body of the President of Georgia, the National Security Council, is abolished.

Therefore, deliberations started on the establishment of a body that would be in charge of national security policy planning and coordination, which would serve as an advisory body to the Prime Minister in matters related to national security.

According to the draft law:

- The National Security Council is created as an advisory body under the leadership of the Prime Minister
- The spheres of security policy are redefined - the energy sphere is going to be considered with the socio-economic security, while the new term "civilian security" will replace ecological security.

MAIN FUNCTIONS OF THE SECURITY COUNCIL:

- Coordinating the national security policy planning;
- Informing the Prime Minister's decisions on matters related to national security and risks associated with state interests;
- Discussing and analyzing issues related to internal and external policy to ensure national security
- Assessment of events, challenges, risks and threats related to the occupied territories
- Analyzing events in international conflict zones and preparing proposals for Georgia's involvement and cooperation in collective defense systems
- Discussing the proclamation of an emergency or war in case of an attack on Georgia or a direct threat
- Discussing the national security interests links associated with the signing of international agreements
- Issuing recommendations on strategic communications related to the national security sphere

COMPOSITION OF THE NATIONAL SECURITY COUNCIL (PERMANENT MEMBERS):

- Prime Minister of Georgia
- Minister of Defense
- Minister of Internal Affairs
- Minister of Foreign Affairs
- Minister of Finance
- Head of the State Security Service
- Head of the Counter-Intelligence Agency
- Head of the Georgian Armed Forces

It is the Prime Minister's discretion to invite persons who are not members of the Council to the meetings of the Council.

FUNCTIONS OF THE SECRETARY OF THE COUNCIL:

The Secretary fulfils organizational duties, including:

- Presents for approval the statute of the staff of the Council to the Prime Minister and subsequently to the Government of Georgia. Also presents the rules for hiring staff, rules for giving special ranks, as well as social protection guarantees for the staff;
- Within his/her competence, signs work documents, presents the candidate for the head of the staff, who is appointed and dismissed by the Prime-Minister;
- Prepares the Council meetings;
- Fulfills the orders of the Prime Minister as defined by the rules;
- Fulfills other activities as defined by the law.

The Secretary of the Council is accountable only towards the Prime Minister.

Following the initiation of the draft law by the Government, an alternative proposal was presented by the minority factions. This alternative version proposed different regulations for the following three issues:

1. [The rule of appointment of the Security Council Secretary](#)
2. [Participation of the President in the meetings of the Security Council](#)
3. [Informing the President on the activities of the Security Council](#)

1. APPOINTMENT OF THE SECRETARY OF THE SECURITY COUNCIL

INITIATIVE PRESENTED BY THE GOVERNMENT	ALTERNATIVE PROPOSAL BY THE MINORITY
The Prime Minister appoints one of the permanent members of the Council as the Secretary	The Secretary is appointed and dismissed by the Prime Minister, who is not limited to select the Secretary only from the Council members

After the I hearing of the government's initiative, a number of articles were amended related to the participation of the President in the Security Council.

2. PARTICIPATION OF THE PRESIDENT IN THE MEETINGS OF THE SECURITY COUNCIL

GOVERNMENT'S INITIATIVE (I HEARING)	GOVERNMENT'S INITIATIVE (II HEARING)	ALTERNATIVE PROPOSAL BY THE MINORITY
The participation of the President in the meetings of the Council are not envisaged	It is the Prime Minister's discretion to invite a person nominated by the President to the meetings of the Council, with the purpose of informing the President within his/her constitutional duties.	The President has the right to attend the meetings of the Council.

3. INFORMING THE PRESIDENT ABOUT THE ACTIVITIES OF THE COUNCIL

GOVERNMENT'S INITIATIVE (I HEARING)	GOVERNMENT'S INITIATIVE (II HEARING)	ALTERNATIVE PROPOSAL BY THE MINORITY
Sending of information and other documents, for example minutes of the meetings, to the President are not envisaged	Sending of information and other documents to the President are not envisaged, however the Prime Minister can invite a person nominated by the President to the meeting.	The President has the right to request and receive the minutes of the Council meetings.

INTERNATIONAL PRACTICE IN COUNTRIES WITH PARLIAMENTARY GOVERNANCE SYSTEMS

National Security Councils: Composition and the Role of the President

COUNTRY	COMPOSITION	CHAIR	PRESIDENT'S ROLE
Croatia	The President, the Prime Minister, Ministers of Defense, the Interior, Foreign Affairs and European Integration, Justice, the National Security Advisor to the President of the Republic, the Chief of the General Staff of the Armed Forces, the Directors of the Security and Intelligence Agency and the Military Security and Intelligence Agency, and the Head of the Office of the National Security Council.	The President.	The President is member and chairs the meetings. The President and Prime Minister set the agenda jointly.
Czech Republic	The Prime Minister, the Deputy Prime Minister, Ministers of Foreign Affairs, Defence, the Interior, European Affairs, Finance, Industry and Trade Transport, Health.	The Prime Minister.	The President can attend meetings, demand reports, and engage in security issues with the Council and its members.
Estonia	Two security councils: one under the government (a) and one under the government (b). a) Members of the Government Security Committee are the Prime Minister, Ministers of Defence, Economic Affairs and Infrastructure, Entrepreneurship & IT, Finance, Foreign Affairs, the Interior, and Justice. Secretary is the National Security and Defence Coordination Director. b) The National Defence Council is an advisory body to the President. Members are the Speaker of the Parliament, the Prime Minister, ministers responsible for defence issues, the Commander of the Defence Forces, and the chairpersons of the National Defence Committee and the Foreign Affairs Committee (in Parliament).	The Prime Minister is the chair of the Government Security Committee. The President chairs the National Defence Council.	The President is not part of the work of the Government Security Committee but chairs the National Defence Council, which sorts under his/her office.
Germany	The Federal Chancellor, Vice Chancellor, Ministers of Foreign Affairs, Justice, Economy and Energy, Economic Cooperation and Development, and the Chief of the Federal Chancellery.	The Federal Chancellor.	The President can be invited to attend meetings.
Slovenia	The Prime Minister, Ministers of Defense, Internal Affairs, Foreign Affairs, Finance, and the Director of the Intelligence and Security Agency.	The Prime Minister.	President can be invited by the Minister (the Prime Minister) to attend meetings.

ASSESSMENT/RECOMMENDATION

The National Security Council was abolished upon the entry into force of the new Constitution. There is an institutional vacuum due to the non-existence of the national security policy planning and coordination mechanism. Due to this, the decision to create a National Security Council and expanding the national security policy spheres, including defining civilian security, **should be assessed as a positive step forward.**

The issue in the presented draft law is the participation of the President in the activities of the Council, as well as the rules for selecting the Secretary of the Council by the Prime Minister.

According to the Constitution of Georgia, the President of Georgia is the Head of State, the guarantor of unity and national independence of the country. The President of Georgia, upon the Prime Minister's submission, shall declare the state of war. Given the important institutional role of the President:

- The law should define the obligation of the Council **to provide the President with information on the issues to be discussed by the Council as well as information about the Council's decisions**
- The President of Georgia should have the right, at his/her own volition, **to attend the sessions of the Council.**

Due to the important strategic importance of the functions of the Security Council, and based on the analysis of the existing situation and threats in the country, it might be expedient for the position of the Secretary to be filled in by someone who isn't a Minister or a high-ranking official, so that the Secretary may dedicate more time for his/her duties and also have the necessary qualifications. Based on the political culture in Georgia, the appointment of a Minister as the Secretary of the Council may become problematic in the case of a coalition government. Therefore, this is our recommendation:

- **The Prime Minister should not be restricted by law to select and appoint the Secretary from the members of the Council.**