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COMMENTS ON PARLIAMENTARY DOCUMENT NO 972, item 581

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These comments are offered from the perspective of a foreign (British) academic specializing in security studies who has studied Icelandic developments for 25 years and lived here for three. They are offered on a purely personal basis, and do not represent Háskóli Íslands or any other person or organization. They are divided into: (A) information on Nordic practice regarding the type of arrangements involved in the present legislation, and (B) direct comments on this legislation. Any errors and misunderstandings are the author's own.¹

(A) Practice In Other Nordic States

Since the end of the Cold War, internal security challenges including civil emergencies have been given higher priority by all Nordic States – even those (closer to Russia) who still have serious concerns about external security. At the same time there has been pressure to coordinate the different tools and actions needed for national emergencies more closely, first and foremost in the interests of efficiency: but sometimes also to save costs, and/or to allow more coherent and rapid communication with foreign powers when crises have an international aspect. As many analysts have pointed out, and as the policies of all major institutions from the UN downwards now stress, globalization and growing interdependence have made old dividing lines between internal and external security issues obsolete. Experiences in handling the Indian Ocean tsunami of December 2004 helped to drive these lessons home in Norden, especially in Sweden where the government's performance was most problematic.

As a result, each Nordic country now has a clear centre for civil emergency handling which allows – in particular – the police, internal rescue services, and volunteer services to be coordinated and also provides a point of contact for the private business sector. Two countries have put this task under the Ministry of Justice/Interior:

- The Norwegian Direktoratet for samfunnssikkerhet og beredskap (DSB) comes under the Ministry of Justice;
- The Finnish Ministry of the Interior coordinates rescue services and civilian crisis management capabilities. However in Finland the role of the Prime Minister's office is much stronger: the emergency 'situation centre' is located there, and it is the PM (or whole government) who would dictate how the MOI, defence forces, foreign ministry and economic ministries should work together in a specific case.

Two other countries have put their emergency coordination centre under the Ministry of Defence, although these centres are also led purely by civilians:

- Denmark puts its Beredskapsstyrelsen (BDS) under the MOD;
- When Sweden formed a new Civil Contingencies Agency (MSB) in 2009 by merging the former Emergency Management Authority, rescue service and

¹ In case of a possible conflict of interest, it should be mentioned that in 2009 the IDA made a grant of ISK 3 million to Alþjóðamálastofnun at Háskóli Íslands for a package of research work, and I led one of the projects involved which was a study on the European Defence Agency (full text now available at <http://stofnanir.hi.is/ams>). I received a payment of ISK350 000 for my personal contribution to this project.

psychological defence board, it chose to leave the MSB under the MOD; although the PM's office has also been given a stronger role with its own large emergency staff and situation centre.

Interface with Defence and Foreign Affairs

All these other nations of course have armed forces and the latter remain in charge of external military defence, including direct military relations with outside partners (states and institutions). The military may be asked to assist with internal civil emergencies, especially in Denmark and Finland, but that decision would be taken case-by-case at government level. In addition, the civilian emergency agency organizes 'civil defence' capacities for warlike situations, but in those conditions the military would take overall command.

It may be useful to stress here that the civil/military distinction is something different from the external/internal security distinction, which – as argued above – is getting blurred today. *Both* military and civilian personnel can now take part in security tasks *both* at home and abroad. It is however thought necessary in all democratic states to keep the legal status, rights, duties, and lines of command of military and of civilian staffs clearly separate, not least to make sure that civilian political control of the military is preserved at all times.

Besides supervising the work of the armed forces, Nordic Defence Ministries led by civilians also normally take a lead role in drafting an overall national defence (and/or security) policy, for approval by the Government. Thus in Finland the MOD not only produces the four-yearly 'Defence Report', but has also published a 'Strategy for Securing the Vital Functions of Society' which describes how the government, private business and citizens should work together for comprehensive national security.²

In all these states, the Foreign Ministry takes the lead (i) in general and political communication with external institutions (NATO, EU etc) including expertise on related legal obligations; (ii) in the protection of citizens involved in emergencies abroad; and (iii) in deciding whether to offer civilian emergency assistance for other people's crises abroad, though the tools for carrying this out belong to the civil emergency coordination agency (DSB, DBS, MSB etc). In some cases Foreign Ministries have also published plans or reports on general national *security* (as distinct from defence) policy, or on specific aspects of strategy such as Norway's policy for its High North.

Comparison with Iceland

It is hard to make a direct comparison between Iceland and these other Nordic models, most obviously because Iceland has no armed forces and has handled defence through a separate department in the Ministry of Foreign Affairs up to now. Another important difference is that in Iceland the Coast Guard – the nearest thing to a military force that Iceland possesses – comes under the Ministry of Justice (future Ministry of

² For more on national defence/security policies and 'strategies' see this author's 'Does a Small State need a Strategy?', an Occasional Paper of the HÍ Institute of International Affairs (2009), available at http://stofnanir.hi.is/ams/sites/files/ams/Bailes_Final_1.pdf. The second half of this contains a detailed comparison of strategy-making in the five Nordic States.

Internal Affairs) whereas in Denmark, Norway and Sweden it comes under the Ministry of Defence. (In Finland it is treated as part of the Border Guard under the Ministry of Interior. However the Border Guard is clearly a military organization and answers ultimately to the President as Commander-in-Chief.) Finally, in Iceland it is the MFA that organizes the capacities available for international assistance tasks as well as civilian inputs to peacekeeping – the ICRU; elsewhere these capacities would belong to the armed forces and civil emergency agencies, although the MFA would still take the initiative in proposing how to use them.

The picture is made more complicated by the differing administrative solutions adopted by the four larger Nordic countries. It seems true to say, however, that for these countries as a whole:

- No single Ministry controls all functions, staffs and instruments relevant to national defence and internal security. In the nations that come closest to having a single centre of authority, it is located with the Ministry of Defence;
- If any Ministry is given the task to draft an overall national defence and security concept, taking into account today's broader definitions of security, it also tends to be the Ministry of Defence (not Justice or Interior) that plays this role;
- Ministries of Justice or Interior do not have direct control of uniformed military capacities or the execution of external defence tasks, except in the case of the Finnish Border Guard/Coast Guard as mentioned above;
- There is a strong trend to push the coordinating function for serious emergencies, including those with serious external aspects, up to the level of the Prime Minister's office and to give that office stronger tools and staffs for the purpose;
- External policies on defence and security, including relations with multilateral organizations, are still channelled mainly through Foreign Ministries. The latter can also in some cases (consular emergencies, altruistic assistance) propose how to use resources belonging to the main civil emergency coordination agency.

Some Issues and Questions Raised by the New Bill

1. It is unusual to take legal steps to abolish one organization that fulfils necessary functions – including some that derive from international obligations - before knowing exactly where these functions will in future be placed. This makes financial savings, if any, hard to define but could also give rise to uncertainty among interested foreign partners. Normally the new arrangements would be enacted in parallel, in the same or associated legislation. It would also be logical to allow a deferral of the proposed closing date of the first organization in case for any reason – including unforeseen circumstances – the new solution cannot be (a) defined and (b) enacted in time for 1 January 2011.

2. The Working Group report which preceded the draft Bill stressed that Iceland should stand by its international obligations, and the notes to the draft Bill confirm that this is the government's intention. Obviously, the more Iceland can do to convince its relevant partners about this – with practical and detailed explanations as necessary – the better.

3. The preamble to the Defence Act 34/2008 is left unchanged by the new Bill. It lays down four aims: defining the powers of Icelandic state authorities in defence matters; defining the dividing lines between handling of (external) defence matters and internal security; distinguishing defence policy making from implementation; and improving democratic control. If the other amendments proposed in the Bill are carried out, the new Act would not actually do any of these four things because it would not say who will carry out the defined tasks in future; what relation the ministries/agencies carrying out the tasks will have to the Minister of Foreign Affairs; and how (e.g. through what committees and on the basis of which Ministers' reports) Parliament will supervise these activities.

4. In particular, keeping a distinction between external defence and internal security tasks will on the face of it be more difficult as and when all these tasks – for purposes of implementation and rapid emergency response – come under the same Ministry.

5. The main argument in favour of combining defence-related functions with the instruments of civil internal security is to make coordination, rapid reaction, and outward communication easier, both for internal and external contingencies. In the present case, however, the picture is complicated because it is not specified which responsibilities relevant to national defence and security will definitely be retained by the MFA. If these include the duty to handle general, political and legal aspects of relations with NATO (and other foreign partners and authorities as relevant), the structural and personal relations between the MFA and Ministry of Internal Affairs will become crucial for the coherent handling both of practical emergencies and of new policy issues arising. Moreover, if any functions are delegated to bodies and agencies other than those under the new Ministry of Internal Affairs, for instance under service contracts (as mentioned in the explanatory notes), coordination will become a three-way challenge and not necessarily any easier than under the present IDA.

6. As noted, other Nordic countries facing similar problems are being increasingly driven to move the responsibility for defence and security coordination up to Prime Minister's level. This makes extra sense when the most likely risks for the country include emergencies strongly affecting fields of government outside the Interior Ministry's functional range, such as disease, food, or financial breakdown. Yet the new Bill does not touch on the PM's role, or indeed provide for any additional mechanism of policy coordination and dispute resolution. The Civil Emergencies Act of 2008 did provide for a cross-ministerial group to meet under the PM's lead for coordination purposes, but this group is only known to have met once and reportedly decided on that occasion that it would not convene for ad hoc crises.

7. As the Defence Act and new Bill do not mention ICRU it is presumed that this function will stay with the MFA. This does not raise any obvious operational or policy problems since it is normal in Norden for the MFA to take the lead on altruistic interventions abroad; and Iceland's situation makes it unlikely that any such mission could be linked directly with internal security needs. The only question is whether there could be duplication between the ICRU structure and the future Interior Ministry's relations with individuals who have skills relevant to emergency response both abroad and at home.

8. The effect of the new Bill on the future of personnel currently employed at the IDA is not clear in two respects. It says that jobs will be found in other institutions for individuals carrying out those tasks currently performed by the IDA that will come under those other institutions in future. However, this leaves the possibility that some tasks currently performed by the IDA will not be moved elsewhere but will either

revert to the MFA, or not be performed at all. The Bill does not say what will happen to personnel currently working on those tasks.³ Further, nothing in the present Bill excludes the eventual delegation of some functions to entities of a non-state nature, in which case any staff transferred with the functions would be moving from governmental to another form of employment.

9. Of particular interest in this connection is the question of what will happen to the responsibilities, currently assigned to the Foreign Minister in Article 3 of the 2008 Defence Act, for formulating overall defence and security policy and providing threat assessments. Iceland has historically had few resources to support these tasks through scientific and academic research, independent advice and public policy debate. The absence of armed forces means it has never had a defence college or institute for defence research, and up to now it has had only one institute specifically focussed on foreign affairs (Alþjóðamálastofnun at HÍ) plus one active debating society, Varðborg. Discussions, including in Parliament, about setting up a governmentally supported think-tank that could cover defence and security among other issues have so far reached no clear conclusion. One consequence was that the Risk Assessment project commissioned by the government at the Foreign Minister's suggestion in 2008-9 had to be assigned to an ad hoc group of state and non-state experts chaired by a well qualified academic. No specific structure or mechanism has since been established for following up the report produced by this project. However, the IDA in its short existence has made efforts to expand the scope of its information gathering and analysis on security-relevant issues, to employ new young staff for the purpose who are trained in international relations or international law, and to strengthen its relations with academic communities inter alia by offering graduate scholarships and funds for targeted research.

It would thus be important to know whether the responsibility for *implementing* (not just supervising) the functions described in Article 3 of the 2008 Act will remain with the MFA and if so, whether any capacities not currently available to the Ministry will be transferred there from the IDA or re-provided in some other way. If not, there will be an overall loss of capacity for research, analysis and consultation, and a promising step in official-academic cooperation (with a special role for young people) will be reversed.

Alternatively, if the functions of general defence policy formulation, threat assessment and related research are to be transferred to the Interior Ministry along with the IDA's more operational functions, this would be a major innovation that needs to be brought out into the open and its implications considered without delay. The obvious questions are how the diplomatic, institutional and international-legal aspects of such a task could be handled by a Ministry that is not involved in the day-to-day conduct of foreign affairs; and how this would affect Iceland's capacity to work with its Nordic and other international partners who all reserve such tasks for their foreign or defence ministries. In an age when practically no security challenge – however local its origin – is without international ramifications, and perhaps especially for a small state of limited resources like Iceland, any change that complicates external dialogue and cooperation on such issues may involve costs (of both a transitional and longer-term nature) that need to be carefully weighed against expected benefits.

³ The approach of the Working Group Report on this point is not entirely clear either. It says that 'employees of the Defence Agency' should be re-employed, without specific exception; but elsewhere it envisages that some present functions of IDA will be cut to achieve savings.

10. In conclusion:

- There is no single 'right way' to organize the state's defence and security functions, as seen by the amount of variation in Nordic practice;
- Iceland has the sovereign right to choose arrangements that suit its circumstances and the pattern of its external obligations;
- What is most important is that the arrangements chosen should be comprehensive, coherent, transparent, and capable of dealing both with ad hoc events and the most complex policy issues. In this context it is unusual to remove part of an old system before all parts of the new system are agreed and known to be feasible;
- The machinery of government is, moreover, only a tool to execute national policy and strategy. Iceland has not yet gone as far as its Nordic neighbours in preparing and agreeing such a strategy in an explicit, public form designed to cover the full complexity of today's internal and external challenges;
- Independent research, analysis and advice is important both to strengthen the quality of state policy and to allow democratic debate. It is another aspect that needs further strengthening in Iceland and it would be a pity if the present reorganization involved a step backwards in this connection.

Signed:



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