The Changing Functions of the Police and Armed Forces (in Extraordinary Situations) in Slovenia

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The goal of the paper is to examine the changes of the traditional functions of the police and armed forces. In a state of war or state of emergency, especially in small countries like Slovenia, sometimes it is necessary to use all capabilities and resources to tackle security problems. This leads to unconventional tasks and responsibilities of the police and armed forces, primarily but not exclusively in extraordinary security situations. While one can point out many reasons/ factors for such changes, only two of the most significant factors are discussed in this paper. The first factor represents the contemporary security threats which are highly dynamic, thus the agencies that provide security must be able to adjust and react in due time. The second factor is a process of securitisation, where political elites solely decide what security issues are the main threats to society. Consequently, they also define the functions of the police and armed forces, and in both cases, the distinction between the functions of the two is more and more blurred. A literature review suggests, that in many countries, the police take part in military-style missions or/and are equipped with military means, while the policing is done by various non-police agencies, including the armed forces. Both processes, the first that can be called "the militarisation of the police" and the second "the policisation of the armed forces", are not entirely new phenomena and they seem to be cyclical. This study, based on descriptive and comparative analyses of the changing functions of the police and armed forces over the last thirty years, shows that Slovenia is not immune to the processes described. In Slovenia, the armed forces are given some tasks and powers in internal security matters. The police forces are expected to take part in military missions during a potential war while the proposed changes to police legislation suggest that a special police unit should be additionally equipped with military weapons and means, already in peacetime. This seems to be a relatively strong sign of police militarisation, bearing in mind stable security circumstances in Slovenia in the present. The paper also stresses the importance of consensus among political elites, security experts and civil society about the basic functions of the police and the armed forces, which is not easy to achieve, especially in a rapidly changing security environment.

Keywords: policing, police, armed forces, militarisation, "policisation", Slovenia

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1   Introduction

Throughout history, the quest for security and a safe living environment has become a permanent structural element of human existence and its functioning. In the last three decades, modern society has experienced intensive shifts in a security environment, which consists of numerous subjects, the (non) conflict relations among them (Prezelj, 2005), and all the phenomena that pose a threat to contemporary security. The contemporary security environment is not as predictable as it was during the Cold War, yet not less demanding. Namely, today we are facing a plethora of security threats that are the consequences of the development of society and their (changed) values. The concept of security has changed from an exclusive emphasis on national security to a much greater stress on people's security, from security through armaments to security through human development, from territorial security to food, employment and environmental security (United Nations Development Programme [UNDP], 1993). For example, the end of the Cold War shifted the role of the military significantly from 'war operations' towards 'operations other than war' (Broesder, Buijs, Vogelaar, & Euwema, 2015). This transformation has forced a major rethink about the basic assumptions underlying security studies (Snyder, 1999).

What remains the same is the fact that individuals, as well as the society, still expect that the state and local community will prepare responses to those threats. Security activity is just one among many social functions, which was gradually sepa-

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rated from other social activities, such as economic, cultural, social, political, etc. It is carried out in the context of the security system (Grizold, Tatalović, & Cvrtila, 1999; Grizold, 1999; Tatalović, Grizold, & Cvrtila, 2008).

With the social contract, the state was given a monopoly on the legitimate use of physical violence within its borders (Bourdieu, Wacquant, & Farage, 1994), and it has become responsible for ensuring national security (Prezelj, 2005). Pusić (1985) notes that the development of the use of force primarily went towards the differentiation between the use of force against the external environment (e.g. military threats) and use of force against the internal environment (e.g. crime, terrorism). The first category corresponds to the armed forces (operating within the defence subsystem) and the other to the police (operating within the subsystem of internal security).

The police and the armed forces are no longer the sole providers of security in society since the security function became pluralised, and this is especially the case with policing. There are various state, local and private agencies, carrying out "police" tasks (law enforcement, maintenance of public order, etc.) by using "police" powers (to stop, to search, to seize, to arrest, etc.). In this context, the police coexist with the customs service, gendarmerie, financial police, coastal guard, judicial police, municipal warden services, private security agencies, private detectives, etc. If we bear in mind that currently even armed forces are (too often) used as a kind of "auxiliary police force" (especially in counterterrorism actions), then we receive a quite blurred picture of who is doing what and for what purposes. Convergence between the police and the military is obviously developing, and this requires further organisational and social assessment (Campbell & Campbell, 2016).

Such trends (especially in extraordinary situations such as the state of war or the state of emergency) are also present in Slovenia. Thus, this paper deals primarily with the changes in the Slovenian police and armed forces over the last 30 years, focusing on legal regulation of the tasks and powers of both organisations, on one side, and on the practical implementation of their tasks and powers on the other (Section four). In order to understand the changing functions of the police and the armed forces in contemporary societies, their traditional functions are discussed in Section two. The third section discusses the effects of threats and/or securitization on changing functions of the police and armed forces, which leads to the processes of militarisation of the police and "policisation" of the armed forces. The aim of the paper is simply to further explore the military and the police from different perspectives without having the pretention of being exhaustive in any way.

2　The Traditional Functions of the Police and Armed Forces

The primary goal of security activities is to preserve the values of society against external and internal threats, preserve the peace and freedom of the people, and to ensure the existence and smooth development of society (Bebler et al., 1999). Perception of threats is crucial since threats generate the functions of the two most important actors of the security system – the police and the armed forces. Traditionally, the police are expected to play the central role in policing that has a narrow law enforcement and crime control or crime repression focus (Greene, 2000). Police are therefore traditionally responsible for public order and safety maintenance, for law enforcement, for intervention in a variety of situations, for preventing, detecting, and investigating criminal activities, etc. (Rawlings, 1995; Whetstone, Walsh, Kelling, Parker Banton, & Brodeur, 2016). In a traditional way, the police are largely reactive in that they respond to calls for assistance from the public and the threat of arrest is the dominant mode of acquiring compliance from the community. Such police seek to minimise external interference with police work, which is done largely by adopting professionalism in police work (Greene, 2000).

The fundamental aim of the armed forces is the defence of the country with weapons. Armed forces exist to defend the state against real or potential external threats and as a coercive tool to promote and protect national interests abroad (Edmunds, 2006). The core organising principle for regular armed forces, in a traditional way, is the defence of the national territory (Dandeker, 1994; Grizold, 1999). Therefore, their traditional function is also deterrence and military attack.

Bearing in mind Bittner's (1970) definition of the police, which defines the police in terms of their capacity to use non-negotiable coercive force in any situation that appears to require the prompt and decisive response, policing is carried out by several other organisations (constabulary forces), including military (Whetstone et al., 2016).

Enloe (1990: 153) dealt with the differences between the traditional characteristics of the police and the armed forces, and described the main traditional characteristics of the police as follows:

— the police usually do not perform their duties in other countries; they have personnel located throughout the national territory;
— the police operate in relatively small units;
— the police are under the authority of civilian officials (local governments or ministries of interior);
— the police have principal adversaries who are of the same nationality as police officers;

— the police leave the definition of transgressions to the non-police authorities, usually legislative bodies;

— police officers are uniformed in a way that makes them visually distinguishable from civil servants and soldiers;

— the police assign individual officers authority to arrest civilians;

— the police are on continual and routine call rather than subject to periodic mobilisations;

— the police rarely draw manpower from national conscription, and

— the police allow individual members to live like civilians when they are off the duty.

Enloe (1990: 154) also describes the main *raison d'être* of the armed forces as the defence of a nation-state from external threats. Other characteristics of the armed forces are the following:

— military personnel may not be concentrated in just one or two bases, but they are unlikely to be scattered throughout the national territory;

— military units are relatively large, numbering in hundreds, not dozens of men;

— armed forces face adversaries who are likely to operate in large units as well and often at some distance which increases dependence on weaponry and makes suppression via "arrest" less likely;

— internally, armed forces are subject to organisational differentiation according to a mission and technical orientation with the major boundaries being those between army, navy and air force;

— armed forces have uniformed officials who, even when not themselves members of executive cabinets, are likely to be represented in policy-making circles nationally;

— armed forces have a standing force than can be supplemented by special mobilisation of reserves or conscripted civilians; and

— armed forces include regular military personnel who usually live in spatially separated compounds and have access to the services of their own.

Haltiner (2000) contributes to this discussion by pointing out the difference in internal organisation and functioning of the police and armed forces. The police have been traditionally functioning according to the bottom-up principle, while the armed forces are a typical top-down organisation. With the globalisation and the internationalisation of the police and military activities, as well with the professionalisation of the military role, one can challenge some explanations and arguments of Enloe (1990) and Haltiner (2000), however, their works made a clear distinction between the traditional characteristics of the police and armed forces.

In theory, the traditional paradigms (especially realism) also strictly separate the functions of the armed forces and the police. The traditionalists advocate a sharp distinction between external military security (as its sole concern) and the internal policing functions of states. The traditional security paradigm also rejects extending the field of security studies to include issues beyond interstate warfare (Andreas & Price, 2001). Lutterbeck (2004) states that the differentiation between internal and external security, and between the police and military, has also been a core principle of the modern nation state. Furthermore, he advises that the dividing line between internal and external security has become increasingly blurred.

However, from the characteristics of the contemporary security environment's point of view, the system should be highly responsive to the processes in society and natural environment. Namely, the complex threats that are the reality of the contemporary security environment go beyond the traditional functions and even more, beyond the capacities of the police, the armed forces, the civil protection and disaster relief forces, etc. (Prezelj, 2005).

In order to be accepted and supported by the public, the police and armed forces must fulfil their functional and social imperatives. This means that citizens will support both organisations as long as they met their needs, expectations, values and wishes (Jelušič, 1997). Functional imperative refers to the functional necessities of a society that ought to be met for its survival (Subberwal, 2009). In this regard, it is expected that the police provide security, maintain public order, tackle crimes and help the citizens, while the armed forces must be successful in carrying out deterrence and combat tasks, if necessary. Successful execution of the functions of the police and armed forces (e.g. fulfilment of functional imperative) is not enough. The social imperative, which is all about similar values, cultural norms and ideologies, must also be fulfilled (Jelušič, 1997). In other words, the more similar values and norms are shared among the society, the police and the armed forces, the more legitimate are the roles of both organisations in the eyes of the citizens. To put it simply – the functional imperative defines the scope of tasks and responsibilities, and the social imperative defines the more general role of both organisations in society. This requires the citizens to (re)consider what they want and expect from these organisations, and what are they are prepared to allow them, especially when the use of "legitimate violence" is in question.

3 The Changing Functions of the Police and Armed Forces in Contemporary Societies

3.1 Between Security Threats and Securitization

With the shift of focus from protection against concrete dangers towards insurance in the context of abstract risks, security has become "a general 'societal idea of value' and a universally employed 'normative concept' that is used with different meanings in an affirmative manner" (Makropoulos, 1995: 749). Security is a rather dynamic category, and as claimed by Williams (2012), an elastic and highly subjective term. Security is exactly what one argues that it means to him/her – nothing less or more. An unsafe environment not only undermines basic values but it also intensely affects the prosperity of individuals and the society as a whole. Threats can be defined according to several criteria. A very traditional division concerns military and non-military sources of threat (the criterion of the means used), external and internal sources of threat (the criterion of the space), and natural and anthropogenic sources of threat (the criterion of the media), etc. (Sotlar, Tičar, & Tominc, 2012).

The traditional perception of threats, which was valid until the end of the Cold War and was primarily related to military threats, is outdated. Williams and Moskos (1997) described the transition from military to non-military threats in three stages: in the pre-Cold-war period, the threat of conventional attack played a key role. During the Cold War, this role was replaced by the threat of nuclear attack, and in the contemporary security environment sub-national and non-military threats, such as drug trafficking, uncontrolled migration, social pathology, economic stagnation, environmental degradation, etc. are defining the security agenda. Radical strategic, political, economic and cultural changes in the international environment, together with the globalisation of modern society, brought a new dimension to the field of security – complexity (Grizold & Bučar, 2011). As traditional (primarily military) threats declined, societal sources of threats increased. Since the possibility of global war has become unlikely, local ethnic conflicts escalated to local wars (military conflicts) and secondary consequences such as refugees, trafficking in illegal immigrants, extremism, terrorism, etc, emerged. Global climate changes that increased the number and severity of natural disasters and brought a myriad of consequences to human health have also been observed. Energy-induced threats are increasingly manifested as an economic-political conflict. Finally, the relations between the superpowers (USA, Russia, EU) are far from cooperative, thus it is not surprising that Russian Prime Minister Medvedev has even described relations with the West as a "new Cold War" (Sanchez, Robertson, & Melvin, 2016). Therefore, complex security threats are de-fined by the simultaneous existence of military, political, environmental, economic, health, terrorist, criminal, information, identity, culture, etc. dimensions of security threats and high linear or non-linear relationships between those dimensions (Prezelj, 2005). The security policy of the state must address these threats by defining the interests and goals in the field of security of the society (Sotlar, 2008).

Security policy is also about security paradigms used for both the definition of what threatens society and what tools (for example the police and the armed forces) society possess and is ready to use against the threats and in what manner. Each of these paradigms explains only part of the security concept, but all try to explain how humanity is confronted with an array of contemporary security threats. In recent years, security paradigms have been shifted to a more sociological approach (Huysmans, 2002). Constructivists, for example, are occupied by the question of how security is a "socially constructed" concept (Agius, 2013). They started the debate on so-called securitization, which has been developed in detail within the Copenhagen School of Security. The securitization is part of the decision-making process when the politicians, governments, pressure groups and other interested groups took the particular matter of everyday politics and defined it as a security problem or declare it as an actual risk. This way they legalise the measures undertaken. The securitization depends on the preparedness of the target groups to adopt such a definition posed by political and administrative elites; namely, the threat is not necessarily regarded as a direct consequence of the threat itself, but because of a political interpretation of these threats. Thus, the security is considered as a political action rather than the problem of an actual threat or subjective perception of it (Buzan, Waever, & Wilde, 1998). In such situations, not only can the political elite define what "threatens" the society but can also decide on new/changed tasks, functions and powers of the police and armed forces in coping with such threats.

3.2 Militarisation of the Police and "Policisation" of the Armed Forces

As central components in the power structure of any state the police and armed forces are heavily involved in new realities of security, generating both latent and the obvious blurring of boundaries. Other actors within the control and security domain that includes such organisations as the administrative authorities, special inspection services, municipalities, the police, intelligence services, armed forces, private security services and non-governmental-organisations are also faced with blurred boundaries. As a result, several tasks and activities are overlapping traditional boundaries and objectives (Easton et al., 2010).

The police and the armed forces have at least one common function – they are institutions which consolidate and maintain the state's authority (Enloe, 1990). The relationship between the military and the police emerges on the today's political and academic agenda, as these institutions face common security challenges as well as budgetary clampdowns (Easton et al., 2010). The traditional function of both repressive institutions is the implementation of criminal/internal security and defence policy and has never been changed. What has actually been changed is that new functions emerged at the forefront of both institutions (Sotlar, 2000). A number of different patterns and trends are emerging, and all of them suggest important changes in how, and why, the police and armed forces are used. It seems that two trends are the most evident – the militarisation of the police on the one hand, and policisation of the armed forces on the other. The policisation or constabularisation of the armed forces renders the military more suitable for domestic security tasks. The capacity of police forces increases, and so does the use of military tactics, organisational concepts and equipment for operating successfully in violent environments (Easton et al., 2010).

Some authors present case studies of particular countries, where the police have become more militarised by "applying military structures and arrangements to the civilian police tasks and organisation" as stated by Szikinger (1998: 29). These case studies are from different parts of the world – USA (Kappeler & Kraska, 2015; Kraska, 2007), Canada (Quan, 2014), Mexico (Meyer, 2013), Israel (Herzog, 2001; Shalhoub, 2004), Indonesia (Meliala, 2001), and Europe (Easton et al., 2010). Kraska (2001a) once stated that the "crime control apparatus in USA has enlisted the services of the military and has adopted a war paradigm for handling internal social problems". He pointed out some examples of police militarisation in USA that could also be found later in other countries. The most important was the emergence of military technology used by the police including the transfer of technology from the armed forces to the police; additionally, military assistance to civilian police departments, cooperation in data and information processing, cross-training in the area of special police units and counterterrorism, special police units that are modelled directly after special military operations units; use of military metaphors and language (war on crime, crime fighting) in police jargon/terminology, etc. (Kraska, 2001b). Fifteen years later, the militarisation of policing in the USA still seems to be a critical area of inquiry for both the police and society (Kappeler & Kraska, 2015). The USA is certainly not an isolated case. More and more blurring of boundaries are true also for European states. Bayley (1975), for example, had already discussed the changing roles in European cultures in 1975! The importance of dealing with overlapping functions might also be seen from the foundation of the Working Group

"Military and Police Relations" at the European Research Group on Military and Society [ERGOMAS] in 2009. This working group focuses primarily on the relationships between the armed forces and police, their overlapping objectives as they share the responsibilities for human security, public order and public security, national security, and international security. The research of the ERGOMAS group encompasses the rich and under-researched areas of paramilitary policing, military and police accountability, including operations under international and domestic rule of law, and international police operations (ERGOMAS, 2013).

There is another kind of militarisation of the police. Small countries especially are prone to use police forces for carrying out the military, even combat missions when they find themselves in a war within their territory. During the wars in the territory of former Yugoslavia (1991–1995), all parties involved used police forces in combat missions. Even more, for some of them, like Croatia, police forces were the only armed forces they could rely on in the early stages of the armed clashes. Such engagement of the police was easier since police officers also received military training in socialist Yugoslavia.

When it comes to the question of the armed forces, one should not neglect the processes that influence their contemporary functions. It seems that the most influential among them are the following: the changing nature of the role of defending national territory; the appearance of new expeditionary roles, including war-fighting and peacekeeping; the changing nature of internal security roles; and the continued salience of nation-building and domestic military assistance. These processes are emerging as a consequence of domestic and international socio-political influences that shape states' perceptions of what their armed forces should look like and the purposes they should serve (Edmunds, 2006).

Although the military has always performed some duties of constabulary forces, the policing duties of the armed forces have escalated in recent years (Campbell & Campbell, 2016). Contemporary armed forces are used in non-combat situations (peacekeeping operations, humanitarian operations, crisis management, and assistance to the police in maintenance of public order, etc.), and they become so-called "constabulary forces" at home and abroad (Sotlar, 2000). One can speak of the internal police function of contemporary armed forces, and this leads to the predictable cooperation between the armed forces and the police (Jelušič, 1997). The internal security functions of the armed forces are a significant challenge to the functional imperative as traditionally defined. As mentioned above, the traditionally defined function of the armed forces is addressing external threats and this makes a clear distinction between the armed forces, the police, and

other internal security agencies. However, the emergence of non-state-based security challenges, such as international terrorism and drug trafficking, has brought internal security issues into greater prominence for armed forces across Europe. These 'new' security challenges have had an impact on military engagement in two main areas. They have increasingly encouraged the use of armed forces in a variety of different internal security functions. In the wake of the 9/11 attacks, for example, the UK deployed military personnel in a number of internal security capacities, including patrolling at airports and providing maritime counterterrorism activities. The Greek government deployed over 16,000 troops as part of its efforts to secure the 2004 Olympic Games, and British armed forces took over the security of the 2012 London Olympics. The Spanish and Italian armed forces have established a joint amphibious brigade whose tasks includes combating illegal immigration and drug smuggling, as well as the provision of domestic military assistance during national disasters (Edmunds, 2006). Many states are using armed forces as additional police forces after terrorist attacks (e.g. France, United Kingdom, Turkey, & Belgium). All this creates a strong impression of "policisation" of the armed forces, especially because it is happening on a daily basis.

4   The Case Study of Slovenia

Slovenia is not immune to the trends described in the previous sections and follows most ideas from the West regarding securitization. What follows is an analysis of the transformation of the functions of the police and armed forces in Slovenia through different historical, political and security circumstances over the last 30 years. Until 1991, Slovenia was part (federal republic) of Yugoslavia, where the roles of the police and the armed forces in the political system of socialism, were substantially different if compared to the situation in the last 25 years in independent Slovenia. In 2004, Slovenia became a member of the European Union and NATO, two organisations that have some influence in security matters of the state. Membership was especially important because as a post-socialist country, Slovenia went through a long transitional process in economic, political, social and other areas, and the security field was no exception. Despite being a member of the EU and NATO, Slovenia is forced, due to its limited resources (human, economic, financial, etc.), to use and organise its national capabilities in the most efficient way to provide security to Slovenian society. As far as security threats are concerned in Slovenia, it should be noted that for years threats were mostly connected to the economic-social area, environmental and demographic issues, health/epidemiological situation, information and communication technology, illegal drugs, as well as natural and anthropogenic disasters (Malešič, 2009). Such trends were

also proved by the findings of the research project "Feelings of Insecurity and the Role of the Police in Local Security Provision" (Meško, Sotlar, Lobnikar, Tominc, & Jere, 2012). The results suggest that for the Slovene public, the most threatening factor among global threats are the financial, economic and social risks (a reduction in the employment rate and major social crisis because of it and sinking welfare in Slovenia). Among the transnational threats, organised crime (money laundering, smuggling of narcotics) is seen as the most threatening factor. The sources of uncertainty (unemployment, poverty) and threats to public safety (financial frauds, corruption, falsification of documents, economic crimes, etc.) are perceived as the most threatening factors at the national level. The latter are perceived as more threatening than transnational or global threats because providing of safety/security at the national level is the most concrete and most linked with the provision of security of the individual and society (Sotlar & Tominc, 2012).[3]

4.1 Slovenian Police

Until 1991, when Slovenia was part of Yugoslavia, the Slovenian police, then called People's Police (slov. "Milica") was subordinated to the Slovenian Secretariat of the Interior[4] (Kolenc, 2003). Its organisation and tasks were defined by the Internal Affairs Act (ZNZ, 1980), which has been amended several times. The police tasks related to protecting life, personal safety and property of the people; maintaining public order; control and regulation of traffic; preventing, discovering and inspecting criminal offences and minor offences, protecting the state border and performing border control, etc. However, the People's Police were considered an additional armed force, which would help the Yugoslav People's Army (YPA) (slov. "Jugoslovanska ljudska armada") and the Slovene Territorial Defence (slov. "Teritorialna obramba") in the state of war.[5] It is true that the Constitution of the Socialist Federative Republic of Yugoslavia (Ustava Socialistične federativne Republike Jugoslavije, 1974) named only the Yugoslav People's Army and Territorial Defence (TD) as the armed forces of Yugoslavia, but Article 240 of the Constitution states that "every citizen, who with arms or in another way takes part in a defence against aggressor, is a member of the armed forces of the Socialist Federative Republic of Yugoslavia".

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[3]   Respondents were asked to assess the so-called "politically declarative threats", written in the Resolution on national security strategy of the Republic of Slovenia [ReSNV-1] from 2010. According to the Resolution (ReSNV-1, 2010), threats can be global, transnational and national.

[4]   Nowadays the Ministry of the Interior.

[5]   Territorial Defence were local military forces, organised in every Republic of Yugoslavia (Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Montenegro, and Macedonia).

What did this mean for the police? At least two acts from the times of socialism – the mentioned Internal Affairs Act (ZNZ, 1980) and the General People's Defence and Social Self-protection Act (ZSLO, 1982) – stipulate that internal affairs agencies (the police, security service, national protection) had to prepare for their function in a state of war. Article 127 of the General People's Defence and Social Self-protection Act (ZSLO, 1982) further provides that the People's Police can be used in combat tasks in a state or threat of war. Moreover, Article 40 of the Defence and Protection Act (ZOZ, 1991) which was passed by a democratically elected National Assembly of Slovenia just a few months before the declaration of Slovenian independence, replacing the General People's Defence and Social Self-protection Act from 1982, states that the Ministry of the Interior decided on the use of the internal affairs units for combat tasks in the state of war (ZSLO, 1982). Article 43 of this law furthermore "elaborates" the power of the Ministry of the Interior, providing that "in the state of war and if claimed by circumstances, unit of the internal affairs agencies can be used for the execution of certain combat tasks" (ZSLO, 1982). This means in practice, that all Slovenian police officers (regular and those in reserve) were also trained in military tactics and some light military weapons.

This was very important if not decisive in June and July, 1991 when Slovenia declared independence and was immediately attacked by the Yugoslav People's Army.[6] In a situation without a standing armed force, only with Territorial Defence, the police forces came as important additional military forces. The police were professional, well organised, mobile, flexible and despite being armed only with light weapons, ready to take part in combat missions against the aggressors. The police also formed special units which were trained in tactics similar to infantry tactics of the Yugoslav People's Army, and were under the command of some police chiefs who graduated from the Military Academy of Yugoslav People's Army which was important from several aspects (Sotlar, 2000). No matter how limited these combat missions and military tasks of the Slovenian police in June and July, 1991 were, they were clearly acts of police militarisation, yet well accepted by the public. Later on, it became clear that the police and Territorial Defence forces contributed significantly (together with the citizens and political elite) to the independence of Slovenia that was internationally recognised by the most important countries in January 1992 (Švajncer, 1993).

Less than six months after the war in Slovenia, a Constitution of the Republic of Slovenia (URS, 1991) was passed. It is expected that every Constitution is clear about

the most important functions of the state, however, one can say a new Constitution lacks clarity when it comes to security matters. The Constitution speaks about "defence forces" but it does not define them (URS, 1991). Thus, it is only the Defence Act passed in 1994 that clearly states that military defence is done by defence forces consisting of Slovenian Armed Forces. However, was this really so? In 1998, the Police Act (ZPol, 1998) replaced the Internal Affairs Act (ZNZ, 1980) and the police became more independent from the Ministry of the Interior, while the tasks remained almost the same. What is interesting is that the role of the police in the potential war was (again) not clearly defined! Article 17 of the Police Act (ZPol, 1998) namely states that the police shall harmonise its organisation, forms and methods of work to the new circumstances in a state of war. On the proposal of the Government, the National Assembly decides about the different use of the police in a state of emergency and a state of war.

Such regulation did not change even 15 years later when the Police Act (ZPol, 1998) was replaced by the Organisation and Work of the Police Act (ZODPol, 2013). Article 107 of this law claims that in the event of a declaration of war or a state of emergency, the National Assembly of the Republic of Slovenia may, upon a proposal of the Government, adopt a decision on the inclusion of the police in activities ensuring the security of the Republic of Slovenia (ZODPol, 2013). Bearing in mind the limited (military and other) capabilities of Slovenia and very positive experiences from the independence war in 1991. There is no doubt that the National Assembly will decide to use the police for military (also combat) tasks, if necessary, in the potential war on Slovene territory to prevent occupation. It is very likely that the National Assembly and the Government of Slovenia would not wait until NATO and the EU decide what to do when the security of Slovenia is at stake. This form of militarisation of the police is not the only one, and much more problematic is the militarisation of the police in everyday life. As already described, one can easily observe a worldwide trend toward bringing of military organisation, weapons, equipment and tactics into the police forces. Anti-terrorist, special police, SWAT and such police units are currently more similar to the armed forces than the police. They kept all the police powers, but their police officers usually do not operate individually (as patrol officers do), but in a unit, using a wide range of weapons, including all kinds of rifles, armoured vehicles and helicopters.

In Slovenia, such "militarisation" took part to a limited extent only in a special police unit (anti-terrorist unit),[7] while

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[6] We mention the period of June–July 1991 only because the Slovenian police *de facto* took part in military combat missions.

[7] Slovenian special police unit was established in 1973 as a consequence of domestic and international factors. The domestic factor was the invasion of the terrorist group consisted of Croa-

the vast majority of the police units remain "civilian" regarding the tasks as well as the organisation, weapons and equipment. Thus, it is certainly an interesting regulation of the use of "non-police weapons" proposed in the Draft Act Amending the Police Tasks and Powers Act (Zakon o spremembah in dopolnitvah Zakona o nalogah in pooblastilih policije, 2016). The Draft act provides that if there is a direct threat to the life of police officers or other persons, the police may, exceptionally, use other types of weapons used by Slovenian Armed Forces. These may be used if the conditions for the use of firearms are fulfilled and the use of standardised police weapons has not been successful, or if according to the circumstances, cannot be expected to be successful. In such conditions, the police may use light infantry and supporting weapons, armoured vehicles and equipment that are not standardised for use in the police.[8] The Director General of the Police proposes the use of weapons, vehicles and equipment, but the final decision is made by the Minister of the Interior in agreement with the Minister of Defence. Also, the Government has to be informed as soon as possible.

Due to the changing security environment in Europe that becomes more and more complex and violent, especially because of terrorism, Slovenia has been an exemption in this regard so far, it is obvious that those who propose these changes to police legislation wish to strengthen the firepower and protective capabilities of police units. It is yet to be seen how this kind of "military" support to the police is going to be accepted by the professional and lay public.

4.2 Slovenian Armed Forces

As part of Yugoslavia, until 1991 Slovenia had two kinds of armed forces. The first one was the regular, multinational Yugoslav People's Army, which consisted of professional officers and conscripts. The Yugoslav People's Army is not included in this analysis since the share of YPA's officers and soldiers coming from Slovenia was only 8%. From 1968 on,

Slovenia had its own local armed forces called Territorial Defence, which was, according to the Yugoslav constitution, part of the Yugoslav armed forces, but commanded by Slovene authorities, at least in peacetime. Due to its nature and goals, Territorial Defence lacked heavy weapons and armoured vehicles as they were established primarily as a second echelon of the Yugoslav armed forces in the potential war. Territorial Defence would serve especially in the case of occupation of Slovene territory by enemy forces. Only a small number of officers of Territorial Defence were professional soldiers, while the vast majority of officers and soldiers were former conscripts who finished their mandatory military service in the Yugoslav People's Army and were then transferred to the Territorial Defence.

Article 124 of the General People's Defence and Social Self-protection Act (ZSLO, 1982) defined the tasks of Territorial Defence as armed resistance (defence) to the aggressor, carrying out certain protection and rescue tasks at natural and other disasters, and tasks related to prevention and abolishment of the state of emergency. A few months before Slovenia declared independence, a new Defence and Protection Act (ZOZ, 1991) gave almost the same tasks to the Territorial Defence (ZOZ, 199: Article 43), with one important additional possibility. Article 56 implicitly provided that Territorial Defence could be used for carrying out "certain tasks of internal affairs bodies in the state of emergency", while such joint operations were coordinated by the representative of the competent internal affairs body (ZOZ, 1991). Such deployment of Territorial Defence can be ordered only exceptionally (ZOZ, 1991). But such a "policing" task of Territorial Defence defined in Article 43 was never implemented, and during the independence war that followed in June and July 1991, Territorial Defence mostly executed its combat tasks, together with police units, against the Yugoslav People's Army.

A new Constitution of the Republic of Slovenia, adopted in 1991, did not mention Territorial Defence as such but named it only "defence forces", as mentioned above. By the Defence Act (ZObr, 1994), the Territorial Defence was finally replaced by Slovenian Armed Forces, which struggled to become modern armed forces, with substantial fire power and manoeuvring capability which was not the case with Territorial Defence. The Defence Act (ZObr, 1994) is also important because it made a very clear distinction between the police and military tasks in Slovenia. For the next 10 years, Slovenian Armed Forces were aimed only for classical military tasks with the additional option to participate in disaster management system. The tasks were the following:

— to carry out military training for the armed struggle and other forms of military defence;

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tian emigrants in Yugoslavia in 1972, when Yugoslav authorities recognised that regular military and police units are not ready and properly trained to take part in counterterrorist operations. The International factor is unsuccessful police response to the terrorist attack at Munich Olympic Games in 1972 made by Palestinian group "Black September" after which European states started establishing special police (anti-terrorist) units.

8   According to the proposed draft Special Police Unit would use the following assets of the Slovenian Armed Forces: infantry weapons of a larger calibre (for example 12,7 mm machine gun), 40 mm grenade launchers, hand grenades of different types, wheeled armoured vehicles for safe breaking into objects. Police officers would be properly trained for the use of these weapons and equipment (Draft Act Amending the Police Tasks and Powers Act, 2016).

— to ensure the combat readiness;

— to carry out the military defence in the case of an attack on the country;

— to implement obligations accepted by Slovenia in international organisations; and

— to participate in the protection and rescue activities in natural and other disasters in accordance with their organisation and equipment (ZObr, 1994: Article 37).

Following the problems, Slovenia faced in 2000 and 2001 due to increased number of illegal immigrants at the borders and where the police were hardly able to control the situation, the Defence Act (ZObr, 1994) from 1994 was amended in 2004 (Zobr-UPB-1, 2004). The classical tasks of the armed forces were only slightly changed, but much more important was the provision of Article 37 according to which the Slovenian Armed Forces may cooperate with the police in the wider protection of the state border inside the national territory in accordance with the plans and the preliminary decision of the government. The members of the Slovenian Armed Forces in carrying out these tasks do not have police powers (Zobr-UPB-1, 2004). Since the situation with illegal immigrants did not deteriorate over the next few years and Slovenia entered the Schengen system in 2007, deploying a large number of police officers on the outside borders of the EU, the mentioned legal option for deploying Slovenian Armed Forces near the border areas remained more or less only the option until 2015.

However, the Defence Act is not the only act that regulates the tasks of the Slovenian Armed Forces. From Service in the Slovenian Armed Forces Act (ZSSloV, 2007) the public "learns" not only about the tasks that are explicitly written in the Defence Act (ZObr-UPB-1, 2004) but also about some other, less known tasks. The cooperation of the armed forces with the police in protection of the state border that was introduced in 2004, is now extended with the cooperation of two agencies in the protection of certain objects or areas or in other tasks. The armed forces can also provide the assistance to other state bodies in accordance with their capabilities (ZSSloV, 2007: Article 22).

There are two more interesting (more implicit) tasks, both deriving from the implementation of international obligations of the state. The first (ZSSloV, 2007: Article 22) is cooperation of Slovenian Armed Forces in activities for prevention of terrorism and other phenomena endangering stability and security. The second task is more of a police nature and derives from Article 25 which provides that "the Slovenian Armed Forces in performing their duties outside the country may also perform tasks that in the Republic of Slovenia are not performed if the performance of such tasks is envisaged from the context of op-

eration, mission or other forms of military operation, to which members of the Slovenian Armed Forces are sent and if they are trained to perform such tasks" (ZSSloV, 2007). This means that the Slovenian Armed Forces are trained in crowd control in international crisis response operations and missions. In "police language", this means that while they are abroad, Slovenian soldiers can also do some public peace and order tasks, something that is strictly forbidden for them in Slovenia! Again, there was little public debate about this "police" task of Slovenian Armed Forces, probably because it was only happening abroad! Such regulation is also now proposed in the Draft Defence Act (Predlog Zakona o obrambi, 2016).

In 2015, Slovenia and some other European countries were faced which a huge influx of migrants/refugees coming through Turkey and Greece and heading to Northern and Western Europe. The police (and other state services) desperately tried to control the situation, but it soon became clear that Slovenia has not enough police officers to handle so many migrants/refugees. Believing that deployment of the armed forces in the border area as regulated by the Defence Act (ZObr-UPB-1, 2004) in 2004 was not enough, the National Assembly of the Republic of Slovenia passed the Act Amending the Defence Act (ZObr-E, 2015). The law brought new Article 37.a, which introduced exceptional powers to the armed forces. The article states that if a security situation requires it, at the proposal of the Government, the National Assembly with a two-thirds majority can decide that the members of the Slovenian Armed Forces, together with the police, exceptionally, in the wider protection of the state border, in accordance with the plans and the preliminary decision of the Government, may also perform the following powers:

— to warn;
— to deploy;
— to temporarily restrict the movement of persons; and
— to participate in the control of groups and masses.

These powers are carried out under the conditions prescribed for police officers and must be immediately notified to the police when exercised. The National Assembly shall specify the period within which the members of the Slovenian Armed Forces exercise the powers and which may last only necessary time for implementation, but not more than three months. This period may be renewed under the same conditions.

This time, allocation of police powers to Slovenian soldiers, a kind of "policisation" of the armed forces, sparked much more attention and debates in the professional and lay public, and especially among political parties. An initiative for

a referendum on this issue was occurring but was banned by the Constitutional Court. Six months later, the Constitutional Court of the Republic of Slovenia (Ustavno sodišče Republike Slovenije, 2016) also decided that the provisions of Article 37.a (ZObr-E, 2015) by which the police powers were given to Slovenian Armed Forces are not in conflict with the Slovenian Constitution.[9]

However, it should be noted that this time the Government did not act so much against expectations of the public. No matter how restrictive regarding the "policing" tasks of Slovenia Armed Forces the Defence Act (ZObr, 1994, ZObr-UPB-1, 2004) was, it has been noticeable since 1999 that when asked about operational responsibilities of the armed forces, citizens strongly supported the assertion that "armed forces should help the police in ensuring order and security". In 1999, 51% of respondents "agreed" or "completely agreed" with such functions of the armed forces. In 2012, the proportion of those supporting such functions of the armed forces was 57% (but in 2001 the support was the highest – 58.7%). Also, the argument that "armed forces should be used in combating terrorism" had strong support by the public. The highest support for the active role of the armed forces in combating terrorism was in 2012, when 78.5% citizens agreed with such a role, while the lowest support was in 2003 (still very high – 71.6%).[10] These results are interesting once those perceptions are being compared to the tasks of the Slovenian Armed Forces defined in the Defence Act, passed in 1994, and then slightly modified in 2004. The tasks written there had little to do with internal order and security or the fight against terrorism. More ("police") powers were given to soldiers in 2015, but it is hard to claim that new tasks and powers correspond to citizens' expectations in Slovene public opinion polls (Potočnik, 2016). Therefore, it can be said, that the expectations of the general public regarding the functions and responsibilities of the armed forces often differ from the expectations of the professional public (experts), politicians and even the current legislation in the field of defence.

5   Conclusion

Due to the complexity of the contemporary security environment, some tasks cannot be unambiguously assigned only to the police or to the armed forces (e.g. tasks related to ter-

rorism, peacekeeping missions, low-intensity conflicts, even safety of big public events). Militarisation of the police on the one hand and "policisation" of the armed forces on the other are obviously cyclical processes, which depend on security and the domestic political environment. The changing functions of the armed forces and police are a political and legal fact. It is not a new phenomenon, despite the fact many people, researchers, academicians and politicians dislike it. There are still many experts and representatives of civil society who are in favour of the traditional functions of the police and the armed forces. However, if the changed functions (and roles) are acceptable by citizens and politicians (lawmakers), and are in accordance with the nation's needs (they respond to threats) and resources, society will gradually accept the new reality. But this is just a present situation, and since the security environment is not something static, we could witness the reverse process in the future.

Countries sometimes use all national capabilities and resources when security is at stake. In this regard, (particularly small) countries are usually forced to use the police forces even in combat missions in wartime within their territory. In the last 25 years, this was, for example, the case with Slovenia, Croatia, Bosnia and Herzegovina, Serbia, F.Y.R. of Macedonia, Georgia, Chechnya, etc. Mainly due to terrorism and violent organised crime, other militarised practices (like military weapons and equipment, tactics, organisation, etc.) were also introduced in police organisations all over the world. However, much more typical is the "policisation" of the armed forces. No matter how large and strong the states are, it is quite common today that the armed forces will be used for tasks in policing due to serious security threats. Such engagement of soldiers in France and Belgium after the terrorist attacks in 2015 and 2016 is just one example, while military personnel are massively used for security purposes also during the Olympic Games and other big public events. It is important to stress that organisational and financial problems, caused by the economic crisis in a country, should not be decisive factors for changing the functions of the agencies of the national security system. Thus, the functions and powers of organisations like the police and the armed forces should not be changed overnight and this is a typical example, where securitization enforced by the politicians does more harm than good! No matter how difficult this might be (especially in rapidly changing security situations), it would be appreciated and useful to reach some consensus among politicians, security experts, as well as a civil society on the functions and responsibilities of the police, armed forces and other agencies of a national security system. This would give security policy much needed legitimacy (Malešič, 2002).

Slovenia "fits the profile" since it is small, has limited human and material resources, and a country that has been severely struck by the global economic and financial crisis.

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[9]   The procedure before Constitutional Court was launched by Ombudsman of Slovenia.

[10]   Such strong support to the armed forces as "anti-terrorism" agency is somehow surprising and in contrast with the perception of terrorist threat in Slovenia. Namely, terrorism has not been considered as the important threat to national security for Slovenian citizens for decades.

However, the two described processes still have not gone too far, mainly because the security situation is steady (crime is under control, there was no terrorist attack in the last 25 years, and no mass violent violation of public order, etc.). Still, the Slovenian Armed Forces are getting more and more involved in all three subsystems of the national security of Slovenia. While their participation in defence and disaster management was never problematic, getting the police tasks and powers in the wider protection of the state border[11] influences the nature of the Slovenian security system that has been built over the last 25 years. Needless to say, that its foundation rests on the standards for the protection of human rights and freedoms, civil-military relations and transparency of the security sector that have been created in Western societies for decades! When it comes to the question of the present and future functions of the Slovenian police, no matter how ambiguous the legislation is, it is expected that police forces will play a similar role in a potential war in Slovenia as they did in 1991. As far as the intention to introduce additional military weapons (heavy machine guns, wheeled armoured vehicles, hand grenades and grenade launchers) in a special police unit is concerned, this for sure will not change the civilian character of the Slovenian police. However, bearing in mind the present stable security circumstances in Slovenia, such a step could also be understood as a strong sign of police militarisation.

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[11] One must not forget that Slovenian Armed Forces are not and cannot be considered as auxiliary civil protection units or auxiliary police but first and foremost as defence forces!

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Spreminjajoče se funkcije policije in oboroženih sil (v izrednih situacijah) v Sloveniji

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Prispevek obravnava spremembe tradicionalnih funkcij policije in oboroženih sil. Države, še posebej majhne države, kot je Slovenija, predvsem (vendar ne izključno) v vojnem stanju ali drugih izrednih varnostnih razmerah, uporabijo vse zmogljivosti in sredstva za reševanje varnostnih problemov, kar privede tudi do nekonvencionalnih nalog in pristojnosti policije ter oboroženih sil. Čeprav obstaja več razlogov/dejavnikov za te spremembe, se prispevek osredotoča le na dva izmed najpomembnejših dejavnikov. Prvi dejavnik predstavljajo sodobne varnostne grožnje, ki so zelo dinamične, zato morajo biti službe, ki zagotavljajo varnost, sposobne hitrega prilagajanja in pravočasnega odzivanja. Drugi dejavnik je proces sekuritizacije, kjer politične elite same odločajo o tem, kaj so varnostna vprašanja, tako da definirajo glavne grožnje za družbo, kot tudi funkcije policije in oboroženih sil. V obeh primerih postane razlikovanje med funkcijami policije in oboroženih sil vse bolj zamegljeno. Pregled literature kaže na to, da v mnogih državah danes policija sodeluje v operacijah vojaškega značaja in/ali je opremljena s tradicionalno vojaško opremo, medtem ko policijsko dejavnost opravljajo različne nepolicijske organizacije, vključno z oboroženimi silami. Procesa militarizacije policije in policizacije oboroženih sil nista nov fenomen, zdi se celo, da se pojavljata ciklično. Pričujoča študija, ki temelji na deskriptivni in komparativni analizi spreminjajočih se funkcij policije in oboroženih sil v zadnjih tridesetih letih, kaže da Slovenija ni imuna na tovrstne procese. Tudi v Sloveniji so oboroženim silam dodeljene določene naloge in pooblastila na področju zagotavljanja notranje varnosti, hkrati pa se tudi od policije pričakuje, da se udejstvuje v vojaških operacijah v morebitni vojni, predlagane spremembe policijske zakonodaje pa naj bi omogočale, da bi lahko bila tudi specialna enota policije dodatno opremljena z vojaškim pehotnim orožjem in opremo tudi v mirnodobnem času. To bi lahko bil kazalnik relativno močnega procesa militarizacije policije, še posebej, če upoštevamo relativno stabilno varnostno situacijo v Sloveniji. Prispevek poudarja tudi pomen konsenza med politično elito, varnostnimi strokovnjaki in civilno družbo glede temeljnih funkcij policije in oboroženih sil, ki pa ga ni tako enostavno doseči, še posebej v hitro spreminjajočem se varnostnem okolju.

Ključne besede: policijska dejavnost, policija, oborožene sile, militarizacija, policizacija, Slovenija