

The Transparency - Security Dilemma in National and International Context
(A Comparative Analysis of the UN' and NATO's Transparency/Secrecy Policies)

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Introduction

The idea that transparency is not an opponent but an inevitable component of national and international security has been gaining momentum in recent years. Although the transparency of the security sector has some limitations, which make it a highly controversial issue even in democratic countries, undoubtedly much progress has already been achieved for example in establishing the exchange of information as one of the most important confidence and security building measures in international politics since the Cold War. Furthermore, in most recent times transparency has been perceived as a major instrument for democratic control of the security sector. Even covert operations nowadays are considered illegal if not being monitored by a certain supervision body which inevitably makes them less 'covert' than in the past. What strikes even more is the fact that some non-democratic countries are getting more interested in and more inclined to transparency in certain sensitive areas such as military issues and foreign aid. All of these developments pose a major challenge to international security organizations that are rigid to openness like NATO.

The following paper will discuss different theoretical perspectives to transparency - security dilemma in national and international context and will seek for empirical implications of the issue in the transparency/secrecy policies of the UN and NATO.

Transparency and the International System

Transparency is a factor for peace, conflict evasion and security cooperation on systemic level in contemporary international relations. This hypothesis could be drawn from the research of the not-so-many authors dealing with the correlation between security and transparency in international relations. Robert Jervis¹ for example studies the probability for security cooperation in international anarchy and compares two different security regimes – balance and concert of powers. According to Jervis the high level of communication and transparency in the concert system enhances the probability for security cooperation. Such a direct correlation however lacks in the balance of powers system. 'After 1815, statesmen realized that a relatively high level of full and honest communication could increase the chances of maintaining cooperation. To this end, they were often willing to forgo the advantages of surprise, and to inform others of what they planned to do even if they knew that the latter would not approve of the action. This was one function of the frequent meetings of the great powers. If each state had a good idea of the others' plans, all could avoid the common trap of exaggerating the threat they believed others to be posing. Furthermore, it

¹ JERVIS, Robert. From Balance to Concert: A Study of International Security Cooperation. *World Politics*, Vol. 38, №1, October 1985.

could be in a state's interest to give a warning and learn what the response of others would be if it were to act on its intentions. The participants could thus look ahead several plays of the game; if the outcome was worse than mutual cooperation, the first state could decide to refrain from taking its disruptive action. Such arrangements are not foolproof, of course; not only does the state lose the possibility of taking others by surprise, but it runs the risk that others will exploit it by bluffing or by adopting undesired commitment', says Jervis².

This observation, which is applicable to the concert of powers system, could be also relevant to the contemporary international system of collective security. In order to function properly, it needs certain level of communication and exchange of information between actors. In fact some authors³ claim that the European concert of powers after 1815 is an example for a collective security system as far as it (just like the contemporary international system) needs at least a minimum consensus for peacekeeping through collective norms and actions.

Bernard Finel and Kristin Lord⁴ also state that transparency is a source of stability in the contemporary international system because the main centers of power in the world are either in support of the status quo or have limited purposes. The USA, most European countries and Japan are powers of the status quo, Russia and Indonesia are focused mainly on their internal problems and China and India are interested mainly in regional dominance than in global leadership. According to Finel and Lord as long as there is no fundamentally contradicting or hostile purposes among the great powers, transparency should encourage them to develop a de facto concert system.

Transparency as a Confidence and Security Building Measure

As a result of the positive effects of transparency on security cooperation on systemic level, the exchange of information on security matters has been established as an important confidence and security building measure in the recent decades. Even in the Cold War period there was certain level of transparency in security matters of the two competing blocs. Nowadays transparency functions as a confidence and security building measure through different mechanisms like the United Nations' registers of conventional arms and of military expenditure, the compulsory annual reports of the EU countries on arms export, treaties like the 'Open Skies Treaty' or initiatives like the Conference on Interaction and Confidence Building Measures in Asia (CICA).

The concept behind the UN registers is that 'transparency in armaments can help determine if excessive or destabilizing accumulations of arms is taking place. Being open about armaments may encourage restraint in the transfer or production of arms, and can contribute to preventive diplomacy'⁵. 'Transparency in military matters—including defence policies, military spending and military capability - is generally considered an essential element for building trust and confidence between states...There is widespread formal agreement among states that exchanging information on military capabilities can help to prevent the exaggeration of threats, misinterpretations of intentions or actions, military

² Ibid., 74-75.

³ Robert Jervis, Paul Gordon Lauren, Paul W. Schroeder, Mathew Rendall.

⁴ FINEL, Bernard, Kristin Lord. *Power and Conflict in the Age of Transparency*. New York: Palgrave Macmillan, 2002, p. 341.

⁵ UN Register of Conventional Arms, Available from: <http://www.un.org/disarmament/convarms/Register/> [cited 30 January 2014].

miscalculations and excessive or destabilizing arms build-ups', say Pieter and Siemon Wezeman⁶.

According to the statistical data of the UN, since its inception in 1991, the UN Register of Conventional Arms has received reports from more than 170 States. According to the website of the UN the vast majority of official transfers are captured in the register. Reports include data provided by countries on arms transfers as well as information on holdings, domestic purchases and relevant policies. According to SIPRI's research however the actual participation in the UN registers is 'embarrassingly low'. 'In 2012 only one-third of the 193 UN members states submitted any information on their arms import and exports, and even fewer states reported on their military expenditure'⁷, state Pieter and Siemon Wezeman.

Despite the generally positive development of the UN registers since their inception, there are considerable claims that such transparency measures have limited effectiveness. James Marquardt⁸ for example argues that states are by default prone to lies and disinformation and therefore any transparency in security matters would be too modest and any form of security cooperation – futile. In fact transparency measures in security cooperation could hardly prevent the breaking out of a conflict or a war when the core interests of the states predetermine such ultimate actions. Confidence and security building measures however turn out to be a rather effective instrument for prevention of violence evoked by mutual misunderstanding, tactical maneuvers or security dilemma considerations.

The various mechanisms for declaration of armaments and arms trade prove that there have been consistent efforts for building confidence and predictability through transparency in international relations in recent years. Despite the fact that the declaring of military data is in general not compulsory, the information for arms trade, holdings and military expenditure has considerably enhanced in the last 20 years.

On the other hand, there are serious limits to disclosure which do not allow the potential of transparency in military area to be fully spread. The mechanisms for declaration of military data are still away from the achievement of their aim for universal participation. Many countries, especially non-democratic, disclose quite limited or no military data. Countries experiencing a crisis or a conflict situation are less prone to declare security information. In addition, the UN Register of Conventional Arms does not include all kinds of arms and is not in line with the new realities in arms trade – for example with the increasing number of non-state actors – recipients of arms deliveries, and with the flourishing of the trade with dual-use goods instead of arms. The information in the UN registers is often incomplete and inconsistent – there are missing reports for certain years and inaccuracies in the data reported. The lack of mechanisms for verification is additional negative factor for confidence building. Moreover, the data in the different reporting mechanisms do not overlap and are difficult to compare. The reporting of the data in standardized formats increases the comparability of the information but on the other hand makes it difficult for countries with different accounting norms to report. The lack of administrative capacity in the reporting countries and of user friendly online formats for reuse and analysis of the data are other obstacles to effective transparency.

Even if all of the imperfections of the UN registers of conventional arms and military expenditure and all other mechanisms for revelation of 'sensitive' military information were eliminated, the data for arms import, export and production could be only indicators of the

⁶ WEZEMAN, Pieter, Siemon Wezeman. Balancing Transparency and National Security. SIPRI, January 2014. Available from: http://www.sipri.org/media/newsletter/essay/wezeman_wezeman_jan14 [cited 19 April 2015].

⁷ WEZEMAN, Pieter, Siemon Wezeman. Balancing Transparency and National Security. SIPRI, January 2014. Available from: http://www.sipri.org/media/newsletter/essay/wezeman_wezeman_jan14 [cited 19 April 2015].

⁸ MARQUARDT, James. Цит. съч Transparency and American Primacy in World Politics. Ashgate, 2011.

military capabilities dynamics and of the military balance as a factor for one or another foreign policy decision. It will be still disputable whether the registers achieve their basic aim to build confidence between states and lower the number or intensity of the conflicts in international relations. Nevertheless, the undisputable advantage of this particular manifestation of transparency is that it contributes for much better informed decision making process in the countries. Making important foreign policy decisions in an informed way is certainly a precondition for more rational actions and therefore – for strengthening international security.

Transparency as a Foreign Policy Instrument

Another factor for enhancing transparency in security area during the Cold War and afterwards is the fact that it could be used as a foreign policy instrument just as effectively as secrecy. James Marquardt⁹ claims that there is a link between transparency and power, and explains the US transparency initiatives of the last decades with the country's strive for primacy in world politics. In general developed countries sustain transparency in international relations and security for several reasons: 1. it is a way to entangle the non-democracies into security regimes dependent on exchange of information; 2. it helps involving different countries into coordinated international efforts requiring exchange of information in critical areas like ecology, healthcare, etc.; 3. it is an instrument for liberalizing and enhancing of international trade and investments; 4. it is a mechanism for influencing the domestic politics of sovereign states; 5. it is an instrument to compare power and capabilities in world politics; 6. it is an instrument for exerting soft power, etc. From the developing countries' point of view transparency could also be beneficial for different purposes, including for security reasons: 1. it could be used as a mechanism for accountability of the developed/donor countries about the fulfillment of their financial and other engagements towards developing countries; 2. it could be a manifestation of the efforts of the developing countries for enhancing democratic policies, which is often a requirement of the so called 'conditionality mechanism'; 3. the call of the developing countries for transparency is also their instrument for amplifying their comparative power in the international system through reform of important international organizations like the UN, the World Bank, the IMF. Due to these and other fundamental reasons (the flourishing of information and communication technologies; the growing number of democratic countries after the decolonization and the end of the Cold War; the establishment of a democratic country - the USA, as the only superpower after the Cold War; the growing interconnectedness between actors on the world scene; the globalization itself) the transparency concept has gained momentum in the last decades.

A real indicator for the growing importance of transparency for both - democratic and non-democratic countries, is the raising number of voluntary international transparency initiatives like the 'Extractive Industries Transparency Initiative' (EITI, 2002), 'International Aid Transparency Initiative' (IATI, 2008), 'Open Government Partnership' (OGP, 2011). Other non-democratic countries try to demonstrate transparency through their own initiatives like issuing regular reports. An example is the China Defense White Paper which however looks more like public diplomacy product than a real document.

Transparency and National Security

⁹ Ibid.

Regardless of the effectiveness of the transparency initiatives concerning international relations and security, the predisposition towards openness on systemic level has led to more pressure for transparency in domestic politics, including national security. ‘While transparency between states has led to the creation of several transparency-related mechanisms, and the notion of transparency enjoys general support, there are no globally agreed binding rules or even guidelines related to domestic transparency in defence policies, military budgets or arms procurement and sales.’¹⁰

The right of access to information is a fundamental human right as far as it is protected by major international treaties in the field of human rights protection like the International Covenant on Civil and Political Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, The EU Charter of Fundamental Rights, the American Convention on Human Rights, etc. Most treaties in the area of human rights protection however state that the right of information is subject to limitations, including the protection of national security, domestic order, public health, etc. In fact all legally binding international legislative acts in the area of human rights state that the legitimate and well defined interests in the sphere of security are a valid cause for the authorities to keep information secret.

On the other hand, the resolution of the Parliamentary Assembly of the Council of Europe ‘National Security and the Right to Information’¹¹ (October the 2nd, 2013) underlines that the access to information itself is a key element of national security as far as it a precondition for public participation, formulation of prudent public policies and public control over state activities. The balance between the right of information, on one hand, and the protection of the legitimate interests of the states in national security and international relations – on the other, has not been subject of comprehensive regulation in international law. Serious progress in that area however has been achieved by international non-governmental organizations and experts who invented the non-binding ‘Johannesburg Principles on National Security, Freedom of Expression and Access to Information’¹² (‘The Johannesburg Principles’, 1995) and the Global Principles on National Security and the Right to Information¹³ (‘The Tshwane Principles’, 2013; officially backed by the PACE in a resolution¹⁴).

According to ‘The Tshwane Principles’ the ‘legitimate interests’ of national security are best protected when the public is well informed about all state activities, including those that are performed in order to protect national security. All information is public by default and the limited access, when necessary, is an exemption. The restraint is justified when it is prescribed in a legal act; when protects ‘legitimate interest’ of national security and when it is necessary in the democratic society. A state interest is legitimate when it is prescribed in national or international law. It wouldn’t be legitimate if it attempted to protect authorities from exposure of their wrongdoings, especially concerning human rights. The restraint is

¹⁰ WEZEMAN, Pieter, Siemon Wezeman. Balancing Transparency and National Security. SIPRI, January 2014. Available from: http://www.sipri.org/media/newsletter/essay/wezeman_wezeman_jan14 [cited 19 April 2015].

¹¹ Resolution on National Security and Access to Information, Parliamentary Assembly of the Council of Europe, 2 October 2013. Available from: <http://merlin.obs.coe.int/iris/2013/10/article3> [cited 8 February 2014].

¹² The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, “Article 19”, London, November 1996.

¹³ Global Principles on National Security and the Right to Information (‘The Tshwane Principles’), Open Society Foundations, 12 June 2013. Available from: <http://www.opensocietyfoundations.org/sites/default/files/Global%20Principles%20on%20National%20Security%20and%20the%20Right%20to%20Information%20%28Tshwane%20Principles%29%20-%20June%202013.pdf> [cited 16 July 2013].

¹⁴ Resolution on National Security and Access to Information, Parliamentary Assembly of the Council of Europe, 2 October 2013. Available from: <http://merlin.obs.coe.int/iris/2013/10/article3> [cited 8 February 2014].

‘necessary in the democratic society’ when the risk to harm a legitimate interest of national security is higher than the public interest to disclose certain information. As Laurie Nathan has noted, ‘instead of being based on the amorphous notion of ‘national security’, secrecy regarding the intelligence community should be motivated with reference to specific and significant harm that might arise from the public disclosure of information’¹⁵.

Transparency and the Democratic Control of the Security Sector

In short, the protection of national security could not be a universal or an automatic justification for governments to withhold information. This is especially important remark when it comes to the implementation of the idea for democratic control of the security sector. National security is an area which is considered as reserved for secrecy although transparency is a ‘conditio sine qua non’ when it comes to accountability and democratic control. The lack of transparency of the defense sector of a country for example could seriously harm its national interests by concealing different wrongdoings or crimes. The predisposition to secretiveness in the area of security sometimes cannot be justified by a real necessity to limit the access to classified information but is rather due to the intention to conceal information for illegal or unprofessional activities of the authorities – as the ex-chairman of the US Commission on Government Secrecy Daniel Moynihan once said: ‘Secrecy is for losers’. According to the concept for democratic control of the security sector transparency is a safeguard against irrational decisions and illegal use of power, especially for human rights violations.

The fact that certain state agency has intelligence functions or is responsible for the protection of national security does not by itself mean that it may work under the veil of secrecy or it may be excluded by the mechanisms of democratic accountability. ‘Since openness is a necessary condition of democratic governance and protection of human rights, the challenge in the world of intelligence should not be defined as ‘finding the right balance between secrecy and transparency’. Rather, secrecy should be regarded as an exception that in every case demands a convincing justification. Whereas the emphasis of intelligence communities throughout the world is on secrecy with some exceptions, in democratic societies the emphasis ought to be on openness with some exceptions... There is ample historical evidence that power is that power is more likely to be abused, and human rights are more likely to be violated, in conditions of secrecy than in an open political environment’¹⁶, notes Laurie Nathan.

‘The dilemma of democratic oversight of the intelligence and security agencies is that without intelligence the country’s national security is put at risk, but if intelligence is excessive in positioning or carried out in certain manner it may violate constitutional norms and civil liberties’¹⁷, according to Plamen Pantev. In his view the legislative power should be active and highly responsible in its function to supervise intelligence agencies. The democratic oversight should encompass even such activities of the intelligence as the covert operations. Unlike the other obstacles to transparency in security area, which concern mostly the effectiveness of the security measures and the impact of one or another decision on public opinion, the problem with the covert operations is that if they are officially confirmed by state authorities, this would constitute a violation of *jus cogens* and would entail relevant sanctions.

¹⁵ NATHAN, Laurie. Intelligence Transparency, Secrecy, and Oversight in a Democracy. In: ‘Overseeing Intelligence Services: A Toolkit’. Ed. By Hans Born and Aidan Wills, 2012, p. 53.

¹⁶ Ibid., p. 52.

¹⁷ PANTEV, Plamen, etc. Civil – Military Relations and Democratic Control of the Security Sector. Sofia: ProCon, 2005, p. 49.

Loch Johnson¹⁸ claims that the solution is not to prohibit covert operations but to put them in democratic frames. This entails accountability on every level through clear rules, regular reports, honest performers and responsible supervisors who conduct the relevant hearings, audits, inspections, etc.

In this respect the Parliamentary Assembly of the Council of Europe adopted a resolution ('Abuse of State Secrecy and National Security: Obstacles to Parliamentary and Judicial Scrutiny of Human Rights Violations'¹⁹) which states that crimes like murders, tortures and abductions committed by state agents do not deserve the protection which is attributed to state secrets. The document points out that the judicial and parliamentary oversight of the covert operations of the security and intelligence services is crucial for the rule of law and democracy. The resolution recommends that they should not be excluded from accountability because such a step will lead to 'a dangerous culture of impunity, which undermines the very foundations of democratic institutions'. The resolution appeals to member countries for establishing a parliamentary mechanism for control of the security agencies, which allows access to all necessary information, and for creation of a certain institution which should decide whether to publish information that the government insists to be kept secret.

Transparency and International Security Organizations

Provided that transparency of national security is quite problematic, it could be supposed that it will be even more lacking in international organizations dealing with security. This hypothesis could be confirmed or denied by a comparative study of the transparency/secrecy policy of the universal organization that deals with international security – the United Nations, and that of the most vibrant collective security organization – NATO.

To make a comparative analysis we should first explain what makes an international security organization transparent and accountable. The democratic understanding of politics even in the international system implies that power should be accountable because otherwise it would be unlimited and could be abused. Provided that the international system is not democratic or centralized, the accountability issue gets much more problematic on international level. As there is no global civil society which could verify the activities of those with power on international level, Ruth Grant and Robert Keohane²⁰ offer pragmatic approaches towards effective accountability on global level which do not require the existence of global public. The researchers distinguish between 'the participation model of accountability' and 'the delegation model of accountability'. In the first case the evaluation is made by those affected by the organization or the state in question. In the second the evaluation is made by those who have delegated power to the organization. This means that in the participation model the World Bank for example should be accountable before the people from the poor countries who are affected by its policies. In the delegation model the organization should give an account to the states which have submitted partly their sovereignty to the World Bank.

¹⁸ JOHNSON, Loch. Covert Action and Accountability: Decision-Making for America's Secret Foreign Policy. *International Studies Quarterly*, №33, 1989.

¹⁹ Resolution, Abuse of State Secrecy and National Security: Obstacles to Parliamentary and Judicial Scrutiny of Human Rights Violations, Parliamentary Assembly of the Council of Europe, 6 October 2011. Available from: <http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=18033&lang=EN> [cited 3 February 2014].

²⁰ GRANT, Ruth, Robert Keohane. Accountability and Abuses of Power in World Politics. *American Political Science Review*, Vol. 99, №1, February 2005, p. 29.

These two general models are incorporated into seven specific accountability mechanisms which are applicable in international context according to Grant and Keohane: hierarchical accountability (useful in complex organizations like the United Nations, with many levels of delegated responsibility); supervisory accountability (where the international organizations give account to their creators – the state authorities of the member countries); fiscal accountability (before the donors); legal accountability (related to judicial prosecution); market accountability (an evaluation by investors and consumers); peer accountability (mutual evaluation among the actors on the world scene); public reputational accountability (related to the public image of the organization or the state).

Grant and Keohane state that the intergovernmental organizations like the UN, The IMF and others, which used to be criticized for their lack of accountability, actually perform best. The states, which are the most important actors on the world stage, on the other hand, are quite less accountable. Both authors reaffirm that transparency is an inevitable part of the accountability mechanism. ‘The availability of information is crucial for all forms of accountability, but transparency, or the widespread availability of information, is essential to market, peer, and reputational accountability, as well as to the internal workings of democratic accountability in states which play a supervisory role. Public reputational accountability, for example, relies almost exclusively on transparency. But transparency is not sufficient for effectiveness. Without standards and sanctions—and a configuration of power that enables sanctions to be imposed relatively consistently on all violators of standards—accountability that is both effective and widely viewed as legitimate will remain elusive’, according to Grant and Keohane.

If we interpret and apply the Libich’s model of transparency of a central bank’s monetary policy²¹ (*according to this model there are five types of transparency – political/goal transparency; economic transparency; procedural transparency; policy transparency and operational transparency*) to international organizations, this means that a transparent organization should publish: 1. its aims and *raison d’être* (i. e. what the organization wants to achieve); 2. data and analyses that are necessary for making informed decisions (what the organization knows about society); 3. information about the decision making process and the decisions themselves (what the organization is doing); 4. financial data (how the policies of the organization are financed) and 5. information necessary for accountability (has the organization fulfilled its aims).

In more details a good model for evaluation of the transparency of international organizations (including in the field of security), should disclose information about the following:

1. the constitutive acts of the organization; its member states or other subjects of the international law;
2. the strategic documents of the organization, revealing its aims and intentions; information about the plans to reform the organization;
3. the structure and the personnel (at least the management) of the organization;
4. the procedures for the nomination of the management of the organization and the mechanism of the conflict of interest policy;
5. analyses, statistics, reports, papers and other information, created by the organization, which is valuable in the decision-making process;
6. drafts of important documents like treaties, decisions, etc.
7. decision-making process – open official meetings of the main bodies (through open doors, online broadcasting, public minutes, records or other);

²¹ LIBICH, Jan. Should Monetary Policy Be Transparent. *Policy*, Vol. 22, №1, Autumn 2006, 28 – 34.

8. voting (with the exception of the secret ballot);
9. the decisions – they should be made public partly (if they contain classified information) or fully (if they are binding legislative acts or recommendations);
10. accountability reports;
11. the budget of the organization (in program format), including the amount of the annual installments of the member countries;
12. existence of a transparency friendly procedure for access to documents.

Transparency of NATO

NATO is among the international organizations that realize the major importance of communication policy (including the release of documents) for the success of its policies and operations. Therefore the organization has approved and published a remarkable amount of documents defining its policy in the sphere of communication, release of documents and classification of information: *'NATO Security Policy'* (June 2002), *'The Management of Non-Classified NATO Information'* (July 2002), *'NATO Strategic Communication Policy'* (September 2009), *'Policy on the Public Disclosure of NATO Information'* (November 2008), *'NATO Information Management Policy'* (December 2008), *'Policy on Retention and Disposition of NATO Information'* (February 2009), *'NATO Records Policy'* (June 2011), *'Directive on the Management of Records Generated on Operational Deployment'* (February 2012), *'Streamlining the Public Disclosure Programme: Request to Submit Items of Ongoing National Sensitivities'* (April 2013), *'Streamlining the Public Disclosure Programme: Refinement of the Process for Nuclear and Intelligence Related Information'* (June 2013), *'Guidelines for Inclusion of Non-NATO Nations in the Public Disclosure Process'* (March 2014), etc. The latest document in this area is the *'Directive on the Public Disclosure of NATO Information'*, approved on the 4th of August 2014 and summarizing the core of NATO's public disclosure policy.

The problem with NATO's approach to public communication, however, is that the more documents in the area it approves, the more rigid towards disclosure it gets.

The release of documents and information is an element of the NATO's coherent communication policy. According to the major principle of dissemination of NATO information data are public when they are no more classified or sensitive. Information is disclosed and made available to the general public when it 'has permanent value and is at least 30 years old; has been declassified by competent authorities in accordance with the NATO Security Policy and has been examined by competent authorities in the member nations and approved for public disclosure'²². In short, current NATO information could be

²² Public Disclosure of NATO Information, Note by the Secretary General, NATO, November 2008. Available from: http://www.nato.int/nato_static/assets/pdf/pdf_archives/20120327_C-M_2008_0116_INV-Public_Disclosure.pdf [cited 18 November 2013], p. 2.

conditionally made public in no less than 30 years. When the information is related to the nuclear planning process and intelligence it will be processed after 50 years²³.

The files are disclosed by competent NATO bodies on annual basis or ad hoc. According to the systematic process when the information was marked 'unclassified' at the time of its creation, it shall be disclosed automatically after the 30 years period has expired. If it was marked 'restricted' and has not been declassified when reaching the 30 years threshold, it shall be first declassified and then disclosed after a further year. The information that was marked 'confidential', 'secret' or 'top secret' shall be proposed for declassification and public disclosure taking into account the 'NATO Exemptions'.²⁴ It is important to note that member states have a veto power over disclosure because in case of 'specific national concerns' information must be withheld.

There is however an option that a document could be released on an ad hoc basis upon request of 'the competent authorities' or a proposal of the NATO Archivist. During the ad hoc procedure the release of a document is possible even if the 30-year period has not expired and the information does not have permanent value. Partial release of NATO information has also been allowed.

The list of the so called 'NATO Exemptions' consists of 10 exemptions: NATO 1 (information, the public disclosure of which would be likely to endanger NATO internal cohesion, members, missions, infrastructure or personnel); NATO 2 (sensitive personal information about individuals who were born less than 100 years ago); NATO 3 (confidential commercial information); NATO 4 (details about methods or sources of intelligence); NATO 5 (details about methods of mass destruction); NATO 6 (details about current cryptographic systems); NATO 7 (details about current weapons systems); NATO 8 (details about current political or military plans, policies and operations); NATO 9 (details about current internal or external NATO political discussions and sensitivities); NATO 10 (details about current physical and information security).

It is important that the information that is declassified and publicly disclosed in the systematic process should be publicly available in the NATO Archives or in the member states (without further reference to NATO). This means that the information is not easily accessible online but through the relevant bureaucratic procedures - an example of passive, not active transparency. Moreover, NATO creates many 'unclassified' documents, which are not publicly available. Documents that are not classified are marked 'unclassified' and are used for official NATO purposes only. In general they are not disseminated to the public.²⁵

The public information of NATO consists mainly of press releases, declarations, statements, strategic concepts, technical standards, limited financial data, the annual report of

²³ Directive on the Public Disclosure of NATO Information, Archives Committee, NATO, 4 August 2014. Available from: http://www.nato.int/nato_static_fl2014/assets/pdf/pdf_archives/AC_324-D_2014_0010.pdf [cited 11 March 2015], p. 5.

²⁴ Directive on the Public Disclosure of NATO Information, Archives Committee, NATO, 4 August 2014. Available from: http://www.nato.int/nato_static_fl2014/assets/pdf/pdf_archives/AC_324-D_2014_0010.pdf [cited 11 March 2015], pp. 5-6.

²⁵ The management of Non-Classified NATO Information. Note by the Secretary General, NATO, 11 July 2002. Available from: <https://www.ncia.nato.int/Documents/Legal%20Office/C-M%282002%2960.pdf> [cited 4 May 2015].

the Secretary General and archival documents. In 2014 NATO started releasing individual audit reports of NATO entities and their related financial statements.

Actually, in October 2013 NATO launched the 'NATO Archives Online' portal (archives.nato.int) which facilitates the access to more than 42 000 publicly disclosed documents from the first 10 years of NATO history (1949 - 1959). More recent documents however are not present at the moment. Some of the files are of high historical value – for example the information for the request of the USSR to join NATO in 1954; a report on the rise of China as an important international actor during the Cold War; early discussion for the political and strategic importance of Afghanistan; analysis of the economic impact of the Suez crisis on NATO member states, etc. What is more, in September 2013 upon request of the Hungarian Foreign Ministry the ad hoc procedure made publicly available lots of documents concerning the Hungarian events of 1956. A major part of the online disclosed documents, however, are actually created by the Public Diplomacy Division of NATO and they are mainly for public diplomacy purposes rather than for real research.

What are the main problems with NATO's transparency? First, its policy is not compatible with the models of a transparent organization, for example with the Libich's model. NATO's publications match none of the above mentioned five transparency criteria although the organization has some limited progress in disclosing information about its aims, its finance and a general accountability report.

Practically NATO publishes hardly any documents concerning its present activities. Neither of the meetings and sessions of its main bodies is public. The decisions made, the minutes and the other records from the meetings are likewise not disclosed. There is no information about the consultation and the voting within the main political body of the organization – the North Atlantic Council, although the decisions are taken unanimously. NATO does not publish analyses, reports or other forms of information that is used for making informed decisions. The organization does not disclose even its common budget or documents needed for accountability (with the exception of the Annual Report of the Secretary General). The website of the organization does not even have a special section for documents which is indicative for the approach of NATO towards transparency. The information is rather dispersed among different categories. The website consists of basic information for the main activities of the organization. The statistical information about the annual defense budget of the member states is also presented with the aim to show the great imbalances in its financial backing. NATO has attempted to imitate openness with the launch of its online tv channel (NATOChannel.tv). Unlike the television of the United Nations however, which has live broadcast of the sessions of some of the main bodies of the organization, the online channel of NATO presents only documentaries concerning different NATO activities and has live broadcasting only of the press conferences of the Secretary General.

Although NATO has invested a lot of efforts in explaining its disclosure rules, it is still one of the most rigid organizations in the area of transparency. In this respect it can be even compared to international organizations of non-democratic countries. It allows classifying of almost all of the current activities of the organization upon general criteria and the discretion of administrators which makes the system prone to arbitrary classifications. The public information from the organization is too poor to allow the general public to construct informed perceptions about its current activities.

The insufficient transparency of NATO activities has urged different organizations to raise the issue to the public agenda. For example the Netherlands Court of Audit (NCA) has taken the initiative to present an overview of the publicly available information on NATO's finances and its results. 'The NCA audits the expenses that the Netherlands annually spends

on NATO activities. We do not have a specific mandate to audit NATO, but we are involved in advising the International Board of Auditors for NATO (IBAN). Together with IBAN and other Supreme Audit Institutions of member countries we have been concluding for several years that NATO's financial management is not in order²⁶, notes the organization. The NGO sector has also made endeavors to alarm for the problem with the insufficient transparency of NATO and one of the most focused organizations in that sense is 'NATO Watch'.

Transparency of the United Nations

The United Nations and its specialized organizations and agencies are among the most transparent international organizations in comparative context. The transparency of the organization is systemic, non-elective and comprehensive. The UN regularly discloses documents concerning the activities of all of its bodies. The meetings of its bodies are open by default and some of them are live broadcast online. The records are by default public. In addition to the transparency friendly procedures for the release of documents, the transparency of the organization is enhanced by the launch of the web television of the organization (UN Web TV - <http://webtv.un.org/#>), which broadcasts not only the meetings of the main bodies and some of the committees but the press conferences and briefings of the representatives of the organization and the member states.

The UN has a special inner mechanism for accountability which relies on transparency and consists of different elements – Independent Audit Advisory Committee, a code of conduct, an inner system for dispute resolution, a special code of conduct for the peacekeeping operations, protection of the whistleblowers, etc. In 2007 the organization launched 'UN Transparency and Accountability Initiative' which aims to prevent financial misuse in the organization in response to the scandal with the 'Oil for Food Program'.

What kinds of information do the four main organs of the UN (excluding the International Court of Justice for its specific judicial functions and the Trusteeship Council because it does not function since November 1994) disclose?

All resolutions of the General Assembly of the United Nations are made public, even those from the special sessions. The declarations and conventions that are incorporated in the resolutions are also for public use. On the UN website there is a special section comprising significant documents from the history of the organization, all details about the working procedures in the General Assembly which are necessary not only for research purposes but also for the current work of the diplomats. According to the rules of procedure (№ 60-61) the meetings of the General Assembly, its committees and subcommittees are held in public unless 'the organ decides otherwise'. All decisions taken in a private meeting are announced in the next public meeting of the organ. Private meetings may be followed by a communiqué through the Secretary General.

The records from the open meetings of the organs of the UN, including the voting records, are made public. There are other disclosed documents such as the reports of the member states for the commitment of their engagements in different conventions (regarding human rights, for example); other documents, concerning the member states, such as their letters to the organization.

²⁶ NATO Transparency and Public Accountability, The Netherlands Court of Audit. Available from: http://www.rekenkamer.nl/english/NATO_Transparency/NATO_Transparency_and_public_Accountability:20048 [cited 4 May 2015].

There is secret ballot in the UN in limited occasions – when the General Assembly votes to approve or not the nomination of the Security Council for a Secretary General; when a country is considered for membership and others.

Although the Security Council is the institution that carries the major responsibility for the world peace and security, it is not fully non-transparent like the similar bodies of NATO. All documents, comprising decisions of the Security Council, are also made public – resolutions, statements of the Chairman, reports of the Secretary General to the Security Council, the correspondence between the Secretary General and the Chairman of the Security Council. The records of the official meetings of the Security Council are also disclosed. The formal meetings however are usually preceded by informal consultations, which are not accompanied by any public records. The records of the public meetings however may be edited before they are officially disclosed. Unlike the informal consultations the formal meetings of the Security Council are open unless the organ decides other. The meeting which approves the proposal for a new Secretary General is closed. The closed meetings of the Security Council are followed by a communiqué.

The unofficial text of the resolutions and the statements of the Chairman are made public through press releases. Other documents are also disclosed – the reports from the missions of the Security Council; the documentation, concerning the imposed sanctions, a historical reference for the rules of procedure of the Security Council.

Annually the Secretary General prepares a list of the confidential documents and records. It is upon the Security Council to decide which of them should be made accessible to other member states, which should be made public and which should stay confidential.

The great problem with the openness of the formal meetings of the General Assembly and the Security Council is that it is quite nominal. The real debate happens during informal consultations which are in general beyond transparency.

The Economic and Social Council of the UN (ECOSOC) discloses its draft decisions, draft resolutions and other draft documents. The archives of the decisions and the adopted resolutions by ECOSOC since 1946 are available. Some reports, declarations and other documents are also made public.

The Secretary General publishes his/her annual report and regular reports concerning each of the ongoing peacekeeping operations. The UN has a special program for transparency of the personal finance of the staff – ‘UN Financial Disclosure Program’, which aims to prevent conflicts of interests.

The classification of documents in the UN is regulated in a bulletin of the Secretary-General from 2007 – ‘Information Sensitivity, Classification and Handling’²⁷. It states that the overall approach to classifying information in the UN is based on the understanding that the work of the organization should be open and transparent. The information is considered confidential when: 1. the documents created by the United Nations are received from or sent to third parties under an expectation of confidentiality; 2. the disclosure of the documents is likely to endanger the safety or security of any individual; 3. the disclosure of the documents is likely to endanger the security of member states or prejudice the security of any operation or activity of the United Nations, including its peacekeeping operations; 4. the documents are covered by legal privilege or related to internal investigations; 5. the documents are internal inter-office or intra-office documents, including draft documents, if disclosure would undermine the organization’s free and independent decision-making process; 6. the documents contain commercial information, if disclosure would harm either the financial

²⁷ Information Sensitivity, Classification and Handling, Secretary-General’s Bulletin, the United Nations, 2007. Available from: <http://www.ilsa.org/jessup/jessup09/basicmats/sgb20076.pdf> [last seen on 18 April 2015].

interests of the United Nations or those of other parties involved; 7. the information because of its content or the circumstances of its creation or communication must be deemed confidential.²⁸ The classification levels in the UN are ‘unclassified’, ‘confidential’ and ‘strictly confidential’. ‘Confidential’ documents are declassified at the latest when they are 20 years old. ‘Strictly confidential’ documents are declassified when they are at least 20 years old and they should be reviewed for declassification every five years after the 20-year threshold.

The main reason for the high level of transparency of the organization is the fact that it is accountable to all of its 193 members. If we apply the Libich’s transparency model, evidently the UN information policy should be evaluated highly taking into consideration each of the five basic criteria. The organization discloses abundant information concerning its *raison d’être*, its analytical process, its decision-making process, its finance and its accountability documents. Although highly transparent in comparison to other organizations, the openness of the decision-making process of the UN may be improved, especially concerning the informal consultations.

Transparency of NATO and the UN – A Comparison

In comparative context unlike NATO the UN is much more transparent according to all of the transparency criteria of Libich. NATO is virtually non-transparent in its decision-making process. It demonstrates highly limited transparency when it comes to financial and accountability materials. For example the budget of NATO (the civil budget, the military budget and the NATO Security Investment Programme) is not public. What is disclosed, is the common funding, i. e. the amount of the financial contribution of each member state in order to highlight the existing disbalance in that area. On the other hand, UN presents abundant information concerning budgeting of all of its programs.

As to the classification procedures of both organizations, the one of NATO is more restrictive as far as it does not lay any deadline for the classification of many of the documents of the organization. If there is any openness of NATO activities, it is mainly of historical value because it does match one of the basic criteria for transparency – that the information is presented on time²⁹. A major weakness of NATO disclosure policy is the lack of expiry of classification which some researchers³⁰ determine as contrary to the rule of law. ‘... the usual 30 year rule of archives which provides archival access to ‘ordinary documents’ at the latest within 30 years of their origination is turned inside out. In this case 30 years is the earliest date to gain access, while there is no time limit to withhold the non-ordinary documents’³¹.

The analysis of the transparency/secretcy policies of the UN has indicated that transparency can coexist with security on international level and that transparency cannot be considered as an automatic impediment to security. Regarding the fact that the UN is the biggest collective security organization in the contemporary world and, as it seems, – the most

²⁸ Information Sensitivity, Classification and Handling, Secretary-General’s Bulletin, the United Nations, 2007. Available from: <http://www.ilsa.org/jessup/jessup09/basicmats/sgb20076.pdf> [last seen on 18 April 2015].

²⁹ LEVINE, David. Temporal Transparency: Secrecy and Collective Interests in International [Intellectual Property] Lawmaking. A paper, presented at the Third Global Conference on Transparency Research, HEC, Paris, 24-26 October 2013, p. 3.

³⁰ Classified Information. A Review of Current Legislation Across 15 Countries and the EU. *Corruption Risks Series*. 2014. Defence and Security Programme, Transparency International, p. 81.

³¹ *Ibid.*, p. 81.

transparent among the security organizations, it can be assumed that the more ‘universal’ in membership one international security organization is, the more transparent it needs to be. This is mainly due to the heterogeneous interests of the participating countries which could hardly be consolidated in a secretive environment. It turns out that the lack or the existence of democratic domestic order in the member countries is not a decisive factor for the level of transparency of a security organization. Therefore, it is possible organizations of members with diverse regimes (like the UN) to be much more transparent than organizations of democratic countries (like NATO). The great question which should be researched in further works, however, is whether transparency is a factor to enhance or to reduce effectiveness of the security organizations in international affairs, i. e. whether it makes them more or less successful.

Conclusion

What is easily predictable however is the fact that the less transparent organizations will face more and more difficulties to keep the information status quo in a growingly transparent world. As Pieter and Siemon Wezeman³² have noted, secrecy even in sensitive areas as military matters is already an illusion (because ‘when everything is secret, nothing is secret’). According to Global Data Leakage Report 2012³³ information leaks worldwide increase. The growing interconnectedness among nations, the increasing requirements for accountability, the rise of civil society and communication technologies, the growing dangers of cyberwars will continue to present serious challenges to secretive communication approaches. Effective information management in a more open world requires much more flexible approaches to communication, including both – greater information security and transparency.

³² WEZEMAN, Pieter, Siemon Wezeman. Balancing Transparency and National Security. SIPRI, January 2014. Available from: http://www.sipri.org/media/newsletter/essay/wezeman_wezeman_jan14 [cited 19 April 2015].

³³ Global Data Leakage Report, InfoWatch, 2013. Available from: <http://infowatch.com/analytics/reports/2674> [cited 4 May 2015].