

FUTUROLOGY OF THE PRIVATE SECURITY SECTOR IN BOSNIA AND HERZEGOVINA

Sinisa Djukic¹, Zeljko Zoric²

¹ Faculty of Security and protection, 8 Braće Podgornika Street, Banja Luka, Republic of Srpska, Bosnia and Herzegovina, djukic-bs@blic.net

² Faculty of Security and Protection, 8 Braće Podgornika Street, Banja Luka, Republic of Srpska, Bosnia and Herzegovina, zeljko.zoric@sectorsecurity.org

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Abstract: *The disintegration processes of the countries with socialist socio-political, economic, social and security structure from the beginning of the 1990s, have left significant consequences on the security sector as well. This is due to the fact that a previously unknown entity – private security – appeared in the security sphere, exposed through detective activity and physical and technical people and facility protection. The changes that have occurred in terms of property ownership, the disappearance of state property through the privatization process and the like, among other things, are factors that have affected the new security entity development embodied in the private security sector. The current situation of the private security sector in Bosnia and Herzegovina is at a satisfactory level, but some legal solutions have proved to be impractical and inefficient, so they should be further improved in accordance with modern security standards. The analysis of content documents which regulate this sector, led to certain conclusions that may affect the further course of private security development. This paper also elaborates on the segment of competencies over this sector's work control, which is directly related to the specific structure of Bosnia and Herzegovina.*

Key words: *private security, detective activity, people and property protection*

1. INTRODUCTION

There is no complete agreement in theory on the content of private security concept. Thus, private security was defined in 1976 in the US Government report as an activity of privately funded business-entities and organizations and self-employed persons, who provide services related to security, to the specified clients on a part-time basis, persons or entities who hire or employ them, or work alone for themselves, with the aim of protecting people, private property or interests from various risks (US National Advisory Committee on Criminal Justice Standards and Goals. Task Force on Private Security, 1976) .

Private security is also defined as a security subsystem in the national security system, the basis of which is mainly contracts concluded between entities that perform these activities and their clients (Bajagic, 2007). The phrase “private security sector” also refers to commercial

security services provided by legal entities that are registered for that activity, as well as private companies that have legal obligations regarding compliance with certain security and protection standards and procedures (Kekovic, 2004).

Basically, two main approaches to defining private security concept can be observed – wide and narrow one. According to the wider approach, private security implies a set of organized forms of voluntary action and commercially oriented non-state personnel, whose primary activities include confronting various forms of criminal behavior. Defined in this manner, private security includes: citizens' voluntary engagement, private security activities and private detective, i.e., investigative activity. The narrow approach defines private security as a set of legally based activities of the professional type, outside the competence of state bodies, organized for the purpose of providing certain services for the protection of citizens' personal and property security and collecting information when it is ordered. Defined in this manner, private security includes: contracted security (activities of private companies and agencies specialized in providing physical and technical security services on a contractual basis), personal internal security and private detective activity (Kesic, 2009). Based on the above, it can be concluded that the notion of private security has double meaning. On the one hand, it may refer to security services provided by privately owned companies or to those services themselves, or security services performed upon the request of private persons or business entities. Also, it is allowed for a state body to hire a private company to provide certain security services, which inevitably expands the very concept of private security (Mitrovic & Pavlovic, 2012).

The activities of private security entities cover a wide area of security and protection of persons, property and business, which in scope and quality exceeds the basic security standards that the state guarantees to every citizen. It should be borne in mind that in the second half of the twentieth century, at the global level, there was a rapid growth and diversification of work performed by private security entities. These activities can be classified into the following basic groups:

- Private companies for physical and technical security and protection;
- Detective agencies (private investigator activities);
- Agencies for security consulting, marketing and engineering; business entities and individuals who provide certain security services (detectives, consultants, bodyguards) as a registered activity.

In regards to this, the most common actions and measures that are applied in modern conditions in the protection of persons, facilities and businesses are: measures of physical and technical protection (exceptionally, anti-intrusion protection measures), and sanitary-technical, biological, chemical and health protection measures (Danicic & Filipovic, 2015).

2. PRIVATE SECURITY SYSTEM

Private security system is a subsystem in the internal security system, which includes forces, resources, their organization and function, as well as actions and measures within physical and technical protection, to prevent various criminal and other forms of endangerment of persons, property and business, clear protection of certain facilities and other legal and natural persons who work or reside in them, and who are not under the exclusive protection of state bodies (Danicic & Filipovic, 2015).

Entities involved in private security system can be divided into internal and external. Internal entities include: managers of all levels, in a wider sense, while in a narrower sense, the internal entity consists only of employees in the field of protection. External entities are: police, courts,

prosecutor's office, inspection bodies, communal police, local self-government bodies, public companies, as well as other legal entities that affect private security, Legal entities and businesspersons for private security, under the conditions prescribed by law, may have a license for the following activities:

- Risk assessment in the protection of persons, property and business
- Protection of persons and property by physical and technical means
- Maintaining order at public gatherings, sports events or other citizens' gathering places in the part that is not under the jurisdiction of Ministry of the Interior
- Technical protection system implementation planning, design and supervision, installation, commissioning, maintenance of technical protection systems and user training
- Ensuring a secure money transport and transfer and other valuable shipments in a part that is not under the jurisdiction of Ministry of the Interior¹.

The representation of the private security sector in achieving security largely depends on the readiness of other security entities, primarily the police, to recognize the private sector's role in achieving security. Another, not less important segment is the private sector's legal regulation, and finally, the awareness of citizens who should recognize in this sector.

Cooperation between the private and public sectors should take place within the limits of competencies and authorities that are clearly defined by laws and bylaws. In this way, any abuse of the private security sector is prevented, that is, the state body has a control apparatus that can gain insight into the activities of the private sector at any time. Relations between the private and public sectors are based on the following models:

a. Independence

Independence represents a model that implies that private and public security entities have their own specially defined tasks, and these entities almost never make contact.

b. Competitiveness

Under competition is meant a model of the relationship between private security and the police in which there is a lack of mutual trust. According to this model, the relations of these security entities are characterized by competitive bidding for jobs, which most often makes their cooperation difficult and even impossible.

c. Complementarity

Complementarity is a model of the relationship between private security and the police in which private security and the police exist on the market side by side, with clear precise boundaries and demarcations in the division of tasks, along with mutual complementation in their activities' implementation.

d. Cooperativeness

Cooperativeness implies a model of the relationship between private security and the police based on mutual cooperation, expressed through giving mutual support, with the aim of empowering each of the participants.

¹ Private security activities can also have certain specificities that are defined by law and are the product of assessed needs in the middle of operations. This paper indicates those that are common in almost all countries where private security exists. Author's remark.

e. Partnership

Partnership is a model of the relationship between private security and the police, where both security entities achieve the highest level of cooperation in action and complete equality between the participants whose activities are aimed at achieving a common goal (Danicic & Filipovic, 2015).

3. PRIVATE SECURITY SECTOR IN BOSNIA AND HERZEGOVINA

Providing security for persons and property and private detective activities were only regulated in detail in BiH in the beginning of the 21st century, i.e., by laws and bylaws for the first time, the conditions for the establishment and operation of companies-agencies for the security of persons and property and private detective activities are defined. Also, the conditions that must be met by persons who will perform physical and technical protection activities are elaborated more precisely, and besides that, the direct supervision of competent state authorities, primarily the Ministry of the Interior, over the entire activity of the mentioned companies is prescribed. The law also establishes the standards that must be met by persons who found security agencies, as well as by persons – security members and private detectives (Jovicic, 2012).

Private security in BiH was formally and legally established in 2002 by the adoption of legal regulations on the territory of the entities (the Republic of Srpska and the Federation of Bosnia and Herzegovina) and Brcko District² in BiH (Danicic, Pilipovic, 2015). In this context, in the Republic of Srpska the Law on agencies for the personal and property security and private detective activities (Zakon o zastiti ljudi i imovine u Federaciji BiH, Sluzbene novine FBiH, br. 50/02) was enacted, in the Federation of BiH the Law on People and Property Protection in the Federation of BiH was enacted (Zakon o zastiti ljudi i imovine u Federaciji BiH, Sluzbene novine FBiH, br. 50/02), and in Brcko District, in 2004, a law similar to the aforementioned law in the Republic of Srpska was passed (Zakon o agencijama za obezbjedjenje lica i imovine i privatnoj detektivskoj djelatnosti Brcko distrikta, 2004). The above-mentioned legal regulations regulate the private security sector activity, determine the conditions for establishing companies for the security of persons and property, rights and obligations of physical security members and private detectives, as well as the supervision of the companies' work for the security of persons and property and private detective activities. Detective activity in the Republic of Srpska and Brcko District is provided for by law, but in the Federation of BiH this is not the case. The aforementioned solutions highlight the unevenness of legal regulations in this area. In particular, it is necessary to emphasize the possibilities offered by detective work in the private security sector, which is significantly neglected in BiH in comparison with the countries of the European Union. Private security in BiH should be developed and complied with the best practices in the European Union and the world. "This sector can have positive impact on society as a whole, and contribute with its professional integrity to the control of crime, citizens' safety, capital and foreign investments, which are necessary preconditions for the European future of BiH" (Vejnovic, 2008).

According to normatively determined standards, companies for people and property security and detective agencies are encouraged to professionalize and specialize their personnel, standardize and modernize the means and devices used to secure people and facilities. However, over a period of time, certain legal solutions have proven to be impractical and ineffective, especially in the segment of limiting and complicating the work of private agencies

² In the period from 1996 to 2002, the concept of organized and legal participation of all security entities in state and social property was abandoned, with the transition to a market economy and the legitimate appearance of several types of property: state, social, private, etc.

in the licensing of legal and natural persons for performing private security services, the precise definition of facilities that are monitored by private security, the inability of members of physical security to work in civilian clothes, with the mandatory possession of a certificate and a work order, which would be shown upon the request of an authorized person, issuing the necessary, legally prescribed, authorization for the use of sprays based on approved chemical compounds, as well as electric stun gun in self-defense, the use of rotating or flashing lights on official vehicles of the agency during the task performance (ensuring the transport of money and valuable shipments, performing intervention tasks, securing VIPs,...), a more precise explanation of the use of specially trained dogs (detection dogs, attack dogs, dogs trained to detect drugs and explosives) in public space, outside the fenced area that is secured, prescribing appropriate provisions according to which a person with a degree in not only technical, but also social vocation, could assess the facility threats. As it was already pointed out, the Law on agencies for people and property security and private detective activities regulates the activity of people and property security, it establishes also the conditions for founding a company and the performance of people and property security. This law also regulates detective activity, the performance of detective work, the rights and obligations of private detectives, as well as the supervision of companies' activities that perform people and property security and private agencies. Also, after a certain period of time, there was a need to consider the special legal treatment of the private detective activity issue in relation to physical and technical protection. Namely, the specificity of the private detectives' activity in terms of their power aimed at collecting data, information and material evidence led some countries of the EU to regulate detective activity separately by law, taking into account, among other things, the adequate supervision and protection of citizens' privacy. Detective activity, although it has existed for twenty years, has not been developed to the extent it could/should be. Namely, the possibilities of detective activity in the modern world are many, as evidenced by the examples from the countries of the region, where this activity has a far greater application. Accordingly, two recommendations can be made. The first is addressed to the legislator, and the second to the scientific and professional public. In this respect:

- There is an obvious justification for considering the existing and proposing the new provisions on detective work. They should be in accordance with the modern standards of detective activity, which will enable the development of this type of activity in our country to a considerable extent. As it is a complex matter that includes issues of detective work, that is, the organization of detective work, the power of private detectives, the data that is collected, data collection methods, private detectives' training, record keeping, and others, then it is quite justified to separate these provisions and their systematization into a separate law, e.g., the Law on detective activity. It goes without saying that this framework would be elaborated with bylaws that would be passed based on the law;

- Further research into detective work in our country is necessary. It is evident that at the beginning of current legal framework implementation in 2002, there were several scientific and professional discussions and that the interest in detective work has declined over time. Therefore, it is necessary to additionally affirm scientific and professional workers, in order to contribute to the development in this field (DJukic, 2021).

As for the professional and social-economic aspects of private security in BiH, in the researches that have been carried out so far, it is stated that they are not fully aligned with the proposed European model of private security (Vejnovic et al, 2010). Namely, as stated by the authors of the aforementioned research (Vejnovic et al, 2010): "We believe that it is not enough to invest only in the material and technical potential of private security agencies, but it is necessary to invest much more in human potential. In this sense, the agencies for people and property security should pay much more attention to issues such as the selection and method

of engaging private security members, their training, especially specialist training, improving working conditions, increasing salaries and contributions for them, keeping track of the private security members' health care, etc. We also consider it very important and useful to organize members of private security in a union, where it is necessary to look at this type of organization positively and to encourage this type of association. We would like to especially emphasize the need to develop wider and more useful mutual relations between private agencies for people and property security and police agencies, as well as other law enforcement agencies. This can be achieved in different ways, and one of them is the cooperation memorandum establishment, but also the development of partnership awareness and joint action with the same goal – increasing the citizens' safety (Vejnovic et al, 2010). In this way, the private security system in BiH would be significantly improved.

Private security in BiH, in general, is burdened by law and bylaws enacted at the level of BiH, entities, cantons and districts, which ultimately brings confusion to the establishment of the companies' organizational structure, that want to engage in private security business, especially in procurement and use of material-technical resources. It is not a rare phenomenon that what is allowed in one entity is prohibited in another, or what is allowed in one canton is prohibited in another.

4. CONCLUSION

In the surrounding countries, modern legislation is in force when it comes to private security. By that we mean that legal solutions correspond to practice and enable this activity's development in those countries. On the other hand, such a statement could not be made for Bosnia and Herzegovina. It is clear that the normative private security framework is the key basis for the legal and formal regulations of this field in the social sphere, which has a decisive effect on its practical manifestation. Specifically, if these norms do not reflect the modern understanding of private security, the development of this security entity in practice cannot be expected either. In this regard, it is necessary:

- To establish a special teaching-scientific discipline whose subject of research would be private security;
- The current private security development in BiH is not at a satisfactory level, it can merely provide a basis for further development;
- Private security can be improved by creating a favorable business environment, on the one hand, and improving legal framework, on the other;
- It is necessary to further improve the legal framework that regulates the private security issue;
- The best legal solution is reflected in the adoption of a special legal regulation that would regulate private security, which is also the case in comparative legislation.

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