

COMPARATIVE ANALYSIS OF THE PRIVATE SECURITY SECTOR IN COUNTRIES IN TRANSITION

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Abstract: *In contrast to the developed part of the world, where the state has transformed its role in the field of security and protection by creating a general security framework and regulating the legal space for the development of security and protection activities at all levels, in some transitional countries there is a disorganization of the security sector, and the existing legal the regulations that regulate the private security sector do not follow the trends of contemporary risks and threats. Many jobs have been placed under the exclusive jurisdiction of private security, such as security of persons and property, porter service, technical protection, control of access to facilities, control of movement in facilities as well as protection of secret data. The paper analyzes and compares the private security sector in countries in transition.*

Key words: *Security system, Private security, Regulatory framework for private sector security*

1. INTRODUCTION

Private security is of a more recent character, especially in the Balkan countries, that is, countries that in the process of transition from state ownership to a private system. In this sense, Bosnia and Herzegovina was also accompanied by transitional changes, and therefore the legal regulations were changed in relation to the previous socialist administration. It is the state that has a monopoly on the legitimate use of force and only it provides security, it is responsible for providing internal security and for defense against external threats. However, in the last few years, events on the world stage and a wave of internal conflicts have brought to the fore a new phenomenon known as private security. Emerging forms of modern private security and protection of persons and property, appeared in 2002., when the protection of persons and property was legally regulated in Bosnia and Herzegovina at the entity levels. This kind of legal regulation is normatively regulated in the field of physical and technical security of persons and property in Bosnia and Herzegovina. In this sense, the Federation of Bosnia and Herzegovina regulated private security in the Law on Agencies and Internal Services for the Protection of People and Property ("Official Gazette of the FB&H", number 78/08), while detective activity is not legally regulated and it can be said that this area of the private security

sector in the Federation of B&H is neglected. In the Republic of Srpska, this area is regulated by the adoption of a single law that regulates the area of private security. Therefore, the Law on agencies for security of persons and property and private detective activity was adopted in 2002, and amended and supplemented in 2011. Brcko District of Bosnia and Herzegovina regulated this area by passing the Law on Personal and Property Insurance Agencies and Private Detective Activities, 2004, and amendments from 2005. The above shows the unevenness of legal regulations in this area. In our country, the field of private security is mainly limited to the security of persons, property and business. These tasks are mainly performed by agencies for physical and technical security. Detective activity, as a special type of private security is in the function of realizing and protecting certain rights of citizens, is regulated by a special law, or within the framework of the law that regulates the organization and activity of security of persons and property and the property of companies and other legal entities. The legal norms contained in those laws represent the basis for detective organization and activity and mainly regulate the entire detective activity, with the fact that in a broader sense there are other legal regulations that can be linked to detective activity. Bearing in mind the complexity of the security system of Bosnia and Herzegovina and the existence of public institutions, both at the state and entity levels, private security agencies also follow this practice. Some of them, regardless of which entity they are based in, operate either at the state or entity level, and often ignore entity borders.

2. PRIVATE SECURITY AS A SUBSYSTEM OF THE SECURITY SYSTEM

By observing the elements of the security system, two areas of the security reality can be observed, namely: functional, which includes types and forms of activities, and institutional, which includes types and forms of activities, and institutional, which includes the organization and carriers of activities. The security system, like any other system, is a mental construction of a real object. That real object expressed by this system is state functions. Therefore, the security system can be defined as an organized social system through which society organizes the protection of its vital values, and for the general progress and development of society.

Therefore, as we have already pointed out, the security system includes organs and measures, that is, activities and activities of individual organs, which are carried out for the purpose of protecting certain social values determined primarily by the constitution, but also by corresponding legal regulations. In fact, it represents a way of organizing the state, which aims to protect the state from all sources, forms and types of danger, as well as other forms of endangerment. The basic values that are protected, that is, the values that make up the content of the security function of the modern state, are first of all: the protection of the sovereignty, independence and territorial integrity of the state; protection of the rights and freedoms of its citizens; protection of public order; protection of personal and property security of citizens and protection of the natural environment.

The basic function of the security system is preventive, i.e. that its existence and knowledge that it exists represents an instrument of deterrence, and if an undesirable activity does occur, the system must react energetically, i.e. repressive - by eliminating the causes of danger and eliminating their carriers in a legally permissible manner.

In practice, a wide range of people, organizations and activities can be involved in providing so-called military and security services. The majority of authors agree in the statement that subjects of security in general are considered to be all human and material resources that the state can hire for security and that they can be divided into: conventional, unconventional and supplementary.

Therefore, the security system of a modern state should answer the questions raised in advance, namely: security for whom, security for what values, how much security, security from which threats, by what means to security, in what time and at what price.

Private security is one of the subsystems of security, which belongs to the non-state security sector and which forms a whole in the security and protection of persons, property and all other values. Private security operations are understood to mean all those activities that are not carried out by the state security and protection authorities. Therefore, the field of private security activities will be much wider in the future than it will be the case with professional security state bodies and entities. Each state and private security entity has its own role and division in the state security system. In this sense, the private security subsystem is only one of the subsystems in the overall state security system. Faced with transnational threats, the citizen encounters growing inequality, environmental degradation, corruption and organized crime, and disrespect for human rights. This leads him to the class of poor, powerless and unsafe individuals. In this class, the citizen is increasingly both an actor and a victim of new security challenges, not his country. This is precisely why many individuals and legal entities need to hire professionals from the private security sector. In the broadest sense, actors belonging to the private security sector consist of a diverse spectrum of people, organizations and activities. Some of them are very significant and legitimate, while some are illegitimate and belong to the so-called gray safety zone.

Due to the inability of the state security system to provide protection to all entities, the private sector emerged as a security subsystem. The spectrum of dangers that threaten property and business is very broad, and globally they can be divided into internal and external. Here, we primarily mean those forms of endangerment that represent incriminated actions and procedures. This implies not only the determination of incriminated actions and behaviors that endanger the company, but also the creation of a protection system that will be applied, the means and methods of such a security system and the main bearers responsible for the proper and efficient functioning of this system. Private security protects everything that is not under the exclusive protection of the state, which also includes charging for security services, which distinguishes it from the public security sector.

3. COMMERCIAL NATURE OF SECURITY SERVICES

The emergence of the private security sector, within which private non-state security providers operate, independent of the state, represents a very significant moment in the development of both contemporary international relations and the functioning of the states themselves. Private security companies and private military companies have created an industrial chain that functions freely in the world market, is organized along permanent and solid corporate ties, and is constantly growing and strengthening. The need for private security is constantly increasing due to economic and political changes in society. At the same time, the state reduces direct responsibility for public safety and transfers it to other subjects. In order to ensure maximum flexibility and the best relationship between price and demand, these functions are increasingly transferred to the private sector. In most Western countries, private home owners, representatives of local communities and the private sector rely more on private security than on the police financed by citizens' taxes, due to fear of crime, reduction of the police and doubts about the effectiveness of the entire criminal justice system. As a result of such developments, private security companies have become responsible for ensuring public order and peace, as well as for the protection of public and private property in a very wide range of locations. The areas of operation are also expanded to include high-risk areas, such as nuclear power plants, critical national infrastructure, banks, embassies and airports, i.e. critical infrastructure. The services provided by these companies have also extended to managing prisons, regulating

parking lots, providing witness protection and court security, providing security at public gatherings, escorting the transport of high-risk goods, such as the transport of gas, chemicals, prisoners, mental patients, patrolling military bases and training centers, provision of immigration centers and various other services. Recently, the business of private security companies, which for a long time was focused only on the domestic market, is rapidly expanding to the provision of security services in other countries. Abroad, these companies provide services to large multinational corporations, governments, government personnel, embassies, UN institutions and other international organizations. In order for states and non-state actors to constructively engage the private security industry in the wider security management system, it is necessary to consider three main things. First, the issue of their responsibility must be regulated. Without the accountability of individual contracting parties, the use of private security probabilities will continue to raise doubts. The second issue is the issue of legitimacy. If private security wants to actively participate in the construction of state security, the state and non-state actors must accept it as a legitimate actor. The legality of private security largely depends on whether they have the required level of transparency and democratic standards in areas such as company activity, finance and business operations. The commercial provision of security services includes the employment of "mercenaries", military management and consulting; protection of personal and property safety; detective activity and provision of other security services. Private companies for military management, consulting and provision of military services are legally registered agencies that operate like other private economic companies, with the exception that they rely on military management. The employees of such companies, and above all the managers, are usually former members of the elite military and police forces who, after completing their regular service, "offered" their knowledge, skills and specialties to private companies. They offer a wide range of services: from the training of members of various types of private services for the security of persons, property and business in emergency situations (training services), manufacturing and distribution of weapons and military equipment (production activity) and supplying clients with devices for personal protection and the protection of other persons, property and facilities (trade services), through the provision of security services in emergency situations (security services), to direct participation in armed conflicts within the official armed forces, paramilitary formations, for the performance of special combat operations (mercenary army - mercenaries) and strategic consulting, designing and managing combat actions, social crises, conflicts and violent coups (mercenary military headquarters). Private military companies often act on behalf of states in crisis situations (eg, in Iraq, Afghanistan). This is how traditional mercenary and even paramilitary groups that operate non-transparently, outside the law and without supervision are "legalized". The term private military company (PMC) does not exist within any current international legislation or convention. One definition of a PMC is: "a registered civilian company that specializes in the provision of contract military training (instruction and simulation programs), military support operations (logistic support), operational capabilities (special forces advisors, command and control, communications, and intelligence functions), and/or military equipment, to legitimate domestic and foreign entities. (Caparini, 2005)

The hiring of former "criminal soldiers" is justified by the growing "need to privatize violence" in solving conflict and high-risk situations. Privatization of security is a profitable and permanent business, and thus a trend in the modern world in which more and more democratic governments want to reduce the risk of human losses and "political costs" by participating in war operations, by hiring the most ready, motivated, equipped and discreet companies. When such a trend is in the sphere of hard - military dimensions of security, it is quite clear that on the global level it is at least as unwavering in soft security, which concerns police and intelligence work. (Fatic, 2007) In the countries of the global West and North, many security

jobs are entrusted to the non-state sector. "It is, first of all, about security of persons, property and business; porter service; technical protection; control of access to facilities and movement in facilities; protect confidential data; application of local legislation based on contracts with local authorities; private institutions for the execution of criminal sanctions. In some countries, the non-state security sector has the authority to investigate certain security issues that are traditionally the responsibility of the state security sector, such as: investigating fraud and suspicious financial transactions; criminal investigations and background investigations of employees; protection of health and safety of employees; prison services and transportation of prisoners; crime prevention against corporations; internal investigations; security of ports, airports, residential facilities and commercial establishments; parking lot security; reactions in cases of burglar alarms; house patrols; traffic safety monitoring; investigation of traffic accidents; investigations of thefts of motor vehicles and other types of endangerment of property and persons for the account of insurance companies; ensuring the transportation of money, gold and other valuables; fire protection; detective activities; electronic and video surveillance of buildings and open space; maintaining order at public gatherings (police service), etc. Finally, many security companies protect the safety of diplomats and the highest representatives of the state government (including the presidents of states), secure state borders, provide certain security services to the ministries of defense, interior and foreign affairs, economy, and energy.. (Kesić, 2008)

4. PRIVATE SECTOR SECURITY IN THE FORMER YUGOSLAV REPUBLICS – NORMATIVE REGULATION

It is necessary for the private security sector to be fully and detailed normatively regulated, so that in all segments it can be distinguished from the activities of the state or police sector, to establish appropriate standards, with the present professionalism in the performance of all types of private security. In most Western countries, legislation related to private security was mainly introduced after 1990, except for Italy and Sweden. (Jovičić, 2012)

In the territory of the former Yugoslavia, only the Republic of Serbia did not legally regulate this area for a long time, although the Proposal for the Law on Physical and Technical Security, dated September 19, 2002. year, was in the process of adoption, but it was abandoned for insufficiently clear reasons. At that time, based on the records of the Ministry of Internal Affairs of the Republic of Serbia, 3,241 legal entities dealing with physical and technical security were registered, and a total of 32,457 workers worked on these jobs. (Bošković, 2006)

Nevertheless, the Republic of Serbia now also has legal regulation of this sector. Before the adoption of the new law, these jobs were carried out in the Republic of Serbia in a way that used the basis of the legal regulations that regulated this area before the nineties and the dissolution of the SFRY and other laws that regulate the business of business entities. In the former Yugoslav republics, this area is regulated differently, so the Republic of Montenegro has 2 laws, Republic of Srpska 1 law, Slovenia 2 laws, Croatia 1 law, Macedonia 2 laws, Federation of B&H 1 law, Brcko District 1 law. The collected data on the number of private security entities in BiH show that the growth trend in for the last seven years, recorded in both entities of Bosnia and Herzegovina (FBiH 76%: RS 27%), while the downward trend was recorded in BD BiH by 9%. When it comes to the trend of staff that is certified to work in this sector, the growth trend was recorded by the FBiH entity by 27%, the RS entity recorded a negative trend of 14% compared to 2009, as well as BD BiH with a negative trend of 35%. We believe that it would be useful to specifically investigate the causes of this private trend security and irregular distribution of private security entities in Bosnia and Herzegovina. (Kržalić, 2017)

Detective activity in our region has been present for a relatively short period, and observed chronologically, the following countries have legal solutions:

1. 1994. Slovenia – Law on Detective Activities;
2. 1996/2009. Croatia - Law on Protection of Persons and Property / Law on Private Detectives;
3. 1999. Republic of Macedonia - The Law on Security of Persons and Property (published in the Official Gazette of the, no. 80/99 of 17.12.1999.
4. 2012. North Macedonia - Law on private security, Official Gazette of the Republic of Macedonia no.166 of 26.12.2012.
5. 2002. B&H, Republic of Srpska - Law on agencies for security of persons and property and private detective activity; 2004 B&H, Brcko District - Law on agencies for personal and property insurance and private detective activity;
6. 2005. Montenegro – Law on detective activity; and
7. 2018. Republic of Serbia – Law on detective activity (Official Gazette of RS, no. 104/2013 and 87/2018)

We cannot say that the business of private security agencies in Bosnia and Herzegovina is not legally regulated, but we can say that until now there is no single register of the state and scope of private security agencies. When we say the situation and scope, we first of all mean the number of private security agencies, the number of personnel who are trained to work and who are currently working in the agencies, as well as the amount of weapons circulating among them. The Ministry of Internal Affairs is responsible for internal affairs in the Republic of Srpska, while the control of the business and work of private security agencies is the responsibility of the police. Police administrations are responsible for issuing approvals for the work of private security agencies, training, licensing and other tasks. According to the provisions of the Ordinance on training and the method of passing the professional exam for members of physical and technical security and private security detective training in the Republic of Srpska lasts 30 theoretical lessons part. The training is conducted by the Ministry of the Interior of the affairs of the Republic of Srpska, that is, the competent organizational unit Ministries. After the training is completed, it is issued to the candidate confirms the completed training.

As can be seen in some countries two forms of private security are differently regulated. Detective activity is regulated within the same law that regulates the field of physical and technical security, but in most countries it is regulated by a separate law, among which is Montenegro.

According to research in 2016, it was established that there are eight private detectives in Montenegro who perform detective work, while there was only one registered private detective agency. Detective activity can be performed by a person who has received approval from the competent authority, and in order to obtain approval, it is necessary for that person to fulfill certain conditions. The detective is obliged to respect the law, adhere to the detective code and ethics. Each case requires strict secrecy, discretion, maximum dedication and a high degree of professionalism. It is strictly forbidden by law to use any means of coercion, including firearms, and for private detectives to observe, monitor and take photographs except in public places.

Since this is a relatively new activity in our region, it is clear that the legislation has not yet regulated this area in an adequate way, but given that it is developing very quickly and that it

is represented all over the world, it is necessary to pay special attention to it in the future period and regulate it in an adequate manner in accordance with the most developed countries in the world.

5. PRIVATE SECURITY IN DEVELOPED COUNTRIES

EU countries have started a trend of reducing the number of police officers, which relieves the budget of the state in which they operate, but increases the number of powers and jobs that can be performed by the private sector and provides the opportunity for both new personnel and retired police officers who meet the criteria prescribed by law. This affects the social usefulness of the individual himself, while the society gets a man with experience who can continue his activities in the fight against crime. In Finland, Norway, Sweden and Denmark there are concise rules covering training and inspections of the private security sector. However, closer studies of those laws reveal that the Nordic countries differ in important areas. Finnish legislation dates from 1944, Sweden from 1974, Denmark from 1986 and Norway from 2001. However, what is important from the current perspective is not so much when the legislation was introduced but how it was adapted to new circumstances and the trend of reducing police structure, and the increase of the private security sector. In these countries, security guards and police officers usually work together in harmony. Many security jobs involve an obvious need to collaborate. Security guards often detect and often report crimes. The sector of private security in the countries of the European Union (in the further part of the text EU) has experienced enormous growth. This increase is reflected in the large number of private security companies and the variety of services they provide. A large increase in the number of employees in these companies is also noticeable. A smaller number of member states require workers to undergo additional specialized training, as well as an additional check. Passing an exam to obtain a work permit is required in almost all member states. The approval of the Ministry of the Interior or the competent authority for the content of the training is required only in a small number of countries. Firearms are prohibited in the UK, the Netherlands, Ireland, Denmark and France, but non-lethal weapons and restraints are permitted in most EU countries. Limited search of things and persons, as well as confiscation of objects, is allowed in all states. Workers have additional special powers only in Greece, Belgium and Poland, but even here these powers are defined in accordance with the specific circumstances of the situation and area of operation (operating within private property, at airports, etc.). Firearms training is mandatory in all states.

Taking into account the past development of the private security sector of European countries, the Republic of Slovenia should be singled out, which is a good example of a European country close to us that has highly developed legal regulations and private security affairs, especially detective activities. Namely, the legal text from 2011 contains essential changes, given that the conditions that must be specified have been additionally specified to fulfill natural and legal persons who want to engage in this activity, and at the same time, the powers of private detectives and legal requirements are specified bans on the work of natural and legal persons. According to this law, detective activity is regulated as economic activity that is intended for clients of detective services, and which the Republic of Slovenia regulates for the protection of public order, public security, personal safety and dignity of clients, third parties and detectives who directly perform that activity.

6. CONCLUSION

Private security is of a more recent character, especially in the Balkan countries, that is, countries that in the process of transition from state ownership to a private system. In this sense, Bosnia and Herzegovina was also accompanied by transitional changes, and therefore the legal regulations were changed in relation to the previous socialist administration. The private security sector or alternative security is not a competition to the state and its security services, but an expression of the need of society, capital and citizens, to increase personal and property security in cooperation with state institutions. If we look at the trend of European countries with regard to the organization of this area, we can conclude that it is necessary to establish a central register of private security in our country and to familiarize the representatives of the authorities, especially the members of the Board/Commission for Security, with all the specifics and scope of private security, and in this way encourage debate in parliaments on this issue. Also, it is necessary to familiarize the representatives of the authorities, especially the representatives of the entity and cantonal police structure with the possible reporting practices of these agencies under their jurisdiction, and include these reports in the regular reports on the work of the police agencies to the entity parliaments. It is really necessary to establish a central register of private security because it becomes impossible to see the real situation in this area. The largest number of existing agencies perform tasks of physical and technical security of persons, property and business, while very few of them deal with detective work. For many agencies, it is not known where their headquarters are, where they are registered, what they do, and many other questions for which we were looking for answers. Nevertheless, in the future, we should strive to improve the quality of the services provided by these agencies, as well as more frequent supervision both by the police and certain inspection bodies. Based on the presented facts, it can be concluded that there is a huge interest of the entire social community in the territory of the former Yugoslavia to legally and normatively regulate the area of private security, through the adoption of the Law and other acts, which will benefit citizens, the private security sector and the state immeasurably. Legislation in a certain part differs, but also coincides, in the former Yugoslav republics, and it is evident that the Republic of Slovenia has gone the furthest in this area. In principle, in most countries in this area, work is done on the basis of the law, but numerous laws require changes in order to adequately regulate this issue. From an economic point of view, this is a very profitable activity. This activity is necessary for the countries of the former Yugoslavia, with the tendency of further faster development with the constant application of the good practices of developed countries.

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