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## **THE PROTECTION OF PERSONS AND PROPERTY ACTIVITY IN THE REPUBLIC OF CROATIA AND THE REPUBLIC OF MONTENEGRO<sup>1</sup>**

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### **Abstract**

Within this paper, the author determines the activity of protecting persons and property in the Republic of Croatia and the Republic of Montenegro. The author will use the following methods: analytical method, descriptive method and content analysis method.

In the introductory part of the paper, the author tells about the private security sector and determines that in the EU Member States the private security sector offers various services and activities that can be divided into three categories. Furthermore, the author determines the activity of private protection in the Republic of Croatia and the Republic of Montenegro - which deals with the realization of protection of persons and property, and which entities can perform private protection.

The subject of paper is the activity protection of persons and property in the Republic of Croatia and the Republic of Montenegro.

The aim of the paper is to bring closer the significance of the works for securing persons and property in the private security sector to the expert and scientific public.

**Key words:** private security sector, works for securing people and property

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<sup>1</sup> review scientific paper

## PRIVATE SECURITY SECTOR

The increase in the number and importance of private companies providing military and security services and services in the area of physical and technical security represent a global phenomenon towards the end of the 20th and the beginning of the 21st century. With this, the state and its institutions are no longer the only entities that care about the external and internal security of their citizens.<sup>2</sup>

However, it is specific that all other organized groups and individuals are granted the right to physical force only if the state allows its own legal acts with its own legal acts; it is valid as the sole source of the right to force. So, the state is the one that determines when, under what conditions and to whom it will allow them to perform certain security matters.<sup>3</sup>

Although the private security sector can be independent in providing security services, the public sector appears as a regulatory and oversight component in the quality and regularity of private security activities.<sup>4</sup> The state decides when and which security services it will leave to trained private entrepreneurs (company owners) to sell them as goods to those who can buy or pay them. In this way, the state will get rid of most of the costs.<sup>5</sup>

The private security sector is not a competition of the state and its security, but an expression of the needs of the community, private capital, an expression of the needs of all citizens.<sup>6</sup>

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<sup>2</sup> Schreier F. and Caparini M., *Privatising Security: Law, Practise and Governance of Private Military and Security Companies*, Geneva, DCAF, 2005, p. 1.

<sup>3</sup> Pavlović, G., *Private Security Law - a comparative study*, Banja Luka, 2011, p. 14.

<sup>4</sup> More details see: Ostoich, Momir., Scientific Problem Theoretical Safety Definition as a basis for defining private security, in: *Private Security - Standing and Prospects*, The Proceedings of papers, Novi Sad, 2008, p. 198.

<sup>5</sup> Pavlović, G., *Private Security Law - a comparative study*, Banja Luka, 2011, p. 15.

<sup>6</sup> Gerginova, T., *Tactics and Security Technique - Basic Textbook*, Publisher Faculty of Security, Skopje, 2017

Peter Singer, one of the well-known authors dealing with this issue, notes: "We are witnessing the trend that various companies, individuals, international organizations, NGOs, and even the countries themselves use services and give more confidence to the private sector and allow them to take care of their safety. In fact, he states that privatization of security is a clear and striking representative of the changes in global security and the business environment at the beginning of the 21st century.<sup>7</sup>

According to Peter Singer, the development of this sector has been influenced by two important factors. The first factor is the trend of privatization, which was present in the 1980s in the countries of Western Europe and North America, characterized by a reduction in public spending and so-called outsourcing. The term outsourcing could be translated as a payment to another company for the performance of things normally governed by state institutions. In this case, state institutions are exempt from the obligation or surplus of persons, and it is considered that some of the invested funds of the state are returned by tax service to the private sector. One of these services was also related to the sphere of security. The second factor was the consequence of the end of the Cold War. The great army, characteristic for the present conditions, is reduced to an effective level of adjustment to the newly emerging circumstances.

According to Zoran Kesic's claims, "The literature distinguishes two basic approaches in defining the private security sector," a wider and narrower approach.<sup>8</sup> In a broader sense, the private security sector can be defined as a set of organized forms of action for voluntary and commercially-directed non-state actors, whose primary activities include countering criminal behavior. This defined private security sector consists of: 1) the voluntary participation of citizens; 2) private security; and 3) private detective activity. In the narrow sense, we can define this sector as a set of legally grounded activities of a professional nature, outside the competencies of the state bodies, which are organized for the provision of certain services for protection of the personal and property security of citizens and

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For the private security sector see more with Gerginova, T., *The need for private security institutions*, paper published in the International Yearbook – Faculty of Security - Skopje, 2014, ISSN 1857-6508.

<sup>7</sup> Singer, Peter, *Corporate Warriors: The Rise of the Privatized Military Industry*, Cornell University Press, 2003, p.49.

<sup>8</sup> Kesic, Z., *Private Sector in Criminal Control*, Belgrade, 2009, pp. 11.

collecting information on the order. The term thus defined includes: 1) an agreement for securing the activities of private firms and agencies specialized in providing physical and technical security services on a contractual basis; 2) internal (own) security; and 3) private detective activity.<sup>9</sup>

Accordingly, the term private security can have dual meaning. It may signify the provision of security services by privately-owned companies, or these services or security services are performed at the request of private individuals or privately-owned organizations. In addition, it is not excluded that certain public authorities can hire private companies to provide certain security services, thus extending this term. In the broadest sense, the term private security can denote all security activities that are not performed by the state and its authorities, while the private security sector includes private security services that provide security services.<sup>10</sup>

Historical development shows that through the practical work and realization of the provision of persons and property, certain deficiencies, omissions and insufficiently regulated aspects are identified. Therefore, in the in the member states of the European Union, the laws on private security are amended and supplemented, which is a really necessary tool and an appropriate response to new trends and challenges in the field of private security. The goal is to create an even more qualitative legislative framework for the successful operation of all stakeholders in this area.

The normative and legal regulation for the work of the private security sector is vital and a necessary prerequisite for legal performance of the works by the private sector security entities.

Given that modern living conditions and the risks and threats to the security of persons and facilities are increasing, there is a need for each national state with its own legal regulation to monitor these security phenomena. This is conditioned by the need for successful organization and running of a business in every community, as well as for improving certain aspects of the safety of citizens and property.

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<sup>9</sup> Kesic, Z., *Private Sector in Criminal Control*, Belgrade, 2009, pp. 12.

<sup>10</sup> More details see: Ostoich, Momir., Scientific Problem Theoretical Safety Definition as a basis for defining private security, in: *Private Security - Standing and Prospects*, The Proceedings of papers, Novi Sad, 2008, p. 197.

The private security sector in the member states of the European Union offers various services and activities that can be divided into three categories:<sup>11</sup>

First, in all countries, the private security sector offers protection to the public places and facilities, including nuclear power plants (for example, Germany and Romania), military installations (e.g. Austria, Estonia and Germany), airports (e.g. Austria, Germany, Romania, Great Britain, Sweden, the Netherlands, Greece and France), ports (Bulgaria and the Netherlands) and parliaments (Bulgaria and Romania). This category includes the installation and maintenance of alarms and video surveillance (CCTV); CCTV is a short circuit from a closed circuit television, and is translated as a closed-circuit television system. CCTV is a component of the integral system for the technical protection of objects and their role can be seen through three basic functions: observation, recording and deterring. The main parts of the closed-circuit television system are cameras, transmission paths, monitors, and devices for recording and image reproduction.

Secondly, the private security sector offers protection of property, values and transportation of money and thirdly, the private security sector offers personal protection, that is, a bodyguard.

#### **THE PROTECTION OF PERSONS AND PROPERTY ACTIVITY IN THE REPUBLIC OF CROATIA**

In the Republic of Croatia, the term "protection of persons and property" is used and this activity is performed by legal entities and workers who have an approval for performing private security. The activities of private protection may also be performed by legal persons and workers of the Member States of the European Union and the signatory countries of the Agreement on the European Economic Area authorized to carry out the private security activity, which has been issued by a Member State of the European Union, of the States signatories to the Agreement on the European Economic Area in accordance with the applicable regulations in the Republic of Croatia.

Legal persons and workers who have an approval for the performance of private security activities may perform the activity of protecting persons and property not provided by the state and outside the scope provided by the

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<sup>11</sup> Born, Hans; Caparini, Marina; Cole, Eden: *Regulating Private Security in Europe: Status and Prospects*, DCAF, Policy paper, No. 20, Geneva, 2007. Available on: [www.dcaf.ch/publications](http://www.dcaf.ch/publications).

state and may not apply operating methods and funds that on the basis of the special regulations that are applied by the Ministry of Internal Affairs and other bodies of state administration.

Workers can perform technical protection tasks while working for physical protection only for their own needs, in accordance with the provisions of the Law on the Internal Guard Service.

The activity of private protection covers matters related to the realization of protection of persons and property that are performed with physical and / or technical protection, by applying the rules of procedure prescribed by this Law and the regulations adopted in accordance with this Law. If legal entities and workers want to protect their property and employees, they must engage a legal entity or a worker authorized to perform private security work for that purpose, or it is necessary to establish their own internal security service.<sup>12</sup>

Persons performing private security activities undertake, in accordance with this Law, allowed measures and activities for the prevention and detection of harmful occurrences and unlawful acts that jeopardize the physical inviolability and violates the dignity of persons or decreases the value of the property that is subject to protection.

The Law on Private Protection in the Republic of Croatia determines the following types of protection: physical protection and technical protection.

Physical protection means the protection of persons and property, which is realized by personal appointment of a person who performs the activities for protection and protection activity, without dominant use of technical means.

Technical protection implies the creation of technical conditions for the prevention of unlawful acts aimed at the person to be protected or property.

The activity private protection covers works aimed at realization of protection of persons and property and in particular:<sup>13</sup>

- providing peaceful protests and public gatherings,
- insurance of residential and business premises,
- direct physical protection of persons (bodyguard),
- protection of natural resources and the environment,
- insurance and transfer of money and valuables.

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<sup>12</sup> Law on Private Protection in the Republic of Croatia NN 68/03, 31/10, 139/10 article 3.

<sup>13</sup> Ibid, article 5.

The works of private protection, depending on the level of complexity and the powers of the persons performing them, are classified into the following positions:<sup>14</sup>

1. Guards,
2. Protectors
3. Protectors - technicians.

The powers of persons performing private security activities are regulated in Chapter IV of the Law referred to in Articles 23 to 31.

The technical protection of persons and property is carried out with technical means and devices, by applying different forms of technical protection, in particular:<sup>15</sup>

- anti-counterfeiting and counterfeit techniques
- protection from unauthorized access in the protected area,
- protection against the introduction of explosive, ionizing and other dangerous substances,
- protection from the taking out or the alienation of the objects that are protected,
- protection while performing insurance and money transfer operations, and valuables.

The technical protection referred to in paragraph 1 of this Article shall be carried out within the protective perimeter of the facility, in public places, in the performance of insurance, in the transfer of money.

The technical means can be connected to the technical protection systems. Technical devices and devices, as well as the technical protection system must be used exclusively for the purpose for which they are fitted.

The implementation of technical protection must be in accordance with the regulations on the conditions and manner of implementation of the technical protection.

Furthermore, the Law on Private Protection defines the term Internal Services Unit as an internal organizational unit established by a legal entity or workers for the purpose of protecting the facilities, premises and persons living in such facilities and places.

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<sup>14</sup> Ibid, article 19.

<sup>15</sup> Law on Private Protection in the Republic of Croatia NN 68/03, 31/10, 139/10 article 43.

For the purpose of securing the protection of their own workers and their property, legal persons and workers can establish an internal guard service.<sup>16</sup>

Legal persons and workers may establish an internal guard service if:

- there are business premises intended for internal security service arranged in accordance with the regulations for special spatial and technical conditions for placement of weapons and for fire protection, thefts and other accidents or abuses,
- the employees of the internal guard service pursuant to this Law shall have powers for security guards, guards and guardians - technicians.

The employees of the internal guard service pursuant to this Law shall have powers for security guards and guardians - technicians.

#### **THE PROTECTION OF PERSONS AND PROPERTY ACTIVITY IN THE REPUBLIC OF MONTENEGRO**

In the Republic of Montenegro, the Law on Protection of Persons and Property ("Official Gazette of the Republic of Montenegro" No. 43/2018) regulates the activity - protection of persons and property not performed by the State, the conditions and the manner of performing the activities for protection and other issues of importance for the performance of the matters of protection.<sup>17</sup>

The activities of protection of persons and property include prevention of threats for the safety of persons and property and prevention of illegal actions directed towards persons and property that are protected. The protection activity is performed as physical protection and as technical protection. The protection activity may be performed by a commercial company, other legal entity and entrepreneur registered in the Central Registry of Economic Entities and have an approval for performing the activity protection issued in accordance with this Law. The works for protection are performed by natural persons who have a license for performing protection work issued in accordance with this Law as entrepreneurs or employees in a business company or other legal entity.

With the Law on Protection of Persons and Property in Montenegro, while performing the activities of protection, it is forbidden to monitor third parties without or using technical means, collect data about a person without his consent and to take other

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<sup>16</sup> Ibid, article 52.

<sup>17</sup> Law on Protection of Persons and Property in the Republic of Montenegro, "Official Gazette of the Republic of Montenegro", no. 43/2018, Articles 1 and 2.

measures that according to the content represent the police authorizations, unless otherwise provided by this Law. Also, during the performance of the protection activity cannot be carried out activities of protection by defense, security and counterintelligence services.<sup>18</sup>

Protection activity covers the following things:<sup>19</sup>

- Protection of property and objects from destruction, damage, theft and the commission of other crimes and misdemeanors;
- Protection of natural wealth, good and environment;
- Maintaining the order of public gatherings, sports or other public events;
- Protection of persons from threats to their life, physical and psychological integrity, privacy and personal rights, as well as other forms of threats to their safety;
- Protection of goods in transport (transfer of money, securities, valuables, etc.);
- Protection of property, persons and facilities with design, installation, maintenance, supervision and continuous monitoring with alarm and video systems and with power plant and other technical protection systems.

The works of protection, depending on the types and complexity of the works and the authorizations in the performance of these works, are performed by a guard, a protection for persons and property, a guard technician, a bodyguard and a person who monitors the values to which a license for performing works has been issued of protection:<sup>20</sup>

- Guardian's license;
- License for protection of persons and property;
- License for a technician;
- Bodyguard permission;
- Permit for a person who keeps the values;

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<sup>18</sup> Ibid, Article 4.

<sup>19</sup> Ibid, Article 8.

<sup>20</sup> Ibid, Article 28.

The Law on Protection of Persons and Property in the Republic of Montenegro determines the following types of protection: physical protection and technical protection.

*Physical protection* implies the immediate presence and activity of persons performing protection activities inside and around the protected facility within the boundaries of the protected area, or around the person being protected, in order to prevent illegal acts aimed at the property, persons and objects that are protected. As an exception, the matters of protection referred to in Article 8, paragraph 1, items 4 and 5 of this Law may also be performed outside the facility that is protected outside the boundaries of the protected area, i.e. in a public place and in the immediate vicinity of the person who protects.<sup>21</sup>

*The technical protection* shall mean a set of actions and measures which, in order to prevent unlawful actions aimed at the property, persons and objects that are protected, are carried out using technical means and protective devices that have prescribed quality in accordance with established domestic or international standards, inside and around the protected object within the boundaries of the protected area as well as in the protection of persons and goods that are protected in transport pursuant to Article 8, paragraph 1, item 5 of this Law.<sup>22</sup> For technical protection in the sense of this law, video surveillance is not considered in order to control the production process. A closer way of performing the tasks of technical protection is prescribed by the Ministry.

Furthermore, the Law stipulates obligatory protected objects<sup>23</sup> - that is Protection of buildings and spaces in which activity of public interest is performed, activities that pose an increased danger to the life and health of people as well as objects whose damage or destruction could have serious consequences for the life and health of a larger number of people. Also, the space on which those objects are located and the accompanying objects that are in their function are also obligatory protected.

Required protected objects in terms of the law are determined:

- facilities for the supply and storage of oil, oil derivatives and gas;

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<sup>21</sup> Law on Protection of Persons and Property in the Republic of Montenegro, "Official Gazette of the Republic of Montenegro", no. 43/2018, Article 11.

<sup>22</sup> Ibid, Article 12.

<sup>23</sup> Ibid, Article 13.

- facilities for supply and production of water;
- facilities for production, processing, distribution and storage of food;
- facilities for generation, transmission and distribution of electricity;
- objects in which radioactive and other dangerous and harmful matter is produced, used or stored;
- objects of traffic infrastructure (bus and train station, airports, etc.);
- yards, halls and other closed facilities and accommodation facilities for at least 1,500 persons;
- stadiums and other open facilities intended for the collection of citizens with a capacity for accommodation of at least 5000 persons;
- shopping centers of open and closed type with an area of at least 3000 m<sup>2</sup>;
- objects in which there are items of exceptional importance for science, culture and art;
- facilities for financial institutions;
- facilities in which postal and telecommunication activities are performed and
- other facilities and spaces designated by a special law.

The powers of persons performing protective activities are regulated in Chapter V of the Law and the following authorizations are foreseen: to determine the identity of a person; give a warning; issue an order; to keep and inspect persons, objects, vehicles and ships; temporarily confiscate objects; keep a person caught committing a crime and a misdemeanor; to secure the venue; use coercive means.

In order to protect their property, and employees of the state body, the state administrative body, the local self-government body, the local authority, the commercial company, other legal entity and the entrepreneur may organize an internal protection service in accordance with this law, if with a separate law is not otherwise prescribed.<sup>24</sup>

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<sup>24</sup> Law on Protection of Persons and Property in the Republic of Montenegro, "Official Gazette of the Republic of Montenegro", no. 43/2018, Article 57.

Further, the Law defines the following terms:<sup>25</sup>

♣ A protected person is a person who is protected by physical, i.e. with technical protection;

♣ Protective object is a construction object, space, vehicle, boat or item that is protected by physical i.e. technical protection;

Protected space is a real estate, that is, an area that belongs to or is in the function of the protected object;

The private security contractor shall be a state body, a state administration body, a local self-government body, a business company, another legal entity and an entrepreneur or natural person who demands realization of protection of the protected object, the protected person or the protected area.

## CONCLUSION

In the broadest sense, the term private security can mean all security activities not performed by the state and its organs, while the private security sector encompasses private companies providing security services".

Private security includes all types of private organizations and individuals offering services related to the security of persons and property, including investigations and giving an emergency response to incidents, investigating the past of employees, performance of functions, detection and research crime and criminals, as well as bringing offenders to interrogation, deploying key positions, patrols, executive protection, alarm monitoring and response, and armed transport.

Private security is at the heart of private security. Private security and private security are not terms that denote identical security occurrences. Private security is a term broader than private security.

Under the term private security we can mean a set of organized and coordinated measures and actions taken by an entity / entities or a private security service / services to protect specific values and goods, most commonly persons, property, events and transport. From this we see that private security involves the provision of security services by specialized entities (intermediaries, agencies, companies) to the claimants of such services (legal or natural persons) for a particular financial consideration, or private security may also include providing security for their own needs

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<sup>25</sup> Law on Protection of Persons and Property in the Republic of Montenegro, "Official Gazette of the Republic of Montenegro", no. 43/2018, Article 7.

within permanent legal entity (company, organization, company). The first type of collateral is also called contractual collateral, and the second type is collateral.<sup>26</sup>

Historical development shows that through practical work and the realization of the provision of persons and property, certain deficiencies, shortcomings and insufficiently regulated aspects are identified. Therefore, in the EU Member States, private law legislation is being amended and supplemented, which is a really necessary tool and an appropriate response to new trends and challenges in the field of private security.

Contemporary scientific literature has used several terms for the protection of persons and property: private security, protection of persons and property, the provision of persons and property etc.

In the Republic of North Macedonia today the term private security is used to mean the protection of persons and property carried out by legal entities licensed for private security. Previously, the term "securing persons and property" was used in accordance with the Law on Securing Persons and Property published in the "Official Gazette of the Republic of Macedonia", no. 80/99 and the Law Amending the Law on Securing Persons and Property ("Official Gazette of the Republic of Macedonia" No. 66/2007).

Today Private Security under the conditions set by the Law on Private Security is carried out: in the form of providing services and for own needs.<sup>27</sup>

Private security in the form of services is provided as: physical security and technical security.

Private security for personal needs is provided as physical security and as physical protection and monitoring security.

In the Republic of Croatia the term "protection of persons and property" is used and this activity is performed by Legal Persons and workers who are authorized to perform activities of private protection. The works for the protection of persons and property are carried out by physical, ie physical or technical protection.

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<sup>26</sup> Spaseski, J., Aslimovski, P., Gerasimoski, S., *Basics of Private Security*, Faculty of Security, Skopje, 2017, p. 188-189.

<sup>27</sup> Law on Private Security "Official Gazette of the Republic of Macedonia" No. 166 of 26.12.2012

In the Republic of Montenegro, the term "protection of persons and property" is used. The Law on the Protection of Persons and Property ("Sl. List CG", no. 43/2018) regulates the activity of "protection of persons and property" which is performed as physical protection and as technical protection.

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