

Legal significance of the private security sector in Kosova

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Abstract

Privatization of the security sector is considered a new phenomenon in the post communist society. The security system has been under a total monopoly of the state institutions. Therefore, even the legal adjustment of this system is considered that only state institutions are entitled for provision of the security services, by excluding participation of civic organizations from this activity. Besides this, state enterprises have been obliged to establish their safety structures for property protection and involved employers in enterprises. Immediately after the conflictual period the privatization of the security sector was rapidly increased, including various parts of society. In Kosovo immediately after the conflictual period there were legal gaps, which means that the private security sector has not been adjusted and as a result of this has been uncontrolled and without supervision. Therefore in 2000 the UNMIK administration has undertaken measures and has carried out the first act which has regulated this sector in Kosovo. The draft law has undergone significant changes starting from the title. Saying in more common manner, "Draft law for private security" is amended in the LAW no. 04/L-004.2001 for private security services, and this amendment of the private security sector is based in the above mentioned law.

Key words: Safety sector, UNMIK, Law, Private companies, enterprises.

Introduction

Private security companies (Kosovo Private Sector) in Kosovo exist almost for a half decade, much later than in other parts of former Yugoslavia. A long period of relations under the Milosevic regime and the difficult political situation has made difficult the overall social development. The Kosovo side in 1999 has applied the implementation of market economy and the political democracy as well as innovative practices for the safety of people. Private security initiatives rapidly have taken shape, while police structures have tried to ensure the order and peace. Most of the PSS are formed from former fighters of the Kosovo Liberation Army, former military officers of the Yugoslav National Army (YNA) and individuals with security experience. Rapid phenomenon of private security initiatives in a fraction can be explained in a symbolic way, in order to adapt to new conditions, but in the field which answers to their working potentials (security) and to have financial benefit. Something similar happened with former fighters in other areas of conflict in the former Yugoslavia. However, cannot be excluded the fact that more such initiatives have come from the previous entrepreneurs, who transferred their knowledge obtained in the Western Europe.

Private Security in Kosovo

Private security in Kosovo is increasing from day to day. Safety of the accuracy of

these facts and findings, whether to research initiatives is defined in time due to dynamic developments and not the potential formalities in this sector. In January 2009, official data have noted that in Kosovo there were 48 domestic and international private security company, of which 44 based in Kosovo and 4 international. More than half of PSS are headquartered in Pristina, the significant presence of PSS was recorded in the region of Prizren, Gjilan and Ferizaj. Nearly all PSS are owned by Kosovo Albanians, except one which is headquartered in the northern part of Kosovo in ownership of the serbian of Kosovo. From all these companies, only one is international (Security company Henderson). Although official data show other figures, there is a common conception that some companies are neither registered nor possess license to perform such an activity. On the other hand, it is still unclear how publicly owned enterprises cover their security requirements (Kosovo Police, December 2008).

Legal significance of SPS in Kosova

Privatization of the security sector is considered a new phenomenon in the post communist society. As it is known in the previous system, the security system has been under a total monopol of the state institutions. Therefore, even the legal adjustment of this system is considered that only state institutions are entitled for provision of the security services, by excluding participation of civic organizations from this activity. Beside this, state enterprises have been obliged to establish its safet structures for property protection and involved employers in enterprises. Immediately after the conflictual period the privatization of the security sector was rapidly increased, including various parts of society. In Kosovo immediately after the conflictual period there was legal gaps, which means that the private security sector has not been adjusted and as a result of this has been uncontrolled and without supervision. Therefore in 2000 the UNMIK administration has undertaken measures and has carried out the first act which has regulated this sector in Kosovo. UNMIK Regulation on "granting permits to companies in order to provide security services in Kosova and the Regulation which governs the relationship of employees in them" is legal act for both parties, which until 2011 has regulated the Private security sector. As very small regulation, it has been more dedicated to control the participation of any former military structure in these companies, than preventive regulation of functioning of this sector. The conditions are arranged for granting of permits, the process of granting PSS permits and their employees in order to perform this activity. Based on an administrative instruction it has been determined that any local and foreign company which provides security services in Kosovo must be licensed by the UNMIK Department. Article 2 of the UNMIK Regulation has regulated the process of granting licenses to PSS, verifies the past (verifies) any person involved in PSS and what considers as the most important thing-prohibition on the possession of weapons by the PSS companies and the regional companies as well as those from the neighborhood states of the former Yugoslavia. Only international staff may be allowed to carry weapon. The fact that only international staff was allowed to possess weapons, is considered as protective measure to prevent arming the population in Kosovo and to discourage formation of groups and pre-military formations, which could destabilize

the security situation in Kosovo and beyond. But on the other hand, priority was given to international PSS, as the only type of companies which possess weapons, which have the capacity to provide very important services, such as providing security for banks and money transfer, but (UNMIK regulation UT 2001, Article 2). But since 2011 based on the new law, Article 27, private security companies, will not employ the security worker if that security worker has no relevant license. Private security companies should ensure that security workers only perform tasks for which they are licensed, also private security companies that are licensed to perform close protection services should ensure that: operators of close protection are equipped with means enabling continuous communication with their control centre, and with one another when they are assigned for the same task. The operators of close protection are also equipped with fire weapons in compliance with this law and with the Law for weapons. Private security companies, licensed for completion of cash transport services – CTS, should ensure that: CTS guards to be equipped with means enabling continuous communication with their control centre, and with one another when they are assigned for the same task, control centre should have the certified monitor system in compliance with professional standards of Kosovo, to monitor the movements of vehicles used for CTS, CTS guards are equipped with fire arms in compliance with this law and with the Law for weapons (Article 27, Law no. 04/L-004, 2011, 13).

The inclusion of human rights within the operations of private security companies

According to some expectations it's frequent the violation of workers' rights. Starting from the employment moment, in paradoxical manner most of CTS implement rules that workers must buy uniforms and in our opinion for a short time are discharged and are not entitled to be compensated for uniforms. The issue of payment of uniforms by workers is a violation of human rights. Labour Law clearly defines, among other things, that the employer is responsible for t'iu provide acceptable conditions for all workers. There are times when they are employed on a temporary basis free (up to 3 months) and are discharged without any justification. While the trend for privatization of security is increasing, regulation of PSS must also be developed, gender inclusion in considerable measure would advance the operative efficiency of the work of this sector and in positive manner will shape its own development in the future. Regarding gender employment in Kosova, a small number of females is employed in PSS. They are mostly engaged in administration, surveillance centres and a very small number of them in patrols. In places of physical raid of persons, such as in sport meetings or in concerts, for now legislation requires that it's necessity to have security worker of the other sex, for this reason some women are invited in such events. Surely the issue of gender equality in security mechanisms is of general interest and should be given special attention

The cooperation and communication with the public security mechanisms

Private security sector should not be understood as a pure economic sector. Its role is

to provide physical protection of property and personal security of individuals. However, these services also respond to the mandate and mission of public security mechanisms for public order, peoples' safety and public safety. A part of these works is focused on issues of cooperation and communication between the PSS and public security institutions in Kosovo. For this reason it's short assessment in this regard in order to be taken for purpose two security mechanisms. Police and urgent services. The cooperation between Kosovo Police and PSS is considered as crucial. In principle, it is difficult to ignore the current cooperation between mechanisms of public and private security, because there are arguments for preparedness and communication in the field. Indeed PSS should go to the police, whether for any injury or attack on the property, since they are obliged to do so under the current legislation. Indeed effective cooperation also increases the efficiency of mechanisms of public and private security. On the contrary, these two safety factors should not look at one another as competition. Practice in other countries shows that this is a very problematic area. The cooperation with emergency services is very important, especially in cases where fires occur in the country where security workers are present. PSS should establish direct communication with the fire brigades in order to prevent further outbreaks of fire and casualties. This communication should be direct and not through the police. Any attempt to establish connection and to require intervention of emergency services through the police can cause inefficiency, so they need to bring direct number 112 (Law no. 04 / L-004., 2011, 19).

Supervision and control of the Private Security Section

Democratic supervision of the security mechanisms necessarily requires control of bodies in more efficient and powerful way. Due to the great importance and pushing private security stakeholders more and more, it is important that democratic institutions to ensure a minimum standards of supervision and control. In this view, the Constitution explicitly foresees the importance of democratic of supervision of the security section. The wider importance of verification turns into transparency and accountability. PSS in Kosovo must be fully transparent and responsible for the services they provide. Security is a sensitive issue and requires the participation of various stakeholders, thus excludes exclusive rights for services. Moreover, the close verification meets obligations such as trainings, personnel, violation of human rights, possible criminal activity which should be considered as inevitable. MIA has main priority for safety oversight mechanisms, since it makes this for police and emergency services. Ministry of the Interior Affairs has Division for Private Security which has limited powers of supervision (*DCAF, Parlamentariz oversight of the security sektor, principles, mechanism and practices, P.72*).

Conclusions

The reason for the increased demand of services in the field of private security lies in the fact that in the social business and the natural environment, there are enough risks in which operate economic societies - social disorders, criminality, espionage

business, catastrophes and natural disasters, whose effects present serious threat to long-term successful business, safety, health and life. Since private security services, respectively insurances may affect in the reduction of risk, they have become quite popular in the market, but even more than that, have become the element of the national security strategy of many countries. The majority of authors who deal with this issue feel it is necessary to harmonize and standardize quickly the norms that regulate this field. This working paper highlights numerous areas in which the private security industry has a need for further studies, regulation and oversight. While opinions for private security companies seem stable, as noted in this paper, the Parliament, the government, private security companies as well as civil society and the media should always be involved in addressing these highlighted challenges. The section "in the region" is faced with insufficient legal infrastructure and a number of ambiguities in the meaning, scope of work and measures. The sensitivity of the connections which are then SPS operations and a large number of former negative trends require urgent intervention by society. Of course, someone can convey professionalism, commitment to a special segment of the sector, but the assessment reveals that it is necessary for government intervention to improve the circumstances in which these companies operate and apply legally binding norms. PSS that will be the initiative subject for the creation of policies should gradually start on passing to the reliable structure, ensuring high criteria for selection, to implement business ethics and principles of social and economic responsibility, to become more transparent and accountable in their activities and be engaged between the dialogue of the PSS, in which would process perspectives of further perfection. On the other hand, the PSS should take advantage of the positive attitude in terms of their presence in the field. Meanwhile, the high level of acceptance and reputation can serve as valuable social capital for companies, in order to maintain a professional approach and enhance the quality of their services which are offered to customers. But, PSS has need for internal reforms and concrete plans in order to provide efficient services but also acceptable in social aspect. Deficiencies were noted and remain in the labor law, which can be overcome with fair agreement between PSS and increased monitoring by the Agency for implementing the law. The definition and clarification of self-security and private security whether in the broad sense as well as in the particular areas in Kosovo, but even in other places of the Western Balkan, has enabled me much better self-impact presentation of close protection in the private security. Fair meaning, positioning of close protection, of private security and general safety starting from strategic documents to the legal and sub-legal acts, represents one of the first steps for their implementation and coordination with public safety (police), because they have common goals, this is first of all for the protection of human life and property. Traditional worldview on the thesis that only the police are responsible for security in the world, for a long time has been dropped. There is no doubt that close protection, first of all also the private security contribute to efficient protection of vital values of society and that with development of their social security will have positive trend and development. The reason for the increasing demand for services in the field of private security lies in the fact that in environment, business, and natural society exist numerous risks where economic societies do business - social unrest, crime,

business espionage, weather and natural disasters, the effects of which pose a serious threat to long-term successful business, security, health and life. Given that private security services, namely security may influence in the risk reduction, these have become quite popular in the market, but even more than that, have become elements of the national security strategies of many countries.

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Law no. 04/ L-004, June 23rd, 2011 Pristina.

UNMIK Regulation – UT 2001/7 on permission of weapons possession in Kosova, Article 2).