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RELATIONS BETWEEN CORPORATE SECURITY IN REPUBLIC OF MACEDONIA AND THE NATIONAL SECURITY SECTOR

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Abstract: *The security of a state is a condition that includes all security institutions in the activities which are related to the absence of instability, a stable national security, human security, and moreover, including professionalism in the private security sector. In conditions of this kind, special relations between the institutions of the public (state) and private (where corporate security is included) security sector is established. These relations support the achievement of a strategic national interest defined in the key security documents. Relations between these two sectors are conveyed from a special legislative regime which is created to regulate their activities and to fulfill their authorization. Corporate security as a part of the private security sector, is an immensely important security dimension and if we take into consideration its importance, it gradually occupies an influential position in the overall social system. Security functioning of corporations of today appears to be a major determinant for the successful functioning of the security sector. Relations between the corporate security and state security sector are multidimensional and grasp attention in the academic, scientific and professional community. This article deals with a comparison between the normative, organizational and functional design of these two sectors as the best way to define their relations and to improve future relations.*

Keywords: *National security, corporate security, regime, interests*

1. Introduction

In general, science and the academic community have the task of investigating and studying the relations between phenomena and institutions that are part of the social system and which are in the function of achieving their goals. The methodological approach enables the complex and multidimensional study of the relationships and relationships that exist between particular cases, phenomena and institutions. The science of science must enter the nature of special subsystems of the security system in order to define and explain their relationships and functioning. By extending the significance of security from traditional to non-traditional (non-state) areas and actors, the area of security intervention in the field of civil security has been expanded, and in the practice of modern states, state (public) and non-state (private) partnership is becoming more and more present. In addition, there is a growing commercialization and specialization of security services, in which, although the place and role of the state has not yet been questioned, it can be concluded that the security industry and the defense industry are part of the work.²⁴ Namely, more details are needed to elaborate concepts of public and private, so that the very conceptualization and justification of the basic prerequisites of "giving up" or delegating traditional state security powers to private hands and their relationship would be clearer. According to the logical division, the terms public and private are the question of defining the

basis of ownership and it is necessary to conceptualize the concepts to take into account that: - the boundary between these terms is the one that indicates the difference between public and private bodies, - when defining the essential concepts publicly-private it is necessary to comprehensively and thoroughly investigate multidisciplinary meanings that are hidden below the surface of concepts that can be labeled as "public" and "private."²⁵ Also, the development of scientific thought about this traditional and contemporary human phenomenon has contributed to creating a new approach to understanding and change the evaluation of contemporary forms of security threats, ranging from human rights and human ambitions, to the security of business and IT systems on Earth. In the emergence of new social relations significantly relieved of ideological contradictions in the international community, instead of the extreme importance of military threats, the understanding of the "new" spectrum of security risks has been extended to the peaceful and sustainable development of the human species, production relations and the service sector.²⁶

This division of security services, one of which is located in the state and the other in the non-state system, occupies the intersection of theorists with the aim of defining these security spheres, determining the limits of their competencies, common characteristics and differences. Starting from this, the term "private security sector" is used more often

²⁴ Savić A., Stajić Lj., *Fundamentals of Civil Security*, USEE Faculty of Legal and Business Services, Novi Sad, 2006, p. 55.

²⁵ Ahić J., *Private Security Systems*, Printer, Sarajevo, 2009, p. XXXI.

²⁶ Marković I. S., *Osnovi korporativne i industrijske bezbednosti*, USEE Fakultet za pravne i poslovne usluge, Novi Sad, 2007 godina, str. 9.

to distinguish it from the state security sector, although in practice it means a term that is somewhat narrower than a term designated as "non-state security sector". "It can be concluded with certainty that the NSA is the carrier of one of the subsystems in the security system, with this subsystem containing the basic contours, but also the specifics of the security system as a whole."²⁷ "The non-state security sector is considered to have found itself a suitable position in several areas that are actually predetermined for the private sphere in the area of crime prevention."²⁸ "It should be noted that the non-state security sector is expanding the notion of private security because it is essential, in addition to the activities of private firms and agencies to provide various security and on commercial basis, includes specific corporate security tasks carried out by internal organizational units and independent executives in corporations, public enterprises and other business entities, without the external engagement of competent government services and PSC services by the outsourcing model."²⁹ Due to the development of the awareness of every individual, organizations and other entities can take responsibility for their own security, so there is an increasing number of private property owners engaged to get as high a degree of protection as they are offered by the state. They expect additional protection from the non-state, ie, private

security sector.³⁰ In the developed countries of the West, the main incentive for the privatization of security functions relates to the demand for increased efficiency in state institutions, to which it is responding with the outsourcing of security operations traditionally carried out by the state sector.³¹ The process of privatization of the security sector was also greatly influenced by the transition processes, ie, establishment of a market economy model. This led to the creation of a special market for certain services in the field of security, especially in the area of protection of property and persons, as one of the most important factors of economic activity.³²

This requirement to establish the position of a private, non-state security subsystem, where corporate security is also of its nature, places a special intensity on the Macedonian scientific, academic community because the Macedonian security system has been subject to numerous reforms that have led to a new institutional design since its creation and new relationships between security institutions. Lately, relations between the public (state) and the private security system come in particular, experts carry out an analysis of the level of professionalism between them, and emphasize the need for greater cooperation and building a relationship of trust and integrity. The private security security should be viewed

²⁷ Daničić M., The Role of the Non-State Security Sector in Contradicting Contemporary Terrorism, Proceedings, VI Scientific Conference "Security Days", Sinergija University, Faculty of Security and Safety, Banja Luka, 2012, p. 88-89.

²⁸ Compare: Henderson J. H. Public Enforcement, Private Security and Citizen Crime Prevention: Competition or Collaboration, The Police Journal, vol. 60, no. 1 (Fall 1987), p. 48-57.

²⁹ Trivan D., Detective work, Dosije Studio, Belgrade, 2014, p. 36.

³⁰ Veić P., Nadj I., Law on Private Protection with Commentary, Naklada Žagar, Rijeka, 2005, p. XI-XIII.

³¹ Toyne Sewell Patrick, Private Security Companies: The Reasons Why, Military Technology, Vol. 31, Issue 3, Monch Publishing Group, Bonn, 2007, pp. 60-61.

³² Trivan D., Detective Activity, Dosije Studio, Belgrade, 2014, p. 65.

in the ambience of overall global security challenges, regional and global security environment, changes in the catalog of new security risks and threats. In order to realize this goal, it is necessary to develop a research and applied activity that is related to private security and its theoretical and empirical research and study.³³

2. Relations between the private security system in the Republic of Macedonia and the state security system - normative aspect

The normative dimension of the relation between the private and security system confirms the determination of its subjects towards the establishment of the rule of law as the primary principle in their functioning. The legal order guarantees legal security in both segments of the security system, which is the basis of its further development.

The basics of the private, non-state security system in the Republic of Macedonia are connected with the adoption of the Law on Security of Persons and Property of December 14, 1999³⁹, which created legal preconditions and bases in relation to the subject matter as an introduction to the process of practical implementation of legal solutions in this sphere. The first private security reform dates back to 2007, and the next was implemented in 2011. The goal of the reform was to create equal conditions for the participation of all stakeholders in this new market.

The beginning of the major reform of 2011 led to the creation of conditions for the adoption of the new Law on Private Security.³⁴ The 2012 reform, among other things, was in the function of delineation and definition of terms for creating conditions for the practical application of legal provisions.

The establishment of a detective's profession was accomplished by the adoption of the Law on Detective Services in 1999, thus creating the basis for the development of corporate security, because in this same Law, the responsibilities of detectives that are connected with the functioning of modern corporations are determined. In addition to these laws, other laws and bylaws, which also apply to the state security system, are important for the successful functioning of the non-state security system.

The public security system is part of a state apparatus that has the authority to apply legal force. *Differentia specifica* between these and other state institutions consists in the fact that the first are authorized to apply and use force on behalf of the state⁴¹. As a separate administrative area, the security system (and therefore the Security and Counter-Intelligence Administration) is subject to the norms of general administrative and legal regimes and norms that are part of special legal regimes. From a legal point of view, a special legal regime is built up through special or special laws (*lex specialis*), in the form of different legal solutions that deviate from the general legal regime, i.e. from the established by general laws (*legi generali*). When this is not the

³³ Kozarev A., Private security in the Republic of Macedonia - current state and perspectives, Proceedings - First international scientific meeting:

Private security - situation and perspectives, USEE, Novi Sad, 2008, p.177.

³⁴ Official Gazette of RM no. 80/99.

case, then the rules of the general law (*lex speciali derogate legi generali*) apply. In order to make the matter more interesting, when some services, for example the police, have a special legal order (suppression of organized crime or terrorism), in that case we come to a new degree of specialty, to something that can be called conditionally *lex specialisimus*.

In such a case, a special one is first applied, followed by a special and ultimately general regime. The particularities of the normative security concept are particularly evident in the functioning of the police, which in European continental law is portrayed as "the police of the rulers", while in Anglo-Saxon law it is "the police of the people." In the first legal system, in the first legal system, there are more special features (*lex specialis*) in the regulation of the state apparatus apparatus, and in the second, there is a tendency for this apparatus to be subordinated to the general legal regime (*lex generalis*), in order to minimize deviation from general law law) And for him again as well as wherever possible, the same applies to persons-private law. ³⁵

J. Spaseski states that "the reformed national security system in the Republic of Macedonia consists of: legal norms regulating relations in the field of human security, between people and society and the state; institutions that have the rights, duties and responsibilities to act on security issues, including: the public (state) sector,

the non-public (private) sector and the civil sector, and the measures - preventive and repressive, which are legally envisaged for resolving security issues. ³⁶

The key laws relating to the public, state security system are as follows: Law on Organization and Operation of Public Administration Bodies,³⁷ Law on Police, Law on Internal Affairs, Criminal Procedure Code, Criminal Code, Law on Communication Monitoring, Law on Prevention of Laundering money and other income from criminal acts and financing of terrorism, the Law on the Intelligence Agency, the Law on the Financial Police and other laws and bylaws.

2.1. Relations between the private and security system in the Republic of Macedonia and the state security system - a functional aspect

"Increasingly abandoning the traditional concept of national security, the processes of socio-economic transition, i.e. changing the dominant form of social and state property into a private one, along with a general increase in the crime rate, create a need for the part of the more prosperous population to engage professionals outside professional civil services to further protect their security. It is noticeable that the protection of personal and property security, which was once provided exclusively by the state, was replaced in some segments by the services of private companies for security services and

³⁵ Record of the public debate on the Bill on security of persons and property, 26.11.2011, drafted by the Ministry of Interior of the Republic of Macedonia.

³⁶ Timothy Edmunds, "Security sector reform and transforming societies: Croatia, Serbia and

Montenegro", Manchester: University Press, 2007, p.23.

³⁷ B. Milosavljevic, "The Constitutional Law of the Sector for Security and Power Machines in Serbia after the adoption of the Constitution of 2006", Faculty of Political Sciences, Belgrade, 2007, p.9.

detective agencies. It is a system of non-profit and profit-making entities created by non-state actors in order to provide specific security services to interested clients."³⁸ Private security services are implemented through: a) proactive (reducing and / or eliminating the cause of the occurrence of adverse events) measures and procedures; and b) reactive (reduction and / or elimination of consequences of adverse events) measures and procedures.

Private security is an industrial branch that produces services designed to secure persons, property and labor. This branch includes the following forms of activity: protective activity, self-protection and detective activity. With the services of protective and self-protection activities, persons, property and work can be provided to the following Ways: physical protection, technical protection, value management and management from the control center.³⁹ In the Republic of Macedonia, the functioning of the state and non-state security system is connected with the implementation of certain competencies for which their members are legally authorized. According to the nature of these competencies, it can be stated that there are evident relations in this direction, and as a confirmation of this paragraph I present the following classification:

Police authority	Private security authority	The authority of private detectives
Verification and identification of identity of persons and objects	Check identity of the person at the entrance	Collecting data and information

Collecting information	Warning	The provision of evidence in connection with the criminal offense or perpetrators of the criminal offense
Invitation	Prohibition of entry and unauthorized recording	Finding faint or hidden faces
Deprivation of liberty	Keeping	Identification of the face identity and its location-address, or place of residence
Invocation	Examination of faces, objects, vehicles and luggage	Finding stolen or lost items
Keeping	Use of compulsory funds	Collecting evidence relating to the protection or determination of the truthfulness of proceedings before a court, another state body, institution exercising public authority or a legal person that decides on the special rights of a party
Search by faces and objects	Use of firearms for physical security	Collecting information on the relationship of workers to the protection of business secrets
Covered police action	Telescreen protection	Collecting information

³⁸ J.Spaseski et al., "Private Security", Skorje-Ohrid, 2008, p. 29.

³⁹ Институт за стандардизација на Србија, Друштвена безбедност-Услуге приватног

обезбедења-Захтеви и упутство за оцењивање усаглашености, прво издање, Београд, 2008 година, стр. 3-4.

		on the success and legal activities
Overcoming, diverting or restricting movement of persons and vehicles over a given space over time	Provision of transport and transfer of money and other valuable items	
Warning and ordering	Monitoring-patrol and monitoring security	
Temporary seizure of items	Technical assistance	
Review or search of certain offices and premises of state bodies, institutions exercising public authority and other legal entities and insight into certain (their) documentation	Providing public gatherings and other events	
Entering another's home and other enclosed spaces		
Stop, view or scan of persons, luggage and means of transport		
Provide, view, and inspect at the venue		
Receipt of complaints and appeals, submission of reports and reports		
Recognition		
A prize awarded publicly		

Shooting in public places		
Polygraphic testing		
Collecting, processing, analyzing, using, evaluating, transmitting, storing and deleting data as well as processing of personal data under the conditions and in the manner determined by this and a special law		
Application of pim measure		
Protection of persons covered by the law on protection of witnesses		

Similarly, the reform had the basic function - increasing the efficiency in carrying out everyday tasks for security personnel, as well as for authorized officials and police officers of the Ministry of Internal Affairs. In this context, it is necessary to provide unified access-modus operandi for these categories of workers, which would be a step forward in improving the situation in this area, which would ultimately reflect the higher level of security of persons and property being provided.⁴⁰

The key relations in the daily functioning of the public and non-state security system confirm the role of primacy of the first in relation to the other. The overall functioning of the non-state security system is restricted to the activities of the state security system. Thus, in relation to the functioning of detective activity, a detective

⁴⁰ Law on Organization and Operation of Public Administration Bodies, "Official Gazette of RM" No. 58/2000.

can only work if he has a license issued by the Ministry of Internal Affairs, which is by its nature a key state security institution; the professional exam is taken by a detective before a test committee established by the Minister of the Interior; license-private detective issued by MIA; the records of the detective are kept by the MUP; supervision of the work of the detective is carried out by the MUP. In relation to private security, the Ministry of Internal Affairs issues a license for security in the form of providing services to a legal entity and for its own purposes; training for physical and technical security is organized by the Chamber, and executed by the Physical Security Training Commission and the Technical Security Commission established by the Minister of the Interior; the firearms handling capability check as part of the physical security examination is conducted by the Commission for verifying the capability to handle the firearms of the MIA, which consists of three police officers and their deputies; about the issued security clearance, the Ministry of the Interior shall report to the Chamber, and shall provide it with information on the name and head office of the legal entity to which the license was issued; about the performed retention and the use of means of coercion, the security worker and the legal entity are obliged to compile a written report and submit it to the MUP; regular supervision of the work of the Chamber for private security and legal persons for security is carried out by the MIA at least once a calendar year.

3. Future directions of corporate security development

The fundamentals of corporate security in the Republic of Macedonia are established at the theoretical level, while in practice only the attempts to function it appear. "The

research of the representation of private security cases in the higher education system of the Republic of Macedonia has shown that they are in the initial phase and are studying at various levels of study, predominantly as elective subjects with a small number of ECTS."⁴¹

Practicing the content of corporate security needs to be linked to providing the conditions for the successful work of modern corporations, in terms of achieving: safety and protection in work, the attitude of employees towards the protection of business secrets and the performance and business performance of legal entities and performs other tasks determined by law. In these directions, at the initial level, the way to introducing corporate security in Macedonian companies should be paved. First of all, it is necessary to refresh the acts on the systematization of jobs in those companies by introducing the position of the corporate security manager, something that is so far unknown and non-existent in the practice of the Macedonian business world. In analyzing the common goals of all corporations and their importance to society, there may be a key missing link in trying to understand the contemporary character of corporate security. In an attempt to perceive corporate state security in the practice of new internationalism, one should firstly say that corporatism, as a political theory, starts from the fact that society and the state need to be regulated on the basis of the existence of corporations as basic institutions. According to this learning, the security of the state depends on security business organizations based on the existence of corporations. 49 On the other hand, the intensity of the development of the theoretical design of this activity is connected with the need to raise the educational, educational and cultural level among the members of this activity. In connection with this, the first faculties for education of highly educated personnel for

⁴¹ Buzan B., *People, States and Fear: An Agenda for International Security in the Post-Cold War Era*, Harvester Wheatsheaf, London, 1991, p. 363.

the performance of private security and detective activity were formed, as well as with shy attempts to introduce corporate security to study as a compulsory subject. The final outcome of this process is to direct attention towards: maintaining a constantly high level of knowledge as a top priority; Enabling continuous development and academic development; constant improvement of the education process by applying best practices in security education from renowned higher education institutions and establishing cooperative relationships with international educational institutions.

Conclusion

The relationship between corporate security and the state security system is the relationship between the general and the special, including the continuing conflict between them. Realizing a security function in society is a complex activity involving a number of institutions: state, private, some of which are key, secondary, and so on. Irrespective of their position, they all have a contribution to strengthening national security as a whole. There has always been a distinction between the private and the state security system in the theory, and besides that they appear as sub-systems in relation to the social system. Bearing in mind this fact, it can be concluded that there are special and significant relations between them on several levels: regulatory, where special laws regulate these areas; institutional, where relations and relations are more complex given the primacy of the state security system that is competent to control the functioning of the private, not the other way around. In this line of relationships, special relationships are created, which, although they are the direction of improving corporate security, can still be taken to the surface and their animosity. In general, the functioning of corporate security is determined in a large number of state security system activities in practice. Namely, in spite of the fact that

modern corporations through the detection of certain unlawfulness can lead to the activation of internal control mechanisms, in some cases they are in accordance with the law in charge of informing the police that can further prosecute the case to the competent public prosecutor. In the area of criminal justice protection, the role of a public state security system that is authorized to comply with the Criminal Procedure Code is to take on the activities for detection, clarification of criminal acts and their proving, which is not in the domain of private security, nor is it the case with corporate security. However, for the successful functioning of the protection of the rights and interests of citizens and for the legitimate work of the business world, the existence of both these systems should coordinate and harmonize their work and develop the next overall social development.

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CRIMINAL RESPONSIBILITY AND CORPORATE SECURITY

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Abstract: This paper shows the relationship between criminal responsibility and corporate security by analyzing the responsibilities of physical, licensed and legal persons in corporations. These two institutes are interesting and challenging area of research, given the changes in the criminal legislation of Bosnia and Herzegovina and normative framework in which business entities exist today. Corporate Security is one of the core strategic functions of any serious legal entity, and therefore the question can be asked whether the performance of these functions make certain acts or omissions that could lead to criminal responsibility of both individuals and legal entities. With the entry into force of the new criminal codes in Bosnia and Herzegovina, was introduced in our legislation for the first time and the responsibility of legal persons for criminal offenses, so it is important to determine which criminal provisions are applicable to legal persons and for which crimes. The development of new scientific and practical technology leads to such forms of crime in the context of a corporation in which, in addition to the individual or individuals as responsible persons, and more important and criminal liability of legal persons. Also, very important concern is the responsibility of the responsible person within legal persons and other individuals in the legal entity, all with respect to their assigned duties and responsibilities set forth by law and other regulations.

Keywords: Criminal responsibility, corporate security