

PRIVATE SECURITY COMPANIES – FRIENDS OR FOES?

MAY 2014



analytica
thinking laboratory

analyticamk.org

Privatization of the security sector is an emerging trend throughout the world. International security companies today are slowly replacing the traditional role of the state security apparatus. In line with the security sector reform, the Private Security Companies (PSC) are considered as a critical component of the wider security sector and there are increasing calls for establishing effective system of democratic regulation over them, oversight and respecting the principles of rule of law, transparency and accountability.

The area of private security in Macedonia was regulated for the first time with the adoption of the Law on securing persons and property in 1999. For 13 years, the law did not witness any changes. However, in 2012, the Ministry of Interior announced a new Law on private security that brought substantial changes in the way the PSC function, expanding the authorizations of the PSC staff (the law was amended in 2013). Most important provisions are related with the usage of means of coercion by the PSC personnel, including physical force, baton, firearms, chemicals, trained dogs etc. Consequently, the state's mo-

nopoly on use of force is put under question mark and there is also an existing risk of infringements of human rights. The European Convention on Human Rights guarantee the prohibition of torture, inhuman and degrading treatment, the right of liberty and security, the right to privacy, right to assembly etc. and PSC could limit all those rights. Therefore, the area deserves special attention.

In 2012, 16 private security agents were arrested in a police action due to non-alignment with different provisions from the relevant law, thus raising the questions of the need for debate and policies for more suitable regulation of this area. However, the new law was adopted without debate, in time when the oppositional parties were not participating in the work of the Parliament. The Ministry of Interior consulted the Chamber for PSC and separate PSC, but not the wider public and the civil society organizations.

In Macedonia, there are thousands of persons employed in legal entities that perform activities of private security. One should not forget that PSC are commercial entities, privately employed and paid to protect property, assets or persons. Taking into con-

sideration that private security guards have almost the same powers as the police officers (they are only limited to the properties and persons they are securing), strict regulations and proper oversight and control are of paramount importance. Additionally, the EU Progress report on Macedonia for 2013 highlighted that “some provisions of the law create room for potential infringements of citizens’ freedom of movement and increase the potential impunity of security personnel by making abuse of their powers...”

Article 66 from the Law on public security prescribes that the oversight on PSC is performed by the Ministry of Interior, at least once in a year. It is not specified if the Ministry’s officials also perform unannounced visits to the PSC throughout the year. The penal provisions envisaged with the law are also disputable. They are in the forms of fines if the PSC’s acts do not comply with the legal provisions. If the person employed within PSC use means of force contrary to the way it is regulated with the Law on private security, he or she will have to pay fine of 900 – 1000 Euros. The Law on private security does not prescribe criminal responsibility of the private safeguards.

One of the most important deficiencies that is hampering having an accountable private security sector is the inexistence of public complaint mechanism. There are indications that there is lack of knowledge among the citizens on the limits of using the powers by the PSC personnel. In case of police misconduct, citizens could submit complain to the Sector for Internal Control and Professional Standards within the Ministry of Interior or to the Ombudsperson. On the other side, there are no regulations on citizens’ disposal to complain

when excessive use of force is used by PSC.

There are several institutions that could be taken into consideration to be responsible for handling complaints from the citizens – the Ministry of Interior, the Chamber for private security, the Ombudsperson etc. Each of these models has its own advantages and disadvantages and there is a need for public debate on the most appropriate model for the Macedonian case. In addition, there is a need for awareness raising activities for the public to get more acquainted with the authorizations of the PSC such as the right to use means of coercion.

To add, there was closer cooperation between the PSC and the Ministry of Interior during the last parliamentary and presidential elections held in April 2014. The Minister of Interior stated that “it is a matter of fact that in the past, during massive gatherings, there have been situations where the limits of the powers of persons authorized to act were not clear enough”¹ which once again stresses out the need for better control and oversight of PSC.

All in all, the area of private security deserves wider public debate with participation of all stakeholders. Although there is an improvement in terms of stricter regulations for obtaining license for private security, there is a way forward to creating an effective, transparent and accountable private security sector.

1 Source: Dnevnik (15.03.2014) <http://www.dnevnik.mk/default.asp?ItemID=796D4AF3DA7BB846A4620EA088B8ECC2>