

# THE ROLE OF PRIVATE SECURITY AGENCY IN THE 21ST CENTURY

*Review paper*

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**Miroslav Baljak, Ph.D.<sup>1</sup>**

*Ministry of Defence BiH (AF BiH)*

## **Abstract:**

*The global private security industry has rapidly increased over the past ten years. The dynamics of its development varies from state to state, i.e. it is different in developing countries, countries in transition, countries that are in post-conflict period and developing countries. For all of them there is one common denominator. The privatization of security happens in cases where the state, as traditional security provider, is unable or unwilling to fulfil this role. Moreover, taking into consideration cost effectiveness, there is an increase in trend of hiring companies and personnel from external sources and privatization of state security functions. Public-private partnerships in the field of security are one of the most common examples of this phenomenon.*

*Private security is an important area for the realization of human needs and corporate interests within ranges of and the rights guaranteed and conditions of national security.*

*Geopolitical status and diplomatic competing caution us, in addition to clashes of values, low and high intensity conflicts, accompanying demographic disasters and so on, in ever more visible and rugged practice. In all that, private security and a large number of companies that provide security services infringe upon the human rights, go beyond the use of force and technical means. Unlicensed activities enable them to act accordingly in society with no control at the expense of corporate interests in omnipresent corruption as a sort of power between capital, politics and money in the region and a good part of Europe.*

**Keywords:** *security, private security companies, private company for physical and technical protection*

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<sup>1</sup> Corresponding author: Miroslav Baljak, Ph.D., Ministry of Defence BiH (AF BiH), email: baljak.miroslav@gmail.com

## INTRODUCTION

Today's world is characterized by increasing porosity of borders, privatization of public goods, weakening of the central functions of government and decline of its power to enforce the law, as well as fragmentation of the security sector, which has traditionally belonged to the state. Pressed by many different threats, processes and actors, the state lost the monopoly over the implementation of organized violence. The consequence of this process is that the states submitted their role as the sole legitimate provider and guarantor of security to private military and security companies. The emergence of the private security sector, within which private non-state providers of security operate, being independent of the state, represent a very significant moment in the development of both contemporary international relations, as well as the functioning of the states.

Private security industry, private security companies and private military companies have created an industrial chain that operates freely in the global market, having being organized along the durable and solid corporate bonds and constantly grows stronger (Litavski, 2012: 1).

While the scientific circles of the developed world deal with issues of interaction between the Westernization of the world revolution and the rise of the rest of the world, before our eyes the questions raise regarding the future of freedom and personal security as well as human needs. Lack of doctrine of national security, laws and related mechanisms marginalize the real needs and interests, leaving open space for the rise of the process of the complex nature of the grey areas from economy to security.

Particular attention should be given to private companies for physical and technical security, which emerged as a result of a growing need for security services that local communities require, alongside with ordinary citizens, private companies, international organizations and agencies, as well as states themselves. Some of these services, such as security of objects and static guarding, both developed and developing countries, usually is being provided by unarmed local private companies for physical and technical security. Other services to enable the smooth functioning of the country's armed forces in realm of military engagements in different areas.

The role of private companies for physical and technical protection and private military companies in a reform of the security system, reconstruction in post-conflict and in other related activities, such as disarmament, demobilization and reintegration (DDR) of former combatants, is increasingly growing. This does not come solely due to the increasing demand for private security (Šulc, Jong, 2008: 6). Private companies for physical and technical protection and private military companies have stepped up their own efforts to present a professional and successful providers of solutions for the reform of the security system as well.

### 1. CONCEPTUAL DEFINITION

In the literature, legitimate private actors can be divided according to the type of security services provided and the type of internal organization of the private military (private military) and private security (private security) companies (Stojanović, 2008: 18). These divisions are not used to describe the state of the private security sector in

Bosnia and Herzegovina. The term “security” has a broader meaning than the term army, and includes the concept of *military* and *security*. Since current definitions cannot be applied to Bosnia and Herzegovina, we can create a new partition. Private security companies can be divided into:

1. *private military companies,*
2. *private companies for physical and technical security,*
3. *private detective agencies.*

Although the term “private security companies” has been in use in many countries, the exact meaning of the term has led to many discussions. Godard defines private security companies as “registered civilian company that specializes in providing contract services of a commercial nature to domestic and foreign clients for the protection of people, aid workers and industrial complexes within the laws of the state where such activity takes place.” (Goddard, 2001: 34). Broader definition of private security companies is: “Private security companies is clearly structured and hierarchical corporate registered association that provides security nature, competing with other such companies to obtain business from other such companies in the market” (Litavski, 2012: 5).

Two main features of private security companies are striving to profit and trading services by providing internal security and protection. Most of these companies are small, focused on preventing crime and ensuring public order and peace, as well as private security services in the internal market. In many countries, such as USA, UK, Israel, Germany, Russia, South Africa and the Philippines, the size of the budget of law enforcement private company exceeds the budget of the police. Few of them are organized according to the system of large companies and share the same corporate principles and command structure as a private military companies. Private security companies that fall into this category generally look for foreign clients and engagement in more countries, particularly in crisis areas.

*Private military companies* are “private companies that specialize in military skills, including combat operations, strategic planning, intelligence gathering, operational support, logistics, training, supply and maintenance of weapons and equipment” (Šulc, Jong, 2008: 7). This means that their clients are usually governments, although in most cases they were the rebels, the territorial units and other armed factions.

On the territory of Bosnia and Herzegovina there are no private military companies. By this term we mean those companies that are engaged in military missions and have the equipment, training, personnel, and a hierarchy similar to the military. These companies are often referred to when the privatization of security is mentioned. They have recently been frequent in the wars in Iraq and Afghanistan, as well as in other LICs.

In terms of post-Cold War reduction of military sales of arms and military equipment, along with the neo-liberal privatization, corporations have quickly become aware of the opportunity in the possibilities that the government, by privatization of certain public sector offered. New states’ initiatives for privatization sought to reduce military spending and to outsource certain parts to private industry. The result was that the world powers have largely reduced their involvement in conflict resolution. Private military companies quickly became aware of the great opportunity and filled the vacuum. Private military companies automatically absorbed excess military personnel and equipment.

Quickly, they began to offer a wide range of military and security services to various interested customers.

After the end of the Cold War, the second big wave of growth of private military and security companies began after the intervention in Afghanistan and Iraq. Most companies were in Iraq for the first time, but were able to deploy staff and execute tasks in a much shorter period of time than would be necessary for regular national armies.

Because of the wide range of activities private military companies do not have the same field and purpose of action. Their organization largely depends on the scope of services and the level of the armed forces which company can offer. Singer offers a typology in which private military companies are divided into the: 1) private military companies that are providers of military services, 2) private military companies involved in consulting and 3) private military companies involved in logistics support (Litavski, 2012: 4).

*Private companies for physical and technical protection* defined as “companies that specialize in providing security and protection of persons and property, including humanitarian and industrial assets” (Šulc, Jong, 2008: 7). This means that their services are not required to be armed in nature. Their action is by its nature more defensive than offensive, and to serve the large number of users, including governments, international agencies, NGOs and commercial organizations.

In Bosnia and Herzegovina, most common are private companies for physical and technical protection. These companies provide services for physical and technical security of people, facilities and assets primarily in non-conflict areas. Their equipment and training vary from equipment and the training of private military companies.

**Services provided by private military companies:**

- Military training / consultancy services for national and foreign troops,
- The military intelligence services,
- Procurement of arms,
- Combat and operational support,
- Humanitarian Demining,
- Maintenance,
- Services of military and non-military support,
- All other types of services for which military had been engaged.

**Services provided by private companies for physical and technical security:**

- Physical protection (static / mobile),
- Physical protection (e.g. bodyguards),
- Rapid response,
- Technical Security,
- Monitoring services,
- Investigative Services,
- A comprehensive risk assessment and elimination of risk for private companies,
- Business intelligence services, conscientious work, the analysis of political risk.

Private detective agencies are small businesses consisting of several employees. Most often they are registered as a company engaged in the search for missing persons and providing physical security. However, the activities of these companies include the “rescue of the activity of sects” and “test of spouse’s loyalty “ and similar. They are mostly run by former police officers or intelligence officers.

## **2. THE EMERGENCE OF PRIVATE SECURITY AGENCIES**

The second half of the 20th and beginning of the 21st century were marked by relatively rapid changes that have irrevocably changed the world. This period is marked by several events and processes that are important for the emergence of private security agencies. The causes of their occurrence can be divided into direct incentives to their origins and the incentives that come as a result of a broader spectrum of social change.

Joint efforts of three crucial factors - the end of the Cold War and the vacuum that it caused in demand and provision of security, the transformation in the nature of warfare and the normative growth of privatization in all sectors - has created a new space and requirements for the formation of the private security industry. End of the Cold War led to a significant reduction in the size of national armies and simultaneously led to increased global insecurity. This development has created favourable conditions for the supply of the private security industry with new people and equipment, as well as increasing demands and requirements of its engagement. End of the Cold War led to demobilization of more than six million soldiers, many of whom have found a new job in the private security sector. End of the Cold War resulted in the fact that more weapons and military equipment ended in private hands than in state-owned enterprises, and number of unstable and conflict areas has doubled (Litavski, 2012: 2).

Transformation in the nature of warfare and revolutionary changes at all levels of warfare have also had a major impact on the growth of the private security sector. Military operations have become highly sophisticated, thanks to the use of high technology. For handling highly sophisticated equipment often are needed civilian specialists in certain fields who govern the highly developed military system. Requirements for high-tech warfare have dramatically increased the need for civilian experts, who often have to be hired from the private sector. Also, the last few decades are characterized by a normative shift towards privatization of many areas that fall within the scope of activities of the state.

In the broadest sense, the actors who belong to the private security sector are diverse in terms of people, organizations and activities. Some of them are very important and legitimate, while some are illegitimate and belong to the so-called grey zone of security. In the private security sector we could classify mercenaries, volunteers, foreign officials recognised in the national armies, various types of private armies and militias, the lords of war, companies engaged in the defence industry, private security agency, private military companies, as well as many other actors.

The transition of senior officers in the ranks of private security agencies or having officers establish private military organization is an example where we can connect private military organizations and political elite (MPRI was founded by eight retired senior military officers of the United States Army, Blackwater was founded by former Navy commando Eric Prince in 1996).

### 3. THE RELATIONSHIP BETWEEN THE LAW AND PRIVATE SECURITY

If perceptions of private security are based on the state of the legal system, then the consideration of this issue should say something more about the basic issues of private and public law. It is well known that the primary division of classical bourgeois law, in the legal system, there are two main branches of law: *private and public*. This division has been known since Roman law and is given in the famous Ulpian definition: *The public law is the one that concerns the state and the private one that affects the interests of individual citizens*. Later this division is not observed in all systems. It occurs where private property occurs, and the need exists to protect it from damage and other forms of threats. It can be said that the institution of private property in the legal order of the state imposed the need for its protection, chose a system of private law and conditioned existence of public law.

This division is more consistently manifested in the capitalist economic system in which, by means of private property, expressing that element of society that Marx and Engels called civic or civil society. It is a society that is characterized by private interests, regardless of whether they appear through the material and the right to personal resources or private appropriation. In contrast to the private sphere the other side of social life is being polarized, which the classics of Marxism, modelled on the German philosophers, called political society, that is, the sphere of public, common, joint interests, whose protection is expressed in public safety, and the legal superstructure in public and civic and real right.

The entire private security is based on the need to protect individual rights or the right to personal goods, or private interest, and the need to protect the common needs arising from the interests of association based on voluntarism (religious, trade union, political, labour, and other organizations and other corporate associations), that is their public interest. Although it is often very difficult to distinguish private from public interests, we can say that these differences are, on the one hand, organizational and functional in nature, and on the other hand methodological and regulatory:

**The private security** agents are coordinated and subordinated to the origin of private interest (ownership, personal and property security);

**In the private law** legal subjects are coordinated in a legal relationship, and the public are subordinated;

**In the private security** the main source of security needs is an interest in personal or property safety;

**In the private law** the main source of legal rights is the will of the parties or the contract. The private security sanctions are regulated by the will of the parties and the civil law and the rights that derive from it.

In the civil law's individual rights or personal rights are individual rights to personal goods, such as the rights to life, health, personal data, image, voice, reputation, honour, and so on. As it can be seen, the personal rights are related to those goods which are most directly associated with the individual or organization and any legal right which protects the legal system is not so closely related to a person as his life, body, health, character, voice, reputation, or other good connected with the individual and with his basic needs.

The international law does not explicitly regulate the activities of private security agencies and individual companies under contract. Certain norms of international law apply only to mercenaries, which is largely obsolete term which cannot fully describe the modern phenomenon of private security agencies (Šulc, Jong, 2008: 17).

#### **4. CHALLENGES OF PRIVATE SECURITY IN THE 21ST CENTURY**

Unlike other countries that found themselves at the end of the Cold War in hopeless socio-political and economic processes and in a general security nightmare, forecasting at the global level have indicated that the global security policy is to be diverted from the military to human security as well as development and the fight against poverty, diseases, environmental protection, etc. (for more details see: Hagelin, Skoens, 2003: 281-300).

In the security sector in Bosnia and Herzegovina, privatization manifests itself as a specific term for legislation. On the one hand, this is in violation of the monopoly that the state had over the use of force, and on the other hand, the market requires carrying out the liberalization of the existing legislation. Second, the fact that someone else, in addition to state actors, may use force in an organized manner, requires the existence of some kind of control, if not ban of its use. For citizens, as individuals, there is a problem in the realization of their basic needs, where the state equally guarantees security. Now, on the market an actor appears, offering security services for those who can afford security, and those who therefore feel less safe; all of it requires that such a disturbed state be regulated.

Consequently, security companies, as business entities for security services in a free market are forced to compete with other firms to get a job. As their founder and owner is not the state, their work cannot be subjected to a system of control and surveillance that is applied over the operation of state actors. In this competition, the same business standards should be provided as they are given to other related actors in the market.

For Bosnia and Herzegovina, as well as many other countries in transition, characteristic and distinctive is the trend to adapt to new security circumstances. Significantly reducing the earlier large formations in the security system contributes to the growth of the private sector and staffing with excess trained military, police and intelligence personnel. But the accelerated trend of privatization of security in this sector in recent decades, worked as a theoretically marginalized, undefined and unregulated legal problem. The specificity of the problem of security in Bosnia and Herzegovina, whose privatization started in the late eighties of the last century, with the establishment of the first detective agencies, and continued during the general social crisis, manifested in the (lack of) control of its operation. The parliamentary oversight of the sector, which should be carried out by the Committee on Safety, does not exist.

The trend of private security today suggests that states, corporations, international organizations and NGOs, as well as individuals and their community needs and security interests are increasingly left to the sector to take care of them. According to data from the Conference of European security companies in 23 member states, more than 27,318 members of the private security companies operate and they employ over 1.2 million people (on the site: <http://www.coess.org/stats.htm>. Readings 10.04.2014.)

It is therefore necessary expertise in the work and full cooperation between the private sector and state security actors.

The privatization of security provides great opportunities, but there are also big risks, especially from the standpoint of safety. Private security agencies have the potential to improve the security situation if their services are delivered professionally and responsibly, and especially if the democratic state institutions are involved in the control and supervision.

However, private security may reinforce existing social tensions if safety becomes a commodity that only the rich can afford, while for much of the population it is impossible to enjoy the benefits that this sector offers. Moreover, private security agencies that have strong ties to state institutions can lead to deterioration and strengthen oppressive practices and structures of the security sector in the given state.

Further challenges associated with achieving accountability and transparency of the private security industry, especially in cases where the services are exported abroad. It is extremely difficult to hold accountable companies or individuals through existing laws and regulations. Such a legal environment carries the risk of undermining the process of long-term security sector reform and efforts to achieve development, as well as the basic principles of human security and gender mainstreaming.

The precise dynamics of privatization, the risks that arise from it, and the benefits, of course, vary depending on the local and regional context. It should be made a clear distinction between private security services in developed countries, countries in transition and developing countries, and in countries in the post-conflict period.

Another measure to be taken is that the local private companies for physical and technical security explicitly be included in the process of reform of the security system. In developing countries, countries in transition and in the countries that are in the post-conflict period, these companies often represent a major source of insecurity and violence. The main reasons for this include the company's close ties with influential political movements; complete collapse of law and order and the reliance of ex-combatants for employment in the private security sector in order to secure a source of income after the war. At the same time, in all the processes of reform of the security system should take into account their potential to improve the security situation in the country, particularly the vulnerable members of society.

## CONCLUSION

There are many problems plaguing the operation and activity of business enterprises. The main problem so far is an inadequate response and failure of the state and law that would regulate the service area which provides living and working to thousands of its workers and their families. For people who are looking for the best possible conditions, working on important matters of importance to society, a minimum of fairness that society should offer at least the basic rules of behaviour of consumers of services. It seems a bit unreasonable that state readily waives certain attributes in benefit of foreign persons or companies on matters of importance to the security of its citizens, about what an expert opinions is provided by some other services.

I certainly have to point out the lack of a strong argument for government indifference to the above very important matter, taking into account the priorities in solving accumulated problems. I believe that the reform of the security sector must have found a proper place for the service sector as an important link in the overall security problem.



Professional bodies of the service sector in the future are required to speed up decision on bringing up legislation, method of work and organization in the service sector, change control mechanisms and established standards and licensing private security agencies mechanisms.

Based on the abovementioned issues we can easily conclude that the private security industry is an important element of any residual security state and the international community. Due to the growing need for international intervention that encompasses an ever-expanding range of actions - from war through humanitarian aid, peace support operations, post-conflict reconstructions, and a reform of the security sector - does the need grow for ever greater involvement of private security industry. These developments resulted in an increased need for control, transparency and accountability of actors in the private security industry. Wide range of services offered, and the fact that the government, international organizations and private corporations increasingly rely on them, indicating that the long-term trend of privatization of security that leaves a deep impact on the nature of the state and its monopoly on the use of force. However, the real risk of irresponsible behaviour of all security industry are not those activities in their home countries (which are mostly rich Western countries), but are those actions in the execution of tasks in weak and failed states. Local authorities in these countries often have no power and no ability to control these companies. With the dramatic growth in the size and influence of the private security industry the need for analysis, discussion and innovative legal solutions is growing as well. Each response to the phenomenon of the private security industry must take into account the changing nature of international conflict, which means that the economic resources changes into the military much faster than before, and non-state actors are able to finance the war, sometimes even more successfully than the states.

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