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COOPERATION BETWEEN POLICE AND PRIVATE SECURITY IN FUNCTION OF PROTECTION OF HUMAN RIGHTS AND FREEDOMS IN REPUBLIC OF MACEDONIA

Summary: The cooperation between police and private security sector is of the essential importance in protecting human rights and freedoms. The model of relations between them is vital for the estimation of whether the human rights and freedoms are protected or violated. The paper tries to give an overview of the current state of affairs in this sensitive field of relations between the private security sector and the police in the Republic of Macedonia, detecting the flaws and offering some possible solutions and recommendations to improve their relations. The current state of relations can be estimated as the one of co-existence with a tendency to be improved in the future to the level of partnership and thus to guarantee the higher level of respecting the basic human rights and freedoms in the securing of persons and property and private detective activity as the two constituent parts of private security.

Key words: police, private security sector, human rights, human freedoms, models of cooperation

Introduction

The extent of human rights and freedoms has been continuously widening since the adoption of the first documents covering this sphere. Disrespect of the basic human rights and freedoms throughout the human history has led to mass suffering, extinction of significant portion of the population

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and to uncertain human future. The Declaration of the human's and citizen's rights adopted in the turmoil of the French Revolution in the end of the XVIII century has served the United Nations as the pioneering document for the adoption of the most important international document that nowadays regulates human rights and freedoms on a global scale, and that is the Universal Declaration on Human Rights and Freedoms that the UN adopted after the ending of the Second World War. Of course, this basic international document concerning the respect and development of human rights and freedoms has served as starting point for the future enlargement of the size and scope of human rights. Different authors mention numerous typologies and classifications of human rights and freedoms, but one constant remains, and that is the extension of human rights and freedoms from specifically individual to individual rights and freedoms that can be only achieved in common cultural, social, ethnical and other communities. Thus, one of the highest priorities that remain before the institutions that have rights and obligations to keep, protect, promote and develop human rights and freedoms is to continuously follow, learn and incorporate those rights and freedoms in order to be able to respect and protect them. The main challenge, above all, is of course related to all state and international institutions that are legally obliged to keep and protect and to guarantee respect and non-violation of human rights and freedoms in a given territory, especially the segments of the security systems.

In the era of growing insecurity caused by fast-growing security risks, threats and encroachments, it is a paramount challenge to secure that basic human rights and freedoms are adequately guaranteed, secured, respected and promoted. It is not new to say that respecting the human rights and freedoms is not only a matter of the state, but of society as well, however the main role in that protection is still played by the security system in general, with its constituent parts (state/public/, private and civilian security sectors) (Спасески, Аслимоски, Герасимоски, 2008: 33; Спасески, Николовски, Герасимоски, 2010: 79). In order to respond more effectively to the question of protecting the human rights and freedoms, the sectors of the security systems have realized the need of their close cooperation and constant reforms, especially due to the fact that the security institutions can also be found disrespecting and even violating human rights and freedoms if they alienate from the people or from each other, or they suffer from other internal anomalies and defects in their work. One of the most urgent issues concerning the human rights and freedoms that depend on today's security institutions is whether the boom of the private security sector could essentially contribute to respecting the human rights and freedoms on its own or in cooperation with other two segments of the security systems, or it could turn to real menace for

human rights and freedoms and overall security in general, or, if we could put that more straight, if there is any successful way of protecting our rights and freedoms in a situation where we should protect ourselves, among others, against the ones who should protect us?

Providing an answer to this perplexed question is not at all easy thing to do, but we shall try to locate and chart some most probable solutions that can help resolve the question, having in mind all flaws that are present in nowadays security system of the Republic of Macedonia. In addition, it should be clearly stated that the current state of affairs related to status of human rights and freedoms in the Republic of Macedonia is not satisfactory and serious efforts should be put in the future to improve the whole picture in this field. The latest developments in this field only affirmed the previous theoretical assumptions and beliefs that more attention has to be paid to this problem by all security institutions.

Human rights and freedoms in private security

One of the main reasons for susceptibility towards the private security among the state /public/ security institutions and public opinion in general, is certainly the question of respecting and protecting the human rights and freedoms. Actually, in many countries and societies this has been and in some of them nowadays is the main reason for justifying the susceptible stance and maintaining distance towards the private security system. In other words, state security apparatus and society are not entirely convinced of the capability and responsibility of the private security sector (sub-system) when it comes down to the human rights and freedoms. There is always suspicion whether the private security entities will place the interest of the client to whom they serve in front of the interest of the public security which they are also obliged to serve, but it is not their primary interest since they are working at the market of security services. The question will remain to be within the focus all the time, irrespective of the overall conditions, but it has been frequently asked in a situation when there are some violations of the authorizations made within the private security sub-system, especially when human rights and freedoms have been partially or entirely violated or affected.

The operation of the private security entities worldwide and in the Republic of Macedonia specifically has been regulated by legal and ethical norms of conduct. These norms are supposed to ensure that the subjects and employees within the private security will act according to them in respect of

fulfilling their main goals: protection of life and property of clients. But, there are numerous challenges in the practical work that incline more towards the interest of the clients, or in some instances even oppose them, thus disrespecting the basic human rights and freedoms, such as the right of life, free movement, free gatherings, the right of free opinion, the privacy of information etc. All of these human rights and freedoms could be violated when the private security entity (specifically security officers or private detectives), astray from the legal and ethical norms of conduct, meaning that they overstep the authorization they have been given or delegated from the public/state/security sector. This is happening in a situation of privatizing the private security, when private interest is not primary, but in many cases only interest of the private security entity, thus minimizing or completely neglecting the public security interest. This is completely contrary to the main goal of each security subject/entity within the security system, which is to say that security is an integral, not partial phenomenon, and as such, it has to be attained by the joint effort of all actors irrespective of their place and role within the contemporary security systems. It implies that private security sector should operate providing the security services to their clients in a best effective way, but at the same time not minimizing or neglecting the security of other citizens and without violation of any of their human rights and freedoms. If we take a look at the legal provisions in Macedonian regulation in the private and public security sphere, we see almost identical provisions, which is understandable because the authorizations and functions of the private security sector are derived from the state and public security sector. Thus, in the Macedonian Law on police from 2006, Article 3 states that "the basic function of the police is to protect and respect the basic freedoms and rights of man and citizen guaranteed by the Constitution of the Republic of Macedonia, laws and ratified international agreements", while, Article 5 of the same Law states that "police work in the sense of this Law comprises activities of police officers that are aimed at (among other things) protection of life, personal safety and property of the citizens" (Закон за полиција, 2006: член 3, 5). This is actually the main goal of work of the private security entities also, seen through Article 1 of the Law on securing persons and property from 1999 which states that "this Law regulates the terms and ways of securing persons and property" (Закон за обезбедување лица и имот, 1999: член 1). The very next article of the same Law actually explicitly defines the obligation of every private security entity and their workers (security officers), to exercise their authorizations respecting the public interest of security, since it states that "securing persons and property is an activity of public interest" (Закон за обезбедување лица и имот, 1999: член 2). This is very clear and

unambiguous provision that actually is intended towards respect and protection of the human rights and freedoms, since there cannot be any authorization taken from the private security entities in this domain that can threaten, reduce, minimize or neglect the security, freedoms and rights of every other citizen that is not directly and exclusively protected on contractual or in-house basis by the private security entity.

But, as we can presume, this is how the things should be done in practice normatively. The practice itself can be quite different than what is envisaged or prescribed by written laws or unwritten ethical and customary norms. Led by the race for profit, many of the private security entities in the world and in the Republic of Macedonia do not observe these norms partially or in some extreme situations almost entirely, so the mass violations of these basic human rights and freedoms usually happen in a highly criminalized societies and states, such are those from the so called "weak democracies" in the first decade of transition in South Eastern countries of Europe (among them was the Republic of Macedonia also). Nowadays, we have a situation when in most of the above mentioned countries the private security sector had gained in professionalism and quality of work, but, from time to time, there are scandals happening that involve breaching of basic human rights and freedoms, just to remind us that beneath the relatively calm visible reality, there are still hidden dangers and anomalies that are latently present and that emerge from time to time. These anomalies occur also frequently in the private security sector in the Republic of Macedonia, but often not as isolated, but related and interconnected with other segments of society (whether security, economic, political and even criminal entities). As a matter of fact, most of the scandals related to private security entities found violating the basic human rights and freedoms are actually related to some kinds of illegal relations and activities of the private security entities with some of the mentioned entities. This is not to say that they are not incidents where only private security entities are held responsible for some illegal activities taken towards some human and citizens rights and freedoms, but this is to say that the possibility to make this illegal actions are more likely to happen when there is some kind of backing, background or other illegal affiliations with other socially and stately influential entities.

The statistical data tell us that there is constant increase of the offences related to human rights and freedoms. According to the State Statistical Office of the Republic of Macedonia, in 2010 there were 500 reported crimes made by adult perpetrators against the freedoms and rights of humans and citizens, which compared to 2001 for example, is more than three times higher, or in 2001 there were 147 such crimes (Група автори, 2011: 14). Some

of the reported crimes are those involving police officers or security officers, a number that is not so high, but is significant according to the weight that the crimes against human rights and freedoms gain when they have been perpetrated by security officers. Therefore, it must be clear that violation of human rights and freedoms has been especially condemned and feared when the perpetrators come from those who are obliged by laws to protect, not to threaten or endanger others. In the Republic of Macedonia there have been numerous cases of police officers found violating basic human rights and freedoms of citizens through overstepping of the authorizations, some of them sanctioned internally by the Ministry of Interior with police officers being fired or displaced to lower positions, but concerning private security officers, the situation is quite more complicated since there is tendency to use different "methods" of concealment, even usage of some protective and corruptive forms to hide or reduce the seriousness of some violation of authorizations. This is especially true for those private security entities that have close friendly, professional, political and even criminal relations and affiliations with some of the security and political structures within the state. So paradoxically, the private security employees seems to be more concealed, or even protected, than police officers, since overstepping of the violations is primarily seen as more dangerous when it is made from police than from private security that is also supposed to be easily controlled and sanctioned by the state. That is why it appears that somehow the public opinion has made relative the danger for human rights and freedoms that are violated by private security entities until some significant affairs occurred, such as the "Proces" case, or the actual "Detonator" case. Both cases involved private security and police connections and clash of interests. It is quite obvious that if there is effective control and supervision taken by the MoI towards the private security entities, then it is unlikely to be believed that serious violations of human rights and freedoms made by security officers could ever happen or could happen very rarely.

Concerning the private security, human rights and freedoms can be violated in numerous relations between private security and other subjects. Thus, we can differentiate several relations where private security can violate human rights and freedoms:

- Violations made by the employees within the private security sector (security officers or private detectives) to their clients;
- Violations made by the employees within the private security sector;
- Violations made by the employees of the private security sector towards employees within other segments of the security system;
- Violations made by the employees of the private security sector towards other citizens.

The forms of violating human rights and freedoms can be various. Most of them are incriminated as crimes within the Criminal Codes of each country's legal system. Also, the Republic of Macedonia is a country where numerous crimes against human rights and freedoms have been incriminated and are part of the Macedonian criminal justice system. Some of them are the most serious ones as the crimes against life and body which are in fact crimes against basic human rights of life and physical integrity, although Macedonian official statistics classifies them in separate group. When we talk about the private security in the Republic of Macedonia, violations of basic human rights and freedoms are related to violations of life, physical integrity of persons, their privacy, abuse of information, honour, dignity and reputation of persons, etc. In fact, violation of human rights and freedoms emerge from the main subject of work of the private security entities, and they are life, property and information. The private security entities within the securing of persons and property activity deal with securing persons' life, their property, as well as securing of transport and manifestations, while private detectives deal with information and data related to security of persons and their property. As we can see, all situations of violations of human rights and freedoms result as a direct consequence of alienation and ill-practice within the private security. Each improvisation, lack of professionalism or political nepotistic or criminal links can lead to possibility of violation of human rights and freedoms.

The previous two-decade long experience has revealed numerous forms of violation of basic human rights and freedoms within private security in the Republic of Macedonia. We shall mention some of them that we find to be most frequent and important, first among the security officers that work in securing persons and property activity:

- Threatening or endangering person's life and physical integrity by undertaking inappropriate measures of physical coercion and use of weapons by security officers;
- Maltreatment of persons during search of their hand and auto luggage and replacement of thorough instead of superficial search (Petrevski & Dimitrovska, 2012: 455);
- Undertaking measures by the security officers beyond their working space;
- Use of inappropriate physical force during detention of persons and calming down the disturbed public order and peace within the space and objects that security officers secure, although the action of detention is not precisely regulated in the actual Law on securing persons and property and could be only assumed (Доревски, 2001: 62);
- Use of threats to citizens outside the object that security officers secure or use of threats towards citizens and even use of physical force and weapons during off-duty hours;

- Different forms of extortions used towards citizens or wealthy and socially influential persons in order to make them future clients;
- Inappropriate confining of the right of free movement of citizens by the security officers during securing of manifestations;
- Use of physical force and weapons as repressive-oriented instead of defensive (preventive)-oriented use of authorization by security officers.

Concerning the private detectives role in violating the basic human rights and freedoms in the Republic of Macedonia, we have not so much extensive record of violations as it is the case with security officers, since the private detective activities in the Republic of Macedonia have been slightly developed. Currently, according to MoI, there are only 5 registered private detectives (private detective agencies), but most of the violations within this segment come from the illegal forms of detective work performed in the past and even nowadays in rare cases by some private security agencies or by other persons. The most frequent forms of violation of basic human rights and freedoms within private detective work are associated with the subject of their work, namely, violating their rights and freedoms through abuse of their personal and other classified information and data. Among them, the most frequent and important are:

- Mediation in a case of paying-off the debts among citizens;
- Unethical work and conflict of interests at detriment of previous clients;
- Use of some forbidden special investigative methods and techniques, such as tapping, use of special technique for shooting, etc.;
- Gathering information and data about personality, property, health, political, ethnical or religious affiliation of the clients;
- Unethical revealing of classified or confidential data and information to third person(s) at detriment of the client during detective work or before the expiration of five years after completing the detective work on a certain case;
- Making constructions and blackmailing some citizens in order to resolve certain case, etc. (Цветковски, 2011: 68-70).

The model of relations between private security and police as determinant of the protection of human rights and freedoms

It is of utmost interest of the society to secure that human rights and freedoms are appropriately guaranteed, protected, promoted and developed. This can only be done with joint efforts of all individuals and societal groups, formal or informal, since the question of their protection is a security one and needs common actions because security can neither be understood nor practiced fragmentary, but only as an integral phenomenon. It means that, when it

comes to the institutions of the contemporary security system, they have to act together through different forms of cooperation, joint initiatives and partnerships to secure the basic human rights and freedoms of the citizens. Moreover, the experience shows us that they are directed at each other and that if they do not cooperate closely then possibilities for violating the human rights and freedoms by them, not only by others, are increased. This is due to the fact that all security institutions and segments of the security system are prone to alienation since they are significantly shaped by the current social and cultural environments which are constantly changing. Therefore, the segments of the security systems must cooperate and they must tend towards close cooperation since insufficient cooperation is likely to produce more problems than to contribute to protection of human rights and freedoms.

Recent decades saw enormous growth and development of the private security sector (sub-system) in the world up to the point where private security became third armed power in the society (just behind police and army). Real and potential power of private security sector have to be continuously and thoroughly controlled and supervised, since the sector offers security services for money in the free market of security services. First to be affected when there is overstepping of authorizations in this sector are exactly human rights and freedoms. That is why the private security sector needs help, support and cooperation from other segments of the security system that are more experienced, trained and sometimes better equipped than the private security sector. Besides that, in the quest for better efficiency of providing security services, the private security sector often marginalizes the public interest, which is something that could be improved if there are some kinds of sound mutual cooperation, especially between the police and private security sector, because of the similarity of their work and usage of authorizations.

The scientific research done recently by many authors in the Republic of Macedonia, the Balkans, Europe and across the world suggest different understanding of the partnership between the police and private security. Usually, police is less willing and less interested in partnership than private security entities that see partnership as the field where they can prove their efficiency and social justification, such as in Canada, for instance (Мјупеј и Мек Ким, 2003: 643). In the Republic of Slovenia, in a quest for partnership, the private security sector, most notably security officers, even see and understand the relations with the police to be the one of partnership, although it seems that they have not reached that level yet (Sotlar & Meško, 2010: 269-270). In the Republic of Serbia, the situation is more serious and far from reaching sound partnership between the police and private security sectors. It

seems that the so called 4D project (depoliticization, decentralization, decriminalization and demilitarization) is still topic and has to take place before the level of partnership could be reached (Davidović, 2010: 345). As far as the Republic of Macedonia is concerned, the level of relations between the police and private security sector is still coexistence with an aim and tendency to become one of partnership. It implies that present relations are not as close in terms of mutual cooperation as it should be. For instance, there is lack of cooperation in exchange of information; unpreparedness for cooperation and even indifference from representatives of public (state) security sector; subtle and hidden and in some situations direct and open favouring of one instead of other private security entity; occurrence of clientelism, protection and bolstering disloyal competition at a market of security services; underestimation of the work of private security entities from certain officials and structures of public (state) security system; mutual mistrust; arrogant and self-conceited stance and behaviour from representatives of certain private security entities towards police officers or private security officers from other private security entities (agencies, PSC-private security companies); close political affiliations; covert forms of pressure and even criminal activities, etc. These existing problems in the co-existence between private security subsystem and public (security) system and also with the civilian security sector, create potential for an air of susceptibility, unfavourable image and negative public opinion. Besides that, the ongoing police action named "Detonator" has uncovered serious criminal activities where the police and private security sector, ironically, cooperated smoothly, but for illegal purposes. As a result of this action which is still in the process in many Macedonian towns such as Kočani - where it started from, to Bitola, Stuga, Kumanovo, Stip, etc., many high police officials, high revenue service officials and employed in the private security agencies have been arrested and they will be facing the charges. It only shows that the Macedonian society needs continuous systematic efforts to stimulate sound cooperation and to eradicate any illegal forms of cooperating between those subjects. We must not let this corruptive developments astray us from the main goal: reaching and sustaining highest possible level of security with joint efforts made by the police and private security especially. That is why all security actors should double their efforts in the future to make sure co-existence turn into sound partnership (Gerassimoski, 2011: 315-327).

Now, the real challenge in front of the police-private security relations is summarized in the question how to reach the level of partnership. It seems quite evident that there can be no partnership between the police and private security as a precondition for guaranteeing and protecting of human rights

unless there is trust among them. Trust, as Lars Svendsen puts it is crucial for mutual action and the opposite, mistrust or the lack of trust can bring to total interruption or cease of communication between the subjects (Свендсен, 2010: 113-114). Another serious problem is how to make this trust work for the right purposes, or how to make sure that the desired level of trust is used ethically and legally. In this context, the new Draft provisions of the Law on securing persons and property that is expected to be adopted soon by the Macedonian Parliament, although aimed at increasing the authorizations of private security officers with increasing the means for their implementation, exactly, the use of measures of coercion such as handcuffs, cosh, tear-gas, atomizer, etc. could prove counter-productive if there is no mutual trust among security subjects within the police and private security as well as among the public (Предлог Закон за обезбедување лица и имот, 2011: чл. 52). This, and other more complex reasons and factors of trust will probably need more profound and insightful socio-cultural analysis of the conditions and factors that determine the understanding of security among citizens and actors within the security system for which we do not have neither pretension, not possibilities to do within this paper. All we can say is that the contemporary Macedonian security system should rely on peacefulness, desire for security, contempt towards crimes and other positive traditional Macedonian values on which the relations between the segments of the security systems should rely on.

Concerning specifically, the partnership is the kind of model of relations between the police and private security sector that reduces the possibility for violating basic human rights and freedoms through stimulating different types of mutual close cooperation, mainly aimed at prevention. It prevents endangerments of human rights and freedoms by close preventive everyday cooperation that analyses, assesses and prevents security risks from turning into endangerments. Also, it is very important that both the police and private security learn continuously about the new developments in protection of human rights and freedoms since their number, scope and content are constantly changing and widening (Dujmovič i Šuperina, 2010: 1-39). Different kinds of so called public-private partnerships between the police and private security actively contribute towards guaranteeing and protecting the basic human rights and freedoms by reducing and preventing the socio-pathological phenomena, crime and other destructions made by other citizens or made by the employees within the security sector.

We could mention several of those forms of public-private partnership that are commonly practiced in the most developed countries and that could be also practiced in the Republic of Macedonia when the partnership will be

built. Those forms of public-private partnership within the security system include:

- Information sharing, such as local crime trends, modus operandi, incident information, shared e-mail trees, web pages, and newsletters;
- Crime-prevention programs, such as joint participation in security and safety; consultation on crime prevention through environmental design and community policing and joint efforts on local concerns, such as check fraud, video piracy, graffiti, false alarms, and neighbourhood watch programs;
- Resource sharing, including the lending of technical and language expertise, lending of computer equipment, "buy money," security devices, and the preparation of booklets listing contact information and other information;
- Training, such as the hosting of special speakers and experts;
- Legislation, including the drafting and supporting of laws and the tracking of important legislation;
- Joint operations, such as the investigation of complex financial frauds or computer crimes; critical incident planning for natural disasters, school violence and shootings, and workplace violence; and joint sting operations on crimes;
- Research and guidelines, including the preparation and review of research papers and protocols regarding false alarms, workplace drug crimes, workplace violence, product tampering, mobile security devices, non-sworn alarm responders, closed-circuit television, security personnel standards, and the like (Dempsey, 2011: 360; Fischer, Halibozek & Green, 2008: 24-25; Storm et al., 2010: 57).

Although some of the above-mentioned forms of public-private partnership in security seem hard to achieve in the nowadays Republic of Macedonia, they have to be seriously taken into consideration if we are to build partnership relation among the police and private security in the future. Macedonia is somewhere in the middle of the development of its private security sub-system (sector) considering the other Balkan states (van Steden & Sarre, 2010: 424-439). The Macedonian private security sector must tend towards partnership and build it on the grounds of the existing gains of coexistence. The model of relations really proves to be the only path forward if we want to elevate the level of respecting the human rights and freedoms, so much threatened in the last two decades.

Conclusion

There is an undivided and mostly accepted opinion that the respect and protection of human rights and freedoms is not at satisfactory level in the Republic of Macedonia concerning the status that the country has in the EU integrations - a candidate state for full membership. One of the main reasons

for that, besides the negative influences from transition and globalization process, are also to be found inside, in the way the state functions, the level of democracy, and especially, the functioning of the security system in general and functioning of its constitutive parts. In that respect, the unsatisfactory level of quality relations between the police and private security sector in the Republic of Macedonia plays a vital role and determines directly the degree of respecting and protection of human rights and freedoms. The latest negative developments that involved inadequate relations between the police and private security underline more and more how important the quality of their relations is for securing human rights and freedoms which should be adequately protected, promoted and developed instead of violated and regressed. The present model of coexistence must be elevated to the level of partnership, where protection and promotion of human rights and freedoms must be at the very top of the agenda of that cooperation. In the near and predictable future, this model of relations between the police and private security in the Republic of Macedonia seems to provide the optimal protection, promotion and development of human rights and freedoms, since the partnership implies sharing of best possible practices, knowledge and mutual communication in attaining the common goal-contribution towards higher security for everybody.

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Сарадња полиције и приватне безбедности у функцији заштите људских права и слобода у Републици Македонији

Сажетак: Сарадња између полиције и приватног сектора безбедности од изванредног је значаја у заштити људских права и слобода. Модел њиховог односа посебно је важан приликом оцењивања да ли су људска права и слободе заштићени или повређени. У овом чланку покушаћемо да представимо тренутно стање на том осетљивом пољу у Републици Македонији. Открићемо слабости и изнети нека могућа решења и препоруке за побољшање односа између полиције и приватног сектора безбедности. Тренутно стање тог односа може се оценити као стање коезистенције са тенденцијом побољшања до нивоа партнерства, што би гарантовало виши ниво поштовања основних људских права и слобода у обезбеђивању лица и имовине и приватној детективској делатности као саставним деловима приватне безбедности.

Кључне речи: полиција, приватни сектор безбедности, људска права, људске слободе, модели сарадње