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Act CLIX of 1997

on armed security guard services, nature and field guard services

extracts

For the sake of elevated protection of the operation of the state, facilities and activities having special importance for the supply of the public as well as of national assets having irrecoverable value against unlawful acts, the defence of protected natural assets and areas, and the guarding of agricultural lands, the Hungarian Parliament established the following act:

Chapter I

Armed security guards

Section 1

(1) Armed security guards shall protect that activity, facility and transport having extreme importance for the supply of the public, which is not protected by the Hungarian Armed Forces, Police or by the Hungarian Tax and Duty Authority, even if its protection is justified for the sake of the public security and the protection of the national assets. Especially:

a) facility important from the viewpoints of the security of the state or the national defence;

b) airport operating in international passenger or cargo transport;

c) nuclear and other radioactive material specified by law, catastrophe hazardous explosive, fire hazardous and poisoning material and those material entailing hazard to health and the environment, as well as the activity associated with their use, manufacturing, storage, distribution and transport;

d) certain elements of the infrastructure and public utilities ensuring the basic needs of the population;

e) national and cultural assets having extreme significance;

f) the central facility of the postal service provider, the central facilities of public radio and television, as well as of transmission systems.

(2) The procedure aiming at establishing or ceasing armed security guard service may be initiated by the minister having competence according to the facility or activity, the notary of the competent local government, the police, the operator or proprietor of the facility, or the person conducting the activity.

(3) The ordering on the guard service, the establishment, operation and ceasing of the armed security guard service shall be decided in a resolution by the police.

(4) The resolution, in addition to the obligation on the establishment of the armed security guard service, identifies:

a) the security system of guarding;

b) the rules of secure storage, handling, use and accountancy of firearms and ammunitions.

(5) The armed security guard service can be ordered

a) permanently (until withdrawal),

- b)* on a case by case basis (in connection with a certain activity or threat level),
- c)* temporarily (for a defined period).

(6) Armed security guard service can be established and operated within the organization of the Hungarian Defence Forces, the police and the National Tax and Duty Authority (hereinafter referred to as organization operating armed security guard service) for object or personal protection or secreting tasks, when the qualification requirements, interventions and use of coercive tools identified in this act are sufficient.

Section 1/A

- (1) Armed security guard service can be established by
- a)* the minister responsible for defence regarding the facilities of the Hungarian Defence Forces requiring elevated level of protection,
 - b)* the minister responsible for the direction of the civil intelligence services regarding the facilities of the Information Authority,
 - c)* the minister responsible for the direction of the civil security services regarding the facilities of the civil security services.
- (2) The regulatory competence of the police is exercised by and the complaint according to Section 10/A is judged by
- a)* the minister responsible for defence regarding the security armed guard services operating at facilities of the Hungarian Defence Forces,
 - b)* the minister responsible for the direction of the civil intelligence services regarding the security armed guard services operating at facilities of the Information Authority,
 - c)* the minister responsible for the direction of the civil security services regarding the security armed guard services operating at the facilities of the civil security services.

Section 2

(1) The obliged legal person of the resolution referred to in Subsection (3) of Section 1 (hereinafter referred to as the obligant) shall establish, operate and maintain the armed security guard service either within its own organization or through an economical enterprise under its majority ownership or a public administration body under its direction, or through an organization having armed security guards on its own. The costs entailing the armed security guard service shall be borne by the obligant.

(2) The obligant or the organization operating the armed security guard service shall provide the organizational, human and material-technical and financial resources, as well as the firearm and ammunition supply of the armed security guard service.

Section 3

(1) The armed security guard service is a security organization having special rights, providing guarding services defined in this act and in cooperation agreements concluded according to law, having service firearms and other coercive tools and having special rights, whose members shall be employed by the establishing or operating state, local government or other organization, economic enterprise, or shall be public officials.

(2) The armed security guard service shall be organized in a way that provides protection of the facilities and activities against illegal acts defined in the guard service instruction, with the consideration of the implemented security tools, guarding animals, organization, number, capabilities and service system of the guards.

Section 4

- (1) In connection with the armed security guard service, the police shall
- a*) verify the implementation of the resolution referred to in Subsection (3) of Section 1 in the frame of a regulatory inspection;
 - b*) issue, withdraw, temporarily revoke and register the regulatory service document of the armed security guard at the expense of the organization operating the armed security guard service;
 - c*) approve the guard service instruction and guard instruction of the armed security guard service by a resolution;
 - d*) check how the armed security guards provide their service in the frame of a regulatory inspection;
 - e*) initiate the temporary limitation of the guard service or its reinforcement;
 - f*) verify the data required for the judgment on the applicability of the armed security guard.

(2) The guard service instruction of the armed security guard service shall include the rules of how the protection of the object, facility, transport or activity identified in the resolution referred to in Subsection (3) of Section 1 or by the leader of the organization operating the armed security guard force is implemented, as well as the method followed by the guard service. The guard instruction of the armed security guard service shall include the guarding and protection tasks with regard to the guard post.

- (3) If, during a regulatory inspection, the police determines that
- a*) the armed security guard service ordered in an effective resolution according to Subsection (3) of Section 1 was not established by the obligant by the defined deadline or the obligant did not arrange the armed security guard service via a contact with an authorized organization,
 - b*) the obligant ceased the armed security guard service without authorization,
 - c*) the armed security guard service does not comply with the approved guard service instruction,

then shall enforce the obligant or the organization operating the armed security guard service as determined in *Para c*) to fulfil its tasks regarding the armed security guard service and to eliminate the deficiencies.

(4) If the obligant or the organization operating the armed security guard service does not comply with the resolution referred to in Subsection (3)

- a*) within fifteen days in the cases described in Subsection (3) *Para a*) and *b*),
 - b*) within 24 hours in the case described in Subsection (3) *Para c*)
- then the armed security guard service shall be provided by the police at the expense of the obligant or the organization operating the armed security guard force.

Section 5

(1) The obligant or the organization operating armed security guard service within its own organization shall:

- a*) purchase, issue, register and retake the service firearms, ammunitions and other supplies, as well as uniforms;
- b*) take care of the theoretical basic and further training of the armed security guards, and according to law the provision of physical fitness criteria for an armed security guard service operating in the scope of use of atomic energy.

(2) The obligant or the leader of the organization operating the armed security guard service shall

- a) determine the tasks of the armed security guard service;
- b) establish the service documents identified in Subsection (1) *Para c)* of Section 4.

Section 6

(1) The armed security guard shall be a member of the armed security guard service, who shall provide public tasks and be authorized to carry service firearm. The right of the armed security guard to perform its service defined in this act shall be confirmed by the service license issued by the police.

(2) The armed security guard shall be a Hungarian citizen, or according to a separate law he/she may be a person having right to move freely and stay within the territory of Hungary, who turned the age of eighteen, shall be able to carry firearm and shall have the qualifications required for its service position. The commander of the armed security guard service as well as its deputy shall have at least secondary education.

(3) That person shall not be an armed security guard, who

- a) has a criminal record;
- b) has been convicted by the court according to the Act on the Penal Code (hereinafter referred to as the Penal Code): criminal act against the state (Chapter X of Penal Code), crimes against humanity (Chapter XI of Penal Code), certain crimes against life, physical integrity and health [Section 166-168, Subsections (2)-(6) of Section 170, Section 171, Section 174, Section 174/A, Section 174/B, Section 174/C, Section 175, Section 175/A, Section 175/B, Subsection (2) *Para b)*, Subsection (3) and (4) of Section 176, and Section 176 of Penal Code], certain crimes against sexual moral [Section 197, Section 198, Subsection (3) *Para b)* of Section 207 of Penal Code], office crimes (Title IV of Chapter XV of the Penal Code), crimes against officials (Title V of Chapter XV of the Penal Code), man-smuggling (Section 218 of Penal Code), causing public danger [Subsections (1)-(3) and (5) of Section 259 of Penal Code], interference with the functioning of works of public concern (Section 260 of Penal Code), act of terrorism (Section 261 of Penal Code), violation of a duty based on international law (Section 261/A of Penal Code), seizure of aircraft, any means of railway, water or public road transport or any means of freight transport, (Section 262 of Penal Code), misuse of explosive or blasting-agent (Section 263 of Penal Code), misuse of fire arms or ammunition (Section 263/A of Penal Code), misuse of military technology and service or with product of dual use (Section 263/B of Penal Code), partnership in a criminal organization (Section 263/C of Penal Code), misuse of radioactive material (Section 264 of Penal Code), criminal misuse of weapons prohibited by international treaty (Section 264/C of Penal Code), vandalism (Section 271 of Penal Code), taking the law into one's own hands (Section 273 of Penal Code), misuse of narcotic drugs (Sections 282-282/C of Penal Code), misuse of materials used for making narcotic drugs (Section 283/A of Penal Code), certain crimes against property (Section 316-324, Section 326 and Section 327 of the Penal Code), escape and crime against proceeding or service official with fire arm [Subsection (2) *Para a)* and Subsection (4) and (5) of Section 343, and Subsection (2) *Para a)* of Section 355 of the Penal Code] or who has been convicted by the court because of a felony committed within criminal organization and the duration determined in Subsection (4) has not yet expired;
- c) against who a criminal procedure is in progress due to a reasonable suspicion of intentionally perpetrated felonies punishable with imprisonment of up to two years, until a legally binding termination of the criminal procedure.

(4) That person cannot be an armed security guard, who (in cases listed in Subsection (3) *Para b)*

a) sentenced to imprisonment without probation because of intentionally perpetrated felony,

aa) 10 years after exemption if the imprisonment does not reach five years,

ab) 12 year after exemption if the imprisonment does reach or exceed five years;

b) 5 years after exemption if punished to labor in the public interest or fine;

c) if because of intentionally perpetrated felony the following suspended punishment was ordered:

ca) imprisonment for 8 years after exemption,

cb) a fine 3 years after exemption.

(4a) The person who was convicted according to Subsection (4) shall not be an armed security guard within an armed security guard service providing protection of nuclear or other radioactive material or a nuclear facility, even after the time period defined in Subsection (4) was spent.

(5) The concerned person shall demonstrate the ability condition at the commencement of the employment. Additionally, he/she shall demonstrate that he/she is not forbid from such employment, which does not allow the employment under the effect of this act or the employment of official member of an armed force. During the employment the conditions of public security authorization regarding the employment as an armed security guard shall be checked by the police.

(6) During the security check, to ensure the public security conditions, the police authority shall be authorized to take over and handle data from the register of criminal offenders, from the register of persons under disadvantageous legal consequences with a clean criminal record, related to the conditions determined is Subsection (3)-(5).

(7) The police shall annually conduct the security check during the period of the employment relation. If the police authority check determines that the exclusion criteria exists against the armed security guard, then the service license of the armed security guard shall be revoked with simultaneous notification of the obligant or the organization operating the armed security guard service and the armed security guard about the fact of meeting the criteria.

(8) During the security check, the police

a) can handle the data obtained according to Subsection (6) until the end of the procedure of the security check, then the data shall be deleted, the fact of checking and its date shall be recorded on the documents of the checking procedure, or

b) can handle the data obtained according to Subsection (6) until the legally effective end of the security check, if it initiates a procedure to withdraw the service license of the armed security guard.

(9) If a criminal procedure is commenced against the armed security guard, then the police may initiate the temporary release of the armed security guard from service until the legally effective end of the criminal procedure, at the obligant or the leader of the organization operating the armed security guard service.

Section 7

(1) Armed security guard can be employed, if he/she

a) complies with the criteria established in this act, and

b) passes successfully, in front of a committee comprising of the representatives of the police, and the obligant or the organization operating the armed security guard service, a theoretical exam on the knowledge of this act, the implementing decrees and the relevant guard service documents, as well as a theoretical and practical exam on the use of his/her firearms; and in addition, complies with the physical fitness and educational requirements

established by the law for armed security guards providing service for the protection of nuclear and other radioactive material and nuclear facilities.

(2) The theoretical and practical preparedness of the armed security guard, as well as the physical fitness of the armed security guard providing service for the protection of nuclear and other radioactive material or nuclear facility shall be tested by the committee comprising of the representatives of the police, and the obligant or the organization operating armed security guard force every two years.

(3) The official service license of the armed security guard shall be issued by the police at the request of the obligant or the organization operating armed security guard service. The obligant or the organization operating the armed security guard service shall immediately notify the police, if any reason occurs that justifies the withdrawal or revoking of the official service license of the armed security guard.

(4) The police, immediately but at least within fifteen days after such information became known for it, shall

- a) withdraw, if
 - aa) the employment of the armed security guard has terminated,
 - ab) the conditions of the issuance of the official service license are not valid anymore,
 - ac) the armed security guard does not fulfil the physical fitness requirements (in the case of armed security guards providing service for the protection of nuclear and other radioactive material or a nuclear facility), or
 - ad) the data indicated in the official service license are changed;
- b) revoke, if the armed security guard is temporarily suspended from service the official service license in a resolution.

(5) In the case described in *Para b)* of Subsection (4) the reason for revoking the service provision is eliminated, then the police shall return the official service license to the armed security guard.

(6) The police shall immediately inform the obligant or the organization operating the armed security guard service of the fact of withdrawal or revoking of the official service license.

Section 7/A

(1) The police shall keep a register of armed security guards, in order to verify the authenticity of official service licenses and to check the activity of armed security guards.

(2) The register established in Subsection (1) shall include

- a) the armed security guard's
 - aa) name and service position,
 - ab) name of his/her employer;
- b) the name of the authority issued the official service license;
- c) the official service license's
 - ca) serial number, and
 - cb) validity.

(3) The register established in Subsection (1) is publicly available for the demonstration of the legal nature of the armed security guard.

(4) The data listed in Subsection (2) shall be managed by the police in the register until the withdrawal of the official service license.

(5) If the police revokes the official service license, then this act shall be recorded in the register until the return of the official service license.

Section 8

- (1) The armed security guard shall be supplied with uniform and service badge.
- (2) The uniform shall clearly differ from the uniform used by the officials of the Hungarian Defence Forces, police and the National Tax and Duty Authority. This stipulation shall not apply to the voluntary members of the armed security guard services protecting the objects of the Hungarian Defence Forces.
- (3) The armed security guard shall demonstrate his/her identity by his/her official service license and his/her service badge on the areas of the operation of the guard service, during service travel and during escorting transports. The uniform may hold "armed security guard" sign. The name of the employer company of the armed security guard service may be indicated on the arm of the uniform.
- (4) The official service license of the armed security guard shall include:
 - a) the id-photo of the armed security guard;
 - b) the indication of "armed security guard service";
 - c) the name of the operating organization;
 - d) the name and position of the armed security guard;
 - e) the indication of "authorized to carry firearm in service";
 - f) the validity period;
 - g) the place and date of issuance;
 - h) the validating signature and stamp of the authority issued the official service license and the employer.

Section 9

- (1) The police shall authorize the supply of the armed security guard with firearms, ammunition and other coercive tools.
- (2) The purchase and use of such coercive tools, firearms and ammunition listed in Subsection (2) of Section 10 can be authorized for the armed security guard service, in quantity and quality determined in the license, which are implemented at the police, or at the Hungarian Defence Forces for armed security guard services protection the object of the Hungarian Defence Forces. The armed security guard service shall employ such dogs only, which are qualified (tested) by the Dog Instructor and Training School of the central body of the police.
- (3) The firearms and ammunition of the armed security guard service can only be used for service and training activities.

Section 9/A

- (1) The armed security guard operating electronic surveillance system shall take and manage image, voice, and image and voice records in order to perform his/her duties, as to protect the site of the facility, radioactive and other hazardous material, prevent contingency events, mitigate the consequences, support investigation, detection of unlawful actions and actors, and to prevent any illegal actions, in compliance with the data protection rights established in Act LXIII of 1992 on the protection of personal data and availability of public data. During this activity the armed security guard shall be a data manager.
- (2) The armed security guard shall apply electronic surveillance system to survey the site of the protected facility and its environment.
- (3) The recorded image, voice, and image and voice shall be eliminated or deleted, if it is not used according to Subsection (6)
 - a) within three days after recording, if the surveillance covers public area as well,

b) within sixty days after recording, if the surveillance covers only the site of the facility defined in Section 1 (1).

(4) The image, voice, and image and voice recorded according to Subsection (1) and the personal data included in the record shall be used only during a criminal, violation or other regulatory procedure launched due to a criminal offence or violation of the law performed at the scene of recording, for the identification of a person or object under warrant, the judgement on the lawfulness of an action during a public administration procedure, and for the application of the right of a concerned person.

(5) The person, whose right or rightful interest is concerned by the recorded image, voice, or image and voice may request not to eliminate or delete the recorded image, voice, or image and voice, or the personal data included, within the period determined in Subsection (3), after demonstration of his/her right or rightful interest. The investigating authority, the authority of offence, the prosecutor, the court, the national intelligence services, and a foreign authority in the frame of international law aid may request not to eliminate or delete the recorded image, voice, or image and voice, or the personal data included, within the period determined in Subsection (3).

(6) The recorded image, voice, or image and voice shall be delivered to the concerned investigating authority, the authority of offence, the prosecutor, the court, the national intelligence services, and a foreign authority in the frame of international law to practice its rights, as well as to a third person in order to allow his/her right to initiate a procedure according to law.

(7) If the recorded image, voice, or image and voice is utilized

a) within the period defined in Subsection (3), or

b) in the case of Subsection (5) after the period defined in Subsection (3) has passed, within 30 days after the request described in Subsection (5), then the recorded image, voice, or image and voice shall be immediately eliminated or deleted subsequent to the deadline defined in *Para a)* and *b)*.

(8) If the record is utilized in a procedure according to Subsection (6), then the rules of the basic procedure shall be applied to the management of the data.

(9) If the area protected by electronic surveillance system includes public area, then the manager of the organization obliged to provide protection shall place the following warning signs well visibly and well readable in order to support the information of third persons intending to stay within the public area

a) sign on forbidden articles and their nature;

b) sign on operating electronic surveillance system;

c) sign on the intention of operating the electronic surveillance, recording and storage of recorded image and voice including personal data, as well as a sign on the law providing basis for data management, the place and period of storage, the operator of the system, the scope of persons authorized to be acquainted with the data, as well as on the stipulations of the Act on Data Protection regarding the rights of those concerned and the enforcement of these rights; and

d) the applicable procedure, if the actions of the armed security guard caused any infringement of lawful rights.

(10) Electronic surveillance system observing the facility shall not be applied in such locations, where it may violate human dignitary, especially in a dress room, medical consulting room, shower, bath or toilet.

(11) The obligant shall prevent access to the personal data, personal secrets or other data on personal life of the concerned person by unauthorized persons.

Section 10

(1) During the lawful performance of his/her service, the armed security guard is authorized and obliged to:

a) call on the person violating or jeopardizing security to stop his/her activity and ask his/her identification papers;

b) hold the person physically refusing his/her action or caught in the commitment of a crime until the arrival of the police, or take him/her to the police station;

c) seize things originating from a criminal act or used to commit it or applicable to attack from the person asked for identification, hold or taken to the police station, as well as search his/her cloth and package.

(2) In order to interrupt a security hazardous action, against the person committing the act, in compliance with the graded requirements, the armed security guard shall apply and use:

a) physical force to compel an act or stop an action by, or service dog with muzzle kept or not kept on a lead,

b) handcuff to prevent the escape of the person hold according to Subsection (1) *b)*,

c) chemical or electric shocking tool, baton and service dog without muzzle kept on a lead to prevent the attack or break refusal,

d) service dog without muzzle and lead or firearm to respond to an attack against an activity, facility or transport having high importance for the operation of the state or supply to the population committed by firearms.

(3) During the application of coercive tools, causing injury to or kill a person shall be prevented. As soon as achievable assistance shall be provided to the person, who suffered injury during the action of the armed security guard. If needed, the armed security guard shall take care of the injured person to get medical assistance.

(4) If the circumstances made possible, then the concerned persons shall be notified in advance on the application of a coercive tool.

(5) If the permitted coercive tool is not available or cannot be used, then the armed security guard may use another tool instead of a handcuff or a baton, provided that the application of the replaced tools is permitted by law and they are applicable to achieve the desired lawful goal.

(6) The use of firearm shall be preceded, in the below order, by

a) warning that the warned person is to follow the call of the armed security guard;

b) application of another coercive tool;

c) warning on the use of firearm;

d) warning shoot.

(7) The preventive actions listed in Subsection (6) can be partially or totally omitted, if sufficient time is not available for the implementation of the preventive actions, and due to this delay the attack directly threatens the protected facility, asset or activity.

(8) Only the intentional shoot at a person shall be considered as the use of firearm. The accidental shoot, or shoot at an animal or object, or a warning shoot shall not be considered as the use of firearm.

(9)-(10) Not effective

(11) The increased defence according to the criminal law, as well as the right to act and use of coercive tool according to this act shall apply to the armed security guard exclusively during the performance of duties included in the guard instruction.

Section 10/A

(1) The use of a coercive tool shall be immediately reported to the superior and the police.

(2) The person, whose lawful interest is violated by the action or missed action of the armed security guard or the use of a coercive tool, may make a complaint at the police.

(3) In the case described in Subsection (2) the legal representative shall proceed on behalf of an incapable person; or the legal representative or an authorized person shall proceed on behalf of a limitedly incapable person. The complaint shall be made through an authorized person or a legal representative.

(4) The complaint regarding the action or missed action of the armed security guard or the use of a coercive tool shall be made within eight days after the action, or if the violation of the interest comes to the person's knowledge at a later time, then within eight days after getting known, but at last within three months after the action.

(5) The police shall make decision on the complaint within fifteen days after its receipt, according to the rules of public administration procedures.

Section 10/B

During the performance of its service the armed security guard service shall cooperate with the disaster management, the customs organization of the National Tax and Duty Authority, the official state and local government fire fighter services, the nature protection guard service, the forest authority, the hunting authority, the fishing authority, the bodies of the local governments, the capital and county government offices, as well as with the associations.

Section 10/C

Despite the stipulation of Section 86 (1) of Act I of 2012 on the Labour Code, the working time of the armed security guard of the armed security guard service established at the facilities requiring elevated protection of the Hungarian Defence Forces by the minister responsible for national defence shall not include the period of putting on and off the required uniform, and of taking and depositing the firearm.