
THE ROLE OF COMPLEMENTARY LAW ENFORCEMENT INSTITUTIONS IN HUNGARY. EFFICIENT SYNERGY IN THE FIELD OF COMPLEMENTARY LAW ENFORCEMENT - A NEW APPROACH

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Annotation. In this paper I am looking into the details of what complementary law enforcement entails. In my point of view there is a new approach of law enforcement arising in the 21st century which requires the cooperation and harmonisation of activities in the field of law enforcement between the relevant actors. It is necessary to emphasise this aspect instead of placing the police activity in the centre exclusively. In Hungary, maintaining public security is only attainable through maintaining collaboration between different actors including: Police, Civil Volunteer Security Organisations, Local governmental law enforcement, private security sector. The aforementioned synergy should substitute the rivalry of those participants.

Keywords: complementary security agents; ensuring security by private sector

INTRODUCTION, BASICS

The English language uses 2 words for this notion: safety and security. Some languages have only one word for the two definitions such as the Hungarian language. Security is a narrower term, providing prevention and protection against deliberate harm of property and individuals. Loss prevention is generally used by the private security sector, which derives from the different approaches of security, instead of reaction, it focuses on prevention. Creating a complex security is question of harmonising of intertwining tasks. A security implies a stable and relatively predictable environment, in which an individual or group may pursue its ends without disruption or harm and without fear or injury. Safety is defined as a relative disturbance freedom from danger, risk, or threat of harm, injury, or loss to personnel and/or property, whether caused deliberately or by accident.¹ Security has a completely different meaning from the one 20 years ago. We have to face more and more new challenges day by day: economic crisis, ebola, cyber crime, illegal migration, terrorism etc. We must participate in the worldwide effort to analyse the relevant risk elements and to give effective solutions to guarantee security. That is why it is very important that all relevant actors in the field of law enforcement know one another and that can they cooperate.

¹ www.businessdictionary.com (03.28.2017)

It is useful first to clarify the definition of law enforcement and protection of public order in Hungary. Sometimes even the professional literature uses these terms as synonyms, even though they do not mean the same thing. The theoretical debate of this question is not closed, the relationship of the definitions and the meanings of them are still not clear. According to the opinion of advocators of the definition of law enforcement, it is part of public administration, which is for detection and prevention of infringements using legitimate force. Notwithstanding this, the school of protection of public order has started to use the expression protection of public order body in 1990, which emphasises its military character (termination of service, the uniform and the right to be armed, a strict hierarchy, etc.). It is understood that the second is better related to defence. The definition of protection of public order was used first in 1993 in the National Security Act.² This legislation set out first the protection of public order bodies such as the police, the civil national security services, the prison service, customs and the finance guard, civil protection and the professional, national and municipal fire services. The legislator emphasised that these services work in some tasks of national security as well.³ The Police Act⁴ of 1994 uses the terminology “protection of public order body”. With that expression (meaning military character, centralisation and hierarchy), the “old regime” appears, even though the legislator emphasised the importance of demilitarisation of services. The issue was decided in the Termination of Service Act.⁵ It was declared that the failure of demilitarisation is based on the purpose of building military protection of public order. Thereafter, more than 400 pieces of legislation applied the expressions ‘protection of public order’ and ‘protection of public order body’ without defining them. Moreover, the bodies meant under the expression were not defined. I accept the terminology of law enforcement, regarding it as part of public administration, and I use it consistently. Nevertheless I would like to declare that in my view, law enforcement is not only police administration; it covers a more complex activity, the implementation of which is shared between police service and other complementary law enforcement services. In the current Hungarian Constitution the so-called Basic Law (2011) Article 45 regulates the army and Article 46 regulates the police force and the national security forces, not including the other two public order bodies (Prison Service, Disaster Management). I would like to note that it could be a really interesting grammatical

² Act CX of 1993 on the national defence.

³ Article 65 para1 of Act CX of 1993 on national defence.

⁴ Act XXXIV of 1994 on the police force.

⁵ Act XLIII of 1996 on the termination of service of armed forces.

study to examine how the use of an initial capital letter of the word “police” affects constitution-making. Article 46 does not use the term ‘protection of public order body’ anymore. However, we notice later that this delight was baseless: Article 53 – about the former defensive situation – uses the expression, and so it maintains the constitutional status of it, without any definition. We can realise that during the creation of the new Basic Law, law enforcement was not one of the most stressed topics where significant modifications have been accomplished. It is not surprising that compared to the former legislation the new act does not contain many significant new aspects.⁶

The elements of the system of public safety can be derived from the modern concept of public safety. According these concepts, public safety is the collective product of society, it consists of the activities of the individuals and communities, the official measures of the state organisations, the capability of the citizens to protect themselves, and the services of the entrepreneur market.⁷ So we can realise that security nowadays is collective and at the same time a cooperative product of the society, due to the participation of state and local level organisations, volunteers and the private security sector.



Figure 1. Different Institutions for public security

⁶ László Christián: Law Enforcement, In: The Basic (Fundamental) Law of Hungary, A Commentary of the New Hungarian Constitution, Editors: András Varga Zs, András Patyi, Balázs Schanda, second edition: Clarus Press Ltd. Dublin, 2015.279.

⁷ Géza Finszter: *The Share of Competence of State Authorities within the Sphere of Public Order and Safety protection in Hungary.* IN: *Local Community, Public Security.* Central and Eastern European Countries under Transformation. Edited by: Jan Widaczki, Marek Maczynski, Janina Czapska, Warszawa, 2001. pp. 53-66

MAIN LAW ENFORCEMENT INSTITUTIONS IN HUNGARY

Next, I shall analyse the structure and functioning of the system of public security in Hungary. The major institutions of Hungarian law enforcement system are as follows:

- Police,
- Disaster Management,
- Civil National Security Service,
- Prison Service.

In this paper the details of all listed law enforcement institutions may not be elaborated, however, I would like to introduce a few important changes from the last years concerning the police. The police shall operate under the direction of the Government. It is the most important statement about Hungarian Law Enforcement because it declares that the Hungarian police force is centralised and single, so there is no possible way to establish police forces controlled by local governments. Act CCXXIII of 2012 stipulates the tasks of the Hungarian police force. Besides the competences assigned in the Basic (Fundamental) Law, the police force is responsible for controlling border traffic, counter-terrorist activities and carry out other crime prevention, crime investigation and the crime control duties, along with a new task regarding the recovery of criminal assets.

Since Act CXLVII of 2010 came into effect, the Hungarian Police Force has been divided into three parts: the National Police, the National Protective Service and the Counter Terrorism Centre. The police organisation and the national security forces are regulated by separate Acts, which must be approved by a two-thirds majority of the Parliament.

The National Protective Service (NPS) is a special police force under the control of the Minister of the Interior. The NPS deals with anti-corruption activities, they may collect information about any government officials, including law enforcement officers, and they can even test their reliability by making a false attempt to bribe them.

A new institution, the Counter Terrorism Centre (Terrorrelhárítási Központ, TEK) can engage in secret surveillance as an official police agency, and can secretly enter and search homes, engage in secret wiretapping, make audio and video recordings of people without their awareness, covertly search mail and packages and open electronic data and emails. TEK can address requests to financial companies, banks and brokerage firms, insurance companies, communications companies and operate not just as a police agency but also as a national security agency. In summary, TEK holds all the necessary powers to act effectively and

dismantle all the modern age criminal groups that threaten the public safety of the State and the people.⁸

COMPLEMENTARY LAW ENFORCEMENT

As we can see, the Hungarian law enforcement system is based on the public order organisations as listed above, however, there are some other “complementary law enforcement” institutions, which play a role. These are: the National Tax and Customs Administration, local governmental law enforcement, civil volunteer security organisations etc.⁹

The National Tax and Customs Administration (NTCA) has a major function of financial control and the management of taxation. Along with this, they also have law enforcement functions. The NTCA is a special organisation, which also includes the former public order body of the Customs and Finance Guard.

CIVIL VOLUNTEER SECURITY ORGANISATIONS

The Hungarian Civil Volunteer Organisation (Polgárórség) is a unique national institution, the foundation of which took place in 1991.

Today, the organisation have over 60.000 members and more than 2000 associations countrywide. „Polgárórség” has become a dominant actor to maintain public order and security. The Civil Volunteer Organisation is an important strategic partner for the Government and for the Hungarian Police as well. This civilian organisation is deeply rooted in the society and they have an important role to strengthen the subjective sense of security. The volunteers, as the name suggests, perform unpaid public tasks, supporting the efforts of the professional bodies, with strictly limited liabilities. A significant mission is to take part in crime prevention and maintain the subjective sense of security. Anyone above the age of 18 with no criminal record may take the oath, after completing a training course and passing an exam. The organisation have a three level structure including the local, regional and national civil volunteer associations. The entire structure is managed by the Chief Board with 29 members.

⁸ Richard Leyrer: *Finding the Right Path of Policing in Hungary*. IN: *Handbook on Policing in Central and Eastern Europe*, Gorazd Mesko (ed.), Springer science, Business Media, New York, 2013, pp. 124-125

⁹ Bacsárdi József, Christián László, Local governmental law enforcement in Hungary In: Meško Gorazd, Lobnikar Branko (szerk.) *Criminal justice and security in Central and Eastern Europe: safety, security, and social control in local communities: conference proceedings*. 500 p. Konferencia helye, ideje: Ljubljana, Szlovénia, 2016.09.26-2016.09.27. Ljubljana: University of Maribor, 2016. pp. 84-98.(ISBN:978-961-6821-57-5)

LOCAL GOVERNMENTAL LAW ENFORCEMENT

The act CXX of 2012 introduced new and important changes in the field of law enforcement in Hungary, in order to ensure local security. One such change is the opportunity to establish a municipal police force for a local government. This legislation creates a new position called Inspector in Charge. The bodies and actors (conservation guards, public area inspectorates, field guards, forest protection service, nature protection, municipal police, professional hunters etc.) involved in the maintenance of public order are allowed to use handcuffs and use dogs. This legislation steps up the fight against school truancy as well.¹⁰

The Local Governmental Law of Hungary states that local governments contribute to ensuring the safety of municipalities. The new Act on Local Governments in Hungary (Act CLXXXIX of 2011) declares that it is the task of the local governments to ensure the safety of the municipalities. This is the primary regulation that stipulates the obligation to establish the local law enforcement in the Hungarian municipalities. The competence and powers of local governmental law enforcement organs are more limited than those of the police.

We conduct a survey concerning the local governmental law enforcement in Hungary and we come into the next conclusion as a characteristics of the system¹¹.

- The Hungarian municipal law enforcement is quite varied, there are various types of local law enforcement offices and officers.
- Municipal law enforcement is mainly public administrative in nature and not police-like. The officers are public servants, not police officers. They belong to the Mayor's Office or a particular institution. They have the right to use enforcement measures (only limited powers).
- The supervision of local law enforcement belongs to the police. The Hungarian police force supervises the establishment and procedures of local governmental law enforcement.
- Municipal law enforcement is mainly financed from the budget of the local government. State subvention is minimal. There is a little part of local law

¹⁰ László Christián: Law Enforcement. IN: The Basic (fundamental) Law in Hungary, A Commentary of the new Hungarian Constitution, Editors: András Zs. Varga, András Patyi, Balázs Schanda. Clarus Press, NUPS 2015, pp. 284-286

¹¹ Bacsárdi József, Christián László, Local governmental law enforcement in Hungary In: Meško Gorazd, Lobnikar Branko (szerk.) Criminal justice and security in Central and Eastern Europe: safety, security, and social control in local communities: conference proceedings. 500 p. Konferencia helye, ideje: Ljubljana, Szlovénia, 2016.09.26-2016.09.27. Ljubljana: University of Maribor, 2016. pp. 84-98.(ISBN:978-961-6821-57-5)

enforcement which is supported by the state. The lack of sufficient financial conditions can prevent local governments from establishing and maintaining local law enforcement officers and offices.

PRIVATE SECURITY

There are a few relevant numbers about the Hungarian private security sector worth considering: 127.000 licenced security guards; 1700 private detectives and 3000 companies deal with private security. Obviously, it is quite an important and relevant part of the economy. Compared to other countries figures it is an outstandingly high number, one of the highest in the EU. Concerning the private security it is an important question whether we regard private security as a part of public security or not? My answer is clear yes, because the private security is taking over more and more responsibilities from the state. We can make a clear distinction between these agents, which lies in their authorisation (empowerment). While the private security focuses on prevention, the public law enforcement agents focus greatly on reaction. The fact of the matters is the citizens have low awareness of this field yet, they tend to take a rather negative opinion about private security guards, due to their poor qualification and imbursement. A number of researches concluded, that before the turn of the millennium these agents considered one another as rivals, however, by now it has become evident, that optimal security is only attainable if these agents actually cooperate as partners.

Private security personnel exercise no state authority whatsoever, but may facilitate citizens' arrests and act on behalf of their clients (exercising their rights to property, legal self-defence, etc.). Most procedures fall into the legal category of property defence. The use of force for a security guard is authorised, however, items legally categorised as weapons are restricted. Security guard personnels' minimum employment requirements are: age above 18 years, no criminal record, legal residence in-country, state-mandated exam. The supervision of private security guards belong to the state police, among others: the issue of private security guard /private detective certificate and private company licence; registration of private security guards and licenced companies and control activities. In case of violation the police may levy fine, cancel a certificate or licence.

CONCLUSION

Maintaining law and order is a common interest for all actors in the field of law enforcement. For a meaningful co-operation it is not sufficient to sign a contract between the

partners, it also is necessary to put it in practice. After having achieved this, and may the bodies share the responsibilities, allowing it to remove a considerable load from state law enforcement organisations. Complementary law enforcement is a new approach nowadays, which is based on partnership and focuses on the cooperation between all relevant actors regarding public order and safety.

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PAGALBINĖS TEISĖSAUGOS INSTITUCIJOS VENGRIJOJE - TEISĖSAUGOS INSTITUCIJŲ SINERGIJA

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Santrauka

Straipsnyje analizuojama, kokios sudedamosios dalys sudaro išplėstinę teisėsaugos sampratą ir struktūrą. Manytina, kad 21 a. teisėsaugos samprata išplėtota, ji apima įvairias agentūras, todėl ypatingai svarbu harmonizuoti ir derinti jų veiklą, ne tik akcentuoti policijos darbo tobulinimą. Vengrijoje teisėsaugą vykdo policija, pilietinės savanoriškos organizacijos, savivaldybių policija, privataus sektoriaus agentūros, todėl jų sklandus bendradarbiavimas yra esminga saugios visuomenės sąlyga.

Pagrindinės sąvokos: pagalbinės teisėsaugos institucijos; privatus saugumo užtikrinimas

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