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Security Companies in Algerian System

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Abstract:

At the beginning of this article, I discussed the study of Security Companies in Algerian law, starting with a discussion of their emergence, as their emergence dates back to the colonial era in the last century as a result of many motives and pulses. Then, I moved on talking about the concept of guarding and the tasks of Private Security Companies. The article begins by defining those companies under Algerian Law No. 16/93 of December 04, 1993, After that, it explained its various tasks. Afterwards, I turned to the issue of procedures for obtaining a license to practice guard activity in Algerian law, by explaining how to establish a security company and mentioning its characteristics. Then I touched on studying the legal system for private companies in Algeria, by studying the organization of its work, which is subject to certain conditions for its establishment. As well as discussing the issue of the rights and duties of its workers according to Law 16/93. I concluded by studying the issue of monitoring the work of these companies, by subjecting them to surveillance by the Ministry of Interior and arrange penalties for them in case of violations.

Keywords :

Security Companies, Security Guards, Guard Companies, Property Protection, Facility Guard.

Introduction:

The private security companies is a phenomenon that has been developing since the nineties due to armed conflicts launched in deferent places in the world, so many countries endorse the policy of using multitask companies instead of calling the army for instance, the latter includes military sectors such as providing military force with food and transport. These private security companies play an important role in achieving some foreign policy goals for major powers inasmuch as it can realise the big partnership goals.

Concerning Algeria after criminality was diminished and its economy was directed considering its socialist regime, nevertheless, in the beginning of the nineties things changed leading the country to the new world order and globalisation thus changing economy system on the one hand.¹

On the other hand, criminality was rising causing a change in some definitions also taking some procedures that go hand in hand with the overtaking circumstances in real life, creating private security companies was one fruit of this change.

- These private security companies in Algeria operate according to customised programme.

First section: private security companies in Algerian law

Before tackling private security companies in Algerian law one should talk about its naissance in the world as well as its ideology then, talking about the procedures to follow in order to have license that allows security actively practice in Algeria.

First requirement: emergence of private security companies and its functions

Private security companies emerged long time ago still it was not as famous as nowadays. Its appearance had so many reasons which permit us understanding the matter and substance of these companies and its functions.

First part: the emergence of these companies had myriad reasons and motives, are as following :

1- The history of the appearance of the private security companies

The emergence of these “security protection companies, security contractors” goes back to French and British colonial era in the last century especially in African countries. They used some leaderships in African and Latin America to eliminate the opposition forces, besides; taking advantage of them in executing military coups d’etat. Afterwards, these companies started offering services for oil transcontinental companies, sometime later these security companies headed business in exact territory which started as proving security then developed to caring out military special operations.

The first private security company was created by an ex member in the British special force “Jim Johnson” his first clients were international political figures and businessmen. The task was only about offering protection and training bodyguards then the rivalry among these security companies drugged it up to the international scene.

These companies scope spread to dealing with British and United States intelligent services especially the American ministry of defence, for this very reason the US army became the prime client of the world for these private security companies. Some of the operations we mention the second Gulf War 1991.

After some verity of tasks these companies started looking for a cover to keep their credibility and legitimacy, in doing so the latter they promoted themselves as being tech companies instead of engendering war and killing innocents. ²

From there began these companies their quest to have the approval to join the United Nations; yet, their deeds during the US war on Iraq in 2003 dismissed all the legitimately allegations. ³

2- The reasons behind the emergence of private security companies

There were so many pulses and several reasons for the creation of these companies, most important once are as following :

-Employ the security and military companies as protection tools for centuries under major powers control because these companies cost the leaders of the dependent centuries less than the coloniser.

-the appearance of these private companies helped destroying the label of modern nation going through deferent stages back and forth. Here the companies job is to maintain internal peace hereby started the privatisation of security thus protection became a goods. ⁴

-The desire in doing some outlaw and illegal activities; by means, supporting coups d'état in resisting countries without interfering in illegal behaviour.⁵

-Tackling operations that nations avoid committing as being with a status of crimes. These operations break completely the international law and humanistic measures.

-Letting ex soldiers out the service, some countries provided raw material for private security companies.

-The private security company is a strategy which eases the burden for National Armies.

Second Part: The watch concept and The Tasks of the Private Security Companies

1- Definition of private security company

The international treaty of private security companies that has been handed to the team concerned with studying -The use of these companies as a brake for democracy and referendum- defined the private security companies as following : the private security companies is an association created according to the legislations of a certain country, the reason is to get paid for giving military and security services either by civil people or legal firms, all this in conformity with special authorisation. The military services include fight operations, strategic planning, logistic support, training, technical support and others. On the other hand, the security services include armed bodyguard, cyber and other activities covering the use of friendly technical tools to ensure the interests and rights of their clients.⁶

Concerning Algeria, the legislative decree number 16-93 dated 12/04/1993 defined security as a temporary or permanent protection of properties in a predefined area. The decree identified the space in the text of article 2 saying "security is providing permanent or temporary protection service or safety in a predefined area."⁷

2- Tasks of private security company

Security companies are defined as a private security unites which provide protection for larger establishments. Sensitive Industrial and economic groups vulnerable to chaos especially isolated ones; accordingly, the tasks are divided as following:

-The tasks are carried out by providing the workforce with some special customs, signs and weapons only when necessary.

-The designated agents for protection benefit from total legitimate defence when attacked, they can even surrender the crimes suspects, giving any sort of help to regional security service always within the company security scope.

-The designated agents for protection are asked to check people before letting them entering the establishment, furthermore some inspections need to be done when necessary.

-The establishment benefiting the service can pursuit the security company in case of negligence especially when human and property vulnerability.

The security agents have no right, by no means, to interfere in the processing of the establishment.

Second Requirement: Procedures for obtaining security activity licence in Algerian law

The law for creating a security private company in Algeria is the same as other where it targets the youth looking for entrepreneurship, the required procedures and documents go as following:

Section one: how to create a security company in Algeria

Decree No. 16-93 dated 04/12/1993 ,though its clauses, sets out the conditions for practicing both money and goods protection and transport (official journal No. 80 dated 05/12/1993).⁸

Before determining the paperwork needed one should define the fields the company will tackle. Setting goals and purposes is also crucial for the continuity of the company in the future.⁹

While creating a company in Algeria or elsewhere, there are three main procedures which are:

First: Choosing a name for the company

Choosing a trade name along with a logo for the fledgling company requires an official document stating that the name of the company will not be confused with an already declared company.

Second: Putting the core legal form for the company

It is essential to put the fundamental law for the company in order to register it in The National Centre of Commercial Register NCCR. This law afterwards should be published in the official journal besides a summary in the law section. All this, within a period of maximum one month.

The cost of registration is 0.5 of the total capital and the documents required to draft the company fundamental decade are:

Copy of IDs.

Copy of Birth Certificates.

Copy of the Criminal Records.

The start-up Naming certificate.

Third: The Principle Constraint in the Commercial Register

The constraint in the commercial register for start-ups in Algeria requires myriad documents and paperwork, listing of which:

-Handing a signed request on the constraint form, to be withdrawn from the NCCR.

-Handing a documented ownership or tenancy contract holding the proper name of the company or establishment ongoing.

-Handing two copies of the fundamental law of the company.

-Handing a copy of the official journal of the statutory declarations revealing that previously mentioned fundamental law.

-Handing extracts of birth licence and criminal record for all of managers, administrator, principles board and supervisory board.

-Handing a receipt of the fiscal stamp fees paid, valued 4000 Algerian Dinars.

-Handing a receipt of the constraint fees paid according to the law which estimated for 490 Algerian Dinars.

-Handing a creation licence, which can be received from specific administration according to the company's activity.¹⁰

Section two: the Characteristics of Security Private Company in Algeria

The Security Private Company in Algeria has varied characteristics, of which we mention:

First: commercial stamp uniqueness

Since the company offers services for money just as commercial and economic company. Furthermore, it puts security as merchandise besides supply of fighters or weaponry. This kind of companies has an organisational structure and administrations like the other commercial companies.

Second: Characteristics of Services Offered

The particular nature for these companies functioning is the ability of operating in both security and military fields, which is a feature of national army. Their service on the security side is to provide safeguard for individuals such as, Presidents and Decision Makers. Security of civilians, goods, events, information and operations is also there.

Third: Ownership by Individuals

The Security Companies are private and belong to individuals not governments, for being created to make own profit. Yet, this does not prevent the services from being supportive to public security services.¹¹

Second Section: The Legal System of The Security Private Company

The Security Private Company is considered as commercial companies; its goal is to generate revenue out of services provided all over Algerian territory. This company follows two patterns: solidarity institution; one entity corporate and limited responsibility as it seeks a certain level of safety together with pushing the economy forwards, by acquiring currency and helping foreign direct investment.¹²

First Requirement: Work Legal Organisation of Security Companies

In Algerian law, the work organisation of Security Private Company is sentenced to conditions related to company creation, some of it has to do with internal code and other is about the means used to accomplish the tasks. Conditions concerning the workers and users are taken into consideration too.

Part One: Conditions for Private Security Company creation

The conditions are as following:

1- Companies' Terms

Carrying out money or possessions security and transport means providing permanent or temporary services within a predefined area; in addition to this, the service is based on the safe transport of precious belongings by means necessary. The set legislation and the measures taken say it all.¹³

The creation of Security Private Company needs a license and the users should not abuse the drawn limits neither reaching the public area. The conditions also include underwriting insurance of civil responsibility preventing any misleading signs with state facilities. Above all, being objective is the utmost quality needed.

2- Conditions for buying Weaponry and its dependency to security company

Concerning the conditions for buying weaponry, it should be law abiding; model and calibre plus a copy of certified true, a written pledge for paying weaponry dues is asked as well. The application file is drafted in four copies and submitted to ministry of internal affairs department, a deposit receipt is given therefore.¹⁴

Part Two: Security Companies workers' Rights and Duties

According to article 08 decree N. 16-93 dated 04/12/1993 candidates for security companies should possess minimum of conditions as:

- Algerian Nationality.
- Clean Criminal Record.
- Should not be a Manager in the Security Company.

The guards are the core of the mechanism, the basis and the image of the company. They shape the reputation of their companies in the field, everyone within the user company is a burden for the guards and making them feel safe is their mission.

Companies always try to pick the best workforce that cope with job requirements. In every company there are watch managers who are responsible for examining and selecting the workforce. The supervisors have daily checking on workers to make sure they are doing their job appropriately. The law keeps always workers' rights vis-à-vis their duties.

First: Duties of Security Guards

A group of individuals do the watch. They provide the security service according to a plan. Everyone ought to fulfil his duties and responsibilities already set in the plan daily or during emergency.

The security guard is expected to accomplish the main task which is ensuring the safety of both individuals and establishment. Defence should be against vandalism, breaking-in or any moral damage.¹⁵

The building and its equipments is part of the mission during the shift, the tasks are as following:

1 – Outer Security

The security guard must secure the inner side of the establishment as a whole. On the other side, the outer side of the establishment is not part of the job but rather local police one.

2 – Inner Security

The inner side of the company; alleys, space, rooms and warehouses is the responsibility of the security guard in addition to preparing safe rooms in case of danger.

A room for the security guard should be right next to the gate. The room need to contain safety tools such as: fire extinguisher, exit map, medical tools and a direct contact with local police.

3 – Direct Responsibility for Security Guard

Direct tasks are given to the security guards as drafting car pass, supervising workers within limits and providing excellent VIP security service. ALL should be done to the fullest.

4 – Duties of Security Guard

The security guard is the image of his company hence elegance is a must; in other words, a suit is the official costume. The badge is also necessary, politeness is the currency with colleagues, managers and the folks. Issues management and code respect are top skills.¹⁶

Keeping the territory clean as well as safety requirements is necessary by checking electricity and sewage systems then fix any damage if occurred. Monitoring every entry, exit and other facility of the establishment.

In addition to daily routines like respecting shift time, doing all tasks asked and avoid being where not allowed.

By the end of workday at the establishment, the security guard makes sure the all entries and doors are closed, electricity is plugged out and no flammable materials are there threatening the venue. If any possible danger, a report will be filled and submitted to relevant authorities.¹⁷

Second: Rights of Security Guards

Strikes are common by the security guards against their employing companies, either for salary delay that may reach a year or by skipping the bones deserved for extra hours, paid leave too. Insurance is also an issue regarding its importance for a wide slice of the Algerian society, henceforth one can tackle the following:

1 – Forms of Human Exploitation faced by candidates before being hired in Security Companies

Nepotism and Favouritism are not the only obstacles because bribery is asked for when applying for the job “no mediator no job”. Still, if the candidate is lucky enough to grasp a position, he will undoubtedly work in conditions that can only be labelled as human exploitation.

2 – Security Guard Dues

The average salary given by Security Companies lies between 11 and 12 thousand Dinars a month even though, the company service costs the user between 45 and 60 thousand Dinars a month. Moreover, salary delay is unavoidable by almost all the 50 existing security companies. In this matter, the security guard referred to as (k.Ahmed) revealed that “he never receives his 12 thousand DA at the end of the month but rather at the end of trimester if not the year.” The same issue (Ismail.M) is dealing with in another company. He said “his salary of 11 thousand DA a month has not been delivered to him for last 5 months, only some little offerings.”¹⁸

For the housing, it is worse than animal barns, tiny rooms for two people holding six people, for this very reason the referred to as (Djamal S) declared that he could never get enough sleep due to the noise and crowdedness there.

3 – Working Hours for Security Guards

Opening time is the defined working hours; generally it is 8 hours a day as mentioned in law, Any extra hour is met with a bonus. Nevertheless, the security companies skip this law and oblige its workers to do 10 hours a day. What is more, the security company take a payment of 24 hours from the users but pay only for the 8 hours.

So many companies oblige their workers to work for until 16 hours a day when workforce shortfall.¹⁹ let alone the other not mentioned countless problems as no paid holidays, no risks bonus plus unlawful expulsion.

4 – Insurance for Security Guards

The phenomenon of unauthorized security agents began within social security system, taking dangerous curves in the labor market at the national level, and its dire social effects appear when these agents are exposed to incidents or incapacities to work for various reasons leading them to harsh conditions after the end of their "validity period" in the eyes of the heads Institutions. The agents afterwards will get stuck between the hammer of unemployment and the anvil of the digested rights due to the absence of insurance, as many of them are exposed to serious incidents that are at best to declare them with insurance interests after the accident, as the employer do not bother himself to insure his agents in order to escape the expenses of guarantee, aiming to gain more money however on the expense of human lives. This public violation of the Labor Law continues in light due to the lack of supervision of work inspectors, and the increasing demand for this job has contributed a lot to the spread of the illegal employment of the security agents.

Where it becomes a necessity for the custodians to intervene putting an end to this type of enslavement and human exploitation, by minimising the legal protection for the owners of these companies who are usually people with power and secondly by intensifying the investigation committees on work circumstances but with broader legislation.

The second requirement: monitoring the work of private security companies

The Ministry of the Interior has placed a number of private security companies under supervision and obligated the public prosecutors of the republic to prepare accurate reports about them in several states, involving 10 companies active in the field,²⁰. The ministry also called for tightening the processes of granting activity licenses to these companies.

Part One: The Ministry of Interior monitoring the work of Private Security Companies

Deferent ways are used in doing so, listing:

First: Dealing with foreign companies

In many occasions the Ministry of the Interior and Local Communities directed instructions for money and valuable goods security companies, stressing the need to avoid creating a partnership or dealing with foreign security companies, as the Ministry threatened to take strict deterrent and punitive measures against any company that allows itself to violate these instructions. Considering that the transgression of the law defining the activity of security companies poses the internal security of Algeria to great danger.

Regarding this, the instruction No. 2935 signed in the name of the Secretary - General of the Ministry of Interior dated 12 August 2009,²¹ was directed to officials of private security companies, included an affirmation of the need to avoid dealing with foreign security companies or entering them in a partnership,

stressing the need to respect the law, number 16/93 dated 04/12/ 1993, specified for the work of money and valuable goods security and transport.

It is clearly stated in Article 8 of it “the previously mentioned article” that it is not possible to practice the work of guarding if the concerned person is not of Algerian nationality, just as it is not allowed for anyone who has been sentenced for a misdemeanor or felony to practice this profession, it is not possible for him to be a director or manager of one of the security companies if he is not of nationality Native Algerian.²²

As the issuance of such an instruction and the double correspondence of the security companies came after the registration of some violations of some companies along with the desire of foreigners to control the field, especially since foreign companies operating in Algeria resort to foreign companies for security and insurance.

The most prominent example of this is what happened in 2006 when the Ministry of Interior and Local Communities rejected a request by the American company specialized in security affairs 'Brenx Revolution' in order to invest in the security field, to possess weapons and provide its security services for the Algerian banks, financial institutions and national companies that require protection and security, though, six months before, it had obtained a license from the Ministry of Contribution and the Promotion of Investment in order to invest in the security sector in Algeria.²³

The refusal of the Ministry of Interior and local communities came after the American company cut a long negotiation that lasted for six months with the Banking Security and Money Transfer company, "Amnel", this negotiation ended up by allowing the world leading security company "Brenxivoyncen “ enter in partnership with" Amnel "by 50 percent. This was approved by both the Ministry of Finance and the Ministry of Contribution and Investment Promotion, the latter that granted it a license for that, so the American company has nothing left but obtaining a license from the Ministry of Interior Affaires in order to possess weapons and start its activity, but the ministry's sudden refusal cancelled everything.²⁴

Second: Regarding license for job practice

According to the instructions issued by the Ministry of the Interior²⁵, the Minister of Interior and Local Communities²⁶ stressed that the governors of the Republic should prepare detailed reports on 10 security companies of money and valuable goods transport, send the ministry all the data and information about them. The latter insists on preparing detailed technical cards about each private security institution; who supervises it, the number of its workers, the areas in which it operates and the type of weapons used in guarding before renewing its licenses.

The instruction that came within the framework of the new strategy to submit licenses of security companies requires the renewal of its files on accurate follow-up, where each company operates after issuing licenses and practicing work by preparing detailed reports on that, for this very reason the Ministry of Interior obliged the governor not to grant licenses until after the end of the authorities in charge finish investigating these reports.²⁷

What can be added is that the security companies stay always subordinated to the Ministry of Interior, through that we find that the internal security services of institutions and security companies are led by those who have previously worked in the Ministry of Interior or the Ministry of National Defense, conveying their experiences and qualifications to provide appropriate security services in the industrial, commercial and service sector.²⁸

The supervisors are often highly efficient and controlled by internal security workforce and trained to deal with all emergency situations under any circumstance.²⁹

Part Two: Penalties in case of violations

There are penalties established in case the security guard companies violate the conditions specified in the law or in case of failing to perform their tasks, as they start from the duties of the individual in case of violation to penalties that the law decides on the company itself.

First: The Missions of security Guard in case of Accidents

The security guard has to take all measures, including the issue of the suspects and referring them to the competent authority if necessary and handing over the missing things that he finds to his direct boss without messing with them. The guard should also transfer all the information he receives to his superiors and not to provide wrong information.

As for the occurrence of risks and fires, he has the responsibility of evacuating citizens quickly, and transferring them to a safe place outside the facility. After the evacuation process, he should turn on the alarm devices, connects to the competent authorities and plugs out the electricity and gas. In addition to fighting fire using the site's extinguishers, and opening the water valves for the automatic water gun to extinguish the fire.

He has to keep the system and prevent citizens from gathering around the building and obstructing the evacuation operations, and preventing any individual who is not specialized in the building³⁰

Second: The penalties in case of Security Violations

It seems here that the ten companies previously mentioned has been obliged to go through a set of procedures due to the security audit in the work of this concerned, which may be the security authorities for supervision possess data on their violation of the conditions specified for their activities. The legislator approved punitive texts as Articles 107-135-206-242 From Order No. 66-156 issued on 01/08/1966, where a substance is applied from these articles according to the violation of one of the conditions previously mentioned regardless of the withdrawal of the license.³¹

The head of the company as well as security users can also be subjected to judicial pursuit in case of violation of the physical safety of persons or a sabotage of property as a result of their neglect or violation.³²

It is worth noting that there is difficulty in creating a private security company until after passing a number of strict security measures, as granting the license to the security company along with the study the file is held by a joint ministerial committee between the Ministry of Interior and the Ministry of National Defence

and the license is delivered by the Ministry of Interior after the joint committee approval Which set a number of conditions for the establishment of this company as mentioned above, based on the texts of the Legislative Decree No. 16-93³³, which in case of any violation, the withdrawal of the licence would be the result.³⁴

Conclusion:

Reliable sources from the Ministry of Interior and local groups indicate that the number of security companies in Algeria amounts to 52 companies carrying out semi -security activities under permanent monitoring of the police and national gendarmerie and the Department of Research and Security. One of the most famous of these companies is “AMNEL” company and “the vigilance” company. Special security companies have appeared in Algeria because of the wave of terrorism Which erupted in the country in the 1990s, and the authorities were forced to agree to establish it due to the sharp shortage of security workforce at the time.³⁵

Through the mentioned above, the following can be concluded:

-The presence of private security companies is familiar around the world and their presence is as old as human societies. At the present time they are doing various tasks and rented by countries to carry out security and logistical missions and carry out military activities.³⁶

- It is necessary to determine the legal mechanisms that can determine the obligations of private security companies, as it has become necessary for the international community to set the legal framework for dealing with these companies formally in order to guarantee everyone their rights.

-Most of these companies are commercial with the aim of financial profit and most of their members are African mercenaries or from multiple other nationalities who are engaged in fighting for a fee.

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⁷ See the provisions of Legislative Decree No. 93-16 of 12/04/1993

⁸ <https://www.elmasa-security.net>

⁹ Decree No. 93-16 dated December 04, 1993, which determines the conditions for the practice of money guarding and sensitive materials stipulated in Article 05 that 'the establishment of companies that target the aforementioned works in Articles 02 and 03 for a tribal license that determines their how through organization, in addition to the conditions and forms stipulated It has in the legislation in effect. '

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²² See the text of Article 08 of Legislative Decree 16/93 of December 04, 1993 joined the work of security and private security companies

²³ See an article written by Jamila Belkacem, published on the daily Al-Shorouk website, on 09/27/2006.

²⁴ In this regard, the Ministry of Interior sent a correspondent to the American company informing it that its request to invest in Algeria in the security field is rejected because Algerian laws do not allow foreigners to be active in the field. She explained that the legislative texts in Algeria currently in force require Algerian citizenship for any person active in the security sector or in possession of weapons, according to Legislative Decree No. 16/93 in addition to Executive Decree No. 65/94 of March 19, 1994, which determines the methods of granting a practice license. Guarding, possession of firearms, and transfer of funds and dangerous materials, which is the decree published in Issue 16 of the Official Gazette issued on March 23, 1994

²⁵ Institute Instruction No. 2935 of August 12, 2009

²⁶ Zerhin at that time

²⁷ https://twitter.com/Wael_Elbassuony

²⁸ We find that successive governments emphasized their great and continuous interest in the issue of internal security institutions. For example, the instruction of the Prime Minister No. 81 of April 06, 2015 related to the internal security of institutions, in which women and gentlemen are required to ensure that the internal security measures of institutions at the level of structures and institutions affiliated with their authority are required He adds that for this purpose, special security measures must be taken and adaptive according to the position of the sites and its sensitive nature.

²⁹ See the provisions of Executive Decree No. 96-158 of May 04, 1996, which determines the conditions for applying the provisions of the internal security of the institution.

³⁰ Where Article 14 of Executive Decree No. 16/93 states that "the perpetrator of any violation of the provisions of Article 06 above shall be punished with the application of the penalties mentioned in Article 135 of Order No. 66-156 of June 8, 1996 and above the above regardless of the withdrawal of the license

³¹ <http://www.gidny.com/search/>

³² Where Article 15 of Legislative Decree No. 16/93 states that "the manager of the company concerned shall be punished by committing any alliance of the provisions of Article 7 above by applying the penalties mentioned in Article 107 of Ordinance No. 66-156 of June 8, 1966 and above, regardless of Practice the practice license '.

³³ Interior Minister Nouredine Yazid Zerhouni, during his term, had revealed that 38 private security companies were banned from activity due to violating the law

³⁴ <https://www.gidny.com/search/>

³⁵ <https://www.ennaharonline.com>

³⁶ Ali Hamza Al -Khafaji, Legal Organization for Criminal Responsibility for Private Security Companies in Iraq, An Analytical Study of the University of Babel for Humanities, Volume 22, No. 06, Iraq, 2014