

Legislation on Private Security

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Private security refers to the protection of the right to life and property, possession and business management rights and other rights and freedoms of private and legal entities and the protection of public safety by security services in order to avoid attack.

Hence, while private security services have the right to exercise the power of law enforcement officers (police, gendarme etc.) in some exceptional cases, the laws and regulations, rules and procedures concerning private security services are strictly regulated and supervised by general law enforcement.

Private security services are meant to be complementary to public safety. To this end, various obligations in the relevant Turkish laws and regulations have been created concerning the activities of firms which operate private security services.

In this article, the regulations and obligations that apply to such companies are outlined and, in relation to these regulations, permissions that need to be obtained will be examined in general. In addition, the obligations of the parties in private security service agreements will be discussed in general.

Relevant Legislation for Private Security Services

Private security services by armed or unarmed security personnel, provided by private entities, restricts fundamental rights and freedoms. Since, in the Turkish legal system, provisions which restrict fundamental rights must be regulated by laws, the procedures and principles of private security services were regulated in the Law on Private Security Services.

The Law on Private Security Services contains the permissions which private security services are to obtain. Moreover, it is also addresses licensing, monitoring and supervision of individuals and businesses that provide private security services.

In addition, on the basis of Article 26 of the Law on Private Security Services, the Regulation on Private Security Services was published in 2004 to regulate the implementation of the Law on Private Security Services in detail.

The Regulation on Private Security Services covers the permissions granted for businesses that provide

private security services, the permissions granted to operate private security companies and private security training institutions, work permissions for private security officers, characteristics of private security training, curriculum, tutorials, training centers and training conditions to be achieved as a result of award of the qualification, monitoring private security services, and other issues.

Private Security Permission

Permission That Must Be Obtained for Security Needs

As stated in Article 3 of the Law on Private Security Services and Article 8 of the Regulation on Private Security Services, for the protection of individuals by armed personnel, for the establishment of institutions and organizations within the private security unit or to assign businesses that provide private security services to private security service, "private security permission" must be obtained.

This permission is subject to the approval of the gov-

error of the decision of a Private Security Committee.

As indicated in Article 4 of the Regulation on Private Security Services, a Private Security Committee is a commission that is chaired by a vice-governor appointed by the governor.

In accordance with Article 6 of the Regulation on Private Security Services, the duties of a Private Security Committee are as follows:

- i. Deciding whether to provide security by employing private security personnel or purchasing private security services from businesses which provide them, at the request of the person in need of protection because of the job or position;
- ii. Deciding whether to provide security by setting up a special security unit for a workplace, employees, an institution, or to purchase services from private security companies at the request of companies or institutions;
- iii. Determining the maximum number of personnel that shall provide private security service, the quantity and specifications of the weapons and equipment to be kept, the physical or instrumental security measures that may be taken by private security units or private security companies when necessary;
- iv. Determining the specifications and quantity of weapons that are to be used for security services by companies that provide private security services, for training in private educational institutions and for transportation of valuable goods and money;
- v. Determining the area of protection and security service and expanding the area of protection when necessary;
- vi. Taking restrictive decisions for the protection of public liberties, in the case of transportation of money and valuable goods or public places such as funerals;
- vii. Considering requests for termination of private security services;
- viii. Deciding on the measures that are to be taken as a result of the supervision of the activities of private security services, upon the request of the governor; and
- ix. Adjudicating cases requested by the governor and other cases in the Law on Private Security Services and in the Regulation on Private Security Services.

As stated above, provision of private security services is permissible upon the decision to give private security permission by the Private Security Committee. Therefore, as stated in Article 8 of the Regulation on Private Security Services; (i) the subject matter of

the private security permission shall be specified to the governorship, (ii) the form of the private security service shall be specified and (iii) the maximum number of security personnel to provide the service and the characteristics and the quantity of the weapons and equipment needed shall be specified in the application for private security permission.

After the necessary investigation is conducted by the governorship regarding the request for private security service, the Private Security Committee decides whether to grant permission for private security, the method for providing private security, the maximum number of personnel and the maximum number of weapons and equipment to be kept.

According to Article 8/3 of the Regulation on Private Security Services, the applications of companies and institutions providing private security services are to be processed within ten (10) working days.

If protection can be provided within the scope of general security or where the implementation of private security services is unfavorable for the protection of public freedoms, the Private Security Committee shall not give private security permission. The affirmative or negative decision of the commission shall be submitted for the approval of the governor and a Private Security Permission Document which is in Appendix 1 of the Regulation on Private Security Services shall be submitted to individuals or companies or institutions that qualify for permission for private security service.

Legal Arrangements for Private Security Companies

As regulated in Article 5 of the Law on Private Security Services and Article 10 of the Regulation on Private Security Services, companies that operate private security services must have permission from the Ministry of Interior. To obtain this permission, (i) shares of the company must be registered shares, (ii) it is mandatory that the field of activity be exclusively protection and security services and (iii) as stated in Article 10 of the Regulation on Private Security Services, for permission to operate private security services, the documents stated below must be submitted to the Ministry of Interior;

- i. A copy of the Trade Registry Gazette in which the charter of the company was published,
- ii. The shareholders' and managers' Republic of Turkey identity numbers and the authorized signatory list,
- iii. The certificate of authorization for the managers

that represent the company,

- iv. The shareholders' and managers' conduct sheets
- v. The university diplomas or university graduation certificates of the managers of the company,
- vi. The managers' private security basic training certificate.

Article 10 of the Regulation on Private Security Services further states that if a legal entity is among the founders of the company, it does not need to meet the conditions for real persons under the Law on Private Security Services.

As stated in Article 5 of the Law on Private Security Services, the founders of private security companies must be Turkish citizens and not have committed the crimes listed in the Law on Private Security Services. In addition, managers shall hold a four-year university degree and as stated in Article 14 of the Law on Private Security Services, they must have successfully completed private security training.

As envisaged in the Law on Private Security Services, any deficiency in the terms and conditions required for founders and managers must be remedied within two (2) months. Otherwise, the permission to operate a private security service shall be annulled.

According to Article 5 of the Law on Private Security Services, companies which operate private security services for third parties are to notify the relevant governorship the first day of the service by the end of the shift.

However, in cases of urgent and temporary private security and protection services, there is no time limit for notification.

Also stated in the same article, if establishing a branch, the private security company is to notify the Ministry of Interior and relevant governorship within one (1) month. Furthermore, the Ministry of Interior shall be notified about any transfer of shares within one (1) month.

Moreover, according to Article 5 of the Law on Private Security Services, companies providing private security services to set up and operate an alarm monitoring center shall obtain permission from the relevant governorship.

Legal Arrangements Regarding Employees

As regulated in Article 5/6 of the Law on Private Security Services, a copy of the work permissions of

the guards employed in private security services are to be submitted to the relevant institutions within one (1) month. According to Article 20 of the Regulation on Private Security Services, the governorship is to be notified of the resignation of private security guards from the company within fifteen (15) days.

According to Article 10 of the Law on Private Security Services, terms and conditions for private security guards are listed as;

- i. Being a citizen of the Republic of Turkey
- ii. For unarmed guards: holding at least an eight-year elementary school degree, for armed guards: holding at least a high school degree or the equivalent
- iii. Being over the age of eighteen
- iv. Not having committed the crimes listed in the Law on Private Security Services
- v. Not having a mental disorder or physical disability that might impede the execution of the duties
- vi. Successfully completing the basic private security training mentioned in Article 14 of the Law on Private Security Services.

The issuance of work permits for private security personnel is regulated by Article 11 of the Law on Private Security Services and Article 17 of the Regulation on Private Security Services. According to this, the staff who will be employed as private security personnel and those who will work as founding partners and/or managers in alarm monitor centers or private security education institutions are subject to a security background check by the office of the governor.

The office of the governor issues a work permit to those with a clean background check on the condition that they successfully complete the basic private security training mentioned in Article 14 of the Law on Private Security Services. For those who will not carry a firearm, only archive research is required. The background check and archive research is to be completed in one (1) month and these checks are repeated every five (5) years.

According to Article 12 of the Law on Private Security Services, an identification badge is given to private security employees by the office of the governor. The badge includes the full name of the employee along with the information of whether the employee is armed. Private security employees must wear their badge during work hours in the designated position at all times and in such a way that it is visible to everyone. Private security employees without a badge on them cannot enact their authorities

regulated in Article 7 of the Law on Private Security Services, which are listed below.

Permissions Required for Firearms

Provisions regarding armed weapons are regulated in Article 24 and the following articles of the Law on Private Security Services. According to Article 24, in order to ensure protection and security, use of physical protective measures and security devices will be given precedence and in accordance with the principle of proportionality, the use of chemicals with no long term effects on living organisms may be permissible. If these precautions are considered insufficient for a specific duty, the Private Security Commission will decide on the use of semi-automatic weapons, which can be licensed to obtain and carry according to the Law on Firearms and Knives and Other Tools (Law no. 6136) and the number and characteristics of the weapons covered in the Law on the Manufacture, Purchase, Sale and Possession of Weapons Used in Hunting and Sports, Decorative Pistols and Hunting Knives (Law no. 2521).

According to Article 25 of the Regulation on Private Security Services, with the decision of the Private Security Commission, permission to obtain a firearm may be granted to a person or facility with a private security license. The firearm and its cartridge and other parts must be kept in a special room, safe deposit box or a closet with an iron band or extra locks. The person or facility with the permission will be held responsible for its security.

With regard to weapons other than pistols, Article 26 of the Regulation on Private Security Services regulated that the number and the characteristics of long barreled weapons may be determined by the office of the governor after taking the opinion of the Office of Commander in Chief, if the nature of the private security duty requires obtaining and carrying a long barreled weapon.

According to Article 27 of the Regulation on Private Security Services, those with permission to possess and carry any kind of aforementioned firearm should be recorded in "The Gun Possession Record

Book" by the Private Security Commission. Also, these weapons are to be recorded in the "Weapon Inventory Book" by the person or facility holding the private security permission. Along with this, the firearms kept in the place of duty are handed over to the private security employee with a signature in the "Handover and Report Book," every page of which is approved by managers. According to Article 28 of the Legislation, for every firearm the "Private Security Weapon Possession/Carrying Document," which can be found in the attachments section of the Legislation as Attachment-9, must be arranged and the employee who will be on duty with this weapon should have this with him as well as the identification card/name tag.

According to Article 29 of the Legislation, twenty-five (25) cartridges may be obtained for every weapon permitted to possess and carry. However, this cartridge number can be extended according to the characteristics and the location of the duty with the decision of the Private Security Commission and the approval of the office of the governor.

Requirements

Apart from all these, facilities and persons who provide services in the private security sector should fulfill the requirements outlined in the Law on Private Security Services and Regulation on Private Security Services. As a matter of fact, according to Article 22 of the Law on Private Security Services, within the scope of private security, the Ministry of Internal Affairs and offices of the governor have authority to monitor private security units, firms and education centers. Inadequacies that are detected during these audits should be corrected by the concerned people, facilities, establishments and firms within the time frame given.

Also, the permission of firms and education centers which are determined to have committed misuse or wrongdoing are revoked. Founding partners and managers of firms or institutions the permissions of which are canceled cannot be founding partners or managers in private security firms or education centers.