

## **Act IV of 1998**

### **on Regulations on Security and Private Investigation Services Provided by Business Enterprises, and on the Trade Association of Security Guards and Private Investigators**

The goal of this Act is to strengthen the legal basis for security and private investigation services provided by business enterprises, in the interests of improving public order and safety and, as a part of this, increasing the efficiency of security services and crime prevention, as well as to provide society with a guaranty for the enforcement of the inviolability of the inherent rights and material interests of parties employing such services and parties affected by the execution of such services. In the interest of achieving this goal the Parliament hereby passes the following Act:

#### ***Chapter I.***

#### **General Provisions**

##### *Section 1.*

(1) This Act shall apply to security and private investigation services provided by sole proprietorships or business partnerships.

(2) This Act shall apply to persons providing security services and to private investigators.

(3) Unless otherwise provided for by law, security and private investigation services by sole proprietorships and business partnerships may only be provided by members of the Trade Association of Security Guards and Private Investigators (hereinafter referred to as the "Association") established under this Act.

(4) Active, professional members of the armed forces (Hungarian Army, Border Guards), the law enforcement authorities (the police, civil defense service, Customs and Finance Guard, prison administration organization, fire-fighting services of the State and local governments and the civilian national security services) may not be owners, executive officers or members of the business enterprises set forth in Subsection (1).

##### *Section 2.*

An entrepreneur may provide security and private investigation services at the same time. An entrepreneur may not conduct other business activities or provide other services, unless such activities or services are related to security services.

##### *Section 3.*

The services to which this Act applies may be provided within the framework of a sole proprietorship or any other form of business association.

#### **Requirements for the Issuance of a Police License**

##### *Section 4.*

(1) Security and private investigation services may only be provided within the framework of a sole proprietorship

or business partnership by parties holding a license issued by the police.

(2) Upon submission of an application by the entrepreneur, the police shall issue a license, if

*a)* the applicant verifies that the member, employee or assisting family member providing the security or private investigation services has a permit allowing him to personally provide such services;

*b)* the applicant has a liability insurance policy providing coverage for the services he wishes to provide, or he is a member of the security guard and private investigator insurance association;

*c)* the Association has tentatively registered the business enterprise, and has verified that it has at its disposal the required material and technical means to provide the services it wishes to. Data shall be canceled from the register in the event that the applicant withdraws its request for admittance or such request is rejected by the Association.

(3) The police shall reject an application for a permit if the individual entrepreneur or executive officer of the enterprise has a criminal record or the restrictive provisions set forth in Subsection (4) of Section 5 apply to such person(s).

(4)

## **Requirements for Providing Security and Private Investigation Services**

### *Section 5.*

(1) Security and private investigation services may only be provided by persons holding a permit issued by the police.

(2) Such services may be provided by persons holding a temporary police permit (hereinafter referred to as "temporary permit").

(3) Upon submission of a written application the following persons may be issued a permit:

*a)* Hungarian citizens, as well as foreign nationals, so authorized by a separate act by virtue of a treaty, who are of legal age and have legal capacity, who have no criminal record, whose domicile is located within Hungary and who have the specialized training set forth in other legal regulations (in respect of private investigators, at least a secondary school education) and to whom the restriction set forth in Subsection (2) of Section 20/A does not apply, and

*b)* persons who has not been indicted for the willful commission of a crime punishable by incarceration of three or more years.

(4) In the event that an applicant has been convicted of a crime of violence against a person (Title 1 and Sections 174-176 of Title II of Chapter XXI of the Criminal Code), a violent sexual crime [Sections 197, 198, 200, and Paragraph *b)* of Subsection (3) of Section 207 of Title II of Chapter XIV of the Criminal Code], a crime related to office (Title IV of Chapter XV of the Criminal Code), a crime against an official person (Title V of Chapter XV of the Criminal Code), an act of terror (Section 261 of the Criminal Code) or a crime against property (Chapter XVIII of the Criminal Code), the application for the permit may not be fulfilled for the period of time specified in Section 30 of Law-Decree 5 of 1979 on the Entry into Force and Execution of Act IV of 1978 on the Criminal Code.

(5) An application for a permit shall be rejected if a permit which was issued earlier was revoked due to a breach of the obligations set forth in this Act within a period of two years prior to the submission of the application.

(6) In the event that criminal proceedings are in progress against the applicant for the willful commission of a crime punishable by three or more years of incarceration, decision on an application shall be suspended pending conclusion of such proceedings.

## **Temporary Permit**

### *Section 6.*

(1) A member or an employee of a business enterprise or an assisting family member who, with the exception of the specialized training, meets the requirements of Paragraph *a)* of Subsection (3) of Section 5, has concluded a training contract with an institution providing specialized training for the purposes of acquiring the required knowledge and does not fall under the restrictive provisions of Paragraph *b)* of Subsection (3) of Section 5 and Subsections (4)-(6) may be issued a temporary permit valid for a period of six months upon submission of a written

application.

(2) A temporary permit may be issued to a particular person only once every five years.

(3) Temporary permit holders may only provide the services together with permit holders, subject to the instruction and direction of such. When providing services temporary permit holders may not carry the equipment specified in Subsection (5) of Section 15.

## **Registration and Police Inspection of Services**

### *Section 7.*

(1) The police shall maintain a register of licenses and permits issued, the data on the basis of which such documents were issued, changes in such data and the revocation of permits.

(2) The police shall be authorized to carry out inspection of security and private investigation services. Such inspection shall cover the lawful execution of the services, the veracity of the data registered by the police, the data contained in the police-certified log and investigation of any changes in the grounds for licensing. Such inspection may be not aimed at learning of the contents of contracts.

## **Revocation, Suspension and Confiscation of Licenses and Permits**

### *Section 8.*

(1) The police may, by issuing a resolution, revoke a license, if the conditions for the issuance of such are no longer fulfilled or if the sole proprietorship or business partnership has repeatedly or seriously violated the regulations set forth in this Act.

(2) The police may, by issuing a resolution, revoke a permit, if

*a)* a legal condition for the issuance of such permit is no longer fulfilled, or a final verdict of a court of law has prohibited the permit holder from practicing this profession;

*b)* the person entitled to the permit has repeatedly or seriously violated the regulations set forth in this Act.

(3) The police shall suspend the permit pending conclusion of the proceedings, if criminal proceedings are initiated against the party providing the security or private investigation services for the willful commission of a crime punishable by three or more years of incarceration.

(4) Entitlement to personally provide security or private investigation services shall cease, if

*a)* the permit is suspended;

*b)* the entitled party surrenders the permit to the police.

### *Section 9.*

(1) If a security guard, security system designer or technician, or a private investigator is caught in the act of willful commission of a crime in the course of practicing this profession or if such person is caught during the course of committing a violation of the regulations set forth in this Act, the acting police officer shall be entitled to confiscate his permit at the scene, in return for a receipt. The confiscated permit shall be sent to the issuing police authority along with an explanation of the grounds for confiscation.

(2) Security or private investigation services may not be provided for the duration of such confiscation.

## **Obligations of Parties Providing Security or Private investigation Services**

### *Section 10.*

Contracts for the provision of security or private investigation services shall be set forth in writing. Such contracts

shall contain the permission of the principal for the sole proprietorship or business partnership to register its name and address (or registered address, failing this its business premises). The police may view such records in the course of inspecting services. Contracts may not be concluded in the absence of this permission.

#### *Section 11.*

(1) Sole proprietorships and business partnerships shall keep records of the contracts in police-certified logs and shall store such logs for a period of five years from the date of the last entry in such.

(2) The following information shall be contained in the log:

a) the name, address, registered office or, failing this, the business premises of the principal;

b) the date of conclusion, performance and termination of the contract.

(3) The name(s) of the person(s) actually performing the contract shall be registered in the log or in another suitable manner. The provisions of Subsection (1) shall apply to the storage of such information.

(4) Supplements and amendments in the log or other related records may only be conducted in such a manner that the original text remains legible.

(5) Sole proprietorships and business partnerships shall ensure that the police are able to view the log and the records specified in Subsection (3) and that the parties affected can view the information pertaining to themselves.

#### *Section 12.*

(1) Persons providing security or private investigation services have no official powers and may not obstruct official proceedings.

(2) Persons providing security or private investigation services may not use any designations or uniforms pertaining to the armed forces, law enforcement agencies or other official bodies nor may they use any other emblem, titles, or ranks which infer official status or are liable to deceive.

(3) The name of the sole proprietorship or business partnership shall be indicated on the uniform of the security guards, or the abbreviated name of such, as well as the name of the security guard.

(4) In questions of whether or not the provisions of Subsection (2) have been violated, the declaration of such party whose interests are injured by the deceptive name, uniform or emblem shall be taken into consideration.

## ***Chapter II.***

### ***Special Regulations Pertaining to Security Guards and Private Investigators***

#### **Regulations Pertaining to Security Guards**

#### *Section 13.*

Within the framework of the contract, bodyguards shall physically and technically ensure the personal safety of the principal. In the interests of such, he may request persons who are threatening the security of the protected person to identify themselves and may request such persons to cease and desist from any unlawful behavior.

#### *Section 14.*

(1) In the course of guarding facilities which are not classified as public areas, security guards are entitled to:

a) request persons who are entering or present in the area to identify themselves, to state the purpose of their presence and to prove their authorization; in the event that such request is refused or the information provided is obviously untrue, security guards may deny entry to the persons involved, forbid them to remain on the premises and order them to leave;

b) request that packages or carriage papers / delivery papers of persons entering, present in or exiting the area be

presented, and to inspect packages, vehicles and cargo;

*c)* request persons to cease and desist from unlawful behavior.

(2) Within the framework of the contract, security guards may also guard the principal's moveable property, outside of the area of the facility, in which case they shall also have the rights set forth in Subsection (1).

(3) Event security guards are entitled to:

*a)* request persons who are obstructing or disturbing the event, or are endangering the safety of such to identify themselves, to forbid them to participate in the event and to request them to leave;

*b)* to prevent, on the basis of measures by the police or the person in charge of security, specific objects from being brought into events taking place in closed quarters or areas and, in the interests of such, to inspect the packages of persons entering.

(4) Security guards who are accompanying deliveries, or guarding money or valuables or are carrying out deliveries are entitled to request that persons obstructing or endangering the delivery identify themselves and request such persons to cease and desist from perilous behavior.

#### *Section 15.*

(1) In the course of services, security guards may, if the conditions specified in this Act are fulfilled, request persons affected by their actions to prove their identity. If the person requested by the security guard fails to voluntarily and plausibly identify himself, the security guard may, under justified circumstances, request official persons authorized to check identity to establish the identity of the person in question.

(2) Security guards are entitled to request any person caught in the act of committing a crime to cease and desist, to obstruct such persons from continuing to commit the action, to apprehend the perpetrator and to disarm him. The security guard, however, is also required to turn over the apprehended person to the police or to the public prosecutor's office. In the event that this should prove impossible, one of these organizations shall be notified. The same procedure shall be applied in respect of any weapons taken from the apprehended person.

(3) Security guards may employ reasonable physical force in order to

*a)* prevent an attack threatening the security of the protected person;

*b)* prevent unauthorized entry to a protected facility or area, to remove persons who are present within such without proper authorization;

*c)* remove persons who are disturbing an event or endangering the safety thereof;

*d)* remove persons who are unlawfully obstructing the delivery of money or valuables, and prevent attacks threatening the safety of such;

*e)* disarm persons caught in the act of committing a crime.

(4) Security guards may employ technical equipment for the detection of weapons or explosives carried by persons entering the principal's facility or area, such facilities or areas not being classified as public areas, or persons entering an event taking place in closed quarters or areas, and may confiscate any objects representing a significant threat to public safety.

(5) In the course of conducting their duties, security guards may carry chemical agents (gas spray), rubber truncheons, guard dogs, and, in accordance with the relevant legal regulations, firearms, gas-powered firearms and blank-firing pistols, and may employ such in justified cases of defense and/or as a last resort.

(6) Security services using guard dogs which are carried out in public areas or public rights of way may only be conducted by guard dogs which fulfill the conditions specified in the decree of the Minister of the Interior and have been qualified (tested) by a guard dog training school with a proper license.

## **Regulations Pertaining to Private Investigators**

#### *Section 16.*

In the interest of performing a contract, a private investigator may

*a)* collect data and request information;

*b)* view official documents and records, following display of his permit, prepare excerpts from and copies of such documents in the event that the principal is authorized to do such in personal proceedings and has granted proper authorization to the private investigator, unless otherwise provided for by the laws on the protection of personal

data, access to public information, state secrets and service secrets;

c) prepare and use graphic and acoustic recordings in accordance with the provisions of Act IV of 1959 on the Civil Code pertaining to the protection of inherent rights;

d) inspect the contents of sealed deliveries to other persons with the prior consent of the affected person.

#### *Section 17.*

Private investigation services may not be directed at

a) diplomatic or consular representations, international organizations considered as such and the members of such;

b) official persons (Point 1 of Section 137 of the Criminal Code), official activities;

c) personal and special data related to natural persons, unless such data is accessible to the principal on the basis of the law on personal data or, in respect of special data, the person affected by the gathering of such agrees in writing.

#### *Section 18.*

(1) Private investigators are subject to the obligation to maintain professional confidentiality in respect of all facts and information of which they have learned during the course of rendering services.

(2) Exemptions from such obligation may be granted by law, or, in respect of their own information, by the principal.

(3) Private investigators may only brief the principal in respect of personal data collected on third persons, unless, with due consideration to the provisions of Subsection (1), he is questioned as a witness in court or during official proceedings related to the issue which served as the basis for the commission.

(4) The obligation of private investigators to maintain professional confidentiality may not conflict with the provision prohibiting obstruction of official proceedings.

#### *Section 19.*

An entrepreneur may only act in the interests of several principals in the event that the interests of such principals are not contradictory. A commission which may damage the interests of a previous principal may only be performed by the private investigator, if at least five years have elapsed since performance of the earlier contract.

#### *Section 20.*

(1) Private investigators shall immediately destroy any personal data gathered and recorded in the course of performing contracts following the use of such, or failing such use, upon termination of the contract.

(2) The provisions of Sections 16-18 and Subsection (1) shall be applied in respect of sole proprietorships and business partnerships as well.

#### *Section 20/A.*

(1) The provisions of this Act pertaining to private investigation services and to overseeing private investigators by the police authority shall apply under the differences defined in Subsections (2)-(4).

(2) Members of organizations with investigative competency, shall not engage in providing private investigation services.

(3) If the owner or an executive employee of an enterprise that is engaged in providing private investigation services, was previously a member of an organization with investigative competency, the department of the police in which said owner or executive employee served and which otherwise has jurisdiction over the enterprise, shall not exercise such jurisdiction for a period of two years from the date when the owner or executive employee was discharged from service.

(4) The police department of jurisdiction overseeing the activities of private investigators, shall not exercise such jurisdiction over a private investigator

a) who has previously served in an organization with investigative competency within the area of jurisdiction of the police department in question, and

b) two years has not yet lapsed from the date when discharged from service.

(5) In the cases defined in Subsections (3) and (4) the private investigation companies and private investigators

are placed under the jurisdiction of another police department designated by the national chief of police.

### ***Chapter III.***

#### ***The Trade Association of Security Guards and Private Investigators***

##### *Section 21.*

(1) The Trade Association of Security Guards and Private Investigators is a self governing public body of individuals and business partnerships providing security and private investigation services. As such the Association attends to public duties and the general duties of representing the profession.

(2) The duties of the Association are attended to by the following bodies:

*a)* its organizations operating in the counties and in Budapest (hereinafter referred to jointly as "regional organizations"), and

*b)* the national organization.

(3) Several counties may jointly establish a regional organization. In this case, separate regional organizations for the counties involved may not be established.

(4) The regional and national organizations of the Association shall be artificial persons.

(5) The seat of the national organization shall be located in Budapest. The national organization shall be entitled to use the coat of arms of the Republic of Hungary. The name of a regional organization shall refer to its respective area of jurisdiction.

##### *Section 22.*

(1) The members of the Association shall exercise their rights of self-administration in accordance with this Act and the Statutes of the Association.

(2) The following points shall be set forth in the Association's Statutes

*a)* the name and seat of the Association;

*b)* the rules governing the organization and operation of the Association;

*c)* the rules governing the duties and competencies of the regional organization and officers, as well as the method of electing and the term of mandate of such;

*d)* the fundamental rules governing the financial management of the Association;

*e)* all other issues required to be set forth in the Statutes in accordance with this Act.

### **Duties of the Association**

##### *Section 23.*

(1) The Association shall

*a)* represent and defend the reputation of the security and private investigation profession, the general professional interests of its organizations and members, and their rights deriving from their profession as set forth in this Act, in respect of matters related to security and private investigation services, as well as facilitate the provision of such services in accordance with valid legal regulations and the code of ethics established by the Association;

*b)* draft the Statutes of the Association and develop the professional guidelines for the provision of security and private investigation services;

*c)* present an opinion on legal regulations affecting security and private investigation services;

*d)* develop the various levels of requirements for specialized training and advanced professional training, participate in specialized training and examination;

*e)* establish the code of ethics for security and private investigation services;

*f)* conduct proceedings against members who violate the code of ethics. In a resolution the Association shall warn members who are conducting activities which contradict the interests of the principal and damage the reputation of

the profession, and publish such resolution in the cases provided for in the code of ethics;

*g)* keep a record of the names of members of the Association and provide statistical information;

*h)* keep preliminary records of sole proprietorships and business partnerships wishing to establish an enterprise for the provision of security and private investigation services, investigate whether or not such parties fulfill the conditions required for commencing such an undertaking as set forth in the Association's self-government regulations and issue a permit to this effect to the entrepreneur;

*i)* initiate the establishment of an insurance association related to the activities of its members;

*j)* organize conferences, exhibitions, trade fairs and other events related to the activities of its members, as well as assess and monitor the appearance and activities of its members at trade fairs and exhibitions in accordance with its rules of self-administration;

*k)* collect domestic and international professional and legal information and provide information on such to its members and other parties, in the interests of its members;

*l)* maintain relationships with the competent chambers of commerce, as well as with domestic and foreign chambers and associations of a similar nature;

*m)* develop recommendations on establishing the minimum fees due for conducting its activities.

(2) The records set forth in Paragraph *g)* of Subsection (1) shall indicate the name of the private individual, his personal identification card number, address, the number of the permit issued by the police headquarters, and if the individual is a private entrepreneur, the number of the police license and entrepreneur's license.

## **Membership in the Association**

### *Section 24.*

(1) Persons holding a permit to personally provide services shall be members of the regional organization competent according to their place of residence.

(2) Sole proprietorships and business partnerships holding licenses shall be members of the regional organization competent according to their registered office (business premises).

(3) Sole proprietorships and business partnerships, and persons holding a permit to personally provide services shall register within sixty days of the establishment of a regional organization for the purpose of being listed in the records.

(4) Sole proprietorships and business partnerships commencing activities and persons taking out permits shall notify the competent regional organization within thirty days of delivery of the license or permit, respectively, for the purpose of being listed in the records.

### *Section 25.*

Membership in the Association shall end

*a)* upon death in respect of natural persons;

*b)* upon revocation or submission of the license or permit;

*c)* upon exclusion from the Association;

*d)* upon renunciation of membership.

## **Rights and Obligations of the Association's Members**

### *Section 26.*

(1) Members of the Association shall have the right to

*a)* participate with voting rights in the meetings of the general assembly of regional organizations;

*b)* participate in the election of the officers and delegates of the regional organizations, and to be elected as officers or delegates of such;

*c)* use the Association's services;

*d)* request substantial clarification of the Association's operation from officers of the Association;

- e)* request the Supervisory Committee to review resolutions violating the Statutes.
- (2) Members of the Association shall be obliged to
  - a)* comply with the regulations set forth in the Association's Statutes;
  - b)* pay the membership fees;
  - c)* participate in mandatory advanced training and take the required examinations;
  - d)* act in accordance with the professional guidelines and the code of ethics in providing their services.
- (3) The general assembly shall establish the membership fees pursuant to the framework set forth in the Statutes.

## **Organization and Operation of the Association**

### *Section 27.*

- (1) The national organization shall consist of the Association's national bodies for representation, administration and supervision, as well as the ethics committee.
- (2) The supreme representative body of the Association shall be the national general assembly comprised of the delegates from the regional organizations.
- (3) The number of delegates shall be set forth in the Statutes.

### *Section 28.*

- (1) The following issues shall fall under the exclusive competence of the national general assembly:
  - a)* drafting and amendment of the Association's Statutes and other regulations of self government;
  - b)* establishment of the Association's annual budget and resolution on the approval of the annual report (balance sheet);
  - c)* election and recall of the Association's president (vice-president, vice-presidents), the presidium, the ethics and supervisory committee, as well as the chairmen and members of other committees by secret ballot;
  - d)* establishment of the principles of payment of membership fees, in accordance with the method and limits set forth in the Statutes;
  - e)* establishment of the portion of membership fees of regional organizations which is to be paid to the national organization.
- (2) The president shall convene the national general assembly at least once annually. The president shall also convene such assembly if at least one-fifth of the delegates or the supervisory committee request a meeting of the assembly in writing, with an indication of the grounds and objectives of such meeting.
- (3) The Statutes may set forth other cases in which a meeting of the national general assembly shall be convened or may authorize persons other than the president to convene meetings.
- (4) The national general assembly shall have quorum if at least one-half of the delegates are present. Meetings repeated because of lack of quorum shall have quorum in respect of the items originally on the agenda, regardless of the number of delegates attending.
- (5) The national general assembly shall adopt its resolution by simple majority vote. In respect of the issues set forth in Paragraphs *a)-b)* of Subsection (1) the affirmative vote of at least two-thirds of the delegates, but at least one-half of the total number of delegates, shall be required.
- (6) The Association's Statutes shall set forth the detailed rules for convening the national general assembly, conducting its meetings, and adopting its resolutions.

### *Section 29.*

- (1) The presidium of the Association is a body of the organization consisting of the number of members set forth in the Statutes. The task of the presidium is to direct the operations of the Association in the periods between meetings of the general assembly.
- (2) The Association's Statutes shall set forth the detailed rules for convening the presidium, conducting its meetings, and adopting its resolutions.

### *Section 30.*

The supervisory committee and ethics committee shall consist of a chairman and the number of members as set forth in the Statutes. They shall establish their rules of procedure in accordance with this Act and the framework of the Statutes.

*Section 31.*

The supervisory committee is responsible for supervising the lawful operation, management and financial and accounting order of the Association in accordance with the relevant legal regulations and internal rules. The Statutes shall establish the supervisory entitlements of the supervisory committee, nevertheless the Statutes may not restrict any disclosure obligations required for such supervisory activities.

*Section 32.*

(1) Officers of the Association, i. e. the president, vice-president(s), and the chairmen and members of the supervisory and ethics committees, shall be elected by secret ballot in the manner and for the duration set forth in the Statutes. The Statutes may prescribe the election of other officers as well.

(2) The rules on conflict of interest, termination of mandate and the duties of the individual officers shall be set forth in the Statutes.

## **Regional Organizations**

*Section 33.*

(1) Within its area of jurisdiction, regional organizations shall attend to the duties assigned to their competence by law and by the Statutes.

(2) Regional organizations shall have bodies for representation and administration, as well as an ethics committee and an independent budget.

(3) The representative body of regional organizations shall be the regional assembly of delegates elected by the members. In the event that there are less than two hundred members, the duties of the regional assembly of delegates shall be attended to by the general meeting, and the rights and obligations of the delegates shall pertain to the members.

(4) The regional assembly of delegates shall

*a)* establish the self government and operational rules of the regional organization within the framework set forth in this Act and in the Statutes;

*b)* decide on approval of the regional organization's annual budget and annual report (balance sheet);

*c)* elect by secret ballot the president of the regional organization and its vice-presidents, the number of members set forth in the Statutes, and the chairman and members of the ethics committee, and decide on motions to recall such;

*d)* elect the delegates to the national general assembly;

*e)* establish the amount of the membership fees in accordance with the framework set forth in the Statutes.

(5) The rules for the national general assembly shall apply in respect of convening the regional assembly, adopting its resolutions and its election.

*Section 34.*

(1) The Statutes may provide for the establishment of divisions within the Association, in accordance with the professions represented.

(2) The duties and operation of such divisions shall be set forth in the Statutes.

## **Proceedings for Violation of the Code of Ethics**

*Section 35.*

- (1) Members who
  - a) intentionally violate the provisions of this Act in the course of providing their services;
  - b) violate the code of ethics established by the Association;
  - c) fail to pay the membership fees in spite of a request to this effectcommit a violation of the code of ethics.
- (2) The fact that state organs are conducting proceedings is not in and of itself an obstacle to conducting proceedings for a violation of the code of the ethics.

*Section 36.*

The following measures may be applied in the event of a violation of the code of ethics:

- a) warning;
- b) exclusion.

## **Conduct of Proceedings for Ethics Violations**

*Section 37.*

The presidium of the regional organization (hereinafter referred to as the "presidium") shall order proceedings for violations of the code of ethics and shall commission the ethics committee to conduct such.

*Section 38.*

- (1) The following parties may not take part in the investigation or judgment of the matter:
  - a) relatives of a person who is a subject of the proceedings;
  - b) persons who must be heard as witnesses;
  - c) persons of whom an objective judgment in the matter cannot be expected for other reasons.
- (2) Parties to whom grounds for exclusion from the proceedings apply shall immediately notify the presidium to this effect.

*Section 39.*

- (1) The task of the ethics committee is to precisely clarify the facts of the case. In the course of this, the committee may hear witnesses, employ the services of experts, view documents and inspect the scene of actions.
- (2) The ethics committee shall submit its final report on the results of the investigation to the presidium.
- (3) The presidium shall evaluate the report and, based on such, may take the following measures:
  - a) in the event if unsubstantiated facts are included, the presidium may order additional investigation;
  - b) hear the persons who are the subject of the proceedings, upon their request;
  - c) close the investigation;
  - d) take measures in the event that liability is established.
- (4) In respect of Paragraph *d*) of Subsection (3), an appeal by the person who is the subject of the proceedings may be lodged with the regional assembly within fifteen days of delivery of the presidium's resolution.
- (5) A person who is the subject of the proceedings may file for court action against a resolution of the regional assembly in accordance with the regulations for administrative suits (Chapter XX of the Code of Civil Procedure) within thirty days of delivery of such resolution.

*Section 40.*

- (1) The Minister of the Interior shall exercise legal supervision of the Association.
- (2) The Minister of the Interior shall monitor whether or not the Statutes and other regulations of the Association

comply with the law, and whether or not the resolutions of the Association's bodies violate the law, the Statutes or resolutions of the Association.

(3) Legal supervision exercised on the basis of this Act shall not extend to such matters in respect of which court or state administrative proceedings may otherwise be conducted.

(4) In the event that the lawful operation of the Association cannot be ensured in any other manner, the Minister of the Interior may request the assistance of the court.

## **Election of the Association**

### *Section 41.*

(1) The Organizing Committee, established by the security service and private investigation associations, which also represent private entrepreneurs, shall organize the first elections of the Association. The operation of such Committee shall continue until the election of the Association's officers.

(2) Sole proprietorships and business partnerships providing security and private investigation services shall advance the costs for the elections and such costs shall be deducted from their first year's membership fees.

### *Section 42.*

(1) Persons holding a permit and the representatives of business partnerships holding police licenses shall be entitled to participate in the election.

(2) The regional organizations shall elect the delegates to the national general assembly.

(3) The presidents of the regional organizations shall participate in the national general assembly as delegates.

(4) The national general assembly shall be convened within six months of this Act entering into force.

### *Section 43.*

(1) Only delegates from the regional organizations may be elected as members of the Association's bodies or as the president of the Association.

(2) The number, composition and method of election of the delegates of the national general assembly and the regional assemblies shall be set forth in the Statutes.

## **Chapter IV.**

### ***Fines by Supervisory Authorities***

#### *Section 44.*

(1) The police authorities may impose a fine ranging between one hundred thousand HUF and one million HUF on entrepreneurs providing security and private investigation services without proper authorization and on entrepreneurs who repeatedly or seriously violate the provisions of this Act.

(2) For the purposes of Subsection (1), a business enterprise does not have proper authorization, if

*a)* the entrepreneur is providing the services without a license;

*b)* the conditions required for the issuance of a license for the provision of services as set forth in Subsection (2) of Section 4 are not fulfilled.

(3) Fines imposed by the police authorities shall be paid to the account designated in the police resolution.

(4) In the event that the conditions are fulfilled for both the imposition of a fine by supervisory authorities and the imposition of a fine for an offense on the grounds of unauthorized security or private investigation services pursuant to Section 30/A. of Government Decree 17/1968 (IV. 14.) Korm. on Certain Offenses, only the proceedings for the

imposition of a fine by the supervisory authorities shall be allowed.

*Section 45.*

The following shall qualify as a serious violation of the provisions of this Act:

- a) violation of the provisions of Subsection (1) of Section 12, Subsections (5)-(6) of Section 15, Paragraphs b)-d) of Section 16 and Sections 18-20, or
- b) violation of the provisions of Subsections (2)-(3) of Section 12, in spite of an official warning.

## **Miscellaneous and Interpretative Provisions**

*Section 46.*

In respect of the official proceedings and investigations set forth in this Act the provisions of Act IV of 1957 on the General Rules of State Administration Proceedings shall be applied.

*Section 47.*

For the purposes of this Act:

1. *Security and private investigation services provided by business enterprises:* such services provided within the framework of civil law which are provided on the basis of a contract by sole proprietorships and business partnerships within the framework of rights also due to the principal (client), such rights being transferred to the entrepreneur.

2. *Security services:*

- a) guarding of facilities, premises, areas, vehicles or other objects;
- b) ensuring the safety of events;
- c) accompaniment of deliveries, guarding and transporting money and valuables;
- d) protecting the life and physical integrity of natural persons;
- e) planning, installation, operation, monitoring and maintenance of security systems.

3. *Entrepreneur:* a sole proprietorship or business partnership providing security or private investigation services.

4. *Bodyguard or security guard:* a natural person who is personally providing the security services set forth in Paragraphs a)-d) of Point 2, or who is professionally organizing or directing such services within the framework of a sole proprietorship or business partnership providing security or private investigation services.

5. *Security system designer or technician:* a natural person who, on the basis of his work, has knowledge of the operation of the security systems set forth in Point 7, and personally designs, installs, assembles, operates, or maintains such systems (devices, equipment), or who professionally organizes or directs such.

6. *Private investigator:* a natural person who provides the services set forth in Section 16, or who is professionally organizing or directing such services within the framework of a sole proprietorship or business partnership providing security or private investigation services.

7. *Security system [Paragraph e) of Point 2]:* a detection and video surveillance system or any other technical solutions enabling the transmission of signals and images or light and sound installed or to be installed at a piece of real estate as designated in the contract for services for the purpose of security.

8. *Activities directly related to security and private investigation services:*

- a) fire alarm, civil defense, labor and health safety activities, disaster response, if the persons commissioned to provide such activities have the required specialized training;
- b) protection of business and operational secrets as well as protection of computer data;
- c) cash processing activities related to the safekeeping and transportation of money and valuables;
- d) specialized training for security services and private investigators, consultation, specialized publishing activities and activities as an expert;
- e) security-related research;
- f) manufacturing and distribution of security equipment;
- g) design, installation and maintenance of mechanical security systems;
- h) provision of maintenance and janitorial services for objects guarded by the private entrepreneur or business

partnership.

## **Enacting and Authorizing Provisions**

### *Section 48.*

(1) This Act shall enter into force on the first day of the third month following its promulgation.

(2) Upon entering into force, Government Decree 87/1995 (VII. 14.) Korm. on Temporary Rules Governing Security and Private Investigation Services Provided by Business Enterprises and Government Decree 68/1997 (IV. 18.) on the amendment thereof, shall be repealed.

(3) This Act shall be applied to proceedings pending upon it entering into force.

(4) If an active professional member of the armed forces or law enforcement agencies is engaged in security and/or private investigation services as the owner, executive employee or member of the business association or sole proprietorship in question by virtue of the provisions repealed by Subsection (2), the restrictions stipulated in Subsection (4) of Section 1 shall apply to this person if he fails to comply with the requirements by 30 June 2002. Regarding other matters this Act shall not apply to the rights acquired by virtue of the legal regulations repealed by Subsection (2).

### *Section 49.*

(1) The Government is hereby authorized to review MT Decree 6/1988 (II. 12.) on the Security Services of Public Bodies, and consequently decide on new regulation of these activities.

(2) The Minister of the Interior is hereby authorized to regulate the following in a decree:

*a)* the processing of applications, the liability insurance fees for services payable according to contract, the date of commencement of assumption of liability by the insurance agency, licensing of services, the obligation of parties holding licenses or permits to report changes in the registered information, the contents of symbols which may be used by parties providing security and private investigation services, the handling of permits, and

*b)* in agreement with the Minister of Finance, the service fees for the licensing of security and private investigation services by business enterprises as well as the administrative fees related to the issuance of licenses, and

*c)* the regulations on the formation and record-keeping of the Association.

(3) The Minister of Industry, Commerce and Tourism is hereby authorized to regulate, in agreement with the Minister of the Interior, in a decree the security services of public bodies and the professional and examination requirements for specialized training for security services in accordance with Paragraph *b)* of Subsection (1) of Section 5 of Act LXXVI of 1993 on Professional Training.