



# **Act 5/2014 on Private Security**

**(Unofficial translation)**





## Act 5/2014 on Private Security of 4 April 2014.

### PREAMBLE

I

Security is not only a legal, regulatory or political value but also a social one. It is one of the main pillars of society; it is rooted in the freedom and equality, and contributes to the full development of individuals.

States, when establishing their private security legal model, outline it as the way in which private agents aid to reduce the possible risks and hazards linked to their industrial or business activities, and to obtain additional security beyond that provided by the public security, or satisfying their requirements of professional information with the investigation of subjects of their legitimate interest. In this connection, the existence of the private security is shaped as an anticipatory and preventing measure to face possible risks, dangers or crimes. It is an undeniable fact that the private security industry is presently considered as an activity in its own and, at the same time, it is a constituent part of the public security.

Not only in Spain, but also in our European environment, the private security has become an actual actor of global and domestic policies of security.

In the last years, there has been remarkable progress in the citizens' esteem and also in the rethinking of the security private sector role. It has been recognized the efficiency, importance and effectiveness of public-private partnerships as a means to face and solve the pressing and diverse problems of security and safety that are taking place in our society. The private security industry has been increasingly considered as a part of the array of measures aimed at protecting the society and defending the legitimate rights and interests of citizens.

Security, understood as a cornerstone of coexistence exerted solely by the public power of the State, both in its preventive and investigating arms, is considered strengthened when other social or private partners carry out security activities, and it is a way of recognizing the citizens powers of creating, or using, private security services with the ultimate grounds on which public security service is based.

The State Administration, as for the provision of security services by private companies and their staff, is based on the fact that the delivered services are a part of the core exclusive powers of the State on public security under Section 149.1.29.<sup>a</sup> of the Spanish Constitution, and on the mandate provided by the Section 104 of our Magna Charta to law enforcement agencies - under the government - to protect the free exercise of rights and freedoms and secure citizens security.

From this understanding, a range of administrative controls and procedures are set up to restrict the activities performed by private persons. This means that law enforcement agencies must always be present during the performance of private security activities, being advised of significant information for public security that is generated from the aforementioned activities; and having an important role, provided that those activities detect the commission of criminal acts, or might have an impact on public security.

The security defense and the legitimate right to use it cannot be subjected to aggressions, lack of understanding, or violations in the judicial and property scopes of other people. This is one of the reasons justifying the keen participation of the law enforcement agencies in the organization and performance of the activities performed by private security companies and their staff. Under our Constitution, law enforcement agencies are tasked with protecting the fundamental rights of all citizens and ensuring their safety.

Considered from another angle, although also embedded in the subject of this Act, it is necessary taking the step of recognizing the specific nature of private investigation services and their role played in our society during the last years. Being these services different from other services provided by the private security industry, its inclusion in this Act – within the private security services – proves that those services are another tool contributing to ensure the security of citizens broadly understood.

II

The 23/1992 Act, dated 30th July, on Private Security, which is herein repealed, regulated a sector that up to that moment had disperse regulations, and a pre-constitutional approach in some cases, that focused on an emerging reality, and that legal framework allowed to develop in an harmonious way up to reaching the importance and significance that has today, being generally accepted by the Spanish society.

The 23/1992 Act, dated on 30th July, and its implementing regulations, has unquestionably represented an important step for the development of the private security industry in Spain, and it has even become a model for similar regulatory processes in other States of the European Union. Nevertheless, it is essential to deliver new



legislation to solve identified problems, and to enable the development of this Spanish sector of services that has been so helpful on security.

Nowadays, the 1992 Act is not enough; it had serious gaps and shortages which were partially compensated in its implementing regulations, enacted by the Royal Decree 2364/1994, dated on 9 December, and other lower ranking provisions or resolutions. Rules of this type permitted that the 23/1992 Act, dated 30 July, had been in force up to the present moment.

Furthermore, the Spanish membership of the European Union has compelled our country to amend the Act ruling the private security industry in Spain - 23/1992 Act, dated 30th June, which had been modified by Royal Decree laws 2/1999, dated 29th January 1999, and 8/2007, dated 14 September 2007, and the 25/2009 Act, dated 22 December amending several acts to adapted them to the Act on Free Access to Service Activities and its Exercise, whose purpose was to be adapted to an increasing open and global world; this phenomenon was, of course, collaterally covered by this Act.

Other two main factors which forced to substitute this legislation were: first, the technological changes – determining the provision of security services, and second, the trend towards merging the different types of security in the concept of comprehensive security; this last subject had to be taken into account, in the scope of activities and tasks, and also in the services provided by staff of private security; these aspects were not covered by the 23/1992 Act, dated on 30 June.

This Act was enacted twenty years ago. This sector nowadays is mature and completely professional, it has presence in every place and level of the citizens of this country daily life; the present state of affairs is very different to the one in 1992. That is the reason why it is necessary to pass a new regulation that enables to solve working problems detected throughout these past two decades.

This lack of regulation phenomenon is even worst concerning the activities of private investigation and detectives, whose incidental insertion in the 23/1992 Act, dated 30<sup>th</sup> July, expanded on the concerned problem. Indeed, there are scarce preventions on these activities and staff, not only in registered office, but also in regulations; for these reasons, this Act deals determined and comprehensively - as appropriate - with profiles, restrictions and features of those, who are appropriately trained and qualified to carry out these activities. This way, the regulation of activities and staff of private investigations become one of the essential elements of the new act, and leaving the side-effect presence that had in the present regulations.

### III

Unlikely to the previous regulation, the new Act depicts a comprehensive and total approach of private security as a whole, and aims to encompass all the sector reality existing in Spain, and at the same time, it prepares it for the future.

As a result, it is necessary to evolve from the control and sanction concepts, that are contained in the Preamble and Sections of the 23/1992 Act, dated 30<sup>th</sup> July, - that it had its *raison d'être* at that moment – to a new act that enables to take advantage of the huge potential that has the private security from a public interest perspective.

Therefore the new Act envisages, among other aims, the improvement of efficiency in the provision of private security services concerning organization and planning, training and private staff motivation, elimination of terms that facilitate both companies and staff intrusiveness; provision of the needed legal support to exert their legal duties, and also the cooperation tools between the private and public security.

The Act turns from emphasizing the subordination principle to developing more efficiently the complementary principle through others that implement it, - as cooperation or co-liability-; through a legislative technique more flexible that enables a continuous accommodation to the changes occurring in the society without a legal amendment.

Concerning the special relationship of private security and law enforcement agencies – genuine guarantors of the freedoms and rights system which are protecting by mandate of the Constitution – it is important to go further in relation to legal formulas recognizing the ancillary and specially cooperative role performed by the private security, in a way that, apart from integrating their capacities in the public security system, they can provide information deemed necessary to fulfill law enforcement agencies their duties better.

The legislation in force until now is amended in-depth; it is built along two axes. First, on the unwavering rationale of the precedence of public security over private security, a regulation alignment is made to enable its adaptation and provides answers to the actual need of security in every moment, so all its potential be harnessed. Second, the intervention and monitoring powers of the public over private security are focused on essential aspects for public security, the ancillary aspects which have not a direct impact on the security service are deregulated, and at the same time, its management is upgraded, and its collaboration with the public security is boosted.



Summarizing, it can be said that the array of the proposed changes in the new act, apart from meliorating and resolving technical, management and operational problems, looks decisively into the present Spanish model of private security (complementary, subordinated, collaborative and monitored by the public security), being committed in its preventive role on behalf of the general security, and it is done by functionally taking advantage of, and integrating all its information potential, of human resources and material means, at the service of the protection and security of citizens, in a manner compatible with the legitimate interest pursued by the private security companies.

The same approach inspires the precepts devoted to private investigations. At this point, the law-maker – as in the rest of activities envisaged by law- has to make compatible this positive approach with a series of essential preventions to guarantee the rights of citizens, especially those under Section 18 of the Spanish Constitution.

#### IV

One of the aspects where more obvious is the change underwent since the passing of the 23/1992 Act, dated 30<sup>th</sup> July, is the Autonomous Regions participation in this subject. What was something superfluous then, it has become a far-reaching phenomenon, as to the statutory autonomous regions with powers on protection of persons and goods, and public order maintenance, have joined other autonomous regions whose statutes of regional autonomy have powers over private security, in both cases they are subjected to what the State rules under section 149.1.29.<sup>a</sup> of the Spanish Constitution.

Therefore, the new Act wants to acknowledge this change of status and envisages this phenomenon from a global view, non tangential, as up to the moment, depicting the different tiers of competence pursuant to Bylaw provisions.

It is essential to bear in mind the inter-administrations coordination and cooperation principles so that the performance of the different public administrations be consistent with the harmony of the system.

To avoid interferences and overlaps, institutional coordination mechanisms are envisaged, the sharing of state and regional autonomies competences is clarified, the exclusive jurisdiction of the State as for rules and regulations, is strengthen and the competences of the regional autonomies are placed in the executive field.

#### V

From partial regulations, we turn to a generalist act, ruling all the subjects involved in the private security sector. There is a continuous consistency regulation throughout its seven chapters, with a broken down of subjects encompassing from the most covering to specific.

Thus, in the preliminary title, legal definition of concepts, or terms that up to now were legally inaccurate or vague as private security, security activities, security services, security roles, security measures, private security detectives or others also important, are given. There is not doubt that this will have a direct favorable impact concerning the improvement of the legal security.

In this sense, it is fixed, for the first time, the material field and purpose to which the private security is serving, that cannot be different from contributing, with its professional action – to complete the public security of which is a part.

Other important innovations that the new Act is including in its preliminary title are those related to the updating of the private security activities; the so-called compatible activities – consisting in those subjects surrounding or having a direct impact on the security world – are ruled, and, on the other hand, private security activities are better completed and outlined, as for private investigation which is included into the catalogue of security activities.

Furthermore, security operatives are recognized as qualified staff to respond to the great technological breakthrough and major changes experienced in the alarm verifications activity.

The security of information and communications for the first time is set up not only as a specific activity of private security, but as a compatible activity that could be carried out both by security or non security companies. As they have a direct impact on public and private companies, providers and users will be submitted to certain obligations. Likewise, in line with minimizing restrictions to free competition, planning, assessing and advising activities on private security will be liberalized. These activities will be considered as compatible, not longer reserved to private security companies, as their affection to the late, by mediation of public security, is not direct.

A necessary nuance has been also made in the general principle of private security exclusion from public spaces, whose present wording – too rigid – has prevented or hampered the necessary services authorization on behalf of citizens, and today it is outdated.



Coordination and collaboration between private security services and law enforcement agencies – which is one of the key ideas inspiring this Act drafting- is covered in the Title I. This coordination and cooperation are targeting to improve public security through information sharing – meeting all legal safeguards, and strong commitment on some meeting bodies which have to be much more proactive than up to the moment.

Under Title II some provisions involving security companies and detective offices, or the register of both, are granted a legal status, and are merged into the new Private Security National Register.

Furthermore, a flexible system that will allow -when it is deemed relevant for surveyed premises purposes - to increase or reduce the requirements of the companies in accordance with the activity performed is covered.

In line with favoring the economic activity, the Act substitutes the more burdensome administrative authorization system for the liability declaration for the training centers of private security staff, private detectives offices and installing and maintaining companies.

Under Title III some questions previously ruled by regulations, where they were not properly framed, as those related to the duties of a large number of private security staff, since the 23/1992 Act, dated on 30 July, only dealt with the duties of security officer and private detectives.

Under the Act, the private rural guard designation is changed to security guard in rural areas.

On the other hand, the problem of the requirement of having Spanish nationality, or nationality of a Member State of the European Union, or being a party State to the Economic Common Area to Access to Security professions Agreement, that it is now enlarged to third countries who have signed an international agreement with Spain, where this possibility is granted to nationals of both States.

Other innovation included concerning staff – which has been demanded by this sector for a long time – is to grant private security agents the similar legal protection that authority agents have when facing aggressions or disobedience when performing – duly identified – the private security activities in partnership with, and under the commanding of, the law enforcement agencies.

Apart from suppressing the inappropriate and distorting inactivity period - that many difficulties and problems have generated for the private security staff – rejoining to the private security sector; concerning staff training, together with the present access to profession only through the Ministry of the Interior, there are also given other possibilities to accede through the system established by the Government, upon proposal of the Ministry of Education, Culture and Sports, as it is envisaged the possibility of official vocational training, or a university degree to accede to the different professions of private security, or by the relevant professional qualifying certificates issued by the Ministry of Employment and Social Security.

Under title IV, an Act rules for the first time in a smoothly way, security measures, and the provision forms of the main security services (surveillance and protection, personal protection, deposits and security transports and private investigation) specifications. This way, some services were specified as, in the 23/1192 Act, dated 30th July, and its implementing regulations contained isolated references (verification and response to alarms, installation and maintenance of systems) only, or did not contain any provision, as video-surveillance in the private security field, fulfilling the mandate contained in the Organic Act 4/1997, dated 4th August, on use of video cameras by law enforcement agencies in public places.

In this Title, it is especially relevant the ruling of video-surveillance and private investigation services, since potentially, these services may affect in a direct way on the citizens' privacy scope. In the second case, bearing in mind that various interests involved, subjects as sensitive as the legitimacy of the job, the content of the investigation report, or the professional confidentiality duty are dealt.

Under Title V are covered, also for the first time within a legal seat, control and inspection actions of companies, staff and security measures, as well as the collaboration duty of those affected. It is particularly important the inclusion of a provision ruling the provisional measures that police officers might adopt, when they deemed absolutely necessary in an inspection framework; these will remain in any case subject to confirmation by the competent authority. Likewise, under the data privacy grounds, the access to the private investigation report contents in the police inquiries are limited to the knowledge of the existence of these reports, unless police or judicial investigations or sanction procedures were involved.

Some of the outstanding shortcomings of the previous legislation related to the penalty system are solved under Title VI. Thus, the different infringements that may be committed by companies, staff or users of private security, including, together with the late, the qualifying training centers on this subject are envisaged.



Special stress is placed on the regulation of all infringing behaviors aimed at preventing intrusiveness carried out either by security companies, no qualified staff, service providers which are materially carrying out private security activities, or by the users.

In this regard, it should be noted the effort made concerning infringement grading and grounds to determine the application of the relevant penalties, with the prime target of guaranteeing the greater individualization of those.

Lastly, in the final part, the text details all those necessary provisions to guarantee the correct transition from the 23/1992 Act of 30th July to the new legislation, especially until this be implemented by the relevant regulations.





## **PRELIMINARY TITTLE** **General Provisions**

### **CHAPTER I** **Common provisions**

#### **Section 1. Purpose**

1. This Act is aimed at ruling the performance and provision of private security activities and services that are carried out, by natural or legal persons, which are hired - voluntary or compulsorily - by private natural or legal persons to protect persons and goods. It also rules private investigations to be performed on those or these. All these activities are considered complementary and subordinated to public security.

2. Likewise, this Act establishes - on behalf of the public security - the framework for the most efficient coordination of private security services with law enforcement agencies, of which they are complementary.

#### **Section 2. Definitions**

For the purposes of this Act, the following terms mean:

1. Private security: a series of activities, services, tasks and security measures adopted, either voluntary or compulsory, by natural or legal persons, public or private, carried out or provided by security companies, private detective offices and private security staff to face deliberate acts or accidental risks, or to make inquiries about people and goods to guarantee the persons security, protect their property and to ensure their ordinary course of business.
2. Private security activities: material area of activities where private security providers carry out their business and professional activities.
3. Private security services: actions carried out by the service providers to implement private security activities.
4. Private security tasks: powers granted to private security staff.
5. Private security measures: provisions adopted to meet the required preventive or protective aims.
6. Private security service providers: private security companies, detective offices and the qualified staff to perform private security tasks.
7. Private security company: private natural or legal persons licensed, or subjected to the liability declaration to provide private security services.
8. Private security staff: those natural persons, who after being duly licensed carry out private security tasks.
9. Qualified staff: trainers of training centers, engineers and technicians who perform the duties tasked by this Act and security operators.
10. Private security user: natural or legal persons that, voluntarily or forced, hire private security services or take private security measures.
11. Private detective offices: offices made up of one or more private detectives who provide private security services.
12. Training centers for candidates, or private security staff: premises subject to the liability declaration system for providing training for private security staff in their facilities.
13. Standardized item, product or service: it is which meets the technical requirements or criteria under a technical rule for that purpose.
14. Licensed, certified or verified item, product or service: it is the one that has been licensed, certified or verified by an independent body set up for that purpose, and recognized by any Member State of the European Union.

#### **Section 3. Scope**

1. The provisions of this act will apply to private security companies, private security staff, detective offices, private security services, security measures and contracts agreed in this field.

2. Likewise, these provisions will be applied, where appropriate in each case to: facilities compelled to have security measures, private security services users, engineers and technicians of security companies, to security operatives, trainers of training centers, companies providers of computer security services, alarm reception stations for own use and private security training staff centers.

3. The penalty scheme and provisional measures, as well as the inspection powers, will be also applicable to those companies and staff who provide services or carry out private security services without having been licensed, failing to submit the liability declaration, or having not been qualified or licensed to the legal provision of those.





#### **Section 4. Aims.**

The targets of the private security are:

- a) To meet the private security users their legitimate need of security or information, ensuring the indemnity or privacy of persons or property whose security or investigation they are tasked with against potential violations of rights, intentional threats and accidental risks, or from natural hazards.
- b) To contribute to guarantee the public security, prevent infringements and provide information to the procedures related to their performances and investigations.
- c) To supplement the State's security monopoly, embedding their means and capacities functionally as an outsourcing resource of the public security.

#### **Section 5. Activities of Private Security.**

1. Private security activities are the following:

- a) Surveillance and protection of property, facilities, venues and events, both public and private, as well as the persons who are present in those.
- b) Accompanying, defense and protection of specific persons included those who have the legal authority status.
- c) Deposit, custody, counting, sorting of coins and bank notes, securities, jewels, precious metals, antiques, works of art or other objects that – for their economic, historic or cultural value and expectations they might raise- may require special surveillance and protection.
- d) Deposit and custody of explosives, weapons, metallic cartridges, substances, materials and any other objects that due to their hazardous nature require special surveillance and protection.
- e) Transport and distribution of the objects mentioned in the two previous paragraphs.
- f) Installation and maintenance of devices, equipments, mechanisms and security systems connected to alarm central headquarters, or video surveillance monitoring headquarter
- g) Headquarters exploitation for connection, reception and verification, and where appropriate, response and transmission of alarms signals, as well as monitoring of whatever signal of auxiliary devices for the security of persons, movable and immovable property or measures imposed, and reporting to the relevant law enforcement agencies in these cases.
- h) Private investigation involving persons, facts or crimes are only subjected to public prosecution.

2. The services related to activities mentioned in the above paragraphs a) to g) will be only provided by private security companies, without prejudice of the competences of law enforcement agencies. Detective offices will provide, on exclusive and excluding grounds, services related to the activity contained in the above paragraph h).

3. Public or private companies will be able to constitute - prior authorization of the Ministry of the Interior, or relevant regional autonomous body - alarm central headquarters for their own use to connect, receive and verify, where appropriate, response and transmission of alarm signals received by the security systems installed in movable or immovable property of their ownership; taking into account that no service can be rendered, through them, to third parties.

#### **Section 6. Compatible activities**

1. The following activities fall outside the scope of this act, without prejudice of the specific regulations applicable, especially standardization of products:

- a) Manufacture, marketing, sale, delivery, installation or maintenance of items, or products of security, and security locksmiths.
- b) Manufacture, marketing, sale or delivery of electronic security technical equipment, as well as installation or maintenance of those equipments provided that those were not connected to alarm headquarters, or video surveillance headquarters.
- c) Connection to alarm reception station of prevention or protection against fire, or alarms of technical or assistance nature, or of systems or services of control or maintenance.



- d) Planning, advising and assessing on private security activities. This will consist in elaborating security surveys and reports, risks analysis and safety plans related to protection against any type of risk, as well as audits on provision of security services.

These activities can be carried out by private security companies.

2. The following activities and duties fall outside the scope of this law, without prejudice of the specific regulations applicable, especially standardization of products, unless they involve taking over, or carrying out, private security services or duties, and will be ruled by the sector provisions applicable to each case:

- a) Those related to information or control in the access to facilities, being comprised the keys keeping and custody, opening and closing of doors, assisting in the accessing of persons or vehicles, meeting the internal regulations of the facilities where they provide that service, as well as taking over of auxiliary or subordinate tasks of help or relief, being all of those carried out in the gates or inside facilities, public premises, car parks, garages, highways, including their toll booths, service areas, maintenance and servicing and the rest which are carried out by doormen and caretakers and other analogous auxiliary staff.
- b) Those of reception, checking out and orientating visitors tasks, as well as others like checking out of tickets, papers or cards, in any type of buildings or premises and in accordance with the internal regulations of the facilities where they provide that service.
- c) Control of transit or circulation within reserved areas in the interior of premises under the internal regulations of those facilities.
- d) Checking and control of the conditions and working status of boilers, goods and facilities, in any premises to guarantee its preservation and operation.

Those services and tasks could be provided or carried out by private companies and staff, with supplementary, substitute or ancillary nature to the private security tasks performed, and under no circumstances, they were the main subject of the service provided.

3. The unqualified staff that provide services or carry out tasks included in the above paragraph, in no circumstance will carry out any tasks reserved to private security staff, or carry weapons or defense means, or wear insignias, uniforms or means that may lead to confusion concerning those used by this staff.

4. The private security service providers which selling, delivering or maintaining security technical equipments – unconnected to reception alarm stations, or to control headquarters, or of video surveillance – fall outside the application scope of the private security law.

5. Those private security companies involved in installation or maintenance of devices, equipment and protective systems which are not including connection to reception alarm stations, or control or video surveillance headquarters, are only subjected to private security regulations concerning to the private security activities and services for which they are licensed.

6. Companies, whether private or not, involved in Information technology- understood as a set of measures to protect computing systems to guarantee confidentiality, availability and integrity of it, or of the service provided by them, - for their direct impact on public and private companies – could have imposed some specific requirements to guarantee the quality of the services by regulations .

#### **Section 7. Excluded activities.**

1. This Act does not envisage the self protection activities as a set of prudential rules or measures that can be directly adopted or executed for and by the concerned persons, which are aimed to protect their personal or property environment, and whose practice or implementation does not involve any compensation and does not mean any provision of private security service to a third party.

Where those concerned were companies or entities of any type, they will never use their employees to implement the tasks envisage in the present Act, reserved to companies and staff of private security.

2. It fails outside the scope of this Act the collection of information or details by oneself, and hiring of reception, gathering, analysis, communication or provision of open information services contained in sources or registers of public access.



## **Section 8. Guiding principles.**

1. The private security services and tasks will be provided in compliance with the Constitution, this Act concerning to the principles of action, mainly, set out in the Section 30, and to the rest of the legal system.
2. Private security services providers will unfailingly cooperate in anywhere, with law enforcement agencies concerning anything that the late may dispose in relation to the material implementation of their activities.
3. In accordance with the law enforcement provisions, the security companies, detective offices and private security staff will have the special duty of assist and cooperate – at any moment – with them in the performance of their duties and to collaborate and follow their instructions in relation to the provided services involving public security or within their competences.
4. Private security companies, detective offices and staff:
  - a) They are not allowed to intervene or interfere – when they are performing their relevant services and duties - during meetings and demonstrations or during political or labor conflicts.
  - b) They may not exert any control about political, union or religious opinions, or on the utterances of those opinions. They neither can process -automated or not - data related to ideology, trade unions, religions or beliefs.
  - c) They are not permitted to disseminate, except judicial and police authorities for the performance of their duties, to third parties any information arising from the services, or duties provided to clients, or persons related to them, as well as goods and items whose security or investigation they were trusted with.
5. The Minister of the Interior or, where appropriate, the head of the relevant regional body will prohibit the use of certain material or technical means to private security services when those could damage or prejudice to third parties, or jeopardize the citizens security.
6. When private security staff are carrying out their duties in public or private companies which are, or were, declared to be essential by the relevant public authority, or where a security service was imposed, they should be subjected- concerning their strike rights- to the in forced regulations applied to these companies.

## **Section 9. Hiring and communication of services**

1. No private security service could be provided without its prior hiring, and where appropriate, authorization.
2. In line with the established regulations, the contract of services supplying different services of private security should, in any case, be written, and communicated to the Ministry of the Interior, or where appropriate, to the competent regional body before the service provision is initiated.
3. The contract communications of private investigation services will only contain data necessary to identify the contracting parties, personal details excluded.

## **Section 10. Prohibitions.**

1. In general, and apart from other prohibitions contained in this Act, the following bans are set:
  - a) The provision, or publicity, of private security services by natural or legal persons who are not relevantly licensed or fail to submit the liability declaration.
  - b) The performance of private security duties by natural persons who are not licensed or unqualified.
  - c) The provision of private security services failing to meet the requirements or legal terms to provide them.
  - d) The use, by private security services, of security means or measures no formally approved, or personal measures or means, or material or technical means which may attempt against the honor right, privacy or family, or right of personal portrayal, or communications secrecy, or failing to meet the conditions or terms covered by this Act and its implementing legislation.
2. Detective offices and private detectives shall not sign contracts whose subject is to investigate criminal offences, or in general, to investigate crimes. They are compelled to report immediately, before the relevant authority, any fact of this kind that they may know, and provide all information and instruments related to these crimes and collected up to that moment.
3. Security companies cannot carry out private investigation services which are under the scope of private detective offices and these cannot perform services inherent to private security companies.



## **Section 11. Private Security National Registry and Regional Registries**

1. The Private Security National Registry of the Ministry of the Interior will ex officio register private security staff, private security companies and private detective offices once the relevant authorizations are granted or qualifications or licenses are obtained, or liability declarations are submitted. Also, their branches and offices, training centers of private security staff and central alarm receiver of their own use when those are not registered in the regional communities will be registered.

Likewise, the Private Security National Registry will also register penalties on private security, announcements of procurements, and their amendments and any other detail deemed necessary for controlling and managing private security actions provided throughout a territory different from a regional community with powers on private security.

2. In the registries of the regional communities will be ex officio registered - once the relevant authorizations are granted or, where appropriate, the liability declarations are submitted, or the mandatory licenses are obtained - private security companies and private detective offices, and their branches and offices, training centers of private security staff and central alarm receiver of their own use which are addressed in the regional community and whose activities are restricted to its territory.

Likewise, the Private Security National Registry will also register penalties on private security, communications on procurements, and their amendments, as well as any other detail deemed necessary for controlling and managing private security actions provided throughout a territory different from a regional community with powers on private security.

3. In the abovementioned National Register, apart from the information on the private security companies registered on, information on private security companies registered in regional communities with power on the subject will be included.

Accordingly, the competent bodies of the above mentioned Regional Communities have to inform the Private Security National Registry of the details and entries that they made on private security companies registered and amendments and cancellations registered.

4. In the already mentioned National and Regional Registers, will be also recorded details of companies carrying out computer security activities, in accordance with the established provisions.

5. Authorities responsible for the National and Regional Registers will establish mechanisms of coordination and reciprocity necessary to enable interconnection and interoperability, coordinated establishment of numbering of private security companies and access to recorded information contained in those, to carry out their respective competences.

6. These registers will have public access only concerning to the entries related to full name or business name, addresses, tax identification number and activities of private security companies, detective offices, training centers of private security staff and central alarm receiver of their own use which they are licensed for, or have submitted their liability declarations.

7. The organization and running of the Private Security National Registry will be regulated.

## **CHAPTER II**

### **Competences of the State General Administration and of the Autonomous Communities**

#### **Section 12. Competences of the State General Administration.**

1. It corresponds to the State General Administration under the Ministry of the Interior guidelines and, if it is the case following the Government Delegations and Sub-delegations (NT) ones, to fulfill the following commitments.

- a) The authorization or reception of the "liability declaration", inspection and punishment of the private security companies and their branches whose competences/powers have not been assumed by the autonomous communities (regions).
- b) To receive the "liability declaration", for the opening, inspections and punishment for private detective bureaus and their branches, when the enforcement of such powers does not corresponds to the autonomous communities.
- c) The licensing and un-licensing of security staff, and the regulation of their weapons, documentation, uniforms, badges, and defense resources of that staff, as well as their credentials, in any case, of the security company engineers, technicians and security operatives.

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<sup>NT</sup> Central Government representative Body at Regional or Provincial Level



- d) The approval, modification and cancellation of the specific programs and training courses for the private security staff not being under the authority of the Ministries of Education , Culture and Sports, Employment and Social Security.
- e) The reception of the “liability declaration”, inspection and punishment of the security operatives training centers whose competence has not been assumed by the autonomous communities as well as the licensing, in any case of their teaching staff.
- f) The authorization, inspection and punishment of the private personal protection services when it does not fall within the autonomous communities’ competence, and of those activities and trans-border security services that could be performed by the private security companies and their staff.
- g) The authorization of both private security services and central alarm monitoring station services, for self use, delivered on a geographical area exceeding the territory of one autonomous community, with powers in private security matters, as well as the inspection and punishment of the same when they are performed outside the territory of the mentioned autonomous community.
- h) To rule by Regulations the technical and standardization characteristics of the private security products, systems, devices, equipment measures and services.
- i) To rule by Regulations for what type of establishment it must be compulsory to have private security measures, as well as to establish the type and range of the compulsory measures for every type of establishment.
- j) The authorization, inspection and punishment of the establishments and industrial premises, business and service facilities obliged to adopt security measures, when the enforcement of such power is not competence of the autonomous communities.
- k) Coordination of the private security and investigation services with the State Law Enforcement Agencies (LEAs).

2. Within the scope of the State General Administration and pursuant to the Law Enforcement Agencies legislation:

- a) The control of the private security entities and services it is incumbent on the National Police Directorate General and
- b) The Civil Guard Directorate General it is incumbent on the enforcement of its competences on the weapons matters of both private security companies and staff and security guards in rural areas and their specialties. Notwithstanding the competences of National Police Directorate General, The Civil Guard could participate in the private security staff’s control during its operational activity performed in the Civil Guard’s competence scope.

### **Section 13. Autonomous Communities Competences.**

1. The autonomous communities that under their autonomic statutes have competences for protecting persons and properties and maintaining public order, will execute the State legislation on the following matters:

- a) Licensing of private companies and their branches, as well as the reception of the “liability declaration” for the opening of private detectives’ offices and their branches, for both cases, when they have their addresses at the same autonomous community and their operational activity is limited to its territory.
- b) The licensing of private security services to be performed in the autonomous community when the same need it or a former control.
- c) The inspection and punishment of the activities and services of private security to be performed in the autonomous community as well as the parties involved as services provider or user and the inspection and sanction of private detective offices and their branches performing their activities in the autonomous community.
- d) The reception of the liability declaration, inspection and punishment of private security staff training centers whose headquarters is at the autonomous community.
- e) The coordination of security and investigation of private security services performed in the autonomous community with the autonomic or local police services
- f) The authorization, inspection and punishment of the premises, industrial and commercial and services facilities based in the autonomous community that are obliged to adopt security measures.

2. The autonomous communities that by virtue of their autonomic Statutes, have assumed executive competences in private security matters whenever it is established by the relevant legislation of the State will exert it if they have their own autonomic police force or in case they have cooperation framework established with National Police as it have been foreseen in the legislation concerning law enforcement agencies, son the following matters:

- a) Authorization, inspection and punishment of the private security companies that have their address in the autonomous community whose territorial jurisdiction is limited to its territory.
- b) To report and inform the relevant competent authorities of the infringements committed by security companies not included in the above paragraph



## **TITTLE I** **Coordination**

### **Section 14. Professional co-operation**

1. The especial cooperation obligation of the security companies, the private detective offices, and private security staff with law enforcement agencies will be developed meeting the rule of law and it will exclusively be based on the need of preservation of the good cause of the actions aiming at public security preservation. Discretion and confidentiality will be also guaranteed when necessary.
2. Private security companies, and private detective offices and private security staff must inform Law Enforcement Agencies, as soon as possible, of any relevant circumstance or information for maintaining or restoring public order, as well as any delinquency act of which they may be aware, during the performance of their activity or functions, as well as to deliver the presumed offender to the, the LEAs, the instruments used, items and evidence related to them.
3. Law Enforcement Agencies could provide private security staff, when performing their functions information making easier their risks assessment and therefore the implementation of protection measures. If this information has personal data it only could be disclosed in case of actual danger for public security or for preventing criminal facts.

### **Section 15. Law Enforcement Access to information.**

1. Dissemination of data would be authorized when considered necessary to contribute to the citizens security preservation, as well as the access by Law Enforcement Agencies to the systems installed by the private security companies allowing the checking of information in real time companies when it could be necessary for preventing real hazard for public safety or for preventing the perpetration of criminal offences.
2. Processing of personal data, as well as the automated or non-automated files, established for the enforcement of this Act will be made under personal data protection regulations.
3. Communication of information, in good faith, to the law enforcement agencies by the private security entities and staff does not be an infringement of the restrictions on information disclosures bans imposed by contract or by any legal, administrative or regulatory provisions, when it may be necessary for prevention of an actual danger/hazard for public security or for prosecuting criminal offences.

### **Section 16. Coordination and participation.**

1. The Ministry of the Interior or if it is the case the competent autonomic body will adopt organizational measures that became adequate for private security service coordination with Law Enforcement Agencies.
2. Within the scope of the State General Administration competences it will be set up private security national, autonomic or provincial joint committees having the advisory and cooperation character for cooperation between the different public administration and this business area. Their membership and functions will be set up by the corresponding Regulations.
3. In the Autonomous Communities that have assumed private security competences pursuant Section 13 provisions, there may also exist advisory bodies for private security matters, with the membership and functioning that for every case may be deemed necessary.





## TITLE II Private security companies and private detective offices

### CHAPTER I Private Security Companies

#### Section 17. Performance of their duties

1. Private security companies will only provide the services foreseen under the Section 5.1 regulation, except the one contemplated under paragraph h) of the same Section.
2. Private security offices will only perform their services concerning the compatible activities listed under Section 6 and to be engaged in the training, updating and specialization of private security staff, belonging or not to their staff. In this case, they must establish training centers, pursuant Section 29.4 provisions and to the enforceable regulations.
3. Private security companies can be incorporated as society or as sole proprietorship firm, for both cases they must fulfill the whole conditions and requirement foreseen in this chapter for private security companies.

#### Section 18. Administrative licensing

1. For delivering private security services, private security companies must obtain an administrative license and they will be incorporated (ex-officio) in the corresponding register, in accordance with the rules laid down.
2. The administrative license can be exchanged by a liability declaration when they aim exclusively to be engaged in the private security activity regulated by Section 5.1.f.)
3. The validity of both the administrative license and of the liability declaration will be for an indefinite period

#### Section 19. General Requirements

1. For getting the administrative license, or if it is the case, to submit the liability declaration, and the subsequent registration in the Private Security National Registry or before the appropriate autonomous registry and the performance of private security services, private security companies must fulfill the following general requirements:
  - a) To be lawfully incorporated and registered in the Mercantile Register or in the corresponding public registers and to have as exclusive corporate purpose, all or some of the activities listed under Section 5.1., except the one under paragraph h). However, in this purpose can be included the activities that result unavoidable for the accomplishment of the private security activities, as well as the compatible ones contemplated under Section 6.
  - b) To have the nationality of and EU Member Estate or the nationality of an State signatory of the European Economic Area Agreement.-
  - c) To have the appropriate human, training, financial and technical resources, -that following the proportionality principle, be legally laid down, based on the activity types- for which the authorization approval is requested or for which the liability declaration is submitted and based on the characteristics of the services to be provided concerning such activities. Particularly, when the services to be provided demand the use of weapons, there must be adopted measures guaranteeing their appropriate custody, use and functioning. Likewise, the engineers and technical staff of private security companies and security operators must hold the corresponding credential issued by the Ministry of the Interior. It will be limited to check the honorability of the applicant and that he/ she lacks of criminal record pursuant the terms legally laid down.
  - d) To have the security measures legally lay down.
  - e) To conclude indemnity insurance or to be covered by other financial guarantees by the sum and with conditions to be legally determined.
  - f) To provide a financial endorsement that will be set up by the corresponding Regulation or to take a guarantee insurance at the disposal of the Spanish authorities, to cover, exclusively the administrative responsibilities for infringements to the private security regulations derived from the company functioning.
  - g) Not to be sentenced by final sentence by crimes such as criminal bankruptcy against the Treasury, crimes against Social Security or against workers rights, by illegal intrusion in the domain of right to honor to personal and family privacy and image violations of the rights for the privacy of correspondence and communications or affecting other fundamental rights, except if they already have their criminal records deleted. In case of legal persons, this requirement would be enforceable for their administrators de iure or de facto and representatives whose current position or representation is still valid. They can not be affected by the above mentioned situation due to actions performed on behalf or in benefit of the above mentioned legal persons





- h) Not to be sentenced by final sentence by illegal intrusion in the domain of right to honor to personal and family privacy and image violations of the rights for the privacy of correspondence and communications or affecting other fundamental rights five years before the application date. For the case of legal persons their administrators de iure or de facto and representatives whose current position or representation is still valid can not be affected by the above mentioned situation due to actions performed on behalf or in benefit of the above mentioned legal persons.

2. Besides fulfilling the general requirements, the private security companies that have as corporate purpose any of the activities contemplated under Section 5.1.b), c), d); e) and g) ,could be demanded by regulations to fulfill the requirements and additional guarantees adequate to the specificity of the services that involve such activities.

3. Likewise, concerning the activities contemplated in Section 5.1.a), f) and g), the requirements concerning staff and material resources can be enlarged pursuant the enforced regulations, to be able of delivering security services in critical infrastructures or essential services, As well as in the services described in Section 40.1 and Section 41.2. and 3.

4. For hiring private security services in the strategic areas defined in the critical infrastructures, the private security companies must have before delivering them with a certificate issued by an authorized certifying entity guaranteeing, at least, their compliance of the relevant administrative, labour, Social Security and taxes regulations.

5. Concerning the effects foreseen in the paragraph 1.e) and f, of this Section there would be taken into consideration the requirements already demanded in the European Union Member States or party in the Agreement on the European Economic Area (EEA) of origin concerning to conclude indemnity insurance or to be covered by other financial guarantees, as well as provide a financial guarantee or to take a guarantee insurance.

6. Non- Spanish private security companies, dully authorized to provide private security services following the regulation of any of the European Union Member States or under the States party to the Agreement on the European Economic Area, have to be compulsorily registered in the Minister of the Interior National Private Security Register, or when they have their domicile in an autonomous Community with competence in private security matters and performance scope limited to that community territory in the corresponding autonomic register. To this effect, they must prove their condition of private security companies and their fulfillment of these Act requirements pursuant to the relevant regulations.

7. Without disregarding the former paragraphs regulations, private security companies having as exclusive corporate purpose the installation or maintenance of appliances, devices and security systems that involve the delivering of services of communication with alarm centers could be exempt of some of the requirements demanded by this Section, except the contemplated under paragraphs e) and f) of paragraph 1, when it be legally laid down.

8. The occurrence of non-compliance of the requirements laid down by this Section will result in the authorization cancellation or to into the company closure, in case of liability declaration, and for the two cases in the ex-officio cancellation of the security company registration in its corresponding register.

## **Section 20. Registration**

1. Every authorized private security company or that has submitted the corresponding liability declaration will be registered ex-officio in the National Private Security Register or in the corresponding autonomic register.

2. No company- with coincident name with another firm already registered or if it coincides with the name of public entities or buildings or in case it could be misleading or caused confusion with an already registered for identical or similar activities trade mark -can be registered but in case the incumbent holder of the same applies or gives his/her consent to it.

## **Section 21. General obligations.**

1. Private security companies must fulfill the following general obligations:

- a) To develop the private security activities under this Act terms and following the conditions established by the granted authorization or by the submitted liability declaration.
- b) To have the infrastructure and logistics pursuant the requirements established by this Act and its corresponding regulation.
- c) To report to the National Register or to the autonomic one any change in its legal status, name, tax ID number, address, branches, performance territory, legal representatives, company's statutes, holders' of the , company shares and participations and any change occurred on it administrative, management, representation, and direction company bodies.



- d) Private Security companies must report to the National Register or to the autonomic one of the place where they are performing their activity their private security employees' entry and leaving dates and any concrete incident concerning the delivered services.
- e) To guarantee training and refreshment professional courses of their private security staff and of the company's staff who is in need of private security training. Keeping its skills in the use of fire guns will be made with the participation of qualified shooting instructors.
- f) To submit yearly to the Minister of the Interior or to the competent autonomic body a report on their activities and a summary dully audited of their annual accounts when it is required including the information and statutory required data. In no case that account summary will have personal data. Yearly, the Ministry of the Interior and relevant autonomic bodies will inform, on this business to the Cortes Generales (national Spanish legislature) and to the corresponding autonomic Parliaments, respectively.

2. Likewise, private security companies will have to assist and cooperate with law enforcement agencies (LEAs) and have to provide them with all the information that LEAs may request them concerning the competences granted to the same.

## **Section 22. Legal representatives.**

1. Under these Act regulations, legal representative of the private security companies is whoever assumes or performs direction, administration, management and representative tasks, or any of these tasks on behalf of the companies.

2. The private security company representatives that will be registered in the Private Security National Register or in the corresponding autonomic register will have:

- a) To be a natural person residing in the territory of one of the European Union Member State or Party to de Agreement on European Economic Area.
- b) To lack of any criminal record for intentional crimes.
- c) To have not been punished the former two or four years on grounds of serious o very serious infringements, respectively in private security matters.
- d) Nor have be separated from service the Army or Law Enforcement Agencies, nor to have performed control function of entities or security services, private surveillance or investigation, nor concerning their staff or resources as member of Law Enforcement Agencies, two years earlier.
- e) Not to be Manager "de iure" or "de facto" or authorized agent ten years earlier, in a company involved a so called "guilty bankruptcy proceeding" or that had been delivered final sentence by bankruptcy involving malpractice crimes against the Treasury, against social security or against workers rights, by illegal intrusion in the domain of right to honor to personal and family privacy and image violations of the rights for the privacy of communications an other fundamental rights by illegal intrusion in the domain of right to honor to personal and family privacy and image violations of the rights for the privacy of communications and other fundamental rights.

3. Private security company representatives will be responsible of the enforcement of legal obligation imposed by the former section.

## **Section 23. Consideration of specific sector**

1. Private security companies have consideration o economic sector with specific regulation regarding the right o establishment.

2. When the Council of Ministers, pursuant the regulation on foreign investment, suspends the deregulation rules in respect capital movements' a previous authorization to foreign investments in private security companies, will demanded, in any case, a former Ministry of Interior report.

3. Security companies receiving foreign capital investments will be obliged to report to the Ministry of Interior any change made in the same concerning the Section 21.1.1.c) regulations.

4. The limitations established in the two former paragraphs are not applicable to the nationals of the EU Member States nor to the companies incorporated pursuant a Member State legislation whose headquarters, central administration or main activity centre is based inside the European Union.



## CHAPTER II Private detective offices

### Section 24. Opening of private detective offices.

1. Pursuant the enforceable regulations, private detective offices could be set up and if it is the case, branches of the same, by natural persons qualified as such and the legal persons, consisting exclusively of qualified private detectives that can only perform the activity mentioned in Article 5.1. h).
2. Every authorized private detective office will be registered ex-officio in the National Private Security Register or in the corresponding autonomic register detectives, submitting, before hand, the corresponding liability declaration under the enforceable regulations. They must fulfill the following general requirements:
  - a) To have as professional activity object the performance of services of private investigation contemplated by the Section 48.1 and pursuant the regulations of Article 10 of this Act concerning activity bans.
  - b) For legal persons, to be lawfully incorporated and registered in the Mercantile Register or in the corresponding public register, and satisfy the requirement of Section 19.1.g) and h).
  - c) Establish an address as office physical headquarters of the office where will be performed its activity. The registry book will be kept and will be found the records of hiring files and the investigation report
  - d) To provide a nominal list of the private detective associated to the office as associated members or dependent on it.
  - e) To conclude indemnity insurance or to be covered by other financial guarantees by the sum and with conditions to be legally determined
  - f) To provide a financial endorsement or to take a guarantee insurance at the disposal of the Spanish authorities, to cover exclusively the administrative responsibilities for infringements to the private security regulations derived from the offices functioning.
  - g) To kept, the rightful holder and all the rest detective members of the office, their accreditation of professional qualification
  - h) To have implemented the security measures according to the regulations in force.
3. The validity period of the liability declaration needed for the detectives' offices and branches opening will be indefinite.
4. Detective offices can have corporate or sole entrepreneur form. In both cases, they have to fulfill all the requirements and obligations foreseen under this chapter for the detective offices.
5. The occurrence of non-compliance of the requirements laid down for the opening of the detective offices will result into their closure and into their registration ex-officio cancellation at the Private Security National Register or in the corresponding register of the autonomous community .

### Section 25. General Obligations

1. Private detective offices and their rancher must fulfill the following general obligations:
  - a) To draft a contract for each investigation service requested, informing about its conclusion to the Ministry of the Interior, or if it is the case, to the relevant autonomic body following the regulations in force. Likewise, the mentioned obligation will persist for the cases of subcontracting among detective offices.
  - b) To kept a record-book, with a format according to the regulations in force entering each investigation service hired o subcontracted.
  - c) To inform their clients about the incident concerning the entrusted matters, delivering them, if it is the case, the report made on the investigation..
  - d) Immediate delivery to the judicial authority or to the relevant law enforcement agencies of any information on criminal actions they may know because of their work or due to the investigations they are performing.
  - e) Whenever requested by the judicial authorities or by Law Enforcement Agencies to respond to their calling as soon as possible and to provide them with the information they may have obtained regarding the investigations that such public bodies maybe performing.
  - f) Whenever summoned by courts and tribunals or by police units to which their information has been passed or their reports submitted, to witness and ratify, if it is the case, the content of the mentioned investigation reports.
  - g) To secure the conservation and filing of the documentation concerning their professional activities, mainly: contract, report, book and audiovisual material obtained.
  - h) To report to the Ministry of the Interior, or if it is the case, to the competent autonomic body any change affecting their legal status, name, composition, headquarters address, branches, according to the regulation in force.
  - i) To submit to the Ministry of Interior or if it is the case to the relevant autonomic body, an Activity Report regarding the former year, with the information to be statutorily determined. It can not include personal



data of the contracting or investigated parties. Yearly, the Ministry of the Interior will report on this business to the Cortes Generales (national Spanish legislature) and to the corresponding autonomic Parliaments, respectively.

- j) In case of detective office shut down, by any cause, to deposit the professional documentation on contracts, investigation reports, register-books in the premise of the National Police, or if it is the case in autonomic police relevant body.

2. The holders of the private detective offices will have civil liability for acts and omissions of the dependent or associated private detectives during the performance of their services.



### TITLE III Private security staff

#### CHAPTER I Common provisions

##### Section 26. Professions in the private security sector

1. Private security tasks can only be performed by security operatives and experts on this matter as explosive security guards, private bodyguards, security guards in rural areas and their specialties: gamekeeper, *guardapesca* (*maritime* fishery protection guard), security head, security directors and private detectives.
2. To get qualification as explosive security guard it is necessary to obtain beforehand security guard qualification. To get qualification as gamekeeper, and sea fishing ranger is necessary to be qualified as security guard in rural areas.
3. To perform services in critical infrastructures and in those having essential relevance for the community, as well as for others demanding it for the sake of their specific characteristics, the requirements concerning the private security staff training could be statutory enlarged.
4. Obtaining by the private security staff of additional qualification would be made according the enforceable by regulations. The development of these regulations will exclude to get qualification for the training already credited and will assess for obtaining the mentioned qualification the proved experience performing private security function.
5. Uniforms, badges, and defensive material of private security staff an rural areas security guards and its specialties will be established by statutorily.

##### Section 27. Professional licensing

1. To perform the functions mentioned in the above mentioned section, the staff mentioned have to obtain before hand the corresponding licensing credentials issued by the Ministry of the Interior in the terms statutorily determined.
2. The qualification credential applicants will be issued the professional ID card that will include all the qualifications they may have. The professional ID card will be the accreditation public document for private security staff while performing their tasks.
3. Professional qualification of private security staff will correspond to the National Police Directorate General, except rural areas guards and their specialties expertising, that will correspond to the Civil Guard Directorate General.
4. Private security staff will only perform the activities to which it is professionally qualified.
5. The conflicts of interest (incompatibility) for performing private security tasks will be statutorily regulated

##### Section 28. General requirements

1. To obtain the professional qualification credentials mentioned the former article, applicants have to fulfill the following general requirements:
  - a) To be nationals of one of the European Union Member States or of one States party to the European Economic Area Agreement or to be national of a third State that had signed with Spain an international convention by which each party recognizes each other the possibility of the performance of these activities to their nationals in the territory of signatory party.
  - b) To be over 18 years old
  - c) To have physical fitness and psychological aptitude for performing these functions.
  - d) To have the formerly the training requested in Section 2.
  - e) To lack of any criminal records for intentional crimes.
  - f) Not be punished the former two or four years, respectively, on the ground of a serious or very serious infringement, respectively in private security matters.
  - g) Not to be separated from service in the Spanish or his/her country Army or Law Enforcement Agencies two years earlier.



- h) Not to be condemned, the five year before his/her request b by illegal intrusion in the domain of right to honor to personal and family privacy and image violations of the rights for the privacy of communications an other fundamental rights.
- i) To pass the tests to be statutorily established by the Ministry of the Interior, showing that they have the necessary knowledge and capacities for performing their duties.

2. Besides the general requirements established in the above paragraph, private security staff have to fulfill, for their licensing, the regulation to be established concerning the specific requirements for the function that they have to perform.

3. The lost of some the requirements listed in this article will lead to the extinction of their licensing and to cancel ex-officio the recording in the National Registry.

4. Serving public officials and the rest of personnel working at any of the public administrations, can be licensed, but can not perform private security staff functions, except when they perform the security director function of the centre they belong to.

Law Enforcement Members can perform private security functions when they are in an administrative function different to active service, provided that two years before they have nor performed control functions of private security entities, services ,or security actions, surveillance, or private investigations actions nor concerning their staff or resources.

5. Nationals of other European Union Member States or of States Members to European Economic Agreement, whose professional licensing or qualification has been obtained in one of the above mentioned ember states for performing private security functions in the same, could provide their services in Spain, whenever that with former check of the Ministry of the Interior, the following requirements are fulfilled:

- a) To hold a degree, license, or qualification issued by the competent authorities of any member state to the European Economic Agreement authorizing them to perform private security functions in the same.
- b) To prove knowledge, training and aptitudes equivalent to the requirements demanded in Spain for performing the professions related with private security.
- c) To have at enough knowledge of Castilian for the normal level performance of private security functions
- d) The ones contemplated under paragraphs b), e) ,f) ,g), and h).of aline 1.

6. The lack or insufficiency of necessary knowledge or aptitudes for performing in Spain private security functions by nationals of both the Member States or by nationals of the States parties to the European Economic Agreement, can be make up for the enforcement of the compensation measures foreseen in the present regulation on acknowledgement of professional qualifications pursuant with the regulations in force.

## **Section 29. Training**

1. The requested training for private security operatives will consist of:

- a) For security guards, explosive security guards, private body guards, security guards in rural areas, gamekeepers, maritime fisheries protection ranges: to get the corresponding training certificate, issued by a security operative training centre that have submitted the liability declaration to the Ministry of the Interior or to the competent autonomic body or to obtain the corresponding certificates of professional private security operative and/ or rural areas and maritime fisheries protection ranger, or to obtain the professional training certificate as lay down by the Government upon proposal of the Ministry of Education, Culture and Sports. For these two last cases, the knowledge and capacity test regulated under Section 28.1.i) would not be requested.
- b) For security heads and directors to get an official university degree in the security scope certifying the achievement of the skills or capacities established, or getting the Security Director/Manager certificate sanctioned by the Ministry of the Interior
- c) For private detectives, to get a university degree in the private investigation field certifying the achievement of the skills or capacities established, or getting the Security Director/Manager certificate sanctioned by the Ministry of the Interior.

2. When they are Law Enforcement Agencies or Army members there would be considered by the corresponding regulations both the professional and experience degree qualifying them for performing the different functions of private security, with the requirements, in any case, of the knowledge and capacity test regulated by Section 28.1.i).

3. Under the regulation of paragraph 1, -the pre-training of the staff contemplated under its subparagraph a), who lacks of the corresponding expertising or professional certificates, as well as of their refreshment and expertising courses- will have to be delivered in the private security training centers having submitted the liability declaration to





the Ministry of the Interior, or to the corresponding autonomic body, and by teachers licensed by the above mentioned Ministry.

4. Private security staff teaching centers need to be established and, for their functioning to submit the corresponding liability declaration before the Ministry of Interior or competent autonomic body. They have to fulfill, among other requirements that can be statutorily established, the following requirements:

- a) To prove by any title their right of use of the premises.
- b) the corresponding municipal activity license
- c) List of qualified teachers
- d) Suitable premises to achieve their targets.

5. Law Enforcement Agencies members can not be holders or perform directive or managing function of private security centers when they have performed regarding the same control of the entities, their services or actions, or concerning the staff or resources, in private security matters the previous two years.

6. Private security companies can set up training and refreshment courses centers for private security operatives belonging or not to their own staff following the conditions set up in paragraph 4.

7. The Ministry of the Interior will draft the pre-training and expertising programs corresponding to private security staff. In the programs content will be included specific subjects concerning respect for both diversity and equality of treatment and no discrimination.

### **Section 30. Code of Ethics**

Besides Section 8 rules, private security staff will perform its tasks pursuant the following basic principles:

- a) Lawfulness
- b) Integrity
- c) Dignity during its performance
- d) Propriety in citizens' relations.
- e) Congruence, applying balanced security and investigative measures appropriated to risks.
- f) Proportionality of use of techniques and defensive and investigation means.
- g) Maintain professional confidentiality on facts known when performing their functions.
- h) Cooperation with Law Enforcement Agencies. Private security staff is compelled to specially assist and cooperate with Law Enforcement Agencies and deliver them the necessary information for performing their tasks and to follow LEAs guidance concerning the private security service they are delivering.

### **Section 31. Legal protection of authorized officer**

The aggressions or disobedience against private security staff dully identified are considered aggressions and disobedience against law enforcement officer, whenever they perform private security duties cooperating and under the command of Law Enforcement Agencies officials.





## CHAPTER II

### Private security industry functions

#### Section 32. Security guards and their speciality

1. Security guards will perform the following functions:

- a) To watch over and protect goods, establishments, places and events, private and public, and the people who could be inside, executing the checkings, searches and necessary precautionary measures in order to fulfil their mission.
- b) To carry out checks related to identity, personal belongings, parcels, merchandises or vehicles, including the interior of them, in the entrance gate or inside the buildings or properties where service is provided and, in no case, to retain personal documents, but being allowed to deny the access to the above mentioned buildings or properties. In case of refusing to show the identification or to allow the check of personal belongings, parcels, merchandises or vehicle, the guard will be enabled to deny the individuals the access or to order them to leave the protected building or property.
- c) To avoid the commission of criminal acts or administrative offences concerning the object under protection, executing the necessary verifications to prevent them or to avoid their perpetration. The security guard must oppose them and intervene if any kind of offence is taking place or if any kind of help is needed due to humanitarian or urgency grounds.
- d) In relation to the object under protection, to detain and to make immediately available to the law enforcement agencies the criminals and instruments, effects and evidences of crime, as well as to report those who commit administrative offences. They will not be enabled to conduct an interrogation, even though the annotation of personal data in order to communicate them to the authorities will not be considered as such.
- e) The above mentioned functions in the former paragraph shall be without prejudice to the Criminal Procedure Code and the cases in which any person can carry out a detention.
- f) To protect the storage, count, classification, transportation and delivering of money, works of art and antiques, securities and other valuables, as well as the cash handling and other procedures inherent to the execution of these services.
- g) To provide, according to the operation of the alarm receiving centre, the services of personal verification and response to the alarm signs received.

Besides, they will also be enabled to perform the functions of reception, non personal verification and transmission to the law enforcement agencies. Such functions are contained in the article 47.1 concerning the security operatives.

2. Security guards will devote themselves exclusively to their own security functions, not being allowed to perform simultaneously any other function which is not directly related to them.

3. The function of the security guards in charge of explosives, who must work for a security company, is the protection of the storage, transportation and other procedures inherent to the execution of these services, in relation to explosives or other dangerous objects or substances indicated by the regulations.

The contents related to the uniform, weapons and provision of the service above established for security guards will also be applicable to those in charge of explosives.

#### Section 33. Private bodyguards.

1. The functions of the private bodyguards are: the escort, defence and protection of certain people, or groups of people, avoiding that they can be the goal of aggressions or criminal acts.

2. In carrying out their duties, bodyguards will neither be enabled to perform identifications or detentions, nor to avoid or restrict the freedom of movement, except if it is an essential consequence of an aggression or clear intended aggression towards the protected person or people or towards the bodyguards themselves. In that case, the detainee/s must be made available to the law enforcement authorities without conducting any kind of interrogation.

3. In order to fulfil the above mentioned functions, the contents contained in the article 32 and other related precepts concerning security guards will also be applicable to private bodyguards, except those about the uniform.

#### Section 34. Security guards in rural areas and their specialities.

1. In rural areas, security guards will perform the functions of surveillance and protection of people and goods, as well as agricultural, industrial and commercial facilities inside of them.



The general regulation established for the security guards will be applicable in rural areas, except the functions contained in the article 32.1.e).

2. The gamekeepers must perform the functions above mentioned in relation to the security guards in rural areas and, besides, the surveillance and protection inside the game ranches concerning the different aspects of the hunting regulation and inland fishing areas.

3. The coast water bailiffs must perform the functions contained in the section 1 for the security guards in rural areas and, besides, the surveillance and protection of the aquaculture facilities and maritime areas with fishing goals.

4. The gamekeepers and coast water bailiffs will be enabled to withdraw the specimens and devices, including weapons, used to commit an offence, delivering them immediately to the law enforcement agencies.

### **Section 35. Security Chiefs.**

1. They are part of the staff of the security company and their functions are the following:

- a) The analysis of risk situations and the planning and schedule of precise interventions in order to establish and execute the private security services.
- b) The organization, management and inspection of private security staff and services.
- c) The proposal of the appropriate security systems, the monitoring of their performance and maintenance, being enabled to temporarily validate them until the inspection and authorization, if so, carried out by the Administration.
- d) The control of the permanent training of the security staff that depend on them, and the proposal to adopt appropriate measures or initiatives to achieve that goal.
- e) The coordination of the different security services that depend on them, acting as civil protection would do in situations of emergency, catastrophe or public calamity.
- f) The guarantee of the collaboration between the security services and the law enforcement institutions.
- g) The monitoring of the observance of private security applicable rules.
- h) The responsibility for the safekeeping and move of weapons belonging to the company for which he works, according to the weapon regulation and other established regulation.

2. The existence of the security chief in the private security companies will be compulsory as long as they perform all or some of the activities contained in the paragraphs a), b), c), d) and e), Section 5.1.

Depending on an organizational or technical complexity, or other circumstances established by regulation, the existence of a specific security chief for some of the mentioned security activities will be demanded.

3. The exercise of functions will be delegated by security chiefs according to the established regulation.

### **Section 36. Security Directors.**

1. In relation to the company to which they provide services, the functions of security directors are the following:

- a) The organization, management, inspection and administration of private security available services and resources.
- b) The identification, analysis and evaluation of risk situations which may affect the life and safety of people and assets.
- c) The planning, organization and monitoring of the precise interventions in order to establish the measures leading to the prevention, protection and reduction of any kind of risks with precise means and measures, through the process of drawing up and development of the applicable security plans.
- d) The monitoring of the performance and maintenance of private security systems.
- e) The temporary validation until the checking carried out by the Administration, if so, of the security measures concerning their appropriateness to the private security regulation.
- f) The verification of the private security installed systems and hired companies in relation to the requirements indicated in the official approval established by the competent institutions.
- g) The communication to the competent law enforcement agencies in relation to the circumstances or information relevant for the public security, as well as the information concerning the criminal acts they may know in the exercise of their duties.
- h) The connection with the Administration, particularly with the law enforcement agencies, concerning the function of integral security of the hiring organization, company or group of companies, in relation to the regulatory compliance about the management of any kind of risks.
- i) The verification of the necessary aspects about the staff which, due to the exercise of the required functions, involves the access to areas or information, in order to guarantee the effective protection of the organization, company or group of companies.



2. The users of private security will put at the head of the integral security of the organization, company or group of companies a security director when it is required by the development regulation in this act due to the dimension of the security service; when it is agreed by a government decision, according to the security measures and degree of risk concentration, or when a special regulation stipulates it.

The provisions of this paragraph are also applicable to the private security companies.

3. In the security companies the security director will be enabled to reconcile the functions with those belonging to the security chief.

4. In case a security company provides services to a user who already has a security director, the functions of the security chief contained in section 35.1.a), b), c) and e) will be assumed by that security director.

5. The delegation of the exercise of functions by the security directors will be possible according to the established regulation.

### **Section 37. Private Detectives.**

1. Private detectives will be in charge of the personal execution of the private investigation services contained in section 48, through the carrying out of inquiries related to people, facts and private behaviours.

2. In the exercise of their duties, private detectives will be obliged to:

- a) Write the inquiry reports concerning the cases they are in charge of.
- b) Ensure the necessary collaboration with the law enforcement agencies when their professional acts are related to criminal activity or that they may affect the public security.
- c) Ratify the content of their inquiry reports before the judicial or police authorities when they are required to do so.

3. The exercise of their respective duties will be compatible neither with the functions of the rest of the private security staff, nor with functions typical of the staff serving any Public Administration.

4. Private detectives will not be enabled to investigate any public prosecution offence, as a matter of fact, they must report immediately before the competent authority any act of this kind they know, and make available all the information and instruments they may have obtained until that time.



## TITLE IV Security services and measures

### CHAPTER I Common provisions

#### **Section 38. Provision of private security services.**

1. Private security services will be provided in accordance with this Act, particularly with Sections 8 and 30, and its development regulation, according to the contract requirements and, if so, with the granted authorization or presented affidavit.
2. Private security services will be provided only by private security companies, detective offices and private security staff.
3. The conditions and requirements to subcontract private security services will be established by regulation.
4. Security guards, guards in charge of explosives, private bodyguards and security chiefs will perform their professional functions inside the security companies which have hired them.
5. The security directors in private security companies or other organizations obliged to count on them, will perform their functions being part of the staff of the company, according to section 36.
6. Security guards in rural areas will be enabled to perform their functions without being hired by a security company, providing their services directly to the holders of goods and rights who may hire them, according to what is established by regulation, for services of surveillance and protection of agricultural areas, game ranches concerning the different aspects of the hunting regulation and protected maritime areas with fishing goals.
7. Private detectives will perform their professional functions through the detective offices to which they provide their services.

#### **Section 39. Form of provision.**

1. The means used by the security companies to provide private security services must be officially approved by the Ministry of Interior. In any case, vehicles, uniforms and logos will not lead to confusion with those belonging to the law enforcement agencies or the armed forces and they will adjust to the features established by regulation.
2. Private security staff in uniform, composed of security guards, guards in charge of explosives and security guards in rural areas including their specialities, will provide services wearing the uniform, showing the position emblem and carrying the means of defence established by regulation, not including the firearms.

The exceptions concerning the obligation to use uniform and emblem when performing functions will also be established by regulation.

3. Once the appropriate license is granted, only the private security services contained in section 40 will be provided with firearms, and those established by regulation.

The appropriate weapons to perform the security services will only be carried while being on duty, except other cases established by regulation.

4. Except those cases expressly laid down by this act or any other established by regulation taking into account the special features of certain private security services, security guards will perform their functions inside the buildings or properties whose surveillance they are in charge of.

5. Private security staff will carry the professional identity card and, if so, the appropriate documentation of the firearm while performing private security services.



## CHAPTER II

### Services provided by private security companies

#### Section 40. Services with firearms.

1. The following private security services will be provided with firearms according to the established regulation:
  - a) Surveillance and protection of storage, count, classification and transportation of money, securities and valuables.
  - b) Surveillance and protection of factories and dumps or transportation of weapons, metallic cartridges and explosives.
  - c) Surveillance and protection in merchant and fishing ships sailing under the Spanish flag in areas where there is a serious risk for the security of people or goods.
  - d) Perimeter surveillance and protection in penitentiary facilities, detention facilities for aliens, military establishments or other buildings or facilities belonging to public entities, including critical infrastructures, when it is demanded due to their features and circumstances.
2. Regulation will establish the cases in which, taking into account certain circumstances such as location, value of the objects to protect, level of risk, danger, darkness, rural or hunting areas or other similar ones, firearms will be carried under authorization for the provision of private security services.

In the same way, firearms will be carried under authorization for the provision of the services of personal alarm verification, if it is necessary to guarantee the safety of the staff that provides them, taking into account the service, the object of protection or other circumstances related to it.
3. Private security staff will be enabled to carry the firearm only on duty, and will access with it to the area where this service is provided, except if the contrary is established by regulation. In case of exceptions for certain cases, they will also be established by regulation.
4. The appropriate firearms to provide every service will be established by regulation.

#### Section 41. Surveillance and protection services.

1. Surveillance and protection services related to the activities contained in section 5.1.a) will be provided by security guards or, where appropriate, by security guards in rural areas, who will perform their functions, in general, inside the buildings, facilities or properties to protect. Nevertheless, these services will also be provided out of these areas without previous authorization, even in routes or public spaces of common usage, in the following cases:
  - a) The surveillance and protection against manipulation or use of goods, machines or valuable equipment in routes or public spaces or those of common usage.
  - b) The withdrawal and replenishment of money in cash dispensers, as well as the provision of services of surveillance and protection during the mentioned operations, or the repair of breakdowns.
  - c) The movements outside the protected buildings to perform the activities directly related to the surveillance and security tasks concerning those buildings.
  - d) The surveillance and protection of the means of transport and their infrastructures.
  - e) The services of patrol or discontinuous surveillance, consisting of the intermittent and planned visit to the different established surveillance posts or the different protected places.
  - f) The pursuit of those caught *in flagrante delicto*, concerning the people or goods object of surveillance and protection.
  - g) Those situations in relation to humanitarian grounds.
  - h) The following services of surveillance and protection.
2. Previous authorization from the competent body will be required for the following services of surveillance and protection, services that will be provided in coordination, if appropriate, with the law enforcement agencies, and according their instructions:
  - a) The surveillance in delimited industrial parks and housing estates, including routes and spaces of common usage.
  - b) The surveillance in delimited commercial and leisure centres.
  - c) The surveillance in cultural, sporting or other socially relevant events taking place in routes or public spaces or those of common usage in coordination, in any case, with law enforcement agencies.
  - d) The surveillance and protection in precincts and delimited open spaces.

The conditions and requirements to provide these services will be established by regulation.



3. After the decision of the competent body, and following a strict observance of the orders and instructions of the law enforcement agencies, the following services of surveillance and protection will be provided:

- a) Perimeter surveillance in penitentiary facilities.
- b) Perimeter surveillance in detention facilities for aliens.
- c) The surveillance of other buildings or facilities belonging to public entities.
- d) The participation in the provision of services entrusted to public security, complementing the task of the police. These services can also be provided by security guards in rural areas.

#### **Section 42. Video surveillance services.**

1. Video surveillance services consist of surveillance through fixed or mobile camera or video camera systems, able to capture and record images and sounds, including any similar technical means or system.

If the goal of these services is to prevent offences, avoid damages to protected people or goods or block non authorized entries, they will be provided necessarily by security guards or, where appropriate, by security guards in rural areas.

The following services will not be considered video surveillance: using cameras or video cameras to verify the condition of facilities or goods, the access control to parking lots or garages, the activities developed from the control centres and other points, zones or areas belonging to toll motorways. These tasks can be carried out by non private security staff.

2. Private security cameras or video cameras will not be used to capture images and sounds from public routes and spaces or with public access except in cases established by specific regulation, and with the administrative authorization by the competent body in each case. Its usage inside a home will require the consent of the owner.

3. Administrative authorization will not be required for the installation and use of video surveillance cameras which are part of compulsory security measures, or systems of reception, verification and, where appropriate, response and transmission concerning alarms.

4. The recordings from the video surveillance systems will not be used in a different way in relation to their goal. When they contain information related to criminal acts or to public security, they will be provided, on own initiative or at request, to the law enforcement competent agencies, with respect to the criteria of conservation and safekeeping for the valid provision as evidence in police or judicial investigations.

5. The monitoring, recording, processing and registration of images and sounds by the video surveillance systems will be submitted to the regulation concerning personal data protection, and specially to the principles of proportionality, adequacy and minimum intervention.

6. For any case not contained in this act and its development regulations, the law enforcement rules about video surveillance will be applicable.

#### **Section 43. Personal protection services.**

1. Personal protection services, provided by private bodyguards, will consist of the escort, care, defence and protection of the liberty, life and personal safety of determined people or groups of people.

2. Personal protection services will be provided regardless of the place where the protected person is, including transit or traffic on public roads, without being allowed to carry out identifications, traffic restrictions or detentions, except in case of *flagrante delicto* related to the object of protection.

3. This services will be provided only after authorization from the Ministry of Interior or from the competent autonomous region body, as it is established by regulation.

#### **Section 44. Security deposit services.**

1. Security guards will be in charge of security deposit services, related to the activity contained in section 5.1.c), and these services will be compulsory when the objects reach the value established by regulation, as well as when the competent authorities decide it according to the background and circumstances related to such objects.

2. Security guards in charge of explosives will provide the security deposit services related to the activity contained in section 5.1.d), and these services will be compulsory when they imply the surveillance, caution and special protection, according to the specific regulation or when the competent authorities decide it in relation to the background and circumstances related to such objects or substances.





#### **Section 45. Security transport services.**

The services related to the transport and delivery of the objects and substances mentioned in the previous section will be provided with specially equipped vehicles for each type of transport or other security specific standardized elements for transport, and they will consist of material move and protection during the process or transport, executed by security guards or security guards in charge of explosives, according to this act and its established development regulation.

#### **Section 46. Installation and maintenance services.**

1. The installation and maintenance services of security instruments, equipments, devices and systems connected to alarm reception centres, control or video surveillance centres will consist of the execution, carried out by qualified licensed technicians, of all the operations of installation and maintenance of such instruments, equipments, devices or systems, which are necessary for their right functioning and good execution of their goal.

The features of the compulsory previous installation project, drawn up by qualified licensed engineers, will be established by regulation.

2. These systems must be submitted to preventive inspections considering the regularity and method established by regulation.

#### **Section 47. Alarm management services.**

1. Security operators will be in charge of alarm management services, which will consist of the reception, non personal verification and, where appropriate, transmission of alarm signs, in relation to the security and protection of people and goods, to the law enforcement competent agencies.

2. The services of response to alarms will be provided by security guards or, where appropriate, by security guards in rural areas and will include the following services:

- a) The deposit and custody of the keys of buildings or objects where the security systems connected to the alarm centre are installed and, where appropriate, their transportation to the place where the verified alarm sign comes from or the controlled remote opening from the alarm centre.
- b) The movement of security guards or security guards in rural areas in order to carry out the personal verification of the received alarm.
- c) To facilitate the access to police or emergency services depending on the circumstances, through controlled remote opening from the alarm centre or through the available means and devices.

3. If services are related to the analysis and monitoring of events of information and communications security, they will be submitted to the regulations. Alarm signs concerning these events must be brought to the notice of the competent body, by the user or by the hired security company.

### **CHAPTER III** **Services provided by private detective offices**

#### **Section 48. Private investigation services.**

1. Private investigation services, provided by private detectives, will consist of the execution of the necessary inquiries to obtain and provide, on behalf of legitimized third parties, information and evidences related to private behaviours or facts about the following aspects:

- a) Those related to the economic, labour, commercial, financial scopes and, in general, to the personal, family or social life, except in homes or reserved places.
- b) To obtain information in order to guarantee the normal development of activities in fairs, hotels, exhibitions, spectacles, contests, conventions, huge commercial areas, public facilities with an important attendance and other similar contexts.
- c) The execution of inquiries and the search of information and evidences related to offences prosecuted only on a private charge through the request made by the legitimized subjects in the criminal proceeding.

2. In order to accept the request of these services by the private detective offices it will be compulsory for the applicant to prove the legitimate claimed interest, and it will be registered in the hiring and investigation file which will be opened.





3. Under no circumstances the private life will be object of investigation in homes or other reserved places. In the same way, personal, material or technical means will not be used in this type of services if they commit an outrage against the right to honour, personal or family privacy, self-image, privacy of communication or data protection.
4. While providing investigation services, private detectives will not be enabled to use means, vehicles or badges which could lead to confusion with those belonging to the law enforcement agencies.
5. In any case, detective offices and private detectives in charge of investigations will ensure the rights of their customers with respect for those of the investigated subjects.
6. Private investigation services will be executed under the principles of reasonableness, necessity, adequacy and proportionality.

#### **Section 49. Investigation reports.**

1. For each hired service, offices or private detectives in charge of the subject will draw up an only report which will contain the registration number assigned to the service, the data of the person who requires and hires the service, the matter for hiring, the means, the results, the participant detectives and the actions carried out, under the conditions and within the periods established by regulation.
2. The investigation report will only contain information directly related too the object and goal of the hired investigation, without references, information or data found out concerning the customer or the investigated subject, in particular those personal specially protected, not necessary or not directly related to such object and goal or to the legitimate interest claimed for the hiring.
3. Such report will be at the customer's disposal, to whom it will be delivered, where appropriate, when the service finishes, and at the competent police authorities' disposal for inspection, according to what is contained in the section 54.5.
4. Investigation reports must be filed, at least, during three years, without prejudice to section 16.3 in the Organic Law 15/1999, 13<sup>th</sup> December, about personal data protection. Recorded images and sounds during investigations will be deleted three years after the end of the investigations, except when they are related with a judicial proceeding, a police investigation or a sanction procedure. In any case, the processing of such images and sounds will take into account the regulation about personal data protection, specially about the blocking of data established in that regulation.
5. Private investigations will be confidential and data obtained through them will only be at the customer's disposal or, where appropriate, at judicial and police bodies' disposal, this last case only for a police investigation or a sanction procedure, according to section 25.

#### **Section 50. Duty of professional confidence.**

1. Private detectives are obliged to keep confidence about the investigations they carry out and they will not facilitate data or information about them except to the people who requested them and to the judicial and police competent bodies to execute their tasks.
2. The access to the content of the investigations carried out by the private detectives will be given only through judicial or police requirement related to the exercise of their tasks for a criminal investigation or a sanction procedure.

### **CHAPTER IV** **Private security measures**

#### **Section 51. Adoption of measures.**

1. Any individual or legal entity, public or private, can be provided with private security measures focused on the protection of people and goods and the ensuring of the normal development of personal or business activities.
2. For the purpose of preventing the commission of criminal acts against them or for being a source of direct risks or particularly vulnerable, the regulation will determine the industrial, commercial or service establishments and facilities and the events that will be obliged to adopt security measures, as well as the type and characteristics of those that must be implemented for each case.
3. The Ministry of Interior or, where appropriate, the competent autonomous region body will be enabled to order the owner of industrial, commercial or service establishments and facilities and the organizers of events to adopt the security measures established by regulation.



When the implementation of such measures in public entities is considered necessary, the competent body will make the appropriate proposal and, in agreement with the administrative body or entity on which the facilities to protect depend, will issue the proper decision.

4. The central and local offices of the private security companies related to the security operational matter and the private detective offices and their branches will be obliged to adopt the security measures established by regulation.

5. The celebration of events and opening or functioning of establishments and facilities and security companies and its local offices and detective offices and its branches, mentioned in the paragraphs 2 and 3 will be determined by the effective implementation of the security measures which are considered compulsory for each case.

6. The competent bodies can free from the implementation of compulsory security measures if the circumstances of a specific case make the measures unnecessary or inappropriate.

7. The owners of the establishments, facilities and private security companies and their local offices, as well as the private detective offices and their branches and the organizers of events will be responsible for the adoptions of the compulsory security measures for each case.

The security companies in charge of the provision of the hired security measures will be responsible for their correct installation, maintenance and functioning, without prejudice to the responsibility of obliged employees or owners of the establishments, facilities or organizers, in case of irregularities in the functioning which are imputable to them.

8. Those users who, without being obliged, adopt security measures in general or other security measures additional to the compulsory ones will be submitted to this act and its development regulations.

## **Section 52. Types of measures.**

1. For the exclusive purposes of this act, the following types of security measures can be adopted, aimed to the protection of people and goods:

- a) Physical security: to prevent or restrict the access to certain places or goods through the interposition of any kind of physical barrier.
- b) Electronic security: to detect or warn about any kind of threat, danger, presence or attempt of assault or intrusion through the activation of any kind of electronic device.
- c) Computer security: to protect and safeguard the wholeness, confidentiality and availability of the information and communication systems and the information contained inside of them.
- d) Organizational security: to avoid or put an end to any kind of threat, danger or deliberate attack through the arrangement, scheduling or planning of missions, tasks or jobs formalized or executed by people; such as the creation, existence and functioning of security departments or the elaboration and application of all kind of security plans, as well as other similar ones which can be adopted.
- e) Personal security: to provided security services established in this act and different of those above mentioned.

2. The characteristics, elements and purposes of the security measures of any kind, whoever uses them, will be regulated in accordance with what is prescribed by this act about the degrees and characteristics, the regulation containing technical specifications for an activity or product. In the same way, such security measures, material means and alarm systems must count on the evaluation from the accredited certification entity at the time of the installation and with indefinite validity except in cases of damage or installation of a new system which must be according to the applicable standardization.



## **TITLE V** **Administrative control**

### **Section 53. Control actions.**

1. It falls within the scope of the competent law enforcement agencies in the exercise of the tasks of control of companies, detective offices, services or actions and their staff and means concerning private security, the fulfilling of the orders and instructions given by the bodies contained in sections 12 and 13.
2. While executing these tasks, the members of the competent law enforcement agencies can request the relevant information and adopt the necessary temporary measures in section 55.
3. If in the exercise of control actions they detected the possible commission of an administrative offence, the competent authority will be urged to initiate the appropriate sanction procedure. In case of commission of a criminal action, it will be immediately notified to the judicial authority.
4. Anybody who is aware of irregularities committed within the scope of private security can report them to the competent authorities or civil servants, with the aim of the possible execution of the appropriate control and sanction actions.
5. The access granted to control bodies will be limited to the necessary data to carry out such control.

### **Section 54. Inspection actions.**

1. The competent law enforcement agencies will establish annual plans of ordinary inspection for companies, private detective offices, staff, services, establishments, training centres, security measures and any other activity or service regulated in this act.
2. Regardless of such inspection plans, in case of reports about irregularities committed in the scope of private security, they execute the verification of the reported facts and, where appropriate, to urge the initiation of the appropriate sanction procedure.
3. Concerning the above mentioned purposes, security companies, detective offices and private security staff, as well as the establishments obliged to hire private security services, training centres, alarm centres for own use and the users who hire such services will facilitate the competent law enforcement agencies the access to their facilities and means for inspection purposes, as well as to the information contained in the security contracts, investigation reports and register books, when and how it is established by regulation.
4. Inspection actions will be carried out under the principles of minimum interference and proportionality, and their goal will be the verification of the adjustment to the applicable regulation.
5. If inspection actions focus on private investigation services they will be very careful in relation to the execution, above all, concerning the obtained images, sounds or personal data in the investigation file. Actions will be limited to the verification of its existence, without going into details, except if they are related to a judicial or police investigation, or a disciplinary procedure.
6. The above mentioned inspections will be carried out by the National Police Force, Guardia Civil for security guards in rural areas and their specialities and training centres and courses; or by the competent autonomous region police force.
7. After the inspection, the above mentioned staff will draw up the appropriate report and, in case of offence, it will be communicated to the competent authority.
8. The access granted to the inspection bodies will be limited to the necessary data to execute it.

### **Section 55. Temporary measures previous to the proceeding.**

1. The members of the competent law enforcement agencies are enabled to adopt as an exception the following temporary measures previous to the possible initiation of a sanction proceeding, communicating their adoption immediately to the competent authority:
  - a) The seizure or seal of vehicles, weapons or forbidden equipments, not standardized or which may be dangerous or harmful, as well as instruments and effects of the offence, in cases of serious risk or imminent danger for people or goods.
  - b) The stoppage, along with the seizure of means or instruments employed, of those security services provided without the compulsory guarantees and legal formalities or without the necessary authorization



or liability declaration, or when they may cause damage or harm to third parties or endanger public security.

- c) The cessation of security services when it is confirmed that they are provided by companies, alarm centres of own use or detective offices which are not authorized or without liability declaration, or by staff who are not qualified or licensed for legal exercise.
- d) The cessation of training activity concerning private security when it is confirmed that the training centres have not submitted the liability declaration or teachers are not qualified licensed trainers.
- e) The disconnection of alarm systems whose malfunction affects public security adversely or causes troubles to third parties. In case of establishments obliged to be equipped with this security measure, the disconnection will be replaced by a permanent surveillance service and private protection.
- f) The removal of the professional identification card concerning security staff of the license concerning licensed staff in case of being arrested due to involvement in the commission of crimes.
- g) The stoppage, partial or total, of activities from glaringly vulnerable establishments without the compulsory security measures activated.

2. These measures must be confirmed, modified or revoked within a period of not more than fifteen days. In any case, they will have no effect if, by the expiry of that time limit, the sanction proceeding is not initiated or the initiation accord does not contain an express declaration about them. The competent body to confirm, revoke or modify the temporary measures will be the same competent body to initiate the sanction proceeding.

3. The time of application of the measures contained in paragraph 1 will be notified to those concerned, and will not exceed six months.

4. In the same way, regardless the criminal or administrative responsibility, the members of the competent law enforcement agencies will take over the weapons which are carried or used illegally, in accordance with the weapons regulations.



## TITLE VI Penalty System

### Chapter I Penalties

#### Section 56: Classification and lapsing of the offences.

1. Infringements/ violations/ breaches to this Acts rules can be minor, serious or very serious.
2. Minor infringements will lapse in 6 months, serious ones in a year, and very serious infringements in two years.
3. The lapse period will start to run after the date of the infringement commission. For the infringements committed on a continuous basis, the date considered for calculating the lapse moment will be the end of such activity or the date when the last violation was performed.
4. The infringement lapse will finish at the opening, with knowledge of the involved party, of the penalty proceedings, the lapse term will continue running if the proceedings are halted, for six months, by reasons attributable to the charged parties.

#### Section 57. Infringements of the companies developing private security activities, their legal representatives, the private detective offices and of the self-use emergency call centers.

The companies developing private security activities, and their legal representatives, the private detective offices and the self-use emergency call centers may commit the following infringements:

##### 1. Very serious infringements:

- a) To provide security services to third parties lacking of the appropriate licensing or in case of not submitting the liability declaration foreseen under Section 18.1 and 2 for delivering the services concerned.
- b) Hiring or using private security services, of persons lacking of the appropriate license or accreditation.
- c) The performance of banned activities following Section 8.4., about meetings or demonstrations, political conflict or labour disputes, control of opinions or their expression, or the information to third parties on assets whose security and investigation would have been entrusted to them, or any other type of breaching of the confidentiality duty that does not be considered a crime and except they were considered infringements to the personal data protection regulations.
- d) The installation or use of technical or material resources not being standardized when that standardization is compulsory and the same may cause serious damages to persons or general interests.
- e) The refusal to provide, if it is relevant, the information of the private security hiring contract, from the books of records or the access to the private security reports.
- f) The failure to comply with enforced regulations on acquisitions and use of weapons, as well as on the availability of gun-racks/ gun security cabinets and custody of the same, particularly the holding of weapons by the staff at their service beyond the case authorized by this act or the hiring of shooting trainers lacking the corresponding license.
- g) To deliver private security services with guns beyond this Act regulations.
- h) Refusal to provide assistance or cooperation to Law Enforcement Agencies in: investigating and prosecuting criminal acts; searching and arrest of criminals; or in carrying out inspection or control tasks of their responsibility.
- i) Non-compliance of the duty imposed to the legal representatives by the Section 22.3.
- j) The absence of compulsory security measures, on the side of private security companies and private detective offices in their headquarters, branches and agencies.
- k) To skip out the service delivery conditions set up by the relevant authority regarding the strike rights in essential services, or during which the security service would have been compulsorily imposed, for those cases established by Section 8.6.
- l) Unaccomplishment of the requirements imposed to the security measures pursuant to Section 19.1,2, and 3 and Section 35.2.
- m) Non-compliance of the requirements imposed to detective offices under Section 24. 1 and 2.
- n) Fail to transmit to relevant Law Enforcement Agencies the actual alarms triggered in the private alarm centers, included those for self-use, as well as to delay their transmission , whenever such behaviours are not justified.
- ñ) To deliver compatible services, pursuant Section 6.2 using non-licensed staff using weapons of defensive resources reserved for private security staff.
- o) To perform private investigations for requesting parties not having legitimate interest in the subject.
- p) To provide private security services without concluding the corresponding contracts.



- q) The implementation or use, for private security services, of measures of personal, material or technical resources, in such a way that the same means an attack on person' honor, personal privacy or self image or on communications confidentiality whenever it does not involves a crime.
- r) The lack of information to be submitted by the computer security companies concerning incidents affecting the system whose security is their task when it is compulsory.
- s) To commit a third serious infringement or one serious and another very serious in a period of two years whenever it has been sanctioned by the former ones.
- t) To perform activities other than private security ones, except the listed as compatible under this Act 6 Section.

## 2. Serious infringements:

- a) The installation or use of non-standardized material or technical resources when standardization is compulsory.
- b) To deliver private security services with vehicles, uniforms, logos/badges weapons or defensive equipment not having the regulatory features
- c) To perform private security services lacking of the specific licensing requirements or not having submitted of the liability declaration for the performance of such services. This infringement will be also committed when such services are delivered outside the territorial scope for which they are licensed or for which the liability declaration has been submitted, or lacking of the former license or of the mentioned declaration when both are compulsory, or when they are performed in conditions specifically foreseen in the service license.
- d) Retention to the private security staff of either their professional documentation or their credentials as accredited staff.
- e) Providing private security services without correctly communicating the corresponding contracts to the Ministry of Interior or to the relevant autonomic body, or for the cases where that communication was made after the start of the service.
- f) To perform private security services without accomplishing the corresponding contract stipulations.
- g) The unjustified no substitution before abandonment or the service omission by private security staff, during the established working hours.
- h) Employ private security staff for performing that duties, with a minimal seniority of one year in the company, who has not attended to the corresponding refreshment or expertising training courses, who has not pass them or whoever has not receive them with the periodicity statutorily established.
- i) The lack of submission to the Ministry of the Interior or to the autonomic relevant body of the validity certificate of the insurance contract, endorsement of the surety insurance under the term established in the Section 19.1.e) and f) and 24.2.e) and f), as well as the non submission of the activities report and the summary of the annual accounts following section 21.1.e), or the no submission of the memory following the Section 25.1.i)
- j) To communicate one or more false alarms by negligence, poor functioning or no prior verification.
- k) The opening of branches or offices without the necessary license o without the submission of the responsibility statement before the relevant body, whenever it is mandatory.
- l) No reporting to the Ministry of the Interior, or if it is the case to the autonomic relevant body, the private security staff hiring and dismissals, as well as any change of their legal representatives and any change of the staff, administration, management and representatives/proxies and executive members.
- m) To deliver private security services without wearing the appropriate uniform or without the mandatory means.
- n) Not performing the annual compulsory checking of both security systems and or security measures whose entertainment was hired by them.
- ñ) The lack of any of the compulsory register books or the no-completion of the same.
- o) No communication to the Ministry of the Interior, or if it is the case, to the autonomic relevant body of any change concerning their legal personality or legal status, or name, tax identification number or address.
- p) No keeping, at any moment, the requirements established for the legal representatives under Section 22.1.
- q) ) The miss-function, on the side of private security companies and private detective offices their headquarters, representative delegations or branches of the compulsory security measures as well as the no fulfillment of the compulsory security checks
- r) To deliver compatible services contemplated under Section 6.2 using not licensed staff and wearing uniforms or emblems that could be misleading with those of private security.
- s) Unaccomplishment of the requirements imposed on the cyber security companies.
- t) Delivering services without the fulfillment of the requirements established under Section 19.4
- u) Actions of the private security staff outside of the premises , buildings or properties whose surveillance or protection were entrusted to the private security companies by reasons of providing services of such a types that fall beyond of the lawfully foreseen assumptions/cases.
- v) Failing to deposit the professional documents on contracts, investigation reports and register books in the premises of the National Police, or if it is the cased with the autonomous relevant Police force, in case of private detective offices closure.





- w) To commit a third minor infringement or a serious one plus one minor, in a two years period if it has become punished by the former ones.
- x) Advertising on the side of public or private companies of private security services if they do not have the corresponding authorization or without presenting the liability declaration.
- y) To deliver private security services under different conditions of those foreseen in the corresponding contract communications/ messages.

### 3. Minor Infringements:

- a) Failing to review, at the periodicity established, the compulsory checks of systems or security measures whose maintenance they would have hired.
- b) Using for private security services vehicles, uniforms or emblems that may have the appearance or a similarity to Law Enforcement Agencies or Army ones.
- c) Failing to complete the compulsory register books diligently
- d) Generally the unaccomplishment, of the procedures, conditions or formalities established under this Act provisions, whenever it is not a serious or very serious infringement.

### **Section 58: Infringements of the staff performing private security tasks**

The staff performing private security tasks, as well as engineers, technicians, security operators and licensed teachers may incur in the following infringements:

#### 1. Very serious infringements:

- a) To perform private security duties for third parties lacking of the corresponding licensing or qualification.
- b) Failing to comply this Act provisions both on possession of firearms when out of duty an on their use.
- c) The absence of the deserved secrecy on the facts known during the performance or their duties or using material or technical means in such a way that it be an attack on ones honor, to personal or family intimacy, to self image o to the communication secrecy. When it does not becomes a crime.
- d) Refusal of assistance or cooperation to any Law Enforcement Agency, when this is relevant for investigating an prosecuting criminal acts, for searching and arrest of offender; or when performing their inspection or control functions.
- e) To reject self identification as private security staff when performing their respective duties before the relevant Authority or agents when they were requested it.
- f) Investigation of offenses prosecuted ex officio or failing to report to the relevant authority the crimes known by private detective when performing their functions.
- g) To perform banned activities under Section 8.4 on meetings and demonstrations, labor and political conflicts, opinion control or their utterance, or the information to third parties on assets whose security they have entrusted, in case the same are not considered offences, except when they mean an infringement to the regulation on personal data protection.
- h) To perform their function abusively regarding citizens.
- i) To perform, order or tolerate, during their job performance, abusive, arbitrary or discriminatory practices, including bullying/ harassment mobbing, involving physical or moral violence, whenever they were not crimes.
- j) The abandonment or the unjustified omission of service by private security staff, during their established working hours.
- k) The drafting or execution of projects for making security systems installations or maintenance of security systems switched to alarm emergency calls centers, video-surveillance control centers, without having the corresponding license issued by the Ministry of Interior.
- l) No-drafting the compulsory investigation report that private detectives have to make or no delivering the same to the person who hired the service, or drafting parallel reports.
- m) To perform private security functions by the staff concerned by Section 28.3 and 4.
- n) To perpetrate a third serious infringement or a serious one and another very serious during a two years period, if punished by the former ones.

#### 2. Serious infringements:

- a) Performing private security functions when they exceed the license obtained.
- b) To perform private security functions by licensed staff, no integrated into private security companies, or in the staff of the same, whenever it is compulsory pursuant the Section 38.5 regulations or living aside the private detective offices.
- c) Lack of respect for persons' dignity or honor.
- d) To exert the right to strike, leaving aside the regulation concerning those services declared essential by the relevant public authority , or for those ones to which the security service has been compulsory imposed under the terms of Section 8.6.
- e) No identification when performing their respective functions, if they are requested by citizens.





- f) The retention of identity documents contrary to the provisions of Section 32.1.b.).
- g) The lack of professional diligence when performing their respective functions the licensed or qualified staff
- h) Professional identification using document or badges different to those lawfully established or showing them accompanied with emblems similar to law enforcement agencies or Army ones
- i) Refusal to attend to the compulsory permanent training courses
- j) The drafting or execution of projects for making security systems installations or maintenance of security systems switched to alarm emergency calls centers, video-surveillance control centers not adjusted to the technical standards lawfully established.
- k) Total or partial omission of the data that compulsory have to be included the investigation report that must be made up by private detectives.
- l) To perform private security functions incompatible among them, by staff who is licensed for them
- m) To perpetrate a third minor infringement or a serious one and another minor during a two years period, if punished by the former ones.
- n) Provisional validation of systems or security measures that are not adequate to the private security regulations

### 3. Minor Infringements:

- a) To act without the appropriate, lawfully requested uniforms or resources, or without carrying the badges or professional documentation, as well as without the corresponding firearm used for the entrusted service.
- b) Inappropriate or impolite treatment of citizens
- c) The total or partial unaccomplishment, by the licensed technicians of the document justifying the compulsory reviews of the security systems switched to alarm reception centers, control centers or video surveillance ones.
- d) In general, failing to comply with the procedures, conditions or formalities established by this Act, whenever it is not considered a serious or very serious infringement.

### **Section 59. Training centers and users' infringements**

Private security users' and private security staff training centers may commit the bellow listed infringements:

#### 1. Very serious:

- a) Hiring or using, knowledgably private security company's services or detective offices lacking the specific license or the liability declaration necessary for delivering private security services.
- b) The use of alarm devices or any other security item not standardized when they were able of harm persons or general interests seriously.
- c) Non compliance by the training centers of the conditions and requirements requested in the liability declaration, or delivering courses without submitting it.
- d) To reject the assistance or cooperation with competent Law Enforcement Agencies during their performance of the inspecting measures regarding the safety systems of the training centers and other obliged centers.
- e) The inadequacy of the training courses delivered by the training centers to the established regulations regarding their duration, modalities and contents.
- f) Failing to adopt or implement the security measures that are compulsory.
- g) No reporting the incidents detected and confirmed in their information and communications control center when it is compulsory
- h) Hiring or using persons lacking the corresponding qualification for providing private security services or the use of teaching staff not having license in teaching
- i) To commit a third infringement serious or very serious and another very serious in a period of two years if he/she has been disciplined by the other ones.
- j) To start operating, the reception alarm centers for self use by public or private entities, without a former license.
- k) Force hired licensed staff to perform other tasks than the functions for which they were hired.

#### 2. Serious:

- a) Failing to comply with the compulsory review of the of the system or security measures installed.
- b) Using non standardized alarm devices or any other non standard security devices.
- c) Failing to report to the relevant body any modification affecting any of the requirements that were compulsory for getting the training centers authorization.
- d) To deliver training courses out of the authorized training center premises.
- e) The abnormal functioning of the compulsory security measures adopted or installed when they cause damages for public or third parties security.
- f) The use of teaching staff not dully licensed for teaching activities



- g) The perpetration or a third minor infringement or a serious one plus another minor infringement in a two year, having been punished by the former ones.
- h) Failing, the users of private security, to place for managing the company comprehensive security a security director to manage the company or group of companies security, which is contrary to Section 36.2.

### 3. Minor

- a) Using security devices or gadgets without following their regulation or when their functioning provokes damages or disturbances to third parties.
- b) The abnormal functioning of the measures or security systems already installed.
- c) The irregularities in performing the foreseen records/ searches<sup>NT</sup>.
- d) In general, failing to comply with these Act obligations that are not serious or very serious infringements.

### **Section 60. “Colaboración Reglamentaria” (Regulatory Cooperation)<sup>NT</sup>:**

The regulations developing this Act could introduce/ include specifications or ranking the framework of infringements or sanctions established by this Act that without being new infringements or sanctions, for changing the nature or limits of those contemplated by this Act, can contribute to a better identification of behaviours or to a more precise definition of the corresponding sanctions.

## **Chapter II Penalties**

### **Section 61. Sanctions to companies performing private security activities, their legal representatives, private detective offices and self use alarm centers.**

Relevant authorities could impose, by the infringement listed under Section 57, the following sanctions:

#### 1. For committing very serious infringements they will get:

- a) A fine from 30,001 up to 60,000 Euros
- b) Extinction of the license or close of the company or office for the cases of the liability declaration that will imply a ban to obtain or present it, respectively, by a term ranging from one and two years, and deleting its registration in the relevant registry.
- c) A ban for holding legal representation job positions in private security companies ranging from one to two years.

#### 2. For committing serious infringements:

- a) A fine from 3,001 up to 30,000 Euros.
- b) Temporal suspension of the authorization or of the liability declaration by a term ranging from six months to one year.
- c) A ban for holding legal representation job positions in private security companies ranging from one to two years.

#### 3. For committing minor infringements you can get:

- a) A warning
- b) A fine from 300 to 3,000 Euros.

### **Section 62. Staff sanctions.**

Relevant authorities can impose, for infringements in accordance Section 58, the following sanctions: typified under 58 Section:

#### 1. For committing very serious infringements:

- a) Fine from 6,001 up to 30,000 Euros.
- b) Extinction of the license that will imply a ban to obtain or present it, respectively, by a term ranging from one and two years, and deleting its registration in the National Register.

<sup>NT</sup>: . In Spanish the text does not allow a clear disambiguation as ie: registro=file, record or search; cumplimentación=to make, fill, implement, complete sth or .

<sup>NT</sup>: Administration sanctioning powers



## 2. For committing serious infringements:

- a) Fine from 1,001 up to 6,000 Euros
- b) Temporal disqualification of the license from six months up to one year.

## 3. For committing minor infringements:

- a) A warning
- b) A fine from 300 to 3,000 Euros.

### **Section 63. Sanctions to user and training centers.**

Relevant authorities can impose for the perpetration of the infringements typified under Section 59, the following sanctions:

## 1. For committing very serious infringements:

- a) A fine from 20.001,- up to 100,000 Euro.
- b) Closing of the training center, that will involve the ban of submitting the liability declaration for its opening during a period ranging from one up two years, and, and cancelling of its registration in the corresponding registry office.
- c) Closing, from six months up to two years of the premises not having implemented the compulsory security measures.

## 2. For committing serious infringements:

- a) Fine from 3,001 up to 20,000 Euro
- b) Temporal ban of the training center liability declaration by a period from six months up one year.

## 3. For committing minor infringements:

- a) Warning
- b) Fine from 300 to 3.000 Euros.

### **Section 64. Sanctions graduation:**

To grade the sanction, competent bodies would have to consider the seriousness and transcendence of the fact, the possible detriment to public interest, the risk situation created for persons or assets, recidivism, the intention or will, the activity volume of the security company, private detective office , training premises or center against which is issued the disciplinary resolution, an the financial capacity of the lawbreaker.

### **Section 65: Enforcement of Sanctions**

- 1. Sanctions foreseen by this Act can be enforceable in an alternatively or accumulatively way.
- 2. Pecuniary sanction enforcement will try to prevent that the typified infringements are more beneficial for the lawbreaker than the compliance of the infringed rules.

### **Section 66. Sanctioning Powers**

- 1. In the framework of the State General Administration, the sanctioning power corresponds to:
  - a) The Ministry of the Interior, for sanctioning with the extinction of authorization, licenses and liability declaration.
  - b) To the State Secretary for Security for *imposing sanctions* for he rest of the very serious infringement sanctions.
  - c) To the National Police Director General, to impose sanctions for serious infringements.

If during Civil Guard Inspections on training courses for security guards in rural areas delivered by centers no exclusive for them, are detected possible infringements, the sanction will correspond to the National Police Director General.

- d) To the Civil Guard Director General, for imposing sanction on serious infringements concerning security guards and training centers and courses that are exclusive of this staff.



- e) Government's representative (Delegado del Gobierno) and deputy Governments representative (Sub-Delegado del Gobierno) for imposing sanctions due to minor infringements.

2. Within the jurisdiction of Autonomous Communities with competence in security matters, sanctioning powers will correspond to the holders of the bodies' positions that will be determined for each case.

3. Against the sanctioning decisions there can be submitted the appeals foreseen by the legislation of administrative proceedings, before the Administrative-Contentious Courts.

#### **Section 67. Seizure of equipment.**

Forbidden equipment, no standardized or misused in private security services will be seized and it will be destroyed if its marketing is not licit, or it will be sold in other cases. The amount obtained will be kept in deposit for payment of the administrative responsibilities or of any other kind they may incur.

#### **Section 68. Expiring period of sanctions.**

1. Sanctions imposed because of minor, serious or very serious infringements will expiry after one, two or four years.

2. The expiry period will began to run since the day following the final decision date if this has not began to be enforced, or if the sanction compliance is broken and it will stopped since its servitude or execution resumed.

### **CHAPTER III Procedure**

#### **Section 69. Precautionary measures**

1. Initiated the infringement procedure, the body ordering its instigation/ initiation could adopt the necessary precautionary measures for guarantying its appropriate proceedings as well as for preventing the infringement continuity or for assuring the sanction payment, in case it is a pecuniary one, and the compliance of the same for the rest of the cases.

2. The above mentioned measures must be coherent with the presumed infringement nature and proportional to the seriousness of the same. They can consist in:

- a) to seized or seal vehicles, weapons, banned, or no standardize equipment or material resulting dangerous or hazardous, as well as the instruments and effect of the infringements.
- b) Authorizations, licenses, permits preventive withdrawal, or if it is the case, suspension of the effectiveness or the liability declarations
- c) Suspension of the private security staff license and, if it is the case, of the procedure dealings for granting the same, during the preliminary inquiry on serious or very serious infringements regarding private security matters.

There could be, also suspended, the mentioned license and dealings, until the prosecution of that staff for crimes is over.

3. Precautionary measures of paragraphs b) and c) cannot have over year duration.

#### **Section 70. Enforceability of the Sentence.**

1. The enforced sentence will be immediately enforceable since the decision taken is final via administrative channels.

2. When the sanction imposed is a pecuniary one and a term has not been imposed for its payment, the authority imposing it will establish the same that could not be lower than fifteen days or higher to thirty working days. There could be agreed payment by installment.

3. For the cases of temporal suspension and extinction of the effectiveness of the authorizations, licenses or liability declarations and ban of the legal representation of companies, the sanctioning authority shall establish a delay of time enough for enforcing them, that could not be less than fifteen working days nor more than two months, after a hearing, both the sanctioned and third directly affected parties.



## **Section 71 Publicity of the Sanctions**

The sanctions, as well as names, family names, company name or business name, natural or legal person responsible of very serious infringements, when they become final by administrative channels can be made public, by virtue of agreement of the relevant sanctioning authority, whenever there is a risk for the users or citizens security, in case of recidivism of infringements of similar character or proven intentionality.

## **Section 72. Coercive fines**

1. For achieving the sanctioning decision compliance, relevant authorities listed in Section 66 could impose coercive fines, following the administrative procedure legislation.
2. The sum of such fines will not exceed 6,000 Euros, but it could be increased a 50% of this amount for the case of reiteration of non-compliance.
3. Coercive fines will be independent of the pecuniary sanctions that can be imposed and compatible with the same.

### **First additional provision: Product marketing**

For marketing products of the European Union member countries, or of the European Economic Area or coming from any third country with which the European Union has concluded an Association Agreement and that are subjected to security national regulations, equivalent to Spanish security regulation, there must be followed the standards foreseen by the accredited certification entities offering, through their relevant public administration, professional, equivalent technical independence and impartiality guarantees to the guarantees required by the Spanish legislation, and to the State regulations, under which conformity is assessed, implying a security level that is equivalent to the level required by the enforceable regulations.

### **Second additional provision: Hiring of private security services by public administrations.**

1. Taking into consideration the relevance for public security of the private security services, pursuant Section 118 of the Consolidated Text on Public Sector Contracts Act adopted by Royal Decree Law 3/2011 dated 14<sup>th</sup> November, public administrations procurement bodies could establish especial fulfillment conditions for the private security service contracts concerning the compliance of labor obligations by the private security contractor companies.
2. The published notice specific tendering specifications or the contracts could set up penalties for the cases of non-compliance of these contracts special terms, or to grant them character of contract essential obligations for the purpose of such contracts termination pursuant Section 212.1 and 223.f.

### **Third additional provision: Administrative Cooperation.**

Taking into consideration the relevance for public security, of the private security services; the relevant bodies for, police, taxes, labour and social security matters will set up the information, control and joint inspection mechanisms with private security companies for preventing frauds and occupational impersonation.

### **First Transitional Provision: Occupational Licenses previous to this Act enactment.**

1. Private security staff license obtained before the entry into force of this Act will keep their validity without necessity of any endorsement or change.
2. The licenses corresponding to the private game-keepers will be considered as issued for the new security guards in rural areas.

### **Second Transitional Provision: Staff of Emergency calls centers**

Whoever, at the moment of this Act entry into force, was performing his/her activity in emergency call centers, can continue performing their functions without needing a specific license.

### **Third Transitional Provision: Engineers and technical staff of security companies.**

Engineers and technical staff frameworked at this Act enactment in private security companies licensed for installation and maintenance of security system pursuant Section 5.1.f) they may continue performing their function without needing the specific license contemplated under Section 19.1.c.



#### **Fourth Transitional Provision: Adaptation deadlines.**

1. Private security companies and their branches, private detective offices and their branches, the security measures adopted and the materials and equipment in use when this law come into force; -that are suitable following the former regulations but that do not fulfill total or partially the requirements or demands established by this Act and in its implementing regulations-, have to adapt themselves to such requirements and demands, within the following adaptation deadlines, that will start to run from the enactment of this Act are:

- a) Two years concerning the new requirements of private security companies and their branches and private detective offices and their branches.
- b) Ten years for security electronic measures of private security companies, the obliged premises and the not-obliged users' facilities.
- c) One year for obtaining the license/ certificate foreseen in Section 19.4.

2. Security measures installed before the entry into force of this Act will have an indefinite validity, until the end of their service life; however they must be updated in case they become affected by structural reforms of the security systems they are part of.

3. Security systems, physical security systems and physical, electronics and computer security elements installed from this Act enactment date must fulfill all the requirements and demands set by the same and its implementing regulation.

#### **Fifth transitional provision: Planning and advisory activity.**

1. Security companies solely authorized and registered for planning and advisory activity pursuant Section 5.1.g) and Act 23/1992 Act dated July 30th on Private Security will have a three month term, since this Act enactment, for requesting licensing for any of the activities listed under Section 5.1. of the same except the contemplated under paragraph h).

2. Companies mentioned in the above Section that after the expiry date of such term if they have not apply for the mentioned authorization/ license, will get their registration withdrawn ex- officio from the Private Security National Register, and if it is the case from the corresponding autonomic register.

3. In case of companies, that at this Act enactment ,would be authorized and registered for the planning and advisory activity and besides, for any other contemplated under Section 5.1., their registrations will be withdrawn ex- officio from the Private Security National Register, and if it is the case from the corresponding autonomic register only in regarding the planning and advisory activity

4. Security companies mentioned in the former paragraph will have a year delay, since this Act enactment for adjusting the civil liability insurance coverage amounts or other financial guarantees, as well as the endorsement or surety insurance, according to the activities for which they keep on being licensed or recorded in the corresponding registers.

5. Administrative procedures being under processing concerning the application for authorization and registration just for performing the mentioned planning and advisory activity will be cancelled, and their proceedings will be filed.

6. Administrative proceedings that at this Act enactment, will be under processing regarding the authorization application for developing private security activities where are included the above mentioned planning and advisory activities , will be kept on being processed just concerning the rest of the requested activities

#### **Sole repeal provision: Legislation repeal**

1. The Act 23/1992 dated July 30<sup>th</sup> on Private Security and any other regulation of equal or lower rank which opposes this Act is hereby repealed.

2. Private Security Regulations, passed by Royal Decree 2364/1994, dated 9 December and the rest of its implementing regulations of the Act 23/1992, dated 30<sup>th</sup> July and it own Regulations will kept their effects for all the issues that not contravene this Act.

#### **First Final Regulation. Competencies Holder**

This Act is issued pursuant the provisions of the Section 149.1.29 of the Spanish Constitution that grants to the State exclusive competencies on public security matters.





### **Second Final Regulation: Administrative procedure.**

For All the matters not regulated specifically under this Act the enforceable legislation will be the Act on Common Administrative Procedure.

### **Third Final Regulation: Legislative development**

1. The Government upon the Minister of Home Affairs proposal, will issue the necessary regulations for the development and execution of this Act rules and to be precise for determining:

- a) Requirements and characteristics to be hold by the companies and entities subjected to regulation.
- b) The conditions to be fulfilled when performing private security activities and when performing services of this type.
- c) The characteristics to be fulfilled by de private security measures and technical resources and materials use in private security activities and services.
- d) Functions, duties, responsibilities and qualification of private security staff and of licenses staff.
- e) Licensing and empowering regime of such staff.
- f) Ministry of the Interior bodies with authority in each case for performing the different functions.

2. Besides, the Government is empowered for updating the fines amounts following the variations of the multiple purpose public income index.

### **Fourth Final Regulation: Entry into force.**

This Act will enter into force after two month of its issuance en State Official Journal.