

## **Elements of the Romanian law in relation to mercenaries, private military and security companies**

Article 118 para 4 of the Romanian **Constitution** of **1991**, as amended by Law no. 429/2003, sets out that **“The organization of military or paramilitary activities outside a State authority is prohibited.”**

Therefore, the State may not recruit, use, finance or train **mercenaries**. Moreover, the concept of **private military companies** is not codified by the Romanian domestic law.

According to the provisions of the Criminal Code in force, the criminal law is applicable to crimes committed outside Romania’s territory if the offender is a Romanian citizen or if, having no citizenship, he/she is domiciled in the country.

The relevant provisions of the Criminal code are in Title X on Crimes against Romanian Defense Capacity as follows:

Chapter 1 – Crimes committed by military personnel

Chapter 2 - Crimes committed by military personnel or civilians

Chapter 3 – Crimes committed by civilians

Romania ratified the *Additional Protocols I and II* to Geneva Conventions from 12 August 1949 by Decree no. 224/11 May 1990.

Romania also signed the *International Convention against the recruitment, use, financing and training of mercenaries* (December 4, 1989) on December 17, 1990, but the text was not ratified.

As far as the activity of **“private security companies”** is concerned, the Romanian legislation in the field, namely **Law no. 333/2003 regarding the security of objectives, goods, valuables and the protection of individuals**, along with its implementation norms, **Government Decision no. 1010/2004**, allows for the private companies to act strictly in the field of protection and security, any involvement in military or paramilitary activities being a crime.

According to the abovementioned Law, **specialized security and protection companies** are private companies that are established and operating under the commercial legislation and the provisions of Law no. 333/2003, with the object of protection of objectives, goods or valuables, shipments of goods and valuables, under conditions of maximum security, and the protection of individuals.

Specialized security and protection companies may have, according to the law, one or more of the following **fields of activity**:

- a) security services for objectives, goods and valuables, as well as consultancy services in the field;
- b) security services for the transport of important goods and valuables, as well as consultancy services in the field;
- c) specialized personal protection services, called bodyguards, as well as consultancy services in the field.

*Gathering of data and information* by the staff of specialized security and protection companies is **prohibited**.

Such companies may work only on the basis of a *license* issued by the **General Inspectorate of the Romanian Police**, with the prior approval of the **Romanian Intelligence Service**. Licenses can be renewed every *three* years.

The law clearly prescribes the **conditions** to be met by a company, in order **to obtain the necessary license**.

As for **sanctions**, the law specifies that “The involvement by ... specialized security and protection companies, of their own staff, in performing actions of aggression, constrained execution, debt recoveries, labour conflicts or of opposition to actions of restoring order by the competent public authorities is punishable with **imprisonment** for a period of 1 up to 5 years.”

The implementation framework of Law no. 333/2003 was regulated by Government Decision no. 1010/2004, modified by Government Decision no. 1698/2005.