

**PHYSICAL PROTECTION
CHARACTERISTICS OF CRITICAL
INFRASTRUCTURES HUNGARY –
THE ARMED SECURITY GUARD**

**A KRITIKUS INFRASTRUKTÚRÁK
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MAGYARORSZÁGON – A FEGYVERES
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Abstract

The protection of activities, facilities and supplies - also known as critical infrastructure elements or vital system elements - that are of paramount importance for the functioning of the state and the provision of services to the population, is ensured by the state through various organisations, which have a monopoly on the use of force. In Hungary, these organisations include the armed security guards operating under Act CLIX of 1997 on the Armed Security Guard, Nature Protection and Field Guard Service (hereinafter referred to as the "Armed Security Guard Act"). However, the concept of armed security guards in this context covers more than just security guards on duty with weapons: although the organisation does not belong to the law enforcement agencies and is civilian in nature, its powers within the premises are essentially the same as those of the police.

Keywords

police officer, armed security guard, security guard, physical protection, critical infrastructure

Absztrakt

Az állam működése, valamint a lakosság ellátása szempontjából kiemelten fontos tevékenységek, létesítmények, szállítmányok – más nevéken a kritikus infrastruktúra elemek, avagy a létfontosságú rendszerelemek – védelméről az állam az erőszak monopóliuma biztosításával különböző szervezetek által gondoskodik. Magyarországon ezen szervezetek közé tartoznak a fegyveres biztonsági őrsegről, a természetvédelmi és a mezeti őrszolgálatról szóló 1997. évi CLIX. törvény (a továbbiakban: Fbó tv.) alapján működő fegyveres biztonsági őrsegek is. A fegyveres biztonsági őrseg fogalma azonban itt többet takar a fegyverrel szolgálatot ellátó biztonsági őröknél, a szervezet ugyan nem tartozik a rendészeti szervekhez, jellege polgári, azonban a jogosultságaik az objektumon belül lényegében megegyeznek a rendőrökével.

Kulcsszavak

rendőr, fegyveres biztonsági őr, személy- és vagyonőr, fizikai biztonság, kritikus infrastruktúra

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INTRODUCTION

Critical infrastructures are a network of interconnected, interacting, interactive and interdependent infrastructure elements, facilities, services, systems and processes that are considered vital to the functioning of the state, i.e., the population, economy and government, and have a substantive role in establishing and maintaining a socially desirable minimum level of legal certainty, public safety, national security, economic viability, public health and environmental condition. In the aftermath of the world-shaking attacks of 11 September 2001, critical infrastructure protection and its issues have become more prevalent in Europe similarly to many other parts of the world.

There is a myriad of solutions for the robust implementation of physical protection of critical infrastructure in Hungary and internationally. We regard the Hungarian model of armed security guarding as a Hungarian phenomenon, an organisation which is civilian in nature, yet with public authority.

CRITICAL INFRASTRUCTURES

In the European Union, the first Community legislation at the level of a directive is Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection (hereinafter: ECI Directive), which was implemented in Hungary by Act CLXVI of 2012 on the Identification, Designation and Protection of Vital Systems and Facilities (hereinafter: Lrtv.). The purpose of the regulation is to identify and designate critical system elements and to ensure the establishment and operation of full protection. In addition to defining the basic concepts, the Act provides for and regulates the designation of national and European critical system elements, the obligation to prepare an operator's security plan, the designation of the security liaison officer, the rules on registration and control, and sanctions.

National Critical Infrastructure Designation in Hungary

The Lrtv lists in Annex 1 the relevant service sectors and subsectors, which are:

1. Energy
 - power system installations (excluding systems and components subject to the regulations on nuclear safety and radiation protection, physical protection and safeguards of nuclear power plants)
 - petroleum industry
 - natural gas industry
 - district heating
2. Transport
 - road transport
 - rail transport
 - air transport
 - water transport
 - logistics centres
3. Agricultural economy
 - agriculture

- food industry
 - distribution networks
4. Health
 - active inpatient care and the services needed to run it
 - rescue management
 - health reserves and blood stocks
 - high security biological laboratories
 - pharmaceutical wholesale
 5. Social security
 - IT systems and records for claiming social security benefits
 6. Finance
 - infrastructures and systems for trading, payments, clearing and settlement of financial instruments
 - bank and credit institution security
 - cash supply
 7. Info communication technologies
 - internet access service and internet infrastructure
 - electronic communications services, electronic communications networks
 - broadcasting
 - postal services
 - meteorological infrastructure
 - government electronic information systems
 8. Water
 - drinking water services
 - monitoring surface water and groundwater quality
 - sewage disposal and treatment
 - protecting aquifers
 - flood defences, dams
 9. Defence
 - defence systems and installations
 10. Public safety and security
 - law enforcement infrastructures

All operators in one of the listed sectors, regardless of the type of service they provide, are required to carry out an identification test. The assessment should include analysis and evaluation of the risks to the provision of the various services, the fulfilment of sectoral and horizontal criteria and the possibility of designation as a service provider. The relevant horizontal criteria are:

1. Economic impact criterion
2. Criteria for political impact
3. Social impact criterion
4. Environmental impact criterion
5. Losses criterion
6. Protection criterion

The identification report produced as a result of the investigation should include the outcome of the investigation and a proposal for designation as a national or European Critical System Element. The operator has 60 days from the date of provision of the service or entry into force of the law to do so.

The operator shall submit the completed identification report to the sectoral designating authority designated in the sectoral government decree within 8 days of its completion. The sectoral designating authority shall verify the compliance of the report with the requirements of the report by involving a competent authority in the designation procedure. If at least one sectoral criterion and at least one horizontal criterion are met, the sectoral designating authority shall designate the critical system element or service and order its registration and order its inclusion in the list of operators providing essential services if the requirements of Article 2/A (2) of the Lrtv. are met with regard to the system element operated by it. In addition, it provides for the obligation to draw up an operator security plan, the deadlines for its preparation and submission, and the employment of a security liaison officer.

The specialised authority (the central body of the professional disaster management bodies) is the body that issues opinions on the fulfilment of the horizontal criteria (National Tax and Customs Administration, the Office for the Protection of the Constitution, the Counter-Terrorism Centre, the Counter-Terrorism Information and Crime Analysis Centre, the National Directorate General for Aliens, the territorially competent government commissioner, the territorial environmental protection authority, the territorial water management and protection authority, the territorial body of the professional disaster management body).

Essential Service Providers are organisations or economic operators that provide an essential service to ensure the provision of vital social and/or economic processes and functions and that depend on electronic information systems for the provision of that service, and where a security incident affecting their service would cause a significant disruption to that service, and have been identified as an Essential Service Provider in the procedure for that purpose. The Directive has identified seven essential service sectors, namely:

1. Energy
2. Transport
3. Health care facilities
4. Digital infrastructure
5. Banking services
6. Financial market infrastructures
7. Drinking water supply and distribution

The Hungarian regulation on the designation of essential service providers is two-fold, with one part being designated by the operators of the critical system element and the other part being designated by the National Security Service.

In Hungary, Act L of 2013 on the Electronic Information Security of State and Local Government Bodies regulates the information security framework of critical systems and facilities, which are supervised by the National Security Service, in addition to state and local government bodies.

The designated national critical system operator must arrange for the assignment or employment of a security liaison officer within 60 days of the designation decision becoming final, and must provide the details of the security liaison officer to the registering authority (BM OKF) within 60 days.

The operator of the designated national critical system element must prepare an operator security plan in accordance with the Lrtv. within the time limit set in the designation decision. The document must be submitted to the sectoral designating authority within the specified time limit, which, after checking the content and form requirements, sends it to the registering authority.

Every 5 years, the central body of the disaster management body carries out a complex audit of the designated national critical control element, which may include the sectoral designating authority, the specialised authority, the body involved in the designation procedure and the body entitled to carry out an on-site audit under the legislation.

The vision under the new CER Directive

Directive (EU) 2022/2557 of the European Parliament and of the Council on the resilience of critical organisms, which entered into force on 1 January 2022, replaces the previous Council Directive 2008/114/EC. The new Directive brings a number of important changes to the regulation and protection of critical infrastructure in the EU.

The new directive starts by expanding the definition of critical infrastructure. In the 2008 directive, critical infrastructure referred only to facilities that provide essential services such as water, energy, food or transport. However, the new directive extends this concept to digital infrastructure such as data centres, information systems, telecommunications networks and internet services.

Another important change in the new directive is that the essential services defined in the previous directive are now extended to the category of "essential services". Essential services include essential services, but also other important services such as financial services, health services, distance learning and e-government.

The new directive also requires the organizations concerned to have a "resilience plan" to prepare for unexpected situations such as natural disasters, cyber attacks or even pandemics. The resilience plan should include activities to enable the organizations concerned to identify, prevent and manage such contingencies and to guarantee continuity in the provision of essential services.

The new directive also stresses the importance of cooperation between actors. Relevant organizations must work together with the competent authorities, as well as with industry partners and civil society organizations, to ensure the protection and continued operation of critical infrastructures. In particular, the Directive emphasises cross-border cooperation to enable the organizations concerned to prevent and manage potential cross-border threats.

The new Directive also requires relevant organizations to have the right staff, technology and processes in place to protect their infrastructure from cyber attacks and other threats. The directive also proposes the importance of standardization to facilitate industry partnerships and cross-border cooperation.

Overall, Directive (EU) 2022/2557 of the European Parliament and of the Council on the resilience of critical organisations brings a number of important changes to the regulation and protection of critical infrastructure in the EU. The Directive aims to ensure that the organisations concerned are better prepared for unexpected situations and take appropriate measures to maintain critical services that are key to the lives of EU citizens and to economic development.

PHYSICAL PROTECTION OF CRITICAL INFRASTRUCTURE

The importance, significance, purpose and function of a given infrastructure have a decisive impact on the level of security. The following factors should be taken into account when determining the level of security:

1. Physical characteristics of the property
 - size of the floor area
 - number of floors of buildings
 - length of boundary lines, protection
 - architectural solutions
 - different levels of protection zones
 - mechanical, electronic, life safety systems and regime control
2. Degree of vulnerability of the property to be protected
 - type of service
 - the degree of vulnerability of the service
3. Criminal contamination of the environment
4. Level of vulnerability of the safeguarded assets
 - property values
 - irreplaceable national values
 - confidential information, technologies
 - activities of major importance for the functioning of the State or the provision of services to the public
5. Some subjective characteristics of human resources
6. Disaster management assessment
7. Energy, communications, logistics security of supply

In Hungary, the live physical protection of critical infrastructure elements is not uniform, but involves private security services, the Hungarian Defence Forces, the Police and the Armed Security Guard, which is considered a *hungaricum*.

THE ARMED SECURITY GUARD

In Hungary, armed security guards shall be used to protect activities, facilities and cargoes that are of paramount importance for the operation of the State or the supply of the population, if the Hungarian Defence Forces and law enforcement agencies under this Act, the Parliamentary Guard providing security for Parliament or the National Tax and Customs Administration are not legally obliged to provide such protection, but the guarding is justified in the interests of public security or the protection of national property.

Definition of armed security guarding, relevant legislation

Armed security guards are defined in the Fbó tv. 3. According to the first paragraph of § 3 of the Armed Security Guard Act, it is *"a security organisation with specific guarding tasks, with service weapons and other coercive means, with special rights, whose members are employed by establishing or operating state, municipal or other institution, economic organisation, or are civil servants, employees of the national defence, or are employed by the law enforcement agency or are in the law enforcement administrative service of the agency"*.

To understand exactly where armed security guards fit into the system, we need to look at the police as a complex system. Law enforcement is part of the public administration, whose mission is to maintain internal order and public order and security, to protect the members of society and their fundamental values by preventing or stopping offences that violate or endanger them, including through the use of legitimate physical force. This is an extremely complex and multifaceted activity which cannot be expected to be carried out exclusively by a single public body, namely the police. Security can be achieved through social cooperation and collective work, in which, in addition to the police and the bodies responsible for law enforcement, local authorities, private security companies and civilian self-defence organisations also have an important role to play. This can also be described as a complementary policing system, in which the activities of state bodies are complemented, supported and assisted by market and civil organisations. These include the police, the penitentiary system, the professional civil protection services and the civilian national security services. The Parliamentary Guard and the National Tax and Customs Office are also law enforcement agencies. So-called complementary law enforcement bodies include organisations with specific law enforcement functions, in particular municipal law enforcement, voluntary associations for the prevention of crime, in particular the civil guard, and private security (protection of persons and property). [10]

Armed security guards, in the system we have examined, can be classified as complementary law enforcement agencies, and within that, as those performing specific law enforcement functions. Thus, today in Hungary, in accordance with the definitions of the legislation in force, armed security guards are responsible for a huge share of the protection of activities, facilities, cargoes and national assets of irreplaceable value, i.e., critical infrastructure elements, which are of paramount importance for the functioning of the state and the supply of the population.

Field of application

Armed security guards shall protect the critical infrastructure elements mentioned above if the protection is not required by law to be provided by the Hungarian Defence Forces, law enforcement agencies under the Act on the Status of Members of the Government and State Secretaries, the Parliamentary Guard providing security for Parliament, or the National Tax and Customs Administration, but is justified in the interests of public security or the protection of national property.

So especially:

1. a facility important for the security of the State or for national defence;
2. an airport with international passenger or freight traffic;

3. activities related to the use, production, storage, distribution, transport of explosive, flammable, toxic material, or that of being hazardous to health or the environment, which could cause a disaster, as well as nuclear and other radioactive material, nuclear installations as defined by law;
4. elements of the infrastructure and utilities system that provide the basic needs of the population;
5. a national, cultural asset of major importance;
6. the flagship facility of the postal service, the central facility for public service, radio and television, and telecommunications systems.

Professional supervision

In Hungary, the police headquarters of the counties (capitals) and the police headquarters operate as organs of the competent police headquarters, with independent duties and powers - on the basis of the Government Decree 329/2007 (XII. 13.) on the organs of the Police and the duties and powers of the Police. The National Police Headquarters (hereinafter referred to as ORFK) is the central management body of the police headquarters and the bodies of the general police body established to perform certain tasks. Within its administrative competence, the ORFK ensures the conduct of the administrative authority procedures assigned to it, performs official, registration and control tasks, including:

- performs official duties relating to the establishment, operation and termination of the armed security guard, as well as the ordering of armed security guards and the authorisation of the armed security guard to be armed with firearms, ammunition and other coercive means,
- authorises the armed security guards to be supplied with firearms, ammunition and other coercive means,
- performs the tasks of the authority defined for armed security guards operating in several counties or nationally and within the organisation of the penitentiary organisation and the bodies under its control, and supervises the activities of these armed security guards,
- supervises and monitors the activities of the police headquarters of the county (capital) and the Airport Police Directorate in relation to armed security guards,
- carry out official tasks not assigned to another body,
- at the second instance, hear appeals against first instance decisions of local bodies under Article 10/A of the Act on the General Administrative Procedure on the basis of complaints under Article 10/A of the Act on the General Administrative Procedure, and in these cases act as a supervisory body under the Act on the General Administrative Procedure,
- in the first instance, adjudicate on a complaint within the competence of the police pursuant to Section 10/A of the Police Act
- verify the implementation of the Decision by means of official controls;
- issue, revoke, temporarily withdraw and register the official service card of an armed security guard at the expense of the debtor or the organisation operating the FSA;
- approves by decision the watch instructions and guard instructions of the FOPC;

- monitors the provision of services by the GSA in the framework of an official control;
- order an enhanced duty, alert;
- checks the information needed to assess the suitability of the armed security guard;
- investigate the use of coercive measures and measures restricting the personal liberty of the DPO from a legal and professional point of view;
- may, during a special legal period, request the Minister for Police to take over the command of the FPS from the police;
- supervises, monitors and exercises professional supervision over the training, education and further training activities of the JIT, and conducts the examinations of the JIT;
- issue the service badge of the FDPIC at the expense of the debtor or the organisation operating the FDPIC.

There may be more specific cases where a patrol is not created by a police body, but by organisations within their own organisation with the right to create a patrol. They can be established by the Minister responsible for defence in relation to the installations of the Hungarian Defence Forces requiring increased protection and the installations of the Military National Security Service, as well as in relation to the installations of a company under the ownership of the Minister responsible for defence. By the Minister responsible for the management of civil intelligence activities, in relation to the facilities of the Information Office. By the Minister responsible for the management of the civil national security services, in respect of the installations of the civil national security services under his control. In the cases listed here, professional supervision and official authority are exercised by the ministers responsible for the areas concerned.

Forms of service, hierarchy

The service can be divided into hierarchical ranks, according to the hierarchical order typical of military organisations, i.e., superiors and subordinates. A superior is a person who, on the basis of a guard order or a guard instruction, directs a subordinate, even temporarily, and has the right to give instructions. The superior officer shall be responsible for supervising the execution of the instructions. A subordinate is a person who is assigned to a superior officer, whether permanently or temporarily, and is required to obey his orders. The organisation shall be headed by the commander of the guard, who shall have authority over the whole guard. Depending on the number of guards, additional deputy sergeant-major posts may be created. The daily rotation is managed by the sergeant-major and in his absence, for example during rest periods, he is relieved by the deputy sergeant-major. Guard patrols may perform the duties of posted guard, patrol, escort, or guard escort.

Clothing, badges

Armed security guards shall be provided with uniforms and service insignia, which shall be different from the uniforms of the Hungarian Defence Forces, central state administration bodies, law enforcement bodies under the Act on the Status of Members of the Government and State Secretaries, the uniform of the Parliamentary Guard providing security for Parliament, and the uniform of the professional staff of the National Tax and Customs Administration.

The rules for the wearing, supply and replacement of uniforms are usually set by employers according to their financial means. The uniform to be introduced must be subject to an opinion of the competent supervisory body. The uniforms issued are the property of the employer. The uniform shall remain in the possession of the Controller until the termination of employment and it shall be his duty and obligation to keep it in safe custody, use it for its intended purpose and preserve it. The uniform may be worn only in the performance of his duties or for the purpose of travelling to or from work, and may not be worn at any other time. No alteration other than to fit the body is permitted. The clothing shall bear the employer's name, insignia, rank, name badge and shall be clearly visible. [11]

Rights of action, use of coercive measures

An armed security guard is a person authorised to carry a weapon on duty, performing public and law enforcement duties. Armed security guards are equipped with the following means of coercion:

- Chemical device;
- Police baton;
- Handcuffs;
- Service dog (optional);
- Marksman's rifle;
- A firearm that can be fired in bursts on special order.

An armed security guard is entitled and obliged to order a person who violates or endangers security to stop his/her activity and check his/her identity, to detain a person who actively resists his/her action or is caught in the act of committing a crime or an offence against property until the police arrive, and to take from the person stopped, detained or arrested the object or instrument of the crime or the means of attack, and to search his/her clothing and luggage for this purpose. The use of means of coercion becomes justified when the person subject to the measure does not comply with the request or does not cease his or her activities which are prejudicial or dangerous. The armed security guard is then entitled to use coercive means to stop the person, subject to strict compliance with the requirement of proportionality and the conditions of use laid down by law. The latter means that the person concerned must be warned in advance of the use of force, if the circumstances of the case so permit, and that, if it is used, the use of force must be avoided, in particular the infliction of injury or the taking of human life. The person injured during the action must be assisted as soon as possible and, if necessary, the armed security guard must ensure that the injured person is attended by a doctor. In the event of the use of a firearm, the use shall be preceded by a call to obey the security guard's order, the use of other means of coercion, a warning that a firearm is to be used, a warning shot. However, where, in the circumstances of the case, there is no time for preventive measures and the delay results in the attack directly endangering the protected establishment, property or activity, preventive measures may be partially or totally waived. On the basis of proportionality, the armed security guard may use physical force to compel the person subject to the measure to act or to cease acting, or may use a service dog with or without a lead and with a muzzle. He may use handcuffs to prevent the escape of a restrained person or, when carrying out a guard or escort duty, to prevent a person whose personal liberty is restricted from escaping or self-harming. He may

use a chemical or electric shock device, a police baton or an unleashed service dog on a lead to prevent assault or to break resistance to the measure. The most serious means of coercion, i.e., firearms (and muzzled and unleashed service dogs), may be used by an armed security guard in the event of an armed or armed attack on an activity, establishment or transport of vital importance for the functioning of the State or the provision of services to the public.

Training, examinations

In Hungary, an armed security guard may be a Hungarian citizen or a person with the right of free movement and residence under a separate law, who has reached the age of eighteen, is able to carry a weapon and has the qualifications required for the position. A criminal record is an exclusion criterion. In the case of both existing and trainee armed security guards, the professional examination must be taken before a professional examination board made up of representatives of the police headquarters supervising the guard and of the organisation responsible or of the organisation operating the guard. Every two years, the theoretical and practical competence of armed security guards shall be verified by means of a professional examination before the aforementioned examination board. The knowledge assessment is composed of two major modules, theory and practice, for the armed security guards operating in Hungary. However, in the case of armed security guards guarding nuclear and other radioactive material, nuclear installations, a physical fitness assessment shall also be carried out, as provided by law. The theoretical part of the test covers legal and professional knowledge, while the practical part covers self-defence and shooting skills. A regulation regulates the structure of the questions and topics of the theoretical examination and the tasks to be carried out during the practical part. The examination of shooting skills must be carried out annually by the professional commission, on the basis of the criteria of the legislation on professional examinations. In order for armed security guards to be able to carry out their duties with excellence, it is necessary that, in addition to the above-mentioned official training and examinations, they should be continuously upgraded and receive special training in the management of large-scale incidents. These are essential if armed security guards are to have the theoretical and practical knowledge they need, together with the ability to respond to extraordinary and unusual events, so that they can act lawfully and professionally during their period of service, if necessary.

SUMMARY

In summary, it is clear how important the role of the armed security guard is in the Hungarian critical infrastructure protection system. The organisation is unique in that it is not a law enforcement agency, it is civilian in nature, but the state provides it with the legitimate use of force that results from its monopoly on the use of force through legislation. [12] The law enforcement challenges of our time make it imperative to place a high priority on the protection of our national vital systemic elements. Current EU efforts can provide a solution to strengthen the regulatory framework, but the degree of physical security remains a matter for national states. The Hungarian model of armed security guarding can serve as a model at international level, as it can guarantee a significantly higher level of security than private security services, without tying up the capacities of law enforcement agencies and the armed forces.

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