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DOI: 10.5937/bezbednost2503059L

UDK: 343.123.12(439)

Pregledni naučni rad

Primljen: 7. 10. 2025. godine

Revizija: 13. 10. 2025. godine

Datum prihvatanja: 24. 11. 2025. godine

Private investigation in the Republic of Hungary

Abstract: *In our study, as practicing law enforcement professionals, we examine the historical development, legal regulation and forensic characteristics of private detective activity in Hungary, which is little known by many. We examine the normative regulation of private detective activity, which is difficult to interpret and leaves many questions open, as well as its lack of regulation, with which we wish to contribute to the comprehensive scientific research and mapping of private security. Nowadays, it has become a priority to make a well-founded and responsible choice of which tasks the police will focus its forces on and which they can hand over to the private security sector. As a result, the question arises in which areas it will strengthen their cooperation with the private security sector, thus ensuring the rationalization of state tasks and more efficient and cost-saving organizational operation. In this paper, by analysing the theoretical*

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and practical background related to private investigation, we try to provide interesting impulses for future researchers interested in the field.

Keywords: *Hungary, private investigation, history, legal regulation, forensics*

On the margins of the blurring borders

Based on the provisions of Article 46 of the Basic Law of Hungary, the basic task of the police is to prevent and detect crimes, protect public safety, public order and the order of the state border. In our country, pivotal laws determine the operation of the police and national security services, and the duties of law enforcement agencies related to public safety.

In order to enforce its powers related to public safety, the state, starting from the fact that public order is a basic value for the rise of the nation, declared that cooperation with the persons (bodies) performing law enforcement duties, regulated by law, is essential for the maintenance of public order and public safety (CXX of 2012 law). Within the framework of this regulation, the legislator provides for armed security guards, personal and property guards (meaning: personal and property guards, private investigators, property protection system designers and installers, property protection system installers), nature conservation guards, members of the forestry authority performing law enforcement duties, the activities of mountain rangers, professional hunters, forestry personnel performing law enforcement duties, state and professional fish rangers, public land inspectors, municipal nature conservation rangers, and field rangers. The state development of the conditions and frameworks of the mentioned activities serves to ensure the constitutional protection of property. The legislator creates the legal framework for the protection of private and public property by using means of personal and property protection.

A few years ago, the European Union published a study volume examining the private security market of the member states (the so-called White Book), in which the possible reasons for the rise of private security included the blurring of the boundaries between public and

private areas, the overburdening of the police and various fiscal reasons (Finzter, 2009; 66-83). The study came to the conclusion that the financial resources cannot be provided to maintain public safety as a full-scale state monopoly (URL1). Based on this, of course, it would be easy to immediately say that a significant part of the performance of law enforcement tasks will be transferred to private security service providers and businesses. However, the overall picture is much more complex than this, given that the boundaries between private and public safety of the already mentioned collective work, and therefore the creation of public safety as a cooperative product, seem to be blurred. This is especially the case in the areas of policing, in which state control is not significantly impaired even if market players are involved in the creation of the public good. A good example of this is personal protection, in which, in addition to maintaining its own exclusivity (protection of particularly important persons), the state recognizes the need for individual security (or the need for it) and enables the provision of the service on a market basis (Nagy & Lukács, 2019; 168–169).

The apparent blurring of borders and the complexity of the phenomenon are exemplified by the fact that there are a number of police functions that the state police reserve for themselves, but at the same time, even in their case, some privatization can be observed in part, but not exclusively; a good example of this is the outsourcing of the safeguarding of state assets to private companies. At the same time, a very interesting issue can be classified here, the relative legal regulation of private detective activity – which is difficult to interpret and leaves many questions open (Mészáros, 2010; 285–294) – or its lack of regulation, one of the basic questions of which is the legality and objectivity of the information-gathering activity carried out in the framework of financial compensation, along with the question of legislative trust, the materially motivated interest of possibly covering up the truth; asking the question whether what is legal is effective, and whether what is effective is legal. In our study, we examine the historical development, legal regulation and forensic characteristics of the private detective activity in Hungary, which is little known by many, and in many cases accompanied by legends, supposed and real stories.

Excerpts from the legal background of the private investigation systems in the United Kingdom, Germany, Austria, Slovakia, Slovenia, and the Czech Republic

Before we move on to analyse private investigation activities in Hungary, we would like to take a look at the legal background of the private investigation systems in a few countries that we consider relevant. This highlights the fact that private investigation operates under different legal frameworks in the Member States of the European Union, reflecting the historical, legal and social characteristics of each country. Below, we present the regulation and institutional background of private investigation in six countries.

In the United Kingdom, private investigation is not subject to a license, but it is subject to strict data protection and ethical standards. Private investigators do not have police powers and must comply with human rights and data protection regulations in their activities (URL2). The activity is primarily regulated by the Data Protection Act and the Regulation of Investigatory Powers Act. It should be emphasized that *"Private investigators cannot tap phones, track people with GPS without permission, or obtain information through deception."* (URL3)

In Germany, private investigation is subject to legal licensing and strict data protection rules. The admissibility of evidence gathered by private investigators in court is often disputed, especially if it violates data protection laws (Heinze, 2021). The German legal system distinguishes between investigations conducted by private individuals and authorities, and private investigators are not authorized to conduct covert surveillance or wiretapping.

In Austria, the legal framework for private investigation is regulated by the Gewerbeordnung (Commercial Code), which stipulates licensing conditions and professional requirements. The seizure and examination of data from mobile phones and digital devices was given a new legal framework in 2024, which tightened data processing procedures (URL4). Private investigators often collaborate with law firms and corporate compliance departments (Knoetzl, 2019).

In Slovakia, the legal regulation of private investigation is relatively new and the activity is subject to licensing. The role of private investigators is becoming increasingly important in corporate and family matters, but the legal framework is still under development. The role and impact of private investigation in the security sector is being examined in a growing number of studies (Boroš et al., 2022).

In Slovenia, private investigation is regulated by law and operates independently of the police. The legal framework for these activities is defined by the Private Detective Act, which regulates licensing, data management, and ethical standards in detail (Britovšek et al., 2018). The role of private investigation has also appeared in the security policy discourse, particularly in connection with the fight against terrorism.

In the Czech Republic, the legal framework for private investigation is defined by commercial law and data protection regulations. The role of the private sector in investigative activities is growing, especially in the detection of corporate abuse and fraud (URL5). The legal environment allows private investigators to gather information within certain limits, but its admissibility in court is subject to strict conditions.

As the examples of the countries we analysed show, there is a definite social demand for the services of private investigators, which in most cases is accompanied by strict legal regulations, while a scientific examination of the activity and a detailed elaboration of its scientific foundations are still pending.

The history and regulation of private investigation offices in Hungary

Examining the history of domestic policing, the operation of private investigative (private detective) offices claimed an indisputable part in it, in connection with which the first legislation was issued in 1913, 135.585/1913. B.M no. m. out. circular decree of the Minister of the Interior on the regulation of the operation of private investigative (private detective) offices. According to the introduction of the decree that entered into force on February 1, 1914, "in recent times, there has been an increase in the number of companies that, under various names, such as private

research (private detective) offices, in a business-like occupation that is not covered by the industrial law, obtain information of a confidential nature through observations and research undertake - by deceiving the public, often extending their operations to the performance of tasks that are reserved for public authorities or their circles". The purpose of creating a decree prohibiting the use of the name "detective" for the owner and employees of a private research firm is to "prevent abuses that may be harmful to public order and the interests of the public" (Circular Decree of the Minister of the Interior No. 135.585/1913. B.M.), under the supervision of the police was the normative regulation of the authorization and continuation of listed private investigative activities.

As a negative effect of the changed living conditions following the First World War, some of the offices ceased their activities. Furthermore, 1 October 1919 on the nationalization of the police, 5047/M. The decree issued under the letter E created new conditions in certain issues of administrative policing, so the regulation - issued for the regulation of the operation of private investigative (private detective) offices m. out. Minister of the Interior 99.546/IV. Based on Circular Decree No. 1921 - amended. As the 1926 issue of "A Rend", the first newspaper of the Hungarian police at the time, emphasized: "the private detective is an indispensable supplement to the official police in the broader protection of the individual" (A Rend, 1926; 4).

After the Second World War, however, in 1949, due to the classification of the Hungarian state as a Soviet type of state, the activity of private detectives was prohibited by Law 458700/1949. (X.16.) Banned by BM decree. The decree - § 1 of which stated that "It is forbidden to maintain a private investigator (private investigator) office⁴, and to deal with private investigator activities, research, confidential observations and the performance of related data services as a business" (BM Decree

⁴ The number of private research offices in Hungary rose to 20 by 1916. There were 12 offices with 16 employees in Budapest in 1918, and 27 offices in the 1920s. From the end of the 19th century until 1945, 200-250 people nationwide could engage in private investigation, and then in the period between the two world wars, approximately 50 people could continuously carry out private investigation activities. After the Second World War, a total of 15 private investigation offices operated in Sopron, Szombathely, Székesfehérvár, Pécs and Kaposvár.

458700/1949. (X.16.) § 1.) - declared it to be a violation and ordered the violator to be punished with a fine and imprisonment, and at the same time, Article 45800/1923, which provided the legal basis for private detective activity until then, was also out of force. no. BM decree (Mészáros, 2010; 286). All this was confirmed by 6/1982. (VIII.1.) MT decree, as well as 24/1987. (VII.22) MT. the entry into force of the decree, which already specifically prohibited the conduct of private detective activities.

In the ministerial decree issued in 1987 – equivalent to a government decree in today's Hungarian legal hierarchy – private investigation was still interpreted as a prohibited activity, while, even if in a narrow circle, the performance of asset protection activities has already been permitted (Decree 24/1987. (VII. 22.) MT). After that, we can even consider it a revolutionary step forward the adoption of Act No. 87/1995 on the personal and property protection carried out in the framework of the enterprise, as well as on the transitional rules of private investigative activities. (VII. 14.) The government decree, in addition to repealing the previous ban by the Council of Ministers, legalized and regulated the activity of private detectives for the first time after almost half a century. The government decree describing the activity of private investigators, IV of 1998, was superseded by law, specifically Act CXXXIII of 2005 which remains in force (hereinafter: SzVMt.) (Mészáros, 2010, p. 286). Marked as a sad fact and characteristic of all three pieces of legislation, in addition to the personal and property protection provisions, the creation of detailed rules for private detective activity was neglected; they contained only difficult-to-interpret, vague and contradictory provisions regarding private investigation.

Legal regulation of private investigation

Based on the unanimous opinion of experts and law enforcement researchers, it would be necessary to amend the legislation, or even to create an independent norm separate from asset protection activities (Mészáros, 2010; 285–294). In recent years, there have been several initiatives and even draft legislation for this, but no change has been achieved.

In this part of our study, we scrutinize the normative elements of the already mentioned law on the protection of persons and property, as well as the rules of private investigative activity, regarding private investigation, as the elements of the legal regulation of the activity. Also pointing out that with respect to private investigations, for example, the provisions on data protection, the regulator dealing with civil legal relations and the sanctioning standards for violations and non-compliance with the laws must be taken into account, since the complexity of the laws and regulations provides the legal framework along which private detectives can legally carry out their assignments.

Examining the SzVMt from the point of view of the subject conditions necessary for the performance of private investigator activities, for the private investigator and the private investigator company, it can be seen that a certificate issued by the police at the request of the private investigator is required for the organization, management, and direct execution of the activity. This ID card can be obtained by a Hungarian citizen of legal age, with no criminal record, or a person with the right to free movement and residence, who has at least a secondary education and a required professional qualification (Section 6 of Act CXXXIII of 2005).

In possession of the operating license, the private investigator conducts his activities in all cases on the basis of an assignment (business) contract drawn up in accordance with the rules of Act V of 2013 on the Civil Code (hereinafter: Civil Code), as well as a valid compensation for damages caused during the performance of the assignment, as well as the damages fee it can be carried out in possession of liability insurance and a certificate of payment (Law CXXXIII of 2005 §§ 5–6). Based on the conflict of interest rule appearing in the law, a senior official of a private investigative company cannot be a senior official of a private investigative company or a professional staff member of the police (Act CXXXIII of 2005 § 3.).

According to the SzVMt, the private investigator or private investigation company (contract register) must keep a diary of the contracts. It must record the time of the conclusion of the contract and its termination, the name and address of the client(s) - in the case of a company, its headquarters - and the scope of the person(s), involved business(es)

and other contributor(s) actually participating in the fulfilment of the assignment.

The effective Civil Code states that a contract with an illegal purpose or content, or that conflicts with good morals, is null and void (Law V of 2013 §§ 6:95–6:96), and this also applies to the commission of a private investigator. It follows that the private investigator's task can only serve to enforce the client's legal rights - or at least those believed to be so in good faith - and to protect their legitimate interests, and in no case can it be self-serving or based on illegal interests.

We consider it essential to mention that the legitimate interest of a private individual authorizes and makes it legal for the private investigator to process personal data⁵ without the consent of the affected person (GDPR Article 6 (1) points c) and d)). At the same time, the moral responsibility of the private investigator is also significant, since private detectives often work with personal and, in most cases, sensitive information. Moral responsibility lies mostly in respecting people's privacy as much as possible, even in the case of data collection within the framework of the law. In addition, the client's trust in the private investigator is important; both the performance of the work at an appropriate professional level and the determination of the remuneration for the activity. Abuse of trust can have serious consequences due to the nature of the work, therefore it is extremely important to select and commission a morally impeccable private investigator or private investigation agency. As the Hungarian Detective Association points out on its website, *"We have to admit that, due to the above, the selection and commission of a private investigator can involve significant risks for the principals. In the absence of an authoritative and public register, it is not easy to identify companies and entrepreneurs*

⁵ Personal data: any information relating to an identified or identifiable natural person ("data subject"); a natural person can be identified directly or indirectly, in particular on the basis of an identifier such as name, number, location data, online identifier or one or more factors relating to the physical, physiological, genetic, mental, economic, cultural or social identity of the natural person can be identified. Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free flow of such data, and on the repeal of Directive 95/46/EC (General Data Protection Regulation) (hereinafter GDPR) According to Article 4, Clause 1.

operating in the grey zone - hiding behind the guise of security consulting, without official authorization - operating in the black economy and without any license yet claiming to be private investigators. Due to the confidentiality obligation of the private investigator, he cannot present references to his future client, so it is a serious difficulty for every investigator to prove his professional preparation, even more so, his credibility" (URL6). Private investigators must therefore find a balance between the client's interests and ethically and morally correct actions. Transparency, integrity and objectivity are fundamental ethical guidelines in this profession in order to avoid incorrect methods of obtaining information and violations of law.

Given the relationship of trust between the private investigator and the principal, as well as the personal data that can be obtained during the data collection, the private investigator is bound by an obligation of confidentiality during the period of activity according to the contract, as well as after it, with regard to all facts and data of which he became aware during the performance of the contract and in connection with it (Act CXXXIII of 2005, Section 22, Paragraph (1)). The private investigator can only inform the principal about the obtained data, except in the case of being questioned as a witness in official proceedings (Article 22 (3) of Act CXXXIII of 2005).

According to the rules of the SzVMt, private investigative activities may not be directed at the activities of diplomatic or consular missions, international organizations under the same jurisdiction as these, as well as their members, or official bodies, national and foreign specified in Act C of 2012 on the Criminal Code (hereinafter: Penal Code) for a person's official activities (Article 35 of Act CXXXIII of 2005). Even here, the question arises as to what exactly can be considered to constitute the official activities of such persons.

In addition to the conditions described so far, the private investigator, in order to fulfil his lawful assignment arising from the contract, exercises the rights of the principal based on his professional training and abilities, with the specifics and limitations of forensic tools set out in the SzVMt. Examining the actual activity, we can say that the apostrophized activity of a private investigator is nothing more than a complex data collection operation with many possibilities.

According to the wording of the SzVMt, during the performance of an assignment, the private investigator may collect data and request clarification (Article 34 of Act CXXXIII of 2005). For the conceptual definition of data collection, it is necessary to look beyond the SzVMt. In terms of the conceptual definition of data collection, it is "a process in which the desired data is obtained from the stakeholders with the help of selected methods and techniques, or from the respondents. In the sense of private security, it is the method of obtaining information provided by law for the private investigator, in order to fulfil the assignment contract for the given case, based on the current legislation" (Boda, 2019; 16).

According to the law on criminal procedure, "the prosecutor's office, the investigative authority, the internal crime prevention and detection body of the police, and the anti-terrorism body of the police may collect data for the purpose of establishing the suspicion of a crime, and in order to clarify whether there are any means of proof and where they are located" (Section 267 (1) of Act XC of 2017). In doing so, the authorities may collect data from registries defined by law, public or lawfully disclosed data files or sources, request information from anyone, select and identify a person or object by presenting images, sounds, or images and sound recordings, and examine the scene of a crime. The acting member of the authority prepares a record of all such data collection activities (Article 267 (3) of Act XC of 2017). Data collection (information acquisition) – not necessarily the most effective, most expedient, but undoubtedly the simplest method – is the identification, search and interview of the person or persons who have relevant information regarding the event or the person that is the subject of the assignment.

One of perhaps the simplest, completely open and legal methods of data collection includes, in addition to listening to the persons concerned, the analysis of various press materials and announcements, the collection of data on the Internet, and in today's popular, but somewhat incorrect term, OSINT (open source intelligence). Open source data collection does not run into legal obstacles, since the person affected by the data collection is the one who publishes their data, thereby quasi contributing to the management of their personal data.

Covert data collection is more difficult, requiring greater preparation and deeper professional preparation, but in many cases the only method that provides results. The difference between the two execution methods of data collection is that during covert data collection, softening - or even more complex environmental studies - a so-called legend is used, which is the "fictitious identity or cover story used by the private investigator when collecting data on behalf of the private investigator" (Boda, 2019; 364-365). The legend can be completely fictitious, but it can also be a fictional identity or event based on an actual one, which is suitable for the successful execution of the data collection, aimed at obtaining the data necessary to fulfil the private investigator's assignment contract.

A member of the authorities acting in criminal cases authorized to use covert devices when such devices are not subject to a judge's or prosecutor's license, can collect and check information about the crime while keeping the true purpose of the procedure secret (Act XC of 2017, paragraph 214 (4) point a) and 215 §. (2); however, covert data collection carried out without a legal basis may result in criminal prosecution (Article 305 of Act C of 2012).

During the data collection activity carried out with the legend, the private investigator may not enter or remain in the private apartment, other premises or fenced area of the other person against the will of the resident or the person who owns it, or by deception, because in that case he commits an offense of trespassing (II of 2012 § 166 of the Act). If the created legend is based on an official procedure (for example, the private investigator acts as a local government official, or as a statistician acting on behalf of the Central Statistical Office, etc.), then the private investigator can no longer be held responsible for the violation of the law of private residence, but for its criminal nature (221 of Act C of 2012). §.).

The situation-based, purely private investigator competence is the choice of whether the private investigator conducts open or covert data collection. The answer to making a decision will mostly be provided by the experience of practicing the profession.

Another special and extremely effective method of covert data collection, and - as a result - the most frequently used one and the most prominent segment of the activity is tracking and monitoring, which is

"getting to know the activities of persons, as well as events and happenings, while staying outside a private residence" (Boda, 2019; 382). If the observed person resides in a private apartment or a place with the same status, the private investigator's observation using only his own senses - even through a window - is legal, because the person concerned must ensure the protection of his private sphere. From a criminal law point of view, this is the only exception to the prohibition of data collection concerning private residences.

While the conceptual definition only emphasizes the inviolability of the private home, the SzVMt, for reasons that do not require any particular explanation, expressly prohibits the making of video and audio recordings in places where surveillance may violate human dignity, such as in dressing rooms, fitting rooms, washrooms, toilets, hospital rooms and in the residential premises of a social institution (Article 34 (2) of Act CXXXIII of 2005).

An extremely important rule is that a private investigator may make and use video and audio recordings in the course of his data collection activities within the framework of the commission contract, in compliance with the rules on the protection of personal data and privacy rights (Section 34 of Act CXXXIII of 2005. (1) point c).

Practice shows that in many cases, the effective implementation of surveillance requires an advanced technical device that meets the standards of the age, which is indispensable for the unquestionable substantiation of what has been observed. During surveillance carried out with the help of a technical device, special attention must be paid to the location of the observed person, the locality of the surveillance, because this determines the legal framework. If the observed person is in a public place or a place open to the public, or on a means of public transport, the private investigator may, in addition to observing with one's senses, make and use video and audio recordings within the framework of the assignment contract. At the same time, the situation of absolute prohibition exists if the target person, object, event, or relationship of the surveillance resides in a private residence or in a place of the same nature (for example, in a private vehicle), and the private investigator wishes to document this with a technical device (either from an external location

or by bringing in a device). It is also prohibited to observe events inside a private residence or a property under the same legal protection using an unmanned aerial vehicle (commonly known as a drone).

Finally, in connection with surveillance using technical devices, it should also be mentioned that - on the basis of other legal regulations - the private investigator may not use dual-use or military equipment⁶ (Government Decree 156/2017 (VI. 16.)).

The experience of observation and the information obtained are recorded in sufficient detail by the specialist performing the private investigation in the so-called observation report. Relevant photographs taken during the observation, according to the legal framework, can be embedded in the report, but photo, video, audio and audiovisual recordings can also be attached to the report. Precise documentation is extremely important, not only from the point of view of the effectiveness of the assignment, but also for correct accounting to the client.

The provision of data can be requested from anybody, a legal person or organization without legal personality for the bodies authorized to carry out formal investigations, i.e. to continue criminal proceedings, although a public prosecutor's license is required for special data - electronic communications, postal, banking or health data - that deeply affects the private sector. (Law C of 2012 §§ 261–262). Pursuant to the Act on Criminal Procedure, the requested person is obliged to provide free information within the deadline specified by the authority (Article 264 of Act C of 2012, paragraphs (1) and (2)).

Based on a comparison of the itemized list of the SzVMt and the rules defined in the criminal procedure law, it is clear that the access of private investigators to the official databases is much narrower - certainly due to

⁶ According to Regulation (EU) 2021/821 of the European Parliament and of the Council on the establishment of an EU control system for the export of dual-use products, their brokerage activities, related technical assistance, and their transit and transfer Dual-use products: those products, including software and technology that can be used for both civilian and military purposes, including products that can be used for the design, development, manufacture or use of nuclear, chemical or biological weapons or their means of delivery, including products that can be used for explosive purposes and for any form of contribution to the production of nuclear weapons or other nuclear explosive devices.

the protection of personal data already discussed - so the data collection possibilities in this direction are more limited.

In connection with the private investigator activity, the SzVMt also mentions that the private investigator can check the contents of a sealed shipment addressed to another party only with the prior consent of the recipient or the sender. The protection of the confidentiality of correspondence is also an emphasized fundamental right, therefore there is no possibility of voluntary knowledge of sealed correspondence sent to others.

The Forensics of Private Investigation

Forensic science is "a multidisciplinary criminal science that develops scientifically based tools, methods and procedures in accordance with current legal regulations for the purpose of detection and proof, as well as the prevention of crimes" (Boda, 2019; 355). Forensics is the science of investigating crimes, and the principles, tactical recommendations and procedural methods that form part of the discipline are of decisive importance during the investigation of individual crimes; thinking, for example, when facts need to be established, data obtained and evaluated, versions set up or possible explanations of an event/phenomenon defined (Mészáros, 2015; 133). By criminal investigation, we mean intellectual and practical activities aimed at learning about an event or phenomenon that happened in the past, carried out with data and the versions based on them, while private investigation refers to the multifaceted collection of data aimed at learning about the past, present and future.

The toolkit of private investigation, which shows similar features to criminal investigation but is characterized by different characteristics and specific data collection methods, as a multifaceted data collection activity, is fundamentally based on the science of forensics, keeping in mind its main questions (What? Where? When? Who with? How? Why?). We mention the following as perhaps the most relevant elements of forensic thinking, also used during private investigations:

- setting up and checking versions (its necessity and process are equally important in criminal and private investigations) (Sasvári, 2011; 44–47),
- reverse causality (during the investigation of events that happened in the past, the private investigator deduces the cause based on the principle of reverse causality) (Sasvári, 2008; 14)
- planning and organization of an investigation (similar to a criminal investigation, a private investigation cannot be ad hoc, the individual steps, the entire data collection process must be consciously planned in advance),
- compliance with tactical recommendations (it is also advisable to comply with tactical recommendations developed by forensics during a private investigation; for example, the use of listening, tracking, evidence, etc. techniques)
- evaluation and analysis work (evaluation and analysis of acquired data),
- application of methodological elements (professional/procedural protocols developed for certain types of crimes) (Sasvári; 2008; 79-81) (Mészáros, 2015; 135).

We point out that there are interesting similarities between the professions of private investigator and lawyer since both activities assume a relationship of trust between the client and the service provider, during which the basic requirement of discretion and the obligation of professional secrecy are involved. Like the lawyer, the private investigator acts on behalf of the principal, exercises his rights and represents his interests, and the purpose of both professions is to assert the principal's rights, fulfil his obligations or protect his interests. It should be pointed out that nowadays private investigation is "a service provided within the framework of an enterprise (individual enterprise or individual company or business association), which is performed by the private investigator on the basis of an assignment contract concluded under the rules of civil law, naturally in exchange for compensation" (Mészáros, 2015; 134).

In the case of providing security as a service - under free and fair market conditions - within the framework of a business, only the business

that is able and capable of providing a marketable service of an appropriate level and value for money, based on legal foundations, remains "alive". And this brings us to one of the most interesting questions in private investigation: "Why do people turn to private investigators?" Many people then think of investigating the reliability of the unfaithful spouse, for which the client often only pays several million forints (the hourly rate of a private investigation company in Budapest is around HUF 20,000 plus VAT; and for the monitoring, at least three vehicles, 6-7 professionals and technical means are needed, sometimes for months; not to mention the cost of obtaining information in other ways) and gets an answer after paying. At the same time, in Hungarian civil law (unless the marriage or other contract expressly states this) the proof of infidelity in any direction has no relevance. Based on this, it is easy to understand that the so-called "panty cases" are present only with a smaller weight in domestic private investigations.

Why do they turn to a private investigator?

People turn to a private investigator if the procedure of the police or other authority did not bring the result they expected, or if the procedure did not lead to a result; if for some reason they cannot or do not want to turn to the authorities, or the matter in question does not fall under the jurisdiction of the authorities. The following can be considered traditional private detective services:

- searching for stolen or lost things,
- examining and testing the loyalty of a partner or spouse,
- collection of data related to personal relationships,
- examining and testing the honesty of a friend or business partner,
- searching for a missing relative,
- searching for persons who have disappeared or are staying or hiding in an unknown place,
- finding the perpetrator of an unsolved criminal case,

- checking of future or current employees within the company,
- security checks of senior officials and employees of business companies and other organizations,
- obtaining various economic and criminal information and evidence,
- preparing an environmental study,
- examination of insurance events,
- acquiring company information, writing company histories, mapping company networks,
- preparing (and possibly conducting) legal debt management and asset protection procedures,
- checking the reliability of future and current business partners,
- loss prevention in a multinational, wholesale environment, internal company investigations,
- expert investigations in economic matters,
- searching for and interviewing witnesses in civil and criminal cases, as well as obtaining other additional evidence, etc.

The above list, which is not exhaustive, can be expanded with an almost infinite number of elements, especially with regard to the dynamically changing living conditions of today. The individual principals:

- can specifically employ companies specializing in private investigations,
- can create security departments within their own organization dealing with business intelligence, prevention, and loss prevention (for example, the official name of the person performing security activities of the Marriott International hotel chain is "loss prevention manager", or
- in the case of certain matters of a sensitive nature, they may use covert companies to obtain internal or external information related to the company's operations (for example, there is a company that issues an invoice to another market service for its information-gathering activities).

Some thoughts on the activities of a legitimate private investigator

If we are talking about a private investigator (enterprise) that operates legally in all respects under clean market conditions, then before accepting the assignment, the case must always be discussed with the client and the legal and ethical solutions necessary for its solution must be considered; in justified cases, it is recommended to contact the authorities (for example: in the case of a missing person, object, private life, insurance event, internal investigation of companies, other crimes, etc.). In the case of taking on the case, it is reasonable to prepare a preliminary estimate of the budget (by phasing the case), indicating the delivery and cost of the expected result product(s) (the client must be continuously informed during the procedure; give and receive feedback on whether we are moving in the right direction during the private investigation).

The investigation must be conducted in a legal manner, so that the collected evidence can also be used in court. The same applies to the acquisition, storage and analysis of the collected documents and evidence, and the preparation of the private investigator report concluding the assignment, with particular regard to its future uses.

During the legal procedure, we must not forget that the private investigator:

- does not have authority, cannot obstruct the procedure of the authority,
- may not wear a name or uniform that refers to authority, or any other sign or address or rank insignia that suggests an official character, suitable for deception,
- must keep his ID card with him when carrying out his activities and present it during the official inspection (the administrative and criminal service branch of the police is entitled to inspect it),
- may act in the interest of several principals only if their interests do not conflict,
- can perform an assignment that may harm the interests of the previous client only if three years have already passed from the termination of the previous contract,

- the contract created between the agent and the principal, between equal parties, is realized on the basis of mutual agreement in the field of civil law, so the assignment must be recorded in writing (there is a legal obligation to keep a contract registry diary, the retention period of which is five years).

According to the legal provisions on the continuation of the activity, the private investigator is not entitled to more rights than the principal; its activity can also be evaluated as an extended hand of the principal based on the *nemo plus iuris*⁷ principle. *In relation to his work regulated by legal restrictions, he is obliged to maintain confidentiality, but during his hearing as a witness, he is under the obligation to tell the truth (he can ask for/ receive an exemption from the contractual confidentiality from the client). We mentioned it in the previous part of our article, but the extremely large numbers of moral and legal questions that test all private investigators that arise in connection with private investigations also require analysis from a forensic perspective. Some of these include the following:*

- Is what is effective legal, or is what is legal effective?
- Moral questions, based on when, how and why I can reject a case?
- How important is profit orientation and focus on results?
- Is the customer's will holy?
- "I want the result by yesterday!" How important is the time factor?
- Does the principal "want to drink blood" or does he just want to get his valuables back?
- Is it necessary to go as far as criminal proof, or is persuasion enough?
- Is what the client says true? How deeply should the principal be checked, and his motivation investigated?
- Which of the obtained information do we consider relevant, which of these do we want to share with the client, why and how? Do you have to share everything with the client at all?
- The issue of assignments of a sensitive nature affecting political interests.

⁷ It is a basic principle known from Roman law and linked to real property law, according to which no one can transfer more rights than he already has.

- The scope of assignments related to organized crime.
- Regarding the use (usability) of the results, their possible consequences, the issue of moral responsibility related to the use.

In the course of his activities, the private investigator cannot carry out formal investigative acts, but at the same time he can rely on a number of forensic and evidentiary sources (for example: testimony, incriminated testimony, physical evidence, expert opinion, document, etc., as well as the possibility to conduct an inspection, presentation for identification, proof test, on-site hearing). In the course of his work, he can use experts and consultants (for example: a polygraph examiner, a linguist, an expert on voice, writing, document, genetics, etc.). As we explained in the legal framework, he can also use hidden data collection tools (tracking, monitoring, and use of legends) within strict legal limits.

Importance of open source information acquisition in private investigation

Nowadays, the already mentioned OSINT, open source information acquisition, is present with the highest degree of effectiveness in the activities of a private investigator. A large number of domestic and international literature deals with OSINT, so in our article we examine the procedural elements that we consider important from the point of view of private investigation.

Emphasizing cost-effective and effective business operations, "20% of usable information can be obtained from qualified sources, for which 95% of the costs must be sacrificed [...] 80% of usable information comes from open sources, for which 5% of the costs must be used" (Kenedli, 2013; 172). As a result, the importance of open-source resources that can be researched in a targeted manner and are accessible to anyone with appropriate expertise is enhanced, highlighting the following:

- traditional media (newspaper, radio, TV programs),
- grey literature (work and discussion documents, brush prints, research and market research, economic and other reports, stan-

dards travel reports, minutes, studies, dissertations, theses, conference materials, theses, etc.),

- personal experiences of experts and observers,
- recordings of commercial satellites,
- commercial online information providers,
- the internet, highlighting social networks (based on estimates, there are between 15 billion and 1 trillion pages on the world wide web),
- other sources (language schools, scientific organizations, universities, libraries, business journalists, civil organizations, etc.),
- personal experiences.

Among the applicable OSINT tools, emphasis is on the following methods:

- innovative data mining and data analysis,
- search based on intelligent linguistic foundations,
- intelligent search engines,
- thematic sorting system (for example, automating the monitoring of RSS channels),
- social media monitoring (for example, immediate risk assessment of flash mobs),
- evaluating the source code of websites, displaying hidden content,
- domain search, whois tools (extracting data that can be linked to the website's domain subscriber),
- Hungarian and international press monitoring (Nyeste & Szendrei, 2019; 56).

Openly available domestic databases that are most often used during the work of private investigators in Hungary include:

1. E-company register: (www.ecegjegyzek.hu):
 - ☐ the paid business directory services are a much more complete, versatile and usable database, which, in addition to the contact diagrams, also contain data on individual entrepreneurs, and it is also possible to search by person,

- ☐ an additional option is the closed system company register available at the company courts, which is less easily searchable than the paid registers, but contains scanned and electronic versions of the companies' data related to the company procedure, thus containing a lot of useful information that the online registers do not.
- 2. Electronic report, portal (www.e-beszamolo.im.gov.hu);
- 3. Magyarország.hu property and vehicle search functions (www.mo.hu);
- 4. National legislation repository (www.njt.hu);
- 5. Records of searches of persons and objects (www.police.hu);
- 6. National Tax and Customs Office databases (www.nav.gov.hu):
 - ☐ inquiry of taxpayers (this is an important register because it may also include locations in relation to companies that were not only reported to the NAV register at the company court),
 - ☐ registration of tax arrears,
 - ☐ employees, employers without notification,
 - ☐ reliable taxpayers, etc.
- 7. National Data Protection and Freedom of Information Office databases (www.naih.hu):
 - ☐ resolutions.
- 8. Court databases (civil organizations, court decisions), (www.birosag.hu);
- 9. Google: (www.google.com) (in addition to the basic search, various sub-services are also important):
 - ☐ Street View,
 - ☐ Google image-based search.
- 10. Social media (Facebook, snapchat, YouTube, tinder, Instagram, etc.);
- 11. Databases of the National Intellectual Property Office (trademark protection, patent protection), (www.sztnh.gov.hu);
- 12. Agricultural Parcel Identification System (geographic number search outside) (www.mepar.hu):

- related to this, the settlement plans of the local governments, which are usually available on the websites of the individual local governments.
- 13. Arcanum digital science library. Press products in digital format (www.arcanum.com);
- 14. Electronic Archive Portal (www.eleveltar.hu);
- 15. Public procurement database: (<https://kozbeszerzes.hu/adatbazisok>);
- 16. Government tender portal (https://archive.palyazat.gov.hu/tamogatott_projektkereso);
- 17. Register of primary producers (<https://portal.nebih.gov.hu/oftermelo-kereso>).

In the case of the OSINT methodology and the processes it involves, the first phase is the collection of data, the second is data processing, the third is the analysis of the information, while the fourth and final phase is the sharing of the OSINT product. Methodologically, we emphasize the importance of lexical, social network and geospatial analysis, as well as their combinations. Furthermore, we should mention the prohibitions of the GDPR rules that are organically related to OSINT, the prohibitions related to the active and passive research of certain contents (for example: terrorism, child pornography, etc.), even in addition to criminal prosecutions due to research carried out by illegal means.

Conclusion

In our study, we wanted to provide an insight into the history of the development of the private detective activity in Hungary, which is little known to many, as well as the legal regulation and forensic characteristics of the activity. Examining the existing domestic literature on private security, which can be said to be relatively meagre, we can see that it is a rather controversial legal field that has not been worked out with scientific thoroughness. It is controversial because there are many questions regarding the place, role and importance of private security, since it is a

relatively young field that has been developed in our country since the regime change; perhaps because of this, the precise theoretical foundations have not been developed so far. We would like to contribute with this paper to the exploration of this little-researched area, therefore, within the framework of this study, our efforts can only be limited to raising some of the questions we consider controversial here and now, and as a result of this confrontation, by recording the legislative and theoretical problems of the subject area, to further research and the development of solution alternatives - with sufficient professional humility – let us encourage those who are open to the development of the nascent law enforcement science (Balla, 2020; 26).

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Приватне истраге у Републици Мађарској

Апстракт: Као професионалци у области примене закона, у овој студији истражујемо историјски развој, правну регулативу и форензичке особености везане за активност приватних детектива у Мађарској, о којој се мало зна. Бавимо се нормативним уређењем детективске делатности које је тешко проумачити и у вези са којим многа питања остају отворена, а иако ће се бавимо и одсуством адекватне регулативе. Жеља нам је да дамо допринос једном свеобухватном научном истраживању и майирању приватној сектору безбедности. У данашње време полиција мора да одређује приоритете у погледу тога на које задатке ће фокусирати своје снаге, а које може да преусти приватном сектору. Одатле проистиче и питање: у којим областима ће полиција појачати сарадњу са приватним сектором безбедности како би обезбедила рационализацију задатака на нивоу државе и ефикасније и штедљивије функционисање организације. У овом раду, анализом теоретских и практичних основа везаних за приватне истраге настојимо да подстиакнемо будуће истраживаче који су заинтересовани за рад на овом пољу.

Кључне речи: Мађарска, приватне истраге, историја, правни процеси, форензика.