## Political **Clientelism** in the Western Balkans

**Collection of papers** 



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#### Political Clientelism and Private Security Sector in Serbia

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#### Abstract

The private security sector began to develop in Serbia during the 1990s. Along with the formation of the neo-patrimonial regime in the 1990s, followed by gradual stabilization of political clientelism after the year 2000, the private security sector developed through privatization processes, the establishment of domestic private security companies (sometimes in conjunction with organized crime or with the state security apparatus), but also through the development of the market by the inflow of international corporations. In this paper, we will try to examine how the system of political clientelism shaped the private security sector in Serbia. The main thesis is that privatization processes and the normative framework of public procurements, whose manifest goal was to prevent corruption, were the key factors that shaped the development of the private security sector in Serbia on a clientelist basis, causing serious market distortions. Furthermore, we will try to explore whether new forms of clientelist relations are being formed within this sector. The paper will be based on the analysis of the relevant normative framework and contextual factors crucial for the development of the private security sector in Serbia, supplemented by the secondary analysis of interview data, gathered from the actors belonging to this sector, and conducted and published by researchers of Belgrade Center for Security Policy.

Keywords: private security sector, clientelism, state-capture, Serbia

#### Introduction

Several studies (Cveiić et al. 2016; Antonić 1993, 2006; Arandarenko 1995, 2000; Pešić 2007; Cvetičanin, Popoviki and Jovanović 2019; Radeljić and Đorđević 2020) have demonstrated how the system of clientelist relations had been shaped in Serbia during the post-socialist period and what were its main characteristics. Furthermore, a number of authors (Kmezić and Bieber 2017; Bliznakovski, Gjuzelov and Popovikj 2017; Brković 2017; Radeljić and Đorđević 2020) showed that similar systems of informal, clientelist relations characterize other post-socialist societies in South-Eastern Europe (North Macedonia, Montenegro, Albania, Kosovo\*, Bosnia and Herzegovina, etc.). There are a number of explanations on why are post-socialist societies more susceptible to the development of clientelist relations (Rose, Mishler and Haerpfer 1997; Grodeland 2007; Alivev 2015): while some point to the importance of historical heritage in the development of clientelism (although there is no agreement on whether the effect of long-lasting historical processes and structures is crucial or the effect of socialist heritage - Polese and Rogers 2011), others emphasize the delayed democratization processes within the Eastern Bloc, during which weak political institutions enabled the development of clientelist relations and asymmetrical exchange of resources between various actors (Kitschelt and Wilkinson 2007).

Given the existing studies, which have largely explored the nature and forms of clientelist relations in Serbia in general, the aim of this text is to point out how the private security sector in Serbia has been shaped in a specific way, precisely thanks to clientelist relations. The paper will be based on the analysis of the relevant normative framework and contextual factors crucial for the development of the private security sector in Serbia, supplemented by the secondary analysis of interview data, gathered from the actors belonging to this sector, and conducted and published by researchers of Belgrade Center for Security Policy.

#### Conceptual framework

There are a number of concepts used to encompass and describe the nature of the system that rests on the extraction of (public) assets or on gaining different benefits through an asymmetrical exchange of resources between power holders and other relevant/interested stakeholders (economic elites, entrepreneurs, organized criminal groups, voters, ordinary citizens, etc.): political capitalism (Kolko 1963; Weber 1978; Holcombe 2018), party patronage (Kopecky and Sherlis

2008; Kopecky and Spirova 2011), informality (Nee and Ingram 1998; Misztal 2000; Helmke and Levitsky 2004), political clientelism (Hopkin 2006; Kitschelt and Wilkinson 2007; Van Biezen and Kopecky 2007; Chavance 2008; Muno 2010; Hicken 2011), state capture (Hellman, Jones and Kaufmann 2000), neopatrimonialism (Eisenstadt 1973; Bratton and van de Walle 1997), etc. Although most of these concepts point to similar phenomena, their scope and focus are somewhat different. In this paper, we will try to analyze distinctive characteristics of the private security sector in Serbia, mainly relying on the concepts of political clientelism and state capture.

Political clientelism and party patronage are sometimes used as synonyms (Kitschelt and Wilkinson 2007). However, some authors (Hicken 2011) point out that clientelism represents a much broader phenomenon than party patronage. More precisely, party patronage is usually defined as an exchange of public sector jobs for political support (Piatonni 2001); or, more broadly, as the use of resources and benefits that flow from public office (Stokes 2007). Whether we accept the narrow or expanded definition, they both assume that within patronage relations, patrons hold public positions or have access to state resources. In clientelism, however, patrons may or may not be officeholders and may or may not have access to state resources. Therefore, means of exchange here could be much broader than state resources (for example, they may include alternative private resources or party resources, etc.) (Hicken 2011).

Kitschelt and Wilkinson (2007:7) define clientelism as a system of relations that rests on different types of exchanges between political parties and other agents, wherein one side provides benefits that the other side seeks. Although the exchange is focused on particular types of goods and assets, they argue that feasibility and persistence of clientelist reciprocity are not determined by the types of goods exchanged. Clientelist exchange often implies uneven distribution of resources which is related to uneven distribution of power, even when the actors in exchange consciously accept the terms of exchange (Kopecky and Sherlis,2008). Kitschelt (2000) and Hicken (2011) indicate that clientelist relations can take various forms: in traditional societies, they appear as direct, dyadic, face-to-face relations, while modern clientelism emerges as a hierarchical network in which there are a number of intermediaries and brokers between the patrons and the clients, i.e., where these relations are often impersonal or even institutionalized (see also in: Pešić and Stanojević 2016).

Political clientelism can emerge in different political settings - from autocratic to democratic. However, as Hicken (2011) notices, the nature

of the political environment can influence the functions and the scope of clientelism in different types of regimes: in democracies, clientelism may be instrumental in building loyal networks of supporters through the distribution of rents to targeted groups; in autocracies, on the other hand, it could lead to the creation of socio-economic dependence on the regime or to political subservience (predatory clientelism, see in: Grzymala-Busse 2008).

In this paper, we will broadly define political clientelism as a system of relations that invokes asymmetrical, contingent, and targeted distribution of selected goods and services by the power holders that have access to state (public) resources to different actors interested in these resources, in exchange for their loyalty (Gryzmala-Busse 2008). Clientelism appears within Serbian society in an oligopolistic political context (i.e., competitive authoritarianism – Vladisavljević 2010), wherein political parties are competing over public resources in order to gain and sustain power positions, relying on the networks of loyal collective or individual clients (economic elites, entrepreneurs, voters, different institutions, media, professional associations or interest groups, etc.). The mechanism of clientelist exchange provides parties in power a strong advantage in political competition.

While political clientelism relates to the type of relationship established between political power holders and other relevant actors, the term state capture indicates the relationship of political power holders to public resources, i.e., the control and unequal and targeted redistribution of public resources by political actors, whether for gaining private or political (party) benefit (Gryzmala-Busse 2008; Pavlović 2020). Capturing the state does not necessarily lead to the weakening of the state; namely, the extraction of public resources may increase the power of those holding office by reducing the degree and scope of regulation and supervision of the use of public funds, but at the same time it can lead to the creation of new rules on redistribution, budget allocation, and authority (Gryzmala-Busse 2008). In other words, clientelism does not necessarily occur only where the state is weak, but on the contrary, the creation of specific institutions can serve the extractive goals of power holders, sometimes as an unintended consequence (Tilly 1992). This may result in a situation where the party takes over the administrative functions of resource redistribution and thus becomes an agent of the welfare state, but also in a situation where the holders of power deliberately weaken state institutions, increasing the costs of their own descent from power (Gryzmala-Busse 2008).

In the literature, we come across two conceptions of state capture (Pavlović 2020): the first, called regulatory (or corporate) capture (Stigler 1971), is related to capturing the process of business regulation, where companies and economic elites corruptly influence decision-makers (holders of political power) in order to change the legal environment in their favor. This model is closely related to Holcombe's (2018) conception of the modern form of political capitalism. The second model is political and refers to the extraction of public resources for political purposes. The prime goal is not necessarily the personal enrichment of the holders of political power but the financing of the political machinery that brings a significant advantage in the election game. Clientelism appears here as one of the main mechanisms of capturing the state (through party employment or various mechanisms of extracting public resources to finance campaigns). One of the epiphenomena of this process can be the personal enrichment of holders of political power, economic elites, or other actors associated with the ruling parties.

## Shaping of the private security sector in Serbia's transitional and post-transitional contexts

Serbia's post-socialist transformation was specific in comparison to other Eastern and Central European countries. After the reformed communists won the first multi-party elections in Serbia and after (formally) pluralist political institutions, the market economy and private ownership were reinstated, the disintegration of the common state (Yugoslavia) in series of civic wars (followed by economic sanctions imposed by the UN) ended up in one of the slowest post-socialist transformations in Europe. The former socialist elite swiftly managed to convert its political resources into interlocked positions of political and economic dominance that was used to block the transformation, postpone the development of the market economy and slow down privatization processes (Lazić 2011; Babović, Cvejić and Pešić 2016). The concentrated control over political and economic resources enabled the elite members to build up new institutional frameworks that very much relied on clientelist networks. This phase, usually referred to as the phase of "blocked transformation" (Lazić 2000), has been characterized by several important features: a) political system that was formally constituted as pluralist parliamentary democracy, but actually functioning as autocracy with concentrated and centralized power in the hands of a small group of ruling party members distributing privileges to loyal party members or entrepreneurs (paternalistic, semi-

authoritarian regime - Cohen 1997; political capitalism - Antonić 1993; competitive authoritarianism - Vladisavljević 2010); b) political elite controlling the economic resources by postponement of privatization processes, creation of inter-organizational networks, co-option of the large entrepreneurs into political power circles; c) political elite control over institutions and organizations necessary for interest articulation of autonomous social groups (media, universities, trade-unions, social movements, etc.); d) informal economy that served as a mechanism of pacification of lower social strata whose socio-economic position deteriorated during PST, but also as a powerful channel for elite members to accumulate their economic wealth (often involving illegal, semi-legal or war-related activities); e) isolation from international community which prevented the impact of external transformation influences, but also enabled the creation of specific paternalistic relationship between elite members and lower social strata (through the mechanism of state redistribution, but also involving different hegemonic means, such as nationalist mobilization) (Babović, Cvejić and Pešić 2016: 37-38).

During this phase, which roughly ended with regime change in 2000, the private security sector slowly started to emerge. Up to 1993, security services other than military, police, and intelligence were regulated by the provisions of the 1974 Law on Social Self-protection, which introduced "industrial militia", a predecessor of private security companies. After the dissolution of Yugoslavia, the Serbian parliament abolished a number of laws from the period of socialism, and among them was the Law on Societal Self-Protection. However, without proper legislation, this auxiliary force continued to exist in accordance with market demands. Until 2013, when the first version of the Law on Private Security was adopted, this emerging sector was shaped by market demands and piecemeal regulated by dozen or more normative acts (Unijat, Petrović and Milošević 2008).

The emergence of the first companies that offer security services on the market (whether private or state-owned) can be traced to the early 1990s, as the 1990 Constitution recognized private property ownership and equalized it with other forms of ownership - state and social. At that time, the first companies were formed by former members of the security apparatus. The other characteristic legacy of the "self-protection concept" was the existence of (state-owned) companies that started to operate on the market, competing for jobs in a new market environment. Nevertheless, during the last decade of the XX century, there were few incentives for the development of this sector, and it merely existed

without a significant growth rate. The state institutions were protected by the state apparatus of force, while the underdeveloped private sector fed this sector with insufficient needs. Furthermore, criminal clans, often associated with the State Security and the Police, were imposing their services to the private sector by offering protection that could not be evaded without costs.

The second phase of PST started after the regime change in 2000 when Milošević's regime was dismantled by a broad coalition of opposition parties. This phase is usually referred to as "unblocked transformation" (Lazić 2011) and is marked by the attempts of the new elites to establish institutions on somewhat different foundations in order to catch up with other post-socialist societies in the processes of transformation. Institutions of parliamentary democracy, however, proved to be rather weak, so that frequent premature elections, shifting coalitions, and changes in the balance of power were the main characteristics of this phase. Furthermore, after the Serbian Progressive Party won the elections in 2012, Serbia is being faced with declining media freedom, serious doubts in the fairness of election processes, and the rise of populism (Pavlović and Todosijević 2017).

Elites that came at power after the year 2000 started implementing neoliberal economic reforms: the privatization processes gain new impetus with the Law on privatization in 2001; the public sector has been restructured, with the obligation of singling out those activities that were not the main activity of the companies (mainly security and maintenance services) before the privatization; macroeconomic stability has been achieved and inflation put under control.

The lack of political stability, absence of clear ideological and political programs, non-principal coalitions, severe struggles of political parties overpower and public resources, etc., enabled the flourishing of the new forms of political clientelism; namely, both new political elites and their political opponents, pretendants at power, desperately needed financial contribution from the new economic elites which in turn required and received a number of benefits - from the ability to influence legislative, through confidential information on tenders, to the increasing possibilities to use public resources through contracts with the state (Stanojević, Babović and Gundogan 2016). At the same time, the clientelist system spilled over to the electorate, where political parties that had access to public resources served as the key substitutes for the declining welfare state.

The turning point in the post-Milošević era was the year 2012 when the Serbian Progressive Party (SNS) won the elections and was successful in keeping it since then. Despite coming to power in the midst of the recession caused by the economic crises, SNS nevertheless continued to implement neoliberal reforms: the new (neoliberal) Labor Law was billed in 2014, employment in the public sector was banned, austerity measures implemented, etc. Although it came to power on the promise of dealing with the problems of corruption, the new government continued to maintain old clientelist practices and mechanisms (Stanojević, Babović and Gundogan 2016). At the same time, due to demands coming from the EU, a number of anti-corruption laws and regulations were enacted, which, as we will show later, had exactly the opposite effect from intended - new patterns and mechanisms of clientelist relations emerged. Therefore, this phase could be referred to as the phase of consolidated clientelism.

The period of post-socialist transformation and consolidation of capitalism in Serbia has been characterized by two patterns of state-capture that dominated in different phases. According to Pavlović (2020: 9; see also Pešić and Cvejić 2016), during the first decade (in the 1990s), marked by authoritarian Milošević's rule, the political model of state capture has been prevailing; the phase of dynamic economic reforms coupled with political instability after the year 2000 brought about the domination of corporate model of state capture when strengthened economic elites had the dominant influence over political parties at power on creating favorable legal and regulatory arrangements; finally, during the third phase, when financial strength of economic elites was seriously undermined by the economic recession that started in 2008 and when Serbian Progressive Party took over the control over state institutions (2012), the political model of state capture again started to prevail, shifting the center of the power into the political arena.

During the second phase, which started in 2000, the initial shift of powers gave a boost to economic transformation, especially with the acceleration of privatization processes. The new Law on Privatization (2001) envisaged the restructuration of public companies prior to their privatization with the extraction of secondary services (such as protection or sanitary services) into subsidiary companies. This provision had its effect on the development of the private security sector. Namely, daughter companies of large public enterprises that provided security services were granted exclusive contracts with their mother companies for several years, often remaining non-privatized. Bearing in mind that public companies had the largest network of infrastructural facilities,

generating a significant share of market demands for security services, it is no wonder that "daughter" service companies numbered almost one-fifth of private security staff in the first decade of 2000 (Milošević and Petrović 2016).

The second incentive for the development of the sector stemmed from the privatization of the large state banks and from the penetration of the foreign banks (but also other multinational companies) into the market. This placed the commercial sector in demand for security services, and those needs could not be met by either state-owned service companies or by criminalized security companies. As the privatization processes progressed and the commercial sector developed in the mid-2000, the private security sector started to develop rapidly. Several multinational private security companies, mainly operating within the private sector, also entered the market.

The more intense opening of the public sector for private security services came rather late, and it was twofold: on one side, the Law on Public Procurements (2012) obliged the public sector to transparent public announcements for the bids; on the other side, preferential contracts of "service" companies with public entities ceased, so that private security companies could compete for contracts with large public systems. It was estimated that in 2014 around 45% of contracts that private security companies entered into were contracted with the public sector and that around 80% of their staff worked in the provision of security for public institutions (Petrović and Milošević 2017:14).

However, despite these changes, legal regulation of the sector was absent until 2013, when the Law on Private Security was passed. Although the managerial staff of those companies mainly arose from police or army ranks, their employees were of diverse occupational background, lacking proper professional qualifications, and recruited from the vast reserved army of workforce created after the privatization processes. Professional standards were lacking, as was the employment status of private security staff, who occupied the bottom levels of wages within the commercial sector.

### Characteristics of clientelist relations between power holders and private security sector after 2000

Given the fact that the private security sector started to develop more rapidly after the year 2000, we will focus in this paper on patterns and specificities of clientelist relations between political power holders

and actors belonging to this sector in this phase of post-socialist transformation. When mapping the key patterns of clientelism, we will rely on: a. the analysis of normative framework that manifestly or latently brought about and facilitated these types of relations, but also on b. secondary analysis of qualitative empirical data gathered by the researchers of Belgrade Center for Security Policy. The thesis that we want to explore in this paper is that the private security sector in Serbia has been shaped by clientelist relations in relation to several factors: the lack of proper regulation; expansion of the sector that was related to the opening of the public sector to private security companies; normative regulations, initially aimed at prevention of the extraction of public resources (Law on public procurements and employment of control mechanisms), paradoxically, contributed to the formation of new (more refined) mechanisms of clientelist relations; and finally. neoliberal labor legislation (Labor Law and Agency Employment Law) provided support to the existing patterns of clientelism and in creating the new ones.

#### Normative framework

In the previous section of the paper, we outlined specific characteristics of the development of the private security sector. Hence, in this section, we will deal with the normative framework that enabled the flourishing of clientelist relations between power holders and actors coming from this sector. We will not go much wrong, saying that preconditions for the current patterns of clientelist relations are set up within the normative framework.

As it was already said, one of the turning points in the development of the sector was related to the Privatization Law¹ (2001) that envisaged restructuring of public companies prior to privatization and extraction of secondary activities into separate (daughter) companies. In this way, public companies were obliged to subcontract other companies for the security and cleaning services, and therefore this sector provided (limited) incentives for the growth of private security companies. These limitations stemmed from the fact that large public companies that previously were obliged to extract sanitary and security services into daughter service companies had made preferential contracts with those companies, remaining closed for services offered at the market.

<sup>1</sup> Law on Privatization, Official Gazette RS 83/2014, 46/2015, 112/2015 and 20/2016 - authentic interpretation

Furthermore, the umbrella law that defines criteria for practicing private security and defines control mechanisms - the Law on Private Security<sup>2</sup> - has been amended rather late, in 2013, leaving the sector poorly regulated. The key issues arising from the lack of regulation were the poor professionalization of the services, eradication of companies that operated illegally, and the employees' status within the sector. This means that control over the companies operating within the sector was rather weak and divided between various institutions that controlled only those segments of the activities that they were entitled to - Labor Inspectorate, for example, controlled contracts of the employees and safety at work, whereas the Ministry of Interior controlled possession of firearms. Practicing private security, however, was never controlled. The 2013 Law imposed criteria for licensing managers and employees of PSC alongside criteria for establishing training centers. The aim of the Law and several other bylaws was to standardize the security staff's training, establish the minimal level of qualifications necessary for employees in the sector, and, among other things, to impose the obligation of security screening of employees for carrying firearms. The Law envisaged that people with criminal files could not work as security staff; however, it failed to impose the same limitation to owners of these companies (some of whom were convicted for criminal activities). Most importantly, the Law foresaw the establishment of training centers, which started to flourish soon after the Law was introduced, since it was estimated that around 40 000 people employed within the sector needed training necessary for obtaining licenses granted by the Ministry of Interior Affairs (Petrović and Milošević 2015a). However, a number of these training centers were founded by retired police ranks, and in some cases, these centers informally advocated benefits for their trainees because of the close connections with the police (Petrović and Milošević 2015b). In this way, the whole process of licensing PSCs became a field in which potentially corruptive practices developed.

Another set of laws that enabled the flourishing of clientelism and extraction of public assets were laws on public procurements. These laws have been changing since the year 2000, and each change brought about a new mechanism of clientelism. Since the private security sector largely developed thanks to contracts with public enterprises, these legal solutions significantly defined the private security market and the relations established between companies operating within it and power holders that had access to public assets.

<sup>2</sup> Law on Private Security, Official Gazette RS 104/2013, 42/2015 and 87/2018

The Law on Public Procurements from 2002<sup>3</sup> envisaged two principles of procurements - open and restrictive calls. The latter principle of restrictive calls was interesting since it was abundantly used for the purpose of extracting public funds. Namely, the Law enabled public entities to set the criteria in advance and invite only selected companies for the bids if the provision of services can be offered only by a limited number of companies. In this way, power-holders could use this procedure in order to set criteria that only certain companies could meet, and often these were the companies that maintained close ties with political parties at power.

The second Law on Public Procurements from 2008<sup>4</sup> pre-defined provisions of private security service as small value procurements, opening the doors to direct agreements between public entities and private security companies. The Law enabled the flourishing of clientelism between parties at power and PSCs since the contracting authority was only obliged to provide three bids at the call, two of which would usually be fictitious (also provided by privileged companies related to the parties at power or as a result of previous agreements of PSCs on the division of the market and contracts with public entities). This mechanism enabled the creation of informal clusters of privileged companies (affiliated to the parties at power) that participated in the public procurement procedures, wherein one company wins the contract while the other two provide fictitious bids. In this way, the contracts with public entities were divided between "party companies".

The 2012 Law on Public Procurements<sup>5</sup> was passed as the result of external pressures to harmonize domestic legislation with European regulation and to reduce opportunities for corrupt practices. The Law introduced new patterns of acquisition of private security services. These services were no longer treated as small value procurements, but instead, two criteria for acquiring such services were envisaged: the lowest price and the most cost-effective offer. Although the new Law aimed to break the vicious circle in which party-affiliated companies were granted contracts with the public sector and open the market for other companies, it introduced a number of practices that further enabled the extraction of public assets (Milošević 2015). Namely, despite the fact that the Law provided for two public procurement criteria, in practice, the most cost-effective offer criterion was bypassed so that the higher weight carried the criterion of the lowest price. "Fitting into the lowest price" produced

<sup>3</sup>The Public Procurement Law, Official Gazette RS No. 39/2002.

<sup>4</sup>The Public Procurement Law, Official Gazette RS No. 116/2008.

<sup>5</sup>The Public Procurement Law, Official Gazette RS 124/2012 and 14/2015.

new patterns of clientelism that included selective usage of control mechanisms: PSCs affiliated with parties at power were granted with contracts offering underpaid services, while selective usage of control mechanisms enabled them to compensate for the loss by reducing labor costs and violating labor rights, by partially delivering the contracted services or by subsequently increasing the price of services by annexing the contracts.

Creative interpretations of the Public Procurement Law and selective use of control mechanisms are further supported by the Labor Law of 20146 and the Law on Agency employment of 20197. Namely, the Labor Law of 2014 provided for the possibility of hiring workers on the basis of vocational training contracts. In this way, private security companies hired a significant part of the workforce, given that such contracts did not provide for the obligation to pay the statutory minimum wage but compensation that was often below the minimum wage. It is estimated that in 2015, 23% of the workforce in the private security sector was hired under this type of contract, which allowed companies to significantly reduce labor costs and compete for contracts with public entities fitting into the lowest price criterion (Petrović and Milošević, 2016:95). This type of practice was discontinued only with the implementation of the Law on Private Security, which provided obligatory licensing and training of private security staff (however, although the Law was passed in 2013, the deadline for completing the licensing process was extended to 2016). Furthermore, the Law defined the competences of the Labor Inspectorate, whose role was to control the employment contracts of employees. Since inspectors' working hours ended during the day, companies used this circumstance by hiring staff with valid work contracts, but not necessarily with licenses, during day shifts (when controls of Labor Inspectorate were possible), and workers with licenses, but not necessarily with proper contracts, during night shifts, when there were no Labor Inspectorate controls, but only license control performed by the police officers (Milošević 2020). In addition, the data show (Petrović and Milošević 2015a) that the Labor Inspectorate exercised selective control over companies, avoiding controlling those companies associated with the parties at power.

The Law on Agency Employment (2019) further cemented the existing clientelist practices by enabling companies to lease their staff from agencies, i.e., to compete and win contracts with public companies even

 $<sup>6\,\</sup>mathrm{Labor}$  Law, Official Gazette RS 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 - CC decision, 113/2017 and 95/2018 - authentic interpretation.

<sup>7</sup> Law on Agency Employment, Official Gazette RS 86/2019.

when they did not have the necessary human resources. In this way, newly formed firms affiliated with the parties at power obtained contracts with public enterprises despite having not previously had sufficient capacity. Also, although the Law provided that companies could lease up to 30% of the workforce from the agencies, this provision did not apply to employed workers who had permanent contracts with the agency, which potentially increased the possible share of leased labor (Milošević 2020; see also: Reljanović 2019).

#### Clientelism in Practice

The previous chapter outlined the normative framework that favored the development of clientelism between political power holders and private security sector actors. In this part of the paper, we will point out the patterns of clientelism based on the secondary analysis of empirical data collected by researchers from the Belgrade Center for Security Policy (Unijat, Petrović and Milošević 2008; Petrović and Milošević 2015a; Petrović and Milošević 2015b; Petrović 2016; Milošević 2020). In addition, we will point out the changes in the mechanisms of extraction of resources from the public sector and the way in which various normative solutions were (mis)used in order to establish and maintain clientelist relations.

Generally, we could distinguish two patterns of clientelist mechanisms that roughly coincide with two already outlined types of state-capture (corporate and political). The first one can be defined as "direct clientelism" where public entities, under the control of the ruling parties, award contracts to preferred private security companies affiliated with party structures, on the basis of setting up criteria at the tenders that only selected companies could meet (until 2008)8, or by securing at least three bids (some of which were often fictitious), after 2008 (Petrović and Milošević 2017). In return, financial contribution to the party was expected, as well as employment of the party staff or some other type of compensation. This type of clientelism bloomed until 2012, when the regulatory framework

<sup>8</sup> In the study on private security companies (Unijat, Petrović and Milošević 2008:62), a statement of respondent coming from a smaller private security company testifies in favour of this insight: "If one analyzes tenders in the state or public sector, one will see that certain items appear there and each time a new item appears after the tender is announced. So, there is no continuity of criteria. Why are the criteria in the public tenders changing? What counts: the number of guns in the company, the number of radio stations, why is the number of employees needed as a decisive factor for the quality of work? If you are announcing a tender for 50 positions, then why is it important if the company has 1000 workers, which is 20 times bigger than what you are announcing?"

enabled such practices. The second type is a "complex" form of clientelism that involves a larger number of actors and is developed due to different incentives: normative, political, and market. The normative incentive stemmed from the 2012 Law on Public Procurements, initially designed to reduce corruptive practices; political incentive came from the major shift of parties at power, at central and local levels; finally, the market incentive came from the cessation of preferential contracts of service companies with their mother companies and opening of the public entities to a wider pool of private security companies (Milošević 2020).

The phase in which "direct clientelism" prevailed has been marked by the introduction of the practice of the founding-party affiliated security companies, mostly led by the people that were members of the parties at power, who expanded their business through contracts with the public entities (Petrović and Milošević 2015a:42-46). During this phase, we have witnessed the growth of such companies and their expansion in the market. With the change of parties at power, the "old" party affiliated security companies would lose their contracts with public entities, and the "new" companies (usually affiliated with the "new" power holders) would be awarded these contracts. Often, "new" companies would lack human resources or capacities to fulfill their contractual obligations; however, their skyrocketed growth in staff members and other resources was undeniable after the contracts with the public sector were won. After the power shift (at central and local levels) and loss of contracts with public entities, party affiliated private security companies would usually be taken over by multinational companies, mostly due to their other contracts with private sector companies and remaining contracts with the public sector, or they would shut down their businesses (Petrović and Milošević 2015a: 41,47).

To understand why contracts with the public sector are relevant for the development of clientelist relations, we have to understand the role of control mechanisms. Namely, in providing security services to the private sector, private security companies are always under the supervision of professional security managers of their clients, who control the quality of the service and qualifications of security personnel. However, this is not always the case with services provided to public companies since, most of the time, they do not have security managers or employees competent for performing supervision of the quality of these services. Therefore, compliance with the contract terms is rarely controlled. In line with this is the statement of the manager of a private security company (Petrović and Milošević 2015a:15): "The state is late with the

payment, but in the end, it always pays. At the same time, I can put the worst security worker to secure the state facility. This is not possible with a private company because they are constantly asking questions and controlling. Still, they are looking for some quality".

In addition to that, public procurement officers are rarely qualified to assess the necessary number of security staff to be contracted or to evaluate a fair price for these services. These circumstances would often open up the space for bidding companies to overblow the number of personnel necessary for providing the service. Since the control is poor, the contracted number of personnel is often not fully engaged, so that public funds are extracted based on the difference between the contracted number of staff and the one that is actually engaged. It is estimated that in 2014, around 45% of contracts private security companies had signed were with the public sector (Petrović and Milošević 2017:11).

The second type, which we named a "complex" form of clientelism, started to shape after the Serbian Progressive Party won the elections in 2012 and stabilized its power. As it was said, this coincided with the new Law on Public Procurements and cessation of preferential contracts of service companies with their "mother" firms. The large public enterprises that had a wide network of facilities throughout the country and were the biggest seekers of the security services suddenly opened up for private security companies. This situation opened the space for party companies affiliated with the new power structures to enter into business with the state. However, the Public Procurement Law of the same year made it impossible to enter into direct agreements with party firms, so new mechanisms for extracting public resources had to be devised.

The 2012 Law on Public Procurements envisaged the lowest price bid and the most cost-effective offer as the key criteria for winning the contracts with public enterprises. However, very often, the lowest price offer, which usually carries a higher weight, was not high enough for the extent of contracted services to be carried out without loss to service providers. This problem is most often being solved at the expense of workers by using various mechanisms for the avoidance of the payment of the minimum wage to security staff or by a subsequent increase of the price of services by annexing the contract. Since the first method mainly involved either a violation of the law or its creative interpretation, the control bodies in charge of supervision of various segments of compliance with the law, had to be included in the clientelist networks. In this way, it is ensured that the preferred companies win tenders, eliminate competition and enable potential extraction of public resources. Although the Law nominally

opened up the doors of large public enterprises to the private security sector, in practice, winning the tenders and fulfillment of contracted obligations became virtually impossible without some sort of political protection or exception from the control.

One of the most important mechanisms of maintaining a "complex" form of clientelism was the (mis)use of control mechanisms. Various controls of the compliance with the regulations were selectively used in such a way that private security companies that had political protection were excepted from the control, while competing companies, especially those affiliated with previous power structures, were more or less constantly controlled. To back up this claim, we will rely on Belgrade Center for Security Policy interview data: namely, a respondent, manager of the company affiliated with previous power structures, testified on the exposure to constant controls from the Labor Inspectorate inspecting contracts of their employees. When the Inspectorate failed to find irregularities, they were still sentenced for an "insufficient level of light" in managerial premises (Petrović and Milošević 2015a: 73).

Therefore the clientelist mechanism includes public entities under the control of the parties at power (mostly through management structures), private security companies that won the tenders for providing security services to public entities, and various inspection agencies that selectively controlled compliance with the laws and regulations of the companies. An indicative example of the use of control mechanisms is related to Labor Inspectorate control. Namely, data obtained from researchers of Belgrade Security Center (Petrović and Milošević 2015b) testify on the paradigmatic malpractice of one of the politically protected company: in order to comply with the lowest price criterion, the company failed to pay wages to their employees for 6 months. Official Business Register Agency financial report of this company showed a negative balance on the company's account. Nevertheless, the Labor Inspectorate, that in the period 2014-15 performed control over 300 companies (out of 600 registered), did not exercise control over this company nor pressed charges for a misdemeanor.

Another example of the misuse of control mechanisms is related to the work of the Republic Commission for Protection of Rights in Public Procurement Procedures, which supervises the implementation of public procurements. One of the competences of this body refers to the complaints of companies participating in tenders regarding the regularity of procedures. Often the reason for the appeal was the fact that the tenders were won by private security companies that offered an

unrealistically low price for security services. However, the data show that this Commission, in the same staff, made completely opposite decisions regarding these complaints, which, with good reason, raised suspicions that some companies enjoyed its protection (Jovanović 2014).

The role of control mechanisms is to enable the implementation of the laws and equal access of different companies to the market. However, the selective control of different agencies enables companies to circumvent the laws and regulations, while the clientelist relations significantly shape the selective character of these mechanisms. In order to fit into best price offer at public tenders, private security companies therefore often use various strategies that are against the law or which violate workers rights: pays of salaries that are below the legal minimum sum in cash; hiring security staff without contracts during night shifts when the Labor Inspectorate does not perform control; racketeering of employees, when minimum wage is paid off, but workers are informally obliged to give certain sum back to the employers voluntarily or through penalization for different misdemeanors at work; contracting ghost servicemen, when companies contract fewer security staff than needed (often in remote area where controls are rare), but charge for the full declared number of personnel from the client; by calculating longer nightshifts and extra charging them from the clients; by not paying overtime work to the employees; by hiring retired persons in order to pay lower tax rates; by leasing workforce from the agencies in order to get the contracts without having to employ workers, etc. (Petrović and Milošević 2015a; Milošević 2020).

The political impetus for the development of a new "complex" form of clientelism after 2012, in addition to the aforementioned opening of the public sector and the change of the Law on public procurement, came from the fact that there was a change of the parties at power. Private companies that were affiliated with the old government structures lost contracts with the state after the change of government, which "passed" into the hands of companies associated with the new political structures. However, given that these were relatively new companies, with insufficient capacity to compete in tenders at all, especially when it comes to large public systems, and then to implement the given contracts, they were using different strategies in order to widen their capacities. One of the most common strategies was the formation of a consortium for each bid at tender, which, as a rule, consisted of party companies and existing companies with resources (often service companies, daughters of companies that already provided services for public facilities). In

this way, party companies managed to grow and slowly take over the market. Interestingly, multinational companies are also entering into these agreements with party companies, most often under pressure to preserve their contracts, by hiring party affiliated companies as junior partners and employing party affiliated staff (Milošević and Petrović 2016:70; Milošević 2020:14).

#### **Conclusions**

Post-socialist transformation of Serbia and consolidation of capitalism have been shaped by persistent clientelist relations between power structures and different actors (economic elites, constituency, institutional actors), becoming one of the key mechanisms of extraction of the public resources. Clientelism largely spilled over in the private security sector that developed through processes of privatization and commercialization of protection services previously provided by the state and its apparatuses or being an integral part of public enterprises. In this paper, we argue that clientelist relations that shaped the sector developed and changed in relation to three factors: characteristics of the market, characteristics of the political system, and characteristics of the normative framework.

As for the first factor, the key impetus for the development of the sector came from the rise of the commercial sector and privatization processes. While the former created demand for this type of services within the commercial sector, the latter factor led to opening up, at least to some extent, public entities to private security companies through the extraction of the security services from the main activities of public enterprises. The opening of the public sector for this type of service has enabled the growth of the private security sector. At the same time, however, security services were included in a wider mechanism of state capture and extraction of public resources through companies operating in this sector that were closely affiliated to power structures. In this way, not only did the characteristics of the market for these services provide an impetus for the development of clientelism, but clientelism and party patronage, in turn, became important factors in shaping the private security market.

The second impetus for the development of clientelism came from characteristics of the political system itself. The fragility of the newly established institutions of representative democracy and the competitive character of the political system in which the very existence of political

parties is significantly linked to access to public resources produce a system characterized by various state-capture strategies. While the corporate model of state capture mostly related to the phase of relative political instability after the year 2000, when economic elites utilized this situation in order to influence the favorable regulatory framework (funding political parties in turn), the stabilization of parties at power after 2012 led to the change of the locus of power from economic to political structures, installing political model of state capture (within which political power holders dictated the conditions of clientelist exchange). During the phase of corporate state-capture, clientelist exchange between power holders and private security companies was direct and almost unobstructed by the regulatory framework (due to the lack of proper regulation of the private security sector and insufficient regulation of public procurement processes). On the other hand, the need to harmonize regulatory frameworks of Serbia and the European Union in the accession process and the requirements aimed at reducing the space for corrupt practices in doing business with public companies and in financing political parties resulted in the adoption of legal solutions (Law on Public Procurement 2012 or Law on Private Security from 2013), which, paradoxically, contributed to the innovation of new and development of the old strategies and forms of clientelist exchange between holders of political power and other actors. New patterns of clientelist exchange have become more complex, involving a larger number of different actors, especially control institutions and agencies which, due to direct party control or indirect channels of influence, exercised selective control over public procurement processes or the work of private security companies. As Radeljić and Đorđević (2020) noticed, in the situation of the uncertain outcome of the process of EU accession, authorities tend to adopt EU standards merely rhetorically, without substantial engagement in substantial reforms of the system relying on clientelism and informal networks of power.

Finally, the third incentive for the development of clientelist relations came from normative solutions or their absence - through the Law on Privatization (2001), the Labor Law (2014), the Law on Agency Employment (2019), the Laws on Public Procurement (2002, 2008 and 2012), and the Law on Private Security (2013). While the phase of domination of corporate model of state capture has been characterized by the absence of clear legal frameworks and laws that open the space for corrupt use of public funds, the phase of domination of the political state capture model, on the contrary, is being characterized by a legal framework that has largely emerged through alignment with European legislation but produced new

forms of corrupt practices and the extraction of income for the party or personal needs of holders of political power.

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