

# Addressing the role of private security companies within security sector reform programmes

**Anna Richards** and **Henry Smith**



SAFERWORLD  
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# Introduction

The private security industry comprises those actors who provide security for people and property under contract and for profit. Worldwide, the industry is experiencing a period of rapid growth, and, when effectively regulated and fully accountable, can make a valuable contribution to the provision of security. However, the activities of an uncontrolled or poorly regulated private security industry can present unique governance problems, and in transitional or post-conflict states, can act as an obstacle to peacebuilding, good governance and sustainable development. This is of particular importance given that, over the last decade, private actors have increasingly assumed roles that have traditionally been the responsibility of the state.

This guidance note aims to equip practitioners with the information and basic research questions necessary to assess whether the private provision of security in a country is problematic and consider how best to incorporate it into existing or planned security sector reform (SSR) or good governance programmes. The note draws heavily on experience derived from Saferworld's work and therefore has a strong focus on private security companies (PSCs), and the way in which they, as a critical component of the wider security sector, must be integrated into SSR programmes and policies. However, many of the issues it raises apply equally to other elements of the private security sector including private military companies (PMCs) and more informal non-state security providers.

SSR is fundamentally concerned with two things: the development of institutions capable of providing security to a state's citizens in a manner consistent with human rights and the rule of law, and an effective system of democratic regulation and oversight of security actors. This second concern is particularly important with respect to the private security industry: effective private provision of security requires that considerable legislative, regulatory and oversight safeguards be put in place and regularly reviewed. A system that demands

accountability in this way should encourage the transparent operation of PSCs, reducing the opportunities for illegitimate or unethical activities.

The way in which security is becoming increasingly privatised is examined in Part 1. Part 2 discusses PSCs and the potential concerns that their existence raises. Part 3 focuses on the questions that private security provision poses for SSR programmes, and Part 4 details recommendations for the way in which SSR can approach these problems, with particular reference to legislation and regulation, oversight, and service delivery. Finally, Parts 5 and 6 introduce a number of potential areas for research, and provide some background reading materials for further information.

## 1

# The privatisation of security: a global trend

Many states worldwide are increasingly outsourcing functions to private contractors that were traditionally undertaken by their military and police, partly in response to public sector downsizing, but also because of the changing nature of warfare. In theory at least, this new model of security provision allows governments and public institutions to increase efficiency by concentrating on their core functions whilst transferring surplus responsibilities to private companies.<sup>1</sup>

The Confederation of European Security Services estimated in 1999 that more than 500,000 guards were employed by 10,000 PSCs in the EU alone, a number that may well have doubled with the expansion of the EU. Recent research has shown that over 200,000 private security guards are employed in South Eastern Europe, considerably more than the number of police officers employed in those states.<sup>2</sup> Indeed, there are states in which the size of PSC budgets and the number of individuals they employ exceed those of public law enforcement agencies (including, for example, Israel, the UK, US, and South Africa).

Although limited research has been undertaken in this area, the available evidence would suggest that the trend towards increased security provision by non-state actors is prevalent in all regions of the world. A confluence of supply and demand factors ranging from the ready availability of personnel in states downsizing their security forces, to the chronic insecurity and poor quality of policing in many countries, appears to be driving this trend. Policy-makers must therefore learn to deal with the potentially serious implications of limited regulation and accountability of a market which continues to grow in both size and importance, and which is likely to be here to stay.

# 2

## What are private security companies?

The private security sector comprises a wide range of actors. In addition to a number of often unofficial and/or illegal operators such as mercenaries and neighbourhood civil defence forces, the sector includes more legitimate organisations such as PSCs, PMCs, internal security divisions (ISDs), and non-lethal service providers (NSPs).

A set of internationally agreed and distinct definitions for the various operators in the sector has proved elusive, in part because different actors' activities can easily overlap. This is especially significant in the case of PMCs and PSCs. Though PMCs are often perceived as offering traditional 'military' services, the majority actually offer more 'passive' services such as training and logistical support. However, PSCs tend to offer a more protective service for their clients (i.e. those involving traditional policing rather than soldiering roles).

Table 1 below offers a broad categorisation of the main kinds of private security actor by the services that they typically offer. Most operators will be able to conform to one of these broad definitions on most occasions:

**Table 1: Types of private security provider and the services they typically offer**

	Providers by type		
	Non-lethal service providers (NSPs)	Private security companies (PSCs)	Private military companies (PMCs)
Types of services provided	<ul style="list-style-type: none"> <li>■ Mine clearance</li> <li>■ Logistics and supply</li> <li>■ Risk consulting</li> </ul>	<ul style="list-style-type: none"> <li>■ Industrial/commercial site protection</li> <li>■ Humanitarian aid protection</li> <li>■ Embassy/mission protection</li> <li>■ VIP/close protection</li> <li>■ Surveillance and investigation</li> <li>■ Risk assessment and analysis</li> </ul>	<ul style="list-style-type: none"> <li>■ Military training</li> <li>■ Military intelligence</li> <li>■ Offensive combat</li> </ul>

Source: Adapted from Brooks D., *Protecting People: The PMC Potential, Comments and Suggestions for the UK Green Paper on Regulating Private Military Services*, Alexandria, International Peace Operations Association, 25 July 2002. Available at [www.hoosier84.com/0725brookspmcregs.pdf](http://www.hoosier84.com/0725brookspmcregs.pdf).



# 3

## Why can private security companies be a concern?

Although an accountable and effective private security industry can help to increase safety and security, allegations of misconduct by PSC staff or of inappropriate links between companies and actors such as political parties or paramilitaries are all too frequent. These problems are particularly apparent in countries where the rule of law and democratic governance is weak or where there is widespread armed violence. Particular problems associated with poor regulation of the sector include the following:

### Legality:

- In the absence of adequate legislation and regulation, or in circumstances where regulations are poorly enforced, there may be no control over the type or quality of services provided by PSCs. Untrained staff with questionable backgrounds may be able to access weaponry and use force in an illegitimate way.

### Access to justice:

- The introduction of armed PSCs weakens the state's monopoly over the use of force and, where unregulated, hinders rather than helps law enforcement.
- A market for security services can provoke differentials in security between the rich and the poor. In the worst case, state security agencies may be undermined by the private security market leaving security a preserve of the wealthy.

### Accountability:

- Unlike state security providers, PSCs are not directly accountable to the electorate or

parliament but rather to a combination of often weak regulators, company boards and shareholders.

Operational independence:

- Companies empowered to use force may serve as fronts for organised crime, or fulfil an unauthorised political or paramilitary function, particularly in those territories emerging from armed conflict.
- In states with a history of 'ethnic conflict', there is the potential for PSCs to be misused against ethnic as well as political rivals.
- There is potential for conflicts of interest to arise because of close ties between former and serving government officials and PSCs.

The problems outlined above highlight the considerable challenges raised by the operation of PSCs, and the consequent need for practitioners to develop a comprehensive system providing for their effective regulation and oversight. This is discussed in further detail in Part 5 of this note.

# 4

## Why is private security provision an issue for security sector reform?

SSR is nowadays a common agenda in many post-conflict and transitional states where the operation of unprofessional or poorly governed security provision is seen as posing a danger to the development of a stable democratic state. However, while SSR programmes now recognise the ‘rightsizing’ and reform of public security agencies such as the military and police as key to transition and democratisation, the need to introduce similar levels of professionalism and accountability in the private sector has typically been neglected by donors and practitioners alike. This is despite the fact that the sector often represents one of the largest groups of armed actors within a country and that left to its own devices, will naturally prioritise the needs of owners and shareholders over those of the public at large. In some cases the failure to address the sector’s problems has had obvious detrimental effects to human security and governance. A good example of this is Bulgaria where the move away from Communism in 1990 allowed for a rapid privatisation of security which until 1998 saw the industry dominated by organised criminal groups. This occurred in tandem with programmes of military and police reform which were undertaken without due recognition of their potential effects, both positive and negative, on the privatisation of security.<sup>3</sup>

As SSR is fundamentally an exercise to achieve effective democratic civilian control of those institutions that exercise force on behalf of the community, PSCs therefore clearly fall within the scope of SSR programmes.

# 5

## How can security sector reform programmes address private security providers?

In order for the private security industry to be properly factored into SSR programmes, it is essential to capture information about the industry during the assessment and design stages of those programmes. Crucial research areas for a sector-specific assessment would include:

- The demand and supply factors that sustain the industry
- Its scale and structure, both current and projected
- The type and quality of the services provided to clients
- The attitude of leading industry figures and clients to reform and self-regulation
- The content and effectiveness of any regulatory regime, and
- The perceptions of the public towards private security providers,

as well as any possible further privatisation of public security services and the implications that it may have for SSR.

Whilst the specific objectives of SSR programmes will be dependant upon the context and security environment, they should be formulated with the overall aims of increasing democratic oversight and accountability of the entire sector. This can be achieved by formulating a comprehensive system of legislation and regulation for the private security industry, developing effective mechanisms for oversight, and encouraging a culture of professionalism.

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## National policy and regulation

A thorough system of regulation at the national level is necessary for achieving public oversight and control over the private security sector. Whilst there is an increasing tendency toward the creation of comprehensive legislation governing the work of PSCs, there are many states where such a framework is either lacking or flawed. As a first step, all states should develop a national policy on the regulation of the private security sector and its relationship with state security providers, which is designed to ensure the highest possible standards in both spheres. This in turn should be supplemented with appropriate primary legislation and regulations. Ideally, companies operating both at home and abroad should be regulated by national legislation.

A combination of past experience and international best practice suggests the following areas as priorities for national legislation and regulation:

### Licensing of PSCs and PSC personnel

- Comprehensive licensing systems should be established, clearly defining the type of services that PSCs may be allowed to provide and providing for the revocation of licences in certain cases.
- Legislation should establish a clear set of criteria against which licence applications are assessed on a case-by-case basis. Specific points to consider should include whether the company and its proposed activities might threaten public security; undermine economic development; exacerbate instability; contribute to or provoke internal intervention or external aggression; violate international embargoes.
- Legislation should demand that thorough background checks be undertaken of PSC employees and owners prior to licensing. Furthermore, vetting procedures should be extended to the close family members of PSC owners in order to discourage the ownership of PSCs by criminal or party-political actors.
- Licences should be of limited duration in order to ensure high standards of professionalism and enable the continual monitoring of activities. Appropriate penalties should also be imposed where necessary.
- Government policy should ensure that all personnel employed by PSCs are individually licensed to work within the private security sector and trained to high standards.
- Due to the increasingly transnational nature of the private security sector, extra-territorial regulation of national PSCs should be seriously considered in order to account for situations in which national PSCs 'export' their services (and weaponry), by operating abroad in states that may not be well equipped to regulate their conduct.

**Limitations on the use of force and firearms**

- Legislation detailing the requirement for the minimal use of force by PSC personnel must be created in accordance with international best practice. This should include the use of firearms and other ‘less lethal’ weapons such as chemical sprays and electroshock equipment.
- National legislation and regulation should include a prohibition on the use of military specification firearms by PSCs.
- Legislation should contain provisions on the registration and storage of firearms used by PSC employees.
- Such regulation should form part of a wider national small arms and light weapons (SALW) control programme.

**Public and private security provision** A clear distinction should be made between private and public actors working within the security sector. Their respective roles and responsibilities should then be enshrined within the legal framework and also in any framework agreements between the police and PSCs.

**Transparency and accountability** National legislation should establish minimum requirements for the transparency and accountability of PSC operations, ranging from internal systems of governance (e.g. staff recruitment, training and conduct, responsibilities of boards of governors etc) to financial and contractual matters (e.g. company structures, duties of public disclosure etc).

**Political affiliation** Direct relationships between specific political parties and PSCs should be prohibited.

In addition to state regulation, a system of industry self-regulation should be actively encouraged. Such self-regulation may take the form of voluntary codes of conduct, which can then serve as a basis on which to develop a system of best practice complementary to national legislation. Such codes, many of which already exist, should ideally cover a wide range of issues, including the observance of human rights norms and zero tolerance of gender-related abuse. However, it is absolutely critical that the relevant regulatory authority works in partnership with industry to introduce, implement and enforce a stringent regulatory framework, and encourage clients to use PSCs that adhere to the codes. When undertaken with progressive industry partners, such processes can be successful, as in the case of Bosnia and Herzegovina (see below). In contrast, the difficult experiences in South Africa, where the Government failed to engage and work with the private security industry when creating a regulatory regime, serves to highlight the real need for co-operative working relationships in this area.

### ***The Sarajevo Code of Conduct for Private Security Companies***

In summer 2006, with financial support from the South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), Saferworld and the Centre for Security Studies (Bosnia and Herzegovina) initiated the *Sarajevo Process*, in which stakeholders from the Bosnian Government, client groups and international organisations came together for the purpose of improving standards within the private security industry in Bosnia and Herzegovina.

The result was the creation and publication of *The Sarajevo Code of Conduct for Private Security Companies* and *The Sarajevo Client Guidelines*. The Code of Conduct is a set of guidelines and principles aimed at improving basic standards of professionalism and service delivery within the private security industry. It covers a wide range of areas, including:

- The selection and recruitment of employees
- Standards of training for PSC personnel
- The use of force and firearms
- Relationships between PSCs and contractors, competitors and other affiliations (such as political parties or criminal groups) and
- Respect for human rights and security.

As a voluntary process, negotiations leading to the adoption of the *Sarajevo Code of Conduct* involved the participation of a significant number of PSCs, from both the Federation of Bosnia and Herzegovina and Republika Srpska. Due to the fact that its creation followed an extensive period of inclusive consultation, its adoption was widespread within Bosnia, laying the foundations for better self-regulation and oversight within the industry. It is however, a document with potentially wider application and its adoption elsewhere is therefore encouraged.

Source: Saferworld and CSS, *The Sarajevo Code of Conduct for Private Security Companies*, (UNDP-SEESAC, Belgrade, 2006). Available at: <http://www.seesac.org/index.php?content=8&page=sr&section=3>

## **Oversight**

Whilst a comprehensive system of legislation and regulation will ensure that statutory and policy provisions for oversight exist, there is much that can be done by practitioners at the operational level in order to ensure that such mechanisms are thoroughly and effectively engaged. Such measures can include:

- A commitment to developing the capacity of oversight agents such as an Ombudsperson, parliamentary committees and other such regulatory authorities to scrutinise the activities of PSCs. In conjunction with monitoring by police and intelligence services (where appropriate), this will increase levels of publicly accountable oversight and improve transparency.
- A requirement that accurate company records be maintained by all PSCs. This will enable the relevant state authorities to inspect all necessary information and data relating to the PSC and its employees.

- Mechanisms for monitoring and inspecting PSC firearms holdings.
- Mechanisms for monitoring, and where necessary, challenging, relationships and affiliations between PSCs and political groups or individuals, and/or other units or groups operating within the security sector (for example, informal paramilitary or rebel groups).
- Provisions within procurement policy and practice to exclude those companies with such affiliations from the tender process. This is a particularly useful avenue for SSR programmes to include in environments where regulation is underdeveloped or poorly enforced.

### ***The Sarajevo Client Guidelines for the Procurement of Private Security Companies***

The *Sarajevo Client Guidelines* formed part of the Sarajevo Process (see *The Sarajevo Code of Conduct for Private Security Companies* above). When used either independently of, or in conjunction with, the *Sarajevo Code of Conduct*, they establish a three-stage voluntary procurement procedure that client organisations are advised to follow when contracting private security providers.

During the first stage, the **needs assessment and invitation to tender**, clients will assess their exact security needs, giving consideration to a number of factors, including the type and level of security required, the operational tasks expected of the contractor, and the level of public contact. This will then be used to formulate and issue an invitation to tender.

The second stage will involve a thorough **evaluation of bids** in two stages:

- The first stage involves a set of criteria that is used to reject substandard or inappropriate bidders immediately.
- The second stage provides a comprehensive set of 'award criteria', which is used to assess tenders against a number of requirements. These include, amongst other things, the level of professionalism and training exhibited by the PSC bidding for contract, the level of experience displayed by the PSC, and the systems for governance and oversight created within the company structure.

The third and final stage involves the employment of **performance indicators** that are tied to specific outcomes and can be used to track contractor compliance with the contract.

The *Sarajevo Client Guidelines* is a locally owned document designed to respond to real concerns regarding the use of PSCs, and thus should be considered a real asset to the regulation of all private security procurement practices.

Source: Saferworld and CSS, *The Sarajevo Client Guidelines for the Procurement of Private Security Companies* (UNDP-SEESAC, Belgrade, 2006). Available at: <http://www.seesac.org/index.php?content=&page=sr&section=3>



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## Service delivery

All SSR programmes should seek to ensure that PSCs are fully committed to professional and transparent service delivery. When integrating private security provision within SSR programmes, the following mechanisms should thus be considered:

- An effective training regime for PSC staff should be created and overseen by state authorities. Such a programme should aim to train PSC personnel in, amongst other things, international humanitarian law, human rights law, minority rights, gender-related issues and first aid.
- All PSC personnel should be properly trained in best international standards and practices with regards to security provision, in particular, the *UN Code of Conduct for Law Enforcement Officials* and the *UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*. Licensing of PSCs and their employees should be dependant upon such training.
- PSCs should also undertake to provide training internally, meeting national and international regulations and standards and enabling employees to continually develop professionally.
- Governments or international donors should create guidelines that assist clients in making the decision on whether to use the police or PSCs in any given situation. This will ensure that the two sectors are seen as complementary, rather than competing, providers of security.
- Where the police and PSCs work alongside one another (for example, at public events), co-operative working agreements should be considered.

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## Regional and international regulation

Even where extra-territorial legislation exists, its enforcement can be problematic in the absence of mutually reinforcing regulatory frameworks at the regional and international levels. For example, although South Africa has a system of extra-territorial legislation, if a South African registered PSC is operating abroad, any misdeed cannot practically be addressed by the South African authorities until the individuals' return back to South Africa, unless there is a regulatory system in the host country, or indeed, there is a regional or international framework. It is therefore important that practitioners in this area promote such frameworks, as they present a clear opportunity to ensure more effective control.

At present, however, it is unclear which international laws apply to the industry, partly as a result of the ambiguous legal status of PSCs under existing international treaties. For example, the activities of personnel employed by such firms are not governed by the *1989 International Convention against the Recruitment, Use, Financing, and Training of Mercenaries*. Those efforts that are currently underway to remedy the situation (such as the

initiative by the Government of Switzerland to agree an international code of conduct for PMCs/PSCs and similar work by the Confederation of European Security Services) should therefore continue. In addition, governments should work towards the formation of regional regulatory instruments as a bridge between the national and international levels. In the European arena for example, this means the pursuit of discussions within the EU, NATO and OSCE on common standards for the industry. Any such agreement could in turn inform future global standards.

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### **Potential areas of difficulty**

A strong and visible private security industry creates a unique set of challenges and opportunities for SSR, and as such must be appreciated whilst designing and implementing SSR programmes. Whilst this guidance note cannot be exhaustive in the issues that it highlights, there are a number of key points that must be considered and strategies that can be used to address them:

**Table 2: Potential areas of difficulty for SSR programmes seeking to engage PSCs**

Risks	Motivating factors	Mitigating strategies
The creation of a 'security vacuum'	In cases where state security provision is weak, PSCs and other private security actors may be the exclusive or primary security provider. They may also be considered more effective and professional than state providers. Where this is the case, there may be significant public resistance to any programme aimed at reforming the private security sector, as the loss of, or limitations on, the activities of PSCs may be perceived as creating a 'security vacuum'.	Include PSCs within broader SSR programmes from the beginning, starting with their inclusion within comprehensive mappings of the security sector.
Industry resistance to change	In many states, the private security sector is significantly larger than its public counterpart. It is possible that such providers may have strong interests that will prompt them to oppose attempts at reform.	When developing SSR programmes, those companies most likely to benefit from such reform must be identified and supported accordingly in order to increase the likelihood of programme success and minimise internal resistance.
Overlap between state and non-state security providers	In many states, there is significant overlap between state and non-state security providers. Not only is there often a poor distinction between the responsibilities of each sector, which in turn creates competition between the two, there are also many examples of PSCs employing off-duty policemen, and having police and government officials on their Boards.	SSR assessments must seek to fully understand the relationships between the private and public security sectors. Where they are not well defined, or they present conditions conducive to corruption or the misuse of power, steps must be taken to improve accountability and oversight.
Issues raised by 'immunity agreements'	In some cases, international private security providers have negotiated immunity agreements with national governments in order to protect their employees and, where appropriate, the company itself from criminal prosecution. Whilst there are reasons why this can be useful, such agreements can have the effect of weakening the rule of law in the country in which the PSC operates. This is particularly problematic in conflict-affected and transitional states, where the implementation of the rule of law is often already weak.	SSR programmes must examine any such agreements and if necessary take steps to modify or abolish them where they either undercut existing national or international standards including international human rights or international humanitarian law.

# 6

## Key questions to be asked

Where the existence and operation of PSCs raise particular concerns in relation to SSR, then there are a number of key issues that must be taken into consideration when undertaking any such assessment. The following section details a number of questions that should be asked in order to develop a full picture of the role of PSCs and their relationship with the broader security sector and its reform.

### **Industry background**

- Are there any PSCs operating in the country? If so, list the names of the most well-known.
- How many companies are there?
- When did PSCs first begin operating in the country?
- How has their presence and role varied over time? (e.g. the services they provide, the clients they work for, the number of companies operating). What events explain these trends (if any)?
- Are the PSCs operating in the country nationally owned, internationally owned, or both? If national providers are subsidiaries of international companies, how autonomous are they?
- How many private security guards are there in the whole country?
- Are there certain areas of the country (regions/towns) where PSCs are particularly active?
- Approximately how many staff does each company have?
- What is the average salary for a junior private security guard?
- What is the average salary of a police officer?
- What is the public perception of private security provision? Does this vary according to the ethnicity, religious or economic background or geographical location of the respondent?

- Are any unlicensed companies or individuals known to operate? If so, where, how many, and what services do they provide?
- What is the overall rate of recorded crime in the country? Is the rate of recorded crime higher, lower, or the same in the areas where PSCs operate?
- Is there an ethnic dimension to the formation and use of PSCs (e.g. are there PSCs with certain ethnic, religious, linguistic, clan or family affiliations, or is their formation a reaction to inter-ethnic politics)?

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## **Private security company operations and their effects**

### **The services that PSCs provide**

- Who employs PSCs? (e.g. politicians, businesses, international organisations, NGOs).
- Do procurers of private security services provide any information regarding the companies or individuals that they employ?
- How many international actors employ PSCs? (e.g. NGOs, international organisations, international businesses).
- What threats do clients hire PSCs to protect them from? How serious are these threats?
- What form of protection do they provide for their clients? (e.g. rapid response, static security, close protection). Who or what do they usually protect? (e.g. people, buildings, goods).
- How common is it for PSCs to be employed by private citizens, either to protect properties or the individual?
- Do PSCs commonly provide services for the government, for example guarding prisons or government buildings?
- How many households employ PSCs?
- What impact does the use of PSCs have on the following:
  - State-run police services?
  - Crime levels?
  - Public safety?
  - Human rights?
  - Business confidence?

### **Use of force and firearms**

- Are private security guards armed? If so, what type of weapons do they usually have access to, including so-called 'non-lethal' weapons? More specifically, do guards have access to military-style weapons such as assault rifles?

- Are private security guards required to wear a uniform or carry a visible identification card when on duty?
- Do private security guards carry concealed weapons?
- Are the weapons that private security guards use registered? If so, are they registered to the company, to individual guards, or leased from the state?
- What regulations, if any, exist over the storage and use of ammunition?
- When weapons are not in use, are they stored on company premises, or are they taken home by employees?
- What are the accounting procedures at the company? (e.g. is a register of weapons kept by the company? Are weapons signed in and out by employees?)
- Are there any differences between domestic and international PSCs with regard to weapons possession, use and management? (e.g. type and ownership of weapons, storage and accounting procedures).

### **Affiliations**

- Are there any formal or informal connections (including ownership) between PSCs and any of the following:
  - State-run police services?
  - The military?
  - Government officials?
  - Political parties?
  - Militias/paramilitaries?
  - Organised criminal groups?
- To what extent are different PSCs in the country supported or undermined by political actors? (e.g. parties, government).
- Are there PSCs that provide services only to one group? (e.g. political party, ethnic group).

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## **Oversight and regulation**

### **The legal framework for controlling PSCs**

- What laws regulate the work of PSCs?
- Are there any national procedures and/or systems in place for registering and licensing PSCs? If so, are they mandatory? Are these processes transparent? What are the criteria against which a licence/registration application is assessed?
- Does the law govern domestic (national) PSCs in the same way as international ones? If not, what are the differences?

- Is there any immunity agreement for international PSCs? If so, is there any extra-territorial form of control?
- What guidelines and procedures are in place to ensure that the law is enforced in practice? Do those authorities charged with oversight of the private security industry have a formalised responsibility to ensure that the performance of private security providers is assessed and judged against the relevant legislation and regulation mechanisms?
- Does the legislation provide for:
  - Restrictions on the weaponry that companies can and cannot use, and restrictions on reasonable use of force?
  - Specific requirements to register either companies or personnel with the police or interior ministry?
  - An official register of PSCs in the country detailing the ownership, size and form of activities offered? If so is this open to the public or confidential?
  - Background checks to prevent convicted criminals owning or working for a PSC? If so do these checks include close family members (e.g. partners, parents, siblings or children) of either owners or employees? Who is responsible for undertaking the vetting procedure? Is the procedure applied retroactively?
  - Requirements that personnel be trained? If so, how?
  - The type of weapons that PSC staff may own or use?
  - The storage methods that must be used for weapons and ammunition stored at the company buildings?
  - The accounting methods that must be used when issuing weapons and ammunition to staff, when they are used, and after they have been used?
  - Measures to prevent conflicts of interest and corruption?

#### **The regulatory framework for controlling PSCs**

- Do PSCs have any self-regulation? (e.g. a voluntary 'Code of Conduct' established by companies themselves).
- Are there any particular governmental institutions responsible for regulating PSCs? (e.g. for registering them, training security guards, or monitoring their work).
- Are there any informal institutions responsible for regulating PSCs? (e.g. a trade association).
- Do any joint working agreements exist between PSCs and state-run police services? Do the police formally allocate a role for PSCs?
- Are there any situations where state-run police services provide extra security to businesses on a contractual basis?
- Do procurers of private security services establish mechanisms by which to ensure the accountability of the service providers they employ?

- How transparent or open are the procedures for monitoring the implementation of regulations? Is there any official monitoring of the oversight authorities?
- Does the regulatory system work in practice? (State any known problems).
  - Has there been any example of a PSC or employee being disciplined or punished by the authorities?
  - Is there any evidence that crimes or misdemeanours carried out by PSCs have been deliberately overlooked?
  - How regular and thorough are the inspections of PSCs carried out by the authorities? Are these inspections spot checks or is notice of an inspection given?
  - What measures could be taken to improve the system?
- By what process (if any) are PSCs appointed and contracts reviewed?

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### **Professionalism and training**

- Overall, how professional are PSC staff operating in the country?
- What background do the staff employed by PSCs operating in the country tend to have? (e.g. a particular ethnic or professional background such as ex-police/military).
- Is any training for PSC staff required under national legislation, or informal regulations? (e.g. membership of professional associations). If so, what type of training is provided, for how long, and by whom?
- Is it easy to bypass or avoid tests, or cheat during training? Has it been known for candidates to attempt to bribe officials in order to pass training/tests? How rigorous is the testing? What is the pass/failure rate? What happens if a candidate fails?
- Are PSC staff taught to apply the minimal use of force for the minimal length of time during any training they receive?
- Are armed PSC personnel trained in first aid and equipped to render assistance to anybody that they have injured? If yes, do PSC employees carry first aid kits when on duty?
- Do the major clients that PSCs work for (especially multinational companies and international organisations) require that company staff have been trained as part of their contract tendering process?
- Have there been any cases where individuals accused or convicted of human rights violations have been employed by PSCs? How widespread is this problem?
- Have there been any media reports implicating PSC staff in crimes against civilians, human rights abuses (especially gender-based violence) and/or the excessive use of force? If so, have there been any trials or prosecutions arising from these incidents?
- Is there any difference between the level of professionalism in domestic and international PSCs?



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### **Donor engagement with PSCs**

- Are there any existing SSR programmes in the country that are supported by donors?
- Do existing SSR programmes include a component that focuses on the private security industry? If not, why not? Was the private security industry specifically excluded from the programme, and if so what was the process that led to this decision?
- Do donors operating in the country procure private security services? If so, are objective procurement criteria used in the process of selection?
- Would donors and other international actors be willing to develop a set of procurement guidelines and exchange information regarding company performance and inspections?

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### **Co-ordination with other elements of the security sector**

- If SSR programmes are in place in the country, do they include the private security sector?
- Are PSCs included in wider debates about security sector reform?
- Do PSCs undertake joint operations with state security providers? (e.g. police).
- Is there any formal co-operation or co-ordination between the police and private security providers, either at the community or local level?

## 7

## Available resources

Bourne, M., *The Privatisation of Security*, Centre for International Cooperation and Security, Department of Peace Studies, University of Bradford, 02 June 2004. Available at: <http://www.ikv.nl/docs/200408111618595200.doc?&username=gast@ikv.nl&password=9999&groups=IKV>, last accessed 29 November 2006. This paper undertakes an in-depth analysis of the various types of private security provider, before identifying the range of issues and concerns that they raise.

Center for Study of Democracy, *Partners in Crime: The Risks of Symbiosis between the Security Sector and Organised Crime in South East Europe*, Sofia, 2004. This report clearly highlights the risks associated with criminal links within the security sector in the Western Balkans, as well as making recommendations aimed at addressing these.

Confederation of European Security Services, *Joint Declaration on the mutual recognition of CoESS and Euro-FIET and the social dialogue*, Berlin, 11 June 1999. Available at: <http://www.coess.org/documents/reconnaissance.pdf>, last accessed 29 November 2006. This Declaration aims to improve social dialogue with a view to increasing professional standards within the private security industry.

HMSO, *Private Security Industry Act 2001*, The Stationery Office, London, 2001. Available at: [www.hmso.gov.uk/acts/acts2001/20010012.htm](http://www.hmso.gov.uk/acts/acts2001/20010012.htm), last accessed 29 November 2006. This Act of Parliament establishes a system of statutory regulation for the private security industry in the UK.

Holmqvist, C., *Private Security Companies, The Case for Regulation*, SIPRI Policy Paper No. 9, SIPRI, Stockholm, January 2005. Available from: <http://www.sipri.org/contents/publications/pp9.html>, last accessed 29 November 2006. This policy paper assesses the impact that privatised security has in a range of security contexts, and highlights a number of the ways in which these may be addressed.

International Alert, *The Privatisation of Security: Framing a Conflict Prevention and Peacebuilding Policy Agenda*, Wilton Park Conference, 19–21 November, London, 1999. Available at: <http://www.international-alert.org/publications/getdata.php?doctype=Pdf&id=105>, last accessed 29 November 2006. This publication covers a wide range of issues, including suitable policy frameworks, the relationship between PSCs and humanitarian assistance, and national, regional and international methods of addressing the outstanding issues and challenges.

- Krahmann, E., 'Private Firms and the New Security Governance.' Paper presented to the International Studies Association, New Orleans, 23–27 March 2002. Focussing on security networks and the operation of PSCs, the paper examines the specific problems associated with PSC use, and the possible mechanisms to address these.
- Mandel, R., 'The Privatization of Security,' *Armed Forces & Society*, vol. 28, no. 1, 2002, pp. 129–151. Provides an analysis of the causes and consequences of privatised security.
- Saferworld and International Alert, *SALW and Private Security Companies in South Eastern Europe: A Cause or Effect of Insecurity?* UNDP-SEESAC, 2005. Available at: <http://www.seesac.org/reports/psc.pdf>, last accessed 29 November 2006. This research report undertakes a country by country analysis of the challenges associated with PSC operation in a number of South Eastern European states, whilst formulating a number of more broadly applicable recommendations aimed at addressing them.
- Saferworld and CSS, *The Sarajevo Code of Conduct for Private Security Companies*. UNDP-SEESAC, Belgrade, September 2006. Available at: <http://www.seesac.org/index.php?content=&page=sr&section=3>, last accessed 30 November 2006. The Code contains a set of basic standards of professionalism and service delivery for application by all employers and employees in the private security industry. Whilst created for the Bosnian private security industry, its relevance to the wider privatisation of security is evident.
- Saferworld and CSS, *The Sarajevo Client Guidelines for the Procurement of Private Security Companies*. UNDP-SEESAC, Belgrade, September 2006. Available at: <http://www.seesac.org/index.php?content=&page=sr&section=3>, last accessed 29 November 2006. This document outlines a three-stage voluntary procurement procedure that client organisations are advised to follow when contracting private security providers.
- Schreier, F. and Caparini, M., *Privatising Security: Law, Practice and Governance of Private Military and Security Companies*, Geneva Centre for the Democratic Control of Armed Forces (DCAF), Occasional Paper no. 6., Geneva, March 2005. Available at: [http://www.dcaf.ch/\\_docs/opo6\\_privatising-security.pdf](http://www.dcaf.ch/_docs/opo6_privatising-security.pdf), last accessed 29 November 2006. This paper presents a discussion of the issues and challenges raised by the operation of PSCs and the advantages and disadvantages that their use presents.
- United Nations General Assembly, *Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*, United Nations General Assembly Report A/54/326, 7 September 1999. Available at: [http://www.unhcr.ch/Huridocda/Huridoca.nsf/o/oc9e82b68055b832802568960059e1d5/\\$FILE/G9916486.pdf](http://www.unhcr.ch/Huridocda/Huridoca.nsf/o/oc9e82b68055b832802568960059e1d5/$FILE/G9916486.pdf), last accessed 29 November 2006. This report analyses the effect that mercenaries can have on human rights and political freedoms.
- United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*. Available at: [http://www.unhcr.ch/html/menu3/b/h\\_comp43.htm](http://www.unhcr.ch/html/menu3/b/h_comp43.htm), last accessed 28 November 2006. This UN document establishes a set of principles governing the use of force and firearms by law enforcement officials.
- United Nations General Assembly, *International Convention against the Recruitment, Use, Financing and Training of Mercenaries*, United Nations General Assembly Resolution A/RES/44/34, 4 December 1989. Available at: <http://www.un.org/documents/ga/res/44/a44r034.htm> last accessed 29 November 2006. UN instrument prohibiting the use of, and associations with, mercenaries.

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## Notes

- 1 For example private security companies have taken over the administration of prisons in some countries including the UK, Canada, Mexico and Lesotho. See for instance Public Services International Research Unit (PSIRU) University of Greenwich, *Prison Privatisation Report International No. 49*, (August/September 2002). Available at <http://www.psiru.org/justice/ppri49.asp>, accessed 29 November 2005.
- 2 Page, M., Rynn, S. et. al., *SALW and Private Security Companies in South Eastern Europe: A Cause or Effect of Insecurity?* (International Alert/Saferworld/SEESAC, 2005). Available at <http://www.seesac.org/reports/psc.pdf>, accessed 29 November 2005.
- 3 There is also a case for donors and practitioners to consider the potential knock-on effects of Disarmament, Demobilisation and Reintegration (DDR) programmes which typically introduce large numbers of personnel into the private security market.

**When effectively regulated, the private security sector can make a valuable contribution to the provision of security. However, an uncontrolled or poorly regulated private security industry can present unique governance problems and even act as an obstacle to peacebuilding and sustainable development in post-conflict or transitional states. This paper aims to equip practitioners with the information and research questions needed to assess whether the operation of private security companies in a country is problematic and consider how best to integrate them into existing or planned security sector reform programmes.**

**COVER PHOTO:** Private security guards on duty in Prishtinë/Priština, KOSOVO JÉRÔME MELLON, SAFERWORLD.

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