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VAN BEWAKINGSONDERNEMINGEN VZW

third  
white paper

private security in Belgium; an inspiration for Europe?



private security in Belgium; an inspiration for Europe?



**CoESS**  
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## FOREWORD

It is my great honour and pleasure, here and now, to pronounce the Third White Paper, 'Private Security in Belgium; an Inspiration for Europe?' yet another success in the tradition of conferences organised by CoESS under the respective presidencies of the European Union, both in the framework and with the support of these presidencies. After France (Paris, 15 December 2008) and Sweden (Stockholm, 8 December 2009), it is now Belgium's turn. This Third White Paper carries forward the zeal of the earlier White Papers, 'La participation de la sécurité privée à la sécurité générale en Europe - Private security and its role in European security' on the one hand, and 'Privat och offentlig säkerhet i ett nordiskt perspektiv - Private and public security in the Nordic countries' on the other. We are entirely convinced that later presidencies of the European Union will also follow this path.

The content of this Third White Paper does not break with the themes of its predecessors. This time, based on an essential update of the now classic 'CoESS figures', we emphasise the Belgian reality of private security. Belgium has a long tradition of security initiatives, in addition to its public actors, which allow room for participation by organised or individual civilians and the business community. The latter, as a creator of prosperity and welfare, has employed private security in some form or other since the early 9th century. For the sake of completeness, the White Paper touches on this so-called civilian participation. For too long now, the private security industry in Belgium, as in most of Europe for that matter, has served as an exception to politically inspired private security, as was the case with militias during the 'Interbellum' period. After the 1980s, a resolute choice came in the early 1990s for an industry-specific legal framework that has freed the sector from an image it did not actually deserve, and that has guaranteed, and indeed still stands for, professionalisation, quality, separation of competencies, control and economic growth. The private and particular security legislation will receive just as much credit, with a mention for the various private and

particular security actors. Within a broader European framework, the White Paper goes into the reforms in education and professional training. From this angle, it also looks at how far the Bologna Process might apply to employees in our sector. We can already assume that this 'topic' will remain more than current in the years to come.

In essence, this White Paper refers to the public-private partnerships now possible in the area of security. Although the concept has no clear legal definition, there do exist, besides political, economic and scientific opinions, a number of applications and specific projects. No account of these would be complete without mentioning the criminal policy model introduced in Belgium in 1999. At that time, the preference went to 'integral security management', which, by definition, involved public-private security partnerships. This model has been employed to everyone's satisfaction for more than 10 years and has most certainly played a part in ensuring that the private security industry now stands alongside the public security industry in Belgium, more than ever as a full and equal partner.

This Third White Paper would not have come about without the academic support of Professor Dr Marc Cools, criminologist at Ghent University and the Vrije Universiteit Brussel. This longstanding friend and nationally/internationally recognised authority in all aspects of the private security industry has, following a business career in private security and a Cabinet post as advisor to the former Belgian Minister of Justice, Marc Verwilghen, accrued an impressive academic record of (inter)national publications and lectures. His observations guarantee the quality of the scientific discourse in this White Paper.

Marc Pissens  
President of CoESS

## INTRODUCTION

Together with CoESS, the BVBO (Beroepsvereniging van Bewakingsondernemingen) is pleased to present this Third White Paper to you. The BVBO has been a highly active member of CoESS for a great many years now. As the national representative professional association for the private security sector in Belgium, we constantly devote major efforts to making our service as professional as possible. In so doing we strive for national legislation and regulations to complement this service in an efficient manner. We therefore invest heavily in good and constructive dialogue with the competent authorities.

Belgian regulations on private security can rightly be regarded as among the most detailed within the European Union and the rest of Europe. We accordingly wish to share our experience, expertise and accrued know-how with our sister federations in numerous other countries as an initiative of, and with the support of, CoESS.

First of all the BVBO notes a very positive finding. Belgian law was and is often regarded as a source of inspiration, and is used for the development of legislation on private security in other European countries. On the other hand, we must also conclude that this Belgian legislation (introduced twenty years ago this year) today no longer fully corresponds with the social and economic context that has changed in the course of these twenty years.

The private security sector has evolved drastically over the last two decades. Security companies have developed from service providers working exclusively in the private domain to organisations working on public security and its supporting tasks, whereby the provision of a high level of quality is and has always been the priority:

- Today, it is a fact that private security officers can be found in a huge variety of public places.
- The security officer himself or herself has evolved to become a specifically trained, multipurpose and often multilingual service provider.
- Customers (in both the public and the private domain) are more demanding regarding security needs and requests, and today expect an integrated, custom-made, flexible and high quality service.

- The man in the street also expects - and is entitled to - a professional service.
- The security companies themselves have invested heavily and purposively in quality with specific selection and recruitment, additional training, supervision for officers, and by systematically improving pay and working conditions.
- The members of the BVBO went another step further and recently launched the BVBO “Secure Quality” quality label. With this far-reaching form of self-regulation, the BVBO and its members also want to raise awareness among customers concerning the absolute necessity of putting quality first when it comes to monitoring and security. An additional aim of the BVBO is to use this label to encourage the competent authority to include similar quality requirements in legislation.

Today, however, the BVBO notes that the legislative framework - based on the law of 10 April 1990 regulating private and particular security - has not proportionally evolved as outlined above.

The realities of security, the needs of the customer, the role of the private security company, attention to quality and the job of private security officer are totally different from what they were twenty years ago.

The BVBO believes that the legislative framework - that is absolutely necessary for every private security activity - must be a stimulating factor for the development of our services, and with the appropriate incentives and formulation of regulations will stimulate the entrepreneurship of private security companies while encouraging the flexible deployment of staff. The same applies to a number of compulsory administrative formalities for all our companies. These must be effective enough to facilitate transparency and improve efficiency. At the same time they must, however, also offer companies sufficient leeway to respond to the needs of the customer. The BVBO actively strives for the optimisation of administrative obligations. Examples we could mention here are last-minute orders, or services in crisis situations or armed assignments. When these cause serious administrative issues, as is sometimes the case today, a timely and suitable response to the needs of the customer becomes extremely difficult.

Another important factor is that the private security sector is one of the few sectors that creates permanent employment and integrates a considerable number of people from the so-called disadvantaged groups (the long-term unemployed, older unemployed persons, persons of immigrant origin) in the employment market, even in the current times of economic crisis. These opportunities cannot be fully utilised by current legislation.

The private security sector itself is still seeking good legal supervision of its activities. In that sense, the main principles of the law of 10 April 1990 must absolutely remain intact: security investigations, licence requirements for private security officers, supervisory personnel and private security companies, thorough legally compulsory training and a comprehensive control mechanism. Apart from these basic principles the legislation is due for modernisation, and in the dialogue with all the parties involved thought must be devoted to the objectives they want to achieve and the role they wish to give to the private security sector. Based on the developments outlined above, it is clear that the private security sector must be given the opportunities to evolve further as a serious business partner that can supplement some of the security and employment issues. The BVBO and its members, who believe in the future of private security, will accordingly continue to endeavour for a suitable and correct legal framework for their activities.

Finally, such a renewed legal framework must also allow the forms and examples of concrete forms of public-private cooperation already existing in Belgium to develop further regarding both quantity and quality. This Third White Paper offers a general summary of the rules on cooperation put in place so far. The BVBO is utterly convinced that a more modern and more flexible regulatory framework in our country will result in better arrangements and more efficient choices and strategies for the competent authorities. Much has already been achieved, a lot more can still be done, providing that a structural approach is used to the ultimate benefit of all parties: the man in the street, the customer, the government, the police, the employee, the job-seeker and the private security company.

Aimé Lyagre  
President of BVBO



# PART I

## PRIVATE SECURITY IN EUROPE: UPDATE OF THE 'CoESS FIGURES'

Before giving the 'CoESS figures' for the year 2009, it is essential that we look at the previously published figures. In as early as 1989, we had access to information from the following countries: Belgium, Denmark, Germany, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain and the United Kingdom<sup>1</sup>. In 1997, new and more recent morphological information became available from: Belgium, Denmark, Germany, Finland, France, Greece, Hungary, Ireland, Iceland, Italy, Luxembourg, the Netherlands, Norway, Austria, Poland, Portugal, Slovenia, Spain, the Czech Republic, Turkey, the United Kingdom and Switzerland<sup>2</sup>. This is just more evidence that the so-called 'CoESS figures' for 2008 and 2009 are becoming increasingly relevant. Therefore, a complete and detailed update, now expected by mid-2011, is desperately needed.

Even now, figures are being supplied from a broader geographical area. A number of CoESS members, which, it is true, do not belong to the European Union in the strict, political sense of the word, have been included in this overview. They are: Bosnia-Herzegovina, Croatia, Macedonia (FYROM), Norway, Serbia, Turkey and Switzerland.

2010 figures show that there are 1,630,524 employees in the European private security industry. This implies that there are 30.48 employees in the private security industry for every 10,000 civilians. This is an increase of 176,888 employees compared with 2009. The ratio in the public security industry is 36.28. The number of private security companies has now risen by 1,786 entities compared to 2009. The figure for 2010 is 44,896.

The tables below follow the structure of the existing 'Private Security in Europe CoESS Facts & Figures 2008' and give the English name of the (Member) State in question, the population, the police force ratio (per 10,000 inhabitants), the security force ratio (per 10,000 inhabitants), the number of private security companies and the number of personnel in the private security sector. The figures are the result of a survey of CoESS members carried out in May 2010 and are therefore the most recent figures available.

<sup>1</sup> Dedecker, R., (1991). La sécurité privée dans l'Europe des Douze, Uitgeverij Vanden Broele, Brugge, 163p.

<sup>2</sup> Ottens, R., Olschok, H., Landrock, S., (1999). Recht und Organisation privater Sicherheitsdienste in Europa, Richard Boorberg Verlag, Stuttgart, 779p.

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<b>State</b>	<b>Population</b>	<b>Police force/ ratio per 10,000 inhabitants</b>	<b>Security force/ratio per 10,000 inhabitants</b>	<b>Private security companies</b>	<b>Private security personnel</b>
Austria	8,372,930	24.48	13.37	200	11,200
Belgium	10,827,519	43.40	17.18	189	18,609
Bosnia- Herzegovina	4,621,598	N/A	4.32	41	2,000
Bulgaria	7,576,751	62.03	74.55	1,131	56,486
Croatia	4,697,548	40.44	28.65	260	13,461
Cyprus	801,851	37.41	21.02	60	1,700
Czech Republic	10,512,397	43.75	49.02	5,629	51,542
Denmark	5,547,088	18.02	9.46	470	5,250
Estonia	1,340,274	44.76	31.95	255	4,283
Finland	5,350,475	14.95	18.68	200	10,000
France	64,709,480	38.63	24.72	4,500	160,000
Germany	81,757,600	30.57	20.79	3,700	170,000
Greece	11,306,183	44.22	26.53	1,000	30,000
Hungary	10,013,628	39.94	104.97	11,304	105,121
Ireland	4,450,878	27.55	48.69	840	21,675
Italy	60,397,353	70.36	8.14	965	49,166
Latvia	2,248,961	47.13	35.57	435	8,000
Lithuania	3,329,227	60.07	30.03	67	10,000
Luxembourg	502,207	31.32	52.84	10	2,200
Macedonia	2,114,550	N/A	26.48	152	5,600
Malta	416,333	45.73	16.81	6	700
The Netherlands	1,6576,800	29.55	18.66	301	30,936
Norway	4,854,824	17.50	13.80	250	6,700

Poland	38,163,895	26.20	43.23	3,600	165,000
Portugal	10,636,888	47.00	36.54	113	38,874
Romania	21,466,174	25.62	49.84	1,122	107,000
Serbia	10,100,000	33.66	28.21	149	28,500
Slovakia	5,424,057	39.63	31.71	1,730	17,200
Slovenia	2,054,119	36.51	36.77	110	7,554
Spain	46,087,170	49.30	18.66	1,331	86,000
Sweden	9,347,899	20.32	14.44	250	13,500
Switzerland	7,760,477	20.61	16.84	464	13,075
Turkey	74,816,000	26.87	34.37	1,197	257,192
United Kingdom	62,041,708	22.56	19.34	3,000	120,000
<b>Total</b>	<b>610,224,792</b>	<b>36.28</b>	<b>31.11</b>	<b>45,031</b>	<b>1,628,524</b>

Turning our attention for the present to the private security industry, there are a number of observations to be made. As with previous White Papers, this one shows that it is mostly the new EU Member States that have a high private security force ratio. These are: Hungary, the Czech Republic, Romania and Latvia. This trend confirms a continued and sustained choice for new economic aims, which are closer to the free market than the 'old' Europe, with the exception of Luxembourg and Ireland.

<b>State</b>	<b>Security force/ratio per 10,000 inhabitants</b>	<b>Private security companies</b>	<b>Private security personnel</b>
Hungary	104.97	11,304	105,121
Czech Republic	49.02	5,629	51,542
France	24.72	4,500	160,000
Germany	20.79	3,700	170,000
Poland	43.23	3,600	165,000
United Kingdom	19.34	3,000	120,000
Slovakia	31.71	1,730	17,200
Spain	18.66	1,331	86,000
Turkey	34.37	1,197	257,192
Bulgaria	74.55	1,131	56,586
Romania	49.84	1,122	107,000
Greece	26.53	1,000	30,000
Italy	8.14	965	49,166
Ireland	48.69	840	21,675
Denmark	8.46	470	5,250
Switzerland	16.84	464	13,075
Latvia	35.57	435	8,000
The Netherlands	18.66	301	30,936
Croatia	28.65	260	13,461
Estonia	31.95	255	4,283
Norway	13.80	250	6,700
Sweden	14.44	250	13,500
Austria	13.37	200	11,200
Finland	18.68	200	10,000
Belgium	17.18	189	18,609

Macedonia	26.48	152	5,600
Serbia	28.21	149	28,500
Portugal	36.54	113	38,874
Slovenia	36.77	110	7,554
Lithuania	30.03	67	10,000
Cyprus	21.02	60	1,700
Bosnia-Herzegovina	4.32	41	2,000
Luxembourg	52.84	10	2,200
Malta	16.81	6	700

If we compare the public and private security industry, we see that a number of countries have opted resolutely for the private security industry. This is because their private security force ratio is higher than their public ratio. In descending order, these countries are: Hungary, Bulgaria, Romania, the Czech Republic, Poland, Slovenia, Turkey, Estonia and Finland.

<b>State</b>	<b>Police force/ratio per 10,000 inhabitants</b>	<b>Security force/ratio per 10,000 inhabitants</b>	<b>Private security personnel</b>	<b>Public security personnel</b>
Austria	24.48	13.37	11,200	20,500
Belgium	43.40	17.18	18,609	47,000
Bosnia-Herzegovina	N/A	4.32	2,000	N/A
Bulgaria	62.03	74.55	56,486	47,000
Croatia	40.44	28.65	13,461	19,000
Cyprus	37.41	21.02	1,700	3,000
Czech Republic	43.75	49.02	51,542	46,000
Denmark	18.02	9.46	5,250	10,000
Estonia	44.76	31.95	4,283	6,000
Finland	14.95	18.68	10,000	8,000
France	38.63	24.72	160,000	250,000
Germany	30.57	20.79	170,000	250,000
Greece	44.22	26.53	30,000	50,000
Hungary	39.94	104.97	105,121	40,000
Ireland	27.55	48.69	21,675	12,265
Italy	70.36	8.14	49,166	425,000
Latvia	47.13	35.57	8,000	10,600
Lithuania	60.07	30.03	10,000	20,000
Luxembourg	31.32	52.84	2,200	1,573
Macedonia	N/A	26.48	5,600	N/A
Malta	45.73	16.81	700	1,904
The Netherlands	29.55	18.66	30,936	49,000
Norway	17.50	13.80	12,000	8,500
Poland	26.20	43.23	165,000	100,000
Portugal	47.00	36.54	38,874	50,000

Romania	25.62	49.84	107,000	55,000
Serbia	33.66	28.21	28,500	34,000
Slovakia	39.63	31.71	17,200	21,500
Slovenia	36.51	36.77	7,554	7,500
Spain	49.30	18.66	86,000	227,250
Sweden	20.32	14.44	13,500	19,000
Switzerland	20.61	16.84	13,075	16,000
Turkey	26.87	34.37	257,192	201,064
United Kingdom	22.56	19.34	120,000	140,000



# PART II

## THE BELGIAN MODEL OF INTEGRAL SECURITY MANAGEMENT

### Introduction

In the 18th century, the civilian, as in J. Locke's active participant or T. Hobbes' unwitting participant, obtains his status as an individual in respect of his constitutional rights and freedoms, including the right to security, in response to the absolute character of the 'Ancien Régime'. The absolutism of the monarch and his identification with the state, the unjust legal treatment of civilian-clergy-nobility, religious dogmatism and the desultory, inaccessible and inhuman criminal justice and criminal procedure law are no longer acceptable. The English Habeas Corpus Act (1679), the Bill of Rights (1689) and the American Declaration of Independence (1776) are to inspire the French Déclaration des droits de l'homme et du citoyen (1789)<sup>3</sup> and to place the individual citizen on the state, economic and social map for good. In the 19th century, the struggle of the citizen and for the citizen will focus firstly on (party) political involvement in the governance of the nation state; secondly, on the acquisition of economic power and; thirdly, on the pursuit of a so-called honourable existence<sup>4</sup>. A polarisation is to develop from this perspective in the 20th century, which splits the 'state-market-society' triad for the citizen into an opposing, emancipatory liberal or socialist current on the one hand, and an anti-emancipatory, Christian-conservative and fascist current on the other, to eventually set up and develop, in a bipolar world after World War II, an organic vision of society based on the rules of liberal democracy<sup>5</sup> and the welfare state.

The end of the Cold War in 1989, almost 200 years to the day after the French Revolution, is to herald the end of this history and presuppose the triumph of liberal democracy<sup>6</sup> with all its implications for ideas on security. The nation state faces 'state failure', through which it is no longer the dominant player or midpoint around which the political community is organised<sup>7</sup>. It also faces competition from spontaneously organising and cross-border conurbations and urban areas. The civilian will also use this 'obscurisation of the state' to orientate more and more towards the marketplace. The government can only

3 van Caenegem, R., *Over Koningen en Bureaucraten. Oorsprong en ontwikkeling van de hedendaagse staatsinstellingen*, Elsevier, Amsterdam, 1980, 83 – 311.

4 Alexander, De negentiende eeuw. Een betwiste erfenis, Uitgeverij Pelckmans, Kapellen, 1998, 17 – 61.

5 Couwenberg, S., 'Opstand der burgers – een introductie', in Couwenberg, S., (Red.), *Opstand der Burgers. De Franse Revolutie na 200 jaar*, Kok Agora, Kampen, 1989, 18 – 19.

6 Fukuyama, F., *Het einde van de geschiedenis en de laatste mens*, Amsterdam, Uitgeverij Contact, 1992, 68.

7 Guehenno, J.-M., *Het einde van de democratie*, Tielt, Lannoo, 2000, 29 – 42.

respond by turning attention to new public management and 'managerialism'. With the arrival of a global economy<sup>8</sup>, the market experiences increasing free trade, without remaining tied to nation state or regional borders<sup>9</sup>, and evolves towards a 'global village' with an information exchange that never closes<sup>10</sup>. Society, in turn, becomes a risk society with a negative-defensive ideal in which civilians experience a 'moral panic'. The new moral order rests on a desire for greater security and risk reduction as a new, politically important theme<sup>11</sup>.

These evolutions have led to a situation in which new, global, criminal phenomena are seen as risks and new security strategies become vital. Alongside and parallel with traditional public security actors, faced with old and new criminal phenomena, the ever-present private security industry has been able to develop further. The aforementioned undercurrents have also brought about a situation in which the private security industry is a 'booming business'<sup>12</sup> with an international character and range<sup>13</sup>. The boundary between public and private is no longer tenable and raises a question mark over the nation state's monopoly on legal violence.

### Integral security management and nodal orientation

This allows us to interpret the framework of integral security management on the one hand, and the nodal orientation of security and the 'governance of security' on the other. To define the concept of integral security management, we will need to explain the components 'integral', 'security' and 'management'. Security is a basic requirement of every individual citizen. If it is not satisfied, it gives rise to insecurity, which can lead on to fear, discord and actual damage. Integral management requires a comprehensive approach, which takes all the relevant factors into account. The citizen views security/insecurity as a total product. Thus, all areas of security/insecurity must be linked together. This supposes horizontal integration. The causal-chain hypothesis assumes the existence of a series of security/insecurity problems, each of which is part of a particular chain of cause and effect. This is vertical integration. Management is seen as the forging of a security chain, which has

proactive, preventive, preparative and repressive components in its links, supplemented with aftercare. Proactive represents the removal of the structural causes of security/insecurity, prevention for removing the direct causes of security/insecurity and limiting, as much as possible, the effects of actual violations. Preparation refers to preparation for the prevention of crime and nuisance, and repression refers to the actual fight against crime and nuisance. Aftercare focuses on victim support and compensation. The management element is no longer the exclusive jurisdiction of the government, but now extends to the other partners, in particular, the social institutions, the business community and the civilian population, each from within its own area of responsibility<sup>14</sup>.

This concept allowed us to involve the citizen and the company, as an individual or an organisation, in the security activities. Neighbourhood and shop information networks were encouraged, as were public-private partnerships between regular and private security actors. With the formation of the 'purple-green' and later the 'purple' Federal Government, integral security management became the prevention and security model adopted by federal Belgium. This concept took shape in the 'Federal Security and Detention Plan' (2000) of former Minister of Justice, M. Verwilghen, and in the 'Integral Security Framework Note' (2004) of former Minister of Justice, L. Onkelinx. The previous Federal Government, in which S. De Clerck was Minister of Justice, also used the concept of integral security (2008) as its model.

As we see it, the 'governance of security' model refers to the changing paradigm of security/insecurity and places the emphasis on criminality, feelings of security/insecurity and nuisance. And it does so through a public/private, national/international and centralised/decentralised response to criminality. Therefore, it explores all the existing public and private actors from an 'era of diversity'<sup>15</sup> including the police force, the inspection, intelligence and security services, justice and defence. The aforementioned 'state-market-society' triad has become a true network typified by a number of global flows of people, goods, capital and services, which form a knot or node at certain geographical points. This 'knot' or 'node'<sup>16</sup> provides new knowledge and understanding and refers to supervision, the available information, and the risk management needed to control this geographical point and its currents from a security perspective<sup>17</sup>.

8 Held, D., McGrew, A., Goldblatt, D. & Perraton, J., *Global Transformations: Politics, Economics and Culture*, Stanford, Stanford University Press, 1999, 515p.

9 Andreas, P., *Border Games. Policing the U.S.-Mexico Divide*, Ithaca, Cornell University Press, 2000, 151.

10 Guehenno, J.-M., o.c., 53 – 69.

11 Beck, U., *De wereld als risicomaatschappij*, Amsterdam, de balie, 120p.

12 Cools, M., 'De onderstromen in de private veiligheidszorg', *Panoopticon*, Diegem, Kluwer uitgevers, 2002, 134 – 155.

13 CoESS-INHES, White Paper. *La participation de la sécurité privée à la sécurité générale en Europe – Private security and its role in European Security*, St Hilaire le Châtel, 2008, 95p.; Cools, M., 'Another graft on the tree in researching private security', in Matthys, J., *Private Security Companies and Private Military Companies. A Comparative and Economical Analysis*, Antwerpen, Maklu, 2010, 17 - 18.

14 Cools, M., 'Integrale veiligheidszorg in perspectief', *Pretekst*, 1997, 15 - 17.

15 Shearing, C., 'Nodal Security', *Police Quarterly*, Vol. 8. No. 1., 2005, 57 – 63.

16 Shearing & Wood, J., *Imaging Security*, Portland, Willan Publishing, 2007, 27.

17 Gilleir, Easton, Ponsaers & Cools, M., 2009, 'Checking aspects of a 'Nodal Orientation' for Policing the Port of Antwerp', in Cools, M., De Kimpe, S., De Ruyver, B., Easton, M., Pauwels, L., Ponsaers, P., Vande Walle, G., Vander Beken, T., Vander Laenen, F., Vermeulen, G., *Readings On Criminal Justice, Criminal Law & Policing*, Antwerp, Maklu, 2009, 359 – 376.

## Other theoretical models

The relationship between regular and the private security industry is also interpretable through the 'junior-partner theory' and the 'economic theory'. We might also add the 'police complex', the 'international model', the 'public-private divide model' and the 'deconcentrated security management' approach.

In the junior-partner theory, developed by J. Kakalik and S. Wildhorn, private policing, as part of the overall security and protective services industry, is seen as complementary to regular policing. The government has always accepted the right of the individual to protect his or her own property. Private sector operations start where government operations stop. This theory draws a clear dividing line between the tasks of the private sector and those of the government. Nor, for that matter, are they in competition with each other. The private sector focuses on prevention and the government on repression. A true 'partnership' exists.

The economic theory proposed by C. Shearing and P. Stenning, on the other hand, emphasises loss prevention. In this type of policing, the private sector need only answer to what is generally a private client. Private policing is no longer complementary, instead it becomes competitive. Private justice is an extension of this theory<sup>18</sup>.

According to B. Hoogenboom, a police complex has come about which is characterised by the emergence of a national, integrated police complex of particular and private police, around a differentiated, regular policing apparatus. The knowledge and technological society is not far removed from this police complex. This is because crime control is a process of information and knowledge processing by a given police force with regard to a particular crime phenomenon<sup>19</sup>. The regular, particular and private police all have an information or knowledge system in place for this. By necessity, this police complex will be woven with formal, informal and relational partnerships between the various police structures. The regular police will be largely occupied with so-called underworld crime - from organised crime to petty crime, the particular police with corporate crime - from economic crimes to corruption and espionage- and private police with private domain crime - from employee crimes to computer crimes<sup>20</sup>.

We think we can say that there will be two substantial changes

in the policing landscape at the international level. Firstly, with the erosion of the powers of the sovereign states and the attraction of ever more powers to the supranational institutions, we note an internationalisation of regular policing. Traditional policing will become an interstate affair, employing the managerial concepts we now see in the leadership and governance of today's regular police force. The present, national police forces will, by contrast, become more and more 'market-oriented'. This means that they will be led and governed along the lines of the management perceptions and models we see in the business world. They will also either cut down on their tasks or operate in partnership with private police forces<sup>21</sup>.

The 'public-private divide' model stands for fragmentation, redistribution of police work, disintegration, civilianisation, consumerism, privatisation, security/insecurity and responsibility.

In deconcentrated security management<sup>22</sup>, room is set aside for the private security industry to develop through its own interests, but with state guidance, and thus to contribute to security management.

## The citizen and the private security industry

Belgian civilians have always played an active role in security. The fairly scarce scholarly studies on the 'garde civique/burgerwacht', or civil guard, have been regional<sup>23</sup>, or perhaps more marginal<sup>24</sup>. With the events around the 175th anniversary of Belgium in 2005, a few new studies have seen the light of day<sup>25</sup>, but yet again, they subscribe to the aforementioned vision. As a reserve police force, the civil guard should be viewed in its 19th century context<sup>26</sup> as defender of the citizenry and its property against the rising labour movement<sup>27</sup>.

21 Hoogenboom, B., Meiboom, M., Schoneveld, D., Stoop, J., Policing the Future, Kluwer Law International, The Hague, 1997, 142 - 143.

22 Ponsaers, P., 'De ontwikkeling van community (oriented) policing en de verhouding tot andere politiemodellen', in the Police Services Manual, Community Policing, policing models, issue 57, 21, Kluwer, Diegem, March 2001, 1-42, in Ponsaers, P., Mulders, J., De Kimpe, S., Stoop, R., 'Criminelen en de politionele aanpak ervan, Deel IV: Samenwerking tussen reguliere politie en private enquêteurs, final report 31 March 2001, Ghent University, unpublished.

23 Van Geet, De burgerwacht in Antwerpen, Antwerp, De Vlijt, 1981, 227p.

24 Fijnhaut, C., Opat de macht een toevlucht zij? Een historische studie van het politieapparaat als een politieke instelling, Deel 2, Antwerpen, Kluwer, 1979, 869 - 871.

25 Leclercq, P., Histoire de la garde civique. L'exemple du bataillon des chasseurs-éclaireurs de Liège, Brussels, Editions Labor, 2005, 175p; Storrer, A.-M., Le général van Halen et la révolution belge de 1830, Brussels, Editions Racine, 2005, 141p.

26 Gubin, E., Nandrin, J.-P., La Belgique Libérale et Bourgeoise 1846 - 1878, Tournai, Editions Complexe, 2005, 20.

27 Van Outrive, L., Cartuyvels, Y., Ponsaers, P., Sire, ik ben ongerust. Geschiedenis van de Belgische Politie 1794 - 1991, Leuven, Uitgeverij Kritak, 1992, 44 - 47.

18 Hoogenboom, B., 'Crisis in de misdaadanalyse', in Kamerling, R., Verhoog, W., Keuleneer, I., Vijftien over Forensische Accountancy, Amsterdam, Koninklijke NIVRA, 1998, 73 - 75.

19 Hoogenboom, B., Het Politiecomplex, Gouda Quint bv, Arnhem, 1994, 127.

20 Cools, M., Hoogenboom, B., Kwetsbare kennis, Alphen aan den Rijn, Samsom, 1996, 139p.

In fact, from a scholarly point of view, more attention was paid to the private militias of the 1930s<sup>28</sup>. In the 1980s, there was also journalistic interest in the re-emerging private militias on the extreme right of the political spectrum on the one hand, and in the operations of the commercial private militias on the other<sup>29</sup>. The latter period in particular pushed the scholarly debate and policymaking into a leftist ideological corner before, and certainly after, the ‘Wyninckx Committee’, the parliamentary inquiry into the problems relating to the maintenance of law and order and the private militias. However, the importance of the work and the dedication of the then socialist Senator Joz Wijninckx is academic<sup>30</sup>, and created a brief impulse to think critically about the private security industry<sup>31</sup>, but to still establish the present legal framework for private and particular security management<sup>32</sup>. Private militias again came under the eye of the academics in a criminal case against the ‘Hell’s Angels’<sup>33</sup>. However, this was a strictly legal approach.

When the ‘purple-green’ Federal Government came to office, Marc Verwilghen, the then Minister of Justice, and Antoine Duquesne, the then Minister of the Interior, attempted to remove the debate on the private security industry from the prevailing ideological discourse and bring it, with its integral security management and the public-private partnerships which this implies, under a politically liberal security narrative. The old Ministerial Circular of 13 October 1995, on the civil guard initiatives of the then social democratic Minister of the Interior, Johan Vande Lanotte, was given short shrift. Indeed, the civil guard initiatives, such as structured and organised patrols by private individuals (volunteers) with the aim of fighting or preventing crime, were placed explicitly under the ban on private militias. A few initiatives, in which the population entered into a form of reactive cooperation with police security work, were permitted. These were initiatives in which civilians, also volunteers, passed on to the police in an organised manner information which they had gathered themselves (Circular, 1995). The Federal Security and Detention

Plan foresaw many public-private partnerships in the area of security, including an increase in the opportunities for civilians and independent businessmen to set up neighbourhood information networks<sup>34</sup>. Today, the neighbourhood information networks are also regulated by Circular. It states that a neighbourhood information network is a structured partnership between civilians and the local police in a demarcated area, which contributes to the following goals: to increase the general feeling of security, to encourage social control and to spread the idea of prevention (Circular, 2001).

28 Van Otrive, L., Cartuyvels, Y., Ponsaers, P., o.c., 112 – 114

29 Braeckman, C., De Kock, M., *Wij leven toch in een vrij land? Rechten en vrijheden in België*, Leuven, Kritak uitgeverij, 1980, 87 – 107.

30 Eliaerts, C., *De Commissie Wyninckx: een herwaardering van de controlefunctie van het parlement of een storm in een glas water?*, Panopticon 6, 1981, 525 – 532.

31 Cools, M., ‘De onderstromen in de private veiligheidszorg’, Panopticon, Diegem, Kluwer uitgeverij, 2002, 137.

32 Cools, M., ‘De commissie Wyninckx revisited’, in Christiaens, J., Enhus, E., Nuytiens, A., Snacken, S., Van Calster, P., *Criminologie: tussen kritiek en realisme*. Christiaan Eliaerts: een visionair criminoloog, Brussels, VubPress, 2007, 128 – 129.

33 Arnou, L., ‘De teleologische wetsinterpretatie als baken voor de rechtstoepassing in het strafrecht: over Hell’s Angels en private-milities’, in Verbruggen, F., Verstraeten, R., Van Daele, D., Spriet, B., *Strafrecht als roeping. Liber Amicorum Lieven Dupont*, Leuven, Universitaire Pers Leuven, 2005, 18.

34 Cools, M., ‘Het Federaal Veiligheids- en Detentieplan en de private veiligheidszorg’, Brussels, Politeia, Private Veiligheid, 2000, 51.

## THE LEGAL FRAMEWORK OF THE PRIVATE SECURITY INDUSTRY IN BELGIUM

### Introduction

In Belgium, private and particular security were initially regulated by the Law of 10 April 1990 on guarding companies, security companies and in-house security<sup>35</sup>, and the Law of 19 July 1991 regulating the profession of private detective<sup>36</sup>. The latter is not covered in this paper. The ‘new law’ of 10 April 1990 regulating private and particular security has, due to several amendments and implementing orders, become a very complex and detailed piece of legislation. For that reason, we will focus on the more general objectives of the law, a number of relevant security actors and the powers of these security actors in the ‘public arena’.

With the amendments of 7 May 2004 and 27 December 2004, the name of the law was changed and we now call it the Law of 10 April 1990 regulating private and particular security<sup>37</sup>. The reason for this was that since the amendment of 27 December 2004, the security services run by public transport companies, which did not strictly belong to the private security sector, have also fallen within the scope of this legislation.

### The aims of the law

From the ‘Explanatory Report’ of the time, it became apparent that the then draft law was designed to ‘purge’ the sector. This was to be done through five (sub)objectives.

Firstly, the Federal Government sought to impose certain quality standards on the guarding and security companies market. These quality standards affect the companies and the services, as well as the personnel employed in the sector. This was largely achieved by making training compulsory for executive and managerial personnel. Those trainings were to be provided by accredited institutions. The second objective was to prevent and penalise any exceedance of power or interference in actual policing. It was clear that these private secu-

ity guards had no police powers whatsoever. What was required, however, was pursuance of the best possible forms of partnership between the regular police force and the companies and services. To prevent the private security guards from exceeding their powers, several obligations and restrictions were included, concerning uniform, vehicles used, Ministerial identification cards and service weapon<sup>38</sup>. Thirdly, opportunities to transfer from the regular police force to private security were rigorously curtailed<sup>39</sup>. It was postulated that a transfer would only be possible after a five-year period<sup>40</sup>. The fourth objective of the law consisted in laying the basis for the most effective system of control and sanctioning possible. In addition to withdrawal of the licence/accreditation, suspensions were possible, and the time and place of either could be changed. On top of this came a whole range of administrative fines and penalties. Furthermore, every company or service was required to take out insurance to cover its third-party liability. The fifth objective severely restricted the use of private security players by statutory legal persons<sup>41</sup>. Only with permission from the Minister of the Interior are they able to guard movable and immovable property and protect people in ‘places open to the public’ on behalf of public legal persons<sup>42</sup>. In this way it became possible to prevent the government itself from facilitating the growth of the private sector<sup>43</sup>.

### A few relevant private and particular security actors

The first general comment we can make is that the Law of 10 April 1990 has implicitly excluded the services and companies it covers from the scope of application of the Law of 29 July 1934, which forbids private militias and which is supplemented by the Law of 3 January 1933 on the manufacture, trading and carrying of weapons and the trade in munitions. Article 23 of the Law of 10 April 1990 states that the ban laid down in the Law on private militias does not apply to guarding companies, security companies and in-house security.

Using the definitions given in Article 1 of the Law regulating private and particular security, we can explain here the concepts of private security company, in-house security and security service.

35 Law of 10 April 1990 on guarding companies, security companies and in-house security, BOJ 29 May 1990.

36 Law of 19 July 1991 regulating the profession of private detective, BOJ 2 November 1991.

37 Law of 7 May 2004 amending the Law of 10 April 1990 on guarding companies, security companies and in-house security, the Law of 29 July 1934 banning private militias and the Law of 19 July 1991 regulating the profession of private detective, BOJ 3 June 2004; Law of 27 December 2004 containing various provisions, BOJ 31 December 2004.

38 Article 8 of the Law of 10 April 1990 regulating private and particular security.

39 Draft law on guarding companies, security companies and in-house security, Parl. Doc., Belgian Senate, session 1989-1990, no. 775/2, 3-7.

40 Article 5 of the Law of 10 April 1990 regulating private and particular security.

41 Draft law on guarding companies, security companies and in-house security, Parl. Doc., Belgian Senate, session 1989-1990, no. 775/2, 3-7.

42 Article 2 of the Law of 10 April 1990 regulating private and particular security.

43 Draft law on guarding companies, security companies and in-house security, Parl. Doc., Belgian Senate, session 1989-1990, no. 775/2, 3-7.

### The private security company

In the sense of the law, a private security company is considered to be any legal person or natural person who carries out an activity consisting in the permanent or temporary provision of services to third parties which involve: 1) the surveillance and protection of movable and immovable property; 2) the protection of people; 3) the supervision and protection of the transport of valuables; 4) the management of alarm centres; 5) the supervision and checking of people to ensure security at 'private places or places open to the public'; 6) the carrying out of establishments exclusively regarding immediately perceptible situations of goods which are on the public domain, by order of the competent authority or the keeper of a public concession; 7) the accompanying of groups of persons with a view to ensuring road traffic safety and 8) the supervising of special vehicles with a view to ensuring road traffic safety.

Obviously, a few of these concepts are in need of further clarification. The words 'surveillance/guarding of' and 'protection of' refer to particular human interventions developed for the purpose of protecting property. This must always be done unarmed in a 'place open to the public'.

The protection of people. This private security activity is designed to offer protection from possible dangers by shielding the guarded person from the unwanted approach of third parties. The private security company or in-house security is not permitted to protect a given person on a third party's instructions without that person's prior consent. Private security guards may be armed when carrying out this task.

In the supervision and protection of the transport of valuables, three cumulative conditions apply to determine the transport of valuables. Valuables are goods which, due to their expensive character or special nature, are subject to threat. Extra measures, which would not apply to normal transport, must be put in place and the definition covers all forms of transport, thus also the transport of goods by foot or bicycle. With this regulation, the government aims to guarantee the level of security reached by essentially encouraging measures of the type that would remove the attraction of a possible haul. This is achieved by means of neutralisation systems. However, neutralisation systems are not compulsory for all types of transport of valuables, only the transport of paper money. For this reason, traditional transport need not involve such systems. Private security guards may be armed when carrying out this task.

The management of alarm centres encompasses all operations to do with monitoring signals or messages from an alarm system. Private security guards may never be armed when carrying out this task.

The supervision and checking of people to ensure security at 'private places or places open to the public' is in need of greater attention. In 1999, this surveillance of persons activity was included in the Law of 10 April 1990. This law chiefly envisioned the surveillance of persons in the amusement and nightclub sector, as well as checks in shopping arcades and 'shopping centres'. With the 2004 amendment, a number of intrinsic terms were adapted, through which the list of activities included under the term 'surveillance of persons' has expanded considerably. The main activity we have in mind is access control. This activity differs from other security activities in that it relates not so much to the guarding and protection of goods, but the supervision of people's behaviour.

The surveillance of persons is not confined to access control. The legal regulation covers other ways of supervising behaviour. One example is the supervision of people's behaviour at 'shopping centres'. This activity encompasses things such as the organisation of door supervision, event security and retail security. It includes all types of access control and private security duties at multiplex cinemas or shopping arcades, supervision at amusement parks, the carrying out of so-called 'security' activities at concerts or the activities of stewards at parties and balls. This activity cannot, aside from a few limited exceptions, be carried out on 'the public road or in public places'. It is forbidden to carry a weapon when carrying out surveillance of persons.

This activity must also be read in the context of Article 11 §3 of the law. The surveillance of persons may never be carried out on the 'public road'. The only exception relates to those places explicitly stated on the restrictive list in 11 §3, as given here. The law sets aside four well-defined exceptions in which private security officers may carry out certain types of surveillance of persons on the 'public road'.

To start with, we have 'places open to the public', which are part of the infrastructure of the public transport companies or airports, provided the action of the private security officers cannot be mistaken for the action of agents of the public authorities, and provided in-house security or private security companies have obtained permission from the Minister of the Interior.

Then, there are places at which an event is held, which satisfies the requirements, and whose perimeters are marked out for the public in a visible manner for the duration of the event. Eligible events must satisfy three cumulative conditions. They must belong to three well-defined categories: they may only be cultural, traditional folk or sporting events. The event must not be organised by the state, nor be perceived as such, in so much as the state has lent its support, played a part in its coordination or been involved in the event in any other way. This condition is designed to prevent a situation in which civilians

incorrectly assume that, because the event is associated with the state, those entrusted with the security aspects are also invested with some form of government authority. Finally, the authorities must have no indication whatsoever that the event may lead to a disturbance of the peace.

We also have uninhabited places which are temporarily or periodically 'closed to the public', and this applies for the duration of the closure. This third point allows the same possibility for other places in the 'public domain' and in which there are no residential buildings, but which are temporarily or periodically closed to 'public access'. This is the case, for example, when guarding industrial estates, which are closed to normal traffic in the evenings and during the weekends. Whereas private security companies can presently guard grounds belonging to companies in an industrial estate, this is not the case on the 'public roads' running through these estates. However, the private security services are provided at times when the estates are empty and the public roads are not in use. Here too, there is an exception in that private security companies may be allowed to guard an industrial estate as a whole. This possibility must also be covered by a police permit.

Then, there are the 'parts of the public road' adjacent to the buildings of international institutions or embassies, identified by the Minister of the Interior, whose 'public access' is temporarily restricted, and this applies for the duration of the restriction. 'Restricted access' is a variant of the third possibility, in the sense that public access is not entirely prohibited, but is restricted for specific security reasons, such as the presence of a security-sensitive building. This may be the case, for example, because a number of pedestrians or people who live and work in the building have access to this zone.

In cases two and four, a police permit will determine: the demarcation of the zone in which private security activities may be exercised, the duration or intervals within which the measure applies, and the private security company entrusted with the task.

There has been a great deal of discussion on the subject of embassies. The 'Explanatory Report' stipulates that only the personnel of a foreign diplomatic mission may carry out security tasks. To set up in-house security, the diplomatic mission must have a permit issued by the Minister of the Interior. However, the law provides that the 'part of the mission located outside and adjoining the footpaths' may be patrolled by the municipal authorities for security reasons. The embassy's security personnel may operate within this perimeter. The Minister of the Interior must also give his permission for this.

In cases one to four inclusive, the beginning and end of the zone in which the activities take place must be clearly marked

in a manner determined by the Minister of the Interior. More particularly, in these four cases, the beginning and end of a privately guarded zone must be marked using a pictogram. This pictogram is described clearly and in detail in the Ministerial Decree of 19 October 2006<sup>44</sup> establishing the method used to indicate the beginning and end of the guarded zone, as determined above. This is because the law intends that a civilian who wishes to enter such a zone be aware that he/she can expect legal and private surveillance of his/her conduct. If he/she does not consent, he/she has the opportunity to decide not to enter the zone.

The carrying out of establishments exclusively regarding immediately perceptible situations of goods which are on the public domain, by order of the competent authority or the keeper of a public concession is subject to a number of restrictions. The events may relate only to the state of the property, and only to the closely observable condition of the property. This shall in no case lead to a situation in which new, special powers are needed. People who carry out this activity have no evaluative authority. This remains the authority of the government. In reality, this provision is confined to the supervision of parking spaces in public areas. Other tasks may also be entrusted to private security officers. We will return to this proposition in greater detail in our conclusion. Here, we will consider a vision of public-private partnership for the future.

The accompanying of groups of persons with a view to ensuring road traffic safety relates to travel on the 'public road'. The provision affects only the supervising of groups of cyclists and motorists or participants in sports competitions and school pupils. The escort provided by private security personnel takes place purely with a view to road traffic safety. The provision is inspired by the marshals at cycle races, who ensure safety at intersections. In any case, the reference to road traffic safety, and not other security objectives, prevents the personnel involved from acting to maintain order on the public road.

In our opinion, a similar line of reasoning applies to the supervising of special vehicles with a view to ensuring road traffic safety.

The supervising of special transport, which involves any movement of a special vehicle on the public road, is subject to the regulations on 'general policing and the regulations on traffic and transport, as well as the technical guidelines on traffic and means of transport', and to the regional regulations on 'roads and their appurtenances'. However, the Federal

<sup>44</sup> Ministerial Order of 19 October 2006 establishing the means of indicating the beginning and end of the supervised zone referred to in Article 11 § 3 of the Law of 10 April 1990 on the regulation of private and particular security.

Government wishes to relieve police of the duty to escort special vehicles. This is in order to reallocate resources to priority operations. Thus, the presence of the police is no longer required, save in a very limited range of circumstances. Private security companies can now obtain a licence, which contains provisions on ensuring road traffic safety as well as the safe and incident-free movement of special vehicles, in order to ensure the supervision of special transport.

A special vehicle can now be escorted by one or more escort vehicles containing private escort guards. A traffic coordinator is appointed by the user of the special vehicle. He is the convoy leader. He ensures that the route is followed and that the conditions specified in the licence are met. He takes the necessary measures to ensure the smooth running of the special transport, which does not necessarily exclude the driver of the special vehicle from the obligations in question. The provisions on escort training and the certification of professional competence in recognition of this will be incorporated in the legal and regulatory framework relating to private security.

A combined application with Article 11 §1 b, relating to action pursuant to union activities or activities with a political dimension also prevents private security personnel from taking action during union marches or demonstrations of a political nature. However, action can in fact be taken by a body of internal stewards formed from among the members of the associations that organised the event. This is the so-called volunteer system, which permits only occasional and unpaid activities.

#### **In-house security**

In the sense of the law, in-house security is any service organised by a natural or legal person, for its own benefit, and which takes the form of supervising or checking people in order to ensure security at 'private places or places open to the public', or which is provided at 'places with public access', and which involves the following activities: the surveillance and protection of movable or immovable property, the protection of people, supervision and protection of the transport of valuables, the management of alarm centres, the carrying out of establishments exclusively regarding immediately perceptible situations of goods which are on the public domain, by order of the competent authority or the keeper of a public concession, the accompanying of groups of persons with a view to ensuring road traffic safety and the supervising of special vehicles with a view to ensuring road traffic safety.

The typifying factor is that there is no provision of services for a third party. This is a service or department, and therefore not a separate legal person, which has been set up within a company or organisation and whose only task is that of guarding this company or organisation. The idea of 'service' implies

that the security is organised in a structural manner. This means that the activity is part of the duties of at least one employee.

#### **The security service**

The amendment of 27 December 2004 has brought the security services run by public transport companies within the scope of the law regulating private and particular security. In the sense of the law, the following is considered a security service: any service set up within a public transport company with a view to ensuring security at 'private places or places open to the public' maintained by the public transport company.

There is also a stipulation that any employee of a public transport company who is employed as part of a security service shall be considered to be a private security officer. Irrespective of the fact that these security services fall under a separate section of the law regulating private and particular security, which governs their specific duties and powers, they remain bound by the general duties and powers of private security officers employed in in-house security and its private security officers, as set forth in the law.

#### **Employees of concession holders**

Companies which hold a government concession may not be separately licenced if their employees carry out the security activity of 'carrying out establishments regarding the situation of goods'. A concession is a licence issued by the government for a particular activity. The party which receives the concession from the government (or the concession holder) therefore holds a monopoly. For example, a municipality may grant a concession to a private operator of a car park. This company will then be able to check whether people have paid to park. They may only make the observation and may not point out to someone that they have parked without paying.

Employees who log events are, in fact, subject to certain rules. They must be employed by a company that holds a government concession, the security activities they carry out may only consist of 'recording the condition of goods', the activity may only be carried out within the context of the concession and solely for the benefit of the company for which they work. They may not carry out another activity at the same time, and the burgomaster for the municipality in which the activities take place must have granted permission prior to their commencement. The company must be appointed by the authority with which it has the concession agreement.

#### **A few of the control techniques employed**

We will now turn our attention to a few of the control techniques used by private security officers. These are: access

control, refusal of entry, check of transport documents, coercion and physical force, the citizen's arrest, the surveillance of persons on public roads and the exit control.

#### **Access control**

This check is aimed solely at finding weapons or dangerous objects which, if they were brought in, might disrupt the course of the event or endanger the safety of those present.

It is subject to strict conditions. The control may only be carried out in the context of surveillance of persons. It may only be carried out by an officer of the same sex as the person being checked. The check may only be made at the entrance. The person involved must willingly subject himself/herself to the check. The control consists of a 'superficial frisk' of the clothing. Objects which the subject has on his/her person or in his/her bag may also be checked. A search can only be made for objects considered to be of relevance to the legal objective. These are weapons or dangerous objects which, if they were brought in, might disrupt the course of the event or endanger the safety of those present. The check may not be systematic and the burgomaster must give his consent in advance if the activities take place in a 'place open to the public'.

#### **Refusal of entry**

In theory, a private security officer may refuse entry to anyone whose presence is not desired by the management of the location. This is because it involves access to a 'place not open to the public' and the person in question has not been invited. Any person who succeeds in getting inside despite being refused entry may be asked to leave. No coercion or physical force may be used in the process.

#### **Check of transport documents**

Private security officers who carry out surveillance of persons on behalf of a public transport company - NMBS, De Lijn, TEC and MIVB - and assist the ticket inspectors may detain passengers who do not have a valid ticket, provided they inform the police immediately and hold the passenger pending the arrival of the police. This power may only be exercised by private security officers belonging to the in-house security of these transport companies.

#### **Coercion and physical force**

Private security officers are forbidden to use any form of coercion or physical force, save in the cases stipulated in the legal regulations. There is talk of coercion once a private security officer acts with the intention of guiding, controlling, restricting or impeding a fellow citizen's behaviour against his free will.

A private security officer may not, therefore, use coercion to carry out his activities. The law stipulates, for example, that no

one may be guarded or protected by a private security officer if they have not given their express permission. For the same reason, security agents may not use force against anyone who objects to an access control. The only exception to this rule can be found outside the law regulating private and particular security. In the context of the so-called 'right to make a citizen's arrest', a security agent is entitled to hold someone under restraint.

#### **The citizen's arrest**

Private security officers belonging to security services in a public transport company have the right to arrest a person if the following conditions are cumulatively satisfied. The person involved has committed a common-law offence, or a crime, or, if he/she is a minor, has committed an act viewed as a common-law offence or crime. The arresting private security officer or employee of a public transport company has witnessed this crime or act. When asked for identification by the private security officer, the suspect refuses to provide identification. However, people who are unable to produce identification documents, but willingly identify themselves through other documents, cannot be arrested. Prior to the arrest, the arresting private security officer warned the person involved that he/she would be arrested if he/she did not provide identification. The arrest takes place immediately after the offence was committed. The police are notified immediately after the arrest. If the arrest takes place on a moving vehicle, notification must be given at the latest when the subject is removed from the vehicle. The person in question is removed from public view as soon as possible.

The use of handcuffs is permitted only to make the arrest and if the following conditions are satisfied, in this order. The person in question was arrested in the circumstances described above. The person in question is clearly of age. The person in question used physical violence prior to or during the arrest. The person in question was warned by the private security officer beforehand that he/she would be handcuffed if he/she continued to resist or use physical violence. Despite this warning, the person in question can only be kept in restraint by means of handcuffs. The use of handcuffs must be confined to cases of absolute necessity and cases in which no other, less drastic method was available to enable the arrest.

#### **Surveillance of persons on public roads**

The surveillance of persons on 'public roads' may only take place in the following cases. To start with, we have 'places open to the public', which are part of the infrastructure of the public transport companies or airports, provided the action of the private security officers cannot be mistaken for the action of agents of the public authorities, and provided in-house security has obtained permission from the Minister of the Interior.

Secondly, in places at which an event - exclusively of a cultural, traditional folk or sporting nature, and in the organisation of said event there is no state involvement - is organised, for the duration of that event and where the perimeter, within which the event takes place, is marked out for the public in a visible manner. And provided the authorities have no indication that there will be a disturbance of the peace during the event.

Thirdly, in uninhabited places which are temporarily or periodically closed to the public, and for the duration of this closure and, fourthly, in parts of the public road adjacent to the buildings of international institutions or embassies, determined by the Minister of the Interior, to which public access is temporarily restricted, and for the duration of this restriction.

The beginning and end of the zone in which the activities take place must be clearly and visibly marked in a manner determined by the Minister of the Interior. In the latter three cases, a police permit will determine the demarcation of the zone in which security activities may be exercised, the duration or intervals within which the measure applies, and the private security company entrusted with the task.

#### The exit control

As a rule, it is forbidden to check a person's goods on their departure from a shopping area, in front of customers, except if that check is carried out solely to verify a theft of goods. Provided a number of cumulative conditions are satisfied, a check of this type may be carried out on the basis of prior observation.

It is forbidden to check a person's goods on their departure from a location in the presence of people employed there, except if that check is carried out solely to prevent or verify a theft of goods on company premises or in the workplace. A number of conditions apply here as well: reasonable grounds for suspicion, random checks, compliance with the employment legislation in force and voluntary presentation of the goods. Systematic checks are permissible only with the consent of the Minister of the Interior.

#### The place open to the public and the private and particular security

By way of conclusion, we can state that the provision and presence of the private security industry is no longer confined to the private domain. Private security officers and guards are also present throughout the public domain, within a legal framework created for them. Our paper has looked at many concepts. These were: the public domain, the public road, public places, places closed to the public, public access, parts of the public road adjacent to the private domain and the section of the diplomatic mission situated on the public road.

It was, in our opinion, a good thing that the legislator has finally given an unequivocal definition to the concept of 'place open to the public'. The law describes a 'place open to the public' as any place to which people other than the operator and people employed there have access, either because it is thought that they generally have access to that place or because they are allowed there without an individual invitation.

This definition aims to give legal clarity over the scope of the frequently-used concept in this law. This is because the concept has specific meaning under this law. The operator is not necessarily the owner, but may have leased a space, for example. The term 'people employed there' refers not only to the employees of the business in question, but, for example, to those of subcontractors or people carrying out repairs. Thus, a shopping arcade, which is closed to the public, but to which individual shopkeepers and a team of cleaners still have access, is understood in the sense of the law as a place not open to the public.

In two cases, there are places, other than those to which only the operator or people employed there have access, which are considered 'open to the public'. This is because some third parties are generally considered to enter them. This is the case, for example, for the business car park, which is used by the company's customers or suppliers, or, then again, a patient waiting room in a hospital. The fact that patients make hospital appointments in advance does not make a waiting room any less open to the public. The same holds true for a car park at which access is given via a barrier. This option aims to exclude potential abuses.

A place can also be 'open to the public' because third parties have access to it without being individually invited. One example of this would be visitors to a dance club.

The use of entrance tickets or fees does not in itself make a place less 'open to the public': as long as anyone can buy an entrance ticket or gain access through the payment of an entrance fee, there is talk of 'public accessibility'. Lest the law be too easy to circumnavigate, even places which have a formal membership organisation can be considered as 'places open to the public' if a broad section of the public wishing to gain access to the facilities has the opportunity to join this so-called association<sup>45</sup>.

45 Cools, M., Verbeiren, K., 'De private en bijzondere veiligheid in de publieke ruimte: een wettelijke kijk', in Ponsaers, P., Devroe, E., *Integrale Veiligheid. Publieke Ruimte*, Brussels, Politeia, 2008, 39 - 52

## Prevailing Belgian law

For the sake of completeness, we think we ought to give, in this third 'White Paper', an overview of the prevailing Belgian legislation, as set forth in numerous implementing orders. We have decided that rather than give a chronological list, we should arrange the legislation on the basis of keywords.

### Activity report

Ministerial Decree of 22 December 2000 concerning the annual activity report of guarding companies, security companies and in-house security, BOJ, 9 January 2001.

### Administrative fines

Royal Decree of 17 December 1990 concerning administrative fines, referred to in Article 19 of the Law of 10 April 1990 on guarding companies, security companies and in-house security, BOJ, 29 December 1990.

### Officials

Royal Decree of 17 December 1990 concerning the appointment of the officials authorised to monitor the implementation of the Law of 10 April 1990 on guarding companies, security companies and in-house security, and its implementing orders, BOJ, 29 December 1990.

Royal Decree of 10 June 1992 concerning the appointment of the officials authorised to monitor the implementation of the Law of 19 July 1991 regulating the profession of private detective, BOJ, 30 June 1992.

Royal Decree of 14 August 1992 concerning the appointment of the officials charged with the collection and recovery and the auditing of the tax payable by private detectives and establishing the method of taxation, BOJ, 12 September 1992.

### Professional qualifications and training

Royal Decree of 17 December 1990 concerning training for the personnel of private security companies and accreditation of the training institutes, BOJ, 29 December 1990.

Royal Decree of 20 July 2006 concerning the training conditions to be satisfied by managerial and executive personnel of the security services of the public transport companies, BOJ, 17 August 2006.

Royal Decree of 21 December 2006 concerning the professional training and experience requirements and the psycho-technical testing requirements for the exercise of a managerial or executive function in a private security company or in-house security, and concerning the accreditation of the training courses, BOJ, 18 January 2007.

Royal Decree of 10 February 2008 concerning the requirements relating to the training and accreditation of EC professional qualifications to exercise the profession of private detective, and the accreditation of the training courses, BOJ, 10 February 2008.

Royal Decree of 10 February 2008 concerning the accreditation of EC professional qualifications for the exercise of the activities set forth in the Law of 10 April 1990 regulating private and particular security, BOJ, 3 March 2008.

### Professional associations

Ministerial Decree of 11 January 2005 designating the professional associations referred to in Article 17bis of the Law of 10 April 1990 regulating private and particular security, BOJ, 8 February 2005.

### Communication

Ministerial Decree of 10 January 2003 regulating communication between control rooms and the police emergency room, BOJ, 22 January 2003.

### Accreditation

Royal Decree of 13 June 2002 concerning the conditions for obtaining accreditation as a private security company, BOJ, 9 July 2002.

### Identification card

Royal Decree of 26 September 2005 concerning the terms of issue, the period of validity, the refusal and destruction of the identification card and the procedure for examining the security conditions, BOJ, 16 November 2005.

Ministerial Decree of 19 February 1993 concerning the identification card for private detectives, BOJ, 3 April 1993.

### Installation, maintenance and use

Royal Decree of 25 April 2007 establishing the conditions for installing, maintaining and the using of alarm systems and the management of alarm centres, BOJ, 4 July 2007.

### Methods

Royal Decree of 17 May 2002 regulating the methods employed by control rooms which use tracking systems, BOJ, 18 June 2002.

Royal Decree of 15 March 2010 regulating certain surveillance methods, BOJ, 2 April 2010.

### Public and military offices and professions

Royal Decree of 28 September 1992 establishing the public and military offices referred to in Article 3 § 1 5° of the Law of 19 July 1991 regulating the profession of private detective, BOJ, 27 October 1992.

Royal Decree of 30 July 1994 establishing the list of professions and activities which cannot be considered as intended by the law regulating the profession of private detective, BOJ, 14 September 1994.

#### **Private militias**

Law of 29 July 1934 banning private militias, BOJ, 7 August 1934.

#### **Private and particular security**

Law of 10 April 1990 regulating private and particular security, BOJ, 29 May 1990 - amended 7 May 2004, BOJ, 3 June 2004 - amended by the programme law of 27 December 2004, BOJ, 31 December 2004 - amended by the law containing various provisions of 28 April 2010, BOJ, 10 May 2010.

#### **Private detective**

Law of 19 July 1991 regulating the profession of private detective, BOJ, 2 October 1992.

#### **Charges**

Royal Decree of 08 February 1999 establishing the charges referred to in Article 20 of the Law of 10 April 1990 on guarding companies, security companies and in-house security, BOJ, 09 March 1999.

Ministerial Decree of 27 December 1999, establishing the procedure for paying the issue charge on identification cards for private security company and in-house security personnel, BOJ, 9 January 2001.

#### **Suspension or withdrawal**

Royal Decree of 24 May 1991 establishing the rules governing the procedure for suspending or withdrawing the licences or accreditations specified in the Law of 10 April 1990 on guarding companies, security companies and in-house security, BOJ, 7 June 1991.

Royal Decree of 29 June 1992 establishing the procedure for suspending and withdrawing the licence to carry out the profession of private detective, BOJ, 29 July 1992.

#### **Technical equipment**

Royal Decree of 14 May 1991 concerning the technical equipment of guarding companies and in-house security, BOJ, 28 May 1991.

#### **Security services**

Ministerial Decree of 3 April 2006 establishing the model for information forms relating to some of the operations carried out by private security officers, BOJ, 27 April 2006.

Ministerial Decree of 3 April 2006 concerning the registry of

information regarding certain operations carried out by private security officers, BOJ, 27 April 2006.

Royal Decree of 4 April 2006 concerning the demarcation of places belonging to the infrastructure, operated by public transport companies, to which the provisions of section IIIbis of the Law of 10 April 1990 regulating private and particular security apply, BOJ, 27 April 2006.

Royal Decree of 10 June 2006 regulating the model, the content, and the method of carrying and utilising sprays and handcuffs used by members of the private security services of the public transport companies, BOJ, 20 June 2006.

Royal Decree of 20 July 2006 concerning the training conditions to be satisfied by managerial and executive personnel of the security services of the public transport companies, BOJ, 17 August 2006.

Ministerial Decree of 31 August 2006 establishing the minimum aftercare to be administered following utilisation of a spray of the type referred to in Article 13.5 of the law regulating private and particular security, BOJ, 19 September 2006.

#### **Licence**

Royal Decree of 21 May 1991 concerning the issue of licences to guarding companies or in-house security, BOJ, 28 May 1991.

Royal Decree of 29 April 1992 concerning the licence required to carry out the profession of private detective, BOJ, 15 May 1992.

#### **Insurance**

Royal Decree of 27 June 1991 establishing further rules on insurance policies to cover the third-party liabilities of guarding companies and in-house security, BOJ, 9 July 1991.

#### **Weapons**

Royal Decree of 17 November 2006 concerning the weapons used by companies, services, institutions and people referred to in the Law of 10 April 1990 regulating private and particular security, BOJ, 24 November 2006.

#### **Work clothes**

Ministerial Decree of 8 June 2007 establishing the type of clothes and emblem worn by private security officers, BOJ, 15 June 2007.

#### **Supervised zone**

Ministerial Decree of 19 October 2006 establishing the means of indicating the beginning and end of the supervised zone

referred to in Article 11 § 3 of the Law of 10 April 1990 on the regulation of private and particular security, BOJ, 27 October 2006<sup>46</sup>.

## Is training for private security officers also on the route to Bologna?

### Introduction

Europe is, of course, bigger than the European Union. Nevertheless, it is necessary to discuss the so-called 'Bologna Process', which has been implemented in the European Union. This Process aims to achieve a more uniform structure for higher education in order to issue internationally recognised and better recognisable qualifications, and improve student and graduate mobility between the various countries of the EU. With this aim in mind, the renowned 'BaMa structure' was set up, along with a new generation of quality management system.

This trend also runs parallel with the emergence of so-called 'accreditation' in the European Union. Accreditation is described as a formal, public announcement (made by an independent authority and based on a quality assessment) stating that certain standards, agreed upon in advance, have been reached. Accreditation is a condition for government educational funding, for the right to issue recognised qualifications and for the award of grants to students following the courses.

Specifically, accreditation requires: that the training courses be guaranteed to satisfy the agreed basic standards of quality; that these quality management standards, criteria and procedures be internationally harmonised to encourage international mobility and recognition of qualifications; that the rules of accountability be tightened and that there be a link between the quality management and regulation mechanisms.

The equivalence of the qualifications is central to this. Through a European and integrated system of 'bachelors' and 'masters' degrees in all forms of education/training, it is hoped to offer employees better opportunities and contribute to greater mobility. This is because a qualification that is easy to validate will improve the quality of the education. Through 'self-assessment', the training institute also develops a framework of reference relative to what the training is and what it should be. Education is linked to the basic functionalities, the final skills as it were, which are designed to embody the training. An evaluation of the final skills then provides an opportunity to check the quality and adjust this wherever necessary.

Even so, the Bologna Process does not necessarily imply the so-called 'academicising' of training. It is mostly about setting out conditions at all levels of educational training. This is why Bologna refers to both academic and professional bachelor's and master's. The difference between a professional bachelor's and an academic bachelor's relates to the finality of the educational training. A professional bachelor's is geared towards immediate access to the labour market, whereas an academic bachelor's, due to the academic and/or theoretical nature of the training, does not involve direct preparation for the labour market and so is largely geared towards continuing on to a master's.

### Is the Bologna idea possible and desirable in the training of Belgian private security officers?

We shall examine whether and to what extent the core elements of the Bologna Process can be transposed onto the narrative of private security officer training. We need to focus attention on the training of private security officers simply because, in the first place, the civilian and the private security officer are deserving of it. Furthermore, when we see that about 50% of the population feels sufficiently secure and 29% feel much more secure due to the presence of private security officers; about 75% of the population thinks that private security officers are needed in a high or sufficient strength and that 60% of the population surveyed agrees that the powers of private security officers should be extended, this provides us with proof enough.

Private security officers are seen as indispensable players in the area of security. In return for that confidence, civilians deserve to be treated in the correct manner, something which certainly can and must be taught in the training courses. This study also demonstrated that 61% of the population agrees strongly with the statement that the profession of private security officer is undervalued, and that training is seen as the weak link in their image, which would otherwise be described as positive<sup>47</sup>. Therefore, it is extremely important to take a quick look at what the advantages and disadvantages of the Bologna Process might imply.

The first important element lies in the transition from professional training to training within the new BaMa structure. This relates to the question of what we expect to achieve through educational training. Do we consider only the demand from the labour market, working with the professional skills as they are now, or do we consider the social reality within which private security officers now operate, through so-called educational skills? It is important, as soon as one operates and takes action in a society, that this role be given consideration com-

<sup>46</sup> Cools, M., Burgelman, L., Larcier Themawetboeken, Private veiligheid 2009 – 2010, Brussels, Larcier, 2009, 237p.

<sup>47</sup> SNT BELGIUM, Research report commissioned by the BVBO, May 2008, 12-29.

mensurate with the action. This is because there is a huge responsibility towards the likely object of the action. To the private security officer, this is what a security function is, and certainly nothing else. In the strictly official sense, the private security officer has no powers other than those granted to every other civilian. This is because he has an executive supervisory role. Nonetheless, frequent contact with the public and indirect involvement with the rights of civilians create a situation in which he/she affects social reality more than any of us. One must be fully aware of the sensitivity this implies to the constitutional rights of civilians. In this light, the choice for educational skills would seem to come to the fore. Again, we should point out that this need not necessarily imply an academicising of the educational training. Using a professional bachelor's would allow us to maintain the essential practical orientation.

Previous academic research addressed the question of whether certain regular policing tasks could be carried out by private security companies. Many actors within the police and within the private security sector were surveyed on this point. The survey also examined whether the training received by both was sufficient to outsource tasks and work in cooperation. Through this, a number of sore points in the training of private security officers generally came to the fore. The study showed that most respondents are of the opinion that the training could be a little longer and more intensive. That way, there would also be greater variation in subjects<sup>48</sup>. Private security officers with good quality training are appreciated by the client and can improve a company's competitiveness. On the other hand, given the cost of a training course for private security officers (and in many cases their employers), it is in the interests of the company, and necessary, to keep the training as short as possible. A difficult balancing act it would seem, since the over-regulating Belgian government holds this balance in its own hands. This is because it decides who is required to satisfy which requirements, and who is accredited as a training institute and as a private security officer.

Likewise, implementing the Bologna Process can improve the quality of course content. Research has shown that a more psychological and practical approach would represent considerable added value<sup>49</sup>. Working with skills, whether professional or educational skills, will in any case lead to better quality. Those things that a private security officer must know and be able to do will shape both the practical implementation of the training and the vision behind it. Today, this fundamental issue is part of a yet to be developed doctoral thesis in

criminological science at Ghent University<sup>50</sup>. This is to be the starting point for security training that will set the direction for the future. We need to realise that, as is the case with the police, the private security officers we will need in 2020 may not be the same as those of today. In this context, B. Hoogenboom argues for the development of 'futuristics'<sup>51</sup>. The social context is rapidly changing. New issues and problems arise, and they call for new solutions. More than is the case today, the private security sector too will have to take account of this. Private security has traditionally been seen as a high 'turnover' sector. It is to be expected that an explicit identification of the competencies will make for better-informed and better-prepared recruits, thus reducing the chance of drop out. The private security officer will know the standard he/she is required to meet and what he/she can expect. In addition to the competencies listed by the Minister of the Interior, training institutes affiliated with the BVBO also do a great deal of work to lend shape to these competencies, and so they too subscribe to the Bologna logic.

The increased mobility envisaged by the Bologna Process could also represent an extra strength for the private security officer. This is because we are ensuring that the existing 'turnover' is better supported from a social and economic perspective. On the one hand, the private security officer looking for a new job would be better able to do this if he/she held a recognised qualification, which would increase his/her opportunities on the labour market. On the other hand, people from other sectors will find it easier to migrate to the private security sector. This way, a company will find it easier to recruit. With increased mobility, we can deal with the double work and overlap typical of today's training.

CoESS and UNI Europa<sup>52</sup>, the European employees' organisation, which sits with CoESS as a social partner in the European Sectoral Social Dialogue for the private security sector<sup>53</sup>, recognise the importance of private security officer mobility across European borders. The free circulation of workers is one of the fundamental rights protected by the European Union. More and more Europeans are taking the step of going to live and work in another country, on a temporary or permanent basis. As an important growth sector in Europe, the private security sector offers real career opportunities for work-

48 Cools, M., Verbeiren, K., *Politie en Privébewaking. Samen sterk - Faire face ensemble: la Collaboration entre Police et gardiennage Privé*, Brussels, Politeia, 2004, 134 - 172.

49 Cools, M., Verbeiren, K., o.c. , 171.

50 Van der Burght, S., *Leren bewaken. Een onderzoek naar de opleiding en opleidingsinstelling van bewakingsagenten in België*, Ghent University.

51 Hoogenboom, B., *Veiligheidsproblematiek ontstijgt kokers en vereist nieuwe opleidingskaders*, *Security Management*, no. 12, December 2008, 12.

52 For more information on UNI Europa and its activities, please see the UNI Europa website: [http://www.uniglobalunion.org/Apps/portal.nsf/pages/sec\\_20081016\\_gbg7En](http://www.uniglobalunion.org/Apps/portal.nsf/pages/sec_20081016_gbg7En).

53 For more information on the European Sectoral Dialogue for the private security sector, see the European Commission website, Directorate-General for Employment, Social Affairs and Equal Opportunities: <http://ec.europa.eu/social/main.jsp?catId=480&langId=en&intPageId=55>.

ers who are in search of work and experience in another country. Given the specifics of private security services, access to the sector is regulated by sector-specific provisions on training, social security, screening, etc. To stimulate the free circulation of private security officers, it is essential that both employers and employees be aware of the specific regulations. In the framework of the European Sectoral Social Dialogue, CoESS and UNI Europa have developed a toolkit to encourage the mobility of private security officers who would like to work in another European country on a permanent basis, and for private security companies which are looking for private security officers from EU Member States, candidate Member States (Croatia, Macedonia and Turkey) and Norway, Switzerland and Serbia. The toolkit is available online from the following website: [www.mobility-privatesecurity.org](http://www.mobility-privatesecurity.org) and has been divided into two handy sections: 'Information for employers' and 'Information for employees'. An employee or employer can check, via an information sheet on each country, the requirements that he/she will have to satisfy either to work in another European country or employ private security officers from another country.

Private security officers receive no recognition of their training in other sectors, and the preliminary training of future private security officers, as given in other sectors, makes no difference. There are no exemptions. With a recognised qualification and harmonisation between the sectors and training courses, this problem would no longer exist. As a result of this flexibility, the inability to transfer, which still applies as a sort of professional ban and infringes on the fundamental freedom of choice in work, would rightly come under pressure. Given the international character of many private security companies, the mobility of private security officers across a variety of countries can be seen as a huge economic advantage. This is because, contrary to the case with the police, they are not bound to the requirement of holding the nationality of the individual Member State.

As is the case between the provincial police academies, there is a fairly real chance of differences in the training given by the various training institutes. Although the framework is governed by the law<sup>54</sup>, the practical implementation is entirely in the hands of the training centre itself. A difference in skills between private security officers from different schools is, therefore, not unthinkable. The training, as it is organised today, covers this to a certain extent. The presence of a common and compulsory examination on the legal element by

Selor, the Belgian state selection body, ensures that the differences between the centres are to some extent reduced in this area. The difference in approach will, nonetheless, continue to exist, but a common level of knowledge is, in fact, being achieved. As mentioned earlier, there is no explicit and scientifically founded overview of the skills that might provide the required solution. Such an examination appears to be more of an artificial addition than a structural solution.

Related to this, we have various niches in the private security sector, each with a fairly specific, highly particular set of requirements. Thus, a private security guard at a heritage site will require a different set of skills than those required by a guard involved in the transport of valuables. At the present time, this variety is being closely monitored. This is because the use of modules allows us to equip each and every private security officer with a basic package of skills. He/she can then acquire extra skills, depending on the area he/she aims to go into. At first sight, a Bologna Process based on a credit system is not so different from a system using modules. In both cases, the training is fully adapted to the specific requirements. On the other hand, a credit system does allow students to make their own choice of subjects, based on their interests in a given topic.

In this area, another advantage of the Bologna Process is the transition to a training system in which the student takes centre stage. Moving away from the 'teacher-driven' concept allows us to take account of the huge diversity in private security officer training. Students of different ages, of varying training backgrounds, and each with their own talent, would, in this way, be able to pursue a route of their own, at their own pace and in line with their own interests. Although today's training already has an extremely practical orientation, it does suffer from a lack of coached, practical experience<sup>55</sup>. Once his/her training is complete, the private security officer immediately begins working in the field. With a bit of luck, he/she manages to join a close-knit team. However, he/she is just as likely to start his/her new job alone, and in the latter case, there is little talk of 'back-up' or coaching in the application of his/her knowledge.

Gaining this type of experience fits in perfectly with the professional bachelor's. The possibility of lifelong learning, driven by skills, also offers advantages. Carrying out a security-related job in a rapidly changing society requires extra training if we are to stay ahead of new trends. The legitimacy of their actions, and therefore their powers, is also subject to change, depending on the spirit of the times and the social

54 Royal Decree of 7 July 2008 amending the Royal Decree of 21 December 2006 concerning the professional training and experience requirements and the psychotechnical testing requirements for the exercise of a managerial or executive function in a private security company or in-house security, and concerning the accreditation of the training courses, BOJ, 18 July 2008.

55 Cools, M., Verbeiren, K., o.c., 171.

context. Customer satisfaction, the relationship with the government (public services), the requirements of the company itself, all evolve and help shape the job requirements of the private security officer. Even today, the training route involves in-service training within five years of successfully completing basic training. But, studies have shown that more refresher and completion courses can/must be organised<sup>56</sup>. A system of periodic refresher training courses when new trends arise appears to be much more feasible for a supervisory function than an organisation that involves constant learning. This is because the requirements could be set fairly high as a result. On the other hand, combining this with the credit system does allow the private security officer to collect points throughout his/her career, at his/her own pace and as he/she sees fit, and in this way advance in their careers.

At the present time, the training already makes extensive use of external teachers. These are usually people with a great deal of expertise in the private security sector, or with practical knowledge from the police sector and the academic world. Even so, cooperation with other training bodies and sectors is more or less non-existent. All of the training is done 'in house'. As a result, the company's own business culture is strongly emphasised, much more so than a general culture of good security. Moreover, this creates a tendency to underestimate expertise as a leading principle.

The professional functioning of the private security officer is currently underexposed in Belgian academic research. If we aim to gain more scholarly knowledge, to shape and drive practice in the future, we need to invest more and with some urgency in an academic team. As is the case with the police, it is not a good idea to turn a training centre into a 'think tank' as well. It would be better to move towards a structure of partnerships, in which both the sector and external university expertise centres set out in search of useful added value. This way, the sector itself can contribute the input needed, in terms of funding and content, to make the research possible. In this way, research centres can extend their expertise with greater certainty and continuity. On the other hand, business and industry can also enjoy the benefits of the research. Not only will they be able to count on scholarly knowledge to shape and push the practice forward, but the training will have a firmer basis as a result. If we hope to achieve high-quality training, we cannot omit good research as the basis for that training.

#### En route to Bologna?

Signing up to the Bologna Process offers many benefits; that much is certain. However, there are still a number of uncer-

tainties and points for discussion as regards the police and as regards the private security sector. But, before taking a closer look at these, we should answer a more fundamental question. Do we wish to sign up to this philosophy at all, with regard to training? As we can see from the above, the theory behind the concept as a whole is certainly worth considering. For the private security sector specifically, it offers companies and private security officers the opportunity to develop professionally, with quality as the central theme. It is necessary too that we carry on in this direction. The private security officer is still too often undervalued. Training would be an important link in this. There is plenty of food for thought here. But, it is a decision that requires careful consideration. Identifying and setting out the training route will be a major challenge for the private security sector in the years to come<sup>57</sup>, not just in Belgium, but all throughout Europe.

#### A brief but essential digression on Europe

In fact, private security is not just a Belgian affair; it is evolving into an ever more European, cross-border affair. With that, three major challenges to the sector are in need of brief discussion here.

#### The EU Services Directive ('Bolkestein Directive')

EU Directive 2006/123/EC<sup>58</sup> of the European Parliament and of the Council concerning services in the internal market was published on 12 December 2006. This Directive requires that EU Member States open their service markets to tenderers from other EU Member States.

In line with intensive lobbying by CoESS, private security services lie - for the time being - beyond the scope of the EU Services Directive. In its Handbook for implementing the Services Directive<sup>59</sup> the European Commission defines private security services as follows: "The exclusion in Article 2(2)(k) covers services such as surveillance of property and premises, protection of persons (bodyguards), security patrols or supervision of buildings as well as the depositing, safekeeping, transport and distribution of cash and valuables. Services which are not 'security services' as such, for instance the sale, delivery, installation and maintenance of technical security

<sup>56</sup> Cools, M., Verbeiren, K., o.c., 172.

<sup>57</sup> Van der Burght, S., Cools, M., De opleiding binnen de private veiligheidsindustrie in transitie, Orde van de Dag, Mechelen, Kluwer, Issue 46, June 2009, 21 - 29; Van der Burght, S., Cools, M., 'Opleiding voor bewakingsagenten, op weg naar Bologna?', Private Veiligheid, March 2009, Politeia, Brussels, 19 - 26.

<sup>58</sup> EU Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 concerning services in the internal market: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:376:0036:0068:NL:PDF>.

<sup>59</sup> Handbook for implementing the Services Directive: [http://ec.europa.eu/internal\\_market/services/docs/services-dir/guides/handbook\\_nl.pdf](http://ec.europa.eu/internal_market/services/docs/services-dir/guides/handbook_nl.pdf).

devices, are not covered by the exclusion. Thus, they have to be covered by measures implementing the Directive.”

However, Article 38 of the EU Services Directive stipulates that the European Commission must assess, by 28 December 2010 at the latest, whether a vertical harmonisation instrument is desirable for the private security sector: “The Commission shall assess, by 28 December 2010 the possibility of presenting proposals for harmonisation instruments on the following subjects: a) access to the activity of judicial recovery of debts; b) private security services and transport of cash and valuables.”

CoESS and the BVBO support, in principle, the liberation of the services sector in general, and the private security sector in particular, but it should be noted that an upwardly limited vertical harmonisation takes preference (common European minimum standards must start at a level which offers the necessary guarantees of quality, professionalism and ethics). Ideally, this type of harmonisation would rest on four core elements: licences for private security companies and officers, training, control and sanctions.

Given the current differences in the national legislations and standards, this form of free circulation in private security services would enable the sector to introduce common EU minimum standards applicable in all EU Member States. This way, the sector guarantees the maintenance and promotion of good quality private security services, and we are able to pursue, at the European level, a sound legal framework through which responsibility, quality services and professionalism can continue.

### Free circulation of workers and social impact

#### Posting of workers

As stated earlier, the free circulation of workers/private security officers plays a crucial role in the private security sector today.

EU Directive 96/71/EC of the European Parliament and of the Council concerning the posting of workers in the framework of the provision of services<sup>60</sup> was published on 16 December 1996.

The European Commission describes a ‘posted worker’ as a worker who, for a limited period, carries out his work in the territory of a Member State other than the State in which he normally works. The definition of a ‘worker’ is that which

applies in the law of the Member State to whose territory the worker is posted.

The Directive applies insofar as companies, in the framework of a transnational provision of services, post a worker to the territory of an EU Member State, and provided there is an employment relationship between the company making the posting and the worker during the period of posting. Companies post workers:

- On their own account and under their direction, under a contract between the company making the posting and the party for whom the service is intended
- To a branch or to a company owned by the same corporate group
- Being a temporary employment agency, to a recipient company

To guarantee the rights of the hired-out worker, the European Union has laid down in law a set of terms and conditions of employment to be guaranteed:

- Maximum work periods and minimum rest periods
- Minimum paid annual holidays
- Minimum rates of pay, including overtime rates
- The conditions of hiring-out of workers, in particular the supply of workers by temporary employment agencies
- Health, safety and hygiene at work
- Protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, of children and of young people
- Equality of treatment between men and women and other provisions on non-discrimination

EU Directive 96/71/EC was originally seen as an important instrument to counter social dumping, or, in other words, unfair competition from foreign service providers with the guest Member State, in the area of pay rates and working conditions. In the meantime, there is doubt as to whether the Directive still fulfils this important function, especially in the light of recent judgements by the European Court of Justice.

In the cases of Viking<sup>61</sup>, Laval<sup>62</sup>, Ruffert<sup>63</sup> and the Commission

60 EU Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996L0071:NL:HTML>.

61 Case C-438/05 International Transport Workers' Federation and Finnish Seamen's Union versus Viking Line ABP and OÜ Viking Line Eesti: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62005J0438:NL:HTML>.

62 Case C-341/05 Laval un Partneri Ltd versus Svenska Byggnadsarbetareförbundet, Svenska Byggnadsarbetareförbundets avdelning 1, Byggettan and Svenska Elektrikerförbundet: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62005J0341:NL:HTML>.

63 Case C-346/06 Dirk Ruffert, as curator of Objekt und Bauregie GmbH & Co. KG versus Land Niedersachsen: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62006J0346:NL:HTML>.

vs. Luxembourg<sup>64</sup>, EU Directive 96/71/EC was interpreted as being a maximum guideline for conditions to be regulated, the degree of protection to be imposed, and the methods to apply in order to guarantee that employment regulations are respected to the same degree by all national and foreign companies in a given region or sector. If guest Member States wish to apply higher or other standards by law, with a view to avoiding social dumping and promoting fair competition between local and foreign service providers, this can be seen as an infringement of Article 56 of the Treaty on the Functioning of the European Union (TFEU)<sup>65</sup>, in other words, as a restriction of the free provision of services within the Union. This hinders Member States and social partners in their pursuit of sufficient protection for local and posted workers, unfair competition and the guarantee of national industrial relations, and the system of collective wage negotiations.

The essential question remains: to what extent, with what objectives and under which conditions can or must the employment contract (and possibly the collective labour agreement and other legislation in the country of origin, on social security and taxation, for example, applicable to that particular contract) of a worker, who works in the guest Member State for his/her service provider, be overruled by the legislation (statutory or collectively imposed) of the guest Member State? EU Directive 96/71/EC seeks to achieve just this.

This gives rise to a second crucial question: is EU Directive 96/71/EC achieving its objective in an adequate manner? Prior to the now famous cases (Viking, Laval, Ruffert and the Commission vs. Luxembourg), there were doubts as to the practical effect of EU Directive 96/71/EC, and a possible review seemed imperative. Since this jurisprudence, the doubt has turned to a reason for concern.

#### The concept of 'temporary work'

The concept of 'temporary work' calls for particular attention. An analysis of the aforementioned jurisprudence shows that the definition of 'temporary' could be a stumbling block in international private law. The definition of 'posted' (EU Directive 96/71/EC) should also be considered.

The Treaty of Rome<sup>66</sup> provides that the court shall determine

the time beyond which work is no longer temporary. Therefore, there are no obvious solutions, and they can differ from country to country. But, this flexible interpretation enables the courts to better consider the concept of 'temporary work', since temporary work can take several forms.

Temporary work in a group of companies raises questions. What happens when a worker works for a company in the same group, with which he/she has concluded a local employment contract? Sometimes, individual companies in a group are autonomous. It may be the case that this transfer does indeed require a new employment contract. In other cases, the group's management appoints the worker before he/she is transferred as the result of a decision by said management. In this case, the new contract merely satisfies administrative requirements (for example, the requirement to obtain a work permit).

CoESS and the BVBO are both calling for urgent clarification of EU Directive 96/71/EC and the concept of 'temporary work'. This could guarantee a sound set of employment conditions in the private security sector in every EU Member State.

#### The Working Time Directive

On 24 March 2010, the European Commission published its Communication (COM) 2010 106<sup>67</sup> concerning a review of EU Directive 2003/88/EC<sup>68</sup> of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (the 'Working Time Directive').

The purpose of this Communication was to gauge, in accordance with Article 154(2) of the Treaty on the Functioning of the European Union (TFEU), the opinion of the European social partners on the possible direction of an EU attitude to the Working Time Directive.

The European Commission views the current situation as unsatisfactory: the Working Time Directive does not guarantee that the health and safety of workers throughout the European Union is actually protected in conformance with EU law, or that companies and workers are offered enough flexibility in the organisation of working time.

64 Case C-319/06 Commission of the European Communities versus the Grand Duchy of Luxembourg: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62006J0319:NL:HTML>.

65 Treaty on the Functioning of European Union (TFEU): <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0047:0199:nl:PDF>.

66 Treaty Establishing the European Economic Community: <http://eur-lex.europa.eu/nl/treaties/dat/11957E/tif/11957E.html>.

67 Communication of the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the review of the Working Time Directive: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0106:FIN:NL:PDF>.

68 EU Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:299:0009:0019:nl:PDF>.

Therefore, the Commission plans a fundamental review of the Working Time Directive, starting with a thorough evaluation of its provisions. This way, the Commission can ascertain the problems associated with or likely to arise through its application, and can then examine how these problems might be solved.

Thus, the Commission invited the social partners to take part in a broad consideration of the consequences of the fundamental changes and the type of working time regulations the EU requires in order to meet the social, economic, technological and demographic challenges of the 21st century.

As a recognised European social partner for the private security sector, CoESS, with support from its member federations, including the BVBO, has formulated the following core messages in response to the European Commission's request:

- The private security sector is, given its character and activities, an extremely specific sector with special requirements. The provision of private security services requires maximum flexibility; private security services are provided 24 hours a day, 365 days a year. The current provisions, as set out in the Working Time Directive, respect these specificities. Any review of the Working Time Directive would need to take account of these specific aspects.
- The rights of the worker must be safeguarded at all times (training, qualifications, health, safety and hygiene in the workplace and other employment conditions), but at the same time, flexibility remains a prerequisite in the carrying out of private security activities. The private security sector can in this way play a part in the reconciliation process (family and work) and offer a solution based on the personal/family circumstances of the worker. Flexibility also strengthens the competitiveness of the private security sector in times of socio-economic crisis.
- Besides these specificities, any review of the Working Time Directive must take account of the national legislations in force. The private security sector is highly regulated in most European countries. This directly affects the organisation of working time.
- Article 18 of the Working Time Directive provides an opportunity to allow departures by collective agreement or operating agreement between the social partners at national or regional level (or, in conformance with the rules set by these social partners, by collective agreement or operating agreement between the social partners at a lower level). This possibility is a valued instrument, since it reflects national and sectoral considerations.
- Any review of the Working Time Directive should be a

balanced proposal in which control and enforcement gain in importance to counter unfair competition and safeguard the principle of justice.

- In addition to purely legal provisions, a further investigation could be made of the role of the European Sectoral Social Dialogue Committees as successful forums of experience and information exchange.

#### CoESS/BVBO viewpoints

As regards the free circulation of workers and the social impact thereof, CoESS and the BVBO wish to make the following viewpoints known:

- The free circulation of workers and labour is to be encouraged. Not only does this have a positive effect on the further development of the private security sector at European and national level, but it also makes the single European market more efficient and accessible.
- Manpower is a cornerstone of the private security sector. Adequate employment conditions are therefore indispensable.
- Good quality work deserves respectable remuneration. This increases the attraction of the sector, reflects its maturity and offers private security the necessary recognition. It also reduces the risk of unfair competition. A respectable rate of pay leads to greater productivity and guarantees private security services of good quality.
- Reliable and continued training is a necessity. Health and safety measures should be considered, to prevent and reduce work risks to a minimum.
- Discrimination is not permissible. The private security sector therefore promotes an integrated equal opportunities policy.
- The right balance must be sought between family and work.

#### Third-party liability

Private security companies are often in the front line when it comes to the threat of terrorist attack. Companies, individuals and a growing number of public authorities are asking the private security industry for personal protection and protection of their assets or valuable goods. The industry works closely with the competent authorities, especially when it comes to protecting targets with a heightened risk factor.

The private security sector is not authorised to sign contracts where the liability exceeds the insured risk. Private security companies are unable to carry potential third party claims for enormous sums of money. All too often, the sector is faced with contracts that exceed the insured risk. Exposure to this type of liability undermines the sector's viability.

As regards the responsibility of private security companies, the fact is that they are just one link in the overall security

chain, and this is confirmed by current EU legislation, which places the main responsibility for security with the national governments. However, reality shows that, in the case of catastrophic terrorist attacks, private security companies are exposed to a liability that could prove unlimited. This applies equally to airports, seaports, airlines, production departments, etc.

Today, responsibility for private security lies almost exclusively at the national level. In essence then, the problem of third-party liability is also a national government responsibility.

There is insufficient knowledge at European level about the problem of third-party liability for security services in general and private security services in particular.

To tackle this problem properly, we need to bring in a large number of interested parties: the EU Member States, the European Commission, the European Parliament, the insurance industry, the clients of private security companies and the media.

CoESS and the BVBO recognise that a private security company has to accept responsibility for the quality of the services provided under contract. However, there has to be a fair and acceptable distribution of responsibilities and risks between the governments and other parties who are responsible for guaranteeing security and the private security company to which security services are contracted.

A subcontractor who has been contracted to carry out specific security tasks under the direction of governments and clients cannot, reasonably, carry the full risk for every possible danger or disaster associated with a given security site. A private security company carries out its tasks in accordance with the standards imposed by governments and clients. Furthermore, the private security sector itself sets high quality standards, which it has introduced itself and promotes at all times.

No single, individual private security company, nor the private security sector in its entirety, is in a position to solely bear the consequences of a disastrous security incident. This is particularly true in the case of third-party losses, where exposure to liability is so high that even the best insurance cover is insufficient, and the survival of the private security sector comes into question. It also goes without saying that the risk associated with disasters of this type can never be reflected in the value of private security contracts.

Given the importance of private security services in today's society, it is advisable that we find an appropriate solution in which the liability of private security companies can be kept

to a workable level and/or in which alternative funding can be provided to cover the liabilities. In other sectors, such as the civil nuclear industry, a solution of this type is already in place.

When it comes to finding a long-term solution for critical liability problems associated with terrorist attacks or wars, only a clear and binding European legal framework can offer a way out. This should be a priority in the European Union's overall strategy and in the European Commission's pursuit of adequate measures: "The physical safety of users and consumers, of all people involved in the production and provision of these services, and of the general public must also be assured, among other things through protection against possible threats such as terrorist attack and environmental disaster."<sup>69</sup>

All interested parties should be involved in finding an appropriate solution. CoESS and the BVBO are convinced that the parties most exposed to risks should play a leading role in developing a strategy for the future. Enhanced security measures and the development of a solution to unlimited liability will, no doubt, result in considerable costs.

CoESS and the BVBO are working to ensure that these costs are divided among the parties involved. The fact is that terrorism today is aimed against a state, its policy, population or institutions and not against service providers. In this context, it is ultimately the task of the state to compensate its citizens and the businesses affected by acts of war or terrorism.

CoESS and the BVBO are convinced that a good solution can be found, provided the following principles are taken into account:

- Faultless liability;
- Which is limited;
- And channelled to one link in the security chain;
- Whose viability is safeguarded by a three-part liability system: cover through insurance, a fund financed by all interested parties, and state funding.

<sup>69</sup> Communication of the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – White Paper on services of general interest: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2004:0374:FIN:NL:PDF>.





**SECURITY**

# PART III

## PUBLIC-PRIVATE PARTNERSHIPS IN SPECIFIC PROJECTS IN BELGIUM

It is clear that, for the time being, the Belgian Federal Public Service for Internal Affairs is not particularly keen on public-private partnerships, for purely ideological reasons. Aside from the meticulously prepared integral security approach as such, what typifies the Belgian compromise model is that projects are largely realised by the relevant public and private actors themselves. Motivated, on the one hand, by day-to-day realities and the need for a debate on core tasks between the Federal and Local police<sup>70</sup>, and, on the other, by the enforceability of the private security industry legislation<sup>71</sup>, there are indeed a number of specific projects to be carried out: surveillance at child care centres, secure car parks on motorways, consortium surveillance, cooperation with the FPS Defence, tax incentives for a number of security investments, permanent consultation platform for business surveillance, combating itinerant crime groups, the 7th 'security' specialisation year in secondary education and the partnership with the VDAB and FOREM. We will give a brief description of these, and this will enable us to conclude with a number of proposals designed to further extend public-private partnership in the areas of security and employment.

### Surveillance at child care centres

Between 2005 and 2008, an average of 390 criminal offences were committed at child care facilities. In the main, these were: theft, blackmail, arson and vandalism. Our country was also faced with one case in which extreme violence was used against several people.

In this context, the FPS Interior, together with 'Kind en Gezin', 'l'Office de la Naissance et de l'Enfance', 'Der Dienst für Kind und Familie' and several multidisciplinary security experts have drawn up a set of guidelines in this area. This so-called 'Access Control Manual' is the manual accompanying the information sessions organised by the municipal authorities and provincial governors<sup>72</sup>. The FPS Interior has

70 Cools, M., 'Het kerntakendebat over de politie is nu eenmaal overbodig', in Ponsaers, P., Enhus, E., Hutsebaut, F., Het kerntakendebat continued, Brussels, Uitgeverij Politie, 2006, 27 – 37.

71 Cools, M., 'De afdwingbaarheid in de private veiligheidszorg: nog maar eens een, rechtsethische en rechtseconomische, gemiste kans', in Christiaensen, S., Bruggeman, W., Afdwingbaarheid integrale veiligheid: met zachte of harde hand, of helemaal niet, Brussels, Politie Uitgeverij, 2009, 89 – 105.

72 Turtelboom, A., 'Kinderopvang krijgt tips om locatie beter te beveiligen', Brussels, FPS Interior press department, s.d.

also produced a manual on security in schools<sup>73</sup>. The private security sector and other private security players were closely involved in drawing up the ‘Manual’.

### Secure car parks

The Federal Government, most certainly prompted by the Federal Police, and by its concern to take action against cargo theft, has set up an interesting project to secure and monitor the car parks on our motorways. Typically for a transit country with a well developed port infrastructure at Antwerp, Ostend and Zeebrugge, our country has experienced, and is still experiencing, a rising number of incidents. From this perspective, we can show a statistical overview compiled by the Federal Police.

	2005	2006	2007	2008
Incidents	465	328	83	114
Attempts	240	196	44	107
<b>Total</b>	<b>705</b>	<b>524</b>	<b>127</b>	<b>221</b>

To force down the total financial losses caused by these cargo thefts and safeguard our national reputation as a transit country, the ‘secure car parks’ project was developed in the framework of integral security management.

An integral security platform was developed under the presidency of FPS Interior. The Federal Police, Customs and Excise and a number of regional government services are involved with this platform on the government’s behalf. The private sector is represented by the transport, insurance and private security industries. A total of 5 secure car park categories were developed. They are currently being implemented in a number of towns and municipalities: Aire de Aische and Refail, Aire de Wanlin, Antwerp, Bierset, Henseis, Minderhout, Postel, Rekkem, Thieu, Wetteren and Zeebrugge.

A category 1 secure car park implies: minimum security and monitoring, accessible by vehicles other than heavy goods vehicles, social control and image recording. Category 2 has one free entrance and exit and a CCTV surveillance infrastructure including registration plate scanning. Category 3 is accessible

by transport vehicles only and has free access without a barrier. It also has one free entrance and exit and the same CCTV surveillance and scanning. This secure car park is also operated by a private partner. A higher level of security, such as: remote surveillance and monitoring, alarm button, identification and reservation, brings us to category 4. Maximum security and surveillance is found in category 5. On top of what is provided under category 4 surveillance and monitoring, a category 5 offers 24-hour physical security and monitoring<sup>74</sup>.

### Consortium surveillance

Consortium surveillance is a form of crime prevention consisting of a combination of preventive security patrols and alarm responses within a given radius of action - such as company premises, a municipality or industrial estate - on behalf of a group of companies. The permanent presence of a mobile private security officer acts as a deterrent and guarantees a quick response when the alarm is sounded. In addition, the private security officer ensures that the proper reports are sent to the police and to the companies in question. On industrial premises, consortium surveillance is usually carried out at night and on weekends, when activity in these areas has all but stopped. On industrial premises, therefore, consortium surveillance enhances individual prevention measures.

Consortium surveillance is awarded through an invitation to tender or awarded directly to a given private security company, or it may also be part of a town or city’s wider, integral security plan. The surveillance might be coordinated by a steering group of entrepreneurs or in consultation with the local authority or the local police, on the basis of a partnership protocol, for example.

There are five cumulative key elements that underpin the concept of ‘consortium surveillance’: the combination of preventive patrols and alarm responses, service shared by all participating companies, within a defined geographical area, permanent presence within the agreed periods and structured consultation with a coordinating body.

In legal terms, each participating company has an individual contract with the supplier, the private security company. The private security company carries out purely preventive security checks on the private premises of the participating companies. The private security company does not, therefore, supervise the public area of the industrial premises or industrial estate as such.

73 Glorie, J., ‘Beveiliging scholen’, Brussels, General Directorate of Prevention and Safety, s.d., 111 p.

74 Ceuppens, G., ‘Safe and secured parkings in Belgium’, Brussels, Interior, 2010, 16 p.

Consortium surveillance implies lower costs for the participating companies due to its collective nature. Moreover, the participating companies benefit from a higher tax deduction (120 percent) as set forth in the Programme Law of 8 June 2008. This higher tax deduction applies to surveillance expenses as of 1 January 2009.

Consortium surveillance offers many advantages. Through his/her permanent presence, the private security officer serves as a deterrent and the systematic checks ensure that the participating companies remain safely closed, both at night and during the weekend. The response time in the event of an alarm is minimal. Thanks to these rapid response times, damage can be limited in the case of break-ins, vandalism, fire, gas leak, etc. Consortium surveillance requires nothing in the way of specific investments or legal constructions, and can be quickly arranged. It represents a low cost for participating companies due to the collective approach, including the higher tax deduction mentioned above. In addition to his/her basic tasks, the private security officer can be given a number of extra tasks, for example: reporting to the park manager, municipality and/or police in the case of incidents in the public domain (defective street lighting, illegal dumping, illegal parking, etc.) and internal checks on the premises of participating companies.

There are currently thirty or so consortium surveillance initiatives on industrial premises in Belgium (for example, in Beveren, Bruges, Deinze, Grâce-Hollogne, Herstal, Mechelen, Verviers and other towns) and collective store surveillance (for example, in Antwerp, Brussels and Mechelen). In some cases, these involve the permanent presence of a private security officer within a given time period, and in other cases, simple patrols of individual businesses. In all cases, there has been a real fall in crime, and consortium surveillance/store surveillance brings real added value to integral security.

## Defence

In March 2007, the BVBO and FPS Defence signed a partnership agreement. The FPS Defence has developed retraining programs as part of the rejuvenation of its staff, in which servicemen and professional volunteers may participate voluntarily and so build a second career with the help of coaching. With the signing of this partnership agreement, it is now possible for servicemen to turn towards the private security sector. The agreement is a 'win-win' formula for the BVBO and FPS Defence. Servicemen can apply for job vacancies with actual members of the BVBO, which, thanks to this agreement, receive an extra recruitment channel. In turn, members can recruit qualified and experienced workers who are ready to start immediately.

## Permanent consultation platform for business surveillance

The Federal Security and Detention Plan imposed integral security management in Belgium as an instrument of criminal policy. The 'Permanent consultation platform for business surveillance' held an important position in this. The Criminal Policy Service, the Belgian State Security Service and the Federal Police meet regularly, in the context of a public-private security partnership, with the security managers for 'Federation of Belgian Enterprises' members, to consult in the framework of particular security problems. These include computer crimes, itinerant crime groups, protection of scientific and economic potential, harmful sectarian organisations, vehicle crimes and the guarding and protection of independent entrepreneurs.

## Itinerant crime groups

In the framework of tackling itinerant crime groups, the Federal Police, and in particular its crime against personal property board, has signed a protocol agreement with a large private security company. Since it is the civilian duty of all private security officers to report any offence they witness to the police, they have an important role to play as an extra 'eye' for the police force.

This is the result of control operations by police services on the major traffic axes, which are designed to intercept itinerant crime groups. 'FIPAs' or 'full integrated police actions' can enable private security officers to supply operational, strategic and/or evaluative information during the normal performance of their duties.

## Tax incentives

It is possible, as an owner, occupier, leaseholder, freeholder, usufruct or tenant, to obtain a tax deduction of EUR 690 (Euros) for security measures introduced to a home to prevent intrusion or fire, provided a number of technical and administrative conditions are satisfied. Obviously, the money should be spent on recognised alarm systems and extinguishing equipment and any equipment should be fitted by a registered contractor or accredited private security company.

## 7th specialisation year in security

With reference to the potential opportunities available to the private security industry in the light of the Bologna Process, it is worth looking at the '7th specialisation year in security'

course, which was introduced in the 2009-2010 school year to 30 secondary schools across the country. The BVBO has also played a pioneering role in this initiative. Since education is a community matter in Belgium, both the Flemish- and the French-speaking educational institutes issue certificates for: community guard, private security officer, manager, football steward and First Aid division head. This technical and professional training covers integral security management as the starting point, and encourages the many pupils to acquire, keep and carry out a job in the broad field of security management.

#### **VDAB - FOREM**

The BVBO has set up a partnership agreement with the Flemish Public Employment and Vocational Training Service (Dienst voor Arbeidsbemiddeling en Beroepsopleiding - VDAB) and the French-speaking Service public wallon de l'emploi et de la formation (FOREM). The partnership relates to organising coaching for job seekers, to help them plan their training for professions in private and particular security, and develop the required skills. In this partnership, which has been operational for several years and achieved some very real results, the BVBO-affiliated, accredited training institutes deal with the selection and training of private security officer applicants, the BVBO private security company members take care of their recruitment, and the training costs are funded by the VDAB and FOREM respectively.

## **BY WAY OF CONCLUSION: A VISION OF PUBLIC-PRIVATE PARTNERSHIP IN THE FUTURE AND ITS INFLUENCE ON EMPLOYMENT**

Total turnover in the Belgian private security sector in 2009 amounted to approx. EUR 666 million, and turnover for the members of the BVBO to approx. EUR 600 million. This means that BVBO members account for about 90% of the total Belgian security market. An analysis of turnover per activity reveals that the largest share of turnover - about 82% - was generated through the surveillance and protection of movable and immovable assets. Although the share of static surveillance in overall turnover is still very large (51% in 2008 and 45% in 2009), we note a growth in surveillance of persons activities (from 21% in 2008 to 25% in 2009) and in mobile security activities (15% in 2008 and 16% in 2009).

The employment morphology is shaped by a vigorous recruitment policy. At the end of June 2010, there were 15,411 licenced private security officers in Belgium (source: FPS Interior). In 2009, the members of the BVBO employed 12,099 officers (expressed as FTE = full-time equivalent), as opposed to 11,647 in 2008. In 2009, the members of the BVBO recruited 2,563 FTE private security officers, of which 83% were men and 17% women. The recruitments spanned all age categories, but the majority came from the 26 to 45-year-old and 18 to 25-year-old groups. Therefore, the security sector was and still is attractive to a large group of people.

In brief, the private security sector in Belgium has grown to become a fully-fledged industry with enormous employment opportunities.

Several amendments to the prevailing legislation could even bring about a considerable rise in these employment figures. This is because, as a result of the amendments of 2004 and 2010, the legislator has improved the opportunities for a private security sector contribution to integral security management. Three new areas of activity have been added to the existing five.

The first possibility provided was the logging of events. This new, sixth activity is the carrying out of establishments exclusively regarding immediately perceptible situations of goods which are on the public domain, by order of the competent authority or the keeper of a public concession. Here, in particular, we have in mind the checking of compliance with certain, non-criminal regulations or the fulfilment of obligations under a concession agreement, concluded between the government and a private firm. Examples might include cer-

tain circumstances which fall within the scope of the law on municipal administrative penalties, such as stray dogs, vandalising of plants in public parks and gardens, covered street name signs or house numbers, etc. Through this sixth activity, the private security sector can contribute to integral security management by, among other things, relieving the police of a number of core tasks that do not fall within the policing scope. One frequent application of this new activity today is the supervision of pay-and-display parking. The supervision of pay-and-display parking is being increasingly outsourced to private security companies, and always in close consultation with the local authorities. On the other hand, according to the private sector, this sixth activity is often underused. Private security officers can also log and report other events. This is because everything that falls within the scope of the law on municipal administrative penalties can be logged by a private security officer. But, to date, the government has not made full use of the possibility. Nonetheless, the private security sector is well prepared, due in part to specialist training in this area.

The new, seventh activity relates to the accompanying of groups of persons with a view to ensuring road traffic safety. This activity can also be carried out on public roads. With this, the legislator aims to enable the organisers of events, such as cycle races and rallies, to bring in a private security company. To date, quite a few of these tasks are still being undertaken by police services. Operations such as these consume an enormous amount of resources, yet do not necessarily involve core policing tasks. The proposed legislation goes further than the supervision of cycling races, rallies and other sports competitions; it also relates to certain movements of groups. For example, the seventh activity also includes the supervision of children crossing roads at school entrances, and many parents may be comforted to know that a private security officer is present at the beginning and end of the school day, to ensure that the children cross the road in safety, but, at the same time, to keep a watchful eye.

The possibilities afforded by the sixth and seventh activities are underused by the government and other authorities to this day. We should be asking why this is the case. Indeed, the opportunity is there, there is a legal framework in place, and, moreover, the private sector offers trained, accredited and experienced private security officers, through which police forces can once again focus on their core policing tasks. Part of the answer lies in the fact that the government has created a situation in which two systems run parallel: on the one hand, this opportunity is being offered to the private security sector, which is highly regulated, has a clear cap on its powers, is well trained and, for which, therefore, a reasonable price should be paid; yet on the other hand, the system of volunteer starters still exists, and they are not as strictly regulated, they receive no training and they work without pay.

In addition, the government has built in a stopper. This stopper takes the form of explicitly giving primacy to the exclusive powers of the representatives of public authority. When a legal provision stipulates that an operation be carried out only by a representative of public authority, this means that it cannot be carried out by a private security officer. Therefore, a legal provision must abolish this exclusivity before the private security sector has the power to act. As a sector, we also argue for a number of legislative and decretal amendments, through which the private security sector can be automatically designated as a possible implementation partner.

As long as this is not forthcoming, the 6th and 7th activities cannot be put into use by the private security sector. Unfortunately, it is still too early to give an analysis of the 8th activity, since it has only recently been given a legal basis.

According to the BVBO, the government should make a number of amendments to the following legislation, including: the MAP legislation (municipal administrative penalties), the highway code and the Royal Decree of 1 December 1975 containing general regulations on the road traffic police. The Ministerial Circular on authorised supervisors of 6 July 1999 and the specific guidelines relating to Town Guards - Activa statute of 19 March 2003, are also included.

Indeed, academic research<sup>75</sup> shows that beyond the aforementioned activities and associated organisational forms, all of which are regulated by the Law of 10 April 1990, there exist quite a few more forms of “security”, which in some cases are regulated by other legislation, but in quite a few cases have no legal framework whatsoever. A non-exhaustive summary: the community guards, private watchmen, football stewards, rally stewards, hospital stewards, hospital crime prevention workers, parking attendants, authorised supervisors, line inspectors, line assistants, line spotters, road captains, the neighbourhood watch, beach guards, observation guards, prevention assistants, hotel and catering coaches, city coaches, park wardens, cycle wardens and marshals (supervision of cultural, sporting and tourist events, cycle races or competitions).

The various financing structures (Federal Government, municipalities and regions), each with its own logic in thinking and working on ‘civil security’ and, alongside this, the individual city and its specific local initiatives, have ensured that working on a ‘secure and liveable society’ takes shape in a jumble of initiatives.

75 Enhus, E., Verwee, I., Van Alvert, K., Verhage, A., Hoste, J., ‘De nieuwe functies inzake veiligheid. De professionalisering van de taken, professionalisering van de actoren?’, General Directorate of Prevention and Safety – Vrije Universiteit Brussel / Department of Criminology 2004-2005.

Incentivised by security and partnership contracts and prevention projects, coupled with funds available through municipal policy, an extremely wide variety of - what are now known as - 'new professions in security' have arisen in the last 15 years. Not only is there a huge variety of new professions, but the situation, powers, possibilities and job descriptions also differ greatly. Aside from town guards<sup>76</sup>, security officers<sup>77</sup>, football stewards<sup>78</sup> and authorised supervisors<sup>79</sup>, who have since been regulated, the situation for a range of others is very unclear.

The BVBO is convinced that there are tasks within the state that private security companies could fulfil. The debate on the further development and extension of tasks can therefore progress along several lines of thought.

The first implies maximal and optimal use of the 8 existing activities. Here, we have in mind stewards and the incident room for senior citizens and children. In the prison system, there is also room - for guarding the so-called 'cold zones', the transport of legal documents, the transport of detainees, reception of suppliers and visitors. There are also possibilities in the area of asylum policy. We might also include the surveillance of refugee centres and military barracks. Security tasks can also be carried out in relation to possible disasters and crises. In the area of road traffic, it would be possible to control traffic, record events and manage radar cameras. Within the broader arena of security, it would also be possible to participate in ambulance services and fire brigade operations. As regards the environment, action can be taken in response to littering, guarding and operating container parks, as well as managing fishing and hunting licences.

Another line of thought involves expanding on the legally defined tasks. In the past, the BVBO has repeatedly given its proposals to a variety of bodies, such as the 'Round Table' at the Ministry of the Interior, and the Ministerial cabinets. These proposals have related to: foresters, ensuring security in

courts and tribunals, park keepers, assisting government officials on inspections, supervising or reporting and carrying out certain specific and temporary supervisory operations in the event of serious or impending threats to public order. The possibilities also include exceptional and temporary reinforcement during sizeable administrative police operations. To return to road traffic safety, we might consider the reporting of poor and dangerous conditions on our roads.

As regards extending the tasks, we might consider the signalling of dangerous situations relating to vandalism, suspicious behaviour, nuisance, environmental offences and healthcare. Additionally, private security companies offer an alternative in the areas of neighbourhood policing, school supervision, screening, bicycle engraving, the general condition of public roads, defective street lighting and house numbering. Operations are also possible in the context of markets, fairs, trade fairs, processions, ceremonies, carnivals and sports competitions.

In the event of disasters and catastrophes, private security officers can report to the scene and warn the competent administrative and legal authorities. Pending action from these authorities, they can take agreed measures to rescue people in danger, evacuate the area, protect assets and prevent looting. In the case of dangerous or abandoned animals, they can take the relevant safety measures or ensure that an animal stops roaming the streets.

The third line of thought can be achieved through a relaxation of the definition and/or conditions governing the existing 8 activities. Here, we have in mind ticket inspection, stewardship and transport of 'valuables' such as legal documents and court files, and the safekeeping of evidence in courthouses and/or registries. A number of municipal regulations can also be extended to include checks and reports relating to illegal dumping.

The fourth line of thought incorporates private security companies in the exclusive security tasks of other, existing forms of security. This can involve surveillance and supervision of public transport, the whole range of security tasks required at football matches, and the community guards.

The fifth and final line of thought involves transferring specific forms from organisational to pure security. The tasks of road captains, authorised supervisors, hospital stewards and car park concession holders can be reserved exclusively for private security companies.

These lines of thought will have an enormous impact on potential employment in the private security sector, traditionally a sector in which many people, with little or no

76 CL 19 March 2003. Specific guidelines on the Town Guards - Activa statute, BOJ 4 April 2003.

77 RD of 1 July 2003 concerning the selection, training and recruitment of security officers to the security corps for court and tribunals police and for the transfer of prisoners to the Federal Public Service Justice, BOJ 31 July 2003; RD 11 July 2003 specifying the equipment and material made available to the private security officers of the security corps of the Federal Public Service Justice, BOJ 11 August 2003; Law of 25 February 2003 concerning the description of the function of private security officer with a view to carrying out tasks relating to the court and tribunal police and the transfer of prisoners, BOJ 6 May 2003.

78 RD of 25 May 1999 establishing the conditions of employment for football stewards, BOJ 16 June 1999.

79 CL of 5 July 1999 Ministerial Circular concerning authorised supervisors, BOJ 14 August 1999.

qualifications, are efficiently brought into employment and, through a legally required and well-defined training course, followed by rigorous training in the company and an examination set by Selor, offered a real job with career opportunities. If the sector manages to develop its cooperation with the Federal, regional and local authorities, this process of employment creation can be enhanced even further.

The private security sector even offers opportunities for the 45+ age group. One of the BVBO's members has set up a "45+" project. In the project, they aim specifically at this age category, and do so for several reasons. Persons aged 45 and older are normally the first to be shown the door when a business runs into difficulty. However, with all their life experience, the over-45s are often closest to the ideal private security officer profile. They do not necessarily base their action on their first impression - be it positive or negative - as young people tend to do. From a business perspective, there is also a good reason for turning to older workers. They are more loyal. They are often people who have been made redundant in the past, and, when people are given a second chance, they show their gratitude by remaining loyal to the company.

The BVBO is also of the opinion that it has an important role to play in the process of outplacement, in the case of bankruptcies and business closures, where it can offer a second chance to young and slightly older workers in the private security sector.

This Third White Paper shows that the private security industry in Belgium has been through an enormous evolution in the last 20 years. The sector, which operated in the strictly private domain at the outset, is today a partner in the realm of public security. Indeed, it is now a fact that private security officers can be found in a huge variety of public places. Due to the enormous investments made by private security companies, the client (government, economy and citizen) now has access to: specifically trained, versatile and often multilingual private security officers. Moreover, their targeted selection and recruitment, training, coaching and ever-improving work and pay conditions are a guarantee of high quality.

It should be noted, however, that by no means has the current legal framework been through the same evolution. The realities of security, the needs of the client, the role of the private security company and the job of private security officer are no longer what they were 20 years ago. The current arsenal of legislation has tended to inhibit security activities more than stimulate them. The hefty administrative burden is food for thought, and is seen as a negative. This is despite every effort on the part of the Federal Public Service Economy to simplify the administration.

The sector is also one of the few industries to constantly create employment for a considerable group of people from the disadvantaged groups and integrate them in the labour market.

It goes without saying that the BVBO itself is calling for a regulating framework whilst retaining the main objectives of the law on private and particular security. Nonetheless, this law is due an evaluation and review, with a view to further employment opportunities and possible cost cuts in the public security industry. Any legislation that aims to remain enforceable will need to evolve in constant consultation with those who are subject to it. In brief, the Belgian Federal Government certainly has its work cut out for it. •









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private security in Belgium; an inspiration for Europe?