

# Private Security on a Global Level

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**D**iscussing “private security on a global level” presents a huge challenge. It is possible to think that the subject has already been analyzed and dissected numerous times, or that in fact very little has been published on the subject, certainly in France or in French.

The subject has mainly been studied through the military and security prism, with regard to the privatization of armed forces and to the use of private military companies. A considerable number of articles, reports, and seminars exist on the subject, but few on the subject of the international aspects of private domestic security.<sup>1</sup>

Global private security, as envisaged for this conference, is the “domestic” private security of the 193 states of the United Nations. That is the prism employed for this intervention.

## **I. What Are the Sources of Knowledge Concerning Global Private Security?**

There are of course national sources of information—regulations, reports, and scientific literature. In accurate, these sources, nonetheless, present a problem in their quantity, as it would be necessary to examine 193 different cases. Faced with this difficulty, two secondary international sources are particularly useful—the United Nations Office on Drugs and Crime at the global level and the Confederation of European Security Services at the European level. These two bodies, one public and the other private, provide qualitative and/or quantitative data that make it possible to describe and analyze global private security. Thus, these two sources show that the idea of comparison is legitimate and has already been “dreamed of”—global private security is not a virgin subject, but a subject ready to be revealed.

At the global level, the UNODC has produced documentation aimed at expanding on the “Report on the Meeting of the Expert Group on Civilian Private Security Services Held in Vienna from 12 to 14 October 2011”.<sup>2</sup> This report was the result of resolution 18/2 entitled “Civilian Private Security Services: Their Role, Oversight and Contribution to Crime Prevention and Community Safety” adopted

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<sup>1</sup> One example is an issue of *Sécurité & Stratégie*, the journal of the Club of Directors of Security (CDSE), which published a dossier entitled “La sécurité privée dans le monde” in 2013.

<sup>2</sup> UNODC, “Report on the Meeting of the Expert Group on Civilian Private Security Services Held in Vienna from 12 to 14 October 2011,” UNODC/CCPCJ/EG.5/2011/2, October 28, 2011, 16p. [https://www.unodc.org/documents/justice-and-prison-reform/Expert-group-meeting-Bangkok/IEGMCivilianPrivateSecurity/English\\_V11868142.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Expert-group-meeting-Bangkok/IEGMCivilianPrivateSecurity/English_V11868142.pdf).

by the Commission on Crime Prevention and Criminal Justice of the UN on 24 April 2009.<sup>3</sup> From these two works, a definition in five points of private security has emerged alongside other recommendations:

- a) Civilian private security services provide security-related services with the overall objective of protecting or securing people, goods, sites, locations, events, processes, and information from predominantly crime-related risks. Services with expressly or implicitly offensive mandates are not included in the category of civilian private security services;*
- b) Civilian private security services are legal entities or individuals supplying services for payment;*
- c) Civilian private security services are private entities or individuals, not public entities. They may include commercial firms and nonprofit organizations, as well as individuals;*
- d) Civilian private security services are officially accredited, regulated, and supervised by the State;*
- e) Services provided by civilian private security services may be preventive, may support public law enforcement agencies and, where permitted, may be complementary to public law enforcement agencies.*

This then is the most complete and most accurate definition to date adopted within an international and consensual framework. Moreover, the expert group included within this definition “private security companies providing protection services on commercial ships,” excluded “private military companies and private military and security companies,” as well as private security services in prisons (as being too specific a subject). Beyond this definition and the Expert Group’s recommendations, the Commission on Crime Prevention and Criminal Justice published in 2011 the results of a questionnaire sent to member states concerning the situation with domestic private security. Responses were obtained from 43 of them,<sup>4</sup> providing the only valid international knowledge base.

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<sup>3</sup> At: [http://www.unodc.org/documents/commissions/CCPCJ/Crime\\_Resolutions/2000-2009/2009/CCPCJ/Resolution\\_18-2.pdf](http://www.unodc.org/documents/commissions/CCPCJ/Crime_Resolutions/2000-2009/2009/CCPCJ/Resolution_18-2.pdf).

<sup>4</sup> Commission on Crime Prevention and Criminal Justice, “Civilian Private Security Services: Their Oversight and Their Role in and Contribution to Crime Prevention and Community Safety – Note by the Secretariat,” E/CN.15/2011/14, January 20, 2011, 17 pages, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/V11/802/03/PDF/V1180203.pdf?OpenElement>. The 43 states that replied to the survey were: Algeria, Argentina, Azerbaijan, Bahrain, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Canada, Chile, Colombia, Croatia, Cyprus, Czech Republic, Ecuador, Egypt, El Salvador, Finland, Germany, Guatemala, Hungary, India, Jamaica, Japan, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Liechtenstein, Monaco, Norway, Oman, Paraguay, Philippines, Portugal, Republic of Korea, Russian Federation, Spain, Sweden, Switzerland, Thailand, Tunisia,

At the European level, the knowledge approach is different in that its source is a federation of national business organizations—the CoESS. This organization analyzes at regular intervals the economic and legal environment for private security in the 27 member states of the European Union, as well as 7 other states in the region (Bosnia-Herzegovina, Croatia, Macedonia, Norway, Serbia, Switzerland, and Turkey), comprising a total of 34 states. The latest statistical comparisons date from 2013, when the economic and social statistics, as well as the activities and prerogatives of private security for each state were reviewed.<sup>5</sup>

This approach to the collection and comparison of knowledge by the CoESS is clearly aimed at encouraging a move to adopt pan-European regulation of private security: “Any effective European approach must start at the national level, which is to say with the member states. We need to identify, among the countries of the European Union, the regulations which work, in other words those which establish a strict framework guaranteeing the professionalism and quality of our services while not otherwise restricting their development. The result will be the development of a European legislative framework that is balanced, harmonized, effective, and favorable for the development of the private security industry.”<sup>6</sup>

These two sources thus both offer comparisons aimed at convergence and harmonization, but on different scales, and thus with different degrees of precision and even in some sense working at cross-purposes—the European analysis tends to shine light on divergences, which in reality are fewer than at the global level, while the UN’s analysis tends to show convergences, which remain fewer than at the European level.<sup>7</sup>

## **II. In the Parameters, Prerogatives and Employment of Domestic Private Security There Is Convergence—Up to a Point**

The first objective convergence is that private security exists on all continents, from South America to Asia, passing through Europe, as is indicated by the UNODC expert group: “The majority of member states questioned have acknowledged the existence of civil private security services within their borders.”<sup>8</sup>

Beyond this geographical observation, the existence of private security seems also to be independent of a state’s political regime and its level of democratization—it existed, for example, in the Libyan Arab Jamahiriya. Most of all, private security has an even greater presence in countries where security and public order have never

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<sup>5</sup> CoESS, *CoESS Facts & Figures 2013*, 2013, 225 pages (not published, contrary to data from 2011).

<sup>6</sup> Pissens, Marc (Chairman of the CoESS). “The European Security Landscape of the Future”. cit. in INHESJ / CoESS, *Private Security and Its Role in European Security*. White Paper (Paris: 2008), 10.

<sup>7</sup> “EU countries take a varied approach [...]. There is no quantitative development model available, given the wide range of statutory provisions adopted.” (INHESJ / CoESS, *Private Security and Its Role in European Security*. White Paper. Paris, 2008. p. 21).

<sup>8</sup> Commission on Crime Prevention and Criminal Justice, op. cit., 4.

existed or no longer exist. Thus, private security precedes public security—less visibly in western countries, particularly in France, where the recent nationalization of security has been strong and marked—responding to an essential need for security and transcending differences in cultures and civilizations. The UNODC report reveals this cultural consensus in the matter of private security: “The United Arab Emirates observed that the role of civilian private police was similar in many respects to that in European countries, Canada, the United States of America and Asian countries. As the private sector had become more professionalized, it had started to take over or share certain functions of the public police which had historically been solely in the domain of the public police, such as the guarding of embassies, essential national infrastructure and dealing with traffic accidents, management and investigations, thus allowing the public police to focus on matters of higher priority.”<sup>9</sup>

Thus, at the international level, the scope of domestic private security is similar in its broad outlines: “The main role and tasks performed by those civilian private security services included tasks involving the physical and electronic surveillance and protection of natural and juridical persons and goods and the transport of goods mandated by private persons. Several States [Argentina, Bosnia and Herzegovina, Canada, Colombia, Cyprus, Czech Republic, Ecuador, El Salvador, Guatemala, Philippines and Russian Federation] *mentioned investigation or private detective services as being part of their tasks. Furthermore, a number of States [Canada, Cyprus, Germany, Hungary, Jamaica, Japan, Liechtenstein, Monaco and Switzerland] indicated that private security services performed the tasks of securing order, dealing with crowd security at public events, such as fairs and sport events, and a few States [Canada, Cyprus, Germany, Jamaica, Japan, Sweden and Switzerland] also mentioned the tasks of airport and public transport security. Some States [Bosnia and Herzegovina, Canada, Monaco and Norway] mentioned the existence of internal security services of private entities, as a part of civilian private security services.*”<sup>10</sup>

As for Europe, “*this sector comprises a large range of activities, including surveillance of personal assets and property, cash-in-transit, personal protection, access control and designing, installing and alarm systems management.*”<sup>11</sup> Also added to the list are dog-handling activities, private research, and security at ports and airports (with some divergences in the latter). The final sector affected by privatization in Europe is the armed protection of ships in extraterritorial areas. Noted among the specific activities in one European country or another are transportation of detainees (which remains rare), monitoring of detention centers, and private security on horseback.

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<sup>9</sup> *Ibid.*, 6.

<sup>10</sup> *Ibid.*, 4. France does not appear among the respondents as it had not at the time furnished UNODC with its answers.

<sup>11</sup> INHESJ/CoESS, *op. cit.*, 19.

With regard to the prerogatives of private security officers, there is also a convergence, but with nuances further explained by the political, legal and cultural environment. At the global level: “several States reported that civilian private security firms and their employees did not have any greater criminal law enforcement powers than private citizens, and they had less power than State police.”<sup>12</sup> At the European level, the CoESS indicated in 2012 that 59% of private security officers had no greater rights or powers than ordinary citizens, which does not, however, constitute an overwhelming majority.<sup>13</sup> The right to stop a person pending police intervention, self-defense, and pat-downs—three widely used criteria for comparison—are principles and techniques common to the majority of countries. Bearing arms is permitted in 82% of States. Other elements of convergence exist: the requirement that uniforms should not risk confusion with those of public forces, the possession of an identity card, the ban on intervention in political conflicts and labor disputes, etc.

In this global landscape, one continent—Africa, and more precisely Sub-Saharan Africa—appears to be an exception. Private security exists there, but with special arrangements with regard to prerogatives and missions. Protection of expatriates and physical protection of heads of state and other public figures seems to be more often entrusted to companies providing security and defense services, in the sense of nondomestic private military and security companies, rather than private security.<sup>14</sup> In this case, the state monopoly on legitimate physical violence has never truly been established, even in spite of the colonial history, and this leads to a back-to-front debate—it is the police forces that strive for a greater presence, to acquire greater legitimacy, or to eradicate internal corruption,<sup>15</sup> while confronted with private security that is often larger, better equipped, and in part managed by foreign companies. Moreover, there is a form of divergence in the internationalization of private security. While the study of private security personnel in various Western countries reveals a large number of employees of foreign origin, notably from Africa, African countries themselves tend to have recourse to private security personnel of Western origin for the most sensitive tasks. The internationalization of human resources and skills works more by cross-pollination than by convergence.

Globally, other divergences exist, mainly in relation to clientele. On the one hand, the situation with internal security services remains notably different in different states. Some forbid their existence, others allow it, while others still make no mention

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<sup>12</sup> Commission on Crime Prevention and Criminal Justice, op. cit., 5.

<sup>13</sup> CoESS, *Private Security Services in Europe. CoESS Facts & Figures 2011* (2012), 145.

<sup>14</sup> Cf., for example, Pauron, Michael. “La sécurité des chefs d’Etat en Afrique, une affaire privée”, *Jeune Afrique*, dossier on “Sécurité des chefs d’Etats: dans le secret des gardes rapprochées,” novembre 23, 2015, <http://www.jeuneafrique.com/mag/276037/politique/la-securite-des-chefs-detat-en-afrique-une-affaire-privée/>.

<sup>15</sup> Cf. Marc-Antoine Pérouse de Montclos, *Etats faibles et sécurité privée en Afrique noire. De l'ordre dans les coulisses de la périphérie mondiale* (Paris: L'Harmattan, 2008), 204.

of them in their legislation. On the other hand, there are states which allow state structures to employ private security. These include Monaco, Bosnia-Herzegovina, the UAE, Liechtenstein, Sweden, and Switzerland according to the UNODC list, but also the majority of other European countries, as well as Canada and the United States. This use of private security under state contracts leads to difficulties that are shared by states. The local police forces of Great Britain (notably Lincolnshire, the West Midlands, and Surrey) face strong opposition to the outsourcing of certain public duties.<sup>16</sup> The same is true in the Swiss Confederation, where certain cantons are trying to outsource aspects of the transfer and supervision of detainees. Belgium has also quite recently (in 2013–2014) allowed legal persons governed by public law to employ private security for certain cultural or sporting events. As for the United States, each state establishes its own position on the matter, so that divergence is even internal within countries that have a federal structure.

Case by case, it is the coordination between state forces and private security—“security co-production”—that demonstrates important signs of difference between states. The crossing of certain red lines is fraught, whether it concerns the presence of private security on public roads, or operational coordination between state forces and private security. Of note nonetheless, beyond operational divergences, is the emergence, in Europe at least, of a new discourse on the matter, that of “eyes and ears”. This encompasses the Italian protocol of cooperation *Mille occhi sulle città* (“a thousand eyes on the city”), a 2010 initiative from the then Minister of the Interior, Roberto Maroni,<sup>17</sup> as well as the Spanish authorities’ exhortation for private security personnel to become “the eyes and ears of state forces,”<sup>18</sup> or the interpretation by the Belgian press of the employment by certain communes of private security companies in the fight against burglary as being “extra eyes and ears on the ground,”<sup>19</sup> which is a genuine European trend in the making. In France, the expression was used for the first time by the Director General of the National Gendarmerie, Jacques Mignaux, in 2013.<sup>20</sup> It also entails problems when some municipalities wish to see it happen too quickly.<sup>21</sup>

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<sup>16</sup> Jacques De Maillard. “Les dynamiques récentes de la police et de la sécurité privée en Grande-Bretagne,” *Sécurité & Stratégie*, n° 13. June 2013/September 2013. pp. 19–25.

<sup>17</sup> Interministerial Delegation on Private Security, *Rapport de mission “La sécurité privée en Italie” 24–25 juillet 2012*, pp. 21 et seq.

<sup>18</sup> An expression used by the head of the *Unidad Central de Seguridad Privada* (UCSP) of the National Police (cf. Interministerial Delegation on Private Security, *Rapport de mission “La sécurité privée en Espagne” 6–8 juillet 2012*, p. 21).

<sup>19</sup> “La police appelle des agents de sécurité en renfort,” July 5, 2012, <http://www.rtl.be>.

<sup>20</sup> Jacques Mignaux. “Le regard porté par la gendarmerie sur la problématique sécurité publique-sécurité privée,” In *Sécurité privée, enjeu public*, eds. Pierre Brajeux, Éric Delbecque, and Michel Mathieu. (Paris: Armand Colin, 201), 177.

<sup>21</sup> In August 2015, the mayor of Biarritz, for whom private security officers are “extra eyes and ears on the ground”, was forbidden from employing private security to monitor public roads (<http://www.sdpn.net/2015/08/gardiennage-de-la-voie-publique-a-biarritz-la-prefecture-retire-son-autorisation.html>).

If private security exists throughout the world with differences in its usage, then its frameworks and its regulation also appear to be more and more varied.

### **III. The Governance of Private Security Follows a Similar Tendency among States, Namely an Already Well Established Framework, or Its Current Reinforcement.**

Legislation in the field of domestic private security exists in the majority of states. Thus, according to UNODC: “Several States reported that they had in place or had amended their legal regulation on private security services; others replied that they had new relevant legal projects or amendments under way, while others indicated the need for a new regulation.”<sup>22</sup> In the European area alone, the CoESS indicates that 94% of states offer specific legislative regimes for private security, but in each case with important differences in the authority in charge of its development—the Ministry of the Interior being responsible for 53%, the Ministry of Justice for 16%, the police themselves for 6%, and other organizations for the remaining 25% (economic and finance ministries). The vast majority of these legislative regimes implement a system of authorization, both for companies and for personnel, and both in the European area and in the states that responded to UNODC: “Most States required a type of authorization or license not only for the private security firm but also for their employees.”<sup>23</sup> A final common tendency is the reinforcement of the framework—in terms of legal protection for personnel in Norway, and in terms of training in Argentina, Chile, Guatemala, the Czech Republic, and Burkina Faso, as well as France and China.<sup>24</sup> Other countries are currently revising their regulations, or plan to do so soon (the United Kingdom, Thailand, etc.).

At this stage, it is worth noting that, as is often the case, there exist two models among the states that regulate private security—a centralist model and a federal model.

The federal model can be found in the United States, in Canada, in Germany, in Switzerland, and in Bosnia-Herzegovina, in particular. It is neither the most developed model, nor does it promise to become so. In fact, these states, which all emphasize the difficulties of this manner of organization (the unequal value of licenses in different territories, the administrative complications for service providers, etc.), are trying to unify their licensing regulations. As one example: In 1996 six cantons signed the

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<sup>22</sup> Commission on Crime Prevention and Criminal Justice, “Civilian private security services: their oversight and their role in and contribution to crime prevention and community safety – Note by the Secretariat,” E/CN.15/2011/14, January 20, 2011, p. 10.

<sup>23</sup> Commission on Crime Prevention and Criminal Justice, “Civilian private security services: their oversight and their role in and contribution to crime prevention and community safety – Note by the Secretariat,” E/CN.15/2011/14, January 20, 2011, p. 11.

<sup>24</sup> In China, the demand for physical protection of individuals from businessman travelling abroad has led to the creation of the country’s first private training college, Genghis Security Advisor, which uses parts of some military facilities in Beijing (<http://geopolis.francetvinfo.fr/la-chine-se-lance-dans-la-securite-privee-12083>).

Romandy Concordat on security companies;<sup>25</sup> nine German-speaking cantons had signed a Germanic Concordat by 1 January 2016;<sup>26</sup> six cantons are in negotiations to join the Germanic Concordat;<sup>27</sup> two cantons apply the provisions of the Germanic Concordat without signing up to it;<sup>28</sup> and three cantons choose to remain isolated.<sup>29</sup> A similar tendency exists in Canada, which informed UNODC that: “Canada reported that several provinces were amending or were envisaging to amend the relevant legislation and that there had been efforts to harmonize the standards and information sharing among provinces.”<sup>30</sup>

The centralist model is the more developed. It comprises a regulatory system defined by the central state, with the ministry of the interior as the body responsible for issuing licenses and for supervisory activities. There are cases where the ministries or departments in charge of commerce perform this responsibility—Germany, Canada at the provincial level, Liechtenstein, Norway, the Czech Republic, Thailand, etc. While, in some cases, the ministry of the interior may implement this regime itself (Bosnia-Herzegovina, Guatemala, Japan, Oman, the Philippines, Spain), in other cases the regime is implemented by a dependent authority (Bolivia with its National Department of Control of Private Security Firms, Columbia with its *Superintendencia Supervigilancia*, Ecuador with its Department for Monitoring and Oversight of Private Security Organizations, Jamaica with its Private Security Regulation Authority, France with its National Council of Private Security Operations, the UK with its Security Industry Association, and even the Province of Quebec with its Bureau of Private Security). The internalization or externalization of law enforcement from, for the most part, the ministry of the interior does thus not currently have an established standard format—there are two systems in existence.

This global centralizing model has also been implemented in South Africa and in the states of North Africa and the Maghreb—and also in Senegal—with copy-pasting of Anglo-Saxon or French legislation. Between these two poles, the other

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<sup>25</sup> This concerns the cantons of Geneva, Waadt, Freiburg, Neuenburg, Jura, and Wallis. This Concordat defines the licensing regimes (for the establishment of a company, for its director, and for its employ officers). These six cantons therefore have the same regulatory regime and mutually recognize licences issued.

<sup>26</sup> This concerns the cantons of Basel-Stadt, Solothurn, Thurgau, Appenzell Innerrhoden, Appenzell Ausserrhoden, St. Gallen, Nidwalden, Uri, and Tessin. These nine cantons have since had the same licensing regime, with mutual recognition.

<sup>27</sup> Bern, Luzern, Aargau, Zürich, Glarus, and Graubünden.

<sup>28</sup> This concerns the cantons of Basel Landshaft and Schaffhausen. It is possible that recognition of their licences may be adopted later.

<sup>29</sup> This concerns the historic and central cantons of Switzerland, also called “primitive”: Zug, Schwyz, and Obwalden (to which previously was added Nidwalden, which has since joined the German Concordat).

<sup>30</sup> Commission on Crime Prevention and Criminal Justice, “Civilian private security services: their oversight and their role in and contribution to crime prevention and community safety – Note by the Secretariat,” E/CN.15/2011/14, January 20, 2011, p. 12.24



African states have difficulty establishing a regulatory framework due to their weak state structure. In any case, the issue of the effective application of legislation is open to question, and the debate is focused in part on private military and security companies, the Montreux Document, and the ICoC (the International Code of Conduct).<sup>31</sup>

From the present table of comparison, it seems best to extract the constituent or potential elements for future development—the space for greater convergence in the future is clearly there.

#### **IV. Regulatory and Normative Convergence Will Continue**

A prime factor for convergence is the increasing number of businesses and operatives in private security in the majority of countries. Thus the very fact that private security is growing in numbers seems to act as a lever for harmonization and regulation. This is the explanation advanced by Argentina, Chile, the UAE, India, Portugal, Thailand, Jamaica, Canada, the Czech Republic, El Salvador, and Liechtenstein. It would certainly be recognized in France, too. The landscape in Europe was itself transformed at the turn of the 2010s, as the majority model became that of member states where private security operatives outnumber those of public security. This statistical trend converging toward a growing private provision that surpasses public provision is expected to continue, particularly due to budgetary constraints that are shared globally, and to the threat of terrorism, which requires ever greater focus by police forces on the top shelf of insecurity.

Private security being a market, the growth in provision is in response to a growth in demand. While the need for personal and home security is increasing, and public bodies are the justifications offered for this rise in activity, they, nonetheless, do not fully explain the convergence in regulation. To understand the latter, it is necessary to take into account the purchasing of private security by international organizations, whether nongovernmental, public or private, political, diplomatic, sporting, or cultural—the UN, NATO, the European Commission, the ICO, FIFA, UEFA, the Red Cross, the OECD, etc. These organizations make an extensive use of private security and, as they have representations in different countries or organize successive events in different countries, tend to harmonize their own demands and their contractual requirements. As a result, the provision of private security is also harmonized.

These international organizations spread models of requirements and solutions, and thus transcend national frameworks, in some cases compelling them to adapt. The most newsworthy example in the field is that of “fan zones,” whether instituted for the World Cup, the UEFA Cup, or the Olympic Games, especially since they emerged

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<sup>31</sup> An example from Senegal—the intervention of Jean Leopold Guèye, General Secretary of the National Syndicate of Conveyors of Security Officers and Funds (Synacofas), at the Regional Conference on the Montreux Document on Private Military and Security Companies, Dakar, Sénégal, June 4–5, 2014, <https://alysagne.wordpress.com/2014/06/12/senegal-etat-des-lieux-des-entreprises-de-secutite-privee-le-mal-vivre-des-agents-des-esp/>.

during the 2006 FIFA World Cup in Germany. For Euro 2012, the main fan zone in Warsaw covered 120,000 m<sup>2</sup>, was constantly protected by 1,000 security officers, and cost €8 million. The Olympic Games in London in the same year and the World Cup in Brazil in 2014 raised, for their part, considerable challenges for private security, for public safety, and for the coordination of the two. The Brazilian Minister of Sport, Aldo Rebelo, recognized this bitterly when he said: “The World Cup is a sporting competition, not an institution responsible for solving the country’s problems.”<sup>32</sup>

To meet this standardization, means have emerged to spread model contractual and regulatory frameworks. The European Interagency Security Forum (EISF) thus published in 2011 a briefing paper entitled “Engaging Private Security Providers: A Guideline for Non-Governmental Organisations”.<sup>33</sup> More recently, the CoESS and UNI-Europa have also a guide entitled “*Buying quality Private Security Services - A manual for organisations awarding contracts for guarding services - update 2014,*” which publicizes at the European level best practices for the acquisition, by private and public organizations, of good quality security services.<sup>34</sup> It is worth noting that these publications are financially supported by the European Commission.

A second vector of convergence corresponds to the way decisions in matters of security and safety are taken institutionally, and therefore more structurally and more durably. For example, in the field of airport security, the International Civil Aviation Organization (ICAO) has produced safety standards for its 191 member states for several decades.<sup>35</sup> Above all, following the terror attacks of 11 September 2001, the principle of systematic monitoring of hold luggage has been adopted by all states party to the Chicago Convention. Of course, these international standards and recommendations leave states with the liberty of choosing the means to implement them, whether through public airport security (as in the United States and Spain, for example) or private (as in France, the United Kingdom, Croatia, and Germany, among others). In effect, “an approach based on the analysis of risk and on the idea of the result is important in so far as it confirms a global understanding of issues of safety and the central notion of equivalence. In other words, different measures can produce the same results.”<sup>36</sup> The International Maritime Organization (IMO) promotes maritime

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<sup>32</sup> *Cit. in* “Coupe du monde 2014: l’essor du marché de la sécurité,” *Le Figaro*, June 16, 2014.

<sup>33</sup> *Cf.* <https://www.eisf.eu/wp-content/uploads/2014/09/0002-Glaser-2011-Engaging-Private-Security-Providers97.pdf>. This 32-page document was written by Max P. Glaser and financed by the Federal Department of Foreign Affairs of the Swiss Confederation.

<sup>34</sup> Available at: [http://www.securebestvalue.org/wp-content/uploads/2014/11/Best-Value-Manual\\_Final.pdf](http://www.securebestvalue.org/wp-content/uploads/2014/11/Best-Value-Manual_Final.pdf)

<sup>35</sup> Notably since the adoption in 1974 of Annex 17 of the Chicago Convention on International Civil Aviation of December 7, 1944 (“*Security - Safeguarding International Civil Aviation against Acts of Unlawful Interference*”) by the Council of the ICAO.

<sup>36</sup> Jérôme Vallet, Division Commissioner, head of the Security Division of the Direction centrale de la police aux frontières, *cit. in* “La deuxième conférence à haut niveau sur la sûreté du transport aérien a permis de redonner une nouvelle impulsion aux mesures prises après l’attentat du 11-Septembre et, dix ans après, d’esquisser de nouvelles orientations,” *Aviation Civile magazine*, No 365. January 2013. p. 11.

and port safety in a similar manner with the ISPS (International Ship and Port Facility Security) Code of 2002. In this area, the UN Security Council's resolution of April 2011 to intensify the fight against piracy off the coast of Somalia has also played a driving role for private security, with the development of legislation, particularly in Europe, oriented toward the employment of private security.

It is certainly true that these interstate decisions do not require the use of private security. They stick to shared principles and standards of safety, and should be adopted and enacted in national legislation. Nonetheless, they have a strong knock-on effect to the advantage of the sector and of convergence. Methods become similar, particularly because, through the principle of peer-to-peer evaluation, they need to be equivalent and comparable.

The convergence vector of international institutional decision-making is more visible and effective at the European level, because of political, judiciary, and administrative integration that is stronger—and this is rarely noticed—thanks to the exclusion of private security from the Services in the Internal Market Directive:

1. The accession of new states to the European Union in the 2000s (Latvia, Estonia, Lithuania, Slovenia, Slovakia, Hungary, Cyprus, Romania, and Bulgaria) largely coincided with the implementation of a legal regime for private security.
2. The Court of Justice of the European Communities (CJEC) was a driving force in the area of regulatory harmonization, via procedures brought by the European Commission against states with legislative shortcomings. Five member states were in this situation at the beginning of the 2000s<sup>37</sup> and had to update their legislation in order to abolish limitations on the nationality of security officers and legal entities, to abolish minimum share capital requirements, etc.
3. From an administrative perspective, the Services in the Internal Market Directive of 2006, which did not include private security services, nonetheless formed the basis for initial harmonization in the field of private security, specifically for the transport of cash across borders, along with the EU regulation of cross-border transport of cash of 2011.<sup>38</sup> Finally, recognition of

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<sup>37</sup> Judgment of October 29, 1998, Commission/Spain ; Judgment of March 9, 2000, Commission/Belgium (C-355/98); Judgment of May 31, 2001, Commission/Italy (C-283/99); Judgment of April 29, 2004, Commission/Portugal (C-171/02); Judgment of October 7, 2004, Commission/Netherlands (C-189/03); Judgment of January 26, 2006, Commission/Spain (C-514/03); Judgment of December 13, 2007, Commission/Italy (C405/05).

<sup>38</sup> Regulation (EU) No 1214/2011 of the European Parliament and of the Council of November 16, 2011 on the professional cross-border transport of euro cash by road between euro-area Member States.

European qualifications stipulated by directive in 2013 also had an impact on private security—private security qualifications issued in a member state with private security legislation must henceforth be accepted.<sup>39</sup>

The authorities of the European Union have thus been a lever for convergence, showing that the authority of states is not absolute in the field of private security. The ultimate step would be the establishment of an organ, authority, or agency in charge of private security in the European Union.

There is a strong economic element behind this legislative and regulatory harmonization. Claude Tarlet, vice-president of the CoESS, traces the direct line from law to the economy in an international context: “How and why may Europe contribute to the global economic growth of the sector? In what way can harmonization promote competition? I would first mention globalization. Not the globalization imposed by the financial markets, but the globalization that determines the contractual requirements drawn up by risk managers and managers of safety and security in international groups [...] which privilege the European—or even global—markets published in the OJEC (the Official Journal of the European Community). Moreover, the role of any provider is to respond better to their clients’ demands. In this context, the creation of a “Europe of security” will allow businesses of any size to respond individually or in the form of European groups if—and only if—legislation is harmonized.”<sup>40</sup>

The final vector of convergence and homogenization is found in standardization. In this regard, expansion can be observed at the international level with the International Organization for Standardization (ISO) and at the European level with the European Committee for Standardization (CEN). However, standardization of necessity orients considerations and challenges to the supranational level, as the principle of normative subsidiarity prevails. Furthermore, they define practices, which can be beneficial if the concerned parties are engaged and influence the benchmarks established, or destabilizing if the parties concerned choose to pursue an “empty chair” policy. In any case, objectively they lead to convergence. Two examples of international standards in private security demonstrate this convergence:

- ISO Standard 28000 relating to “ships and marine technology,” of Anglo-Saxon origin, has become the quasi-obligatory international reference for the armed protection of ships.

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<sup>39</sup>The document in question is Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System.

<sup>40</sup>Tarlet, Claude. “L’Europe, catalyseur de la compétitivité des entreprises,” *Sécurité & Stratégie*, n° 13. June 2013/September 2013. p. 18.

- ISO Standard 18788 “Management system for private security operations— Requirements with guidance for use,” of the same origin, is in the process of defining a functional model for private military and security companies, particularly for countries with weak governance, but potentially for all countries.

At the level of the ISO, efforts in the field of private security are a few steps ahead. The reorganization in 2015 of Technical Committee ISO TC/292—Security and Resilience will lead in the coming years to new standardization requirements, and thus to new standards in the areas of resilience, of risk management, and of emergencies, of fraud and of public-private cooperation. At the European level, meanwhile, the recent creation of CEN/TC 439—Private Security Services, which met in Vienna in July 2015 with the strong involvement of the CoESS, is specifically aimed at ensuring that Europe is not left without a voice or plans in this standardization boom.

In conclusion, the variations in scale employed here—from global to international, from international to national, and from national to local—show the significance of similar issues, in light of which we can symbolically draw the analogy between the world and Switzerland: Private security exists everywhere; its authority, activities, and co-production are sometimes different; regulatory harmonization is gaining ground to the detriment of some islands of liberalism; this convergence will not come about without some bumps and jolts.

These bumps, conflicts, and abuses should certainly not be ignored, any more than instances of corruption and compromise. It is worth recalling that the global comparison cited previously is based on the works of the United Nations Office on Drugs and Crime (UNODC), under the auspices of the UN Commission on Crime Prevention and Criminal Justice. Thus countries such as El Salvador, Ecuador, Thailand, and Oman clearly emphasized that the necessity for regulation came from abuses and conflicts that essentially comprise an increase in criminality due to private security. The Cambodia Center for Human Rights has also recently denounced the role played by private security companies in certain acts of intimidation.<sup>41</sup>

By expanding the field of comparison from hard legislation and regulation to examine also soft law and standardization, the convergence in private security issues takes on a new aspect—an objective aspect (that of the necessary coordination between national, European and international levels in order to avoid redundant standards), and a more aggressive aspect (that of economic tensions that allow any country to put its companies in the best position possible to respond to demands that have become similar at the global level).

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<sup>41</sup> Cambodian Center for Human Rights, “The situation of Human Rights Defenders in Cambodia in 2014,” CCHR Briefing Note, April 1, 2015, 20 pages.

## Statistical Comparison and Relevant Legislation

State	No. of companies	No. of officers	Specific legislation	Type of regulator
Austria	202	12,259	Trade, Commerce and Industry Regulation Act, 1994	Trade and Commerce authority
Belgium	204	18,116	Law on Private and Special Security, 1990	Ministry of the Interior in cooperation with the police
Bosnia-Herzegovina	94	4,207	Law on Agencies of Protection of People and Property, 2002	Ministry of Interior
Bulgaria	1,200	57,146	Law on private guarding activities, 2004	Ministry of Interior
Croatia	353	32,295	Private Protection Act of April 22, 2003	Ministry of Interior
Cyprus	60	1,700	Private Offices Security Law, 2003	Office for Handling Matters related to the Private Security Industry of the Police Headquarters
Czech Republic	5,629	51,542	Common commercial laws	Ministry of Finance/Commerce
Denmark	470	5,000	Law on private security, 1986	Law on private security
Estonia	350	4,580	Private security law, 2004	Ministry of Interior
Finland	226	15,939	Private Security Act, 2002	Ministry of Interior
France	9,650	149,650	Law of 12 July 1983, subsequently Book VI of the Code of Interior Security	National Council of Private Security Affairs
Germany	4,000	183,408	Law of December 14, 1995 on private security enterprises	Department of Commerce
Greece	1,100	60,000	Law no. 2518/1997	Ministry of Public order and citizen protection
Hungary	3,000	22,000	Law regulating the private security industry, 2005	Ministry of Justice
Ireland	200	20,000	Private Security Services Act, 2004	Private Security Authority
Italy	1,200	45,512	TUTPS (Consolidated Act of Public Safety Law), 1951	Ministry of Interior
Latvia	500	21,500	Security Guards Activities Law, 2006	State Police and Ministry of Interior
Lithuania	121	11,000	Law on providing personal and property services, 2004	Ministry of Interior
Luxembourg	13	2,700	Law of November 12, 2002	Ministry of Justice
Macedonia	163	2,875	Law on security of people and property, 1999	Ministry of Interior
Malta	25	3,604	Private Guards and Local Wardens Act of 1996	Ministry of Interior and Security
Norway	92	7,600	Law on Guarding, 2001	Department of Justice

Poland	4,200	58,000	Act on the Protection of People and Property, 1997	Ministry of the Interior and the Chief of Police
Portugal	160	38,928	Decree No. 35/2004	Ministry of Interior
Romania	1,850	121,041	Law No. 333, 2003	Ministry of the Interior through the General Inspectorate of the police
Serbia	780	30,000	Law on Private Security, 2014	Ministry of Interior
Slovakia		17,200	Act of the National Council of the Slovak Republic No. 379/1997 on the Operation of Private Security Services	Ministry of Interior
Slovenia	135	7,520	Private Security Act, 2011	Ministry of Interior, Chamber for development of Slovenian Private Security
Spain	1,490	77,100	Act 5/2014	Ministry of Interior, Unidad Central de Seguridad Privada (UCSP) of the National Police
Sweden	250	20,000	Security Companies Act, 1974	Police Administrative Board regulates and the County Administrative Board supervises
Switzerland	1,135	16,230	German Concordat, Romandy Concordat and specific legislation in party cantons	26 different cantonal authorities
Turkey	1,303	35,103	Law No. 5188 on Private Security Services, 2004	Ministry of the Interior, Head of Police, Private Security E44 Directorate
United Kingdom	2,500	225,000	Private Security Industry Act, 2001	Security Industry Authority
Netherlands	1,168	28,550	Law on private guarding organizations, 1999	Ministry of Security and Justice
El Salvador				Ministry of Interior
Guatemala				Ministry of Interior
Japan				Ministry of Interior
Oman				Ministry of Interior
Philippines				Ministry of Interior
Colombia				Superintendencia Supervigilancia
Bolivia				National Department of Supervision of Private Security Businesses
Trinidad				Service for the Surveillance and Supervision of Private Security Organizations
Jamaica				Specific authority
Qatar				Bureau of private security