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**Regulation of Manned Commercial Security Services
A Transnational Comparative Study of Belgium, Estonia,
New York, Queensland, South Africa and Sweden**

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Thesis submitted for the Degree of Doctor of Philosophy

City University London

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Declaration

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Abstract

It is commonly recognised that commercial security, in its different forms, has become an important element in societies as a provider of private and public security. The reasons for this development are manifold but can be seen to well from the changes in individual societies and their governance structures. Because of the growth of the security industry, many regulatory regimes have considered some form of industry regulation to be necessary.

Some private security research has been carried out during the last 40 years. Most of the published texts have handled the situation in individual countries. The published studies are in most cases theoretical and based on existing documentary sources. In this study local interviews in six regulatory regimes; Belgium, Estonia, New York, Queensland, South Africa and Sweden, as well as transnational sources are used to make comparisons of different regulation solutions. There is, however, a basic problem with definitions, vocabulary and statistics concerning private and commercial security. A common platform is missing, which means that in this study some basic elements have been defined in order to be able to make structured analyses.

The existing situation and interview comments concerning private security regulation have been used to analyse the industry, its challenges and its future development. The thesis tries to answer the questions why, what/who and how to regulate in general and more specifically in the six chosen regulatory regimes. Many of the industry's challenges and trends can be understood through an examination of existing systems of private security regulation: legal apparatus that reveals how commercial security is positioned in different societies.

The findings of this thesis confirm that private as well as commercial security regulation is very much a 'command and control' and 'top-down' procedure, bound to the general situation in each individual regulatory regime, and reflecting the cultures of the societies. The regulation texts as such may look quite similar, but the actual reasons for and practical implementations of them are locally specific and related to individual states' overall governance practices and administrative maturity.

List of Abbreviations

| | |
|----------------|--|
| ABAB | Allmänna Bevaknings Aktiebolag [Public Guarding Company Ltd] (SE) |
| ABC | Australian Broadcasting Corporation |
| ADT | ADT Security Services |
| AFP | Australian Federal Police |
| AFPPS | Australian Federal Police Protection Service (former APS) |
| ALMEGA | Employer and Trade Organisation for the Swedish Service Sector |
| ANC | African National Congress Party (ZA) |
| APEG-BVBO | Association Professionnelle des Entreprises de Gardiennage asbl–Beroepsvereniging van Bewakingsondernemingen vzw [Professional association representing guarding companies] (BE) |
| APPL | Area Police/Private Security Liaison (NYC) |
| APS | Australian Protective Service |
| ARC | Australian Research Council |
| AQTF | Australian Qualification Training Framework |
| ASA | Estonian Association of Security Services Companies (former ETEL) |
| ASM | Australian Security Magazine |
| ASIS | ASIS International (former American Society of Industrial Security) |
| BYA | Bevakningsbranschens Yrkes- och Arbetsmiljönämnd [The Training and Working Environment Council of the Swedish Guarding Industry] |
| CAGE | Cultural, Administrative/Political, Geographical & Economic |
| CCPC | Commission to Combat Police Corruption (NYC) |
| CCPCJ | Commission on Crime Prevention and Criminal Justice (UN) |
| CCTV | Closed Circuit Television |
| CEN | European Standardisation Organisation |
| CEO | Chief Executive Officer |
| CIT | Cash in Transit |
| CMC | Crime and Misconduct Commission (QLD) |
| CNI | Critical National Infrastructure |
| COAG | Council of Australian Governments |
| CoESS | Confederation of European Security Services |
| CPI | Corruption perception index |
| DIDTETA | Diplomacy, Intelligence, Defence and Trade Education and Training Authority (ZA) |
| DOS | Department of State (NY) |
| EC | European Commission |
| ECCO | ECCO Group (International) |
| ECOTEC | International Research, Consulting and Management Company |
| EU | European Union |
| FBI | Federal Bureau of Investigation (US) |
| Falck A/S | Security company now merged with Group4 |
| FederSicurezza | Federation of the Sector Private Surveillance and Security (IT) |
| G4S | Group4Securicor – transnational private security company (UK) |
| GDP | Gross Domestic Product |
| Group4 | Private security company – today a part of G4S |
| GSP | Gross state product |
| HQ | Headquarter |
| ICT | Information and Communication Technology |

| | |
|--------------|---|
| ID | Identification |
| INHES | National Institute for Advanced Security Studies (FR) |
| ISS | Institute of Security Studies (ZA) |
| ISS | International Service Systems Company |
| LHMU | Liquor, Hospitality and Miscellaneous Union (AU) |
| Ligue | Ligue des Societes de Surveillance |
| LRA | The Labour Research Association (US) |
| MNC | Multinational Corporation |
| MP | Member of Parliament (UK) |
| NASCO | National Association of Security Companies (US) |
| NATO | North Atlantic Treaty Organisation |
| NELP | National Employment Law Project (US) |
| NGO | Non-Governmental Organisation |
| NTIS | National Training Information Service (AU) |
| NVQ | National Vocational Qualification |
| NQF | National Qualification Framework (ZA) |
| NYC | City of New York |
| NYPD | New York Police Department |
| OES | Occupational employment statistics (US) |
| OFT | Office of Fair Trading (QLD) |
| PMC | Private Military Company |
| PMSCs | Private Military and Security Companies |
| POSLEC SETA | Police, Private Security, Legal, Correctional Services and Justice Sector Education and Training Authority (ZA) |
| PSC | Private Security Company |
| PSIRA | Private Security Industry Regulatory Authority (ZA) |
| QPS | Queensland Police Service |
| SANSEA | South African National Security Employers' Association |
| SAPS | South African Police Service |
| SAQA | South African Qualification Authority |
| SARI/Energy | South Asia Regional Initiative for Energy |
| SASSETA | Safety and Security Sector Education and Training Authority (ZA) |
| SASA | Security Association of South Africa |
| SETA | Services Sector Education & Training Authority (ZA) |
| SHAPE | Supreme Headquarter Allied Powers Europe |
| SIPRI | Stockholm International Peace Research Institute |
| Securitas | Transnational security company (SE) |
| SEIU | Service Employees International Union (US) |
| SIA | Security Industry Alliance (ZA) |
| SSF | Svenska Stöldskyddsföreningen [Swedish Theft Prevention Association] |
| SATAWU | South African Transport and Allied Workers Union |
| SECOM | Transnational security company (JP) |
| STWU | Swedish Transport Workers' Union |
| SWESEC | Swedish Security Companies (Association) |
| TEF | Centre de Sociologie du Travail, de l'Employ et de la Formation (BE) |
| ULB | Universite Libre de Bruxelles |
| UNI-Europa | Union Network International Europe |
| UNODC | United Nations Office on Drugs and Crime |
| USAID | United States Agency for International Development |
| Valvekoondis | Security branch of the police in the former Estonian Soviet Republic |

Abbreviations used for countries / states under study

| | |
|-----|---------------------------|
| AU | Commonwealth of Australia |
| BE | Kingdom of Belgium |
| EE | Republic of Estonia |
| NY | State of New York |
| QLD | Queensland (State) |
| SE | Kingdom of Sweden |
| ZA | Republic of South Africa |
| US | United States of America |

In some texts, tables, lists and footnotes, official (two-letter if applicable) abbreviations for other countries / states have been used.

CHAPTER 1: INTRODUCTION

From my extensive professional experience of working in a variety of roles in the commercial security industry and as a postgraduate at Leicester University, I became increasingly conscious that commercial security regulation was an under-researched subject. This is surprising because, as I will argue in this thesis, regulation is central to the organisational legitimacy of the industry. What did exist, sometimes gave an inaccurate picture of the industry primarily because researchers were using outdated or inadequate, mostly second-hand industry data. Remarkably few studies had been undertaken by researchers with professional experience or knowledge of commercial security regulation. In many cases, the issues highlighted in the existing literature were of relatively minor importance, either from the public or the commercial security industry's point of view. In these texts there was an over-focus on the public policing tasks, even though these tasks constitute a minor proportion of the activities performed by the industry. Not surprisingly even the terminology and definitions used were/are often confusing.

The major local and transnational changes in the commercial security industry, which I observed from the inside of one of the multinationals that went global during the 1990s, have not been researched, especially from the industry's perspective. In addition, new federalisation and harmonisation pressures on commercial security regulation connected to the constantly changing and growing demands for new security solutions in societies have been barely looked at. Also, the creation of innovative solutions to meet the general requirements for improved national and transnational security, at a time when public resources are diminishing, have received surprisingly little attention from the academic researchers.

Commercial security activities are similar transnationally covering private or contract security companies who offer an array of security services and products to a variety of customers. By contrast, corporate security relates to the security activities that exist within businesses or corporations. As a result of participating in the political decision making and drafting processes of private security legislation in Finland, I concluded that private security regulation is an embodiment of the national political attitudes, existing constitutions and other legislation, international treaties, administrative and business cultures, and the relative strength of interest groups. Thus, 'regulation' is one of the few issues that offer a firm basis for making comparisons of national private and commercial security systems and structures transnationally. I previously used

‘regulation’ as the basis for my master’s dissertation comparing private security systems in the Nordic countries.

This thesis is inspired by the desire to take advantage of a unique possibility to conduct transnational comparative research to identify the concerns of commercial security practitioners, and to test some of the ‘truths’ that have traditionally been ascribed to the industry. Transnational research is important as there is on-going political deliberation, for example, in the EU concerning the future role of the security industry, in Australia and the USA concerning homeland security and commercial security’s interstate role in its future realisation. In these cases, the commercial security industry and its regulation have a special role in the planned arrangements, though for different reasons. In these policy making and legislative processes, the lack of reliable data and multi-dimensional analysis related to commercial security activities is a serious hindrance for rational discussion, planning and decision making.

To ensure a coherent empirical focus, my research has been limited to examining the traditional primary segment of manned commercial security services – guarding. This involves uniformed and clearly identifiable security officers performing a variety of duties, often in routine contact with the public as guards, door supervisors or stewards. My focus is also supported by the fact that these services are, in relation to size, public interest and regulation, the largest and most important commercial manned security segments. In-house security activities performed by a company’s own personnel, and which is not a part of commercial security, are largely excluded from the focus of this study.

My working assumptions (acquired from my professional experience and the existing research literature) when I started this research were that within commercial security jurisdictions: (1) the technical- legal configurations and base-line contents of the regulations would turn out to be quite similar; (2) the actual reasons for regulations and their implementation would, on the contrary, be dissimilar and reflect on local circumstances; and (3) that the transnational harmonisation of commercial security regulations would be in present circumstances unachievable.

The actual research was conducted in two stages: a general examination of private security regulation structures, and comparative analysis of the most important elements of these regulations in six regulatory regimes. The purpose was to (a) identify general patterns and models in private security regulation and its implementation, and (b) establish how these models functioned in practice in the chosen regimes. The latter,

empirical element of the study also addresses the need to understand the similarities and differences of the regulatory regimes under study as well as between the actual regulations and their practical implementation, and to identify the main problems and future needs in legal control of the commercial security industry.

My research was planned around three main questions:

- Why regulate manned commercial security activities?
- What and who to regulate within the scope of manned commercial security activities?
- How to implement manned commercial security regulations in practice?

This thesis can be defined as a comparative transnational case study of particular aspects of commercial security regulation and its implementation. It is based on transnational documentary analyses and on transnational interviews of commercial security interest groups and stakeholders. It is focused on six different regulatory regimes: Belgium, Estonia, New York, Queensland, South Africa and Sweden. A wide range of interviews with handpicked key experts, official data and documents and articles in the trade media form the bulk of the sources used for my analysis.

Methodologically, the most challenging parts of this study were creating suitable samples and managing a credible enough data platform suitable for the commercial security environment. As a consequence of the limited research base, there was and is a lack of structured descriptions and tested models concerning the collection of security industry data, including its regulation. Obtaining reliable and comparable enough data for structured transnational analyses meant finding methods and techniques that could be modified for use in this particular commercial security environment. Throughout the research, the diverse languages and the vocabulary concerning commercial security in the different regimes were an extra handicap.

The thesis is divided into twelve chapters. The analysis starts from Chapter 2, which addresses some basic questions in order to explain how these core matters have been interpreted and defined in this work. It provides a ‘family tree’ of commercial security activities, looks at the existing literature, discusses general trends in the development of the industry, examines current directions in the profession, and defines commercial security regulation. Chapter 3 introduces the methodologies and research structure for the documentary analyses and the case studies.

My research findings are presented in two parts. Part I (Chapters 4-6) includes a general (transnational) presentation of existing private security regulation. It is based on a literature review of numerous documents and studies related to commercial security industry regulation, and address the research questions concerning why, what/who and how to regulate. The reasons ('why') to regulate are summarised in chapter 4 to give a platform for the whole thesis. In chapter 5 a general picture, based much on a preliminary study, is presented regarding the main subjects and objects ('what'/'who') included in private security regulation. Chapter 6 includes the main models ('how') for the practical execution of regulation.

Part II (Chapters 7-11) presents the six case studies of the regulatory regimes drawn from the empirical research, again structured around the research questions. Chapter 7 provides general descriptions and comparisons of the basic features of these regimes. In chapters 8-11 core features of the regulatory structures are explored through the eyes of the local interviewees and compared to the situations and opinions in the other regulatory regimes under study.

Chapter 12 provides a summary of the results, a reflection on the implications of the findings and an assessment of how widely the findings of the thesis can be generalised. It also includes recommendations for further research and how to reconcile the professional needs of the industry with the research interests of academics.

The findings presented in this thesis are intended to provide a grounded understanding of the organisational and governmental significance of commercial security regulation. Hopefully it will also promote further academic consideration of what effects regulation development both nationally and transnationally. This thesis is original in that it widens our ability to research private security in four ways. First, I have developed and tested a model of the regulatory process that can be re-used by other researchers. Second, I have generated data from under-researched jurisdictions which strengthens our understanding of private security. Third, I provide a comparative framework for analysing why and how regulation becomes a live policy issue, with an emphasis on the operational logistics of 'what and how' rather than the well-rehearsed 'why' issue. Finally, throughout I demonstrate the urgent need to foreground researching the empirical realities of the rapidly developing commercial security industry rather than encouraging the over-theorisation of 'private security'.

CHAPTER 2: LITERATURE REVIEW: WHAT DO WE KNOW ABOUT THE COMMERCIAL SECURITY INDUSTRY?

2.1 Introduction

The commercial security industry encompasses a rapidly developing set of activities, most notably traditional protection services, military operations (Johnston 1999; Krahman 2002; Holmqvist 2005; USA Today 2006; Bryden 2006), auxiliary and comprehensive police services (Jones and Newburn 1998; Button 2005a), and correctional services (Ligazette 1992; Costain Construction 1998; Group4Falck 2000). During the last fifteen years, commercial security has changed from a relatively small or middle-sized and primarily localised business into a major globalised enterprise (Securitas 2005a; Group4Securicor 2005; United Nations Office on Drugs and Crime 2010:5). There is also a common understanding in the literature that as a part of this development, the industry, commonly called ‘private security’, has gradually started to take over tasks that have previously been considered to belong exclusively to the state and public authorities, especially the police. This has happened partly in a planned way, controlled by the authorities, but mostly as a change steered by market demand without state intervention. Deviation from the conventional division of labour in providing security has forced governments to rethink the need and models of regulation and control.

There are various reasons behind these developments: new business models, alternative governance models based on privatisation, sub-contracting of public duties, and restrictions in public finances (Johnston 1992, 2000; Johnston and Shearing 2003; Button 2005b; Bryden 2006; South 1982:15-27; Jones and Newburn 1998; Johnston 1999; Cukier, et al 2003). In both the private and public environments, the general trend to outsource non-core activities, including security, has become globally accepted (Steeds 1998:35-36; Berglund 1999; Lippert and O’Connor 2003; Cowan 2006:28-32). This change in thinking has been the single main element boosting the growth of manned commercial security in the private sphere (de Waard, 1999; Cortese 2001).

Particular factors have helped to make the growing commercialisation (privatisation) of security acceptable, both politically and in the eyes of the public. Amongst these factors are citizens’ growing feeling of insecurity (Flynn 1997; de Waard 1999), which is, in part, not necessarily based on reality but, for example, on the ways that crime is reported in the media (Cortese 2001; Smolej 2005; Heber 2005; Gounev 2006), and the

failure of governments to respond to the security needs of citizens (US Government 1893:xv; Swedish Government 1974:16; United Kingdom Government 1979:Ch III/31,35; Garland 1996; de Waard 1999; Finnish Government 2001; Gyarmati 2004:30-32; Austin 2006:9; Hiscock 2006:139). On the other hand, there has been an increase in the professional capability of commercial security entrepreneurs (United Nations Office on Drugs and Crime 2010:5) to meet rising business and public expectations with flexible and competitive manned services supported by new technologies. As Bayley and Shearing (2001:12) have argued: “The government’s monopoly on policing has been eroded because it has not provided the sort of affective consumer-responsive security that private auspices and suppliers have proved capable of giving.” For McLaughlin (2007a:113) it has become abundantly clear that: “...there is no reason why a society’s need for social order requires the establishment and/or maintenance of a public police force. ‘Policing’ is a socially necessary function but a state structured police bureaucracy is not”.

Although the security industry has become a more visible and comprehensive provider of private and even public security, government measures to regulate, and especially to steer this business in practice, have been slow and disparate. For example, 13 out of the 27 EU countries regulated their industry for the first time after 1990, and two have still not done it at all. The existing legislation is fragmented, and effective control of compliance is in many regulatory regimes poorly organised (Hakala 2007). Also, research has been limited, resulting only in a small amount of reliable data (Johnston 1992; de Waard 1999). Transnational research on the possible future roles of commercial security activities within new governance models is virtually non-existent. Also academic studies that address in any wider perspective the basic questions why, when and how private security activities should be (and are now) regulated are rare. The same lack of comparative studies can also be found in the area of how states have handled and are planning to handle the control of the security industry by regulation and other administrative measures. No-one has been interested in researching how existing private security regulation fits into the frame of general regulation models, theories and practices.

2.2 Definitional issues: what is the commercial security industry?¹

There is considerable confusion in basic understandings and facts related to traditional commercial security activities (guarding). The concept ‘private security’ has been extended to include a diverse number of activities that are so differentiated that

bunching them together creates more confusion than lucidity. It is customary, especially in the academic literature, to include under the 'private security' heading, commercially performed traditional manned guarding services, private detective activities, electronic surveillance, transport of valuables, production and installation of electronic and mechanical security products, security consultancy, building and running of prisons, fire and ambulance services, military-like operations and so on. The problem is that in many academic texts, all of these are bundled together without any real sorting or definition (Morgan and Newburn 1998:68-70; Johnston 2006:36). No-one has tried to construct a comprehensive model of commercial (private) security activities. This makes it impossible to have a clear picture of the security industry or any part of it, especially concerning its size and regulation. To avoid misunderstandings here, a summary has been made, using professional knowledge and the existing literature (Cunningham, et al 1990:127-132; Kennedy 1995:101-102; George and Button 1997b:18, 2000:11; Michael 2002:37-39; Pillay 2006; Prenzler and Sarre 2008; Sarre and Prenzler 2011), to clarify which parts of the 'private security' industry will be included in this thesis. The activities included in the 'family tree' (Appendix 1) are defined as commercial security segments belonging to the private security.

This summary model, based on existing literature and other available information, shows how the different activities can be divided in today's security industry (and its regulation). This division is changing constantly, as the industry faces new challenges, opportunities, reorganisations and statutory regulations. It is important to emphasise that 'guarding' activities are the focus of this thesis, as well as some aspects from private investigation, crowd management² and electronic security, so far as they are relevant to support the analysis of the main topic. Examples of the overlapping of different areas are the monitoring, alarm receiving and response execution, which are operationally impossible to define as belonging to the guarding, electronic or cash in transit (CIT) security segments (CoESS 2009). Some of the businesses often incorporated in commercial security activities, such as correctional services, including transport of inmates, and fire/ambulance/road services, have not been included in this 'family tree' table as they are services with a defined character of their own.

As a consequence of not having any generally accepted definition on what is actually included in commercial security activities, it is also difficult to provide reliable or comparable figures on its manpower (Michael 2002:52-53) or of the business turnover. The 'family tree' is an attempt to categorise what could be considered to be commercial

security. It is a prerequisite to defining services or to constructing any reliable statistics of the industry. Even with a categorisation of the industry's segments, there are significant problems when trying to collate and compare figures in this context.³ Existing transnational research on the industry's figures and regulation have mainly focused on its size and on making limited comparisons of the basic elements in private security legislation.⁴

Because of the difficulties in data collection (Weber 2002a:2; Wakefield 2003:63-65; Sarre and Prenzler 2005:22; Morré 2006:30; INHES & CoESS 2008:20-21; Button 2008:5-6; Prenzler, et al 2009:1), many studies and reports are partly based on incomparable official statistics, incomparable secondary sources and incomparable loosely structured open question surveys. This means that in the existing literature these kinds of data and comparisons can, in many cases, only be treated as illustrative of the existing situation (Stenning 1992:146-147; de Waard 1999:147; Button 2005a:6; Singh 2005:158-159; Prenzler 2005b:61-62; Wakefield 2006:385; van Steden and Sarre 2010:4-5; Kerttula 2010b:51-54). Jones and Newburn (1995:231) have noted:

“First, many of them [data] appear not to be based on any evidence at all. They appear to be best efforts at guessing the likely size of the industry based on the little that is currently known. Second, those that do provide some reference to source material are often based on rather inadequate data. Finally, the available estimates vary according to the definition of ‘private security’ upon which they are based.”

The challenges in collecting transnational data have been described appositely by Morre (2006:30), stating: “Collecting data has not been easy. The topic is not self-explanatory and the survey required ‘expert’ knowledge. Furthermore, the language barrier has proven to be a major challenge and has sometimes led to interesting interpretations.” The uncritical, repetitive use in private security literature of outdated, inadequate or incomplete data has seriously affected the quality of the analyses and public understanding of the industry.

The main shortcomings of existing data are as follows.

- (a) most of the statistics are both unreliable and incomparable, and do not give the possibility to make valid analysis of manned commercial security for the purposes of decision making or research, especially at the transnational level.
- (b) rigorous methodologies have not been deployed to produce ‘quality’ statistics. The information is based on a diversified mix of sources – from official state and industry's statistics to individual ‘best guesses’.

(c) the collation of information has been un-coordinated. There has not been a professional evaluation of what core figures (and knowledge) are primarily needed for analysis and decision making.

(d) the importance of producing reliable data has not been recognised by researchers or the industry.

Consequently, the data published in academic and other reports has been misleading when presenting, for example, comparisons of the number of public police and commercial security personnel.⁵ These figures are used to emphasise the industry's growth and the threat that commercial security activity supposedly poses to liberal democratic societies. As Stenning (1992:147-148) has noted: "By far the brightest star in this mythological constellation – and one which is conjured up like a rabbit from a hat whenever this subject of private policing is raised – is the myth that private police outnumber public police." He explains his role in creating this myth by saying: "This myth is a particularly embarrassing one for me and my colleagues at the University of Toronto, since there is little doubt that we (along with the Rand Corporation and the Hallcrest crowd) bear a lot of the responsibility for its propagation." The situation fulfils the qualities of a 'mental prison' which is commented generally by Hoogenboom (2010:2) when talking about police related things: "...the ideas or explanations, though widely held, are unexamined and, hence, may be re-evaluated upon further examination or as events unfold."

Because of definitional problems and unreliable figures, no comparisons of commercial security industry, based on (exact) numbers, are presented in this thesis. A draft model, in Appendix 2, shows what might be included in the gathering of more reliable and comparable information concerning the most basic figures related to the personnel of traditional guarding activities.

2.3 Researching the commercial security industry

Researching the commercial security industry as a stand-alone phenomenon

There has been surprisingly little doctoral research on the commercial security industry. Those that have been written address issues related to the core questions of commercial security regulation and its implementation. They are, however, in most cases researching the topic in one country or one regulatory regime. A sample of this kind of theses⁶, of which some have been published as books, is presented below in Table 1.

Table 1 Examples of earlier theses on private security

| Author | Main topics | Comments |
|-----------------------------------|---|--|
| Draper (1978) UK | <p>Amongst the key topics (challenges) in private policing are the public police resources, distinguishing private guards and police officers, powers available, the need for (better) training, possession of firearms on duty and use of dogs.</p> <p>The control of the industry by ‘The toothless watchdogs’ is commented to support a statutory regulation system.</p> <p>The security and detective world is a controversial area with a clash of theories and ideas amongst its practitioners.</p> | <p>The author has described and analysed the totality of private police in the United Kingdom, revealing that almost all the issues which are today problematic within the commercial security industry and its regulation were already present in the late seventies.</p> <p>The author is commenting on the long history of mistrust between private and public security actors.</p> |
| South (1985) UK | <p>The growth of commercial security activities has created problems related to public accountability, civil liberties and public policing.</p> <p>Accountability of commercial security providers could be achieved by public right of inspection on training, information collection on operational activities, and so on.</p> | <p>The author is criticizing the social science research which tends to conclude that more research is needed before useful and informal action can be taken.</p> |
| Pesonen ⁷ (1993) FI | <p>The security needs of a company are actually a risk management matter which can be handled using theories and approaches related to it.</p> <p>The security arrangements are a part of a company’s profit making activities and as such a part of managerial functions.</p> <p>A model is available to optimise the financial investments in different environments and sectors of the security functions.</p> | <p>The author has presented practical examples concerning commercial, industrial and civil liability companies to show which investments in security are most profitable.</p> |
| Flynn (1997) UK | <p>There is a need for security guards to be regulated and controlled.</p> <p>Empirical results show that a majority of police and public at large do not have confidence in the security industry.</p> <p>Empirical results also shows that only ten percent of the industry’s personnel thought that their work filled a gap caused by decreased police resources, as out of the public and private security’s top management 75 % saw the police failures being the main factors affecting the growth of the industry.</p> | <p>The author saw that the Government will not interfere with the steering of commercial security activities before they encroaches too far into areas presently the responsibility of public police i.e. street patrols, or there are a series of devastating scandals which rock the industry.</p> |
| Siebrits (2001) ZA | <p>An industry with a semi-public ‘apartheid’ history has special challenges to position itself anew in a transition society with new rulers.</p> | <p>Even if the private security environment is as such very different from a stabilised country, many of the basic challenges in regulation</p> |

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| | There is a need to have a strong government involvement in the regulation and control of the private security industry. | work are quite similar. |
| Michael (2002) UK | <p>The guards feel overwhelmingly accountable to the client and the security company employing them – not towards the public or the criminal justice system.</p> <p>The guards place the needs of the client above those of the employer security company.</p> <p>The guards are very much oriented on their private role, not representing the ‘wannabe cops’ attitudes.</p> <p>Because of self-preservation and common concerns of liability the guards are not enthusiastic about using their powers or carrying a weapon.</p> | The author’s conclusion that private security guards are not ‘private police’ in their own minds, nor are they ‘wannabe cops’, is one empirical result on the contradictory myth of a private group trying to present themselves as sub-police. |
| Wakefield (2003) UK | <p>The security organisations and the guards have a multi-role in a shopping mall environment, be they in-house or contracted.</p> <p>The guards are not in this kind of environment a reactive ‘police’ force but have a wider role in preventing unwanted incidents and supporting the business, especially through covering surveillance.</p> | The author makes an interesting (theory) statement in her conclusions when emphasising (ibid. 233): “It is important, however, to note that the functions and operating styles of policing agencies, both public and private, are determined in large part by those who make policies and legislation in relation to the territories which the policing takes place – part of a broader design and management strategies in the case of mass private property environment.” |
| van Steden (2008) NL | <p>The thesis looks at six often mentioned factors to be related to private security growth: rising crime, growth of mass private property, economic rationalities, government policies of ‘privatisation’, overburdened police force and professionalization of private security.</p> <p>The results of the study reveal that only two of the above mentioned factors; economic rationalities and government policy had an uncontested influence in creating growth.</p> <p>Outside the primarily researched factors, change in working laws seemed to have added remarkably to the use of private security services.</p> | The author shows in this study that, at least in the Netherlands, the explanations used for private security growth are to some extent ‘myths’ which are not based on empirical research. |
| Button (2008) UK | <p>Different guards performing different tasks in different kinds of environment require different legal tools.</p> <p>There is a ‘tool box’ with a lot of different powers which are based not only in laws and regulations but also on appearance and behaviour as well as the cultural obedience of rules.</p> | <p>The author emphasise that there is no actual need according to this study to provide security officers in their present duties with statutory extra powers.</p> <p>Concerning other ‘selected’ extra tools, the acceptance of them varied according to the requirements of the</p> |

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| | A clear majority of the interviewed officers (guards) did not desire for special powers or non-lethal weapons, opposing both. | organisation and the work tasks performed. |
| Kerttula ⁸ (2010a) FI | <p>The diminishing police resources have forced several times the parliament to reconsider constitutional interpretations of giving extra powers to commercial security guards.</p> <p>There are various (universal) problems of finding legally acceptable, and in practice flexible enough arrangements in granting extra powers to guards working in public, semi-public and private spheres.</p> | The author argues that the ‘basic rights’ of citizens are very seldom jeopardised by the private security as the matter is constantly perceived by the media and the public. |

In this sample of ten studies, all but one touched directly on the structure of the commercial security industry and its regulation. Six of them included interviews with stakeholders - providers of services, buyers of services and/or the controllers of them. Two of the theses were clearly multi-disciplinary ones showing that the research of private security should not be only a criminological matter. All of the authors expressed their concern about a lack of private security research and identified specific areas which were a priority from their point of view.

Explaining the significance of the commercial security industry: from private security to nodal governance

It remains the case that the most prominent academic research on private security during the last thirty years has been produced and disseminated by a few scholars, most notably Shearing, Stenning, Bayley and Johnston who have been focused much on the situation and development in certain Anglo-Saxon countries (AU, CA, UK, USA and ZA). Academic research on private security started in the 1970s when Shearing and Stenning, working with the members of Hallcrest Systems Inc (Cunningham 1978; Cunningham and Taylor 1985; Cunningham, et al 1990), published the first research on private security. In the mid-1970s Bilek (1976:Preface) identified the inevitable expansion of commercial security’s importance:

“One massive resource, filled with significant number of personnel, armed with a wide array of technology, and directed by professionals who have spent their adult lifetimes learning how to prevent and reduce crime, has not been tapped by governments in the fight against criminality. The private security industry, with over one million workers, sophisticated alarm systems and perimeter safeguards, armoured trucks, sophisticated mini-computers, and thousands of highly skilled crime prevention experts, offers a potential for coping with crime that cannot be equalled by any other remedy or approach.”

Cunningham (1978:271) predicted at the same time that there would be a ‘boom’ in private security and in private security regulation:

“Government, particularly at the state level, will increasingly regulate all aspects of private security by means of licensing security firms and by specifying minimum standards for personnel selection. In the future, private security will be recognised more widely as a major crime prevention resource. ...virtually every facet of private security will experience moderate growth in the next 20 years, thereby attracting new ventures, acquisitions, and capital to expand into a business opportunity.”

Taking these conclusions on board, the original focus of the Shearing and Stenning research was the growth of private security in Canada and the consequences of this ‘business’ phenomenon for both policing and society. At this stage they had recognised that ‘private security’ was a business, that is, is a set of activities performed for profit and governed by commercial principles. In addition, the provision of security was undergoing radical transformation because of the emergence of ‘mass private property’ and new solutions had to be found to manage this development (1981:237). The interest of these pioneering researchers shifted gradually from ‘private security’ to the broader subjects of ‘security’ and ‘policing’. Practical developments within or the steering of the commercial security work were not a main research interest. Much of this initial research also denigrated commercial security activities as a ‘tainted’ occupation.

The main theoretical framework that emerged from this research is that of ‘nodal governance’. Examples of literature contributing to this theoretical framework up till year 2003 are listed and commented upon briefly in Table 2 below.

Table 2 Examples of main texts 1981-2003 on private security governance

| Author(s) | Main topics | Comments |
|------------------------------|---|--|
| Shearing and Stenning (1981) | <p>The growth and implications of private security in Canada (Ontario) and the consequences of this growing business phenomenon to policing in general.</p> <p>The opposing of the congruency of the notions of ‘private property’ and ‘private place’ which give legal powers and responsibilities to owners which threaten, according to the authors, the liberty of an individual, especially in the new environment of mass private property.⁹</p> | <p>The authors move in this text from the idea of regulation (control) of private security to the need and theory of changing the rights of private property owners in society, in order to have an effective control of these (security) activities.</p> <p>The authors call into question the handling of private security control only by licensing and other regulation.</p> |

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| Shearing and Stenning (1987) | The suggestion that the word (private) policing should be used instead of private security to emphasise the coercive and top down police character of this kind of work performed by private actors. | The authors admit that there is a commonsense challenge to understand and define what policing is and what public and private stand for within security. |
| Johnston (1992) | <p>The argument that there has always through the ages been private policing, even if strong nation states emphasised public policing.</p> <p>The legal-formal criterion has an effect of barring the 'private' agencies from inclusion in the mainstream sociology of policing, even if their activities are in many ways similar to those undertaken by the public police..</p> | <p>The author points out that the conceptual distinction between public and private spheres is less absolute than it might first appear.</p> <p>The author also argues that, at the political level, the public-private dichotomy comprises a complex and changing strategic field.</p> |
| Shearing (1996) | The notification that the growth of private policing means that the state police can no longer dictate the direction of policing or their role in it. | The author uses the definition of 'state rule at a distance' to point out that the individuals, not the communities are made responsible for policing. |
| Bayley and Shearing (1996) | <p>The police are, while rethinking their standard strategies, helping to blur the line between governmental and nongovernmental policing.</p> <p>The pluralizing of policing means that not only has the government's monopoly on policing been broken, but also the police monopoly on expertise within its own sphere of activity has ended.</p> | The authors emphasise that if governments and neighbourhoods cannot provide satisfactory public safety, market based private security will inevitably increase relatively to public policing. |
| Johnston (1999) | <p>The act of governance (or rule) directed towards the promotion of security – it is not an exclusive function of the state.</p> <p>The explanations given for commercial policing expansion have all turned somewhat deficient.</p> <p>The traditional discourse of statutory private security control is no longer adequate.</p> | The author argues that a development of diverse police systems may give rise to a fragmented system which combines the worst of all worlds: ineffectiveness and injustice. |
| <p>Shearing and Kempa (2000)</p> <p>Shearing and Wood (2003)</p> | <p>Security for sale means that those who cannot afford it cannot have it.</p> <p>Paid security agencies pursue the security priorities of their employees, the well to do, meaning that security ends up less a democratic right than a commodity monopolised by the powerful.</p> | The authors propose an approach based on the principles in the Northern Ireland Commission report (Independent Commission on Policing for Northern Ireland 1999; Ingram 2000; Shaw 2000), but do not come up with any recommendations or comments on how to handle private elements within the national security system. |

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| Stenning (2000) | <p>The changes in providing security have been so drastic that it is now almost impossible to identify any functions or responsibility of the public police which is not somehow assumed and performed by private police in democratic societies.</p> <p>The unfortunate reality is that we have little reliable evidence of the effectiveness of accountability mechanisms either for the public police or for the private policing.</p> | <p>The author points out that communities and societies generally do not derive the full advantage from private police potential.</p> <p>He also points out that because of inadequate understanding of the roles, powers and accountability of private police; it has evolved without sufficient scrutiny, discussion, oversight and control with respect to public interest consideration.</p> |
| Bayley and Shearing (2001) | <p>Control of different security agencies is needed because (ibid. 32-33): “if the public interests of justice equality of protection, and quality of service are to be safeguarded, governments must audit what security agencies provide and monitor what is going on in a systematic way.”</p> <p>It is not possible to give an opinion about the restructuring of policing because of the fragmented nature of current knowledge of it.</p> <p>The current restructuring involves more than ‘privatisation’, it involves the blurring of public and private.</p> <p>What is happening to policing today is a fundamental transformation in the way security is governed.</p> <p>The provision of policing will be globalized.</p> | <p>This report to the US Department of Justice summarises the situation in the United States but also reflect on global trends.</p> <p>The authors emphasize that the explanations they give are largely hypothetical because empirical research is missing to test or confirm them.</p> <p>The authors are not either ready to give an opinion in their report on the role of regulatory regimes (governments) in the actual restructuring of policing as their opinions are mainly general and philosophical rather than pointed and programmatic.</p> |

Johnston and Shearing (2003:138-160) introduced the model to integrate the governance of security and justice called nodal governance. The usually used definition of a node at that time was that it was a location of knowledge, capacity and resources that can be deployed to both authorise and provide governance. The nodal governance approach centres on the notion of a ‘node’, described in terms of its mentalities, institutional structures, technologies and resources (Johnston and Shearing 2003:21-30, 145-151; Burris 2004:341; Shearing 2006:26; Wood 2006:219). Button (2008:15) has expressed that a node can have a territorial basis, it can be a community, or it can also be a community in cyberspace. He also states that the question of security between each node is differently balanced. Dupont (2006:86) described a node as an institutional actor whose structure, legal status, resources, mentality and technologies are highly variable. A more detailed definition by Burris, et al (2005:38) also includes a short description of the content of node qualities, describing a node as:

- A way of thinking (**mentalities**) of the matters the node has emerged to govern;

- A set of methods (**technologies**) for exerting influence over the course of events at issue;
- **Resources** to support the operation of the node and the exertion of influence;
- A **structure** that enables the directed mobilization of resources, mentalities and technologies over time (institutions).

Shearing and Wood (2003) widened the discussion by proposing new definitions concerning the basic state actors and spaces of action. Nodal governance is only marginally connected to commercial security activities. It is a more comprehensive model for widening the basic model of society because, as the authors argue (ibid. 401): “...our conceptions of governance and citizenship, and the world view such conceptions support, are lagging considerably behind our practice.” Their first proposal is a change to call the traditional state citizen a denizen to emphasise his connection to several nodes (ibid. 406-409): “Within this conceptualization, persons would have multiple denizenships, depending on the number of domains of governance through which their lives are regulated.” The second proposal is abandonment of the concept of ‘public space’ by replacing it by ‘communal space’. This is supported by the growth of ‘mass private property’ and the relentless blurring public/private distinction (ibid. 409-411):

“In acknowledgement of the reality of ‘nodal governance’, we suggest that the notion of ‘denizen’ be utilized to capture the affiliations, rights, and expectations of those who are governed within and across multiple forms of ‘communal space’.”

They are calling for the deepening of democracy by adapting the new concepts of nodal governance, denizens and communal spaces (ibid. 415-418).

Burris, et al (2005:3) argue that: “Nodal governance is an elaboration of contemporary network theory that explains how a variety of actors operating within social systems interact along networks to govern the systems they inhabit.” The width of the area covered by this theory is well revealed in the two case studies in the article, one concerning global negotiations on intellectual property rights and the other the possibilities to reduce inequality in a very poor South African community (ibid. 11-19). The common concern is with the overall security equality of communities not hampered by traditional discussions of the role and functions of public policing and commercial security.

Shearing (2006) has also stated his pessimism over the implementation of the concept of nodal governance, basing his argument partly on Drahos and Braitwaite’s ideas

(2002:629). He accepts that “...the possibilities of responding to the fact that the sovereignty of big business over globalizing regulation [and indeed all governance] will continue to dominate and the weapons of the weak are so easily overwhelmed”. This kind of opinion demonstrates that ‘nodal governance’ is not just a research term to describe security governance but also a tool to express the lack of equality. Johnston has admitted when commenting on criticism of the nodal governance perspective (2006:46-48): “That the ‘stick’ of nodal governance can be ‘bent’ in a variety of different normative directions.” In this context he is commenting at the same time on transnational commercial security organisations stating that: “In key areas of domestic and global policy transnational commercial security organisations now operate as governing nodes alongside other entities such as national governments, supranational authorities and NGOs.” Also here the aim is not only to research but to rein in the real or imagined ‘undemocratic’ security practitioners.

Related to nodal governance, Button (2008:208-217) has come up with some interesting new ideas on achieving and steering private security, especially to fight the unfolding inequity in security provision. He has proposed a co-operative style approach where the creation of private security could be based on a bottom-up model. Localised security arrangements would allow people to have a stake in problem-solving by encouraging them to form ‘security unions’ which would also contribute to strengthening of democracy. He also touches on the critical factor of finances and proposes start-up funding from government. These new ideas of doing security mean also new thinking, and as he says (ibid. 216): “...this study has sought to set out how the foundations of security can be rebuilt to enhance effectiveness. The overall success of security requires action beyond the nodal level.”

The practical applicability of the nodal governance theory has been questioned by several scholars. For example, Zedner (2009:162-163) has written of the topic: “... instead of being part of the solution, it can be argued that nodes in fact represent points of greatest difficulty in the new organization of security provision.” One of the questions asked by Zedner is: “Do Shearing and colleagues underplay the professional differences and conflicts of interest inherent in the intersection between public and private agencies, between national and local interests, or even within local communities?” Abrahamson and Williams (2011:85-86) have commented on the local nature of the theory, a characteristic they agree, limits its use in transnational research: “Reflecting its origins in criminology, the approach has been primarily concerned with

the domestic arena and with mapping and analyzing various nodal networks contained within the territorial state.” For Wood (2006:239-240):

“...a nodal governance perspective provides a useful framework within which to engage in new interesting forms of research and innovation in the field of security. At present, however, established thinking on nodal governance – to which much of the work on plural policing contributes – must address its present theoretical and methodological limitations. Scholars within the emerging tradition must begin asking new kinds of questions surrounding the nature of nodes and nodal relations, and should engage more explicitly with the development of rich methodological approaches that combine quantitative and qualitative data gathering techniques ...As reflected in the efforts of scholars ...the time has now come for our research and innovation projects to grapple more explicitly and systematically with the ‘messy realm of practices and relations’.”¹⁰

She is not alone when calling for empirical research to test nodal theory. Hoogenboom (2010:204-207), for example, argues that: “...if we really want to make the concept of ‘nodes’ an empirical reality, there are many dozens of case studies begging to be carried out.”. And Abrahamson and Williams (2011:6) have argued:

“...this field has been wide open to speculative and impressionistic generalizations. Captured in a seemingly endless repetition of recycled, second-hand evidence from a limited number of cases and with conclusions that often reflect a priori reasoning rather than sustained empirical research and theoretical reflection, the impact of commercial security, especially in the developing world, has frequently been subject to a combination of caricature and disregard.”

Nodal governance is a controversial theory based on few empirical studies, discussed primarily by academics with little actual involvement with the ‘real world’ of private security activities. The focus has changed from researching ‘private security’ to addressing universal problems of security (policing) arrangements in societies, locally and transnationally, and how to guarantee human rights and the democratic (security) equality of citizens. Thus it is very difficult, if not impossible, to use it as a platform for empirical analysis of the logics of the commercial security industry.

It is possible that nodal governance theory could be used to analyse verticalisation trends within the security industry. For example, the more independent regulatory and operational entities, connected to certain kinds of customer groups, could be construed as ‘nodes’ of governance. Verticalisation is today, however, driven exclusively by business interests and does not include any considerations of democratic ‘goods’ or ‘outcomes’. Taking into consideration present academic research and discussion on nodal governance, it is unlikely that scholars are interested in or capable of extending their work from community oriented studies and models to the market-driven world of commercial security activities.

Alternative perspectives in commercial security research

Research on commercial security has traditionally been very much concentrated within the boundaries of criminology. However, certain academics argue that to understand 'security' the scope must be widened to include other disciplines. For example Zedner (2009:3) argues:

“In short, a range of disciplinary paradigm shifts, policy changes, economic factors, and world political events have combined to shift security to the forefront of the criminological agenda. Security remains, however, too big an idea to be constrained by the disciplinary strictures of criminology, or indeed any other single discipline. The scholar of security must range not only over the disciplines of international relations, public international law, and war studies that have dominated the security field historically but also over political theory, legal philosophy, and economics. In these latter disciplines lies the possibility of thinking critically about security as a public good, as a means to other goods, and, most disturbingly, as a tradable commodity subject to the vagaries of the growing security market.”

The same observation has been made by Abrahamsen and Williams (2011:12-13) when commenting on research into global developments in commercial security:

“...the study of contemporary global private security calls for a more interdisciplinary approach. The present-day globalization of private security activities cuts across conventional disciplinary boundaries ... new perspectives and methodologies are needed to capture the reconfigured security field within global security assemblages.”

Within other disciplines, such as economics and business studies, commercial security related research has been carried out for many years. To illustrate the usefulness of a multi-disciplinary point of view, the globalisation of (security) businesses and research on retail security will be taken as examples.

It is important to understand and explain how commercial security works as a rapidly developing business enterprise. The growth, including globalisation, of security companies is developing according to established business theories and practices concerning expansion to new areas in local markets and abroad, outside the 'home base'. Commercial security providers are in many cases going 'global' by following their customers into new markets (Kidd 2000:6-7; Kettler 2006; Buckles 2010:4). Held, et al (1999:255) have commented on this natural development already ten years back by writing: “As MNCs operate abroad they require the provision of services at a standard equivalent to that in their 'home' country.”

Some examples of multidisciplinary commercial security related research texts are summarised in the following Table 3.

Table 3 Examples of new multi-disciplinary research on private security topics

| Author | Main topics | Comments |
|--------------------------------------|---|--|
| Ghemawat (2007) Ligazette (2008a) | <p>The globalisation discussion has managed to attract significant attention by painting visions of 'globalisation apocalypse'.</p> <p>This discussion is not based on researched fact but on emotional rather than cerebral appeals, reliance on prophecy, semiotic arousal, and emphasis on creating 'new' governance and perhaps above all, a clamour of attention.</p> <p>A globalisation (research) model based on four main (CAGE) factors; cultural, administrative, geographical and economic shows the useful synergies in global business.</p> <p>The question must be asked why the globalisation research (literature) focuses on the questions where and who but does not have much to say to answer the question why?</p> | <p>The author says that the answers by business managers to the question why globalise, are often slogans like: 'bigger is better', 'eat or be eaten', 'we have to take position now', 'our competitors are doing it', and so on.</p> <p>It seems that the importance of knowing the real answer to this question has not been understood.</p> <p>The security industry is not different from other businesses and, according to the author, steers similarly its global business expansion.</p> |
| Beck (2010) | <p>The security function in shopping environments has congruent, special challenges transnationally (FI, UK, US).</p> <p>The duty assistants (guards) are not chosen primarily according to their security skills but as persons fitting into the totality of the consumer focused business.</p> <p>The owners of the malls have clearly identified safety and security as a key brand for their business and are acting accordingly.</p> <p>Many of the key security tasks are only possible to carry out by attendants (guards).</p> <p>The profile of a 'bouncer' is not accepted by the customers in retail environment.</p> | <p>The author is emphasising that the role of traditional security officer is changing in shopping environments.</p> <p>The author also states that the change from old to modern nomenclature requires different skill sets and a different attitude (profile) of the security operators.</p> <p>The question is asked by Beck, could shopping centre security arrangements be taken as a model for the gradual privatisation of the traditional control of city centres?</p> |
| Karhunen and Kosonen (2010) | <p>In Russia (St Petersburg) one of the most important things for retail customers when visiting a shop is security.</p> <p>The presence of visible, uniformed, male guards in the shops and the parking lots is considered important by the customers.</p> <p>The customers' opinion is that guards are more important than different kinds of security technology for the feeling of security.</p> | <p>The authors express that in the Russian environment visible traditional manned guarding is in the minds of the customers the 'real' guarantee of good security.</p> |

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| Puustinen (2010) | <p>In Finland the guards are considered by the customers a permanent part of the retail environment.</p> <p>Not a single of the interviewed consumers called into question the importance of guard presence or its necessity in a shopping environment.</p> <p>As the security personnel are an essential part of the retail business it means that the profile of their work and them should and will be developed accordingly.</p> | <p>The author emphasise the cooperation between the companies offering security as well as the challenge of improving and tailor-making the services in order to meet the expectations of the consumers.</p> |
| Järvinen and Juvonen (2010) | <p>Interview based risk management research concerning shopping centre environments in Finland shows that out of the most crucial present and future risks, a half are such that their handling requires the use of manned guarding.</p> <p>The main risks for business are the threatening or irrational behaviour of customers (intimidation) and theft (shoplifting)</p> | <p>The authors point out in their summary that the overall risk management has not been taken fully into consideration, if compared with the production industries.</p> <p>These researchers emphasise the importance of a comprehensive risk management approach that is: situational anticipation, good directives, guarding, and employee training.</p> |

In these texts the discussion of manned security is very pragmatic analysing security just as one part of normal business activity, be it local or global. In retail environments, commercial security services are seen as a commodity bought to support the core business. The research carried out has in this context a strong risk management and business oriented focus (ASIS International 2010). Commercial security arrangements are seen as one of the, often outsourced, services needed to realise better customer satisfaction increased profitability.

2.4 Critical issues in commercial security research: market changes and consolidation

Because in the existing research, the business logics and dynamics of commercial security activities have not been much discussed, data and commentary from other sources have been presented here to help to understand this issue. In the sphere of the regulation of traditional commercial (guarding) security, the industry's growth, in numbers and importance, has undoubtedly been one of the driving factors, but its globalisation has had less impact. This is the case because in most of the regulatory regimes, guarding has a history as a profession that has been regulated gradually, more and more tightly, solely by national and local governments (van Steden and Sarre 2010:13). This development has occurred mainly over the last twenty five years.

To be successful commercial security companies need to focus on main three factors; the growing demand for customized services, increased use of technology, and general

interest in security issues among senior business management. The importance of these three factors is estimated to constitute over 80% of the present customer demand (Securitas 2010a:28-29; Buckles 2010:11).¹¹

The growth, specialisation and globalisation of security companies as well as the many new business driven arrangements have changed the operational structures of the industry and especially transnational companies within it. This has created more specialised and more independent entities. To be successful, a commercial security company needs to be organised in a flexible way to fulfil the particular needs of all its customer segments. It must constantly acquire new specialist knowledge and skills to meet changing and increasingly specified market expectations, and at the same time to ensure profitability. This has led to more specialised and sometimes transnational organisations that have an extra challenge in both meeting local regulatory requirements and in achieving co-operation with local authorities. The challenges of the traditional guarding industry welling from specialisation and globalisation are organisational. How to structure the industry to meet the new and different challenges in the best way? The development of the sector over the last twenty years has generally moved from 'broad but shallow in knowledge' to 'narrow but deep in knowledge'.

To be successful in the market and to meet expectations, companies have to organise their businesses vertically according to the customer segments in order to acquire and maintain the needed expertise. The days of 'universal' security providers are history. The focus on security and increasing specialisation has been the general business development trend, especially with large and multinational security (guarding) companies. There are in practice today (2012) only three companies which can be considered really multinational (global) in guarding; G4S, Securitas and Prosegur. Even if the steps taken cannot be precisely described, the general focusing of the security industry can be shown by Table 4 (Nilsen 2008).

The regulation of guarding in a globalised world will be a challenge in the future for governments and transnational institutions. It is not a priority issue at the moment because the majority of countries have their own legislation concerning these traditional services. Multinational security companies act in accordance with local rules and they have a limited possibility or even interest to interfere with the local work on rules and regulations if these do not threaten their right to exist. According to current legal structures globally, almost all security companies need to have special local licences, both for their business and their guards.

Table 4 An industry in continual structural change

| Multi-service -1990 | Security step 1 1990- | Security step 2 2000- | Security step 3 2005- | Security step 4 2010- |
|--------------------------------|--|----------------------------------|----------------------------------|----------------------------------|
| Security | Guards | Guards | Guards | |
| Staffing | Alarms | Alarms | Alarms | ? ? ? |
| Corrections | Cash | Cash | Cash | |
| Rescue | Corrections | Corrections | | |
| Cash | Rescue | Rescue | | |
| Locks | Care | | | |
| Cleaning | Staffing | | | |
| Maintenance | Locks | | | |
| Health | | | | |
| Catering | Customer demand has driven focus and consolidation! | | | |
| Parcel | | | | |
| Etc. | | | | |

The actual ‘thinking’ of the local (and global) companies concerning the surrounding world and the interest groups affecting their activities is very businesslike:

“The fact is that a great deal of what you are able to do is either helped or hindered by the forces around you. If you want to develop your business, it’s vital that you influence the factors that currently limit your opportunities – governments make laws for security companies, the police issue regulations, standards are set either by legislation or by the industry on both training and security issues, customer organizations develop their views and expectations, employees and their organisations have their opinions. By living close to our “partners” in the security environment we help to set the standard and create a working environment in which we can grow.” (Securitas 2000c:27; 2010b)

The companies offering traditional commercial security services are growing (Securitas 2010b:31) both organically¹² and by acquiring existing companies at home and in new countries. It seems that this expansion is concentrated in a few traditional players in the market, companies that have taken this as a part of their business strategy. The ideas behind this expansion have been to apply tested management models and business products in new, less developed market areas. Globalisation has been used as one extra tool to gain the economical benefits of size. In the use of this kind of expansion strategy, commercial security providers of manned services have been very slow compared to other industries.

Globalisation and the structural transformation of security businesses are special topics which have been addressed in different texts. The problem has been, however, that the analyses of the industry have not had any solid frame. Commercial security has been interpreted in different ways and the business-related numbers have not been explained in any structured way. As mentioned earlier, there has not been any common

understanding of the segments of activity to be included in commercial security or the figures describing its business performance. The globalized security companies have explained the rationales of merges and globalisation by emphasizing their importance to develop the businesses (Group 4 Falck 2002; 2004:6-8; Buckles 2010).

In this thesis, the historical and present trends of globalisation and consolidation of traditional guarding are illustrated using a couple of tables available on these trends. For example, Johnston (1992:71-93; 2006:37) as well as Abrahamsen and Williams (2011:38-49) have briefly handled the expansion and development of some European companies, such as Securitas, Group4, Falck, Securicor and Prosegur. The view they present is, however, very general and does not include research-based understanding of the developments.¹³

In the United States, commercial security services became a notable business in the second part of the 19th century. Names like Pinkerton, Brinks and Burns are closely connected to this development, but at that time they were domestic, however, with a federal activity that public law enforcement did not have (Hess and Wroblewski 1996:17-21, 25; US Government 1993:39-31). The start of European commercial security services bore a strong German influence and already in the first decade of the 20th century, the business crossed borders. A German commercial security business model and even ownership of companies can be found in at least Belgium and Denmark. The original future-oriented business model was inherited from the United States. Other companies in Europe with an early start during the first decade of the twentieth century can be traced to the Netherlands, Austria, Norway, Switzerland and Sweden (Söderberg 1979:58; Ottens, et al 1999:84). Already prior to the Second World War, the largest security companies viewed international relations and co-operation as essential to their business interests by establishing in 1934 the 'Ligue', which still today is the most important and influential global organisation of security companies, having members from all over the world. Over the years, this organisation has played a vital role in defining, establishing and maintaining the highest ethical and professional standards of the security industry as we know them worldwide (Ligue Internationale des Surveillance 2009>About us). The problem that this association has faced during the last decades stems from the fact that many of its original members have been bought out, mainly by Securitas or G4S, which means that the breadth of independent local companies has gradually diminished.

Globalisation of the traditional commercial security services (guarding) is now strategically pursued by a few security companies¹⁴ that have made it their strategy to expand transnationally. To expand, especially overseas means in practice costly local acquisitions which require a lot of financial and managerial resources, available only to a limited group of security companies. The consolidation (and globalisation) trend in the security industry (guarding) can be seen in the following Tables 5 and 6. They show the industry's structural changes during the fifteen-year period from 1990 to 2005. The trend is clear, but after the first 'crash' of acquisitions around the year 2000, the speed of the change has slowed down in Europe and the US being focused today on other parts of the world¹⁵.

Table 5 Security market consolidation in Europe (Main players)¹⁶

| | 1990 | | 2005 | |
|-------------------------------|----------------|--------------|---------------|--------------|
| | Company | Market share | Company | Market share |
| Security | | | | |
| | Securitas | } ≈ 15 % | Securitas | } ≈ 35 % |
| | Group 4 Falck | | Group 4 Falck | |
| | Securicor | | Prosegur | |
| | Prosegur | | | |
| Security conglomerates | | | | |
| | ISS | } ≥ 10 % | | } ≤ 10 % |
| | ECCO | | Rentokill | |
| | ADT | | | |
| Conglomerates | | | | |
| | Raab Karcher | } ≥ 10 % | Chubb | } ≤ 10 % |
| | Mayne Nickless | | Bosch | |
| | Williams | | Siemens | |
| | | | | |
| Others | | ≤ 75 % | Others | ≈ 55 % |

Table 6 Guarding market consolidation in the USA (Main players)¹⁷

| 1995 | | 2005 | |
|------------------------------|--------------|-----------------|--------------|
| Company | Market share | Company | Market share |
| | | | |
| Burns | } ≈ 33 % | Securitas | } ≈ 44 % |
| Pinkerton | | Group4Securicor | |
| Wackenhut | | Allied Barton | |
| American Protective Services | | Guardsmark | |
| Allied Barton | | US Security | |
| | | | |
| Other | ≈ 67 % | Other | ≈ 56 % |

It is also important to note that in Europe, the market share has changed amongst the pure security companies, but has not affected the total portion of the business run by the

conglomerates. In the United States, there is no data available concerning the changes in the conglomerates' (security) market share, only estimates about the changes related to the actual security (guarding) companies. Generally, it can be concluded that there is, for the time being, a trend of bigger companies getting bigger in volume and also slowly in the transnational market share.

The increase in cross-border activities, globalisation and consolidation of some of the security companies and markets has, at least until now had only a marginal impact on local regulation work concerning the industry. There are, however, in several countries legal restrictions and concerns about foreign ownership of security companies. In contrast, the importance of the security industry's transnational associations, such as the 'Ligue' globally, ASIS in the USA and worldwide, CoESS in Europe, and ASIAL in Australia, has been increasing gradually. They act as the professional experts, mouthpieces and lobbyists of the industry generally and support their members and member associations, for example, in regulation discussions with the local governments. The verticalisation of the industry is seen also in this context. There are today several other (new) international associations representing different segments of the private security industry.

As this thesis focuses on the statutory regulations and (official) steering of the commercial security industry, it is essential to make a separate comment on the globalisation of these matters. There have been attempts to harmonise private security regulation, for example in the EU, the USA, Canada and Australia, but it has turned out to be impossible for the time being, because of constitutional reasons. It is most unlikely that any harmonised regulation will be achieved for commercial security (guarding) in the near future. Globalisation of the business and companies does not actually require or push countries to have harmonised legislation because the local subsidiaries (companies) follow the local (national) rules, wherever their headquarters or whatever their ownership structure is. For security companies the structure and contents of the local regulations are important but usually not crucial in running the businesses.

There are, however, some exceptions to the rule. In aviation and maritime security, terrorist acts and threats have forced the international community to set global uniform rules. For example, a minimum level of passenger and cargo screening in aviation are today mandatory if a country wants to be a part of the global air transport system. In the same way, certain arrangements on sea transport (and ports) have been set globally by international treaties for all actors. The arrangements also include directions as to how

security checks shall be carried out by security personnel. In practice, all countries in the world have joined these treaties and added them to their local legislation. These activities (and regulations) cover, however, only small, specialised segments of the security business (in some countries) and this transnational regulation does not affect the main control arrangements for the industry. The impact of the wider work by (UN) Commission on Crime Prevention and Criminal Justice (2012) on this issue cannot yet be evaluated as its recommendations (proposals) have only lately been published.

2.5 Conceptualising commercial security as a regulatory space¹⁸

This thesis is primarily a study of the practicalities of commercial security regulation. An adequate analysis of this regulation necessitates a multi-disciplinary approach and understanding of the basic general regulatory models (theories). As this thesis is not about the general principles of regulation but research primarily focused on existing commercial security governance by statutory rules, only two topics are looked at in this sub-section: first, the literature needed to define and position the extended public regulation related to the subject, second, the main private security literature touching in particular this topic.

What is regulation?

Clarke (2000:21) argues that regulation exists: "...in a political space between law and society, a space inhabited by state, private interest groups and regulatory agencies, some private, some public, some mixed."

There are various reasons for regulating different industries, businesses and professions, most of them economic. Some are general, some very specific and meant to steer certain activities or professions. The fragmented and contradictory functions of commercial security (guarding) make its regulatory environment somewhat blurred, depending on how the different aspects of it as functions are experienced and emphasised in an individual country or state (Adams 2002). The actual act of writing laws for the security industry has, in general, not been a priority for governments. It is looked upon as a 'necessary evil' or a 'needs must' matter. This can be observed in many regulatory regimes where statutory regulations have been written without adequate background knowledge of the industry and without a thorough understanding of the theoretical positioning and practical consequences of such legislation. This means that the structure of private security regulations in most cases follows mainstream patterns of law making

in individual regulatory regimes without fully taking into consideration the industry's distinctive characteristics and commercial requirements.

Several theories have been created to explain why and how regulations in general are developed, decided upon and implemented in different environments and societies. The possibility of self-regulation¹⁹ is discussed later in this thesis. To be able to understand and to compare commercial security activities' legal control in this thesis, a short overview is needed to explain how regulation is understood here.

Regulation is an authoritative rule dealing with details or procedure or a rule or order issued by an executive authority or regulatory agency of a government and often a rule or order having the force of law (Webster 2003:1049; Allen 2000:1178). Twining and Miers (1999:131) define a 'rule' (regulation) as: "A general norm mandating or guiding conduct or action in a given type of situation." Conversely, Minoque (2001:3) states: "Regulation is based on rules which may give strict directives, or be broadly enabling in ways which permit further negotiation; rules may also be framed in ways which concede discretion over their detailed application." Sparrow (2000:2) has approached the question from another angle by pointing out that: "The core of regulatory activity is a mission which involves the imposition of duties. Obligations are delivered, rather than services."

Tombs (2002:113) asks the simple question: What is regulation? He has noticed that this often-used term covers myriad actions and processes, overseen by international, national and local states and a vast array of private actors. Tombs also states:

"Regulation raises a range of issues which go to the heart of debates about the distribution of economic and social goods (and 'bads'), the role of law and corporations, and the very nature of contemporary economies, states and societies. Regulation invokes an inherently political set of considerations."

In the same way, Harlow and Rawlings (2009:6, 22-31), in their definition, view regulation as a kind of a two-way street by stating:

"Regulation is also often thought as an activity restricting behaviour and preventing the occurrence of certain undesirable activities (a 'red light' concept) but the influence of regulation may also be enabling or facilitative ('green light') as for example frequencies controlled by the communication authorities to avoid chaos."

These definitions of 'good' versus 'bad' and 'red' versus 'green' express well one quality expected from regulation – the requirement to set the boundary between acceptable and unacceptable behaviour.

Baldwin, et al (1998:3-4) define regulation in a more down-to-earth way by dividing it by content into three categories. At its simplest, regulation refers to the promulgation of an authoritative set of rules, accompanied by some mechanism, typically a public agency, for monitoring and promoting compliance with the rules. A second, broader, conception of regulation takes in all the efforts of state agencies to steer the economy. A third definition, broader still, considers all mechanisms of social control – including unintentional and non-state processes – to be forms or regulations.

The authors also emphasise that there are differences amongst academics in their ways to approach regulation. They argue that lawyers and economists tend to work within the first two definitions, but the contribution of socio-legal research: “...has been to eschew any distinction between activities based on formal differences between state and non-state activity or between rule-based oversight and other forms of social control.” Scott (2003:1) says very much the same by summarising:

“...lawyers have tended towards a definition that emphasises sustained oversight by reference rules, whereas scholars in other disciplines have extended the set of activities covered by the term to include all interventions by government to steer the economy and, the broadest of definitions, all mechanisms of social control.”

For Ogus (2002:1) economists tend to have a narrow vision of “regulation”, focusing almost exclusively on what can be referred to as “economic regulation” and that is applied to markets in respect of which there is inadequate competition. He thinks that economists tend to ignore “social regulation”, the justification for which arises from other forms of market failure.

In general, there is a tendency to split regulation into two categories, social and economic, even if the distinction is somewhat fuzzy. Ogus (1994:2-5; 2001:5) argues that: “Social regulation deals with such matters as health and safety, environmental protection and consumer protection ... economic regulation is invoked where there is insufficient competition.” In a module of international training material (SARI/Energy 2003:2.1.D/1), the difference is explained by stating that governments commonly regulate price and quality of products in many industries, but: “Some of these interventions are not intended to constitute economic regulation, but only to ensure that those who enter are qualified on professional, scientific or technical grounds.” According to the same material, social regulations include, amongst other things, those statutes and rules that are intended to protect citizens’ or workers’ health and safety, and to promote civil and human right objectives.

The focus in the general regulation theory and practical everyday regulation work is in steering/controlling the economic environment and the running of businesses. The goal is to protect the consumer, steer competition, and to control the behaviour of firms and individuals in areas where there are wider economical public/consumer (protection) interests, as in pollution or public utility questions. This is usually referred to as *economic regulation*. In the shadow of these mainstream (economic) regulation interests, there are some business related activities such as health care, occupational health and safety or security where the society sees that it has a responsibility to implement regulation, especially if these activities are also carried out privately as businesses. This is usually referred to as *social regulation*, which includes often, in the name of public interest, the control of the background and minimum knowledge level of individuals and business actors carrying out these activities. However, in this context there is not a primary goal to regulate and steer the businesses as a financial activity. Scott's (2001:331) definition of what he calls "legal regulation", describes this kind of control activity well. He argues that this type of regulation can be thought of as:

"...any process or set of processes by which norms are established, the behaviour of those subject to the norms monitored or fed back into the regime, and for which there are mechanisms for holding the behaviour or regulated actors within the acceptable limits of the regime (whether by enforcement action or by some other mechanism)."

In principle, there are five main players in the private security regulatory space: the government, public and private institution(s), the public (citizens), the buyers (clients) of the services, and the commercial security providers (companies and individuals). All these groups affect or are affected by commercial security activities in different ways and can be referred to in these contexts as interest groups. The impact the regulation of the services has on these groups is, however, very different and so are the rights/interests of them to be protected.

As can be seen even from the limited review there is no consensus in the use of the word *regulation*, not even amongst academics. The dilemma is mainly about the different interpretations of what kind of rules are included within the definition of regulation. Based on the different definitions and explanations presented here, as well as on existing legislation (worldwide), the following (minimal) summary description of commercial security industry regulation is used as the basis in this thesis (Hakala 2007:14):

“Regulation on commercial security is a (public and external) governmental set of statutory rules aiming to prevent the occurrence of certain undesirable activities in the security business and its operations. These rules are typically enforced by a public authority or a public agency in order to monitor and promote compliance. This is social regulation based primarily on the public interest to control the activity in order to protect the society and the citizens from malfeasance by organisations and individuals providing commercial security services.”

The challenge to control commercial security provision has been and is in a way ‘unique’ and without previous theoretical or practical definitions on its regulation model. Because of this, the regulations in most cases miss a solid (theoretical) platform of their own and are applications and mixtures of existing police and licensing laws. The most usual private security regulation models more closely resemble laws that define the requirements and ways of action for public authorities (police) than statutes that have been made to steer private businesses and markets. All this reflects the unsolved basic statutory and also practical dilemma: should commercial security activities be considered and handled in society primarily as a business or as semi-public law enforcement/policing function? For the purposes of this thesis the commercial security industry is considered as a business that is subject to exceptional steering because of certain public interests.

Existing research on commercial security regulation

Very few scholars have focused on the methods used to steer commercial security activities in practice on a national or transnational level. George and Button as well as Prenzler and Sarre have focused on improving commercial security regulation, its implementation and its control. Away from the limelight of ‘nodal governance’ they have quietly conducted practical research on models which have helped and are helping the improvement of commercial security governance and regulation globally.

George and Button have researched the commercial security regulation situation in the United Kingdom and have also made transnational evaluations and comparisons to support their opinions (2000). The original goal of their work was to publish data and research in order to push, support and influence the private security regulation process in the United Kingdom. During a 23 year long period they have published together numerous articles and books handling different aspects of (private) security and policing (George 1984; George and Button 1996; 1997a; 1997b; 1999; 2000; Button and George 2001; 2006). These texts are the most comprehensive research published on private security’s practical governance and regulation, revealing also some of the political (interest group) aspects related to these matters. The authors have been keen supporters

of comprehensive, wide and well controlled state regulation for commercial security activities.

Parallel with this, but especially after the realising of a private security act in the United Kingdom (2001), Button has carried out research on security. He has handled the whole spectre of different actors and activities in private and public policing environments in the United Kingdom and abroad. (Button 1998a; 1998b; 2002; 2003; 2005; 2007a; 2007b; 2008). He has also published co-authored articles on the Korean private security situation (Button, et al 2006; Button and Park 2009). His texts include significant and substantial analyses, knowledge, data and comments on the British, but also transnational situation and developments within this sector. Button has also lately participated as an expert consultant in a (research) process coordinated by United Nations Office on Drugs and Crime (Commission on Crime Prevention and Criminal Justice 2011c) which aims to clarify the positioning as well as oversight needs and models concerning civilian private security services globally. This process has evolved to a draft proposal of the principles to strengthen governments' oversight on this private activity.²⁰ The research texts of George and Button have been used as the main reference material in this thesis, especially in chapters which handle the existing situation in private and commercial security regulation.

George and Button also created a model to compare the regulatory arrangements of different regulatory regimes. Their model is based on five models of regulation (George and Button 1997a:191-196; Button and George 2006:566-571) that are evaluated and ranked according to the width, depth and agent (responsible overseer). The model has been used by them to compare between countries the maturity of private security regulation and control. The authors have also improved the use of the 'Berglund' model (Berglund 1995; Nordberg 1996:2) which compares quality aspects of private security and its regulation (Button 2007a:119-122). Button and George (2006) synthesised a wide variety of principles and data on regulation from their previous studies, publications and experiences. It includes a discussion of the most basic obstacles concerning commercial security regulation and its implementation.

In the Australian context, Prenzler and Sarre have published a wide range of articles, books and reports, separately or together with other scholars on commercial security provision and its control which have been utilised and quoted in this thesis (Prenzler 1998; 2005a; 2005b; Prenzler, et al 1998a; 1998b; 2009; Prenzler and Sarre 1998; 2006; 2008; Sarre 1992; 2002; Sarre and Prenzler 1999; 2000; 2005; 2011; van Steden and

Sarre 2010). They have created a detailed regulatory model focusing on and analysing existing real world problems and solutions (using also legal cases as examples). They have also proposed new and fresh legislative and organisational solutions to improve existing regulations as well as organisations and practices for control of commercial security activities.

Sarre (2002) notes the fragmentation (in Australia) of public police organisations and the growing importance of different private ‘policing’ solutions (ibid. 10):

“The upshot of this is a society in which policing is now conducted not just by those people commonly referred to as ‘the police’ but by a host of private and non-government operatives who use a range of empowerment tools and resources at their disposal, not just the criminal law.”

Sarre and Prenzler (2005) consider the legal powers utilised by private security providers in Australia. The emphasis is on the ‘hard’ measures like apprehension, arrest and assault as well as on the protection of privacy and matters of liability connected to them. They also touch the commercial liabilities and the relationships between public and private security. In this text the authors have defined the term private policing in a clear way (ibid. 5):

“Private police²¹ are those persons who are employed or sponsored by commercial enterprises on a contract or ‘in-house’ basis, using public or private funds to engage in tasks (other than vigilante activity) where the principal component is a security or regulatory function.”

They also handle comprehensively, by using legal cases as examples, the interpretations of laws in cases applying to private security providers’ work. In their summary the authors leave open the question of extra powers and more intrusive state intervention in their control, arguing that these questions require urgent political consideration and legal policy development. They also reflect the shift in public thinking about privatised forms of policing, now increasingly accepted (ibid. 217).

Prenzler and Sarre (2008) subsequently developed a risk profile based model regulatory system for the security industry. They devised this because in many countries, as they emphasise, the security industry is increasingly today controlled by the governments. They have wanted to provide a response to the diversity of practices and core principles: “...which arguably should apply in any location where security, especially private security, operates.” They also remind us that a model in this form has not been articulated and applied in detail at this level. According to them the model should: “...be of practical value to policy makers in government and industry associations.” The

authors (ibid. 264) also express that the ideas they present would help to streamline (structure) research, noting that their model: "...is designed to fill a gap in the academic literature, which often looks at private security in negative terms and deals with security industry regulation in a fairly abstract light." Prenzler and Sarre (ibid. 265) have with this model an ambitious goal to make the interest groups speak a common language regarding one of the key elements in steering of (commercial) private security:

"The model is, therefore, put forward as a reference point for this aspiration, and is proposed in prescriptive terms as a robust concept with long-term durability and cross-jurisdictional relevance. But it is also designed to encourage more informed and structured debate. Consideration of the model should, moreover, encourage further research that will lead to improvements to it, and its inter-relationships with a variety of regulatory strategies."

The authors have looked at the need for regulation by creating an industry specific risk profile. They point out (emphasise) three drivers which have caused governments to implement legal control of private security. These are:

"...[first] a growing recognition of powers security providers hold on citizens. ...[second] scandals over security providers' misconduct and poor standards... These two factors have been greatly amplified by the third factor: the enormous growth of the industry." (ibid. 265-266):

Prenzler and Sarre have underscored the misconduct in security work as a (risks profile) reason for regulation by listing eleven topics from fraud to misuse of weapons. Concerning the 'risk' list, the authors (ibid. 266-269) confess that: "The breach and depth of the problems outlined above, however, are difficult to measure."²²

A separate topic handled by Prenzler and Sarre (2008) is legal forms of regulation (ibid. 269). They point out that there has been critique of the accountability or broad regulatory systems by themselves and other researchers (Sarre and Prenzler 1999; Stenning 2000; Zedner 2006). The authors analyse how effective and practical the different controls outside industry specific statutory regulation are - 'tools' as civil law, criminal law, market forces and self-regulation. The emphasis is, however, on special government regulation. The two main pillars of private security regulation forwarded in their text are (a) suitability tests (controls) and (b) a minimum pre-entry training requirement. On top of these baseline licensing requirements the authors list thirteen different topics (ibid. 269-273) to improve licensing. One of the biggest problems they see concerning special regulation is the lack of interest by governments. They are of the opinion that: "Almost all regulatory reform in security has been driven by crisis and scandal, not policy initiative informed by planning research." They are also sceptical

about the implementation and compliance arrangements for industry specific security regulation.

The authors (ibid. 274-276) have listed fifteen key principles of good security industry regulation which includes different aspects of licensing authority, licensing requirements, guards' powers, use of technologies and licence fees. They also propose the way in which the regulatory agencies should approach their task, stating that they: "...should hold a mission for professionalization and continuous improvement with strong research units..." Referring to their list of key principles they conclude that having these in place along with a strong research based approach, all the parties (interest groups) have the possibility to achieve:

"...the highest possible standards in conduct and competency while at the same time providing a minimal cost-burden on security business and staff. An ideal regulatory approach must be able to accommodate not only strict enforcement methods ... but also supportive strategies of providing legal support and proactive assistance."

Sarre and Prenzler (2011) have also analysed the problems created by different governance models due to the states' independence in making decisions on private security in the Commonwealth of Australia.

The research and pragmatic advice on regulation published by the academics mentioned in this sub-section have provided the theoretical basis for this thesis and helped with the formulation of the research questions and the structure of the study. Although the ideas presented by Sarre and Prenzler on the regulation of private security and their report on the industry across Australia were published after the interviews of this work were finalised, the thesis succeeds in some of the core developing points they have raised. This literature on private security regulation, as well as its implementation and compliance arrangements give a solid and in parts a detailed platform on which to build in the analyses of this thesis.

2.6 Analysis and discussion

As exemplified by the nodal governance perspective, the majority of contemporary academic research on commercial security tends to be heavy on theory but light on empirically up-to-date and accurate data nationally, transnationally or globally. This has a series of consequences. First, definitions of the commercial security environment are blurred and cannot form a common platform for research. The figures presented are ad hoc and unreliable. Second, some of the basic cornerstones of commercial security

research, such as the importance of mass private property, the ratio of public police officers versus security guards, and globalisation development, have proved to be poorly interpreted and/or overvalued. Third, mainstream research on private security during the last ten years has been focused on sociological models, for example nodal governance. This has not supported the research concerning real world questions like steering and controlling of expanding commercial security. Fourth, in a significant number of studies there has been a tendency to blame the commercial security providers for societies' inequity in security provision and human rights breaches and misconduct in their work without actual data or (comparable) research results to support these accusations. Fifth, most researchers have virtually no deeper contact with the people and associations who actually run and represent the business locally and globally.

With the exception of the Sarre and Prenzler model, academic theories and discussion on private security do not provide a solid platform for the research on the regulation of commercial security. The basic structure presented in this thesis has been formed by comparing and joining together ideas from texts of different scholars. First, the texts of Button and George, Sarre and Prenzler, and partly Bayley have been the main sources affecting the results presented. Second, Zedner's requirement of using an interdisciplinary approach, even in security studies, has been absorbed in order to enable handling of the variety of factors faced in this thesis. Third, a simple, question-led approach has been adopted to keep the study structurally under control. Fourth, a variety of different sources, texts and persons, mainly from outside the academic spectre, have been used to get real (empirical and firsthand) knowledge on the regulation of commercial security generally and especially in the six regulatory regimes under study. The actual thesis chapters include a great number of knowledge and ideas (quotations) from over 400 different authors and other sources, adding remarkably to the width and depth of this literature review.

CHAPTER 3: RESEARCH DESIGN AND DATA SOURCES: THE CHALLENGES OF DOING CROSS-NATIONAL COMPARATIVE RESEARCH ON COMMERICAL SECURITY

3.1 Introduction

Comparative research or analysis is a broad term that includes both quantitative and qualitative comparisons of social entities. Social entities can be based on different lines, such as geographical or political ones (Mills, et al 2006). There is no easy and straightforward entry into cross-national comparative social research (Øyen 1992:1). There are persistent problems in carrying out this kind of work and the academic theories and opinions vary. Also in this thesis the main methodological challenges: defining samples, identifying suitable data gathering methods and developing a comparative model were compounded by having to work through cultural and social differences, language barriers, and geographical distances. It has been argued that because of the complexity of methodologies used, cross-national comparative studies are often based on countries with similar features and not on directly comparable data, and as a consequence findings can be biased, misleading or limited (Hantrais and Mangen 1999:91). The same problems were faced in this research. The easiest method would have been to choose countries with a similar legal and cultural background, the same national language and geographical proximity. This would, however, have diminished the representativeness of the results considerably. The question of data comparability was present throughout the research and influenced the techniques employed to gather it. Because this research project was driven by policy making concerns and because of the researcher's professional background and personal contacts, the risk of bias needed to be recognised and minimised.

In a cross-national comparative study, the question must be asked: is the aim to identify similarities or differences? This of course affects the selection of national cases. This was, in a way, a contradictory issue because similarities were the focus, but in as dissimilar as possible environments. Thus the choice of regulatory regimes for the cross-national comparison had to have a satisfactory scientific rationale for their selection and any divergent choices at the research design stage had to be evaluated and reported.

‘Doing’ cross-national comparative research was not easy and there was a constant feeling of being located in a methodological mine field. As was discussed in chapter 2, there are a limited number of studies on private security regulation and in practice, virtually no comparative research on a wider scale at the cross-national level. The lack of an established or standardised methodology to draw upon meant that part of the research had to be devoted to building a conceptual model. A practical challenge, during a pilot study and the interviews, was the communication with a large group of national experts whose mother tongue was not English. Half of the interviewees spoke English as their native language (NY, QLD and ZA), but not British English. It is important to note how differentiated the vocabulary on private security matters and personnel were on legal and practical levels within all the regulatory regimes under study. On top of this local slang expressions were widely used on some key matters.²³ Even if the English language skills of all parties were in most cases on an acceptable level, there were factors that limited and hampered the communication when handling detailed expert information. Because of this, parts of the interviews were conducted in native languages, even if this meant the extra complication of translation.

3.2 Research objectives, design and process

Objectives

The main goals of the research were to examine the following questions: what are the (general) core elements of the regulations, how do the main regulation processes work in practice, and what are the key differences and similarities between national regulations, as understood by different local interest group representatives? As a consequence of the limitations in the existing research and knowledge base, a secondary objective had to be included in this thesis. Basic information on private security regulation and its structure had to be collected and analysed. This was necessary in order to provide a structure for the case study and the interviews, as well as to have a general understanding of commercial security’s regulation cross-nationally.

Design principles

There was a need for flexibility throughout the research process, which is to be expected when crossing cultural boundaries in a cross-national comparative study (Mangen 1999). Another main feature of this study was that the design of interviews was contingent on prior analyses of documentary material which strategy has been handled by Mason (1996), as one alternative. The actual research process consisted of (a) a

general literature review, (b) a documentary pre study on reasons to regulate, (c) a cross-national pilot study on existing private security regulation, and (d) the comparative case study of six chosen jurisdictions focusing on documentary analysis and interviews concerning the regulatory environments and models in place in these regulatory regimes. Three questions structured the research:

- Why regulate manned commercial security?
- What and who to regulate within the scope of manned commercial security?
- How to implement manned commercial security regulation in practice?

Throughout the study, the principle of using different methods and replication was observed at all stages, utilising archival records, published documents, surveys, and interviews, applying the general ideas of triangulation. Thus an acceptable level of reliability of the results could be achieved, for example, by following the principles of Singleton's (1999:405-407) strengths and weaknesses summary table. The fundamental idea of triangulation, according to which the weaknesses of any method can be compensated for by the strengths of another method, was recognised. In a way, the idea of varying the 'working universe' to validate the results was also exploited in this research by choosing and using remarkably different objects of research.

Pilot study

It became apparent during the literature review and the documentary pre study that it was not possible to have a structured and reliable enough summary knowledge of cross-national private security regulation from existing published sources. The fragmented data had to be confirmed in some way because the whole study would otherwise have been based partly on assumptions. In order to proceed, a pilot study was used to gather basic cross-national knowledge of the situation concerning commercial security regulation.

The pilot study combined documentary survey and interview data from 40 regulatory regimes, including the EU member states.²⁴ Ninety hand-picked national experts participated in this study. It covered the basic legal and administrative structures plus the regulated segments and subjects within commercial security regulation. The choice of topics to be included was based on previous studies in this area and on the personal experience of the participants. The findings have been presented in Fallon and Samuels (2006:43) and Hakala (2007).

Previous data from the literature review and the documentary pre-study (Hakala 2008) together with the survey findings sharpened and confirmed, in a structured manner, the cross-national understanding of private security regulation models. As a result, choosing the main topics for the case studies could be made with a high certainty that the most significant subjects were included. The core aspects of private and commercial security regulation chosen and handled throughout the study were: legal and administrative structures, licensing of companies and personnel, compulsory training, equipment, and weapons. The pilot study and the documentary pre study also supported the choice of the six case study regulatory regimes by showing that they all had regulation, although diverse, concerning the above mentioned core research topics and thus allowed a full-scale comparison.

Case studies

It has been emphasised that the nature of case studies is essentially an analytical focus rather than a method *per se*, since they incorporate several approaches, a combination of interviews and documentary research being the most typical in cross-national research (Mangen 1999:115). This was the approach chosen in this study and the qualitative research relied on quantitative data to obtain a sensitive and multi-dimensional perspective of commercial security regulation in the regulatory regimes under study.

The case studies of the six chosen regulatory regimes consisted of two main parts: a documentary analysis of existing private security regulation in order to have a comparison platform, and a qualitative, interview-based analysis of the opinions of the interest group representatives. The main research questions were extended for the case study interviews. In addition to the ‘why’, ‘what and who’ and ‘how’ questions the present situation in local regulation was explored during the interview sessions by asking:

- Is the present local regulation model working well administratively from your perspective?
- How could the licensing procedure and control of commercial security companies and employees be improved?
- Is the compulsory training of different groups of commercial security personnel effective and sufficient?
- Are all licence holders within the industry treated equally by the authorities?
- Is there a working relationship between the different interest groups and the government/authorities?

- Are the regulations on ‘non-lethal’ weapons and fire-arm possession/use within the commercial security industry adequate?

All the questions included a number of probing follow-up points to help the interview execution. The complete fact sheet used in support of the interviews is in Appendix 3.

The sample of regulatory regimes

In a cross-national comparative study, there is the risk of choosing countries that are too similar and to use in-comparable data. To avoid this, in the choice of regulatory regimes and interviewees for the case studies, a kind of purposive convenience sampling was used. The main reasons for this were the need to have as good as possible coverage of differences with a limited sample, and to gain access to the best expert respondents/interviewees. This kind of choice has been defended in one way by Bryman (2004:100), stating: “A context in which it may be at least fairly acceptable to use a convenience sample is when the chance presents itself to gather data from a convenience sample and it presents too good an opportunity to miss.” There are, however, other critical opinions concerning convenience sampling, for example by Patton (2002:244), arguing: “Do what is easy to save time, money, and effort. Poorest rationale. Lowest credibility. Yields information-poor case.” In this study, there were no questions of saving time, money, or effort; on the contrary, an exceptional opportunity to widen the horizons of commercial security research cross-nationally was exploited. In practice, to initiate and undertake this kind of structured research on commercial security with a global reach for the first time was, with the existing circumstances, not possible in any other way.

The choice of regulatory case study was determined by the following criteria:

- There should be an existing statutory commercial security regulation system.
- Different types of government models (federal/centralised) should be included.
- There should be a geographical spread, different sizes and different wealth represented.
- There should be a clear difference, if possible, historically, culturally, politically and in the approach to commercial security matters.

There were two exclusive preconditions concerning the chosen regulatory regimes. There should be some earlier personal knowledge of and contacts to the local commercial security industry, and the regulatory regimes should be linguistically such that the use of necessary documents and oral communication were possible without too

complicated arrangements or a need for translation/interpretation. The chosen jurisdictions: Belgium, Estonia, New York, Queensland, South Africa and Sweden filled these criteria. In chapter 7, there are comparison tables and general knowledge of different qualities describing the general dispersion of these societies.

The sample of documents

For the comparative documentary analysis, the sample in each regulatory regime under study included open archival or published statutory regulations on (commercial) private security, and selectively official committee reports, bills with explanatory notes, and parliament debates related to these bills. Access to these documents was possible through governmental official websites, by visiting the authorities responsible locally for licensing, and by working in the national archives/libraries in respective countries/states.

To support the documentary analysis and to add to the environmental data in chapter 7, concerning the national commercial security spheres, secondary documents were used. These included country specific general information, local and international statistics, available research papers, and miscellaneous security industry information. The documentary analyses presented are based on a limited number of regulatory regimes. Similarly as in the research as a whole, the reason for their selection was language considerations, as the texts and documents used had to be in a language accessible to the researcher (in original or translation).²⁵ In sum, only a limited sample of texts pertaining to fifty specific countries or regulatory regimes²⁶ were utilised in the study.

In addition, ten professional magazines published during the last ten years²⁷ and related in some way to the regulatory regimes under study were used for articles and news on commercial security regulation. Also the possibility to take part in over thirty international commercial security related conferences and seminars during the years 2003-2009,²⁸ as a participant, sometimes as a lecturer and occasionally as an organiser, generated a considerable amount of additional knowledge and presentation material.

The sample of interviewees

For the interviews, a purposive convenience sample of experts and interest group representatives was chosen from the regulatory regimes under study. Access was gained by using international personal contacts within the security industry, many of whom had already participated in the pilot study. The 'sample' of fifty-one interviewees in the countries under study was chosen from different interest groups, as presented in Table

7. The public police as a group were intentionally left outside the sample if they did not have an official active role in the regulation work. The minimum number of interviews per country was six. They were chosen whilst keeping in mind the need to have as wide and comparable an opinion base as possible with the limited number of interviews. The interviewees were categorised into three groups:

- Managers, including operational persons working within the industry.
- Industry experts, including persons from regulatory authorities and commercial security related organisations and trade unions.
- Experts, including persons who had expert knowledge of the industry but were not working within it (customers, academics and editors).

However, many interviewees also had long professional experience (careers) in different other tasks within commercial security sphere and public policing.

Table 7 Division of interviewees by commercial security background

| | BE | EE | NY | QLD | SE | ZA | Other ²⁹ | Total |
|------------------------|----|----|----|-----|----|----|---------------------|-------|
| Manager | 2 | 3 | 2 | 4 | 2 | 2 | | 15 |
| Industry expert | 3 | 2 | 2 | 3 | 2 | 3 | 3 | 18 |
| Expert | 2 | 2 | 2 | 3 | 2 | 3 | 4 | 18 |
| Total | 7 | 7 | 6 | 10 | 6 | 8 | 7 | 51 |

3.3 Research methods

Documentary analysis

The documentary analysis part of the research consisted of a general analysis of the models and content of private security regulation internationally and a more detailed one, focused on the specific countries under study and the six main entities that were identified in the general review. Tables and graphs were used to organise the data and to illustrate the basic core elements in the national regulations. The core summaries of the regulations of the six regulatory regimes under study were tabulated and presented alongside the interview results to compare, support and deepen the analyses of the comments provided.

Interviews

It has been said that qualitative interviewers listen to people as they attempt to describe their understanding of the life-worlds in which they live and work (Rubin and Rubin 1995:3). It has also been stated by Mangen (1999:117) that semi-structured and ‘measured’ free-format interview schedules are the most common mechanism employed

in cross-national survey research. In a cross-national study like this one, the whole idea was to gain an understanding of the insights that the individuals connected to the industry in different environments and cultures had on the industry's regulation. Qualitative interviews were, in this research, a good way to achieve this goal. The research was carried out using expert interviews in which discussion topics and questions were based on the literature and documentary reviews. A semi-structured (focused) topical interview technique was used because the goal was to find out what opinions and general understanding the interviewees had, as representatives of different interest groups in commercial security, of the functioning and future challenges of the local regulation.

Conducting the interviews

Potential interviewees were approached at least one month before the planned meeting by personal e-mail and/or by a phone call to inform them of the research project and to request an interview. This procedure was partly prepared by advance notification of a coming interview request when meeting potential interviewees in different situations. Also, the pilot study survey helped because most of the chosen experts were familiar with it or had even participated in it as respondents. The general pre-information text sent to the interviewees is in Appendix 3.

After agreeing on a date and time, the interview topics and questions, together with some information on practical details related to the meeting, were sent in advance to the interviewees (Appendix 3). The goal was to make the discussion such that they would feel free to discuss even sensitive/confidential topics and could make their own evaluation as to what to comment on. One hour semi-structured interviews were carried out face-to-face, mostly at the workplaces of the interviewees, or at international seminars. A tape-recorder was used for technical reasons, but also because taking notes would have disturbed the discussion and could have resulted in a loss of precious nuances. In addition to the recorded session, time was spent socialising with many interviewees informally discussing general and also sensitive local challenges facing the security industry. This was important for the interviewer to gain background knowledge of the local general circumstances as well as business culture and thinking.

The interview process was dependent on existing contacts and knowledge of the research topic gained during early, informal discussions. The interviewer's professional role and expertise on the subject and the business as a whole also helped. In practice, most of the interviewees had less detailed knowledge of the actual regulations than the

interviewer. It was a challenge to maintain one's position as a listener, rather than as an active discussion partner. It had to be kept in mind that the priority was to get local knowledge of the opinions, plans and goals within the security industry interest groups.

To be able to interview the experts and to have comprehensive interview results, twelve of the fifty-one interviews had to be carried out, at least partly, in using the Swedish, Estonian or Finnish language. This meant an extra obstacle: sections of these 12 interviews had to be translated from the transcriptions into English. In this work the special security word lists used were the one of European Committee for Standardisation (2008) which included also definitions, and the plain internal word lists of Securitas (1994; 1998; 2000a). In three cases, an interpreter was employed during the interview. To conduct and write the analyses based on the interviews, the transcripts were sorted according to the topic and regulatory regime. They were then re-sorted and used together with the results of the documentary analyses on the regulations to produce country specific or summary analyses of the subjects studied.

3.4 Ethical issues

The general ethical practices for research set out by the British Sociological Association (2002) for research were followed in this work. This study could be considered as a policy-relevant applied social research project including certain 'interested parties' (Rose 2004:2). How to keep to key interest groups a distance and independence without endangering important information sources was a challenge. The interviewer's role in this research was somewhat ambiguous. As the researcher had an active professional role in the security industry, there was a certain burden created in the form of his own opinions and ideas as to how the industry should be regulated. On the other hand, this potential partiality was compensated by having a cross-national net of professional connections, and an in-depth practical knowledge of the research area, including an understanding of the general values, ethics and thinking of the industry.

In general, the ethical challenges in this research were related to public appearance and pride and to the individual professional 'privacy' of the interviewees. Issues of consent in this research were connected to the interview element. National sensitiveness applied in this kind of project, especially in the countries where things were not still totally under control or where there were obvious discrepancies between interest groups. Naturally, there were also some suspicions that as an employee of one of the

multinationals in the industry, the interviewer had business interests mixed in with the research.

To tackle these ethical challenges, the interviewees were provided with comprehensive, accurate information about the nature of the research and the basic interview schedule well in advance and at the beginning of every interview. This also promoted the practical cooperation of the participants. Political matters, which could not be avoided totally, had to be handled on a case-by-case basis. Confidentiality issues were to be dealt with upfront as a part of the information and then on a case-by-case basis according to the needs of the interviewees. Generally, the approach was also planned to respect the ideas presented by the school of situational/ethical relativists.³⁰

3.5 Conclusion

This chapter has outlined the research methods and data sources used in this thesis. The division of the thesis into twelve chapters that build on and support one other was very much a necessity that became apparent during the research. The lack of previous research and lack of reliable data required extra steps to be taken in order to collect basic cross-national information as a platform for the case studies.

The combined comparative documentary and qualitative interview analyses, based on the results of the first part study, constitute the core of the research project. They were carried out using a mix of quantitative and qualitative methods that observed the tested principles of triangulation to give validity to the results. This methodological approach allowed me to generate an interesting and substantive data set. In spite of the compromises that needed to be made between the original ambitions and the available resources, especially with regard to the sample, reasonable results were achieved. Even if the number of countries and the interviewed experts was limited, the coverage was something that has not been achieved before on a cross-national level in commercial security research.

PART I

GENERAL THEORIES AND PRACTICES IN COMMERCIAL SECURITY REGULATION

CHAPTER 4: WHY REGULATE MANNED COMMERCIAL SECURITY?

Regulation has been supported with many different arguments through the times depending on the interests of the persons or groups expressing their opinion. At the end of the day, the basic reason for regulation is, however, quite simple. Tombs (2002:115) has spelled it out in the following way:

“Most fundamentally, regulation exists because in its absence, as historical record demonstrates, the result is the wide scale production of death, injury and illness, destruction and despoliation, not to mention systematic cheating, lying and stealing.”

A practical opinion on the justification for regulation in general is presented by Breyer (1998:59) when he explains the rationales in steering economic activities. He also emphasises the political nature of regulation, which sometimes overtakes the reasoned argument:

“The justification for intervention arises out of an alleged inability of the market-place to deal with particular structural problems. Of course, other rationales are mentioned in political debate, and details of any program often reflect political force, not reasoned argument. Yet thoughtful justification is still needed when programs are evaluated, whether in a political forum or elsewhere.”

An industry specific comprehensive argument for the private security regulation, still valid today, was given by South (1985:182-183, 255), some twenty five years ago:

“The private security sector is expanding and will continue to do so, in varying ways, to varying degrees, for the foreseeable future. As it does so, the need to ensure that it is strictly regulated grows even more. ... Legislatively empowered regulation and procedures for ensuring accountability are necessary because it must be recognised that private security are not simply private citizens. Their expected role and function makes them a special case requiring special public safeguards.”

These three academic quotations apply to the security industry, and in reality most of the countries in the world have imposed some kind of national statutory regulation to define, steer and control the activities of security companies and their personnel. In regulation processes, the knowledge and understanding of the reasons for regulation should be a requirement. When there is a clear answer to the question ‘why regulate?’ there will also be an understanding of what interests and whose interests should be protected and supported by regulation. A rational assessment can then be made to determine whether these interests are important enough to require state intervention by legislation. At the same time, by answering this question carefully, a solid platform for the actual regulation work has been set. The understanding of the reasons to regulate

will later on also help to find and to decide the topics to be included in industry-specific regulation and to choose an administrative implementation and control model that fits in with the existing national or transnational governance structure.

There is also the question of the need to have separate statutory regulation for commercial security functions. Could they not be steered and controlled by existing general legislation? Sarre and Prenzler, who have researched this matter, are very explicit in their opinion, stating (2005:213): “A reasonably competent and ethical security industry will depend very much on the right mix of different types of laws and their enforcement, but specific industry regulation is now clearly a basic requirement.”

This chapter, as will the whole thesis, focuses on traditional and national commercial manned security services (guarding) and on the reasons for their statutory regulation. The various arguments against regulation, such as growing costs to customers (Cully 1996:5; Ambrand Dot Com 2006; Kerr 2006:29; Centre for International Economics 2007:26-27), the limitations of free competition (Forst and Manning 1999:37; Zedner 2006:281), giving the industry legitimacy and authority it does not need or deserve (Button and George 2006:566), over-reaction of authorities (Cotterill 2006:4) and even opinions that statutory regulation pose a substantial threat to the employment opportunities of people with criminal records (US Government: 2004:41-48; Emsellem 2006:2) are not commented upon further in this context.

Manned commercial security services are regulated in some way in the majority of countries. The pilot study (Hakala 2007:6) and other sources covering this subject (Access Control & Security Systems 2006; Private Security Regulation.Net 2008) show that over 90% of regulatory regimes have some kind of special legislation concerning the industry. This high figure implies that governments have had and still have a need to formally regulate commercial security activities. But, if one asks on a general or detailed level why this kind of statutory regulation was issued, no simple and straightforward exhaustive answer can be found today. This subject has been touched upon by some scholars as well as in various laws, bills, explanatory notes, government papers and committee reports. Most of these documents, however, handle the matter from a national perspective, taking up the special need for statutory regulation of one specific country or regulatory regime. Very little transnational research exists that deals explicitly with the similarities and patterns in national debates in support of this sort of regulation. Some of the fragmented knowledge has been collected and organised in this text with the aim of improving understanding of this many-faceted entity. The purpose

of the chapter is to bring to light whether there are any common denominators in the reasons for and goals of regulation and what are the officially expressed factors affecting legislation. This chapter also aims to show that there is a general rationale for commercial security regulation, which can be presented in a structured way and that certain factors are universal (dominant), irrespective of the regulatory regime and its historical, political, legal or cultural environment. This kind of information is thought to be helpful to all relevant interest groups when writing and debating the future of commercial security regulation.

Some general answers to the question – why regulate private security? – have been presented, mostly during the last 30 years. They do not include theories or models that could be utilised as such in this study. Most explicit comments and information on this subject are to be found scattered in the documents of those countries and states where (commercial) private security has been regulated or at least the case of regulation has been debated. In this study, regulation has also been seen partly in terms of risk control. Risks related to private security are perceived here as creating a platform for the needed responses (Baldwin and Cave 1999:138-149; Baldwin, et al 2000; Lange 2003:412, 417).

This chapter comprises a structured summary presentation of the ‘reasons and goals’ argumentation used by different interest groups to support statutory regulation of commercial security services (guarding). The topic has been handled in two parts: first, the general arguments, and second, the more detailed industry specific arguments given on the need for commercial security regulation.

4.1. General arguments given for regulation

Over 30 years ago, Stenning and Shearing (1979:263) took up one basic question concerning private security regulation by stating: “If private security personnel are in reality no different from ordinary citizens, a law which treats them alike seems most appropriate. But if in reality they are not, and the law still treats them as they are, it becomes inappropriate.” The same scholars later gave their opinion on this matter stating (1981:235): “In treating private security personnel as if they are no different from ordinary citizens, the general law in all jurisdictions has failed to keep pace with the modern development of private security.” Even though the researchers focused on private security personnel here, their comments can be extended to cover security companies as well. The fundamental dilemma of both researchers and governments is

made very clear: can commercial security be ignored by society or is it, as Shearing and Stenning argue, a special profession and activity in society that needs to be regulated accordingly? When handling the same question again 20 years later, Stenning (2000:347) repeated the opinion that private security is a special case and must be regulated. This time he even summarised more explicitly that there is an unfortunate, inadequate understanding of the roles, powers and accountability of private police, and the legitimate concerns of such matters as liberty, privacy and equity, and sometimes even national and international security.

In commenting on the need for regulation, South (1989:126) also touched upon this phenomenon: "Private security guards are not 'the general public', who after all do not as a rule guard pay-rolls, safe-deposits, night clubs or computer facilities; rather they are a very specific case." Similar conclusions have been drawn by de Waard (1999:161), who insists that: "Governments will realise that security is not a commodity purely to be bought and sold, and therefore it needs good governance. Governments will increasingly regulate the development and operations of the private security industry." Gyarmati (2004:32) has stated clearly that industry specific regulation is needed to legalize the private security companies but also to limit their rights to the tasks in hand.

Button (2006:565) is one of the few researchers, if not the only one, who has really asked the question: Why do governments regulate the security sector? He even gives a summarised explanation ending with an emphasis on the police-like and other special functions performed by the industry, and the abuse of power by security officers. He adopts the reasoning of Shearing and Stenning (1981), noting that: "...to treat such [security] personnel as ordinary citizens would not seem appropriate. Advocates of regulation argue for mechanisms to control their activities to ensure appropriate structures of governance exist." In the South African context, Irish (1999:18) listed her view of the crucial issues where regulation of private security is concerned. She focuses on the division of labour and co-operation between the industry and the police, the elimination of elements involved in illegal activities and practices, and protection of the private security operators who interact with the public. Gumedze (2007) made some general remarks when writing of the new threat that the private security sector presents at a national and regional level in the turbulent African environment. He asks whether they are creating a security problem or solving it. His conclusion is that the security situation is not getting any better despite the sector's involvement and therefore effective regulation is needed. He argues: "The private security, per se, is not a threat,

but the absence of an effective regulatory mechanism for its operation presents many risks, which then make it a threat.”

Greenwood (2007:11) looked at the matter from the industry’s point of view by writing: “Licensing therefore, represents recognition of the role played by the industry within the community and the importance of ensuring its integrity is protected.” Van Zonneveld (1996), as a representative of the EU Commission, before the Commission changed its opinion, was also very clear on the subject: “It is recognised that the industry will not develop successfully without a well defined regulatory framework.” The Council of Europe (1987:preamble), has recommended in the case of private security, that governments: “...enact, revise and if necessary, complete regulations governing initial authorisation, periodical licensing and regular inspection, by public authorities at the appropriate level, of security companies, or encourage the profession to adopt its own regulations.” The legislators Mega (1992:1) and Dugan (1992:1), two sponsors of the State of New York Security Guard Bill, emphasised that the increasing use of security guards as a means of protecting the public necessitates legislation to protect the public interest, and that current provisions do not adequately ensure public safety. Australian scholars (Prenzler, et al 1997:31; Sarre and Prenzler 2005:210) have summed up the situation by stating that there is a strong case for government engineered licensing, and there appears to be a keen industry demand for it according to North American and Australian research.

The European security industry has made its position on licensing and regulation clear by a joint opinion of the Sectoral Social Partners (CoESS and Euor-fiet 1996:2) stating that: “...effective regulation based on legislation is a necessary pre-condition to achieving high levels of professionalism, good standards of service to the client and high quality employment.” In other joint texts (CoESS and Euro-fiet 1996:3; CoESS and UNI-Europa 2004:1; INHES and CoESS 2008:5, 11, 32-38; CoESS and Almega 2009:37-40) the industry associations go on to argue that strict licensing and regulation of the security industry throughout the European Union are essential foundations to a high quality industry. The industry’s opinions have also been mapped out by an internal CoESS survey where 28 national associations from different European countries representing local security industries and members of CoESS all considered some sort of statutory regulation necessary and useful (De Clerck, et al 2007:17). The United States’ main commercial security employer federation NASCO, after noting that: “...citizens have expectations that security personnel in uniform are properly screened

and trained to help protect company assets and people”, continued that “NASCO believes that legislatures must create higher standards in all 50 states to ensure better training and institute background checks.” (Ricci 2006:39). This sample of statements from scholars and different interest groups worldwide supports the opinion that commercial security represents something special as a business, making its regulation indispensable.

In his thesis on private security regulation in South Africa, Siebrits (2001:125³¹) approached the need to regulate from a different angle, proposing that instead of asking “Why regulate?” we should ask: “Is regulation for the protection of the industry or for the protection of the public?” He argues that when this is determined, all the subsequent steps will follow logically. This argument can be widened to another sort of ‘why’ question: is the need to regulate commercial security primarily based on public interest, interest group interest or institutional interest? This is a fundamental question because the answer to it will probably also reveal the respondent’s personal emphasis in this matter: should commercial security be considered pure business or a kind of semi-public law enforcement (police) related activity with industry specific regulation requirements?

The debate on the European level of the role and need for regulation of commercial security is presently focused on clearing up this discrepancy. The European Commission’s (EC) original opinion (CoESS Newsletter 2002:1-2; The European Commission 2004; Born, et al 2006:8-9) that the industry is no different from any other service business and should have no special national or harmonised rules disrupting the free market has now been softened in the final Services Directive, from which manned private security services were excluded for a three-year period.³² The industry’s European Social Partners (CoESS and UNI-Europa 2004:2) and the authorities in many EU countries have all along taken the view that commercial security is a special activity needing (local) statutory regulation and control (Finnish Government 2004:6-12).

From different cultures and different times, one can find examples that illustrate the general arguments of governments or governmental committees on statutory regulation. The United Kingdom Government (1999:Appendix 1 (4i)) has supported regulation by emphasising that there will be a reduction in offences by commercial security personnel and an overall increase in the quality of service provided, promoting confidence in the industry as a whole, as well as protecting the public. Thus the whole community would benefit, including members of the public and businesses. In their reports, a Danish law committee (Danish Government 1985:17, 19); and the Irish Consultative Group (Irish

Government 1997:7, 47, 64) both considered, amongst other things, that substantial benefits would flow from the regulation of the industry and from society's point of view, it is not an unimportant industrial activity and this alone speaks for the regulation of private security. The groups' views were also that development of a statutory regulation function for the industry would be in the public interest. In Norway (Norwegian Government 1987:3, 5), a similar committee expressed that because of public interest, it supports statutory regulation of security companies. In New York (New York Government 1992), state legislators argued that because of the large number of unregulated and unlicensed security guards lacking sufficient training and their nexus to the general public, uniform standards should be established for security guards and the industry. South African law-makers have defined the state's reasons to regulate private security activities in a more comprehensive way. They emphasise the general social role of the industry and the introduction to the law text includes the following statement (South African Government 2002:1):

“The protection of fundamental rights to life and security of the person as well as the right not to be deprived of property, is fundamental to the well being and so to the social and economic development of every person and the security service providers and the private security industry in general play an important role in protecting and safeguarding the aforesaid rights.”

In this text, South African legislators have taken the argument one step further by making (commercial) private security officially a part of the general security and safety structure of the society, not just a private business activity needing regulation. This idea was supported on a more general (African) level, for example, by Bearpark and Schultz (2007:86) when they stated: “Most importantly, governments have to develop and enforce effective regulation for their national private security sector in order for the industry to contribute meaningfully to the creation of a secure and stable environment.” Also, the United Kingdom Security Industry Authority (United Kingdom Government 2004:2) sees the future role of a regulated industry in a wider social perspective – as a supporter of a fundamental Government objective of reducing crime and the fear of crime. Australian academics Sarre and Prenzler (2005:199) have expressed the same opinion. These examples share the idea that private security has, in general, a special role to play in society and that there is an obvious public interest to steer it by having it regulated.

There are others who have not started to theorise the reasons for regulation but have gone straight to the point by listing the, partly business related, problems to be solved.

For example, Jones and Newburn (1996:105) give their opinion that: “The major issues which underline calls for regulation concern low pay, levels of training in the industry, reliability of private security personnel, standards of service, and the protection of privacy.” Draper’s statement in the conclusions of her book ‘Private Police’, some 30 years ago, logically and clearly summarised the reality and the future need for regulation that we actually face today. The research was about the United Kingdom situation but can be generalised when looking at the development of the industry. She wrote (1978:167):

“One thing is beyond doubt. The intrusion of private security forces into the fabric of our modern society can no longer be ignored, and the consequences of this intrusion must no longer be swept under the carpet. Whether we like it or not, the reality of the situation is that the private sector occupies an increasing role in crime prevention. This must be recognised by the authorities, and they should act accordingly.”

It is important to note that many of the general arguments in favour of statutory regulation emphasise the police-like work performed by private security as a major reason in favour of regulation. According to McLaughlin (2007b:1) this shows that there is some kind of blind spot, that is an “inadequate knowledge base of the scale, scope and nature” of private security and its major activities. Stenning (2000:347) and Minnaar (2007:131-132) have made similar comments in their texts. Police-like works is still a minor part of the whole business, and in most countries even a marginal part, if both personnel and revenue are concerned and thus it is doubtful whether it can be a rational starting point for demands for the statutory regulation of the whole industry.

From a practical point of view, the question ‘why regulate?’ can be considered somewhat academic because in real life, most governments have regulated the security industry with or without any deeper analysis or explanation as to why it should be regulated. The fact that the Commission on Crime Prevention and Criminal Justice (2012) within UN has emphasised the importance of, and a vast majority of countries and regulatory regimes in the world have implemented statutory private security regulation, proves in itself that there is a need and case for regulation (Hakala 2007:6).

4.2 Specific arguments given for regulation

In addition to the general arguments, more explicit reasons are needed to flesh out the answer to the question ‘why regulate?’ This information can be found in a variety of documents and other texts, which help to give a more structured picture of the specific needs for regulation. The following summaries are principally based on the results of a

preliminary study for this thesis (Hakala 2008). The more detailed reasons for regulation are presented here and are divided into three categories:

- Constitutional and basic legal reasons to define and restrict commercial security activities, based primarily on public and institutional interests.
- Public interest related reasons to control legally security companies and persons working within the industry, based primarily on the public interest.
- Professional and commercial reasons to set industry-specific legal ‘rules’ in order to steer and control commercial security as a business activity, based on mixed public, institutional and interest group interests.

Constitutional and other basic law bound requirements

In every country there are certain principles followed regarding security activities, especially if they are thought to affect state security or the basic human rights of the common citizens. This means that in many cases even fundamental questions about constitutional law have to be considered during regulation processes. The most usual of such reasons given for (commercial) private security regulation in different regulatory regimes throughout the world are summarised in Table 8.

Table 8 Constitutional and basic legal reasons to regulate

| WHY REGULATE? | COMMENTS AND ARGUMENTS EXPLAINING THE NEEDS |
|--|---|
| To define the constitutional and other legal boundaries and the powers of private security providers in their work in order to: | |
| Protect the inviolability and privacy (constitutional/human rights) of persons interacting with private security actors. | Private security work includes tasks in the line of work – bodily searches, investigations, operating in areas involving confidential information – which may offend the confronted individuals or be a risk for companies or private persons. Electronic and other private security monitoring may threaten the privacy of the object of surveillance or a third party. |
| Prevent private military or strong-arm activities connected with politics, strikes and demonstrations. | There is a history of private security organisations being used for political bullying or to control strikes and demonstrations. |
| Define the physical spheres and objects where private security is allowed to carry out its activities. | The division between the public and private domains is important when defining the competencies of different security actors. The growth of private security has made it a visible and a principal security provider in society. |

| | |
|--|---|
| | <p>The new tasks performed by the industry make it a provider of security services in public places, often displacing the police.</p> <p>Privatisation and outsourcing of public institutions and other activities have necessitated new private security tasks, for example, the protection of CNI objects and functions.</p> |
| Define the roles, co-operation and division of labour between public authorities (police) and private security actors. | <p>The question of principle – whether private security is a business or a substitute for law enforcement activity complementing the police and other security authorities – is problematic.</p> <p>The participation of police departments or police officers holding an office in private security business as owners or operational personnel may create a conflict of interest.</p> <p>The control of unofficial co-operation of ex-security personnel and authorities in office is needed.</p> |
| Enable the public to clearly identify and visually separate private security actors from public authorities (police). | <p>The public is entitled to be able to clearly identify the role and authority of different security providers.</p> <p>Accountability requires a personal ID number/card.</p> <p>The use of police or other clothing and badges resembling those used by public authorities needs to be controlled.</p> |
| Define and control the (extra) powers approved and used by private security actors. | <p>There is a history of private security actors exceeding their authority by abusing citizens or extra powers granted to them.</p> <p>There is a risk of unnecessary violence or malfeasance.</p> |
| Give extended legal protection to private security personnel in their work. | <p>Private security actors may face more violence in their work than other citizens.</p> <p>Private security actors may need to breach the inviolability or privacy of individuals in their work as a safety measure.</p> |

Public interest related requirements

As a consequence of recognising the authority of commercial security means that there is a public interest related need to control it and its personnel in some way to keep the criminal and unsuitable elements outside the industry. This means that some of the controls are such that they cannot be carried out without specific legislation which authorises them. The public interest bound reasons given for this kind of regulation in different regulatory regions throughout the world are summarised in Table 9.

Table 9 Public interest related reasons to regulate

| WHY REGULATE? | COMMENTS AND ARGUMENTS EXPLAINING THE NEEDS |
|--|---|
| To screen and control private security providers in the name of the public interest in order to: | |
| Exclude criminal and other unsuitable persons (with bad character) from acquiring ‘a position of trust’ as employees in the private security industry. | <p>Clients and the public need to be protected from malfeasance by private security companies and employees.</p> <p>Persons with a previous history of offences related to private security work form an obvious risk to the customers and the public if they are allowed to work within the industry.</p> <p>A private security company can provide a lucrative business disguise for organised crime.</p> |
| Guarantee the accountability of private security companies and employees. | A model for handling complaints regarding private security functions is needed. |
| Guarantee equal treatment of security providers and security officers. | In some countries there is the challenge to guarantee even-handed treatment of security employees regardless of their ethnic, racial and/or gender background. |
| Steer the possession and use of non-lethal weapons and firearms in private security work. | <p>Unnecessary possession of firearms by security personnel should be prevented.</p> <p>There is a need for heightened control of weapons use (as working tools) in the private security context.</p> <p>Weapons are a genuine extended risk to outsiders and security officers because of the nature of the work.</p> |
| Enable effective control of private security companies and private security officers by the authorities and the public. | <p>Criminal background checks and enforcement of rules are only possible by public authorities.</p> <p>Accountability, including the handling of complaints by clients and the public, requires an official structure.</p> <p>Compliance with rules is not possible without regular checks by authorities with adequate industry specific legal powers.</p> |
| Control multinational security companies. | <p>There is a need to protect national knowledge (espionage).</p> <p>Private security has been considered a part of law enforcement and a need has thus been perceived to keep it nationally controlled.</p> <p>A need exists to protect local private security companies from global operators (competition).</p> |

Commercial and professional requirements

The proficiency bound reasons given for regulation in different regulatory regions are a more varied range of issues. Even if all of these reasons are not legal matters as such, they are of public interest (training) and many of them crucial for the trustworthiness

Table 10 Professional and commercial reasons to regulate

| WHY REGULATE? | COMMENTS AND ARGUMENTS EXPLAINING THE NEEDS |
|---|--|
| To set industry-specific requirements on the private security business in order to: | |
| Guarantee minimum training (knowledge level) of security officers and their supervisors. | <p>Private security officers need knowledge of their rights and responsibilities and skills to face enforcement situations so that they do not exceed their powers and do not jeopardise the objects of their actions or themselves.</p> <p>Training is one way to improve the quality of private security officers' and their supervisors' working skills.</p> <p>Standardised requirements and supervision by the authorities is required to guarantee the quality of training and trainers.</p> |
| Eliminate 'cowboy' companies from the industry and the market. | <p>Preconditions need to be set to enable fair competition.</p> <p>Protection is needed for customers, especially in B to C situations.</p> <p>This is an expedient to prevent uncontrolled work (tax evasion).</p> <p>This is one of the prerequisites to guarantee (improve) security officers' conditions of employment.</p> |
| Improve the status, image, overall credibility and standards of the industry and the security officers. | <p>Minimum ethical and quality standards are needed to guarantee the general quality of services.</p> <p>Standardised contractual terms are needed to protect the clients and private security companies in criminal cases concerning business discrepancies (poor service).</p> <p>Guarantees of security companies' ability to compensate clients for losses in cases of liability and infidelity are especially important in the private security business.</p> |
| Set minimum terms of employment (and wages) for security officers. | An important way to guarantee and improve the quality of personnel and services. |
| Increase the government income through licensing fees. | <p>An extra tax on the industry.</p> <p>A way to finance licensing and controlling bureaucracy.</p> |

and image of the industry. In some countries they are strictly regulated, in some published as codes of conduct, and in some given out as the industry's own recommendations. The most common professional and commercial requirements in existing regulations are summarised in Table 10.

4.3 Analysis and discussion

The findings and summaries in this chapter show that even if private security regulation is diversified and the practical execution of rules differs considerably from country to country, the main reasons for and goals of industry-specific statutory regulation are, to some extent, globally identical. Primarily, strong constitutional, public and institutional interests have been and still are presented as the driving forces behind this sort of legislation in societies.

Two key sources on the general need for private security regulation capture the findings well and can be cited here as reflections of the core issues found as answers to the question: why regulate?

“The private security industry should also be subject to a statutory regulatory system that applies to the wider industry, sets extensive standards and is administered and enforced by a truly independent body. This could address some of the many problems with the industry, raise standards and improve accountability. It might also improve the utilisation of private security in policing and crime prevention.” (Button 1998a:23)

“Policy-makers must therefore learn to deal with the potentially serious implications of limited regulation and accountability of a market which continues to grow in both size and importance, and which is likely to be here to stay.” (Richards and Smith 2007:5)

These statements by academics are underpinned by both theory and empirical evidence. The same message has also been given from the industry's perspective and a good example of its opinion on this matter can be found in the opening address of the Second European Summit on Private Security. Even if it is a European comment, it can be generalised to reflect the feelings of the industry all over the world, emphasising the importance of clear decisions and rules from the governments' side (Pissens 2009:4-5):

“Private security services need the right and adapted regulation framework. Not only at national level, as this White Book [INHES and CoESS 2008] shows, but also at European level where we witness similar development. As the range of European politics and initiatives calling upon us to perform more and more security activities in the public field becomes wider and larger, the need for a clear, unique and transparent legal framework becomes essential. Without such a framework we are heading for confusion, overlapping of policies and conditions to fulfil and hence, a risk for quality and necessary guarantees of professionalism.”

The findings of this chapter have been summarised in Tables 8-10. The results show that throughout there is a wide consensus that the work commercial security companies and their personnel perform in societies differs from other business activities in a way that requires society's intervention in the form of special statutory rules.

Most governments and academics know and even admit today that (commercial) private security plays a vital part in the realisation of local and national security. There seems to be in general a mutual understanding that the work is partly carried out within a somewhat grey border zone between public and private that is hard to define and is constantly changing. It is a common wish of all the interest groups that the changes should be taken into consideration without delay by the regulators.

Some of the commercial security work includes tasks that routinely breach the inviolability and privacy of common citizens. Private security officers frequently have a need to resort to citizens' powers, and to extra powers possibly granted to them, in order to carry out some of their duties. Thus it is obvious that one part of the work overlaps with that of the authorities and a small but increasing number of the tasks performed can be considered 'private policing'. This state of affairs definitely needs to be taken into consideration in regulation work.

Traditional private security carried out in indisputably private areas and inside the 'factory gates' seems to have seldom raised any special needs to regulate the industry. It is only now, when commercial security providers have started to perform visible duties in public or semi-public environments to a significant extent – tasks that may involve third parties – and when they have started to take over security and public order maintenance tasks previously carried out by public authorities (police), have governments and other interest groups woken up and started to see a need for regulation (Greenwood 2007:11).

It seems that in real life, the wake-up calls triggering the writing of laws are, from time to time, single incidents like major robberies or severe acts of violence that make politicians take action. Sometimes, unfortunately, private security regulation is drafted and passed in the heat of crisis, with public opinion breathing down the necks of politicians (Abelson 2006:8). In these cases a more comprehensive analysis of the reasons to regulate may be bypassed. The actual law-making is, however, in many cases, a controlled and sometimes also a long, drawn-out process.

Most of the reasons given for the statutory regulation of commercial security activities and personnel are primarily connected to the public interest. There are also institutional and interest group interests in regulation but they seem, rarely strong enough on their own to make the legislators start writing industry-specific laws on (commercial) private security. The emphases in the reasons given are:

- First, a general social need to control a business activity that is gradually taking over a growing part of visible public security tasks, and that is, to an ever-increasing degree, using enforcement powers that may interfere with the inviolability and privacy of citizens.
- Second, the increasingly pronounced position of trust the commercial security actors have in their new role, a trust requiring some kind of systematic assurance and control of the integrity and suitability of those holding this sort of position.
- Third, a general obedience of the laws and a minimum guarantee of the commercial security companies' service quality.

The arguments and conclusions in the more general academic texts discussing the needs and reasons for regulation tally with the more explicit comments gathered in this text from other sources. It has to be noted, however, that there is a something of a gap between the ways that the needs are expressed by scholars, legislators/authorities and security industry representatives. The emphasis in the academic texts is somewhat estranged from real life issues and the rapidly developing and changing needs for commercial security regulation in different environments. A second observation is that there is a sort of challenge and discrepancy in a majority of regulatory regimes where the commercial security is seen by the legislators, authorities and academics as a 'junior police' function needing regulation. They do not fully understand and take into consideration the tasks primarily carried out by the commercial security providers and the independent character of this business activity.

CHAPTER 5: WHAT AND WHO TO REGULATE IN COMMERCIAL SECURITY?

The results from the previous chapter give a general idea of the subject matter of commercial security regulation. This theoretical framework may be used to address the question of what and who to regulate. This is, however, also a pragmatic question and decision-making will always be influenced by local factors such as the political realities, legal culture and the efficiency of public security providers (police) of individual regulatory regimes. A general problem is that the issues that trigger regulation have sometimes been so urgent and critical that the actual content and structuring of the legislation has received less consideration. Sarre and Prenzler (1998:6; 2005:213; 2008) have identified what should be included in a well-organized regulatory approach. Even if their model stems from the examination of the unique features of the Australian situation and its needs, their observations and recommendations can act as an analytical platform for this chapter.

The research question – what and who to regulate – has been approached in this chapter, pragmatically from a policy-oriented perspective. The summary presented in the previous chapter on the reasons to regulate will be followed by the identification of the subjects and objects that should be considered to be included in regulation. This examination is based first and foremost on the existing situation in regulation and the opinions and data from the experts and associations representing the industry. The research data used is drawn from the pilot study (Hakala 2007), a CoESS report³³ (De Clerck, et al 2007) and individual industry specific regulations. The issue of employment contracts and models has been excluded from this chapter. My discussion of the question what and who to regulate, has been divided into three parts:

- The legal definitions and restrictions to be made by regulatory regimes on commercial security.
- The industry specific regulations on commercial security companies and personnel.
- The supportive regulations on commercial security service quality and contractual customer protection.

5.1 General legal definitions and restrictions

After defining the needs of regulation, the next step is to analyse what exactly requires regulation. This requires consideration of the following:

- The basic definitions of commercial security activities, roles and tasks.
- The division of labour between public and private actors.
- The (extra) powers given to commercial security actors.
- The possession of weapons in commercial security work.
- The accountability controls and penalties as means of ‘steering’ commercial security actors and activities.
- The governmental organisations responsible for commercial security matters (handled in sub-section 6.2).

These matters are of critical importance because they reflect the state’s overreaching philosophy in addressing the security challenges of the society, its willingness to ‘outsource’ some of its basic responsibilities and its readiness, in practice, to share its ‘monopoly of violence’ with private actors. At this stage, legislators must also understand that by placing the regulation of commercial security on a statutory basis, it is effectively becoming a permanent part of a society’s security arrangements in protecting its critical infrastructures, businesses and citizenry.

What is commercial security?

In practice there are to be found three basic approaches to establishing a definition of commercial security (De Clerck, et al 2007:8; Hakala 2007). First, commercial security is defined primarily as a subordinate and/or complementary activity to public policing. Second, the definition is created through listing products, services, customer groups, and activities considered to be in the ‘commercial security’ domain, and by describing the physical spheres in which it is allowed to work (public/private). Third, commercial security is defined as a business providing security services to its customers for payment. The (UN) Commission on Crime Prevention and Criminal Justice (2012:3) has lately published a comprehensive proposal on the definition of civilian private security services to streamline the blurred situation. In many countries, there is a discrepancy between the legal definitions and the practical everyday boundaries followed up in actual discussions of commercial security work.

General definition of areas and tasks

As a general rule, commercial security activities are limited to private areas. Work permitted to be performed in public areas is usually defined separately case by case. In most cases if commercial security providers are allowed to operate in public streets, in parks, on public transport and so on, this has to be enabled by specific regulation. The problem in this case is the interpretation of so-called semi-public areas (Svenska Stölskyddsföreningen 2004:107-110) that are privately owned and controlled but to which the public has access, either by paying a fee or gratis. Examples of these are transportation terminals, shopping malls, supermarkets and outdoor events. In theory, the authority that commercial security providers hold in these areas should be defined separately. The boundaries are somewhat blurred here; for example, public transport can be organised by a private company and a private event can be organised in a public place. This is not solely a security provision problem, but a wider matter of the legal authority of the owners and generally of the definitions of 'private' and 'public'. It must also be remembered that police presence in shopping malls, for example, is typically minimal or non-existent. This is logical and understandable, taking into consideration their 'reactive' role and present resources. This and similar cases can, will, or should not be decided on a legal level as a (commercial) private security matter, but as a general question of private/public jurisdiction and authority in society.

The practical significance of this public/private sphere definition has been given very little consideration. In the CoESS survey, European commercial security industry associations were asked about this. The results show that a minority of the countries in the study had special restrictions concerning private security in public or semi-public areas. The importance of industry-specific regulation on services in these domains is, from the security providers' point of view, small in Europe. Less than a third of them believe that it is needed. In all, the public/private sphere question has been widely discussed on a general level by academics, but with limited attention to pragmatic concerns (De Clerck, et al 2007:8-10). It seems that this matter has today been settled in many countries, at least in Europe, satisfactorily and pragmatically.

In-house guarding is not actually a commercial security (business) activity, but it still constitutes private security. A basic question related to it is whether regulation should be extended to in-house security whereby companies organise their own security with personnel employed directly by them. In many countries it is a general supposition that private companies can organise their support services, including security, in their

private sphere freely and without state intervention. In-house security has been regulated to some degree in a half of the regulatory regimes (Hakala 2007: 19) but there are strong opinions given by industry and academics that it should be regulated more comprehensively, much in the same way as contract guarding (Button 2005b:8; 2007a:115-116; De Clerck, et al 2007:30). Parallel to this discussion is whether different state or state controlled organisations should be affected by private security legislation, whether their in-house operations should fall under this regulation, and also whether they should have the right to offer services in the marketplace to compete with commercial security providers. This is especially relevant to the questions of whether the right of police departments to sell their services straight to customers or through commercial security companies should be assessed and regulated.

To guarantee the security of the critical national infrastructure (CNI), an assessment of the need for special regulation is often carried out by the governments. The objects are listed and legal powers given to the authorities to steer and control these security segments. States have privatised (and regulated), amongst other things, the guarding of national assemblies, embassies, power industry facilities, defence industry factories, telecommunication installations and even police stations. In Europe, a little over half of the countries have certain restrictions in place for using commercial security to protect these types of property and activities (De Clerck, et al 2007:11).

The public/private division of labour

The division of labour between public authorities and commercial security providers is in practice defined by setting restrictions concerning areas where the latter ones can operate, the sorts of tasks they can perform, and the possible (extra) powers conferred on them. Defining in more detail the appropriate roles and functions of the different actors is more complicated. It can be stated (Bayley and Shearing 2001:14-15) that private security is primarily a pro-active activity and only a minority part of it³⁴ supports actual police work or can be considered to constitute policing. If there is a need to subordinate (commercial) private security, totally or partly, this is usually stated clearly by statutes. In the same way, if there is a need for formalised co-operation concerning information exchange or public/private partnerships, in practice this needs legal confirmation in order to establish and protect the rights of both parties. The need for new models in policing has been explored by scholars, such as Shearing (1996:89-93) but no significant new developments can be observed in practical security work to date.

The participation of individual police officers in commercial security work is a delicate question and is in most cases regulated in industry specific legislation if it has not been done in any other context. Clear rules have been established in what way(s) a police officer (or other civil servant) holding an office can be an owner, consultant, director or operational employee in a security company. According to the pilot study (Graph 3), a little over 50% of states have specific rules included in their private security statutes concerning this topic. There are also reasons to regulate in which way these personnel groups are allowed to join a security company after leaving public employment. This has been achieved in some regulatory regimes by including a certain qualifying period in the directives.

In general, to differentiate guards from police officers and other authorities, their uniforms are regulated. In addition to the uniform to identify authority and identity more specifically, any visible markings (texts, badges) on the clothes (uniforms) and the form and use of a compulsory personal ID card and number are usually regulated. The more detailed requirements on the clothing and identification of guards are handled further on in sub-section 5.2.

Extra powers and protection

There is an increasing need for regulation of policing powers that grant security guards rights, for example, to detain, to expel, to search and to monitor citizens in certain specified situations as a part of their work. An assessment of the appropriate ways for granting of powers is needed. Should all personnel have the same authority, or should a model where commercial security employees have different powers (and extra training) depending on the tasks they perform be brought into use? For example, in Belgium, Estonia, Finland and Sweden they hold such powers (CoESS 2008). Sarre and Prenzler (2005:215) have presented one model setting out how this diversification of powers could be arranged:

“If the law were to be reformed in this way, a three-tiered model of policing could emerge: sworn public police officers, licensed operators who hold a basic ‘security’ license, and operators on a specialised level that fall between the two. These would be licensed operators who enjoyed greater legislative powers and immunities in return for heightened responsibility and greater accountability. The public and private co-operation might arise in line with [our] ‘combined forces’ and ‘regulated intersections’ models.”

There is an evident enhanced risk of violence against security officers in certain segments of security work. To cope with this situation, some of the above mentioned additional powers could be justified on occupational health and safety grounds. The

possibility to give security guards equal legal status to authorities in the event they are attacked while on duty (extended legal protection) should also be given consideration.

Possession of weapons

If security guards need to possess weapons on duty, this should be regulated accordingly in industry specific regulations. Not only firearms, but also non-lethal weapons/equipment should be included in the regulation. As can be seen from Table 11, two-thirds of countries have banned or regulated the use of non-lethal weapons/equipment as commercial security working tools. In a fifth of regulatory regimes, there are also compulsory training requirements attached to them. It is important to have non-lethal weapons/equipment included in industry specific security regulation in order to establish the boundaries for their storage, carrying and use.

Table 11 Regulation on weapon possession in commercial security work³⁵

| Is there special ‘non-lethal’ weapons regulation concerning private security? | Proportion % |
|--|---------------------|
| No regulation | 36% |
| Industry specific regulation | 42% |
| Industry specific regulation including training | 22% |

| Is it possible in general for private security guards/security officers to possess firearms on duty? | Proportion % |
|---|---------------------|
| Banned | 22% |
| Allowed according to the general firearm legislation | 33% |
| Allowed with restrictions set up in private security regulations | 45% |

Firearms are principally not a private security regulation matter, but a part of general small arms legislation. In the commercial security context, the need is to have industry specific regulations that reflect the national cultural attitudes to professional use of firearms within the industry. As can be observed from Table 11, one fifth of the countries/states have banned them totally, one third allow them according to general firearms legislation, and almost half of the regulatory regimes have additional rules for their possession, storage and use in private security work. With industry specific regulations, restrictions can be placed on the tasks for which firearms are allowed, the models of firearms permitted, and the requirements on basic as well as refresher training. Interestingly, some countries have decreed the possession of firearms compulsory in certain private security tasks, which means in practice abandonment of the idea of a state monopoly on violence.

Security Industry Authorities

Commercial security regulation necessitates the appointment or establishment of a specific state authority which is empowered with wide inspection rights (including

inspection topics and density), the capacity to process complaints and the option for license suspension, which topics are handled further on in sub-section 6.2. Effective accountability control also requires statutes that oblige security companies to keep standardised records and to produce detailed annual reports. These include, for example, data on personnel, training practices, contracts, operational procedures, firearms (including firearm storage procedures and firearm usage) and financial accounts. As well the production, maintenance and preservation of all incident reports for regulatory purposes can be required. These kinds of obligations and expectations are not very common. In the pilot study, it turned out that, for example, only one third of the regulatory regimes had requirements concerning on-duty reporting (Graph 3). Legal penalties and sanctions for non-compliance with regulations should also be included in commercial security legislation. The level and severity of sanctions are dependent on local legal systems. It is, however, usual that there is, even on an administrative level, an immediate possibility to cancel or suspend the licenses of companies and security officers in cases of non-compliance. This sort of practice guarantees swift execution of the law and works also as an effective preventive threat.

5.2 Industry specific regulation of commercial security

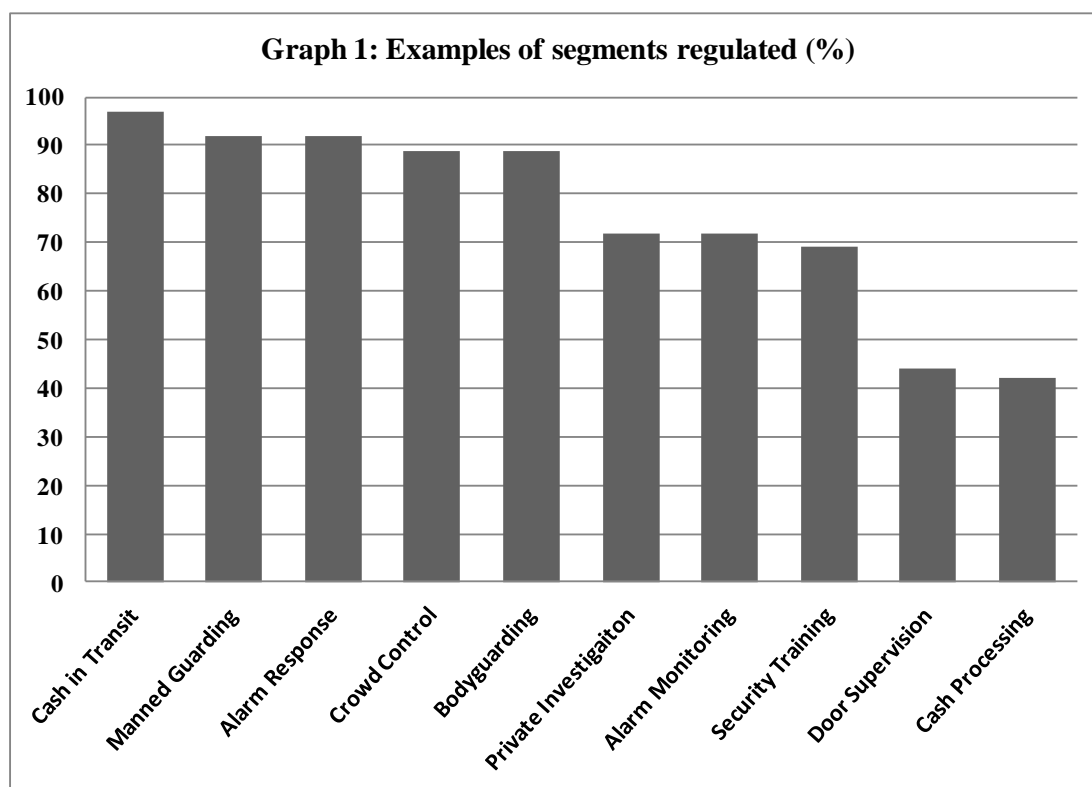
The second, industry specific set of elements to be regulated are, from a jurisdictional perspective more flexible and contingent on assessments of local imperatives for regulation. They are not as fundamental as those in the previous sub-section, but essential in defining and steering operational commercial security work. These include at least:

- The segments of commercial security to regulate.
- The control of companies and personnel.
- The compulsory training.
- The regulation of equipment and tools.

Some aspects of most of these elements have to be regulated in some way if there is a commitment to 'steer' commercial security. In particular, the control of companies as well as personnel and their training is a must in this context. The questions as to what and who to regulate can be addressed with reference to data from countries with established regulatory regimes which indicate in general the importance of different matters in regulation work. The core elements to be taken into consideration are presented in three summary Graphs (1-3) which are based on the findings of the pilot study.

The sections of commercial security requiring regulation

One of the key priorities is deciding what sections of commercial security activities require legislation based controls. There are notable differences between regulatory regimes, which have been commented on widely by George and Button (1996; 1997a; 1999) and Button (1998a; 2005a; 2005b; 2007a) as well as by Prenzler and Sarre (2005; 2006; 2008), who call for wider and more comprehensive regulation. Graph 1 shows to what extent different activities are regulated in practice and indirectly what the regulators (politicians) think should be regulated.



The five most regulated activities, on average, in 90% of the regimes, are (a) cash in transit, (b) commercial manned guarding, (c) mobile alarm response, (d) crowd control, and (e) close protection services (body guards). The majority (90+ %) of personnel and revenue in the commercial manned security are associated with these services (G4S 2005; Securitas 2005a). Among these, although limited in personnel and revenue, close protection services is widely regulated as a complicated activity including a high risk of violence. Other segments that are moderately controlled consist of private investigation, alarm monitoring, and security training (average 70%). Alarm monitoring is tightly connected to alarm response activities and it is interesting that there is a remarkable gap between them – 72% versus 92%. The importance of monitoring regulation is increasing because of the growing use of CCTV in general and the emerging remote

control security services made possible by new technologies. Security training organisers need regulation because training is imposed as a compulsory requirement for licensing and its quality control has become essential. These statistics demonstrate the core segments of private security widely seen as the priorities for regulation. The lowest ranking activities in these statistics, door supervision and cash processing, both with a figure a little over 40%, seem to have been of less interest to governments up until now. Yet in many countries, the control of door supervision has become an increasingly acute issue, mostly because of a growing number of incidents of violence in which security personnel have been involved.³⁶ Cash processing is an additional service taken up by the cash-in-transit providers and should also be regulated. In many regulatory regimes, it is not considered an element of security service and thus it has tended to be neglected. Many of the special requirements for this service are set in directives of Central Banks, not in the industry specific legislation.

The control of security companies and personnel

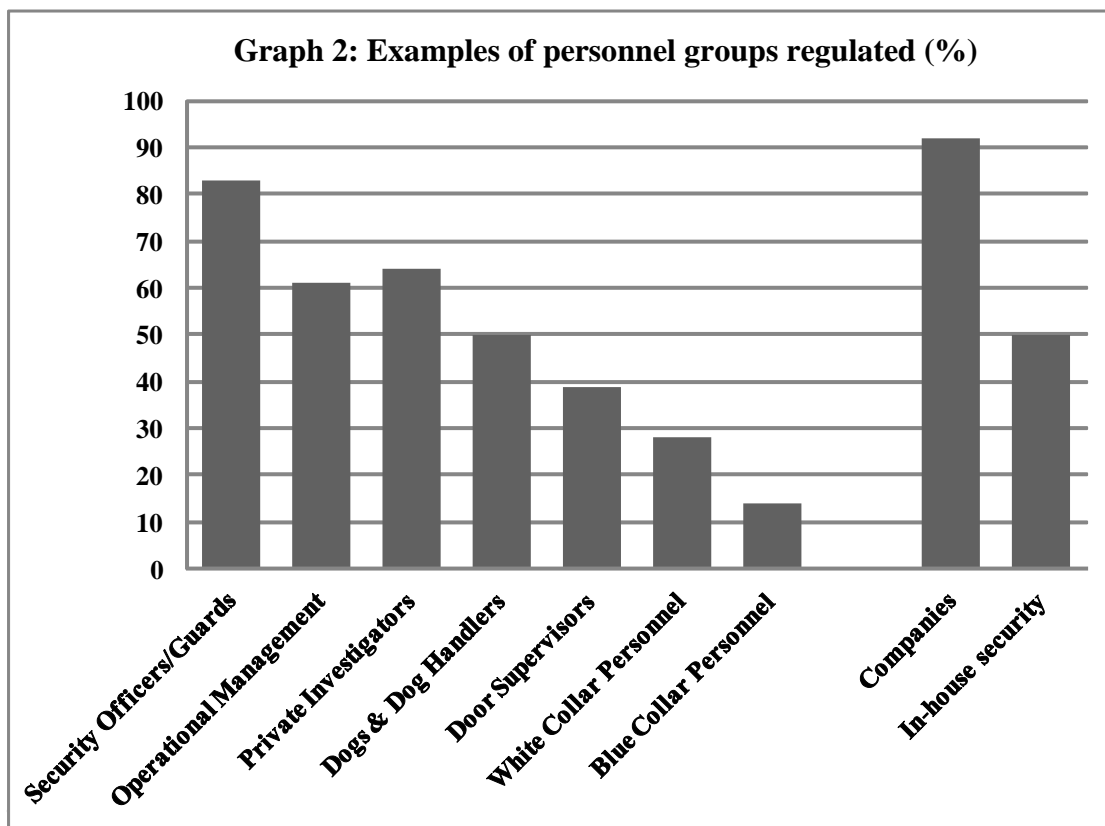
Another core topic in regulation is the control of commercial security companies, institutions and personnel working within those segments that have been included in industry specific legislation. Such controls are achieved primarily by setting compulsory minimum requirements to be met within the industry. As seen in Graph 2, in a majority of regulatory regimes, companies and institutions (over 90%) are regulated in some way. For example, there are requirements to be able to demonstrate minimum capital, organisation, facilities, and management experience. Measures to regulate the trustworthiness of individual employees are based on certain statutory minimum requirements for personnel, such as minimum age, clean criminal record, financial and legal competency, suitability for security work and good health. In many regulatory regimes the basic requirements for individual good character and competency are higher than in most other professions or occupations.

In regulating security officers, licenses can be individually granted or connected to employment with a specified firm. The former system provides the authorities and companies with greater possibility for real-time control, but limits the freedom of an individual employee to choose and change employment. The pilot study results presented in Graph 2 provide a synopsis of the existing situation concerning licensing of the most important security employee groups.

From the different personnel groups, the most heavily licensed are operational security officers/guards (over 80%). In a majority of regulatory regimes, the personnel are

licensed under this title, even if they actually perform tasks within different segments. Usually, both companies and operational personnel are regulated but there are regulatory regimes in which only one or the other needs official approval. The other professional occupations widely regulated (over 50%) are operational management of companies, private investigators, and dogs/dog handlers. Dogs are not widely utilised in commercial security work today, but there are still certain traditional and new tasks where they are used (Clayton 1967:88-97; Imbusch 2007) and regulated (Hakala 2007:9).

A less regulated group is door supervisors (39%), which implies, as seen also in Graph 1, that the significance and risks of this activity have not been understood in all regulatory regimes. It also reflects the challenge in categorising them - in many countries they are not considered to belong to the private security sphere. Other personnel, non-operational white-collar employees (28%) and blue-collar auxiliary staff (14%), have often fallen outside formal legal controls. Businesses (companies) and security officers/guards are overwhelmingly the main objects of regulation, other personnel groups seeming to be of less interest in the commercial security sector.



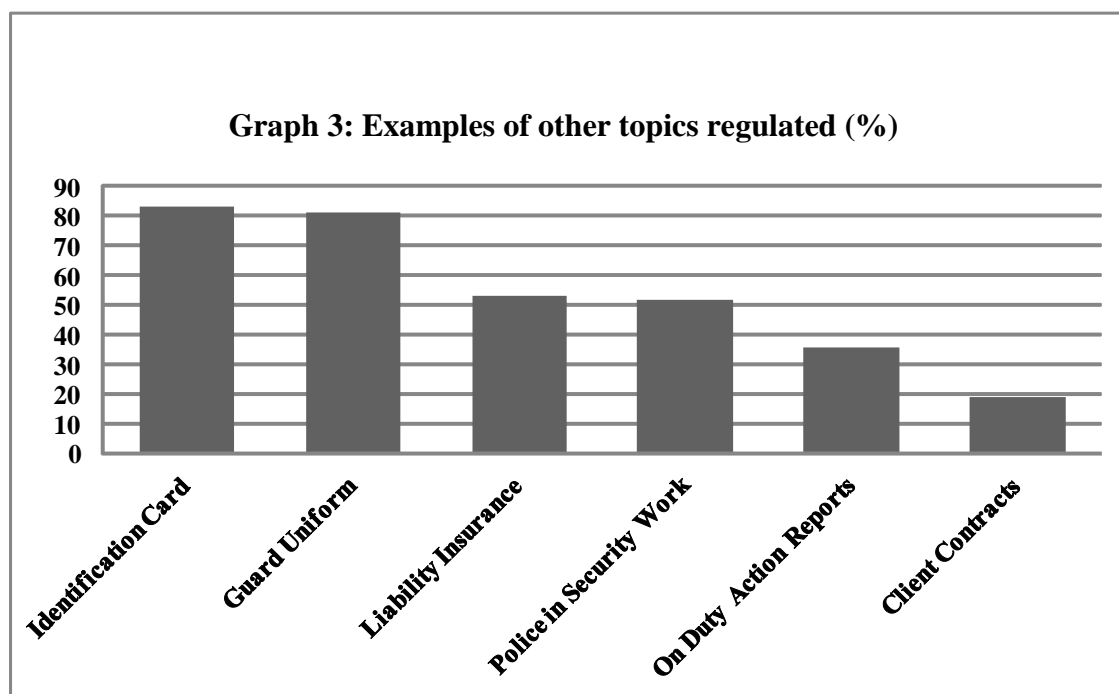
Top management is to some extent licensed, but other staff only occasionally. This is interesting because the integrity of managerial/administrative staff is, in a wider perspective, at least as important as that of security officers/guards. Often this category

of personnel has more access to crucial and confidential information of customers, operations and internal security arrangements.

The specific requirements set out for individual security employee (guard) applicants are basically very similar to any other businesses. Commercial security regulations usually include specific requirements that applicants have to fulfil in order to be eligible for security work in general. These are a certified identity, minimum age, reasonable language skills, acceptable nationality and sometimes minimum educational background. On top of this come industry specific requirements: non-criminal background, general ‘suitability’ for security work, passing of medical (and drug) tests and completion of security officers’ compulsory training and exams (ASIS 2004:11-14). Some of the elements mentioned here are not that easy to attain and monitor in practice, however. The actual implementation of these elements is looked at in chapter 6.

The regulation of other elements related to commercial security

There are several ancillary matters that should be taken into consideration when deciding what to regulate, relating to everyday work procedures and equipment, many of which are critical to the security industry’s credibility and control. Those considered the most important in this context are presented in Graph 3 which includes the rules



regarding the participation of on-duty police officers in commercial security, as well as the clothing, and ID cards/badges of guards.

Guard uniforms are regulated in over 80% of regulatory regimes all over the world. Usually the design, fabrics and colours are included in these directives. Requirements

should also be set on protective special clothing, not just the basic uniforms. There are, however, circumstances when guards need to blend into the crowd by using civilian clothes, for example, store detectives and bodyguards. These cases should be included in regulations as permitted assumptions. In some regulatory regimes there are specific rules to control the distribution of guard uniforms to prevent their use by criminals.

The type, size and colour of both compulsory and other text and badges on clothes are in many regulatory regimes specified by authorities. In this context, it is often required to have the security guard's name on the uniform. The on-duty use of an ID card and personnel number are as well required in many regulatory regimes. It is important to regulate who will provide the personal ID (authority or company), what the size of it is, what minimum information it should contain (rank, name, personnel number, training, powers, gun permits, and so on). From the operative guards' point of view, questions to be considered in regulation are: when must the ID be carried, should it be permanently visible, who can require it to be shown, and in what circumstances? To have the name visible is a topic to be carefully considered (as a safety matter), especially in the case of guards performing duties including keeping order in public and semi-public areas. The importance of ID is also reflected in present regulation, as over 80% of the regulatory regimes have imposed rules concerning it (De Clerck, et al 2007:32).

Compulsory basic training

Compulsory training is an important topic and one of the most discussed in actual political and academic regulation work when considering what to regulate. As there are a limited number of ways to affect the behaviour of security providers in a positive way, training is emphasised in almost all comprehensive presentations on commercial security. There are also several studies touching on the length and content of existing and recommended basic, special and refreshment training (Hess and Wroblewski 1996:84-87, 152-153, 194, 687-691; CoESS and UNI-Europa 1999; 2004; 2006a; ASIS 2004:15-18; Johnson 2005:168-195). It is accepted that security officers and other operational security staff should have compulsory and formalised basic training. However, this is not always the case even in some regulatory regimes that have other basic legislation concerning the industry in place (CoESS 2008). Compulsory training can be categorised into four different bands:

- Basic training for entering the profession and to be eligible to be licensed and to start to work as a security guard/provider.
- Special training of different segments of services and for different tasks.

- Special training to be eligible to use extra powers and to possess weapons or special equipment at work.
- Basic and specialised refreshment training.

It is necessary for all of these different groups of training to be included in regulation to ensure that the actors within the industry receive education on different things and maintain at least a minimum knowledge and understanding of their work. This should, at a minimum, consist of modules concerning their legal responsibilities, their legal rights, and the occupational health and safety risks in their work. Regulation should also define who is responsible for delivering the compulsory training, and what requirements are to be fulfilled by the companies and individuals providing this training. Oversight of training delivery should be formalised through its inclusion in legislation.

In the pilot study related to this research (Hakala 2007:11), training requirements were charted to establish the existence, length and content of basic training to indicate what aspects are regulated. There is a consensus within the industry (CoESS and UNI-Europa 1999) and among regulators with regards to the basic topics to be included in guard training. The never-ending discussion is: how long should adequate basic training be? The survey results (Table 12) showed that in most regulatory regimes, there is a compulsory basic training requirement. The instructions (regulations) regarding the length of the training and its division into ‘classroom’ and ‘on the job’ vary greatly. In this survey, only the total number of any compulsory training hours was recorded. Of the regulatory regimes included in the study, two out of three had compulsory training of more than thirty hours. It must be noted that in this study, only (unarmed) security officers’ basic training at the entry level and for the least qualified work was considered. The available data indicates that changes in basic compulsory training length, at least in Europe, have been very modest during the last fifteen years (Berglund 1995:7; Weber 2002b; Morre 2004a; Hakala 2007:11; CoESS 2008). In some regulatory regimes, there are compulsory training and exams concerning specialised duties, supervisors and managers, even if obligatory basic training is missing.

There are two other basic aspects of training requiring regulation: its timing and the follow-up. The question of training being received before guards can begin working is a double-edged sword (Cortese, et al 2003:16-17). For commercial security companies, a model where training is given flexibly within a certain period after employment is more convenient and profitable. However, this approach does not fulfil the generally accepted requirement for all operational security officers to have minimum training before

starting work. Furthermore, it provides more opportunities for malpractice. It is also detrimental to the industry's image if it can be argued that anyone can put on a uniform and start working as a security provider without any training.

According to the survey results, presented in Table 12, in most regulatory regimes with compulsory training (90%), the training had to be completed before it was possible to start working. Refresher training was not organised as thoroughly, and was compulsory in less than half of these regulatory regimes. Rapid developments within the industry have stimulated discussion of the importance of compulsory, continuous and systematic upgrading of the knowledge and skills of all personnel. The industry considers training to be important factor in creating quality in services (CoESS and UNI-Europa 2006b; Securitas 2011:33). There should not be any doubt that even minimal regulation should include specific rules on compulsory training and its organisation as well as control.

Table 12 Compulsory basic training requirements

| How long is the total basic training required by private security regulation for unarmed security officers performing non-specialised duties? | Proportion % | |
|--|---------------------|--|
| No training required | 14% | |
| 01-29 hours | 19% | |
| 30-89 hours | 31% | |
| Over 90 hours | 36% | |

| Questions to those with compulsory basic training | NO | YES |
|--|------------|------------|
| Can a private security officer start working temporarily without any basic compulsory training? | 90% | 10% |
| Is there compulsory follow-up training for security officers performing non-specialised duties? | 52% | 48% |

Based on the regulations and experiences of the present arrangements within the industry (Swedish Government 2009:22-27), there are five elements which need to be present in the regulation on training:

- The legal responsibility for training arrangements.
- The timing of the compulsory training.
- The length and the content of the compulsory training.
- The requirements for training institutions and trainers.
- The content and organisation of examinations.

The challenges in regulating and executing these entities are discussed in chapter 6.

5.3 Contractual protection of customers and quality assurance

There are other matters, such as assignment contracts, liability insurance and on duty reports which are included in Graph 3, that are tools in carrying out commercial security

activities and in controlling the risks and quality of them³⁷. These matters, primarily related to customer protection have received little attention in commercial security regulation. There are regulation models that have formalised the content of customer contracts. A written contract as a compulsory requirement for starting a service is in the best interest of all parties – authorities, customers and security providers – and should be made compulsory. The main points in a contract – the description of the specified service, the area to be guarded, the number of security guards (and rounds), price, liability coverage and so on – are always important but especially if something goes wrong. This sort of regulation is not so common. In the pilot study it turned out that only some 20% of the regulatory regimes have included it in their industry specific legislation.

In commercial security operations, liability and fidelity insurance coverage is an essential part of customer and business protection. (Calder and Sipes 2002; Ligazette 2005:7; Tuohimaa 2007). This sort of regulation has a dual purpose as it is issued to protect the customers against losses caused by the security provider but also the providers by liability limitation. A little over 50% of the regulatory regimes have included clauses of some kind describing obligatory insurance policies in their private security regulation. It is important to have statutory rules for both the contracts and the liability insurance matters in all security business relations (Securitas 2010a:36-41).

On-duty, customer related, incident reports and their filing are compulsory in 35% of the regulatory regimes under study. Without them it is difficult and sometimes even impossible for clients or authorities to perform on-going and decent follow-up or investigation of companies' activities. There are good grounds to include directives on reporting into the statutory regulation texts.

5.4 Analysis and discussion

In this chapter, the data on the existing situation has been used to identify a core of the 'what and who' subjects that are and should be included in statutory rules, regardless of the regime and environment. The basic challenge, addressed in the next chapter, is the decisions regarding the governance model and the choice of the responsible state authority. This political decision will steer very much the whole regulation process and also the construction of control models.

There are regulatory regimes that have exceeded the public role in commercial security regulation beyond the special legal requirements that can be considered to be the sole

responsibility and in the interest of the state. The idea in more extensive forms of regulation is usually to protect customers from business risks and to guarantee a minimum quality of services. Actual quality is important but is more of a business matter between the provider and the customer (Mrozek 2006:195). The situation in practice is, however, such that most customers, especially within the public sector, make their decisions primarily based on price, not quality (UNI-Europa, et al 2008). Whether service quality as a commodity should be regulated is a double-edged sword. There is a risk of over-regulation and unnecessary interference with market competition. Commercial security regulation should primarily be prescribed to steer the industry in order to protect the interests of the state, its citizens and the individual clients, not to control it as an economic activity.

On practical matters concerning the actual operational control of the industry, it is relatively easy to make conclusions about what and who to regulate when looking at the existing laws in use. The basic entities can, parallel to the findings in chapter 4 (Why regulate?), be divided into three groups:

- Setting of general legal preconditions for commercial security by defining it, its role and the governance model, and based on the fundamental decisions made on these topics: its sphere of operations, its relation to authorities, its division of labour with authorities, its physical appearance, its extra powers, its right to possess weapons and its control by authorities (including industry specific powers).
- Setting of industry specific legal preconditions for commercial security (companies/personnel) by defining the segments of activity to be controlled, the basic compulsory requirements for companies and personnel, the minimum training, the equipment allowed, quality standards and the interplay between providers and customers.
- Setting of business- and quality-related requirements, standards and codes of conduct to formalise business relations to protect customers and to guarantee a minimum quality of service.

These points can form the basis of any commercial security regulation and all of these matters need to be at least evaluated when legislating. There is a more detailed minimum list, as Appendix 4, of the basic questions to be answered when working on the content of statutory commercial security regulation.

There are practical challenges with establishing common standards for commercial security legislation because so many different stakeholder interests have to be taken into consideration. There are also political considerations to take account of, especially concerning states' commitment and willingness to acknowledge publicly society's contemporary dependence on commercial security as a vital element of societal security. At the same time, there is generally hesitancy to provide the resources to implement this kind of legislation and to establish effective monitoring regimes.

CHAPTER 6: HOW TO REGULATE COMMERCIAL SECURITY?

After an acceptance of the requirement to regulate commercial security has been reached and the decision of what and who should be regulated has been made, consideration needs to be given to implementation and compliance. The core matters that need to be taken into consideration can be divided in three groups. First, whether to have: (a) statutory or self-regulation; (b) transnational, federal or local regulation; or (c) uniform or diversified regulation. Second, the identifying of effective and credible governance models to manage commercial security regulation matters. Third, how to organise and implement licensing and control? The administrative implementation of commercial security regulation has to work at two levels. First, there has to be a political authority that has responsibility for the preparation of regulation and its follow up to ensure that it is in the public's best interest and in tune with the changing needs. Second, second layer of governance has to be created or appointed which has responsibility for the practical implementation of the regulation and compliance with it.

6.1 Decisions regarding the regulation model

Statutory or self-regulation?

In the most comprehensive study on security so far, the Hallcrest Report II, the need for statutory regulation has been made very clear:

“Allegations of poor personnel practice, little or no training, inadequate supervision, excessive turnover, abuses of authority, and increasing false alarms have surrounded the field of private security for at least two decades. Despite the expressed and obvious need, standards or controls for this industry have been slow to develop. Some standards exist, but little attention has been paid to them.”

“...On the absence of uniform standards within the security industry, licensing and regulation remains the only tool to assure minimally acceptable private security services.” (Cunningham, et al 1990:150, 152).

The need for statutory regulation has also been argued in a variety of texts during the years (Williams 1984:36-38; South 1985:72-79; Jones and Newburn 1996:113; Flynn 1997:202-203; Irish Government 1997:47, 62; Button 1998a:20-21; United Kingdom Government 1999; 2000; Scottish Executive 2001; Queensland Government 2006d; Zedner 2006: 267, 274; Berg 2007:15-16).

A majority of countries have followed this path. There are some scholars supporting self-regulation, partly mixing the needs of statutory control and commercial quality

control (Sarre and Prenzler 1999:20-21; 2005:208; Connors, et al 2004:152-153). There are no practical examples of successful models in this context; neither are there examples of negative licensing or de-regulation of private security in any regulatory regime (Queensland Government 2003:87-95). There are some mixed systems, for example in Estonia and Sweden, where industry associations are partners in licensing procedures, but the actual decision making remains a state monopoly even in these cases. The alternative voluntary code of conduct has been evaluated by Queensland Government (2003:86-87) authorities, but most of its impacts were considered negative. Self-regulation is used with varying success only in those regulatory regimes where specific legislation is lacking. One of the main problems with the industry's own rules is that sanctions are not working (de Waard 1999:170). Trends in commercial security development, which includes more and more sophisticated and especially public duties, are generating pressures to expand and deepen statutory regulation.

Harmonised or local regulation?

There are some segments of (commercial) security that are steered by transnational treaties or directives. These agreements are binding for the countries and must be followed nation-wide; regardless of the regulation model used or even if specific regulation does not exist. It is also highly improbable that the implementation of these treaties could be or would even be allowed to be executed using local self-regulation.

For those countries with a decentralised federal governance model, the first question in commercial security regulation is whether it should be drafted by the central government or whether it should be the responsibility of the states. 'Steering' of commercial security has been left in most federations to the states (equivalent), as in Australia, Canada, Germany, Switzerland, the United Kingdom and the United States. In countries with special autonomous areas³⁸ guarding is often left to their local rule. Even in the EU, where principally business is free across the borders of the states, (commercial) private security is regulated solely by each member country. In most countries/states that have these 'split' regulation models, there have been pressures to develop cross-border uniformity in legislation, which in practice is a step towards federalisation. The practical problems arising from local regulation models are:

- A need for separate company or individual license when moving from one regulatory regime to another.
- Different firearm laws.
- Organising work when crossing state borders (especially CIT).

- Different requirements on individual suitability and training.
- Inadequate possibilities for background screening.

Discrepancies arise primarily from the fact that in actual federations as well as in free market areas, the companies and individuals are, in principle, free to move and trade or work across the borders, but not in commercial security. The regulation models and practices have not been brought up on the same level with the development of the security industry's activities. It will be hard to improve the situation because of basic political realities, that is, state and autonomous regional independence. Even if the benefits of a centralised regulation model are recognised in the commercial security context, there is hesitancy to make this industry an exception, fearing that it will become a precedent for federalising other legislation too (US Government 2006a; 2006b). There are, however, some exceptions, such as the decision by the Scottish Executive (2001; 2004) to join the UK legislation and the COAG work in Australia to move ahead in this question (The Council of Australian Governments 2008; Davitt 2010; Sarre and Prenzler 2011:81). Within the bulk of the industry, there is genuine willingness, mainly for business reasons, to have streamlined cross-border regulation (De Clerck, et al 2007:28-29).

The question has also been on the table in the EU and it seems that the authorities have a willingness to solve this matter. During the French presidency (2008), a white paper was published. The introduction of the paper stated that (INHES and CoESS 2008:5):

“Taking into account the culture and laws of the different Member States, the goal is to harmonise labour regimes and dialogue in order to coproduce public-private security solutions. The private sector must constructively strengthen its ties with the European Commission. Existing needs will force us to define common rules, and make harmonisation of national laws and European-wide legislation of private security indispensable. ...All players in the security industry must strive to organise the sector, to promote its economic expansion, and to harmonize European laws. These objectives have to be shared by all European partners if we are to assure ever more security for our citizens”. (Nicolas Sarkozy)

Harmonisation, which is very much connected to the general governance, will not be solved in the near future. This means that the possibilities to develop commercial security will be hindered by matters that are very much outside its sphere of influence. The sacred principle of state sovereignty will be hard to jeopardise because of commercial security needs.

There are also pressures to harmonise regulation in Africa. The growing number of PMSCs has turned the whole industry a target of discussion. There are, mostly amongst

the academics and NGOs, ideas and models created to have harmonised regulation for the PMSCs throughout the continent. The problems are different from those faced in other regulatory regimes under study and do not actually touch on the traditional commercial security work or its regulation handled in this study. This question is, however, a future case for harmonisation, affecting strongly the whole industry (Gumedze 2008:18-23).

Uniform or segment diversified regulation?

There is also a more practical need, to decide if all commercial security activities should be regulated within the same legislation. There is already today a clear ‘verticalisation’ (De Clerck, et al 2007:20-24, 39) of the different segments within the commercial security industry. This trend is becoming stronger as the industry gets more sophisticated and professional while simultaneously entering new areas of activity³⁹. The consequences of this development can already be seen everywhere because of transnational rules, for example in aviation security, and growing diversification in local commercial security activities. A specific aspect of this phenomenon has been present historically in some countries. Private security regulation has been divided technically, for example, in Belgium, Finland and Sweden according to the powers (and tasks) approved for different security providers.

Diversification in legislation does not necessarily mean that the administrative responsibilities and control of the industry should be divided. This is, however, often an inevitable course in order to ensure the practical knowledge and professional touch of the responsible authority. It seems to be of great importance to find a way and to decide with care how commercial security activities, with all the inevitable structural changes, could and should be regulated and controlled in the future in a streamlined and most effective way by the authorities.

6.2 All over administrative responsibilities in regulation governance

Arranging total administrative responsibility concerning commercial security

When planning comprehensive governance of commercial security activities in a regulatory regime, a fundamental decision has to be made about the state ministry or department that will have the leading role, powers and responsibilities in commercial security related matters. The obvious solution would be to have just one authority in charge, but the diversification and verticalisation of commercial security areas of activity as well as the internal power struggle between governmental departments makes

this difficult if not impossible. For example, in general the ministry of the interior wants to rule on policing related matters, the ministry of communications and transport on aviation, port and transport chain security, the ministry of finance on cash handling security, the ministry of justice on court security and private correctional services, and so on. This is the verticalisation trend phenomenon in terms of governments. In practice, there are today three alternatives for a coordination authority: the ministry or department in charge of law enforcement, the ministry or department in charge of trade and commerce, or the ministry or department in charge of licensing and fair trade.

The decision on the division of labour is made in practice according to:

- The local political assessment of what commercial security really is and what roles it is supposed to have in the society.
- The history and tradition of handling the control of businesses subject to license.
- The administrative structure of the government and the easiest and cheapest way to handle commercial security control.

From the state's standpoint, commercial security has often been viewed as such a small and marginal matter that usually just the most practical and convenient way has been chosen. However, as the commercial security industry has started to become a more important and more sophisticated provider of public security in societies this default position has shifted.

In practice, a vast majority of the regulatory regimes (about 90%) has put private security under the ministry of the interior/security (equivalent) or justice (Hakala 2007:6). This emphasises the present commonplace understanding that commercial security activities are some form of 'policing'. The decision to have the administrative 'home' of commercial security control within the 'police family' in the governance models is remarkable as it affects and steers the all-over development and practical solutions in regulation work and thus impacts its future development. It is obvious that the emphasis of the ministry responsible of security and/or police is different from the emphasis of the ministry of trade and commerce or the ministry responsible for general licensing in the society.

When making the decision on the administrative home, consideration must be given to how dialogue with the different interest groups will be handled. For effective steering of the practices and development of the security industry, a permanent (regulated) advisory committee, run and chaired by the 'security' ministry and consisting of representatives from different interest groups, could be an adequate tool (Finnish Government 2003;

Sarre and Prenzler 2005:197-198). Experience shows that without this kind of co-operation, authorities experience problems in following up the developments of the industry and the acute problems and needs affecting and pushing regulation development. On the other hand, the industry also needs to have streamlined and organised professional representation in this connection (Grabosky 1995; 1999; Sarre and Prenzler 2005:212-213) which is not always easy, taking into consideration the growing diversification and verticalisation trends within commercial security industry.

The organisation of day-to-day administration of commercial security

The matter of day-to-day administration and control of the industry is more a practical and economic (resource) question, and the solutions chosen are very much connected to the existing administrative models of the regulatory regimes and how they can be utilised in this context. The implementation part of regulation has usually been given less actual thought, and the consequences of insufficient solutions have not been fully understood. A regulation in itself has little impact if it is not rigorously applied. The reason for 'light touch' control is sometimes inadequate funding, which affects the work in several ways (Stenning 2000:340; Sarre and Prenzler 2005:210). As in the case of administration, the optional solution would be to have one 'independent' authority (executive) that handles all day-to-day matters related to commercial security regulation implementation. This is not possible in all regulatory regimes, mostly because of practicalities on the grass roots level. There are four main models to be found in this context:

- An implementation structure based solely on police administration and control.
- An 'independent' authority in charge of all commercial security regulation implementation.
- A licensing authority taking care of commercial security regulation implementation as one part of its work.
- A mixed system with two or more authorities being responsible for different aspects of commercial security regulation implementation.

The pilot study (Table 13) showed that the administrative division of labour in the daily licensing and control of the industry and its personnel indicated a strong connection between private security and general law enforcement (police) activities. The police were the main body responsible for both the licensing and the control of private security officers in over 50% of the 36 regulatory regimes included fully in the pilot study. Departments and agencies connected to the 'security' ministries were the other main

actors in this field. These results indicate that the police in many regulatory regimes are in a pivotal position to steer the commercial security industry and the co-operation between public and commercial security actors. In this kind of set up, it is not easy to separate public, institutional and private interests in a decision-making situation. In accordance with Prenzler and Sarre's (2005:73-74) conclusions, one can ask whether an active police presence guarantees the best division of labour and use of the private security resources in general. The administrative models are also very much connected to the legal systems and governance cultures of the regulatory regimes. An example of this is the role of provincial authorities as the main administrators in countries with a tradition of strong regional authority. Commercial security in the Anglo-American countries is least influenced by police, as those countries have the administrative tradition of 'independent' agencies for licensing and its control. Lately, however, a trend to have police more involved, even in these regulatory regimes, can be noticed.

6.3 The reality in organising the core duties in regulation implementation

The administrative model chosen for routine control crucially affects the effectiveness and professionalism of the execution of commercial security regulation. In practical regulation implementation, the core responsibilities to be organised or controlled by the authorities are:

- Licensing procedures as a whole.
 - Background screening.
 - Compulsory training arrangements.
 - Submission of certificates and ID cards.
- Follow-up and inspections on compliance with the regulations.

All of these duties are such that it is almost impossible to delegate them to private actors if an adequate regulation system is the ultimate goal.

Licensing procedure

In the licensing procedure, the first question is how the granting of the licenses will be taken care of? Will there be one centralised authority with adequate subsidiaries, or will the licensing be handled in co-operation with local authorities that also have other administrative (licensing) and operational functions? There are at least three main models in use today:

- Centralised: all licenses are granted by one authority (e.g. BE, DK, NY and ZA). This model may work technically well if the authority is, for example, the police, with a centralised organisation.
- Decentralised: licenses are granted by local (provincial) authorities in parallel with other duties (e.g. FR, IT and SE). In this model, there is a big risk for local interpretations and sometimes low administrative knowledge of the regulations.
- Mixed: where, for example, company licenses are granted by one centralised authority but individual licenses by another with a nationally covering organisation (e.g. the police in EE and FI).

The present organisational arrangements in granting licenses are presented in Table 13 (Hakala 2007:7). As can be seen, over 90% of the regulatory regimes with private security legislation have an authority in charge of the approval process. The statistics also show that there is a clear difference in authorities responsible for granting licenses to companies and to individual security officers. Police administration grants over 50% of the individual permits but less than 40% of the security business licenses for companies.

Table 13 Practical regulation implementation - license granting and control

| What authority/agency... | Not licensed/ regulated | Ministerial department/ agency | Police authorities | Provincial authority | Other |
|---|----------------------------|--------------------------------------|-----------------------|-------------------------|-------|
| ...is responsible for granting licenses to private security companies? | 3% | 47% | 39% | 8% | 3% |
| ...is responsible for granting licenses to private security personnel? | 6% | 32% | 53% | 6% | 3% |
| ...is legally responsible for on-going control of security companies? | -- | 44% | 42% | 8% | 6% |
| ...is legally responsible for the on-going control of private security personnel? | 3% | 30% | 58% | 6% | 3% |

Day-to-day handling of license applications should be made as smooth as possible for individual applicants. There should be systems that allow the ‘customers’ to make their application manually or electronically through the internet. For the applicant, the main need is to have adequate and simple information on how the procedure is run and what steps are required of him/her. It is also important to inform the applicant at the beginning of the process as to what factors will prevent the granting of a license. In commercial security context, the clean criminal record requirement excludes a relatively high percentage of the applicants automatically. In this situation, it is a waste of time for

both parties if a person with a certain kind of criminal background puts in an application. The application form and papers should not be complicated. This depends, however, mostly on the all-over administrative system and how different authorities have access to and can use governmental information and data bases.

The licensing process of security companies differs naturally from that of individual security guards. The checks of individual trustworthiness of the applicant(s), however, should be at least on the same level for management as for the security officers. Usually, when starting a new commercial security company, the general business license for it is acquired first and after that an application is made to register it as an approved security provider. There is a difficulty in this process on how to exclude criminal elements from owning (controlling) a licensed security company when they are not included in the operational personnel which is usually more systematically controlled.

With individual licenses, the ideal practice is that the applicant just fills in the basic personal data on a form and attaches a couple of photos, the certificate of passing the compulsory training (and a medical certificate). Unfortunately, in many cases the individual applicant is obliged to provide different other documents as appendages. This is partly an outcome of the free movement of work force, which means that there are applicants who are not citizens of the regulatory regime where they are applying for the license. The time that the handling of an application takes is crucial for the applicants but also for the companies and their businesses. The authorities (bureaucracy) and the licensees have a different approach to this matter. As there is, in most cases, a rule that a security guard cannot start to work before the license has been granted, the duration of the licensing process decides how long s/he has to wait for actual employment. Even with the best circumstances, it takes a couple of weeks to process a license, but in most cases, especially if several authorities are involved, it will take many weeks, even months. Commercial security as a business is totally dependent on flexible use of employment. If the licensing process does not live up to this requirement, there is a risk that employees who are not yet licensed will be put to work by the companies. The commercial security is a low-salary industry and it is obvious that if applicants have to wait a long time for their license, there is a risk that they will take another job if one is available.

The present form of the issuance of the actual license has to be carefully assessed. Will the authority give the applicant a paper certificate or an ID-card? There is a big

difference in cost, credibility and usability between these two models. If the authority issues only a paper certificate, the possibility of future control is very much lost. On the other hand, if an official photo ID-card with all needed information is issued, there is the possibility to register it, to cancel it, to renew it, to put extra information of training, gun licenses, etc. on or in it. It also gives uniformity in control situations both for the authorities and citizens. Despite the indisputable benefits of this kind of certification, for different reasons it has not been implemented in all countries. For example, the issuance of ID cards/badges is with the companies in New York and Sweden and with the association of the security companies in Estonia. Administrative cost factors are often quoted in this context, but they can be taken care of by a licensing fee.

Background and suitability screening

A core element in the licensing process is the screening of the applicants, which in practice usually includes a criminal record check and in some countries also other police records. Access to this kind of information is restricted in all countries. Its use by other authorities outside the record 'owner' includes often a lot of bureaucracy. To guarantee flexibility, there must be statutory regulations on access rights and procedures for information issuance. This means that in practice, swift application handling is impossible if special arrangements are not made. The process can be streamlined using the latest information technology. Another problem in this context is the coverage of the records. It is not acceptable that an applicant is checked only against the local (state) criminal records. The credibility of the system and the industry requires in many cases (aliens) a more comprehensive check. This means more delays in the handling process, if obtaining (trustworthy) information is even possible at all.

Personal suitability screening, which is included into private security legislation in some regulatory regimes, for example in New York and Queensland, is, however, an extremely complicated matter to organise. First, it has to be defined how the relative individual assessments are made, by whom, what characteristics are included, and how the results are documented. Second, who knows the person in a way that he or she can give an opinion? For example, if the evaluator in a small town or in the countryside is the local police, there may be such knowledge of an applicant, but in a bigger city this is quite improbable. Guaranteeing equality and objectivity in this procedure is almost impossible.

The organisation and execution of background and suitability screening shall be such that it guarantees a swift, simple, transparent and equal process that serves all the

parties: authorities, companies, security officers and the society. In practice this has turned out to be a tough challenge for regulators and authorities everywhere.

Training arrangements

In a majority of the regulatory regimes, the organisation of compulsory training is complicated. It is relatively 'easy' to set high compulsory training requirements in the regulation, but in many cases the actual content and execution of training has not been thought through (Irish Government 1997:7; Yoshida 1999:250-251). It is quite often left to the administrative authorities or even the training organisers to decide how it will be done. There are three main models for organising the compulsory training to be found today:

- Organised by training companies/institutions connected to the national NVQ system, and training programme and trainer approvals are issued by the educational authorities (e.g. ZA and QLD).
- Organised by commercial security companies themselves, by national branch associations or by special training companies that are accredited according to private security regulation (e.g. BE, EE and SE).
- Organised and sponsored by the government or institutions controlled/approved by it (e.g. DK and FI).

There are five questions to be considered by the legislators and authorities when planning how to organise the practical execution of compulsory training.

First, should the training be carried out separately or should it be integrated somehow with the formal education system? If it is arranged as a part of or connected to the general NVQ system, it is easier to have an official status for the training and to arrange further education. The handicap can be that decisions regarding the execution will be made by authorities who do not have adequate knowledge of the needs and requirements of commercial security work.

Second, who should plan and decide the content of compulsory training? In many regulatory regimes, this has been included in the statutory regulation. Often there are very detailed stipulations of the length, the subjects of instruction and the examination. A strict frame, especially concerning the content of the training may also become a handicap when the educational needs change. There should be a system to develop and amend the training to some extent without needing to rewrite the statutory regulations.

Third, who should be given the right to carry out actual basic training and examinations as well as are the security companies themselves considered eligible for this activity? Both the certification of the institutes and the trainers need to be organised. Without having a clear and controlled system on these matters, the goals set for compulsory training may not be reached. The existing models vary from no structure at all to a totally state organised education. Traditionally the police have had a bigger or smaller role in arranging training. The need and appropriateness for this should also be evaluated carefully. Whatever model of training is used, there is a need for a self-sufficient examination to control the knowledge of the students and the quality of the training.

Fourth, how are the trainers and the training itself certified and controlled? Today there are models where the general educational authorities or the ones in charge of all-over commercial security licensing approve the training providers and the trainers. An important detail is also to regulate who approves/signs the course certificates that are needed as a part of the license application. In many of the otherwise well-structured regulation models, there is a lack of on-going adequate control of these matters.

Fifth, how to finance compulsory basic training? The division of costs between the state, companies and the applicants has to be carefully balanced. Today there are a variety of models where one of these parties carries the whole cost, or it is shared in different ways between them. Whoever is the payer; this is a remarkable cost factor, the division of which should not be left for the market or companies to decide.

Control and inspections of commercial security providers

Even the best possible regulation is compromised if its implementation and control has not been organised vigorously. There needs to be pro-active inspection work and robust complaint handling procedures. This requires a regulatory authority with adequate resources, powers and the co-operation possibilities with other branches of the state's administration. The inspections have to be regular and apply to all companies working under the industry specific regulation. To be able to do this work properly, the controlling authority needs to have access to all premises and material connected to the operations of the licensed security firms. It is also of utmost importance that these rights include access to business (and taxation) data and that it is possible to require a firm to place any material at the authority's disposal in advance. The authority need to have powers to enforce refractory companies, for example, by a conditional imposition of a fine or by cancelling the license. A protocol of the control visit, including the outcome

and remarks of the inspection, should be provided for the company with deadlines to correct the shortcomings. It is also important that there are resources to check that problems have been taken care of within the given time frame.

Experience shows that a swift mechanism of handling public complaints concerning commercial security providers and their behaviour is needed to improve the credibility of the industry. Today, in societies where the industry is regulated, this has been often arranged with the possibility to make the complaints not only to the police, but to the authority responsible for the control of licensed commercial security activities. In some countries, complaints can be made even through the internet on the authority's website (e.g. UK and ZA). Having the controlling body as the first point of call in handling complaints has turned out to be a working model guaranteeing a more professional and faster handling of suspected malpractice. This also helps the authority to have a first-hand touch on the problems appearing in the licensed activities. Another, extremely delicate, question is how to handle whistle blowing reports concerning commercial security providers and their customers. This matter has become acute in some countries where guards have a regulated duty for reporting certain incidents and crimes, even concerning the customers (e.g. ES and SE).

In the licensing and control of commercial security, there is, as in all activities, the question of how to finance the work. There are two practices in use: either the authority is funded through state budget, or the security companies pay a license and control fee, and the individual security officer's license has also a price. In most regulatory regimes, this has been handled by setting an official price list for these services.

6.4 Analysis and discussion

It is in the implementation of regulation, when answering the how to regulate question, that authorities face the biggest challenges. This part of commercial security control is also predominantly a command and control as well as a top-down governance practice (Caparini 2006:263). It would be important that all matters related to the question of how to regulate are planned with care. There is a real risk that the emphasis is in the writing of the laws and regulations but the organisations and resources to implement them are forgotten or neglected. The basic principle should be here as in other legislation concerning the operators – trust but control! It is understandable that prevailing governance structures steer the legislation work and the control arrangements. It is not possible to delegate this to any other (private) party in the

society. Enough time and effort need to be used to understand the special features and the core matters in regulating commercial security. There are several pragmatic structural points to decide in order to be able to steer and develop the governance of the industry. It is inevitable that the existing structures will steer the chosen arrangements but even so, decision makers should be aware of the consequences that the chosen arrangements will bring with them. It is obvious that in all regulatory regimes, the structures of the government organisations are not able to adequately steer and control the industry's daily activities and its future development.

It is not possible within this thesis to handle all of the daily governance challenges concerning commercial security. The main issues to take into consideration in this context can be listed as follows:

- A regular analysis has to be made to determine how to adapt the local regulation arrangements to the surrounding world as well as how do international commitments affect the work.
- The model of regulation must be constantly considered. Would one piece of legislation cover the whole industry, or should it be divided according to the segments of activity?
- The division of labour within the government concerning commercial security matters should be decided. Principally at least two layers of authority should be appointed:
 - The ministry or ministries responsible for the all-over administration of commercial security matters and legislation.
 - The governmental organisations (departments, agencies) being in practice responsible for the day to day administration, steering and control of the commercial security providers.
- An all-over framework needs to be created for the practical day-to-day execution of commercial security control, including licensing and inspections.

A directive list of the principal topics to be taken into consideration in the existing and future organisations steering commercial security activities is in Appendix 5. A well-legislated security industry with a professionally organised and adequately resourced administrative authority is necessary not only for the commercial security providers but also for the society as a whole. Limited resources given to authorities to steer and control a dynamic and growing industry will sooner or later backfire.

PART II

THE PRACTICES OF COMMERCIAL SECURITY REGULATION IN THE REGULATORY REGIMES UNDER STUDY

CHAPTER 7: GENERAL FACTS OF THE REGULATORY REGIMES

The six regulatory regimes under study have quite different governmental and law enforcement structures. They are also very different in geographical size, population, history, culture, administration, and wealth. It is difficult, if not impossible, to understand the local private and commercial security regulation models without some general knowledge of the different societies under study. In order to have basic background information to understand the results of the interviews, some general facts as well as comparable key figures and data have been collected, presented and commented in the following sub-sections.⁴⁰

7.1 Distinguishing characteristics of the regulatory regimes

According to general data available⁴¹ on the six regulatory regimes under study they have different state models. Two of them are (constitutional) kingdoms (BE and SE), two republics (EE and ZA) and two states in a confederation (QLD and NY). The basic models within which their governance is carried out are centralised (EE, ZA and SE) or (partly) decentralised (BE, NY and QLD). There are also huge differences in the ‘age’ (tradition) of their ongoing governance models. The present state structures have been principally in force since⁴²: Belgium 1980 (1830); Estonia 1990 (1920-1939); New York 1788; Queensland 1901 (1859); South Africa 1994 (1931) and Sweden 1521. Within this sample of regulatory regimes it is inevitable that the differences in the history and structure of governance models have affected the development of functions like law enforcement, commercial security and social dialogue.

The basic statistical figures of the regulatory regimes in Table 14 illustrate the numerical differences between them and show the general sizes of the societies. They are important to take into consideration when evaluating some of the differences in commercial security arrangements, even if they, by far, do not explain the majority of them. If we look at the figures usually used to describe the size of a region, we can see their very different geographical sizes from Belgium’s 30.5 thousand square kilometres to Queensland’s 1.7 million. Concerning the population, from 1.3 million in Estonia to 44.8 million in South Africa, and the population density from 2.4/km² in Queensland to 137/km² in New York.

Table 14 National figures of the regulatory regimes under study⁴³

| Subject | BE | EE | NY ⁴⁴ | QLD ⁴⁵ | ZA | SE |
|--------------------------------------|--------|--------|-----------------------|-------------------------|---------------------|---------|
| Surface area km ² | 30 520 | 45 100 | 141 090 ⁴⁶ | 1 722 000 ⁴⁷ | 1 221 037 | 449 964 |
| Population '000 | 10 296 | 1 370 | 19 298 ⁴⁸ | 4 182 | 44 819 | 8 872 |
| Average annual change % | +0.4% | -0.4% | +0.24% ⁴⁹ | +2.3 ⁵⁰ | +1.6% ⁵¹ | +0.3% |
| Population density / km ² | 47 | 30 | 137 ⁵² | 2.4 | 38 | 20 |

If comparing the size of the economies using GDP/GSP⁵³ figures, available at the time of the interviews of the regulatory regimes under study (Table 15), it can be seen that the variations are huge. For example, the GSP of New York is alone bigger than in the five others combined. When comparing the figures per capita, the actual wealth of the society is revealed. The highest one, that of NY, over 58 000 dollars, is almost five times that of Estonia and eleven times that of South Africa.⁵⁴ The number of people under the poverty line in the used index is quite indefinite, but gives an indication that South Africa has a poverty problem. In the same way there is a remarkable difference in life expectancy between South Africa and the other regimes under study.

Table 15 Economic and social factors of the regulatory regimes under study

| Subject | BE | EE | NY ⁵⁵ | QLD ⁵⁶ | ZA | SE |
|--|--------------|--------------|------------------|-------------------|--------------|-------------|
| GDP/GSP ⁵⁷ '000 000 (US\$) | 386.945 | 16.089 | 1.144.481 | 179.669 | 247.814 | 382.825 |
| GDP/GSP per capita (US\$) | 37.651 | 11.743 | 58.306 | 42.962 | 5.123 | 42.170 |
| Population below poverty line ⁵⁸ - % of all/(present index ranking) | 15% /(110) | 5%/(139) | 12%/(121) | N/A | 50%(23) | N/A |
| CPI / (present index ranking) ⁵⁹ | 7.1/ (21) | 6.6 / (27) | 7.5 / (19) | 8.7 / (8) | 4.7 / (55) | 9.2 / (3) |
| Democracy index/(present ranking) ⁶⁰ | 81.89 / (10) | 71.69 / (23) | 78.22 / (16) | 82.00 / (9) | 55.52 / (50) | 89.54 / (1) |
| Life expectancy by birth ⁶¹ - ranking/years | 33 / 79.07 | 118 /72.56 | 47 / 78.14 | 7 / 81.77 | 210 / 48.88 | 10 / 80.74 |
| Welfare state regime ⁶² | 2 | (3) | 1 | 1 | (3) | 3 |

If looking at the less scientific corruption perception index (CPI) and the democracy ranking figures, they indicate that Sweden is today among the world's best in both statistics. Out of the six regulatory regimes compared, South Africa has the worst index points on both lists, with a ranking of 55 and 50 respectively. An interesting question is how does the positioning of the different regulatory regimes in the statistics affect the local commercial security activities?

7.2. Crime and law enforcement characteristics of the regulatory regimes

Comparable and reliable crime related statistics and figures are hard, if not impossible, to find because of the different ways of collecting and presenting data country by country. Nevertheless, in order to gain some understanding about the situation within the regulatory regimes under study, some figures have been presented as examples. As can be seen in Table 16, there are big differences to be found. The prison population varies from the top figure of the United States, 715 inmates per 100 000 inhabitants, to 75 in Sweden. The homicide rate has been taken here as a comparison indicator of crime as it is probably the offence that is defined globally somehow in the same way. It can be seen that South Africa has by far the worst situation and Sweden the best. The number of police officers per capita varies a lot, which indicates at least two things: the different public law enforcement structures of the regulatory regimes under study and their crime situation. The figures in all give a glimpse of the reality in the different regimes but it is, however, difficult, if not impossible, to draw straight conclusions based on this information.

Table 16 Crime and public law enforcement comparison statistics / per capita⁶³

| | BE | EE | NY ⁶⁴ | QLD ⁶⁵ | ZA | SE |
|---|------------|------------|------------------|-------------------|--------------------------|-----------|
| Prisoners⁶⁶ - number of prisoners per 100 000 inhabitants / (index ranking) | 88 / (101) | 339 / (18) | 715 / (1) | 116 / (73) | 402 / (10) | 75/(108) |
| Murders⁶⁷ - number of murders per 100 000 inhabitants / (index ranking) | 1,5 / (-) | 10,7 / (7) | 4,3 / (24) | 1,5 / (43) | 49,6 / (2) | 0,9 / (-) |
| Murders with guns⁶⁸ - number of cases per 100 000 inhabitants / (index ranking) | N/A | 1,6 / (13) | 2,8 / (8) | 0,3 / (27) | [72,0/(1)] ⁶⁹ | N/A |
| Police / Population ratio⁷⁰ - Police / number of inhabitants | 1 / 267 | 1 / 419 | 1 / 392 | 1 / 235 | 1 / 302 | 1 / 544 |

Even if the presented figures are not fully comparable, their great variations emphasise the big differences these societies have in their geography, population, wealth, governance, and crime. When comparing the local commercial security arrangements with these, one aspect should be to find out if there are any societal factors that have a direct impact on the regulation of the industry.

The development of commercial security is strongly connected to the structures of public law enforcement and policing. The present public police forces in the regulatory regimes under study have different ‘historical’ background and constitutional profiles, as do the commercial security organisations. To create a platform to understand the size

and structure of the security actors in different regulatory regimes under study, some (incomparable) information has been presented in the following Table 17.

Table 17 Public police and commercial security activities in the regulatory regimes under study⁷¹

| | |
|----------------------------|---|
| Belgium ⁷² | <p>Decentralised police. There are 196 local police organisations, including altogether some 28.500 sworn police officers. On top of this the Federal Police, including some 12.000 sworn staff, is operating throughout the country.</p> <p>There are approximately 200 licensed private security companies with personnel of 18.500. Over 80% of the security business activities are traditional and performed within private premises.</p> |
| Estonia ⁷³ | <p>Centralised police. The total police force is some 3.200 sworn police officers. The whole police organisation was reorganised (cleansed from Soviet time personnel and culture) in 1994.</p> <p>There are approximately 250 licensed private security companies with personnel of 4.300.</p> |
| New York ⁷⁴ | <p>Decentralised police. There are some 180 independent local law enforcement organisations with approximately 77.000 sworn police officers within NY. On top of this there are the federal law enforcement actors operating within the state.</p> <p>The number of security companies is N/A. The number of guards is estimated to be a little over 100.000.</p> |
| Queensland ⁷⁵ | <p>Centralised police. There are approximately 10.000 sworn police officers in the QLD force. The force was totally reorganised in 1989 because of widespread corruption and mismanagement. On top of the QLD police the federal police (AFP) is operating within the state, including the APS⁷⁶.</p> <p>The number of security companies is N/A. Employees can be estimated to be some 7.500.</p> |
| South Africa ⁷⁷ | <p>Centralised police. The total police force is some 148.000 sworn police officers. The police was totally reorganised after the 1994 elections to reflect the new (post apartheid) state policies. There are problems with the efficiency and honesty of the force.</p> <p>There are 6.392 licensed security companies. The number of valid security officer licenses is approximately 375. 000. (On top of this there are some 940 000 inactive personal license holders.)</p> |
| Sweden ⁷⁸ | <p>Centralised police. The total police force is some 18.300 sworn police officers.</p> <p>There are approximately 250 licensed private security companies with 12.000 guards.</p> |

7.3 Analysis and discussion

In this chapter a minimal amount of security related general information and data on the regulatory regimes under study has been considered. The significant differences in the basic data indicate that they are very dissimilar with regard to the challenges in security. Therefore it is important to take into consideration whether and/or how these structural differences affect the commercial security and especially its regulation. One obvious

example concerns the degree of unionisation and the framework for social dialogue between the representatives of trade unions and employers' organisations. Societies with a high degree of unionisation as well as strong institutionalised culture of negotiation arrangements between the social partners seem to benefit from higher quality of commercial security services. It also affects positively the salaries of the guards and cuts down their turnover. As can be noticed from Table 18, the strength of unions and the cultures of social dialogue within commercial security vary a lot in the regulatory regimes under study.

Table 18 Social dialogue cultures in the regulatory regimes under study

| | |
|----------------------------|--|
| Belgium ⁷⁹ | Approximately 85% of the guards are members in three politically based trade unions. The private security employers have an association representing the whole industry. The collective agreement system is comprehensive (and bureaucratic) covering over 20 different private security activities today. |
| Estonia ⁸⁰ | Guards are not unionised within any national syndicate. The private security employers have an organisation (ASA) representing the whole industry. There are no national collective agreements. |
| New York ⁸¹ | Guards are poorly unionised (partly because of the existing legislation). Their main union is SEIU 32B. The employers are partly organised within the local NASCO branch but cannot carry on collective social dialogue because of the existing cartel legislation. |
| Queensland ⁸² | Only a small part of the guards are unionised at least as guards. The main union representing them is LHMU. The main security companies are organised in ASIAL which presents the industry on a national level. Locally there are several small associations representing different security company groups. |
| South Africa ⁸³ | Guards are relatively well organised, having some 15 different unions representing them. The most prominent of them is SATAWU which has close connections to the ruling party ANC. The employers have a central body SIA representing them in wage negotiations. There is a (state controlled) collective agreement procedure which is tried to be developed by the social dialogue parties. |
| Sweden ⁸⁴ | Approximately 85% of the guards are members in the STWU union. Over 90% of the security companies are members of ALMEGA employer association. The collective agreement system is comprehensive, covering all employment within the security industry. |

Based on the information, some fundamental questions have to be asked:

- What are the distinctive local reasons for commercial security regulation?
- Can the notable differences in the status and regulation of commercial security be explained by the defining characteristics of a given society?
- How does the statutory regulation of commercial security reflect the governance culture of a given society?

- Is the construction of a transnational, cross-border regulatory regime for commercial security feasible?

CHAPTER 8: INTERVIEWS - WHY REGULATE?

For the majority of respondents, the question ‘why regulate?’ was an abstract one. Most had not given much thought to this matter, unless they had been a part of the actual regulation process. It also became obvious in this context that (commercial) private security regulation is very much a governmental, top-down, ‘command and control’ process. The reasons for regulation had not been discussed or debated widely, neither publicly nor within the industry. If dialogue occurred, it was when deciding to draft the legislation, not so much later on when amending and developing this legislation. The original reasons for regulation seemed to have been forgotten. The interviewees provided invaluable previously undisclosed information regarding what they viewed to be the real reasons for regulation, reasons different from those stated in the official documentation. What follows in this chapter can be considered primarily as a supporting part to the thesis as a whole, revealing knowledge that widens, strengthens and diversifies the understanding of (commercial) private security legislation processes in the different regulatory regimes.

8.1 Situation in the regulatory regimes under study

Belgium

In Belgium, the history of private security regulation dates back to the 1930s, when special legislation was implemented to control the threat posed by private militias. This was also used later on to control private security companies (CoESS and APEG/BVBO 2010:22). Three of the interviewees described the historical development very similarly:

“It was a law, not made for the private security companies but to try to stop the fascist groups, military groups as they were in Germany and Italy. The Belgian Government was afraid of armed people in uniform working on the street. ...until the new law in 1990, every private security company had to show that it did not fall under that specific law on private militia.” (Manager)

The same argument was used also by another expert: “...regulation was needed the moment we created the law because it [the control] was relying on a very old legislative system from out of the thirties and there the legislation was created especially against private militias.” (Expert) A third interviewee concurred but forwarded more general needs for industry specific regulation:

“There was no regulation except the very old law on private militia ... but the authorities realised in the 1980s that this law was not enough to stop the enormous amount of the so-called guarding companies that were on the market. So that was the first reason – to protect the citizens and to build in legislation guarantees that

private security activities will not hamper the basic and fundamental rights of the citizens.” (Industry expert)

Some of the interviewees emphasised the violent turbulence of the 1980s (Judt 2005; Reynebeau 2005) in Belgium as the main contemporary reason for statutory industry specific legislation. Terrorist violence enacted by both right-wing and left-wing militant groups threatened the existence of the state:

“And especially the years of the 1980s were a black period for Belgium. That was a period, let us say, of pre-revolutionary movement. ... And in this period we had a few armed attacks on military bases and on police barracks where high-tech weapons were stolen and it was known that it was done by other military.” (Industry expert)

Another interviewee commented on the same phenomenon, pointing out the political aspect of some of these incidents:

“We had problems with private militias, especially right-wing private political militias due to political reasons related to Belgium. ... So right-wing political militias were there and also in the ‘80s we were confronted with terrorism. It was the first time we had terrorism, political terrorism on our soil.” (Expert)

The society was also hit during the same period by other acts of unacknowledged violence, carried out by clandestine groups: “And also in these days we had, still today unsolved, murder teams who killed altogether 29 people especially on Friday evenings in the big supermarkets, and also the bombings by a group, bombing especially American targets.” (Industry Expert) Another interviewee commented on this being pure criminality: “In the 1980s we were confronted with new crime phenomena. We had very tough under-world criminality, so there were some gangs that really killed people during shopping hours at shopping malls.” (Expert) Some politicians thought that the violence was connected to security companies:

“The politicians in those days believed, and perhaps it is true and nobody knows exactly the truth, that there was a possibility that the ‘helping hands’ of all these troubles were perhaps people coming from security companies because they had some kind of military procedures and so on.” (Industry expert)⁸⁵

After the 1988 elections, the new central-left government coalition opted for a new criminal policy which included police reform. In addition to reorganising state security, the decision was made to regulate private security. The following comment illustrates the undercurrents that pushed things forward: “There were political reasons on one side, legal reasons because the old law on private militias did not work, and thirdly the economic reality of those days.” (Industry expert) On top of the out-of-date legislative situation, the more politically sensitive reason cited above was also mentioned by the same interviewee: “...there were also these ‘put behind’ groups discovered and we were

afraid that they could be helped by some of the workers or leading people of private security companies.” The birth of the new industry specific regulation needs to be placed within the all-over situation in Belgium before the fall of the Berlin Wall. Perceived as vulnerable CNI objects were; for example, the NATO (SHAPE) HQ, some of the main EC institutions, the strategically important port of Antwerp, and strong American business interests.

The private security regulation process was government initiated and executed. At that time there were no credible professional associations or bodies within commercial security in Belgium, representatives of which could have spoken on behalf of the industry:

“There was no association at that moment or no serious association, there were no partners, no dialogue, and there were individuals. ...the main attitude of the individual persons in the different companies was: we don’t want regulation, keep out of our business, we are against it.” (Manager)

The politicians had, however, made up their mind and took a non-negotiable attitude towards regulation of the industry. As described in another comment by the same interviewee: “...they said: we will go forward, straight forward and we will do it, if you don’t want to talk with us then we will set out our guidelines ourselves, and that was what happened.”

Some of the security industry stakeholders, including the trade unions, did understand that strategically the proposed legislative changes could give a boost to the business and its personnel. The social partners emphasised the importance of keeping the industry ‘clean’ and the competition fair:

“Of course [a minor part of] the industry had another objective, the industry wanted really to clean up the markets. The industry wanted clear and strict rules for all the players to create a level playing field and the industry wanted in such a way to be officially recognised.” (Industry expert)

“I don’t think we can live without regulation because this is a very difficult activity and we need companies and people that we can trust. ...It is good that the government is looking after that the rules are respected, and they are the same to everyone.” (Industry expert)

Estonia

In Estonia, the history of private security regulation goes back to the time the country was a part of the Soviet Union. The police had a special ‘guarding’ branch, Valvekoondis, which was regulated separately as a state function and headed by a high-ranking intelligence (KGB) officer. When Estonia became independent, this

organisation continued as a state 'owned' security company. There was, however, no legislation to control security firms founded as private enterprises and this created problems: "There was a need to give all, not only the Valvekoondis the possibility to offer security services and the law was amended because of that." (Industry expert)

The first years of independence saw a number of 'western' styles security companies established to fill the vacuum of security services in a paralysed state. The problem was, however, that the police force was in turmoil and not trusted. Hence it was not in a position to control private security providers. This situation was described very clearly by an interviewee who had lived through this period:

"Before [the new law] there were certain incidents where it was important for the private security firms to show their 'muscle', to be as police. The police were then in the first transition phase from the Soviet time militia. The private security firms isolated themselves from the militia/police and their credibility was bigger than that of the militia/police... If someone had problems with criminals, they turned to the private security firms for help. Private security firms which had a paramilitary look were born, very impressive, and one was like a people's defence organisation." (Industry expert)

This situation was untenable, and a law on private security was implemented. The feelings within the government was clear: it is not possible to live without industry specific legislation and government control: "I think that if we do not have regulations, we will have a lot of problems, a lot of conflicts and ... we cannot imagine that there was no law and that everyone would work with no system in this thing." (Industry expert) This interviewee further stated that the basic need for regulation was experienced in practice very clearly, and there were no alternatives: "It is absolutely needed that they [the security providers] do not use [extra] powers and all know where the authorities can work and were the private security." The situation and the needs it had created were expressed as the same but in a more diplomatic way in another comment: "There are probably two aspects to that: firstly that there was a public interest to regulate private security activities and secondly ... in 1993 here in Estonia, the situation then was a little different from the present one." (Industry expert) The interviewee emphasised that security industry was very young and immature and obviously needed some control and steering: "The first private security firms had then operated only for two years and the whole market was in a stage of development, and the state felt that this activity should be regulated."

The basic rights of the citizens were, and are, a sensitive question in a former communist country where, for example, privacy had been jeopardised systematically by

the state organs for 50 years. Even if the times had changed, the behaviour of the state representatives and people in general did not change overnight. The society functioned very much like the 'wild west', the strongest and boldest as 'top dogs'.⁸⁶

In the Estonian environment, a clear division of labour was emphasised as the powers and roles of the police and commercial security providers had become blurred during the first transition years: "It is needed that they [security companies] do not use extra powers they do not have and do know where the authorities can operate and where the private actors, where the domain of one starts and of the other ends." (Industry expert) The need for clear boundaries was also emphasised by an operational industry representative, calling for a clearer division of labour: "I think that some kind of 'sand-pit' needs to be defined by regulation. What belongs to the police and what to the private security?" (Manager) The security industry quickly recognised that state regulation would give it credibility and would also strengthen its business position:

"They [the industry] understood that regulation of the business environment helps their own business and forces out dubious persons. ...control from the state convinces also the customers that those firms which were registered have some basic guarantees that one was not dealing with such dubious characters and there were no persons with a criminal background involved."(Industry expert)

New York

In New York, the security industry was regulated for the first time in 1994 in the aftermath of the World Trade Center bombings of February 1993. This was preceded by Security Guard Act 1992 which focused on guard licensing and training. After 9/11 terrorism has dominated the discussion of security in general and also the opinions expressed on the need to regulate more comprehensively non-governmental security providers. It is interesting to note in this connection that New York State did not see any need to rewrite its laws on private security after 9/11. That the Twin Tower catastrophe affects the local experts' thinking on private security can be noted from many of the interviewee comments.

"I might point out that while 9/11 has made a difference that will always be there, I think the difference might be dissipating somehow at a phase that is hard to measure. No matter how many years there is away from 9/11 - that will always be a factor that changed the security industry or paddock of the security industry in a way that will never go back before 9/11." (Industry expert)

Security professionals were pragmatic on the need to renew the New York State private security regulation in the aftermath of the incident. They considered the matter to have been taken care of already eight years back after the previous (first) attack was made:

“The government of New York State did not do much because the security in New York City had been upgraded after the 1993 World Trade Center bombings. Most of the needed improvements had been made – not much more to be done.” (Expert)

In the opinion of one industry manager the terrorist threat is actually having little regulatory or steering implications for the security industry:

“We do not fight terrorism as an industry, but the politicians do not have the right picture of the division of labour. ...our industry with its needs is not at their top priority list. Terrorism is not driving the industry as a business. The economy is driving the speed of the industry growth, no doubt.” (Manager)

Putting aside terrorism, regulation is accepted as a ‘necessary evil’ in order to have a structured and controlled industry:

“Private security regulation is needed. Generally in the United States there is very little regulation. Nobody loves regulation in the United States. The number one reasons to regulate here are to keep out criminals from the industry and today also, after 9/11, to prevent infiltration of terrorists [sleepers] in private security organisations, those collecting information to be used in terrorist attacks.” (Industry expert)

Regulation is not a priority concern for the industry’s different interest groups in the United States, In the New York context, from a trade union perspective, the strategy chosen on regulation is as follows:

“I think that ideally this Union believes that making a convincing argument to the business world and having the standards raised in this century in the industry, it should happen on a voluntary basis without legislative requirements. This is a better way to go and this is the path that this union has pursued for the last few years.” (Industry expert)

There is also support for statutory regulation and a wish for better control as can be seen from the following comment:

“I think the regulation is needed ... we are leading the industry but as everybody of the smaller companies are fouling up, what should we do – we would like to be on the same level or the same playing field and be with the same advantage with everyone.” (Manager)

As can be noted from this opinion, the regulation and the implementation of the rules are, at least in the eyes of some of the licensees, uneven.

The reasons and actors triggering regulation in New York were not that clear. Commentaries on the actual problems were not forthcoming: “I think there were some high profile issues and situations with the security officers ... it was just the Wild West, Wild West. Absolutely no constancy with customers.” (Manager) In another comment by the same interviewee, one of the problems was described: “You had companies

where you literally could walk in, [they] hired a security officer off the street, maybe working a post in an hour.” It is not even that clear exactly who was pushing the legislation:

“I believe it was political. That’s my understanding.... But I don’t believe the industry was sophisticated enough at that point from my recollection to be pushing it. The industry probably resisted it to some extent. I think it is now that we are more ready to increase regulation.” (Manager)

The industry has not been proactive in pushing the legislation, so the initiatives have come from the State Legislature:

“There are no specific groups who are active with the legislation. In the State Legislature it is very much up to single representatives to highlight private security, which was the case in 1994. Presently there does not seem to be anyone who is especially focusing on private security legislation.” (Industry expert)

The New York interviewees did not have many comments on the need for regulation.

In addition to the comments above, there were some other opinions that touched on regulation. One of them, from a customer, was very precise: “We do not want to have criminals within the industry. The clients would not be very happy about that.” (Expert) The same interviewee also commented on the regulation needs concerning 'bouncers' who are not regulated in New York State today. “There have been incidents when the bouncers⁸⁷ have raped and killed their intoxicated patrons. This has got a lot of media publicity; the licensing of bouncers has been discussed.” The matter is, however, not considered primarily a private security or commercial security matter but more a public order question related to licensed venues that are within the domain of other legislation and the police:

“Nothing has happened in reality, let us see. The police have been active in this area using the powers rising from other regulation [alcohol licenses]. The state as such has not been strict and has not used even the existing powers in full to affect the situation.” (Manager)

Queensland

In Queensland, the history of private security regulation dates back to the beginning of the 1990s. In Australia as a whole, private security as well as commercial security are considered and seen by the citizens as analogous to the police. This perspective naturally affects all the measures taken in the legislative work concerning the industry. In general, the basic thoughts of the industry experts on the need for regulation can be found in the following comment: “The need is there because the police themselves have to be regulated.” (Manager)

There is disproportionate public attention paid to crowd control enacted by security door staff or ‘bouncers’ as a part of the security activities in Queensland when compared to the other regulatory regimes (Sailer 2001; Prenzler 2005b:51-52; ASIAL 2006; ABC Radio National 2006)⁸⁸. The publicity given to both night-time public disorder and ‘bouncer’ violence has been the main trigger for private security regulation:

“Our Act was passed by our parliament in 1993 and it was in response specifically to our problems that the community was finding with crowd controllers - bouncers. ... That area of the industry is most visible, bouncers in night clubs, bouncers in other liquor licensed premises. Because there is such a high interaction primarily with members of the public and there is alcohol involved, it will always attract the most attention.” (Industry expert)

“The history of security, particularly the crowd controllers, particularly the bouncers was not very good. We had some violence, some criminal elements within the industry. ...some security people actually acting as villains rather than security.” (Manager)

“The incidents that prompted the government to act [were connected to] crowd controllers who had to deal with situations ending with a guy dropping dead. ...If there are no incidents occurring or the public is not out-crying the heavy-handedness of bouncers, really everything else goes along smooth.” (Manager)

The ‘bouncers’ working environment as such is not that different in Australia from other regulatory regimes. One of the expert interviewees, who had firsthand experience in door supervision, described the reasons for the violence of Australian night-time economy in the following way:

“In 1978-1979 thereabouts was the first time in hotels, in pubs, in licensed venues that the publican, the owner of the venue actually hired someone in to deal with the drunken lads. Prior to that time the publican himself, the bar attendants were expected to deal with them. But the culture regard to drinking, the culture how hotels have changed dramatically in the last few years, the number of liquor outlets is probably fifty times over and therefore the number of people frequenting on this ground. In the seventies hotels were bound to close at 10pm, now they run 24 hours. So it is a major change in culture in our society and it is also the same in the name of crowd controllers. This is meeting the society’s demands.”

“With my experience in the early eighties there was some very hard men doing the job and society’s culture was also very hard on drinkers. But it was fair and just – someone did the wrong thing, he got thrown out and that was that. Then the light ideas in the early ‘90s [changed the situation], the crowd controllers and bouncers entered the industry thinking that this is a way to pick up girls, this is a way of getting a fraud and getting paid for it, this is a way to beat up drunks and having virtually no accountability.”

For this interviewee:

“Who’s pushing this [regulation]? The media has a big say. ...It is in the media, in the newspapers, in the TV - again the government has to react. So I guess it is a combination of things. If you would say that the media represents society’s thoughts, then the push is coming from the society, and then of course if you said the government represents the society, they are putting in place society’s requirements.”

Focusing on ‘bouncer’ violence was, however, considered unfair by the majority of the industry representatives: “I would say that I think in Australia and Queensland the crowd controllers and bouncers make about 20% of the industry but they carry about 80% of the bad press, and it is almost all on assaults or neglect of patrons.” (Expert)

In several comments, the diversification of the police was mentioned as a challenge and a reason for regulation. Especially in Queensland, out of the six regulatory regimes, it seemed that police and private security personnel were viewed in the same light as professional groups by the ordinary citizens. The dilemma was reflected in comments like: “The difficulty in Australia with regulations, as private security industry goes, has been in the past and continues to be that it’s seen very much as a police oriented issue.” (Expert) Even a local academic saw the two different security organisations as being to some extent similar: “And I see security work as analogous to policing, public policing, and we do know after many enquiries and scandals that public policing is simply an occupation that is at high risk of corruption and misconduct.” (Expert) A third interviewee revealed that in the eyes of the public, all uniformed personnel was expected to act as police: “There was a big gap between what people’s perceptions are as far as someone in a uniform is concerned. So if someone is staying outside a building with a uniform on, people almost expect him to be as a police officer.” (Expert)

There are widespread concerns expressed about the terrorist threat, especially on the governmental and expert level. How much of this feeling is based on real risk and how much is politically motivated, is difficult to say. However, this topic was presented by an interviewee as a reason to change official thinking about and the modus operandi of commercial security: “...there is another factor, bigger [than the bouncer] factor, you know, wider factor, which is terrorism”. (Expert) This interviewee recognised that that in order to handle the terrorism threat, the existing state capacities were not sufficient and new thinking and new co-operation models had to be found. “In Australia, including Queensland, since 9/11 there is a new rhetoric about public-private partnership, using private security in the front-line against terrorism.”

On top of the ‘bouncer’ problem and counter-terrorism, more traditional reasons to regulate were mentioned. The impact that the growth of the industry has had on the need for regulation was also pointed out in an answer to the question of whether we can live without regulation: “I don’t think we can because the security industry has now become that large and interacts with all various facets of community and commercial life. There needs to be some form of check and balance of this watchdog.” (Industry expert) The position of trust private and commercial security providers hold and the need for this to be guaranteed by statutory regulation and control of their suitability (integrity) was obvious. Two most pragmatic (universal) interview comments point out this:

“If you are going to give the keys to somebody to look after your place, you want to make sure that they are honest. So I think the act does have a role to play in respect to trying to, at least to filter out some of the undesirables in respect to that certain position of trust.” (Expert)

“Absolutely we need it [regulation]... It is mainly the credibility of [private] security. Without regulation, there used to be cowboys, and anyone could do anything and to have any respect from the public it needs to be legislated so that you are recognised as respectable.” (Manager)

South Africa

Private security regulation started in South Africa in the 1980s in a self-regulation fashion, sponsored primarily by the industry itself. The situation changed completely in 2001, when the South African Government implemented a new law that excluded the industry from the regulation function in a highly politicised situation. The background history to this regulation has many ‘colours’, from allegations of industry’s crimes during the apartheid struggle to its enormous growth based on insecurity created by all sorts, but especially levels of violent crime after the transition.

However, the main reason for this was that the industry was ‘white’ dominated and a lot of ex-civil servants of the apartheid regime, connected to security, had transferred into the industry during the turbulent transition period. Consequently, in a post-apartheid context, the security industry was considered to be a potential national security threat.

“Practice of the occupation in the state influences the national interests and then obviously as well the industry itself, that’s the primary reason why we are regulated – to ensure that they [the security providers] are acting in the national interest of the state and the public interest of the state today.” (Industry expert)

“But I think the main thing that picked it up from where it was, self-regulated, to be seriously government regulated, was the political changes and that sections of the security industry are a serious threat to the national security and that’s what

changed it from being completely self-regulated to 100% government regulated. It was a political decision.” (Expert)

“The government did become involved as well when we had a transition in our country and I think the government saw that they have to play a role, give perception because basically a lot of the so-called previous armed forces, previous intelligence operators, and previous police people found a new place in the security industry in South Africa” (Industry expert)

The opinion that private security is considered a kind of a paramilitary force in South Africa was strengthened by a union interviewee: “If the sector is not correctly regulated, it may compromise state security.” (Industry expert)

Also other, more general, reasons for regulation concerning the size of the industry and its impact on the society’s crime control were brought up by the interviewees:

“There were more private security officers than police officials. This development started creating problems or created the fears about the industry. The [regulation] triggers were still highly political perceptions.” (Expert)

“I think here in South Africa there needs to be some sort of regulation. The industry has grown to an industry that in the current situation has more private security officers than police officers.” (Expert)

On top of the growth factors, other reasons given for regulation in South Africa reflect those found in the other regimes under study. For example, comments were made on the protection of basic rights, self-regulation failure, the risk posed by criminal elements infiltrating the industry and inappropriate use of powers. The following simple comment on the protection of citizens is descriptive: “So I think it is an industry that cannot be without regulation and for the very reason that it affects every citizen's private rights.” (Expert) In the South African context the need of control to keep criminal elements out of the industry was seen as a strong argument supporting regulation: “The purpose of employing security is to protect your own interest, and basically not employing criminals that will damage your business. So that is basically the major reason for regulating this industry.” (Industry expert) This was also mentioned by a union representative as one basic reason for regulation: “So in the beginning it was more to regulate the criminal activities.” (Industry expert) The need to control the use of powers was also brought up: “Besides that I think the Act have the aspects to ensure that police powers are not extorted, to ensure the security officer is properly trained in the work they do, etc, etc.” (Industry expert)

Sweden

In Sweden, private security legislation was implemented in 1951 as a result of intensive lobbying by the industry itself. A Royal decree provided the possibility for a security firm to be voluntarily approved and registered by the authorities. Even the present legislation, which came into being in 1974 and requires compulsory licensing of security providers, was written without any specific pressures or trigger incidents:

“Why we actually chose to eliminate the voluntary system and go over to the compulsory one, I don’t know, I don’t think, and I have not heard that there were bad experiences that motivated it, but somehow the state considered that there was a reason to fully regulate this [industry].” (Industry expert)

There was, however, a strong push from the industry to have security providers’ status strengthened and formalised by compulsory regulation.

As there were no actual triggers pushing the original legislation, the reasons given for regulation by the interviewees were general in nature. Their comments also reflected the local welfarist culture of Sweden by emphasising the protection of the society, citizens and customers.

“It can be said that there are two objects to be protected. The first and the important one is consumers. ...because of the reasons why they look for these services, they are in a vulnerable position. The second object is the society, the state, which wants to guarantee that this activity will not get such dimension that it can be compared with police work.” (Industry expert)

In another context, the same interviewee commented once more on the importance to differentiate commercial security activity from police work by saying:

“The boundary between private security activity and police activity has to be clear, and it must be maintained. This was, as I see it, one of the important reasons that a total regulation was implemented, so that the society got control over guarding, and that it had not a policing character.”

A union representative emphasised the need to control personnel: “Because it is the private firms that sell guarding, there shall be regulation which tells how to behave, and that the personnel of the firms are controlled regarding integrity and suitability. So I think absolutely that regulation is needed.” (Industry expert) The significance of the industry and its work was also brought up in this context: “Guarding companies perform work which is very important for the society. That is why it is also in the interest of the society to have this activity regulated.”

A comment given in the Swedish context could be extended to all ‘why regulate?’ discussions: the risks to be without regulation on private security:

“I think a society without this regulation would face a risk of having a private police which is not under anyone’s direction or control. And I think that anyone can imagine the risks this would include, really. So I will argue that an unregulated situation opens a shocking perspective.” (Industry expert)

In 2007, the private security regulation that had been in intact for thirty years was amended drastically when a wave of extremely violent CIT robberies triggered an unprecedented crisis (Svenska Bevakningsföretag 2005) for the security companies.⁸⁹ Comments from two interviewees describe the situation and their feelings about regulatory needs in this situation. The first interviewee talks about the process that made the authorities act:

“I think if we look at the latest amendment [in private security regulation], it was those CIT robberies at the end of 2005, when the occupational health and safety ombudsmen intervened and stopped the activity, and the national occupational health and safety board was called in.” (Industry expert)⁹⁰

The other interviewee points out the peculiarity of this case: the Health and Safety Administration had to be called in by the guards’ labour union to persuade the politicians to act.

The background and steps taken were well explained by an industry expert interviewee, who analysed the process and the reasons that forced the government to take action. It is a good example of real life governance complicity and how even well-prepared and reasoned proposals for private security regulation amendments often need some triggering incident(s) in order to be taken seriously by the politicians:

“It is often in the society so that a dramatic incident occurs which acts as an alarm clock. When we are talking of this regulation and this activity, we have the CIT robberies that occurred [in Sweden], especially since 2005 and after, as such alarm signal.”

“The difference with the [earlier] wave of robberies was the violence. It was suddenly not only threatening of guards to take money from them. Heavy weaponry was used and roads were closed, vans were blown up to acquire the possession of valuables, and there was such an aggression in these robberies that it really scared the society and it scared the politicians. It was obvious, even on the political level that radical steps had to be taken.”

“It ended actually to one of the fastest legislative procedures I have seen, [which was carried out] within less than six months. We feel that we [regulators] got much understanding for the old propositions we had made in the course of years.”

“Yes, it woke up both the industry, it woke up the public, and awareness of this branch in general was generated amongst the political sector. At the same time, it was reasoned that here we have a law which in general had been unchanged since 1974 [30 years]. The real life which was the base of that law was the one that prevailed in the late 1960s and the beginning of the 1970s. That reality cannot be found any more, it is something radically different we have to face today. So it

became obvious to all who were involved in this law work that actually we would need a new regulation, we would need a comprehensive study which would oversee the whole activity and examine it, based on those circumstances we have today.”

Sweden is in one sense different from the other regulatory regimes in this study because it has a tradition of granting extra powers to certain groups within the private security family. One of these groups is the crowd controllers, including licensed doormen (*ordningsvaktare*), who have limited police powers. As the night-time economy, especially in the big cities, has changed, doormen (as in Queensland) have become a ‘problem’ group needing a new kind of regulation and control. The situation is well described by a union representative who commented on the extra powers:

“But absolutely the most important thing is that we actually have suitable guards. And doormen [crowd controllers] are regulated in another way, as they use independent discretion and that is actually police powers. They have to be absolutely regulated as they are a part of the monopoly of violence. The state has given them extra powers.” (Industry expert)

There is a problem with restaurants serving alcohol. Other crimes that are often connected to door supervision are also a problem in Sweden: “The problem is that a restaurant branch is infiltrated by criminal activity in different forms, not least when considering taxation, and this goes also for the doormen who shall stay and be the extended arm of the police at restaurants.” A lot of thought has been given to solving the problems with doormen, but no practical solutions have been found up until now.⁹¹ In the interviews there was also an emphasis on on-going evaluation and the updating of regulation to meet the requirements and challenges of a constantly changing security environment which the public police have problems to control with their present resources:

“After that [regular risk evaluation] laws and equivalent should be opened up so that we can get regulated tasks which actually the authorities or the official sector sit on and don’t let them [private security] do. Otherwise there is no-one, no-one performing them. That is something I would like to improve.” (Industry expert)

8.2 Analysis and discussion

Why regulate? The six regulatory regimes analysed in these interviews have all some sort of commercial security regulation originating from different eras. The fundamental reasons for regulation were the same, regardless of the model of the society or the local stage of development. However, the specific reasons which had triggered statutory regulation processes were unique for each regulatory regime. The differences stemmed

from the emphasis they had according to their history, culture, political system, administrative model, present crime situation, and the role that commercial security services had gradually gained in the society.

Amongst the models of regulation handled in this case study, there was little diversification between the interest group emphasis. They gave in general the same reasons for regulation and it was more the personal seniority, as well as experience and knowledge of the industry that affected the answers, not discrepancies concerning the fundamental goals of regulation. Those who had been involved in the process when the original laws were drafted and enacted had naturally an advantage in understanding the background. It seems that after the drafting and implementation of the (commercial) private security legislations, the reasons for regulation had not been discussed very much amongst the interest groups either. The present focus was clearly on the existing practical details and their adjustment. Only if there were needs to add new areas of activity into the laws, could there be some sort of “why regulate?” discussion concerning the specific amendments.

One can ask whether it would be beneficial to have a regular evaluation, as in Queensland⁹² of all the reasons for regulation like in a risk management process (Baldwin and Cave 1999:138-149; Kidd 2000:9-10), where the risks and their control methods are re-evaluated regularly to ensure the right level of protection in constantly changing circumstances.

All the reasons that originally triggered regulation work in the regulatory regimes under study, except Sweden, were some kind of local threats. The same phenomena could, however, be noticed later on even in Sweden. These threats were created by: the industry's activities, public safety concerns or concerns about citizens' human rights. The later (present) law development work could be generally considered as the 'fine tuning' of the existing statutes.

None of the ‘trigger’ reasons that emerged during the interviews had a direct connection with new governance, mass private property, police versus private security personnel ratios, semi-public spaces, or social (in)equality as these factors are presented and emphasised in the academic literature. By summarising the knowledge gained from the interviews and the other data, the original and present-day reasons for commercial security regulations and their amendments in the regulatory regimes under study are summarised in Table 19.

Table 19 Real life reasons to start and go on with private security regulation processes

| | | |
|--------------|--|---|
| Belgium | <i>Original:</i> Internal threat to the society by, partly politically motivated and organised, strong arm and crime activities. | <i>Latest:</i> A need to exclude unsuitable ‘cowboy’ and criminal security providers. |
| Estonia | <i>Original:</i> Transition situation, which created a threat of private security extorting police powers. | <i>Latest:</i> A need to sharpen the different roles and tasks of private security. |
| New York | <i>Original:</i> Terrorism threat after the first World Trade Center incident. | <i>Latest:</i> A need to improve the status and role of private security providers. |
| Queensland | <i>Original and latest:</i> Uncontrolled violence by crowd controllers (bouncers). | |
| South Africa | <i>Original:</i> Transition situation where private security, managed by a number of previous (white) police and army personnel, was considered a threat to society and national security. | <i>Latest:</i> Pressures to develop guard training regulation and its implementation by different authorities and the industry. |
| Sweden | <i>Original:</i> Lobbying by the private security industry to get credibility through accreditation. | <i>Latest:</i> Exceptionally violent attacks on CIT operations by organised crime. |

After the decision to regulate has been made, based on the original ‘trigger’ reasons, the law makers and other interest groups seem to use the situation to set other rules as such have not been important enough to commence a statutory regulation process. Thus the laws usually have other topics added to them to meet some of the various requirements presented in Tables 8-10. Also some of the interviewees brought up these requirements, if they were seen in their environment to be important to them or their interest groups. The following summary of arguments, based on the results of this chapter, can be presented for further discussion:

- The reasons for regulation are looked at, evaluated and discussed when the first law on commercial security is written. Later on, the fundamental needs for regulation and its implementation structures are not usually re-assessed or discussed any more.
- There seems always to be specific local reasons, related to the regulatory regime, that trigger a commercial security law writing process. No global or transnational model can be found; every case is local and unique in itself.
- The local needs that trigger the regulation process stem from the local (political) situation, the type of society, and often from dramatic changes or incidents which are seen to require state intervention concerning commercial security

arrangements (Prenzler and Sarre 2008). Even revision of regulation is often triggered by a special incident or an accumulated problem.

- Trends in governance are not a main driver in this context; the needs and reasons for commercial security regulation are specific and rise generally from basic human rights and constitutional requirements, and from the need to define the public-private division of labour in security related tasks in the society.
- The growth and size of the industry, mass private property, utilisation of citizens' powers, diminishing police resources, increasing crime rates, quality guarantees and other similar matters are just indirect catalysts for commercial security regulation.
- Commercial security regulation is primarily a governmental command and control issue. For a majority of the active parties in the commercial security sphere, regulation is there to give a frame for the daily work, but it is not such a key issue on which they are ready or have time to waste too much energy.

CHAPTER 9: INTERVIEWS - WHAT AND WHO TO REGULATE?

Responses to the question - what and who to regulate? – should in practice be very much a technical exercise (Prenzler and Sarre 2008) where the activities, personnel and topics are chosen from a relatively predictable ‘menu’ list (Appendix 4). Common to all the statutory regulations discussed in this chapter is that they emphasise the sovereign authority of the state in security matters, and locally define the legal parameters of commercial security activities. Furthermore, unlicensed private security activities within areas covered by the industry-specific regulations were unambiguously prohibited. The scope and validity of the private security regulations under study were limited within the state borders, except in South Africa where the legislation is also applicable to its citizens extra-territorially (South African Government 2001:§39). There is an obvious reason for this; the different cross-border private security activities by South African security providers have affected the societies in Sub-Saharan Africa in different and sometimes hazardous ways (Taljaard 2008:1-5; Institute for Security Studies 2008:vii-xi; Marits and Gumedze 2009:1-5). All these texts emphasise the general problem of differentiating PSC and PMC activities, at least in Africa.

On the one hand, the general status and role of commercial security within national security systems and environments, in the regulatory regimes under study, had mostly been bypassed by governments in the existing regulations. Out of the six, only the South African legislators had defined in detail what the role of private security is from the state’s point of view in a national context (South African Government 2001: Preamble). On the other hand, when examined, it turned out that all the statutory regulations belonging to this study included some sort of definitions or at least a description of what private (commercial) security is and/or who is considered to be a private (commercial) security provider under their legislation. This is logical because in any legislation the objects and subjects of regulation should be defined. In the private (commercial) security context the main common nominators to be found somewhat defined and expressed were that this kind of security activity is; (a) privately organised and provided for a competitive fee, and (b) security service providers shall be licensed and controlled by a public authority.

During more detailed analysis of the regulations, variations became apparent. The interviews concerning which subjects and objects should be regulated showed that these matters had not been given much thought by the majority of the interviewees. As the

core matters in the six regulatory regimes under study were included in the existing legislation, the present discussion focuses on contemporary topics and how to improve the situation. There were opinions on a general level on what to regulate, but the more detailed ‘thinking’ had been left to the regulators, security industry representatives and the trade union spokespersons who presented the most structured and far-reaching opinions in this context.

The structure of this chapter is similar to chapter 5, following the model generally used in most of the existing private security regulations. Some extracts from the actual laws of the different topics handled have been presented in comparable tables as background for the interview comments. To be able to do this, and to make the comparisons readable in this context, the most common/important titles have been simplified and the ideas have been categorised, not necessarily following the legal texts to the letter.

9.1 General comments on what and who to regulate

In the general comments given by the interviewees, three main topics arose: what explicitly should be regulated, the risks of over-regulation, and a reserved opinion on the need for comprehensive regulation. Mostly there is a general acceptance that the whole industry, or at least the key parts and players of it should be regulated.

“I think the whole industry should be regulated.” (QLD Expert)

“The companies and the personnel should be regulated.” (NY Manager);

“I believe that any of the professions or the sectors which have a place in the whole package should be regulated. ... Everybody who at a certain moment is in one way or another protecting for a client something that is of value for the client should be regulated.” (BE Industry expert)

At the same time a majority of the interviewees were quite happy with the breadth of their own regulation.

“I think we cover basically everyone. I cannot see there is any need at this stage, you know, to regulate initial categories.” (ZA Industry expert)

“I have to think hard if I should find more areas to regulate, I think it has been handled quite well when looking at what should be regulated.” (SE Industry expert)

There were opinions expressed about the risks of ‘over-regulation’. This seems to be a matter debated in some of the regulatory regimes under study. Some critique came from Belgium, Queensland and South Africa as the following comments indicate:

“...we have to see today that the legislation is becoming a too heavy burden, because it is much too detailed. It imposes on the private security companies an enormous amount of administrative workload.” (BE Industry expert).

“Some would argue we are over-regulated, but it is only small sectors of the industry who believe that to be the case. So, we would argue in this state that we are not over-regulated.” (QLD Industry expert)

“I don’t think it is over-regulated, I don’t think so. I think the only problem is that it tries with one piece of legislation to cover too many things.” (ZA Expert)

None of the interviewees advocated de-regulation but different aspects were emphasised in the legal approach.

9.2 In-house security

Even if in-house security is not actually a part of commercial security, it is indisputably private security. Because it overlaps both in a fundamental and a controversial way with the commercial security activities, the differences in steering it within the regulatory regimes should be pointed out. State control of in-house manned security reflects specific local needs and problems which have convinced the regulators to intervene with the widely accepted principle of private businesses’ right to organise their own internal services without external state interference. It seems that the triggering nominator for regulation in this case is the changing environments. It is no longer only a question of traditional guarding to maintain order inside a company’s ‘fences and gates’ but also to do it within new semi-public or public domains. As long as security officers only dealt with a company’s employees and people connected expressly to its actual core business activity there was no actual pressure for control. The situation acquired another dimension with the growing number of semi-public areas, like malls, event areas/facilities and recreation businesses, where persons/customers freely or by paying a fee can enter, and where the owners have an interest in and a responsibility to organise security. Another challenge is the increased private guarding/policing of public space, including government facilities, where security officers encounter citizens running their chores. When these kinds of activities are performed by in-house personnel, there could be a case for considering regulation.

In-house security was included in private security regulation in four of the regulatory regimes under study: Belgium, Estonia, New York and South Africa. It is partly included in Queensland but is completely excluded in Sweden. In Belgium and South Africa the control is understandably taking into consideration the earlier mentioned country-specific reasons (Table19) for private security regulation. In the interviews,

difficulty in explaining the core rationale for in-house security regulation was obvious. The backgrounds were not crystallised and there was mostly no conscious awareness of the connection to basic principles of companies' privacy, even if the practical challenges were mentioned. The answers of an experienced expert illustrate the simplified explanations generally used in support of in-house regulation: "The security service providers, the security officers performing as in-house security officers, act very much the same as the person that is in contract security, so we believe it is an artificial division between the two". (ZA Industry expert) This statement was completed with a categorical question: "We would be setting minimum statutory requirements on contract security officers in the street, why should in-house security officers not fall in that as well?" At the same time, however, a further comment was made by the same interviewee about the complexity of the matter: "That is a complicated issue as far as regulation is concerned because now you got an employer who employs the security officer. It is a domestic ordinance within the industry that is not in the security industry."

Queensland has a dual system where only in-house guards are regulated but not the in-house crowd controllers and other security providers, the attitudes seem mixed about the needed regulation coverage. The matter of in-house regulation was simplified by an industry insider stating: "If it is a regime for security it should cover everybody." (QLD Manager) An expert opinion with more sophistication noted that "There is a risk profile for in-house" (QLD Industry expert) and went on with the main argument "...they carry a risk profile for false arrest, invasion of privacy, they deal with the public, ...there is still the third party the public who are at risk from these people, in some way or another, and need some protection". Also presented in the same context was the idea of a 'lighter' version of control for in-house security, as is actually the case in Estonia: "I do not think it should be heavy regulation but there should be some screening and control." A generalisation can also be taken from a third view on in-house regulation, which was presented by a security manager who was running such an organisation.

"Licensing or no - certainly if they [the security guards] step out in the environment and we provide services to somebody else, they should be. Then I am in the business, but I am not in the security business today. Security is part of our business but we are not in the security business." (QLD Expert)

Another kind of comment from a customer having in-house guards was given in support of regulation. He touched the problem frequently faced by security officers: the social dumping of personnel to a security department as a last resort.

“The result [of the law] was that the quality of the guards was going up. ...because in a company, for example, before the law when there was somebody not good for other things any more, they put him in the guarding, but that is finished now because they need to be screened and they have to take the exam.”
(BE Expert)

The most common types of in-house control arrangements found from this sample of regulatory regimes were: (a) an identical model to the commercial security one; (b) a lighter one with only security personnel or/and management licensed; and (c) a non-regulation one. At least within these regimes the decisions on this matter correlate with their basic reason(s) to regulate. The actual challenges faced in implementing in-house regulation, not touched on in the interviews, include: First, the basic principle of the freedom of private businesses to organise their own auxiliary in-house services; second, the difficulty to define what in-house work tasks and personnel are regarded in practice security; third, the affect on competition as regulated entities have significant extra expenses for fulfilling the statutory requirements; and fourth, the extra resources needed for the authorities to be able to license and control also the in-house security activities.

9.3 Regulated commercial security (guarding) activities

Most commonly the first step in defining the scope of regulation is to choose the commercial security services that would need legislation. It is not the regulation of the commercial security companies or individual security guards which should be in the centre of the discussion of the legislators or the industry representatives. The number one question should address which areas of activity should be covered.

As can be seen from Table 20, the regulations quite comprehensively cover those activities which are traditionally considered commercial manned security. When comparing the coverage with the more general situation depicted in Appendix 1 (‘family tree’), it can be noticed that they match well. With this coverage all the regulatory

Table 20 Regulated commercial manned private security services (areas)⁹³

| | BE | EE | NY | QLD | ZA | SE |
|----------------------------------|----|-----------------|----|-----|----|----|
| Static guarding | x | x | x | x | x | x |
| Mobile patrolling | x | x | x | x | x | x |
| Response / Call outs | x | x | x | x | x | x |
| Event security (crowd control) | x | x | x | x | x | x |
| Door supervision (crowd control) | x | | | x | | x |
| Private Investigation | | o ⁹⁴ | x | x | x | |
| Close protection (bodyguarding) | x | x ⁹⁵ | | x | x | x |
| Monitoring ⁹⁶ | x | x | | x | x | |
| (Security training) | x | x | x | x | x | x |

regimes under study would as well reach the wide and comprehensive status within the theoretical George and Button (2006:567-571) regulation classification model.

The interviewees had very little to say in general on the segments which within manned (guarding) services should be regulated. This was the case probably because there was a mutual understanding that in principle all core segments should be included. The following comment by an industry representative provides a good summary of the common tone in the interviews:

“Obviously all segments need to be regulated. So we would say from the manpower side, that covers CIT, crowd control, event security, mobile patrol, concierges, so anything where there is a person, there needs to be regulation.” (BE Expert)

The interviewees had more to say about other segments within private security which were not a part of this study and where the regulation coverage was not that broad, for instance in ICT security, protection of CNI, sales, installation and maintenance of security electronics, locksmiths activities, security consultation and so on.

When the differences are looked at, it becomes apparent that out of the most common services within these regimes, the approach differs on door supervision, monitoring and private investigation. Door supervision is considered in regulation as a part of private security in three of the regulatory regimes. In the other three it is unregulated or regulated as a part of other businesses like; liquor selling, entertainment activities or gaming (casinos). Private investigation is not considered in Belgium and Sweden as a segment of commercial security activities and has thus been left out of private security regulation. In Estonia, private investigation is explicitly prohibited as a private function.

In the following sub-sections there are comments made by interviewees on the complexity of the problems in two of the disputed service segments: Crowd management (event security and door supervision) and private investigation. This discussion reveals and clarifies some of the main sore spots concerning their regulation.

Door supervision (crowd control)

The opinions were divergent on the two main types of crowd control - event security and door supervision, depending on the cultural context. Both the existing regulations as well as the interviews showed that event security was basically considered as a special segment of commercial security services (guarding), but door supervision was perceived in different ways in different regulatory regimes. There was also confusion with the

terminology about who is actually considered a doorman, door supervisor, event security attendant or T-shirt security officer.

In some regulatory regimes under study, door supervision was seen as an integral part of private security (guarding). This was the case in Belgium, Queensland and Sweden where it also had industry-specific regulation. In New York, South Africa and Estonia, door supervision was not considered to actually belong under the term private security and thus was not worthy to be regulated in relation to it. Nevertheless, according to the interviews, there seemed to be a general need to regulate door supervision even in those countries without this kind of legislation. The main problems experienced in this context were related to uncontrolled violence and participation in criminal activities connected to night life in general; that is, pimping, drug dealing, tax evasion, and money laundering (Bevakningsbranschens Yrkes- och Arbetsmiljönämnd 2006:6-8, 12). However, the practical problems in regulation and its implementation in this environment kept many of the experts and regulators hesitant to interfere with it.

Belgium was a good example of a country where door supervision was strictly regulated. The connections to organised crime had made it necessary to include 'bouncing' in the industry-specific legislation. "Even after having the law in place for eight years, the situation still seemed to be problematic: Expert statements were very direct, like the following one:

"...and sadly, but this is the truth, it is very often the Albanian Mafia that controls the bouncers in a certain area or another group of Mafia related people. ...it is a very slow process of cleaning up that part of the market. Very regularly there is in the news and the press very bad stories about bouncers being really violent, bouncers being linked to Mafia." (BE Industry expert)

In New York State where private security legislation does not cover door supervision, part of the confusion arises from the traditions. There is the traditional profession of doormen which in a way overlaps with bouncing but is considered by the laws as a facility management service. The security status of these doormen has been discussed and the following comment describes the situation:

"Also the highly unionised New York City doormen, who are not bouncers, were originally included in the mega-bill [on private security], but they were taken out of it in the State legislature. I think that it would have been a good thing to include them in it and define them as a part of the private security, now they are legally in a grey zone." (NY Manager)

Another industry representative summarised the common opinion and hesitancy concerning the bouncer regulation: "There has been talk about regulation, but I don't

know who would be interested in it. My opinion is that they [the bouncers] should be regulated to some extent, but who is to do that work?" (NY Manager)

Sweden is an example of a country with a long tradition of regulation of crowd management and door supervision. In Sweden, the problems are considered to be a big-city phenomenon and are particularly connected to bouncers with a great number of part timers as in Queensland. In the actual work the three dimensional loyalty of a crowd manager is a problem which was articulated in the following way:

"At the same time one is appointed by the police authorities to be a representative of them and nothing else. ...His loyalty has to be fully for the police authorities, to represent them on the spot. But he has the one who pays his salary, and it is obvious that he listens to this quarter. He has the customer who is important for him to get his salary, the customer has to be kept in a good mood and happy with the service. This is the three dimensional conflict; it is not easy for the individual, and there is a risk, as it has been noticed, that door supervisors are at the end, in the first place loyal to the customer. One works there so long that one becomes a good friend with the customer, and starts to represent the customer's interests. And sometimes the customer's interests are in conflict with those of the police. This situation is not good, and it has been noticed, and there are propositions how to solve it, but at the same time the solution is extremely expensive. So, if it can be executed, I do not know." (SE Industry expert)

The door supervision and related services have traditionally been mostly in-house organised and only in the later years has the buying of these services from security companies gradually started to grow. In this context the interest to regulate and widen the regulation, especially of door supervision, have increased as problems covered in the media have become more frequent. New companies have been founded to provide especially these services. Even in those countries with existing legislation on door supervision, the control of the bouncer activity and the criminal activities connected to it have turned out to be extremely problematic and difficult when trying to execute control rationally. This is the regulators' future challenge which is not made easier by the group of different authorities who have an interest in this environment. Even though there are very few exact statistics about the number of crowd management personnel, an educated guess would be that it is at least twice the amount of traditional guards. No wonder that regulators are hesitant in interfering with this subject.

Private investigation

In the case of private investigation regulation it is not primarily a question of violence and organised or individual crime involvement, but a question of the division of labour between public and private investigators, private justice practice and the risk of breaches of citizens' constitutional rights, especially privacy. As stated by an experienced

Australian interviewee, investigations are very much a reactive function and are thus also more related to police work than to other, basically proactive private security activities. "Private investigators are very often about reactive stage. They are doing something after the act ... That is much closer to the police role and crumbling on things like criminal investigations what a security officer never would do." (QLD Expert)

Attitudes concerning private investigation are heavily anchored in the historical and cultural background of private policing. In the United States the long tradition and folklore of the private eyes, who were the forefathers of the federal and state police organisations, have made this activity psychologically a part of the United States history and society. In New York State legislation private investigation has its own chapter parallel with other private security regulation.

In Estonia private detective activities are totally prohibited by the law. This had a clear connection to Estonia's recent past as a Soviet State with its ways of internal governance, which is still mentally present in the society as was expressed in comments like: "The question is that we have come from another kind of society and it may be that we have a burden on us ... yes we had KGB, and now the detective function is in a way experienced as the same activity". (EE Manager) Anyhow, even in Estonia an emerging need to have a modernised and more liberal regulation in this context was expressed by the security industry: "There is an obvious need for information gathering, concerning certain tasks which are not police functions, and police do not take them, for example, within the insurance branch." (EE Industry expert) The same interviewee went on telling that incidents after the new independence had shown that the old culture was still prevailing and prevented a political approval of private investigation. "We have tried to approach The Parliament with a law proposal, and it has been there for a couple of times, but it has boomeranged."

In Sweden, private investigation activity existed, but it had been considered so small and without problems that it had been excluded from the law for the time being. In one of the interviews, the basic arguments for and against detective regulation were comprehensively covered; "...[the activity] is not big, but it grows and there is a demand, a growing demand especially from the commercial and industrial life because the police resources don't match." (SE Industry expert) The same interviewee also pointed out that there are growing specific needs like the 'preliminary' internal investigations within businesses:

“We have seen the growth, we can say, of a semi-police like investigation activity which is connected to suspected crime, especially within the business environment. ...there is a need from the customer’s side to get evidence in order to be able to contact the police, preferably with the knowledge of who is the suspect.”

The private investigation as such is not seen as a problem. The risk is that the private investigators step over the line and start to use powers belonging only to the police. There is a need to regulate this but the question is how to fulfil the different expectations in this case?

“The problem appears when this investigation starts to overlap with police work; that is when there is a need to discuss with the suspected, performing an interrogation. Then it is over the edge, and we see that private security companies willingly take this kind of assignments, but because they are private security companies, they are not entitled to overstep the borderline of police activity. Unfortunately the case is that from the police side it is not possible to cope with all the duties they have, and this help is willingly received. Customers and internal controllers are directly recommended to talk also with these persons [private investigators]. And this is somehow a double message. On one hand the society thinks it is not good, on the other hand representatives of this society say: do it, come to us with the material when you are ready.” (SE Industry expert)

The interview comments chosen here as examples include four of the main general worries concerning private investigation and its regulation: First, the obvious need for these services in today’s societies, second, the performance of private justice by using interrogation powers belonging [solely] to the authorities, third, the lack of police resources connected to the commonly accepted ‘real world’ procedures, and fourth, the increasingly active role also played by commercial security providers in this segment of activity. The question of what to regulate must be answered, and not only answered but also a decision should be made about the policy: “Here we see that there is an activity developing which should be kept under some control, an activity we would need to inspect in order to keep the boundary clear, or maybe let them pass the boundary, but how far in that case and in what forms?” (SE Industry expert)

In South Africa, the coverage of the existing regulation on private investigation revealed one more aspect in support of more strict control. A local expert noting, “What it does not regulate, I think properly, is private investigators and private intelligence”, went on to emphasise the importance in tackling the threats on national security, “Because if you look at it from the national security point of view, those are the people who have access to information, those are the people [private investigators] that can be used by foreign intelligence services; they can be used for industrial espionage.”

In the interviews it turned out that private investigation is a part of private security and has been around for a long time. It was also an activity that had been regulated or was considered to need regulation in some way by most of the interviewees. Even in those two regulatory regimes (BE and EE) where it was prohibited for commercial security providers, the need to take action to allow it was obvious. The question was in these cases not actually whether it should be regulated but what aspects of it should be allowed and put into law. The dilemma here was that if the private investigation was 'legalised' as a commercial security function, in the present environments it would start to gradually grow to be one more substitute to core police functions. Based on all the interviews made with the regulators and other interest groups in different regulatory regimes and on other data, the points made here describe well the general way of thinking and the dilemmas faced when trying to reason what to regulate in the context of private investigation.

9.4 Regulated legal entities

Security companies/security providers

Security guards do not carry out their duties in a vacuum, but in most cases as an independent entrepreneur or as an employee of a commercial security company (institution) or an in-house security organisation. Thus, usually the logical law writing process proceeds by first defining what aspects of these entities should be regulated. It is not an easy task because the commercial security activities include everything from self-employed security professionals to small family firms to nationwide companies to huge multinational enterprises with hundreds of thousands of personnel.

In all the regulatory regimes under study there was some kind of definition of what sort of legal entity/company was considered to be commercial security one in need of regulation. Amongst the regimes under study, probably the simplest, but nonetheless a good description of a legal entity providing manned commercial security services, was that from Queensland Government (1993:§8): "A security firm is a person who, or partnership that, engages in the business of supplying, for reward, the services of crowd controllers, security officers or private investigators to other persons."

The control of the security companies is achieved by setting specific requirements on the company structure, its management and its administrative rules on reporting and contracting. The companies' general behaviour in the marketplace is steered by implementing (country-) specific codes of conduct. The aspects of regulation

concerning security providers are, in general, universal. On top of the normal local requirements on registration as legal business entities, the security providers were seen, in all the regulatory regimes under study, to need a separate, special registration/licensing in order to provide (security) services listed in the industry-specific laws. This registration was carried out by an authority dealing with these kinds of procedures especially for commercial security providers or generally to different licensed businesses.

General preconditions for licensing could be found in the regulations of all the regulatory regimes under study. These all included the prohibition to perform the regulated private security activities without a license/registration. There were also specific conditions like a ban to execute within the firm other business activities besides those under the act as in Belgium, or to be involved in certain kinds of business activities as in Estonia. In some regimes certain minimum standards were also set on the capacity to render a security service. These could include, for example, requirements on office space, strength of administrative staff, and equipment as was the case in Belgium and South Africa.

The rules on legal entities providing commercial security services often include specific requirements on the ‘institutional’ representatives of the companies, including owners, board members and executive/responsible managers. These statutes are implemented to prevent organised crime or criminal elements from using commercial security companies as frames for their illegal activities. Because of the difficulty to control owners, this kind of control had been in practice skipped in the regulatory regimes under study. Some substitutive control had been achieved by the local private security regulations which required commercial security providers to be registered as local companies.

The interviewees did not have comments on the principles to control companies as businesses. Only the aspect of equality was commented; if the operational personnel should be regulated (licensed), that should concern the whole staff from guards to CEOs and board members. The designation of individuals considered to be ‘institutional’ representatives of the security companies reflects the general business law practice; these characters are the legal and responsible face of a business entity. In the commercial security context there is a generally accepted pattern to set extended ethical and also professional requirements on top executives in all the regulatory regimes under study and on board members in Estonia, Queensland, South Africa and Sweden. In the

real world it has turned out that the use of men of straw, even in the commercial security context, makes the effectiveness of control on executives limited.

Swedish interviewee comments express the similar union and employer thinking on this matter in a country with long history of social dialogue:

“All the board members need to be approved and controlled. Everyone in a company has to be approved and controlled.” (Industry expert)

“...they should have the same requirements up and down the organisation; higher requirements cannot be imposed on a guard than can be imposed on a director or a board member” (Industry Expert)

Contracts, liability insurance coverage, subcontracting

Examples of specific contractual and liability regulations included in private security legislation in the six regulatory regimes under study are presented in Table 21. As commercial security activities grow and become vertically specialised, they are also increasingly beginning to be organised administratively in the same way to achieve effective business control. In order to control the business activities, especially the integrated and combined service solutions and because of the increasing contract values, the different aspects of contracting and liability are given more importance in the regulations. Only South Africa of the regulatory regimes under study had in its regulation an obligation of a written contract and Belgium and New York had a requirement to uphold compensation guarantees. The opinions of the interviewees basically supported a more formalised and regulated way of contracting, but it was interesting that in practice a ‘light’ and even oral agreement culture was still strongly alive. All this had been given limited importance and the business parties still relied on general business law practices and had not understood how crucial contractual matters have become today as one of risk management tools, particularly in commercial security.

Table 21 Rules on contracting and liability

| | BE | EE | NY | QLD | ZA | SE |
|--|----|----|-----------------|-----|----|----|
| Obligatory written service contracts | | | | | x | |
| Rules concerning liability and protection from liability | | | x ⁹⁷ | x | x | |
| Compulsory insurance (bond) requirement | x | | x | | | |
| Subcontracting rules | | | | | x | x |

Especially in Queensland a local culture was eminent:

“A client will think that contract law is efficient. You don’t need special legislation on that.” (Expert)

“The contract signing is covered by separate legislation, by business legislation.”
(Manger)

“I don’t know the percentage but I would guess that great portions of the people do it with a handshake.” (Industry expert)

This kind of statements describe not just the actual situation but probably also the immature business culture within the local private security industry. On the contrary to this reality, the usefulness of a written contract for all parties was understood by others in the same environment, as can be noticed from comments like:

“Do I need to contract for that? I think I would like something in writing ... and it helps the clients to understand where they stand. ...I think it is a benefit for all parties, it is a safeguard.” (Expert)

“I think it would be a positive thing. ...it would give more protection, because the contracting parties would know from the very beginning in the relationship where they stood and equally by itself would know what the obligations were.”
(Manager)

There was one more aspect from the authorities’ point of view which was taken up by a Swedish interviewee; even if contracts in private security were a totally unregulated sector in Sweden, the inspectors visiting security companies went through contracts, if they existed, in order to control that no illegal tasks had been approved to be performed by the guards:

“...what we are looking at, is that there are no unlawful assignments taken. That means in the first place that there is not given to the guard tasks of personal checks, that is, to inspect peoples’ bags or equivalent, or to enter facilities or equivalent, to make a house search. Those kinds of contracts have appeared.”
(Industry Expert)

Business-related liabilities have gained increased importance and attention, even in the commercial security, since the terrorist attacks in the United States and other parts of the world. Commercial security providers and their insurers have been faced with new cases of previously unheard proportions. For example, the airport security screening of the passengers, on the planes targeted in the 9/11 terrorist attack created liability lawsuits against the commercial security companies. In the societies with a British legal heritage included in this study; New York, Queensland and South Africa, this matter had been taken into consideration in the industry specific legislation.

The CNI protection contracts, a result of the privatisation of former nationally run infrastructure industries and services, have changed the responsibilities on security of these objects to the new (non-governmental) owners. Examples of these high-risk objects are, for example, water supply, energy production, public transport, parts of

defence industries and so on. At the same time, the astronomical liabilities connected to these objects have made new kinds of contracting and insurance arrangements unavoidable. This had been taken increasingly into consideration when deciding what to regulate in the industry-specific legislation in Estonia and Sweden. Sweden is a world-class trailblazer in this sort of regulation with its special laws (Swedish Government 1990) concerning the use and powers of commercial security providers in guarding state objects of CNI. In South Africa there is separate legislation concerning this subject, which also defines the role of private (security) actors in this context (South African government 1980; 2007).

The interviewees had a unanimous opinion on the need for a regulated insurance coverage, expressed well by the following Australian comment:

“There should be that kind of policy as part of the licensing process, those things should be there. The issues of insurance and cover, those types of insurance, should be administered at licensing, there should be a requirement.” (QLD Manager)

Subcontracting is a general problem strongly affecting the rights of security firms' employees, but also the transparency of contracts from the customers' point of view. For business profitability the smooth planning and organisation of the work is crucial. This tempts the security providers to use all means, legal and occasionally even illegal, to optimise their utilisation of manpower. This sometimes happens by using subcontracting in an unsound way. The basic drawbacks of this model of action can be found in several ways throughout the industry. The unsound consequences on the credibility of the commercial security were well described by one interviewee:

“One thing that is probably the most complicated is the subcontracting of guard services. This is an area that we are trying to work through with state governments. You can get what you call multi-contracts, five or six levels and the problem is that everyone is taking a cut and in the end of the day the poor little guard at the end is probably getting cash in hand - a very low wage. The client is not aware that the contract is passed in hands. It's good to know that a contract has gone through six seven hands, because they [customers] may not like it. If there are five levels of people taking the margin, the service delivered at the end is probably going to be sub-standard.” (QLD Manager)

In order to create and maintain the credibility of the commercial security activities, these kinds of arrangements should be controlled by industry-specific regulations, as was the case in Sweden and South Africa. It is also important in order to clarify the responsibilities in case of misconduct, loss or crime which the security provider or an individual guard may be called to account for.

One separate area that should be regulated in connection to the commercial security companies is their obligation to document certain parts of their activities, store them for a fixed period and to submit immediate or annual reports to the authorities and customers. There were different procedures mentioned in the legislations of the regulatory regimes under study but no uniformity could be found. Furthermore, the interviewees seemed to have given little thought to this matter and had no actual comments on its implementation into their local private security statutes. Most of them agreed upon the importance of careful documentation but they did not see it to be a core question in the writing of regulations. Many interviewees thought that these were matters belonging to general business legislation. This was interesting because the development of the industry will beyond controversy require improvements in this part of commercial security regulation.

On top of the basic regulations imposed on security companies by industry specific legislation, there was in all regulatory regimes a variety of supporting but binding rules included which can be called the codes of conduct⁹⁸. They covered very different matters in the different regulatory regimes. These rules are primarily directives affecting the commercial security business and companies, even if in many cases they also cover individual persons working within the industry.

Commercial security personnel

After defining the segments of the manned commercial security activities to be regulated, and what requirements to set for legal entities running them, the next step in the governments' logic in writing the laws (regulations) seems to be to define what personnel and what personal qualities of the personnel to regulate. The main objects in this context are the security guards who create the bulk of the personnel and who are the most visible part of the commercial security industry. Even if it sounds peculiar, there is a basic obstacle when trying to research and compare the different aspects of the regulation on the security guards – there is no existing transnationally accepted model of how to do this, and accordingly little uniformity could be found in the regulatory regimes under study.

To regulate the individuals working within the private security industry, the profiles of them and the jobs performed need to be delineated. To demonstrate the diversity in the 'legal' definitions, even of the core players in the industry, the security guard can be taken as an example by comparing the law text definitions on this personnel group in the regulatory regimes under study.

- Belgium had not made a legal definition for a security guard at all.
- Estonia had made the definition by listing individual requirements of a security guard.
- New York had made the definition by listing functions and detailed tasks performed by security guards and by describing their employment status.
- Queensland had made the definition by pointing out a single function performed by guards.
- South Africa had made the definition through the description of a guard's employment status.
- Sweden had made the definition by mentioning one employment status element of a guard.

These examples emphasise the diversity in the ways the laws are written in general, but also the fragmentation in defining some of the basic things in commercial security regulation. A comparative summary table of the security guard/security officer definitions, as well as the original law texts, accompanied by the CEN and ASIS standard descriptions, is presented in Appendix 6. This comparison emphasises the general challenges in making regulation comparisons.

What commercial security personnel to regulate?

The security personnel working within manned security are not only comprised of traditional security guards. There are a lot of different (special) duties where the individuals have a specific working title which describes their actual tasks. In practice the licensing and licensing requirements of these persons are also in many cases differentiated in the regulations. Even if the traditional security guards were licensed in all the regulatory regimes under study, it was not the case of personnel performing the specialised guard services. Table 22 presents the general scope of regulation of the personnel within manned services and the auxiliary staff of the companies.

Table 22 Licensing of main commercial security personnel (guards)

| | BE | EE | NY | QLD | ZA | SE |
|--|----|----|----|-----|----|----|
| 'Guarding' personnel | | | | | | |
| Security guard/security officer | x | x | x | x | x | x |
| Bodyguard | x | x | x | x | x | x |
| Event attendant (crowd controller) | x | | | x | x | x |
| Door supervisor (crowd controller) | x | | | x | | x |
| Alarm receiving and monitoring station operator | x | x | | x | x | |
| 'Non-operational' personnel / Auxiliary staff | | | | | | x |

The table shows that in this study there are only two categories of manned security service personnel that were regulated in all the six regulatory regimes: security guards and bodyguards. Private investigators, different kinds of crowd controllers and alarm receiving and monitoring station operators were considered in some regimes as less important and/or less threatening from the society's point of view. This was not logical because private investigators commonly interfere with citizens' privacy, different kinds of crowd controllers are probably those who most often use force in their work, and the alarm centre operators have access to more confidential documentary and operational daily customer information than any other specific personnel group.

The employees who are not involved in the day-to-day operational activity; salesmen, white collar financial staff, secretaries, car mechanics, cleaners, janitors and so on, have similar and sometimes even better access to company's crucial internal or customer information. However, only Swedish regulation, out of the six in this study, included compulsory directives on a (total) screening of the auxiliary personnel.

Most of the interviewees had the opinion that more or less all personnel within security companies should be regulated. The following comments, describe well the general opinions amongst the interviewees on this subject:

"I would like to say that everyone who has something to do with the activities, both directly and indirectly, should be controlled." (SE Industry expert)

"...I think security officers, guards, bouncers, bodyguards, they need a high degree of control. I think there should be regulation, some degree of regulation for all the occupations." (QLD Expert)

"I think definitely security contractors like crowd controllers, static guards, mobile patrols. They really need to be regulated; operational security personnel - yes." (QLD, Expert)

To regulate auxiliary staff was not considered quite as important. The various aspects of this matter were well represented in the comments of Queensland interviewees. The control considering non-operational personnel was seen to be important.

"I think it should be regulated that any person who is actively involved in the security of property or personal safety should be regulated. That includes sales people, it includes installers and it includes monitoring staff. ...the industry has reached a strong consensus that all those people should be included." (QLD Manager)

"... it is very feasible that anybody and everybody who work in the industry are regulated in some form and must have a license." (QLD Industry expert)

Alternatively, there were some comments in which the interviewees saw the need to control all staff, but thought that it should be left to the companies' discretion and responsibility.

“The auxiliary personnel, I think it should be the responsibility of the company hiring them in order for them to have a license, that all of their personnel go through certain screening processes, I think that should be mandatory. So I do not think it should be regulated.” (QLD Expert)

“Licensing [white collar] might be a step over because there will be a number of issues rising the question what else goes with the licensing.” (QLD Manager)

9.5 Detailed aspects on what to regulate on an individual level

A core part of the contents of all regulation is the list of requirements set for individual security guards as a precondition for licensing and working within an approved security firm. In all the regulatory regimes under study there were three main components in this context that were regulated: the minimum age, the personal suitability (clean criminal record) for the work, and the minimum compulsory training.

Out of these three generally agreed requirements, the minimum age was unanimously seen by the interviewees as a prerequisite because the security guards were considered to be in a position of trust and responsibility that required them to be of age. The other basic requirement that did not raise any comments was the need to have a clean criminal record and personal suitability to work as a guard. There were different detailed requirements on this subject emphasised in different regulatory regimes, but the general practices included in the laws and the interview opinions were totally unanimous in the need for these controls to be implemented. Training as such was supported by all. A summary of the main existing requirements in the legislations of the six regulatory regimes under study is presented in Appendix 7. The more problematic part of these controls was their practical implementation, of which procedures are handled and commented on by the interviewees in chapters 11.

The interviewees had very little to comment on about the basic legal rules connected to health, integrity, suitability and other diversified general requirements set for security personnel in separate regulatory regimes. It seemed that the basic controls are so obvious that there was no need to challenge them. The matters which let the tongues run were the different aspects of the length of compulsory basic training as well as the need for obligatory special and refreshment training arrangements.

The specific subject of granting extra powers to guards was very much a local and cultural matter which welled from the general attitudes in the different societies under

study. It was seen a legal matter not connected specifically only to the private security but to general laws in a country. However, there were some interesting views presented on the principles of this subject which are discussed separately later in this text.

Compulsory basic training

In the following text only the areas within basic training which were considered during the interviews to need compulsory regulation are discussed. Everyone seemed to have some ideas about what, in this context, should be regulated. Most of the interviewees thought that the length of the basic training should be included somehow in the regulations. The existing fixed lengths varied a lot. The content of the training seemed not to be an actual topic in any of the regulatory regimes under study because the main subjects to be included are very similar and arise from the basic requirements set universally on commercial security personnel. Another, extremely touchy topic is how the training in practice should be organised, including its financial and administrative challenges; this is handled in chapter 11. The variation in the length of the compulsory basic training in the different regulatory regimes under study can be seen in Table 23. In Belgium, Queensland and South Africa it was not specified in the private security legislation, but left to the training organisers to propose for authority approval, according to their ideas of how they would run the basic courses.

Table 23 Minimum compulsory basic training and its governance

| | Basic compulsory training ⁹⁹ length in hours | Main training organisers (accredited) | Examination organiser |
|-----|---|---------------------------------------|--|
| BE | N/A | Company | Training organiser |
| EE | 66 (16+50) ¹⁰⁰ | Company/Training corporation | Industry Association (ETEL) ¹⁰¹ |
| NY | 24 (8+16) ¹⁰² | Company/Training corporation | N/A (in practice the training organiser) |
| QLD | N/A ¹⁰³ | Training Corporation | Training organiser |
| ZA | N/A ¹⁰⁴ | Training Corporation | Training organiser |
| SE | 128 (88+40) ¹⁰⁵ | Company/Training corporation | Training organiser (BYA) |

In compulsory training, the examination is a question to be considered carefully when writing regulations. As can be seen from Table 23 the control of the basic training has been left very much to its organisers. It means that in practice the licensing authorities have a limited possibility (interest) to have control throughout the quality and results of the training. This leaves a loophole to make shortcuts, which affects the quality and reliability of the training systems. As the compulsory basic training is considered crucial in the commercial security context by all the parties, it would be important to have it regulated throughout: the length, the content, the training providers and the examination

arrangements. There are a lot of different kinds of detailed rules set in the regulatory regimes under study on training, most of them related to the general local culture of organising these things. A sample of these country-specific directives is presented in Appendix 8.

The sufficiency and length of compulsory basic training

There were divided opinions amongst the interviewees on the general sufficiency and length of the compulsory training depending on their interest group. However, most of them expressed that with regard to the fundamental guarding assignments the training was adequate. Examples describing the common thinking of all the interviewees in different regulatory regimes can be found in the following comments:

“Today you can say the training is good.” (BE Expert)

“It can be said that this kind of training is never adequate, but for the basic work and its purposes it is enough.” (EE Industry expert)

“...basic training is basic training, it is fully enough, but what happens after that is another thing.” (EE Expert)

“I think that the training is long enough, if it is carried out in a proper way as it should. ... If a fellow wants to study and get knowledge, there is enough of it. The attitude [motivation] is another question.” (EE Manager)

“And I think it is long enough, enough for a guard as the basic training.” (SE Industry expert)

Some of the interviewees were ready to comment on the side of the sufficiency of the training the actual length of it:

“It is long enough, yes and no? It is long enough because before there was no formal education so every hour added is an improvement.” (BE Expert)

“I would not like seeing it becomes too long. I am an academic but I think 5 days is too short to learn everything that is needed. I would be interested to see what the minimum is for adequate security. Is it two weeks, is it one month, I am not sure.” (QLD Expert)

“...there is no straight answer. I think that within 60 hours they can get, when they want, a kind of basic knowledge, for sure.” (EE Manager)

“I think it is long enough if it is executed as planned.” (EE Manager)

“Three days as in New York is too little. Two weeks [80 hours] would be a right length for the compulsory basic training.” (NY Manager)

“New York presents eight-hour requirement and this Union has been arguing for a 40-hour programme. And towards that end we created a 40-hour training programme.” (NY Industry expert)

“The standards should be higher. I think one week is not enough. ... And just the basic training, I mean they need to know the laws. They need to meet all the

national competencies on all the different levels and I cannot see how one week can address that. It is too complex.”(QLD industry expert)

The compulsory basic training is one of the core factors in ensuring that the societies’ requirements of minimum professional competence and knowledge level of the security guards are met. Anyhow, the interview comments concerning it were not very convincing. It seems that even if the interviewees had an idea of how the existing local basic training reflects the needs, they did not have, or were not ready to present an exact opinion on how long (comprehensive) it should be. This describes the delicacy and difficult character of this matter. This also makes it extremely difficult to find a solution to compulsory guard training length if even the industry’s own reference group representatives and other experts are hesitant to comment on the matter in an explicit way.

Special training

Compulsory basic training is very much seen as a guarantee that security guards will get the basic knowledge of what their rights and responsibilities are, as well as what risks and expectations they will face in their work. The interviewees, however, did not consider basic training to be sufficient for all the specific professional tasks performed by security employees. There was compulsory specific training, for example, for the dog-handling and the possession of weapons on duty. Depending on the needs, the interviewees turned out to have different ideas and practical models of how the needed skills could be achieved. In most cases the special training was on a voluntary basis. The short length of the basic training was also supported by the fact that many (most) of the security guard jobs diversified so much that not even a longer common basic training period would meet the job-specific requirements. The general feelings on this matter within the whole security community were well described by a customer comment: “To be in the port, controlling loading of sand is a totally different thing from being in a retail shop where you need to communicate with people; there are divergent levels of requirements.” (EE Expert) The same interviewee saw the task-specific training to be so important (and customer specific) that he had organised it himself in co-operation with the security company: “So after they [guards] had got the basic training; immediately after that, as I had employed experienced security personnel, I organise own training including matters which I require from the guards.” This comment tells about the importance of not only security segment specified but also the

customer-oriented and task-oriented training and that it is tightly connected to the customer's own visions and requirements as presented in Table 3 on pages 29-30.

The general, growing need for special training was explained in a very simple and down-to-earth way by a Swedish industry expert who emphasised the growing complicity of the tasks performed:

“[Special training] has been there before and it is there now. In the same way as the companies' organisations have been specialised into certain segments of guarding, the requirements on training have been increased. New training courses have been created in areas where we thought the tasks performed are so important that they must be trained and must know something of it before they start with it.”
(SE Industry expert)

Here the problem is a more general one, also faced in other contexts; what training should be in the interest and under the control of the society and thus made compulsory, and what should be left to be steered by the markets and the business needs.

Refreshment training

There is one more part of the training which logically should be compulsory and included in the regulations. This is ongoing refreshment training, which is compulsory in Belgium, New York and Sweden, and which was commented on by many of the interviewees. It was widely noticed that the laws and the environment of commercial security work change and develops fast and continuously, so all security guards need to be retrained in some way periodically. Comments on this matter included, for example, the following argumentation:

“There is no refreshment training. It is ridiculous really. The laws change. If you are not going back for training, in a five year period the whole Act is evolved. Every renewal [of the license] should include another refreshment course.” (QLD Industry expert)

“An 8-hour classroom refreshment training would be needed every second year.”
(NY Manager)

In certain situations the customer can take the driver's seat to continuously ensure that on the top of the regulation knowledge the level of special skills required are prevailed and even increased: “Then I had a rule for the security company that one day every month is a training day; customer contacts, all evacuations, all basic safety procedures, guard's responsibilities and powers, all this is carried out.” (EE Expert)

It was obvious throughout the interviews that compulsory refreshment training was also in the interest of the regulators (societies) and should be included in the rules in those regulatory regimes where it was missing. The comments made by the interviewees

about the actual models and techniques of how to organise and to improve the implementation of the refreshment training are handled in chapter 11.

Extra powers

If there is a need to give extra powers or protection to commercial security personnel, it means statutory regulation because in all cases it is a constitutional matter. Certain basic citizens' rights can be violated when some state authority (powers or protection) are given to private actors. In the six regulatory regimes under study this matter had been solved according to the legal model and culture of the state. In the Anglo-American states, citizens' powers have historically been on a level that in practice makes extra powers unnecessary. In the other regulatory regimes where the citizens' powers are not on the same level, some extra powers as well as extra protection have often been granted. Table 24 illustrates well the difference between the two types of regulatory regimes under study concerning this matter.

Even if there were some cautious opinions in favour, the majority of the comments from the interviewees were reserved on granting or including extra powers to private security guards in industry-specific regulation. The comments made were primarily about the expediency of commercial security personnel's extra powers. Unanimously it was agreed that if there were extra powers these should be specified in the legislation. Extra powers were also seen as a litigation risk and an additional economic burden because they would, in practice, mean special (extra) training. This was the case especially in New York where these worries were well described by the following comment:

“...we are so much more litigious than you are in Europe. ... Granting extra powers only means that the level of safeguards we'd have to have in place in training and selection of our people would be almost at the level of a police officer.” (NY Manager)

Representatives from all the regulatory regimes under study regardless of the present legislation shared similar, careful views which can be noticed in the following examples:

“I would be a little scared to give them large powers. ...if help is needed then the guard has the contact to the alarm centre, the alarm centre has the contact to the police, and our other patrols, and they will give the advice.” (EE Manager)

“I think that instead of opening up the well of looking for granting of more authority, we may have to look how can we in a better way communicate with the police departments in this respective.” (NY Manager)

Table 24 Extra powers and protection

| | BE | EE | NY | QLD | ZA | SE ¹⁰⁶ |
|---|----|----|----|-----|----|-------------------|
| Granted extra powers and protection: | | | | | | |
| Inspection of clothing and goods of persons | x | | | | | x |
| Identity controls of persons | x | | | | | x |
| Denial of access to guarded area | x | x | | | | x |
| Auxiliary traffic control for police | x | | | | | |
| Detention (apprehension) of persons in certain situations | x | x | | | | x |
| Security check as a part of detention | | x | | | | x |
| Removal from the object as a part of detention | | x | | | | x |
| Identification on site as a part of detention | | x | | | | |
| Escort of detained to a police authority or medical institution | | x | | | | |
| Special legal protection of guards performing their duties | | | | | | x ¹⁰⁷ |

It can be noticed that as in these comments the interviewees emphasised the co-operation with public law enforcement. Presently, extra powers were not a ‘hot’ regulation issue generally in any of the regulatory regimes under study, but its importance was seen to grow if the tasks performed by commercial security will in the future include more CNI or public order type of jobs.

One interviewee made the logical comment that the granting of extra powers probably also means pressures to change weapon policies concerning security officers:

“And I think the problem is not mandated to our rights. ...the second you give somebody more authority to match certain powers, you have to give them a course on that, which is probably going to lead to increase in weapons. I’m not a fan of weapons, either in our hands or in the police hands. I think that is too easy a solution in some cases.” (NY Manager)

This matter has two dimensions; first, it is a law enforcement related status booster for guards, and second, the powers and weapons give actual added value in their daily work. It is a challenge for all regulators to find locally the best balance concerning extra powers and weapons. There is no ‘one size fits all’ solution to be found in these matters.

9.6 Regulated equipment

In addition to legal entities and commercial security activities there are a group of work-related accessories (equipment) which are usually regulated. The most common of these are the uniforms and different kinds of identification used by the front-line security guards and crowd controllers. Some regimes had requirements on patrol cars (BE, NY and SE) or monitoring station components (BE and EE), but in general the regulations included few requirements on equipment. A specific area of equipment regulation is the directives on the possession and use of non-lethal weapons and firearms, of which neither are solely private security regulation matters. In all

regulatory regimes under study there was some kind of national legislation in place on weapons, at least firearms, which also set the frame for their use in the commercial security context.

Clothing and general identification of a guard

As can be seen from Table 25 there are several rules related to the private security guards' clothing and its use in four of the six regulatory regimes under study. In New York and Queensland, the regulations on guard uniforms were, in practice, non-existent. The uniform was the subject on which most of the interviewees had their own opinions and comments to make. It seems that visibility and appearance in security work is an exceptional matter, even if the clothing, as such, in most cases does not give the user any extra 'official' status or powers.

The general advantages of wearing a uniform were mentioned by many of the interviewees; not a single one opposed the compulsory use of it. The common points of all interviewees, made here by a Swedish industry expert included, first, the benefits of general recognition by the public: "It has been considered important by the society, that this person can be recognised in his duty. ...it is motivated by the fact that the public must see that this is a person with guarding duties." Second, the general 'respect-creating' impact of it was emphasised: "Not, that they would have any powers or enforcement rights but, however, it is to some extent a security factor for the public that there is a guard present nearby." Third, the operational and co-operational factors in incident situations were taken up: "And there may be a need for him [the guard] to be visible when he takes action, and it may be significant for the police arriving to the scene to distinguish the detainee from the person who made the detention." One more point was raised by another interviewee; wearing a uniform means that there are certain

Table 25 Examples of regulation on uniform and identification on it

| | BE | EE | NY | QLD | ZA | SE |
|---|-----|-----|----|------------------|-----|-----|
| Uniforms | (x) | (x) | | (x) | (x) | (x) |
| General obligation to use them on duty ¹⁰⁸ | x | x | | | x | x |
| To be approved by authorities | | x | | | | x |
| Considered a general identification of being a security agent | x | x | | x ¹⁰⁹ | | x |
| Prohibition of uniforms resembling those used by authorities | | x | | x ¹¹⁰ | x | x |
| Ban to provide a guard uniform to an unauthorised person | | | | | x | |
| Specific rules for returning the uniform | | | | | | x |
| Identification | | | | | | |
| Requirement of visible company badge/name | x | x | | | x | x |
| Requirement of visible name and/or number | | x | | x | x | |

demands accompanied with it: “We have uniforms because there are special requirements, there are special expectations imposed on this person.” (SE Industry expert)

The main single point taken up by a majority of the interviewees was the present unacceptable practice of commercial security providers trying intentionally to use clothing resembling that of police or other authorities. This was expressed in the category of general comments, like:

“If this is let loose [use of similar uniforms], we could get uniforms which some customers would like, they would love this, but the public would not like it, it would backfire.” (SE Industry expert)

“... it must not look like those of the police. That is the only rule we have, and that is controlled.” (SE Industry expert)

“It should not resemble any of the national uniforms and specifically the name which should not mention police or those staff of things.” (ZA Expert)

“I agree the uniform should not be mixed with the ones authorities wear during the performance of their duties and while they are on the client’s property.” (QLD Expert)

“Especially with the globalisation it is important that the guard will not be mixed with a police” (SE Industry expert)

In New York, where the guard uniforms were not regulated at all, it seemed to be also a non-topic amongst the interviewees who had very few comment to be made on this subject. One of them answered only that: “There are restrictions of the size it needs to be and where it needs to be located, the emblem.” (Manager) The reason for the ‘total’ indifference may be the local culture which focuses on the essential topics. This can be interpreted from the following comment by another security professional:

“Uniforms are not standard. I think they describe rather recognisably [guard function]; still the law does not address those appearance standpoints... I look at it like this, if we don’t have laws regulating something it is probably because it is not a real big issue for us. ...I think the market itself sort of controls it.” (Manager)

As can be seen from Table 25, Queensland was the other regulatory regime under study which in practice had no rules about uniforms, only on the headwear. A couple of chosen comments made by local interviewees describe well the general attitude on this matter. The problem in this kind of non-regulation situation was commented in the following ways:

“If you are simply just looking like a police officer and conducting security work, that’s probably ok. If they are looking like a police officer and acting like a policeman, then that’s an offence and they can be charged with that”. (Manager)

“That seems to be an area where there should be a requirement for differentiation because they [guards] don’t have the same powers. If they appear to be police, they can abuse their powers.” (Expert)

“...you look around and some companies do have remarkably similar outfits to the police special forces troops... You should not pass yourself off as something you are not. This is a temptation to some.” (Industry expert)

Individual identification of a guard

The uniform is the general identification for a security guard/security officer, but another subject which was widely considered to need regulation was a reliable individual identification of the licensed personnel. In all the regulatory regimes under study it was compulsory to carry an ID on duty, and in some of the regimes it needed to be carried so that it was permanently visible. As can be seen from Table 26, rules concerning regulation of ID cards are basically very similar.

The need to regulate the ID certificates/cards is probably so obvious that the interviewees had very few comments on it. The opinions were more about the practical model of providing them. Comments from different regulatory regimes emphasised the importance of an ID and unanimously supported its use at work: “I think if we take a matter as important as the ID card, it must be there.” (SE Industry expert) The importance to identify a security guard/security officer in a conflict situation was recognised and taken up: “Badges and IDs are important and officer numbers for the citizens to identify a guard to be one and to have information if a complaint is made.” (NY Manager)

Table 26 Identification certificates (cards)

| | BE | EE | NY | QLD | ZA | SE |
|---|----|----|------------------|-----|----|----|
| The ID is: | | | | | | |
| Company bound | x | x | x | | | |
| Personal | | | | x | x | x |
| Provided by the authority | x | | x ¹¹² | | x | |
| Provided by the company | | x | | x | | x |
| There are: | | | | | | |
| Specific rules of carrying and representing the ID | x | x | x | x | x | x |

On a personal level, an ID could also be seen as a certificate of ‘official’ approval:

“I am thinking what added value it actually gives that they have the card, a simple ID card? Then everyone sees that he is a guard, there is his name, and it means that people also understand that he has passed the training and he has some kind of powers”. (EE Manager)

The practical challenges to be found in the process of ID issuance are discussed in chapter 11.

Weapons and firearms

Even though the basic trend and policy is a no-arms one, both non-lethal weapons and firearms are an ongoing discussion topic among the regulators and personnel of the commercial security. Most of the interviewees had comments on firearms, but the need and necessity of the non-lethal weapons were, to many of them, a non-topic that they had not thought about. The comments in the following text on the two weapon categories have been handled separately.

Non-lethal weapons

The definition of non-lethal weapons, sometimes also called ‘cold’ weapons, is wavering, which can be noticed also from the legislation of the regulatory regimes under study in Table 27. In the commercial security environment, and in this text, gas sprays, truncheons (batons, night sticks, and telescope batons), colouring equipment, paralisers and handcuffs are included in this category. In three of the regulatory regimes under study there were industry-specific private security regulations on non-lethal weapons possession and use. In Belgium all these weapons were prohibited, in Estonia and Sweden there were comprehensive and partly detailed rules on their possession and use. In the other three regulatory regimes under study there were no industry-specific rules on this kind of equipment.

Table 27 Regulation on non-lethal weapons

| | BE | EE | NY | QLD | ZA | SE |
|--|------------------|----|----|-----|----|------------------|
| Totally prohibited | x ¹¹³ | | | | | |
| Specific restrictions and instructions | | x | | | | x |
| Gas sprays | | x | | | | x ¹¹⁴ |
| Truncheon (baton) | | x | | x | | x |
| Specific technical standards | | | | | | x |
| Colouring equipment | | x | | | | |
| Handcuffs | | x | | x | | x |

The Belgian situation where all non-lethal weapons were prohibited from private security seemed to be clear as was expressed by a local association representative:

“As an association we are completely against it [weapons]. I have to say further that as a Belgian association we are completely against it. That is also the point of view of the authorities. Our guards in Belgium, they cannot use pepper spray, hand-cuffs, sticks, even in the Belgian legislation the size of the torches are very limited because you know as well as I do that some torches are so big that they are used as weapons.” (Industry expert)

Belgium is, however, a good example of the changing requirements imposed on private security and how they create situations where this kind of absolute policy and

argumentation had become indefensible. There were a couple of serious incidents at the railway stations, and in one of them a private security guard was killed. Belgian Railways made a case based on the fact that guards are not sufficiently protected against violent passengers. This led to a modification in 2004 of the private security legislation:

“It is put in the law of private security but as a completely different chapter and it says that a special kind of security service, security department, can be established by public organisations of public transports. And these guys are allowed to do a couple of things that any other normal private security guard is not allowed to do. They cannot arrest but they can physically hold people – detain them. They can use hand-cuffs; they are allowed to use the pepper spray.” (Industry expert)

This situation touched on three fundamental questions in the organisation of commercial security and its regulation, questions which were not only connected to Belgium, but were faced also in other regulatory regimes:

- First, the security industry (in line with the authorities) had a basic stand supporting a no-weapons 'whatever' policy which they had to reconsider in this situation.
- Second, the authorities changed the law for only one type of activity because of Belgium Railways' heavy lobbying. The security industry considered this unfair because other guards in other environments faced the same risks:

“...the motivation to do this by the authorities was to say the guards, the in-house guards of the public transport companies are exposed to a lot of risks and we said; hay wait, we also have a lot of private security guards who are exposed to a lot of risks, so why do you work with double measures for the same kind of activities.” (Industry expert)
- Third, the work previously open and in many cases performed by commercial security companies was excluded from them by this new part of legislation that gave in-house security extended powers and tools to support their activities.

This is a common situation faced by the societies and the regulators. The actual work of commercial security companies turns out to need extended powers and tools in order to be carried out in a proper way. In this Belgian case, the government's solution was to create a new category of security providers to cover a grey zone. This situation can be noticed in all regulatory regimes. The solution presented here is not unique and can be found in different 'colours' in different times in different countries, for example, within the regulatory regimes under study in Queensland (Australia) and Sweden¹¹⁵. As often in these cases the political expediency, not the facts, decided the outcome. The actual decision-making process in Belgium was well commented on by one of the

interviewees: “But it was a political compromise between a few ministers and there were nothing we could do about it.” (Industry expert)

In Estonia and Sweden there are specific rules in private security regulation on the use of non-lethal weapons. The basic idea is that if you have these kinds of ‘tools’ for your work in your possession, you should have adequate legal and practical training in how to use them. At the same time the laws emphasise that these types of equipment are there for occupational health and safety reasons, for use in protection, not to manifest any ‘extra powers’ of the guard. The approach to these matters was in general very pragmatic, which can be noticed from a comment made by a Swedish regulator on telescopic batons and their use:

“A new baton model has been taken into use, one which can be called telescope baton. We have been a little hesitant to accept it because there were risks in its use, but now we have found out how to train its users. There is a great demand amongst the personnel for it because it is lighter to carry and also easier to use, and it has really a great effect.” (Industry expert)

Another comment made by a union representative strikingly emphasises the core idea of carrying ‘cold’ weapons in private security work: “Regarding baton and handcuffs, one’s goal has to be to protect oneself and others. One must not use them as enforcement tools.” (SE Industry expert)

In Queensland, the rules for the possession and use of non-lethal weapons were not included in private security regulation but in other legislation. They were, however, a part of the guards’ tool-kit and thus included in the licensing and training processes: “There are regulations that cover the use and the carrying of handcuffs and batons. They are part of the licensing process, and the training process covers those elements specifically.” (Manager)

In New York and South Africa, the attitudes concerning non-lethal weapons were clear: “The ‘cold’ weapons do not need regulation; they are not a problem in everyday operations.” (NY Manager) and correspondingly: “I think it could become over-regulated for me, if you actually start regulating those non-lethal weapons as well.” (ZA Expert) In another New York opinion which correlates with the previous ones the actual situation was commented on:

“So I look at it like this: if we don’t have laws regulating the handcuffs, that’s because probably that’s not a real big issue for us. ... I would say the percentage of security officers that carry handcuffs and weapons of any type is probably less than 1/10, and it is an extremely small number.” (Manager)

The union in New York did not seem to make this matter a priority either. A union representative made also a specific comment about the right to use handcuffs: “I am not aware of discussions within labouring management if they would fit security officers with handcuffs, because they don’t have any authority to make arrests.” (Industry expert)

Firearms

Firearms are connected to all security activities in the minds of common citizens. As the police forces are armed in all the regulatory regimes under study, the topic, on the general level, also touches on commercial security personnel. The possession and use of firearms is in the first place regulated in all countries by special ‘gun’ legislation which sets the platform for the local firearm policies. As can be seen from Table 28, all the regulatory regimes under study had, in addition to the general gun laws in their industry-specific private security legislations, rules for the possession and use of firearms at work. In principle the actual control was carried out according to the general fire-arm legislation and by the authority responsible of its implementation.

Table 28 Regulation on firearms within private security work

| | BE | EE | NY | QLD | ZA | SE |
|---|----|----|----|-----|----|----|
| Firearms possession principally allowed for private security | x | x | x | x | x | x |
| Specific restrictions and instructions on gun possession and use | x | x | x | x | x | x |
| Specific training required | x | x | x | x | | x |
| Only company-owned firearms allowed | | x | | x | x | x |
| Specific ‘rules’ on the possession and use of guns on duty | | x | | | | x |

When it comes to the possession and use of firearms within security work, there is a philosophically common undercurrent that commercial security should be ‘unarmed’. The risks faced in certain segments of the work and in certain tasks performed are, however, such that in real life this principle cannot be followed. When performing high-risk tasks, for example CIT, protection of CNI and alarm response, the possibility to possess a gun on duty was more a rule than an exception in the regulatory regimes under study. In this matter interviewee comments on details and emphasis varied, reflecting the general assumptions of the risk environments and the attitudes locally concerning guns in their societies.

Belgium, as with the non-lethal weapons, was a good (general) example of the most often faced argumentation for gun possession and the balancing between different interests and interest groups. First, shooting incidents in society, which need not

actually happen within the commercial security work, trigger new and stricter ‘rules’ on weapon possession, as was the case in Belgium:

“Because of the problems we had last year with this wild guy shooting in Antwerp, the whole general firearm law became much stricter. As a result of that we had a new Royal Decree even for the private security and its use of arms, it became much stricter.” (Industry expert)

Second, even though the basic opinions of authorities and companies is ‘no guns’, a black period in the middle of the nineties with a lot of hold ups in CIT, some even lethal, made it psychologically impossible in Belgium to totally ban firearms from guards. A strong opinion from the operational frontline personnel led to a situation where it was admitted: “Ok, we are in principle against it but it is a very sensitive historically grown issue for the trade unions. ...one of the concessions that both we as companies and the Ministry of the Interior had to do was to allow the arms, the firearms.” (Manager)

In Estonia, after the new independence, guns and gun possession were connected to the development of the society. In the Soviet Republic of Estonia civilians could not possess firearms. In the beginning of the 90s, when the new state’s organisations were not yet fully operational the situation changed and thus a lot of unregistered firearms were around: “Everyone felt a need to protect themselves” (Expert). Guns were acquired for this purpose and most of the guards were armed as well. This had now changed and the general attitude in the society is that guns are not needed. In guarding, special duties are still seen to require firearms, but their visible possession is at the same time seen to be undesirable, as was noted in one of the interviews: “Alarm response is another service where guns could be needed. ...I don’t see it positively if in the shop premises or hotel or some other place the guard has a gun, it scares me.” (Expert)

In New York the interviewees’ attitudes on firearms were very reserved. This was somewhat surprising because the United States is a country known of its liberal gun policies. The extra area of concern related to Anglo American jurisdictions – liability – was taken up here, as in Queensland, to be a matter affecting the possession of firearms in commercial security work. This was a special issue that did not seem to be of concern in other regulatory regimes under study. Comments from the interviewees in New York were very clear on this subject:

“No firearms for private security.” (Expert)

“[Firearms should] only be possessed by the private security officers on specific tasks and environments like nuclear plants and oil refineries and always under

strict control to avoid misuse. Never in public places like malls, sports events and so on.” (Manager)

“In New York the security officers are not armed. ...the security officers who are a part of this union are unarmed and the security officers we have been seeking to organise in this market are not armed.” (Industry expert)

In Queensland, the pragmatic approach to this topic could be seen in the comments given by the representatives of the different interest groups. The front-line operational personnel of the industry were unanimously for fewer guns. However, the daily realities faced in the work, the changes seen in the society’s risk environment and the new tasks performed by commercial security providers were noted by most of the interviewees – guns are here to stay, whether we like it or not. The 'official' opinions of the trade unions were very strict but the other interviewees were more pragmatic:

“... a very small proportion [of security guards] is armed here and there is a movement really away from arms, because it is a liability issue if a guard is armed.”¹¹⁶ (Industry expert)

“...but in union it is an issue that we have opposed in the past and continue to oppose arms. ...action is a role for the police force and not the security guard and we don’t really see they should force security guards to carry firearms.” (Industry expert)

“I believe that it is wrong. I don’t believe security officers should carry firearms. I don’t think the firearms and the security industry are a good combination. However, the way world is moving with increasing terrorism I can only actually see it increasing. If it did that, then I would prefer if it was done on a stronger regulatory basis with higher levels of training and with limited areas of use.” (Manager).

An academic who had followed up the trends in commercial security had a very clear opinion on the future: “I cannot see private security without weapons, never.” (Expert) A representative of the authority saw the future in the same way: “I think there will be weapons used within private security and I cannot imagine a change especially for security guards. I [don’t] think any other license category requires a weapon.” (Industry expert)

In South Africa, arms are present in every citizen’s daily life. With the high number of armed crimes the guards were very much in possession of firearms in their work. Two expert comments on the possibility to disarm private security portray the general feeling amongst all local interviewees:

“Not [less arms] because of the criminal situation in this country and the forces you are up against, because the guys running out there, they are more heavily armed than our police force at the moment. So you need to have armed security forces.” (Expert)

“You cannot drive effective security in this country without arms. There are too many arms out there in the hands of the criminals.” (Expert)

This does not mean that there were no concerns about the present firearm policy and their possession by commercial security providers; this could be noticed from a third expert comment:

“You don’t need the guy standing in front of a shop to have an automatic firearm. For me that’s always been a concern. If I got into a shopping centre and there is a guard with a semi-automatic rifle, and I know that his training probably was three days, then I’m worried.” (Expert)

In Sweden, firearms were one item in the toolbox available for a guard in his work, even if they did not possess or carry them in practice. The opinion amongst the industry strongly opposed guns at work. This matter was not considered an actual topic, as can be noticed from the following statement: “The [gun] regulations really work, and there is no need for further regulation as far as I can see, it is not mismanaged in any way.” (Industry expert) An opinion on the knowledge of the existing situation amongst the decision makers was descriptive and supported the understanding that guns are not a hot topic presently:

“...it turned out then that members of parliament sitting on the Board of National Police do not have a clue that there are protection guards, no idea of the kind of weapons possessed, they just said: Yes, if guards have guns, then we have at least to stop that, those they cannot have.” (Industry expert)

As such, the companies were very restrictive for the possession of firearms, even though it would be allowed by the regulation. The basic Swedish attitude was well revealed in the statement of another industry representative: “...when we think about protection, then one has to act with sound intellect [wits] and not with firearms.” (Industry expert)

Taking into consideration the opinions presented during interviews in the regulatory regimes under study, the following conclusions can be made: First, all weapons, but especially firearms are not seen to belong to commercial security, second, most of the interviewees considered them, however, to be necessary in certain tasks now and more so in the future. The real world needs seemed to steer the authorities and the industry to accept weapons as a result of an unavoidable development trend of growing pressures to perform tasks including ‘vigilant’ protection of persons and properties.

9.7 Analysis and discussion

The six regulatory regimes had quite similar outcomes when choosing what and who to regulate? Differences can be noticed in the width and comprehensiveness of the

supporting regulation which can be called ‘codes of conduct’. The variations on what and who to regulate can be explained by national administrative, political and cultural factors. Some choices were also conscious expressions of political evaluation of commercial security services. Some of the regulatory regimes had implemented laws to effectively rein in the industry, but some of them had had a willingness not only to control commercial security, but also to enable it to become a formal partner in the strengthening of national security infrastructures.

Opinions on in-house security varied as did the existing legislation on this subject. The majority of the regulatory regimes had seen that public interest issues were strong enough for including it in the regulations. It is understandable that there is a public interest to have special rules concerning licensed premises as the risks for violence and bodily harm caused by security work are manifold. This activity is not principally guarding but door supervision (crowd control), the status of which is also interpreted in different ways within the regulatory regimes under study.

The answer to the first actual question of what activities should be regulated had already been answered for the main segments in the existing regulations of the regimes under study. The interviewees seemed to have very little to say about the core activities within the manned security services, that is: static and mobile guarding including call outs, event security and close protection. Conversely, two other manned security services, traditionally considered ‘marginal’ within the profession, door supervision and private investigation, got a lot of comments from the interviewees. The regulation of these two segments of services seemed to be desirable but problematic and the regulatory regimes even had different ways of handling them, both principally and in practice.

Concerning door supervision (crowd control) the interviewees, from Belgium, Queensland and Sweden which had included this activity in the private security regulations, presented a lot of arguments for the need of improvement, especially on the control of this activity. The interviewees, from Estonia, New York and South Africa which had left this area outside of private security legislation, identified the problems and challenges in this segment, but did not actually see it as a part of private security and did not either present any specific ideas for its control.

Private investigation as a commercial security segment was excluded by the law in two of the regulatory regimes under study, Belgium and Estonia, where it was seen to be primarily an official (police) function, and in Sweden it had not been regulated at all. In the rest of the regulatory regimes under study, New York, Queensland and South

Africa, it was included in the private security legislation and considered a normal commercial security activity. The comments given on this subject clearly reflected that everywhere there is a need for private investigation services, but to draw a line between police work and private work, in this context, is extremely difficult and it is under constant evaluation. Close protection was experienced as such a special and marginal activity that only a few actual comments were made about it.

The regulatory requirements of commercial security companies were taken as an existing fact with little comment. More detailed rules related to the companies' business activities, like contracting and liability, were, however, not as clear a topic in many of the regulatory regimes under study. Although the laws in all of them did not include requirements of a written contract with defined minimum content and compulsory liability clauses (Hess and Wroblewski 1996:72-92), they were unanimously seen by the interviewees to be needed in some form. In the same way, the idea of compulsory preservation of certain documents, for example, contracts and on-duty reports were thought widely to be a good idea for control reasons. The detailed 'extra' subjects regulated varied, reflecting the different priorities in the different societies, but all of the regulatory regimes under study had some of them. The main things pointed out in this context were related to the compliance with the obligations towards the authorities, the consumers of commercial security services and the public at large.

The security guards' licensing, training and right to weapons were the subjects most commented on by the interviewees. The significant number of lengthy comments made on different aspects of compulsory and voluntary basic, special and refreshment training tells about the importance and difficulty of regulating and organising these activities. It also showed that in all the regulatory regimes under study these matters were not totally under the security authorities' control.

The interviewee opinions on clothing and identification were unanimous and emphasised their importance as visible symbols of a guard's special status. The possibility of confusing the appearance of uniforms belonging to the authorities (police) with those of security guards was considered a risk to be avoided by regulation on clothing and headwear. Interestingly, for the two regulatory regimes missing rules on uniforms (QLD and NY), it did not seem to be an actual problem! The clear identification of the security company (employer) and the individual guard was considered a basic requirement. Company logos on uniforms and personal ID cards (numbers) were unanimously seen as a must in security work.

The granting of extra powers to guards was not thought by most interviewees to be a good idea. Generally, the interviewees' opinions on the possession of weapons, both non-lethal and firearms were cautious. There was, however, a general belief underpinning the comments that weapons will be needed to carry out the increasing number of tasks being re-allocated to the commercial security sector.

CHAPTER 10: INTERVIEWS - HOW TO REGULATE?

How to regulate commercial security activities is primarily a political and administrative question, meaning that the ministry that has been designated to handle these matters will resolve them according to the existing models and resources available to it. The different interest groups outside the government, including the security industry, usually have very limited possibilities to influence the internal government processes during which the practical solutions of law implementation are decided upon. Three issues were commented on from the interviewees in this context. First, there were mainly hypothetical questions on the possibility of having self-regulation in private security and the desirability of harmonisation (federalisation) of the regulations. Second, there were the more down-to-earth administrative issues like, who should be the supervising authority and what the role of the police should be? Third, there were the questions relating to the handling of the core tasks, e.g., licensing and training which is considered separately in chapter 11. The similarities in the opinions expressed by the interviewees on these matters were interesting bearing in mind that within the regulatory regimes under study there were widely different solutions on how the handling of them had been decided upon and organised.

10.1 About self-regulation

Self-regulation was a topic on which most of the interviewees had an opinion. This indicates that there is an ongoing discussion, partly led by academics supporting it. The people in charge of the actual regulation and living under it were, however, quite unanimous in their opinion that in the present world it is not a possible arrangement to steer commercial security.

“I don’t believe in self-regulation. The better the industry is regulated by the government the better it develops to fulfill the tasks for which it exists.” (EE Manager)

“I think we should have a role in how it should be regulated but it is much too fragmented to sub-regulate itself.” (NY Manager)

“The theory and principle of self-regulation is good but self-regulation never works in private security environment.” (NY Manager)

“My belief is it should be regulated. Self-regulation is not, I don’t believe self-regulation would be a current option.” (QLD Manager)

“No, it does not work. ... Self-regulation never works.” (QLD Expert)

”[Self-regulation?] No, I don’t think so. Especially not today when the official sector is too expensive and there has to be found substitutive commercial solutions.” (SE Industry expert)

“Self- regulation will never replace the authority. ... It is not the answer to everything, definitely not in the security industry, that I can tell you.” (ZA Industry expert)

These comments can be summarised with the idea of dependence expressed by a Swedish manager: ”Private security regulation is a triangle of influence: government – customer – security provider, which self-regulation does not put into effect.” It is notable that most of these opinions were from representatives of regulated groups within the industry who could be supposed to oppose government control.

In any case, there were also some comments in which the future was left open for some sort of industry self-regulation. An important point was made by one of the interviewees when he mentioned that self-regulation had been tried, at least in some way, in the commercial security context but even the basic goals set for its implementation, by the government, had not been possible to achieve: “My belief is that there should be some sort of regulation and the fact is that the industry could not regulate themselves properly or they have done it in such a haphazard manner that government felt that they have to step in.” (ZA Expert) In another comment it was pointed out that there can be self-imposed rules on top of the statutory regulation. The problem expressed was that it is quite difficult to enforce these kinds of directives on all the players within the industry: “No, no, no, voluntary regulation can be a complement to statutory regulation, and then we are talking about the moral of gentlemen’s agreement on quality. ... It helps, but slightly, slightly.” (BE Industry expert)

There were some comments made which were in support of self-regulation as a policy in today’s ‘modern’ world. One of them was based on the strong opinion of commercial security being a business in a free market environment:

“From personal and academic point of view I am in favour of a kind of legislation but a limited legislation – why? Because private security due to the fact that it is private is part of the market, and in the market it is quite simple, it is always searching balance between the demand side and the supply side. I strongly believe in the concept of the market as being a spontaneous order who tries to regulate itself due to prize, competition, quality and so on. From that point of view I am more in favour of a legal framework not going into details. What happened in Belgium is that today legislation, regulation of private security is coming so big that in my opinion it is already over-regulated.” (BE Expert)

There was another expert who thought quite optimistically that the industry would mature and then return step-by-step to self-regulation, but even he saw some threats in this kind of development:

“I think if the industry is regulated by the government a certain period of time until the industry can show that it is capable of regulating itself, then maybe we can go back to self-regulation actually. It does open the floodgates again for the cowboys but maybe that is a long term plan within the industry.” (QLD Expert)

In Queensland two other interviewees took up the possibility to have a mixed system where the industry associations need to approve the applicant companies as a precondition for licensing. This model had been tried in some (other) Australian states:

“There are a couple of different models in Australia. Co-operation model has been picked up by the NSW jurisdiction. ...down there they require the security firm applying for corporate licensee to be a member of an approved security organisation, if not, then that’s a grant for suspension of that license, cancellation of license.” (QLD Industry expert)

The idea here is to make the security industry take lead responsibility and partly care of the compliance control work through their organisations. There was another opinion given on the same subject, a more cautious one:

“I think it [co-regulation model] has a very important place, but sincerely with obvious limitations, an obvious one is that it is not compulsory to join, so it is very clear that a large number of firms can operate quite successfully without being members.” (QLD Expert)

This interviewee was somehow sceptical and brought up the possibility of a split within the security industry and the creation of new rivalling associations, competing with each other:

“As well they make money and want members, so there is a hesitance for them to enforce the law and investigate and prosecute members. ... I don’t think co-regulation will happen in Queensland now, ASIAL wants it but there seems to be a lot of resistance.”

As a summary of the opinions on self-regulation can be taken a comment made by a manager who works in the tough, profit-oriented security market of the United States and knows the realities of the business:

“I’ll say no [to self-regulation] because there are too many companies and there is going to be the company out there having only 5000 men hours per week, maybe it is two or three accounts, they are going to do whatever it takes to make the biggest profit because whatever profit they make it will go straight in their pockets and to say that people would self-regulate themselves in the US - I don’t see that happening.” (NY Manage)

When summarising the interviewee opinions (Table 29), including those taken as examples in this presentation, it is obvious that in the regulatory regimes included in this study, self-regulation is not seen as a solution for steering and controlling commercial security activities.

Table 29 Opinions on self-regulation

| Regulatory regime | General opinions | Divergent opinions |
|--------------------------|--|--|
| Belgium | Self-regulation – no, no, no. | Voluntary regulation can be complement to statutory regulation. I am in favour of legal framework not going into details. |
| Estonia | I don't believe in self-regulation. | Own initiative is needed if the authorities cannot fulfil all their responsibilities. |
| New York | The theory and principle of it is good but self-regulation never works in commercial security. I do not see that [self-regulation] happening. | |
| Queensland | Self-regulation never works. I don't think co-operation needed for self-regulation will happen in QLD now. Self-regulation is not a current option | Maybe self-regulation is a long-term plan within the industry. Co-operation model has been picked up by ASIAL. |
| South Africa | Self-regulation will never replace the authority. The industry could not regulate themselves properly. | |
| Sweden | Self-regulation, no, I don't think so. Self-regulation do not fulfil the different requirements set for the industry. | |

10.2 Federalisation and harmonisation of regulation

Should and could there be common rules for commercial security in countries like the USA and Australia, or in an entity like European Union, which are all connected somehow to the regulatory regimes under study? The need for common rules was expressed by many of the interviewees, but internal political realities seemed to have made this solution generally impossible for the time being. It was obvious that, at least today, commercial security regulations will not be the first area in legislation where the states' legislative independence concerning law enforcement-related matters will be

broken up. The interviewee comments in this context are mainly from New York and Queensland as this matter is principally relevant to them. In the European Union, the split is in many ways administratively and culturally even more complicated because it affects the law enforcement governance models of independent nation states. Even so the interviewees from Belgium and Sweden, expressed some opinions on this matter. The situation and attitudes are generally still diversified in Europe as have been expressed by national associations of commercial security (De Clerck, et al 2007:20-33).

In the State of New York the interviewee opinions supported more streamlined rules on this matter. No common or structured policy could, however, be found amongst them. One aspect commented on was the hope for nationally standardised background checks on security guards in order to streamline their basic control: “What I’d like to see on federal level, I think a security officer needs to have a proper background check run by the FBI. (Manager) In another comment an interviewee hoped for a federal minimum standard, which could be extended by the state governments: “The minimum statutory standards [regulations] should be federal applying to all the states in the United States. The individual states could then add on top of that special things they see to be needed.” (Manager) The same interviewee also saw terrorism as a good justification argument to support this kind of federal legislation: “The threat of terrorism could be a tactic to enforce federal regulation because anything else would not make the states to accept it. An emergency like terrorism threat could do that.” This interviewee was, however, aware of the basic problem in achieving this kind of model: “The balance between the states and federal legislature and executive is such that no-one wants to change that balance.”

In another comment the approach was a more cautious one and emphasised voluntary co-operation. “As far as to be state or federal, I think that it would help if both the state and federal authorities became more engaged on the issue.” (Industry expert) Also this interviewee took up the terrorist threat as an argument for more streamlined regulation. He commented on a federal report on the 9/11 incident which included discussion on the role of commercial security in protecting critical national infrastructure. The interviewee wondered, however, why there was no follow up of this path by saying:

“And an interesting fact is in that report, and it is yet to be followed up, 85% of the infrastructure in this country is protected not by public security officers but by private. This is totalling statistics and talks about their importance I think, the

scope in this country. But unlike other aspects in the 9/11 commission report there is no follow up in regard to the private sector security officers.”

The comments here reflect some hesitancy and caution to express opinions too strongly on this issue.

In Australia, the matter of uniform private security regulation has been handled by the Council of Australian Governments (COAG). Even if all the practical facts support a federal streamlining of commercial security regulation, again the state legislative independence principle tips over this kind of proposals. However the idea is still alive (Davitt 2010; Sarre and Prenzler 2011). As can be seen from the following comment by a Queensland official, before the proposal was turned down, there was a genuine need and will for change:

“...last year (2007) COAG, that is the peak ministerial body comprising of prime minister and all the premiers throughout the States agreed and then decided that harmonisation is a way to move forward in terms of providing a uniform [security] industry. ...The logical and theoretical model should be a single piece of legislation, and theoretically speaking the most logical choice would be the Commonwealth Government’s single piece of regulation which covers all the states.” (Industry expert)

The terrorism threat, as in the United States played also in this discussion and decision making a vital role, as was stated in the same context:

“That was primarily related to the counter terrorism agenda that COAG held at that time at its hold. A review that was conducted by the minister of another department was consistent with that wish so it was working towards that goal and that harmonisation... We are getting very, very close to standards of criteria on a lot of things.”

The comments from people actually working within the industry supported harmonisation. They had met the problems of the present situation in their work and wanted a change. They saw that the guards and the industry would benefit from this kind of development: “From a security personnel point of view I would like to see a federal regulation with national competency standards applied across the borders. So it would make the license portable.” (Expert) He also pointed out that the streamlining of checks connected to licensing would be easier to perform: “It would also let other jurisdictions to access criminal records from all over the country.” In practice he was as sceptical as the others of the possibilities to achieve this. “I cannot see it [harmonisation] happening in the medium term. ...In the next ten years, no, in twenty years there may be some considerations.” The same interviewee came back to the

subject in another context and described in a clear and more comprehensive way the situation as well as a model of desirable best practices serving all interest groups:

“It is a mess, a complete mess. If I had my way I would take all state power away from regulating the industry and I would give it to the Federal Department of Justice. That way we would get a uniform set of regulations and laws and a uniform set of competencies standards which the industry has to make before being licensed. It just makes sense, it really does and I just find that the disjoint approach with each state doing its own thing actually adds to the poor perception of the industry as a whole. So for clients who have a number of offices in different states, they have to deal with all these different systems. It is burdensome and they should not have to worry of the extra workload associated with combining different legislation in every single state. So federally applied jurisdiction and applied regulation would work much better. I think politically it is going to be really tough to convince the states.”

A similar statement was given by a frontline security professional:

“It should be regulated on the federal level because Australia is a very large country but the population is predominantly on the eastern seaboard. What we need to do is to get consistency between the regimes in the states, that’s an ideal.”
(Manager)

He was, anyhow, also very sceptical of the possibility of common regulation: “But reality is reality. The state will not give up its power to regulate, in which case the state regulation will be the second option.” An academic opinion given in this context was unanimous with this: “Absolutely it should be [harmonised] but it is unlikely in Australia. The current Federal Government is simply not interested. I have to be pessimistic about the prospects to finish short term harmonisation.” (Expert) After saying this, the interviewee explained his optimal solution to this matter if only the actual facts of good regulation would be considered:

“COAG has no powers, they have to agree. It is all voluntary, that’s the problem. So they can meet and they can agree to try to create national standards but the fact is that it is only happening in a very limited way mainly with training, it’s the common training standards, you know, national competencies. So that is a good thing but I mean that if you look around Australia just now the systems are very different. The terminology is different, everything is different: disqualifying things, disqualifying periods, license categories, license fees, suitability tests, some states are doing fingerprinting, some are doing drug and alcohol testing others aren’t, so there is not much harmony. I think the federal department of justice should get the eight jurisdictions together and say let’s try and find a common act, common set of regulations we can agree on and my office will provide resources to co-ordinate that. At the moment there is no incentive for Queensland or any jurisdiction to communicate with their counterparts for harmony, you know.”

It is not just the streamlining that is the problem. In Belgium where the state structure is fragmented and political culture fractured, there is also a threat that the control which is now centralised could be split similarly with the present public police organisation. The industry as such has a strong desire to keep the regulation federal:

“It [regulation] should be federal, absolutely. In Belgium the party that now won the elections, wants a new [decentralising] state reform. But it has nothing to do with this kind of issues [private security regulation]. ... It should remain on federal level.” (Industry expert)

Even in Sweden there were some strict opinions favouring a more comprehensive (centralised) structure for the regulation and especially its implementation as can be noticed from the following industry expert comment (Eriksson 2007a:28)¹¹⁷: “We want to have a total and streamlined control of those regulations there are concerning security companies, guards, crowd controllers and protection guards, as many of these matters overlap and the existing legislation is basically common.”

Based on the general and detailed opinions presented by the interviewees, there is clearly a practical argument in favour of the harmonisation of commercial security regulation which is overruled for the time being by historical models of administration boundaries and partisan attitudes. The comments on a streamlined regulation were very similar. The interviewees looked at the matter from a practical and operational point of view and in their opinion the best way to take care of the matter would be the creation of a federal/harmonised model. It was as obvious that they understood the political impossibility of this kind of set up for the time being. A basic summary (Table 30) of

Table 30 Opinions on federalisation and harmonisation of regulation

| Regulatory regime | Opinions | Comments |
|--------------------------|---|--|
| Belgium | Regulation should remain on federal level (centralised). | Decentralisation of governance should not include private security regulation. |
| New York | <p>I’d like to see it on federal level.</p> <p>The minimums statutory standards should be federal applying to all the states.</p> <p>There should be uniform (minimal) federal statutory standards on private security.</p> <p>It would help if both state and federal authorities become more engaged on the issue</p> | The threat of terrorism could be a tactic to enforce federal regulation. |

| | | |
|------------|--|--|
| Queensland | <p>COAG decided that harmonisation is a way to move forward in terms of providing a uniform industry.</p> <p>A logical choice would be a single piece of regulation which covers all the states.</p> <p>I would like to see a federal regulation with national competency standards.</p> <p>I would give regulation powers to the federal authorities.</p> <p>Federally applied jurisdiction and regulation would work much better.</p> <p>It should be regulated on federal level.</p> <p>Absolutely it should be harmonised.</p> | <p>It is primarily related to the counter terrorism agenda.</p> <p>I cannot see harmonisation happening in the medium term.</p> <p>Politically it is going to be really tough to convince the states of the superiority of this kind of arrangement.</p> |
| Sweden | <p>We want to have a total and stream-lined control of those regulations there are.</p> | <p>We would want to evaluate the Finnish model with one authority having total responsibility.</p> |

the comments in this study shows the unanimous attitudes of the interviewees on these matters. Not a single opinion in favour of decentralised regulation was given.

10.3 The structures and work of the regulatory administrations

In the regulatory regimes under study the basic private security administrative structures and the implementation organisations were a part of the government organisation (Table 31). In the same way the procedures of licensing and daily follow up control were in the hands of the state officials. Because of this the interviewees, especially the operationally active ones, did not have or express many detailed opinions on how to organise this activity. The governmental ministry/department in charge of the private security was also in charge of the police matters, except in New York and Queensland. It is, however, important to notice that the police authorities are the actual license and controlling organisation only in Estonia. This is a central factor to bear in mind when the relations between police and commercial security providers are handled in this section.

TABLE 31 Licensing authorities in the regulatory regimes under study

| State | Superior Government Authority | Actual main licensor |
|-------|---|---|
| BE | Ministry of the Internal Affairs | Ministerial Department |
| EE | Ministry of the Internal Affairs | National Police Commissioner / Local Police Prefect |
| NY | Department of State | Division of Licensing Services ¹¹⁸ |
| QLD | Department of Employment, Economic Development and Innovation | Office of Fair Trading |
| ZA | Department of Police | Private Security Industry Regulatory Authority |
| SE | Department of Justice ¹¹⁹ | County Administrative Board |

The present administrative organisations were mentioned by the interviewees in several ways. The different accentuation in different regulatory regimes was understandable as the administrative models and local ways to control the commercial security activity varied a lot, especially in practice. In most of the comments the present models were seen as an existing reality and improvements were primarily wished for in the practical daily work. In this matter the focus was not on the governance models but on the ‘daily’ smoothness of the arrangements from the commercial security companies’ business point of view.

Belgium

In Belgium, where the responsibilities were concentrated in the Ministry of the Interior, the basic arrangement was accepted, but: “...we believe that the Ministry of the Interior has too much concentration of powers.” (Industry expert) What was meant by this was a basic dilemma of concentrating too much of the regulation and its implementation powers in the same authority. When reading the description of the system it is no wonder that the industry sometimes feels frustrated as was commented similarly by interviewees:

“It is the Ministry of the Interior who writes all the legislation and the Royal decrees and the ministerial decrees and even within the ministry it is the same department, so we are talking of one department, one direction of private security in the Ministry of the Interior. It writes the law, ok and that’s a monopoly. Secondly if there are things in the law that are not very clear, they do an interpretation. It is the same department who does the pre-screening, it is the same department who gives authorisations to companies, it is the same department who gives the licences to the guards, it is the same department who sends out its people to do the controls, and it is the same department who arbitrarily decides how high the fine will be. And we think that is something - too much monopoly.” (Industry expert)

Estonia

In Estonia where the police have a leading legally mandated role in all practical commercial security control, there were problems in the actual processes. It seemed that they were unwilling or incapable of discharging their tasks as the main regulatory body. Comments from the industry representatives were very negative and included a wish for a more customer oriented licensing and control practice. The situation could be compared with the Belgian one where one authority had dual roles in the regulation process. A comment on law drafting process by a commercial security representative describes the feelings within the industry:

“And it was clearly reflected during the law drafting process that the division of labour was in certain tasks problematic if co-operation between police and private security does not function. Even if we have always said that they lead and have also offered the leader's role to them, they want to take it but are not capable to execute it. If asked, of course, no-one admits this straight away.” (Manager)

Attitudes within the industry on the control organisation were sceptical but without suggestions for better alternatives as can be noticed from the following comment by another industry's manager:

“Even if they should have their role as supervisors, a leading role, sometimes one thinks that it should be better if one would not need to have anything to do with them. In that sense it would be good if there could be some totally neutral body in between, but at the same time this body should have knowledge and skills to supervise and lead, so who would be there - again the police.” (Manager)

The same feelings on the dual police role were expressed in a third industry representative comment calling for an independent ‘broker’ between the regulators and regulated:

“Maybe the police are being bumptious. A kind of a separate licensing unit could in my opinion be a solution. Then there would not be such pressure, such stress, the police would be the police and the private security the private security.” (Manager)

New York

The administrative organisation of the control of commercial security was clearly not a topic in New York. The comments made about the private security administration structure supported, however, a police driven system, which is not the existing arrangement. “The obvious practical controller of security industry is the police. They have closer contacts to and better understanding of the real private security business challenges than other departments.” (Manager) One reason for this opinion could be the huge difference in the private security regulation and control arrangements compared to the neighbouring state of New Jersey, which together with New York in practice form a congruent urban area. The neighbouring system was considered new and superior compared with the local arrangements. This was taken up by another interviewee stating:

“In New Jersey it [supervision, licensing and control] is run by the state police, they understand security, they understand police work, they understand what it is to do the job every day and they work very well with the industry and understand it a little bit more.” (Industry expert)

Another factor taken up was the old bureaucracy annoying the ‘customers’, which was commented politely by saying: “I really don’t care personally which agency this is, I think it needs to be in the hands of a group or entity that is going to be responsive to the industry [customers] and have a streamlined process.” (Manager)

Queensland

In Queensland, the matter of the responsible authority had been given more attention by the different stakeholders. The regulator opinion was clear; the police would be the best alternative, but again state autonomy made the systems different.

“Essentially the question comes back to: should police regulate private security? There is a lot of academic commentary in relation to this. I have read most of it, so there are arguments for and arguments against it. You have the arguments that the police has an interest of conflict here, you are regulating a competitor essentially, but then again there are arguments for that the police essentially have valuable information in liaison to individuals. They are able to be more robust who should hold a license. Personally I believe police should regulate [the industry] because they have the expertise, they have a larger network in terms of dealing with it.” (Industry expert)

This basic opinion was supported by one from the 'field' licensees commenting:

“I think it should be the police. They have the responsibility of dealing with the police security and safety. To me it is a parallel responsibility with the private security industry. [Police should lead] to ensure that the private security industry support and supplement the police, not replace them” (Manager)

Another manager dealing on a daily basis with these matters was more hesitant:

“Actually it is in confusion. In Queensland licensing regarding firearms is with the police, and the other licensing is with the Office of Fair Trading. Two, three years ago there was talk of everything going over to the police but that might not happen, it’s changed.” (Manager)

An academic with thorough knowledge of private security had the opposite opinion supporting the present system with a regulator independent from the police:

“I think it is just business regulation we are talking about, I think that belongs to Fair Trading. The police I don’t think should be in the business of regulating an industry. Potentially there is a conflict of interest and it is not just their job, their job is to fight crime, but I think they have a supplementary role within the legislation in giving the licenses etc.” (Expert)

The interviewee continued by commenting that the police are for practical reasons, even in Queensland, the ones making the background checks and participating in this way in the licensing process. Their role is to act as a bureaucratic link in an administrative system: “But also the criminal history checks have to be done by the police. Or at least

they have to provide the data base to Fair Trading.” This expert had a clear sense that the main regulator should in the future also be the Office of Fair Trading, even if in some other Australian states the responsibility had been given to the local police organisation:

“So I think the primary regulatory role, the day to day work of processing licenses, conducting investigations, setting standards, developing policies - Fair Trading. Supplementary role for the police ... I don’t like the idea of police departments regulating security industry at all.”

These opinions show that the personnel in QLD who are involved in the daily regulation implementation work support to some extent a police driven regulation system and do not consider the academic 'threats' of this kind of arrangement as a serious problem.

South Africa

In South Africa the government structure for controlling commercial security operators and personnel was steered by a politically appointed commission which was not felt to be commercial security oriented. The council members did not have actual commercial security experience or knowledge; however they were supposed to be the ones deciding the strategies for the actual licensing and control of the industry. This was commented cautiously by some of the interviewees: “The PSIRA is headed by a council appointed from people outside the industry. ... It is very political and does not have straight contacts to the industry.” (Expert) Another similar comment reveals also a lack of transparency in the governance:

“The council of PSIRA is very political and according to the law they must not have any connection to the industry. That is interesting and to be honest, I cannot answer the question why is that so. ...The persons in the council have political and commercial interests, they run big businesses, businesses in housing and health and also other things like that. (Industry expert)

The industry understood the need for a strong regulatory administration: “Definitely in South Africa, you need a very strong regulating authority.” (Manager) The commercial security providers were, however, not totally happy with the present organisation and especially its cost to the industry: “We have got a regulatory authority PSIRA which is actually a government subsidiary, government controls it but it is subsidised by the industry. It creates a lot of unhappiness because it costs companies money.”

The communication between licensors and licensees in actual daily work had also been very limited which was straining the relationship between the regulatory body and the security industry:

“I don’t know why they have taken so long to start to communicate with the industry. I cannot honestly say what their problems are, they have had a website running about six months, you cannot phone them easily, you cannot talk to them easily and that is a problem from the industry’s point of view.” (Manager)

The industry was, however, trying hard to open a dialogue. Interviewees were hesitant to comment on the organisation structure of the authority. Probably the reason was the transition situation in the society where the governance of commercial security was still ‘political’, even if it was in principle organised in a structured way.

Sweden

In Sweden, the organisation of regulation was not a subject amongst the interviewees. Only one expert commented in more detail about the existing system. The special arrangement of the division of labour made the governance model interesting. In practice the police wrote the detailed statutory directives but the local civil authorities took independently care of their practical interpretation and implementation. The common nominator of these authorities was their connection to the Ministry of Justice. This situation was commented by a civil servant in charge of the implementation of the rules in the following way:

“No, I think Department of Justice is good because they take care of police matters and these are such things that tangent anyhow policing matters. It is partly the same methodology, same problems which are faced. They have knowledge of the problems, better than any other department could have.” (Industry expert)

The system was based on the over 350 years old provincial governance system where there are independent county administrations (today 23) with governmental civil servants representing the state locally, including the commercial security licensing. These administrative units are historically very independent as can be noticed from the following comment: “...we shall represent the government. And we are independent authorities who shall ourselves apply the laws which we use, without listening to any parties, not even the government in individual cases; there we shall only apply the legislation.”

This Swedish system with the independent local licensors is considered to be 'near' the licensees but it lacks the expertise resources in most parts of the country because there is only a limited number of security companies registered outside Stockholm and some other main cities.

There were, however, some strict opinions favouring a more comprehensive structure for the regulation and its implementation work as can be noticed from the following

comments: “We think that responsibilities between National Police Board, County Administrations and local police authorities are too blurred. We would want to evaluate the Finnish model with one authority having total responsibility.” (Industry expert)

Discussion

No general uniformity can be found in the opinions given in different environments. It can be only stated, as has been done in other contexts earlier; regulatory regimes are unique entities with their own local strengths, weaknesses and challenges. The structures steering commercial security activities are in most cases loosely connected to this business, but based primarily on the political circumstances and general structures within the societies. As can be seen from the summary Table 32 below, most of the

Table 32 Key interview points on regulatory administration

| | |
|--------------|--|
| Belgium | The security industry thinks that too much law- and regulation drafting, interpretation, execution, control and penal authority has been centralised to one governmental body within the Ministry of the Interior. |
| Estonia | The police are not capable of executing fully the leading and supervisory role and tasks belonging to them according to the private security legislation. The police have the best knowledge and skills to supervise and lead private security. There could be a totally neutral body between the police and private security. A separate licensing unit could be a solution. |
| New York | The obvious practical controller of security industry is the police. Police understand (private) security work. It does not matter who controls private security, the authority should just be smoothly organised and responsive to the industry. |
| Queensland | Police should regulate private security because they have the needed expertise. Police should control private security to ensure that it supports and supplements them. I don't think police should be in the business regulating an industry; potentially there is a conflict of interest. I don't like at all the idea of police departments regulating security industry. |
| South Africa | The council of the controlling authority is very political and I do not understand why the law prohibits them to be in touch with the industry. The authority creates a lot of unhappiness amongst the companies because it costs them money. The industry is talking to the government (authority) – is the government talking to the industry? |
| Sweden | I think Department of Justice is a good authority for private security because they take care also of police matters which tangent with the commercial security. Responsibilities between National Police Board, County Administrations and local police authorities are too blurred – we would want to evaluate a model with one responsible authority. |

different opinions and worries represented by the interviewees of the regulatory regimes under study on regulatory administrations and their work apply to general administration principles, policies and decisions. At least one general conclusion can be made from the table; as long as the commercial security providers' general positioning in society and towards public police function are not clarified, their statutory and practical steering will remain blurred.

The main consideration in many comments seemed to be the role of the public police in commercial security context. As can be seen from the opinions presented, a police driven system was principally favoured as it was thought to have more practical knowledge and 'professional' qualities which support the co-operation with commercial security providers. There were also strong opinions presented in which the police – private security connection in regulation and licensing processes was seen problematic. These opinions were principally based on the view that police is a law enforcement organisation and private security is a business activity and the mixing of these two is a mistake.

The opinions collected in the table show also how mixed the actual topics and worries are on commercial security administration in different regulatory regimes. That is why it seems impossible at this stage to try to present a general model how things in this administrative matter should be handled. This is primarily a local matter to be decided locally. The general feeling amongst the interviewees were, however, that the states' administrative organisations are political governance matters and in most cases out of the reach to influence by operational civil servants or commercial security personnel.

10.4 The role of and the relations with the public police

The police and commercial security providers work together, partly in the same sphere. Commercial security is the one with a growing role because of the developments and changes in the societies' risk environments. This means that unavoidably cooperation and conflicts are created when a new division of labour takes shape in providing security. The official role police have in the commercial security context has been basically decided when writing the regulations and organising the practical steps in licensing and controlling the industry. Even so, the tasks performed by the different security provider groups overlap in any case, and there are many practical things to be discussed and solved concerning their relations. In all the countries under study there

were some things the interviewees wanted to say about this matter. The interesting point was that the topics taken up in the different regulatory regimes under study were not similar and reflected strongly the local general governance and police cultures. The situation in New York and Sweden has especially been looked at, as it differs from the other regulatory regimes under study and is somehow unique even transnationally.

Belgium

In Belgium, a commercial security representative was very clear on the division of labour and the role the two, partly parallel, security organisation have in the society. The police role is to take care of: “...anything that has to do with maintaining of public order. Anything that has to do with the possibility or the right to limit the citizens’ basic rights... I think that is for the police.” (Industry expert)

After defining the 'sole' police domain the interviewee touched on the rest of their work and the division of labour with commercial security in an interesting way: “In the same way our [commercial security’s] role is prevention. In certain areas it is really needed that visible police is on the street, but there are a lot of police tasks that absorb police resources without giving any added value to the society as such.”

The reasoning went on giving examples of present arrangements and police tasks in Belgium which the interviewee considered to be better suited to commercial security: “...every village, major village has its own police office. People have to go there for a lot of things, and there is a fully authorised, trained police guy, just sitting in the reception.” There were also other examples given on this matter: “Same thing in courts, they’ve also a reception desk in the courts where there is often police or other public official sitting.” After saying this, a couple of examples were given to show that the needed competence of commercial security providers is there: “We [the commercial security] do it for European Commission; we do it for a lot of clients.” The interviewee’s opinion on what blocks the reorganisation in this area is a political discrepancy in the police organisation: “First of all, the police unions [are against this], because they already during the last years experienced their personnel being reduced to a fair amount because of the restructuring of our police.”

Estonia

In Estonia, the situation was problematic because the police had been reorganised and they needed resources for new tasks and challenges. At the same time they were made responsible for the supervision of commercial security legislation implementation. In

this situation it is no wonder that they tried to handle their responsibilities as the licensing and controlling authority without using too many resources to this job. The recent history after independence had also included an unclear situation in the division of labour between the police and the commercial security providers which still affected their relations. Even if the division of labour had now been solved, there were some tensions left smouldering: “It was here such a time when the relations between the police and the private security industry were a little complicated, because still in those days police officers moved over to private security companies.” (Industry expert)

One of the existing problems in the daily co-operation was brought up by a commercial security manager:

“Sometimes I have a feeling that police is not neutral enough, even if there are no bad attitudes towards them from our side, but in my opinion the police ... have always seen in security companies a rival and always there is the discussion [on tasks]; this is ours and that is yours.” (Manager)

The resources of the public and commercial security were also mentioned by the same interviewee as a possible reason for the discrepancies: “The police don’t have resources and the police is afraid that we take their work or that we are more effective because we are private companies, and they can be considered not as good because of this.”

New York

In New York, on the one hand, the police had no direct role in the licensing and control of commercial security activities. On the other hand, the whole set up was different from the other regulatory regimes under study because the police generally in the United States (Manning 2006:107) and, especially in New York City; first, did not suffer from limited resources in the same way as in other regulatory regimes under study; second, had a culture of police officers working within private and commercial security after retirement; third, the police provided privately or as an organisation also security services for a fee.

Adequate resourcing had created a situation where the police could cope effectively with their challenges:

“The police force in New York is special. It is relatively the largest police force in the United States and has also in other ways got the support of New York City. This is also affecting the relationship between the police and the private security on all levels.” (Expert)

This meant also that unlike in other regimes: “Police has been able to fulfil the requirements of the society and there is not a grey area between the police and private

security tasks.” As a consequence of this several tasks which in many countries are left to commercial security were still in the hands of police in New York. The same interviewee pointed out that a strong unofficial connection between the public and private security could be noticed on personal level because of the culture of ex-police officers taking a job within private and commercial security after retiring: “Police has also a good and working relationship with security managers in firms and the private security industry because 75% of them are previous police officers.” The affect this had on cooperation was clear: “This relationship is working on all levels from the Commissioner to police districts.”

Another interviewee, a commercial security manger, noted the way the police in New York were working very effectively. He saw that this is lowering the problems in division of labour which are commonly faced in other countries. First, he pointed out a general reason for this: “The police forces in general in the US are less bureaucratic than their counterparts in Europe.” Second he emphasised the modern approach in meeting old and new work challenges: “The police in New York State and especially in NYC are improving their tactics and productivity using newest technology very effectively, very much like the private security industry when trying to improve its businesses.”

Adequate police resourcing and the entrepreneurial culture within the forces had made and kept the public-private boundaries ‘legally’ blurred between police and commercial security providers but in practice relatively clear as was stated by the same interviewee: “As the police resources have been taken care of and the police can handle their traditional and new work challenges, there have been fewer problems with the public/private borderline and the public/private space matter.” On top of this the interviewee commented the public space question on a general level categorically: “The theory is clear on public–private domains. This is not an everyday or big problem in the US to the industry.”

In another expert comment the mixed role of the police was described in the same way as by Manning (2006:107) in his article. The police performed also tasks including activities which could be considered to be commercial security: “Everyone is most happy with the present practice where police can flexibly perform also private security duties through police organisation or on private bases. This system is not going to change in the near future. (Expert) The same interviewee commented also on the division of labour: “Division of labour between the police and the private security in

NYC is one of the best in the US.” He as well emphasised the importance of good personal connections between the actors: “This applies also to the relations between the police and private security. One explanation to this is the heavy load of ex police officers working in private security. This tradition works well.”

The “classical” negative opinion police officers have about private security still prevailed in New York even though some improvement could be noticed. The basic attitude was commented on in a straight forward way: “...[police] look down on private security officers. They do not appreciate them as a professional group.” (Manager)
There were, however, also more positive assessments like:

“...when I was starting in the business, police departments had a very negative view of private security, very, very negative [in the beginning of the 90s]. As we got into the turn of the century it started to get better and now I think it is even more the case...“I’d like to tell you that it’s because they persuade our folks are more competent. I am not convinced that is why, I think there is a bit that the police officers on the job see private security as more a career path than they may have, so in their own mind they think that they may perceive it as being more legitimate because maybe in fifteen years you may be there”. (Manager)

The very close connections between the police personnel and the private and commercial security on an individual level seemed to affect the security business a lot. As mentioned already in the previous interview comment, there was a strong link of interest, stemming from the police officers’ personal ambitions. The following comments describe how another manager in commercial security experienced the movement from police to the industry: “The large number of police officers entering the private security after their career in police is both good and bad. If they enter the existing ‘serious’ private security organisations, they will improve the professionalism and standards.” (Manager)

After saying this he went on by also pointing out the risks: “But if they start their own business their lacking business skills often lead to ‘cowboy’ like behaviour which will hurt the industry. They are usually not good business people and that creates problems.” This interviewee also made a practical comment on the added value given by former police officers in private security as security managers buying services: “Ex cops have good contacts to their former organisation and they can skilfully organise their operations in a way that there will not be discrepancies concerning public/private questions and legal actions.”

A phenomenon not found in the other regulatory regimes under study is the practice of serving police officers working within commercial security: “Off duty police officers

can be hired for security work both by the security companies and straight as in-house by customers. Sometimes they even offer clients their services actively.” (Manager) An interesting detail, mentioned by the same interviewee, was that they could perform their ‘private’ tasks in some cases using their police outfit: “These police officers can and do work [in private security] in their uniforms and with their duty weapons.” These policemen can be hired and paid straight by the customers or by a commercial security company subcontracting their services.”

Queensland

In Queensland, the police did not have any direct role in regulating, licensing or controlling commercial security. On the one hand, there were not any actual opinions expressed on the relations between the police and the commercial security providers, which reflected a situation where the interaction between the two security providers were insignificant and without any bigger problems. On the other hand, there were strong opinions on the police influence in questions concerning commercial security:

“Their [police] role is to enforce the laws using the public powers they have. It would just seem almost like, not a conflict of interest when they [police and private security] are working parallel but they are distinctly different from each other. I think they need to be separated. I feel that it is just not appropriate that the police would regulate security industry. I don’t feel comfortable with that. That is my opinion.” (Expert)

Some other experts when asked if the police role in private security was a problem, answered shortly: “Probably not because the present role of the police has now become very reactive.” (Manager) and even more categorically “I don’t see the police departments in different states having a role in being the regulator, as far as the licensing is concerned.” (Expert) Looking more exactly at the co-operation, the answer from an academic was: “I think it is attached, it is not close. There is some cooperation, it is fairly ad hoc. ...But I think there is still the sense that police have far superior training.” (Expert) Also this interviewee commented about the police’s interest in private security: “Not very interested, no. I think they are too busy and they are just not trained to think about private security. I think they probably have a superior attitude.”

The comment of one of the interviewees describes in one way the wretched ‘truth’ of the relation between the police officers and the commercial security employees:

“What we are left with at the end of the day is a scene of two forces; one a highly trained, directed and accountable public force and the other a less professionalised quasi-force which, in many instances, is less trained and much less accountable to the general public. Together they move around both public

and private areas, in a sea of misconceptions about their various functions, engaging in a tight-lipped dialogue which hides more than it states, and using each other only when the economic and commercial assessments have been concluded.” (Industry expert)

South Africa

In South Africa, the police had only a supportive role in regulating, licensing or controlling processes concerning commercial security and thus there were no straight ‘official’ ongoing contacts between these two services. The entire security situation in the country was rather complicated as the roles of the police and commercial security providers were in practice very blurred. Because of the overall situation in the society, the police cannot fulfil with their present resources the existing need for their services. The following comment described the core of the problem: “You don’t get police responding to normal security.” (Expert)

Actually the situation was even worse. The police had to use commercial security services to protect their own facilities: “The situation is so bad at the moment that many of our police stations are protected by private security. If you go to their headquarters here in Pretoria you will see it is totally protected by private security.” (Expert) The same problems are faced also in other cities as the following comment from the same interviewee tells: “Recently there was a situation in Cape Town at a police station off the hours and then an attack, so the police complained: if there is no private security they’ll not go back to work because it is too dangerous.” The situation is not totally under police control and they seem to need and accept help for their own activities also from commercial security providers.

The ‘official’ attitudes concerning the commercial security industry and, especially the part of it controlled by foreign companies had been very suspicious. Even if it was not exactly the police who expressed themselves here, the following comment reflect the attitudes of the ‘official’ South Africa:

“We had two really disturbing statements of private security in this country. The first statement was made by the then director of national intelligence. It was front page news and what he was actually saying in short words was that our security industry has been taken out by foreign companies, foreign ownership and that foreigners and foreign intelligence actually are using these security companies as a vehicle to gain access to our confidential secrets and confidential stuff. ... Funny enough, Hans Wisser from the University of Pretoria who acted as an adviser to the Private Security Board when they started up, he made a similar statement in the press. ... He also said that the security industry is now harbouring criminal gangs who use security guards to gather information about movements of people at companies.” (Expert)

The operational police as such have very little to do with the steering of commercial security activities but its basic attitude is positive. The concerns are more expressed by the others involved in security matters:

“No tension at all. I think that the police value the contribution that the industry is making. Officially as much I’d like to say that the industry is perfect and doing the right thing, they are not, you know. That obviously raises concerns with everyone. But I think ultimately that, you know, security officers and security are always involved.” (Industry expert)

Another remark made by the same interviewee reflects the basic dilemma today: “In Africa there is a lot of community turbulence with the police, with the private security industry and the community itself.”

Sweden

In Sweden, the divided structure where the National Police Administration is responsible for the writing of the detailed statutory instructions, but the county administration is implementing them is unique. This system which seems quite complicated is working well, at least according to the comments from a licensing authority representative: “It is the National Police Administration who is the regulating authority and gives detailed instructions in this area, but do not themselves implement their instructions, which is a job for the County Administrations.” (Industry expert) This division of labour which looks blurred to an outsider, was according to the same interviewee functional: “So somehow I can think that it is a relatively good division of labour ... one party gives out regulations [instructions] based on its unique competency within the sector, another party is the one who implements them. It works well, I have to say.” There was also a clear message from the union side emphasising the good relations with the police in all matters (Lindgren 2009:3):

“One of the main reasons we have been able to develop a functional security service sector in Sweden is that we have made the respective positions [with the police] very clear. ...while declaring complete agreement on the need to retain clearly defined professional boundaries.” (Industry expert)

There seemed to be, however, some attitudes which were not expressed clearly, but which could be noticed in different contexts, there was some hidden distrust concerning the commercial security, especially within the central (police) administration:

“One can see an interest conflict, or one can see a sort of 'territory' marking that: we are the police, and they [private security] shall not ... go over here and do our job. Conversely if one goes to a single police officer or down the organisation line, these tendencies are not there ... this small aggression which may be there ... it is on a little higher level in the police hierarchy. It is difficult to specify, but it is

there. One can hear certain comments, certain attitudes can be noticed, like; we shall not let that go too far.” (Industry expert)

From the industry’s side it was totally clear who the supervising authority was:

“A mature security industry needs to realise its existence depends on maintaining a close relationship with politicians, public authorities, the corporate world and the general public. If trust is undermined by a tendency to replace police authority or disrupt ‘the State’s monopoly of legitimate violence’, the entire industry could be destroyed.” (Industry expert)

The special role the police had in regulation writing between the law makers and the controllers was considered problematic and was commented on by the industry experts quite harshly. One interviewee was rather straightforward in saying:

“We need to change the mandate or create a borderline towards police because the police have an own interest, which is mixed in when they shall write instructions and when they shall handle the industry, and it is not good.” (Industry expert)

On a general level he goes on in another context by saying: “So, it is very extraordinary that an authority like police writes more or less instructions for a business. It is really extraordinary.” Another interviewee brought up a new instruction as an example of how the police use their mandate by setting, as he sees it, requirements that tangent the constitutional rights of the guards:

“But what has gone wrong, I mean what has become crazy, it is that the police has prescribed [in their instructions] that a guard has to inform certain criminal acts, he has a duty to inform about them. ... And then you have to inform about the one with whom your employer has a business relation.... I think it is a matter between me and my company.” (Industry expert)

As a concluding comment on the trust on the state (authorities) and the Swedish ‘thinking’, can be taken the thoughts of a third experienced industry expert:

“We must not always trust in Sweden the authorities, and the guarding branch must not leave its future in the hands of the authorities, waiting that they will create preconditions for our businesses, because that they will never do, that we must do ourselves. Then we need them involved in it, but not too much.”

Discussion

The comments made on the roles of and relations between the public police and the commercial security providers were basically very similar in the regulatory regimes under study, except in New York. The general attitudes and opinions expressed revealed basic police suspicion about the commercial security and its providers. There could also be noticed a fear that the police resources are diminished and partly replaced by private

actors. The ‘negative’ arguments used in this context were the short training and lack of professionalism. Commercial security was made a scapegoat for the general new trends as well as police budget cuts in societies. From the security industry’s point of view the accusation to be responsible of diminishing police resources was considered crooked and unfair.

From the interviews the following comments on policing versus commercial security provision could be highlighted (Table 33).

Table 33 Key interview points on police versus commercial security

| | |
|--------------|---|
| Belgium | There are still a lot of tasks performed by the police which are not their core activities and could be privatised. Commercial security provision is seen in these situations as an alternative. |
| Estonia | The police force is still in a transition situation and has not got all the resources to fulfil the service needs of the society. Commercial security is still fulfilling the gaps. |
| New York | The police force is effective and well funded. It is active to some extent also within the traditional sphere of commercial security. |
| Queensland | The police and commercial security have few common points of contact. Commercial security providers are not actually working within the sphere of public police. |
| South Africa | The police force is short of resources and overloaded. Commercial security providers are in many areas carrying out police related tasks. |
| Sweden | The police is under budgetary pressures. There is an ongoing ‘hidden’ tension between it and commercial security providers because the police think that ‘effective’ security industry is one reason for this state of affairs. |

In New York where the police did not have any official role in commercial security governance the cooperation was, however, really tight and working well. The main explanations for the big differences with the other regulatory regimes under study in this context were:

- First, the police had been provided with ample resources.
- Second, there was a tradition of police officers taking jobs in private or commercial security after retirement.
- There were no categorical boundaries which limited the cooperation of the parties in different security jobs.

It seems according to the interviews in this section that the discrepancies between the police and the commercial security providers are at bottom based on the insufficient funding of societies’ public security organisations.

10.5. Analysis and discussion

How to regulate? How to organise the regulation and administration of commercial security? The governments of the regulatory regimes under study had organised their regulation processes and regulation implementation functions according to their own national standards. This meant that the differences noticed in basic commercial security governance are primarily explained by the differences in local administration models and cultures in general. Based on the results of this chapter it can also be argued that: All practical governance arrangements concerning commercial security regulation are both unique and local as well as based on the general administrative structures and cultures of the regulatory regime in question.

Self-regulation in commercial security is a topic that had been in some way discussed in all of the regulatory regimes under study, but in none of them had it been used presently as a solution. There was a unanimous understanding that, at least for the time being, it was not an applicable model for control. There were some kinds of pressures and thoughts to use self-regulation in Queensland as a part of the approval system, but the practical problems it would create had been clearly understood. Some of the interviewees 'wished' that the commercial security industry would mature in the future and become ready to take over, at least some parts in the licensing and control functions of their activity.

The federalisation and harmonisation of the regulation and its implementation was an acute matter in those regulatory regimes which are a part of a federation (NY and QLD) or have a 'split' system or a risk for it (BE and SE). In all of them the interviewees were in favour of some kind of harmonisation, but the general political and governance factors made it complicated for the time being. The Swedish with their high level of regulation were also to some degree hesitant as they thought that a transnational harmonisation could downgrade the present status of their commercial security community. The situation in Australia and the United States emphasises the fact that commercial security is such a small industry, because of which (federal) governance principles are difficult to be changed.

Throughout the chapter the fundamental unsolved question concerning commercial security's definition was present: should it be conceptualised as a private business or as a part of general state security? This matter seems to haunt the legislators everywhere, but it has not been satisfactorily solved anywhere. At least in the regulatory regimes under study it has been set aside when looking for the practical models to control and

steer the industry. There were two organisational governance solutions to be found in this study on the top level. One where the ministry deciding over private and commercial security was the one in charge of security matters in general, including the police (BE, EE, ZA and SE), and another one where private and commercial security matters were handled by the department in charge of business licensing in general (NY and QLD). Both of these models had their supporters within the interviewees.

The organisations created for the practical implementation and control of the regulations were not totally analogous to the ministry level division of labour. In this sample under study there were examples of: a totally police driven and controlled system (EE), ones with a semi-independent licensing agency (BE, NY, QLD and ZA) and one with a mixed administrative system (SE). All of them reflected the existing general governance structure, tradition and culture of their regimes. It seems obvious that the governments do not create new models of governance for private and commercial security control, but use their existing licensing structures as solution examples. There was no unanimous opinion amongst the interviewees on how an ideal administration model for these regulation matters should look.

The actual role of the public police in commercial security regulation implementation and control is a conflicting core challenge in any theoretical or practical administrative arrangement. This was also the case in the regulatory regimes under study. The core question and decision here is: Should the police be a part of the actual regulating activity and supervising control of the industry? If so, how should this be organised in practice? In the regulatory regimes under study, regardless of the present police role in steering the industry, there were tensions to be noticed. There seemed to be different ideas within the police of the role commercial security can have and the professionalism and quality of its personnel and services. Partly these attitudes were based on actual experiences with commercial security. They seemed to involve, however, a desire to protect the traditional boundaries in the division of labour and a will to make and see commercial security as a junior police activity seconded to the 'official' police. The practical co-operation arrangements and the boundaries between the police and the commercial security providers seemed to be an unsolved 'taboo' which the politicians and authorities had not been ready to face up front until now. This had led to 'ad hoc' arrangements and legal 'engineering' in a part of the regulatory regimes under study. As it has grown and become more professional and politically powerful, commercial

security community has developed and presented opinions as to what its role could be, which could be one more reason for the tensions with the public police.

CHAPTER 11: INTERVIEWS - HOW TO ARRANGE LICENSING AND COMPULSORY TRAINING OF SECURITY GUARDS?

The licensing process for the actual commercial security companies was not a pressing issue. The granting of personal licenses, the control of suitability (clean criminal record) and fulfilment of training requirements (certificates) turned out to be the two main topics occupying the interviewees. In practice, the time used by the authorities when handling applications was the contentious point in all regulatory regimes under study. On the one hand, industry representatives shared a general opinion that the handling of applications is not as smooth as it could be and should be. On the other hand, the licensing authorities, in most cases, thought that the processes were working satisfactorily. The industry's worries were very similar in the regulatory regimes under study but the systems in place had some basic differences depending on the working cultures developed between the parties. The main issue related to:

(a) applicants for guarding posts being recruited to security companies from the beginning of the process,

as opposed to:

(b) applicants being recruited to security companies after they have completed their training and having authorisation to work as a security guard.

Even if the procedures consist of different parts (licensing and training), they are for the applicants and the companies a complete entity, with different parts related to it and affecting its smoothness. Because it is seen by the participants as one process, it has been analysed as such. In the following text the licensing and training are handled regulatory regime by regulatory regime.

11.1 Situation in the regulatory regimes under study

Belgium

Licensing

In Belgium, as in the other regulatory regimes under study, the licensing of the security companies was not a 'big deal' as can be noticed from the following, generally applicable local comment: "The licensing procedure for the companies is not the first priority. We can handle that as it is for the moment. It is not too bad; we understand it has to be done." (Manager) There were more critical opinions assessing the licensing of

the business as too complicated and taking too long a time: “To license a company you can have an average of six months. ...the licensing procedure is too long and also too detailed.” (Expert)

The security guard licensing procedure and the things connected to it were strictly regulated in Belgium. The licensing was possible only after the training, which meant that in all cases it took at least one month for a guard to have a license to start to work, as was stated by one interviewee: “The basic training is four weeks. So the fastest possibility to start to work is one month.” (Manager). It has to be taken into consideration that this period does not include the recruiting of personnel which increases the ‘waiting’ time. The actual licensing process seemed to be quite smooth and was not experienced as a problem by the licensees or the companies, as was stated by in an expert comment: “The average [handling] time is now between five and fifteen days, so it is not too bad.”

In the licensing process the fluctuation of the licensors handling the applications was seen as one of the main factors affecting negatively its flexibility. Often when a person had gained experience in her/his job s/he would leave. This problem was commented on in the following way:

“The head of the [controlling] department has an academic background. ...other members are young people most of them with university degree. What we see is that if they are good people, they leave after two three years for the private industry.” (Manager)

The whole period between recruitment and the granting of a license was considered to be a very problematic matter, strongly affecting the business. One of the interviewees gave an example of a real life situation where the interests of a company and the regulations were in conflict. The company was faced with an acute demand for more licensed personnel because of business development reasons but also because of changes in the customers’ security arrangements:

“...there was an increasing demand from the clients at a certain point ... they needed over hundred new people so I organised here a twenty day recruitment campaign project and succeeded in twenty working days to have those people. It was a huge project but they [recruits] needed to be put urgently on work.” (Manager)

The interviewee saw this kind of situation as a dilemma because to meet, sometimes urgent, customer needs, one has to balance the risk of bending the rules of the length of training: “...in a case of an incident we would not be far from a crisis situation. So it is difficult, if we don’t do it we lose business.”

Regular control of security companies' (regulation) compliance is an ongoing challenge for the authorities. A complaint of an unequal scrutiny was expressed here as in many other regulatory regimes by a representative of the security companies:

“That is the problem, they do not have the resources to organise this control. ... It is not working properly and we are from the employers' side asking for more control also for the many, many small companies which are not controlled at all.” (Manager)

Training

Training attached to licensing was organised mostly by the companies themselves within units which, according to the law, needed separate authorisation: “The companies need a license and also the [training] schools need one... Every training institution needs a license given by the same authority which controls the industry's other licenses.” (Manager) In practice the training was in the hands of the principal commercial security companies: “Most of the big companies have their own schools. ...There are also some independent schools but the big three [internal ones] deliver 95% of the training.” There was a general wish within the industry for a more flexible licensing and training procedure: “I would make it closer to the business. It does not mean that training should be cancelled, not at all - on the contrary but it should be organised in another way.” (Industry expert) Models from some other countries were quoted by the interviewee as solutions that could be considered:

“In some other European countries it [training] is more spread during the first year. For instance you have somebody you take in, you have one to two days of intake procedure of training for instance, then you should have the possibility to put the agent on stage for a first period of experience and call him back within one week.”

There were, however, plans in Belgium to centralise training arrangements and moving private security education to a publicly controlled institution:

“...the major discussion in our country today is, should every security company have their proper training internally or should there be one school. If you go and look into the mindset of the authorities, they are trying to go to a one school model to harmonise this and of course to have more impact on it.” (Expert)

The commercial security industry viewed this as an attempt by the authorities to increase their influence on the training and create government controlled law enforcement education:

“Now the examination is done by the authorities themselves so more and more you can see government having an impact on the training. It is good if you come to one institution but which is still in the hands of the private sector itself, not a

public school on private security with a system where you have next to a regular police academy a part that is for private security personnel.”

Estonia

Licensing

In Estonia, the companies were obliged to inform the police immediately a new recruit for a criminal record assessment. Training certificates were given by the industry association (ASA) and the register of persons who had passed the examination was kept by them, not the authority (police). The information was also forwarded to and registered by the National Vocational Training Centre. The reason that police (the licensing authority) did not keep any registers of the approved guards was due to their limited resources at the time of the implementation of the first industry-specific regulations. The original law set obligations for the police: “...a guard must have a guard card and professional certificate, and the card is given on grounds of the certificate. The police give the card.” (Industry expert) The police did not, however, start to keep the register or to provide the approved guards with the cards. The industry had been proactive in this matter and had even been ready to sponsor the equipment for the register keeping, but:

“...the police said that it would mean so much work, and how could it be organised? ...they did not co-operate and they did not have at that time computers ... we said that it is not a problem, we will provide them, but they said no, we don’t take this kind of donations from private actors.”

From the industry and guards’ point of view the registration and the guard card issuance was a police responsibility. The time without a register had created the problem of how to build the registers of all the guards approved during all those years: “So much time has now passed and the people have passed, they have their certificates and to organise the card to them is a quite difficult job. ...administratively a lot of money is needed so that it can be materialised.”

The question of systematic control of criminal records of commercial security personnel was unsolved in Estonia. The information of a guard’s misconduct, especially if it happens out of work, did not always reach the employer because there was no actual system to record this. The information flow was dependent on the activity of the local police districts. In the companies there was a firm need to have the information: “But if there were a register, naturally the police would have an obligation to inform the company that their employee has been caught of a crime affecting his license ... but today the register is missing.” (Manager) The situation and the courses of action were

not uniform and depended on the activity of the local police handling the case. The actual responsibility of the police was commented on by the same manager in the following way: “If they have a case [concerning a guard] they should follow up it till the end. Today they do something and something they don’t.” Without a comprehensive register and an ongoing follow up the police have and will have problems as the controlling authority managing its follow up task efficiently. Some of the companies tried to be active themselves with the ongoing control of their staff, but there were limited possibilities to do this because private businesses were not allowed to have data on their personnel’s criminal records: “The companies try naturally themselves to get information by making background checks of the staff but they don’t have legal right to ask again from the police if there is new information of their staff or not.” (Industry expert)

Training

In the Estonian system, the training was operationalised in two phases. The first sixteen-hour introductory training, before starting to work as a guard, was given by the companies and there were no guidelines for its content or the trainers’ qualifications: “The applicant gets this kind of two day training, orientation training, which comes from the firm. It is not ruled in the law who can organise this training. ...not even the content of it is clear, what should be included?” (Industry expert) The basic training course was fifty hours and the training was provided by approved trainers. The control of them was, however quite light: “The fifty hours training can be given by a trainer who has the license from the Ministry of Education. The license must be applied from there but there are no strict requirements, so actually by presenting papers almost everyone can get it.” Control of the training was left to the industry association which was accredited by the educational authorities to do this. This could be understood as a kind of self-control performed by the industry: “But what controls the system is the NVQ system, and our National Association is the accredited body giving the certificates after exams. We have had problems to organise exam controllers, independent from the trainers.”

The ‘official’ basic training course and examination has to be completed within six months after starting to work. The labour legislation, however, allowed fixed employment contracts for two six-month periods and this had been used as a loophole to have a guard working for one year before taking the basic, compulsory training. As the law on private security was not clear on this matter, the industry saw the situation to be

uncontrolled and unsatisfactory: “It is a loophole today which has been used. It is one thing that we want to remove from the present law”. In Estonia there was also the problem that guards without any training were sometimes employed due to a “shortage of labour force.” (Manager)

The relatively ‘free’ control on training and the kind of ‘self-regulation’ of examinations and certification could be noticed in all of the interview comments. The length of the training was generally considered adequate and especially with the huge turnover of workforce the idea of a longer training period was not considered to be reasonable: “...but the turnover is so big today that in this situation it is almost impossible to organize the training in another way.” (Manager) The financial factors connected to the huge turnover within the industry were also taken up when considering the organising of the training: “It can be said that training is never long enough, but for the basic tasks and considering the difficulty to get workforce and its turnover, so bigger investment in training is not profitable.” (Industry expert) The connection between the turnover problem and business profitability was also expressed by another industry expert: “...and taking into consideration the difficulty to recruit workforce for security jobs today, and the drain, it is not worth to invest more into training.” (Industry expert)

The importance of motivation of the applicants taking the course was also emphasised as an important factor in getting the message through: “I think that if one wants to study and gain knowledge, there is enough of that [training]. There could be one hundred hours more but if one does not want to learn, he comes out as untrained as when starting.” (Manager) This comment emphasises that security guard training is not only about filling the requirements of the regulations but must also be educationally of high quality and deemed to be worthwhile.

New York

Licensing

In New York State, the licensing procedure was quite orthodox and was, in a way, done afterwards. When a guard had been employed and trained the license application documents were forwarded to the licensor, the Division of Licensing Services which generally managed all kinds of licenses in the state. The granting of guard licenses took, however, a long time as noted by one interviewee: “It can take anything from three months to six months for the security guards to get their licenses”. (Manager) The employer had to forward the license applications within forty-eight hours after the guard

applicants' initial training had been accomplished, accompanied with the documentation: "In New York State what we do is: a person comes in and does an application, we fill out the state required paper work with the fingerprint cards. We have 48 hours from their finishing their initial training class to get that paper work to the state."

There had been discussion about prohibiting a guard to start working before having a license, but in practice applicants were put to work before the license had been granted:

"We can put them to work in New York State prior to that [license approval], following company guidelines of background checks. We issue them a temporary ID card. So probably within five to seven days from when they started their training we have them out at the site. And we feel that we have done everything humanly possible to make sure a person we put out there has the proper background check." (Manager)

The risk of putting a guard to work in this way was partly the employer's: "If this was not allowed we would be in a heap of trouble here in New York State and have some manpower issues. They [the applicants] would go and get a job and it would not be in security, it would be in fast food or retail store and we would lose them." (Manager). For the same manager New York State interpretation of private security regulation was very formalised, which created problems in practice as the industry-specific laws were over fifteen years old and in some details out-of-date:

"I compare it [New Jersey] to New York where it [licensing] is under general business law, there is something missing. The people that are running it are [formal]; it is either black or it is white. There is nothing wrong in following rules and procedures, but if you have the same thing running for fifteen years, something has had to have changed within it. Let us move with the times and work with it."

The licensees had a dilemma which was pointed out by an operational manager in the following way: "I don't want to call up someone [licensor] to say, well this is how it is written and this is what we are going to do. If you look at it logically [the regulation] it does not make any sense, but the bureaucrats hide behind the paper work." In addition, the system was inadequately resourced and operated with rudimentary technologies:

"In New York all is a paper procedure. All the fingerprints are done manually. To be fair to the people in New York there is a budget that they can only have an exact amount of people ... it is a very manual process which is not fair to them either. When I am talking about the agency I am not talking of the people in it, they just do not have enough people, they could use some help."

Training

Compulsory guard training in New York State was twenty four hours and it was supported by eight hours of annual refreshment training. The basic course was organised by approved training institutions (companies) or by the commercial security companies themselves:

“In New York we have a training school certificate which is good for two years. Every two years we have to renew it. We send them a list of all our trainers, a copy of the curriculum that we have been using over and over. What they also want to know is a list of all our training classrooms.” (Manager)

According to the same manager there was a control test to be passed at the end of the courses, the questions of which were approved by the authorities: “In New York it is a fifty question exam at the end of the training and they need to get certain percentage to pass. We make the questions and they are approved by the state.” Because the training system was short in duration and flexible it gave the employers quite ‘free hands’ in choosing the ways to organise it and it affected only marginally the recruitment process.

As the compulsory training was very concise, the companies usually had their own in-house training programs, specialised to meet differing customer demands. Interviewees did not support a longer basic training period. The focus was on constant customer and site specific training as can be seen from the following comment: “I think the training should be consistent. As such I don’t think high rise building training is necessary in Idaho. And the training should commensurate with the local environment that’s there.” (Manager) The trade union view was that extra training was an important tool to improve the general knowledge and professional profile of the guards:

“This Union has been arguing for a 40 hour programme. And towards that end we created a 40 hour training programme. We here trained, I would say, about 3000 security officers over the past two years, here at the training facility in the Union building.” (Industry expert)

There were also ideas put forward about the new ways of training and the use of IT-based tools (Roper, et al 2006:237-258) as expressed in the following interview comment:

“The security officers have the time and in most case also the equipment available for on the job e-learning. The material is not available today. It and the test packages should be created. A [compulsory] e-learning test could be taken for example four times annually. This is a very powerful tool not utilised yet in a proper way.” (Manager)

Queensland

Licensing

In Queensland, the licensing process was centralised in the state through the Office of Fair Trading. The handling of an application for a personal license took several weeks and created problems for the security companies when recruiting new guards. The authority partly blamed the applicants for the delays.

“It is probably six to eight weeks at the moment from the time we receive the application. Of course there are issues that hold up the process and particularly from the applicants’ perspective. I mean they are not providing all the information so we have to go back and ask other information.” (Industry expert)

The background check for criminal history was the core activity in licensing and it was a time-consuming process because all the information was not available on-line for the licensors. They needed to contact other authorities to get all the necessary information: “For the criminal record check we get the hits from Queensland and all over Australia. It is done centralised from Canberra. That has been one of the problems that licensing has not been passed.”

In Queensland, there were not only the criminal record check to be taken into consideration but according to the law it was also necessary to make an evaluation of the general suitability of a licensee. Only after having constructed a complete application, did the licensing authorities start to handle the case:

“We then do the criminal register check and we basically divide the applicants in two categories, there are probably some judgements to be made particularly of their advert crime registry. So we have to go through and then to decide if they in fact are eligible and secondly suitable given the results of the crime registry check.” (Industry expert)

The licensing authority admitted that they did not have the most effective and flexible arrangements in place. Evaluation of suitability was a complicated matter. “We do not have full systems to do that at the moment. But part of the review itself is to look how this information could be obtained. In terms of actual convictions it is a different matter because the act allows for an ongoing probity process.”

Interviewees commented on the licensing process quite caustically, especially the present processes in criminal checks. One comment was about the federal registry: “... there is no national registry for criminal records. We are in discussions with Australian Federal Police. ...It just has not gone anywhere.” (Expert) He went on stating that in Australia, the problem was: “There is no uniform approach to holding peoples’ records

because there is no confidence that the privacy can be assured. ... That is a cultural thing and that will take a lot of years to regress.” Another security expert emphasised the difficulty for companies to acquire information: “Private security organisations don’t have it [criminal record data] because of the privacy laws. They don’t have the resources to check upon individuals to uncover their character, past history, any involvement in criminal activity.” (Expert)

When commenting on the time of application handling, a commercial security manager, noticed: “The process takes up to eight weeks. Because the legislation, quite rightly, means that the person cannot access employment until he receives his license.” (Manager) In his opinion there was one main reason for the long-time span in the checks: “It appears that the majority of the problem is the property checks, the length of time it takes to do that. I feel that they probably get lost in all the other checks they have to beat on the people.”

There is another factor related to the employment process impacting on the licensing and training in Queensland. Contrary to the other regulatory regimes under study, the applicants in Queensland, as a general rule, were not connected to a security company before they were licensed. This meant that the companies were not involved in the licensing (training) process. They hired persons who already had a license: “So predominantly you are looking for someone who got a license and that’s where the bottleneck is.” (Manager) According to this interviewee this also meant that they did not have an active role in licensing and training, even if it would have been important for their business. The reason for this was costs: “If you employ them and require them to be licensed, who pays for the training and who pays for the license?” Some of the ‘serious’ companies had understood this handicap and had tried to change the practice. There had been proposals to implement the model of taking care of applicants from the beginning by vetting and ‘hiring’ them conditionally before training and licensing. The industry did not accept this model: “The industry didn’t like it at all. They could not work it out, the investment in the training first. They just did not want to do it. It is pennywise foolish. They are saving, but long term not.” (Manager)

Concerning the actual licensing process, some of the industry’s representatives were, however, optimistic that the situation could be improved: “I think we should train and process the license virtually immediately. Now there is a big delay, four – six weeks before the license is processed which means that a chap cannot work which means he has no income.” (Manager) The same expert put in a little nastily that: “Processing of

licenses as so, the actual physical license is easy. A ten year old could do that on a computer.” There was also a suggestion that the application papers could be sent to the licensor before the training to speed up the process:

“We said: put the application form, references in straight away but the Office of Fair Trading did not like it. It was too much work, too complicated, it deviated from the norm. By getting everything through parallel, after the seven days the applicants would just need bring the training certificate and that’s it. It is down seven days, minimum seven days ahead of what they do today.” (Manager)

On these problems of licensing and training guards, a summary opinion can be presented using the comment of a seasoned academic:

“Well, I think that is a cultural difference in common practice. I have noticed that myself, and I think it is unfortunate that we work that way. If we have a tradition in our firms that we don’t hire and train, it is even more important that the regulator is as efficient as possible. There really should not be any reasons for delays.” (Expert)

He also addresses the financial threats in the licensing procedures, warning of making it too complicated and thus too expensive for all: the companies, the guards and the customers:

“If [licensing] fees are used properly for their purpose there should not be a problem. I think one of the big dangers with regulation is that you make security too expensive. ...keep on checking that they are not an obstacle to good security work.”

Training

As seen when looking at the licensing process, the compulsory basic training in Queensland was organised by separate training institutions which were in most cases not a part of any commercial security company. These institutions as well as the individual instructors need not be approved by the private security authority, but are registered and controlled by the Department of Education:

“As a company we do not need a license. We are training because we are linked to the Department of Education. ...it is what we call the AQTF. So we must be registered on the NTIS, and in order to be registered there the company goes through very, very high checks.” (Manager)

On the official relation of their license to the local private security regulatory authority the same interviewee stated: “We are registered there not according to the local private security law. And the only way the certificates will be recognised by them is by us being registered by the Department of Education.” Individual instructors are approved separately and the emphasis in their requirements is on experience:

“But again that license, that person needs to be attached to the AQTF and so on. Under the new regime the instructors must have the certificate for training and assessment. At the moment what they will rely mostly on, is industry experience and certificate for the training. So that’s more a qualification than a license.”

The way the training was organised in practice was described well by a training professional:

“We run our courses here over seven days. So it is Monday to Friday, weekend off, Monday, Tuesday and then we start again the next Monday. So we roll continuously through. ... That’s what I decide with the training pack from the Department of Education. I work it up. Some do it in five days; some might say ten days.” (Manager)

In Queensland the training institutions not only decided on how the courses were technically run, they also controlled the curriculum content and examinations. The interaction between the training organisers and the companies was minimal because of the recruiting system.

The regulators were also balancing recruitment problems and the actual educational needs when approving the length of the basic training. There was an ongoing dialogue between the authorities and the industry about these matters:

“It is a very topical issue, training, so the chief executive of our department had decided that a certain minimum level of courses needs to be obtained before you can apply for a license. That has been done through industry consultation on the basis that if the courses are made too high as in details and phrased specific in things to learn it could harm employment in the industry.” (Industry expert)

The administrative structure and the organisation of training were complex and this obviously affected the quality and cost effectiveness of the whole process.

South Africa

Licensing

In South Africa the controlling authority handled the applications but needed police co-operation for criminal record checks on the guard license applicants and the re-checks on already licensed personnel: “When the paper work comes to our offices, we verify the training credentials and so on, but the fingerprints and so on goes to the police for scanning.” (Industry expert) The system was strict and the guards could only start to work after the background check and completion of the compulsory training. This was a lengthy process and was a challenge to the security companies:

“Licensing of guards is very difficult, there is a waiting period of three four months to get a registration because of the check of the background. Now there is a law that you may not employ a security officer before he has a PSIRA certificate

and a training certificate. You must fulfil all the criteria before you can get this.” (Manager)

The same interviewee pointed out that there are also cultural challenges related to the behaviour of the workforce:

“The industry in South Africa has got a huge [workforce] turnover, which is a cultural thing. We got people in South Africa who do not care if they have a job or not, they are not serious about keeping their jobs. When they feel they do not want to come to work they quit their job and hang around and later go to another company. So it is very difficult to control the situation”.

For the companies this is a pressing operational and financial problem: “The input cost is very high, to scrutinize every time a new employee, the training and all those things.”

The ‘customers’ of the regulatory authority, the industry representatives, were not totally satisfied with the licensing and control processes and especially the quality of the services offered (Olivier 2009:23¹²⁰). There was a feeling that the government makes the industry pay for services which should be covered by the state: “You need to subscribe to them [PSIRA]; you need to pay a company premium and as well one on each individual you employ as a security officer.” (Manager) The security industry felt that it should be treated as such with respect. There was a feeling that the governing authority PSIRA was not up to its tasks, which leads to bending or even ignorance of the rules from the industry’s side.

“The industry is very big in relation to our normal economy; this is one of the fastest growing industries in South Africa. ...This is a very complicated industry to manage, it is time consuming and very expensive to follow up all this legislation, so the majority of the industry ignore it, they know that the regulatory authority is small, regulatory authority cannot control it all, it is impossible so there is a lot of fly by night illegal operators real regulation breakers. ...No private business wants to be regulated by the government but this is, as you know and understand, a serious matter.” (Manager)

There were technical governance problems because of the fundamental political changes in the country; too many things were going on at the same time:

“They need to get the existing system sorted out and working before they try to broaden the regulation and only when something is working you can refine it. Because to keep working on something that is not working is never to get into place. So my feeling is that they got a regulation they have problems with, good and bad, let us fix that... It is just the government...things just don’t happen. In the private sector you got a business to run to show a profit to cover costs. They [government] do not have the problem so they don’t have a corporate drive to be profitable or successful, they have funding coming in regardless of the levels of efficiency. So I think that is a huge problem.” (Expert)

The other critical factor in this relationship is the pivotal role that the commercial security industry plays in South Africa:

“The security industry will carry on like it always has. It is a dynamic industry, a lot of instrumental entrepreneurs and if the authorities cannot keep up with it, the industry is going to keep on going and the authorities have to join up at some point. I think there is resistance from the industry to work with the authorities; they need to keep up with us.” (Manager)

Training

The training in South Africa was organised by ‘outside’ special companies which were accredited by education authorities. The system had, however, not been renewed together with the new legislation and this had created a somewhat open situation. “With the new legislation in 2002 there were not actually new standards for training, though we kept the old standards of 1992 for the different categories of the security officers.” (Industry expert) The same interviewee explains the training system in the following four comments. Outsourced training is not without problems: “You see, at this stage the whole training is outsourced to private companies. The exams are controlled by the accredited instructors and the accredited training facilities reporting to us, which creates a lot of problems.” The training was not under adequate control and business interests were sometimes stronger than the loose directives in the old regulation. This had created pressures for tighter control by the authorities: “You can think immediately, you know, it is a private business trying to make money, huge market, and a lot of corruption. Our system will be changing. The quality assurance of training will be controlled by the authority.” The actual renewal of the regulations on training had already started¹²¹:

“We review all the training standards within security industry for the time being. We are supposed to implement new legislation this year for all the categories. ...They do not meet the standards of the industry any more - everything is reviewed presently. In the guarding side there will be a certain minimum, common to everyone.”

There was also a plan to streamline the private security training by making it a part of the national education arrangements. “We are working with SETA¹²² who will take over the function from the authority. ...this is a huge challenge to the whole industry; they have to move over to the new system, the training situation will change in the future with SETA”

The present situation was commented on by two industry experts differently in a very crude way, emphasising the non-existent quality and control of the training arrangements: “It’s one thing to say I’m going to regulate the industry and another thing

to enforce that regulation policy properly, so I think training is bad although there is a very good curriculum.” (Expert) The interviewee was emphasising the possibilities to take shortcuts in organising the training today:

“...there is too many opportunities to buy your credentials ... security training is currently advertised as correspondence courses, if you think about it realistically, to take a correspondence course and then get your certificate - you have to be at the physical place to be trained. In theory there is a national exam system but in practice not.”

Another industry expert expressed his opinions (Smit 2008:12-14¹²³) by stating:

“Regretfully, neither the PSIRA nor SAQA systems have covered themselves in glory over the past ten years. Private enterprises and commercial training companies have looked after their own needs and profits, which, while understandable, have resulted in standards dipping and training being fragmented.” (Industry expert)

It seems that the planned new legislation and emergent practical training needs will create a huge challenge for both the authorities and the industry in the coming years.

Sweden

Licensing

In Sweden, licensing was decentralised to the county administrations and therefore uneven in nature. In some of the provinces there were over one hundred security companies licensed but in some others only less than five. In those with only a few companies, licensors were ‘near’ the licensees, which meant that they had a good understanding of the local circumstances and their control work was near the ‘customer’. In contrast, the knowledge and routines of the authorities working with security companies of different sizes were more professional in nature. According to the private security legislation, individual security officers (as well as the companies) needed to be approved by the county administrations. The work was very much about controlling and following up the criminal records of the applicants.

According to the authorities, the licensing process for individual security officers took normally about three weeks. The background checking procedures had been streamlined in 2006 with a new regulation on access to police registers which had cut the time for handling license applications. In the following three quotations an industry expert comments the process: “...we got the right to enter the police registers ourselves... So we check the criminal register and we look into the suspicion register that is the ongoing investigations which have not been closed.” Problems started if something divergent

was found in these registers, and extra controls had to be made: “There is an investigation pending somewhere, it maybe even considered secret so that we do not, cannot have the information. ...in individual cases, unique cases, it may take much more time.” In this context only the on-line access into the database of the security police was off limits for the licensors. The legislation concerning the handling of this information in Sweden was complicated: “We need to send them [the security police] a letter asking for their opinion and their activity has now been fenced by a political control function which is called the register authority.”¹²⁴ This procedure took time and ‘delayed’ the handling of applications. In 2006 there were discussions and a proposal from the controlling authority when renewing the law that the check concerning the records of the security police should be left outside the guard licensing procedure.¹²⁵ The proposal was not accepted and a main delaying factor remained in the licensing process.¹²⁶

Interviewees representing the industry criticised the prolonged nature of the application process. An industry association representative thought that the whole process was poorly run and mentioned several weaknesses from the guards’ and companies’ point of view:

“There are no structures, no committed persons, maybe there is data technology which is not functioning, people are not present, they are sick or they attend courses. It is a lot of things, and then if you increase volume you put more and more work on something [organisation] that does not function, you get some kind of total chaos.” (Industry expert)

The possibly serious consequences of the delayed processes were hinted at by the same interviewee: “The licensing process takes in certain places two months. So the companies break the existing rules because they cannot live with it.” (Industry expert) The reason given for this state of affairs was that the civil servants in charge of handling applications did not have adequate experience of the commercial security business and its operational needs. The other serious handicap stemming from the long licensing procedures was maybe even more serious for the running of the businesses: “But the existing problem, that is that you have these long handling times ... in areas where you have a certain turnover of personnel, there the person you have hired do not sit there and wait for two months but disappears.” (Industry expert) One goal with the new regulations on data access was to stop this from happening. A comment by the same expert on the reasonable time for handling a ‘normal’ licence application was maybe a little over the edge, but demonstrated the gap between industry’s expectations and the

reality: “Yes, in a computerised world this could happen by return of post, they would be able to do it within 24 hours. No, it should not need to take a longer time as all information is available.” A union representative who had participated in the work to improve the licensing process had similar opinions on the acceptable length of the process: “If I go to an employment interview at Securitas on Monday, I have to know next Monday if I have been hired or not. And I think a week, yes that is acceptable.” (Industry expert) However, the interviewee was aware of the actual situation amongst the authorities: “The county administrations have actually answered that they can solve this within a week but it is The Security Police who cannot cope with the control. It is there where it takes time.”

Training

All aspects of the training process were strictly regulated in Sweden and directed by the National Police Board. The actual training was organised practically by one institution, BYA which is administered by the industry’s social partners. The courses run by this school were longer than the minimum required by the regulations. This had been achieved through collective agreements which included also the use of a statutory fund collected from security companies. The social dialogue (cooperation) between the industry’s trade unions strongly influenced the national training arrangements. This interaction was also emphasised in a union representative’s comment: “We made a collective agreement with the employer on training, and then the police took this training and said: this is the regulation. So we have to find new training entities for collective agreements because they have regulated all.” (Industry expert) In another union comment on the training (Lindgren 2009:2), the connection between money and it was emphasised: “Now that the Government has adopted it [the collective agreement training requirement] in its legal framework, I hope we can go even further, and increase our demands.” (Industry expert) The profit-oriented thinking of all parties, also the employees, was obvious when looking at another comment of the same union representative: “More advanced services command better pay – for security companies as well as their employees.”

Although, the training was formalised by regulations and arranged well in practice, there were pressures to develop it. An example of this was the use of a licensed temporary workforce on an *ad hoc* basis. There was, from the industry’s point of view, a need to make the rules more flexible for these kinds of situations and personnel: “There we have an ongoing discussion because in the new directive the police are

thinking of increasing the requirements on refreshment training. We have in this context said that we should look at the tasks performed.” (Manager) There was no discussion about ongoing training for the full-time personnel, but about the problems faced with the *ad hoc* situations where there was an acute need for extra guards as commented by the same manager:

“But then there are separate cases, for example a hospital has a fire and we need twenty guards in half an hour, and there are people who are willing to take the job and have worked for us before and are on our list and those we want to use. However we do not want to give them all the refreshment training. But that is not acceptable; all should have the same training exactly. This discussion does not feel good.”

This manager interviewee raised another aspect of the training regulation, asking if it should be there if it is not controlled: “Then if this training should be regulated is another question. The worst situation is that if the authorities do not follow up that the personnel have the training, shall we then regulate it?”

There was a general feeling here, as in the other regulatory regimes under study, that the training curricula and methods in private security regulations had not followed the new general trends in teaching.

“The police want to regulate in detail. In modern training today the frame what a student should know is set, there are no directives that he should have three hours of night stick techniques, seven hours and three minutes guard related legislation and so on. I think here we live in a world thirty years back, it is not a model of today.” (Manager)

The stakeholders in the Swedish commercial security industry were proud of the quality of their ‘product’ and they saw a need to defend their high standards as there were discussions going on about harmonising, i.e., decreasing, the regulations on private security throughout the European Union:

“We are happy with the present arrangement of the training with BYA. It is a part of the building of a respectable public picture of our industry. In this we are quite special here in Sweden. ... It is, however an industry that wants something, and has a goal to impact on, for example, the Service Directive, to have a right training standard.” (Industry expert)

A professionally trained and highly certified commercial security industry could guarantee both profits and good salaries and conditions of services:

“It means that if you increase the competence of the guards, they can do more for the customers; think more, work more and then you can also increase the price. ...at the same time the guards can earn more and the companies can also get more

money. So a service branch which does not think of developing its services will end in a competition situation with low wage countries.” (Industry expert)

The profitability of the Swedish commercial security companies and the salaries of the guards are amongst the highest in the world.

11.2 Analysis and discussion

The practical organisation of licensing and training activities is the most important thing in practice for the guarding companies’ businesses. According to the interviews in this chapter it seems that in all the regulatory regimes the commercial security providers were unhappy of the approach towards and quality of licensing processes. Overly bureaucratic and lengthy licensor practices hindered the industry in multiple ways. As a summary of the interviews, the observations and comments in Table 34 can be presented of the actual situation in the regulatory regimes under study.

Table 34 The practical organisation of guard licensing and training

| Regulatory regime | Licensing | Training |
|--------------------------|---|--|
| Belgium | <p>The licensor is a separate department within the Ministry of the Interior.</p> <p>The licensing procedure (time) which is from five to fifteen days is generally considered swift and acceptable.</p> | <p>The training is controlled by the licensing authority.</p> <p>The length of the basic training is generally considered adequate.</p> <p>The training is carried out by security firms or separate training companies approved by the private security licensing authority.</p> <p>The authority runs the exams.</p> <p>The organising of the training is still not finally agreed.</p> <p>Training requirements are considered inflexible by the industry and causing problems in compliance.</p> |
| Estonia | <p>The licensor is the police who do only the basic control (criminal records) but do not have adequate resources to keep a register on the guards and their training.</p> <p>The time span for the (minimal) check is adequate (a few days) but the licensing procedure as a whole is suffering of limited police resources.</p> | <p>The controlling authority in training is not the private security licensor.</p> <p>The length of the basic training is considered adequate.</p> <p>The exams are drawn up and run by the industry association.</p> <p>The organising, control and registration of the training is ‘outsourced’ to the industry association.</p> <p>The big fluctuation of guards creates problems in compliance.</p> |

| | | |
|--------------|--|---|
| New York | <p>The licensor is the Division of Licensing Services that does not have straight access to all the information needed.</p> <p>The licensing procedure takes three to six months which is not considered adequate.</p> <p>Because of the long time span in license handling, the security companies have been allowed to use 'unlicensed' personnel on their own risk during the application process.</p> <p>The licensing authority has not sufficient personnel and technical resources for their job.</p> | <p>The controlling authority in training is not the private security licensor.</p> <p>The length of the training is considered adequate.</p> <p>The training is carried out by security firms or separate training companies accredited by the state educational authorities.</p> <p>The exams are run by the training institution using questions drawn up by them but approved by the authority.</p> |
| Queensland | <p>The licensor is the Office of Fair Trading that does not have straight access to all the information needed.</p> <p>The licensing process takes from six to eight weeks, which is not considered adequate by the applicants and the security companies.</p> <p>Commercial security companies are not involved in the licensing process.</p> | <p>The controlling authority in training execution is not the private security licensor.</p> <p>The length of the training is considered adequate, even if discussed.</p> <p>The training is carried out by separate training companies accredited by the Commonwealth training authority.</p> <p>The approved training institutions are relatively free in planning and carrying out the training and the exams they draw up and present for approval to the training authority.</p> |
| South Africa | <p>The licensor is the Private Security Industry Regulatory Authority, an independent body under the Ministry of Police.</p> <p>The licensors do not have straight access to all the information needed.</p> <p>The licensing process takes from three to four months, which is not considered adequate by any of the parties.</p> <p>Together with the huge turnover of guards the long waiting period is a problem and induces the companies to bend the rules.</p> | <p>The controlling authority in training execution is not the private security licensor.</p> <p>The length of the basic training is in theory considered adequate.</p> <p>The training is carried out by special companies accredited by the education authorities.</p> <p>The accredited training companies (trainers) control the exams.</p> <p>The training system is not considered presently to function properly and to be under adequate control.</p> |
| Sweden | <p>The County Administrations (23) function as licensors.</p> <p>The licensors do not have straight access to all the information needed.</p> <p>The licensing process takes 'normally' three weeks which is considered adequate by the authorities but not by the industry representatives.</p> | <p>The training is supervised by the Police Board and controlled by the licensing authorities.</p> <p>The length and quality of the basic training are considered adequate by all interest groups.</p> <p>Training and exams are carried out by a special institution run by the social partners.</p> <p>Training is seen by the social partners a vital tool to increase profits of the companies and salaries of the guards.</p> |

In all the regulatory regimes practical licensing requirements and principles as such were quite similar regardless of the governance model. The differences were primarily based on different, general legal and administrative cultures, practices, resources and techniques. In general all the licensors interviewed thought that there were no big problems with the licensing practices. On the other hand all the interviewees representing the industry in different regulatory regimes saw fundamental weaknesses in the licensors attitudes and practical bureau-administrative procedures. For them the effectiveness of the processes was a question of 'life and death' affecting strongly the whole industry. The main problems commented by the interviewees representing the commercial security industry were as follows:

- All regulatory regimes under study had quite similar chronic, mostly bureaucracy related, problems with granting and processing licenses within a reasonable time frame. The reason for this seemed to be primarily the licensor's inadequate personnel resources, outdated technical procedures and the dependence on cooperation with other government organisations.
- The long licensing approval processes and inflexible rules on training in many cases caused enormous problems for the commercial security companies when recruiting people, as well as for the applicants waiting to start work.
- The (too) tight and inflexible licensing (and training) processes connected to weak compliance control generated in certain situations a temptation to bend the rules on licensing requirements in most of the regulatory regimes under study regardless of their all over administrative maturity.

The implementation of training was in some of the regulatory regimes organised incoherently and without an adequate, responsible authority with necessary resources and knowledge for steering and control. Even where it had been easy to agree upon the necessity and even the basic length (content) of training, it's organising and execution was *ad hoc*. The training was in practice carried out in different ways by the states, security companies themselves, industry associations and independent training providers. The following points can be made as a summary of the interviewee comments on compulsory training and its organisation:

- Compulsory training was seen by all interviewees an essential, if not the most important part of the recruiting and licensing process. However, from the

companies' point of view it was a critical cost factor and sometimes also a hindrance to organise smoothly in a 'crisis' situation the work of guards.

- Regulation of the length and contents of compulsory training was complicated enough, but the real challenges and problems were connected to the practical organisation and control of it, which was in some regulatory regimes under study not throughout planned and executed.
- Problems were faced because the responsibilities to plan, execute and follow up compulsory security training were in many cases split between several public and private actors in the regulatory regimes and, especially the control of regulation compliance was insufficient.

CHAPTER 12: THE FUTURE OF REGULATION – CONCLUSIONS AND RECOMMENDATIONS

This thesis has investigated the changes that are currently transforming the commercial security industry. It has also sought to underline the critical regulatory challenges that the changes pose to the industry, governments and societies. In this concluding chapter I will first of all summarize my key findings before going on to re-consider the practical policy implications of my research findings. I will conclude by briefly outlining a future research agenda for this neglected industry. At the outset I was confronted with three challenges. First, I needed to construct a reliable conceptual framework that would enable me to conduct a comparative study of six different regulatory regimes. Second, because of the lack of credible data-base, a preliminary scoping exercise had to be carried out to establish essential key facts. This piece of research had not been carried out before by any researcher or government body. Third, because regulators, academics and security professionals in different jurisdictions had diverse ways of conceptualising commercial security and its regulation, throughout the thesis interpretative work was required to make my research data comparable.

My framework was constructed through three basic organising research questions: (a) why regulate (b) what and who to regulate, and (c) how to regulate? Both the quantitative and qualitative parts of the thesis were carried out using these questions as a foundation. The preliminary assumptions that I made about transnational similarities in regulating and steering the industry turned out to be incorrect and too positive. The existing cultural, political, socio-legal and administrative, as well as security related structures of the different regulatory regimes turned out to be elements that made the control of commercial security diversified and fragmented.

Findings

The research confirmed that the official reasons given ‘universally’ as answers to the ‘why regulate’ question were quite similar. In most cases the formal differences between the regulatory regimes turned out to be the comprehensiveness of the reasons for statutes. The interviews in the six regulatory regimes revealed distinctive national (political) reasons to initiate regulation and control of commercial security. In all of them there turned out to be decisive local, hidden ‘triggers’ for industry specified legislation, which could not be found in the official preliminary papers or the actual legislation.

At first sight the basic principles and content of ‘what and who to regulate’ seemed also to be quite similar ‘universally’. The same core matters and personnel had been in many cases regulated. However, in the more detailed examination of the facts, as well as the data gathered from the interviews, it turned out that there were notable differences in the thinking and emphasis within the regulatory regimes. The differences were primarily a result of differences in the societies’ risk environments and attitudes which influenced the actual security needs and political priorities. These results also emphasize the fact that the existing private security regulation reflects the general attitudes and circumstances in a society – as any legislation does.

Answers to the question ‘how to regulate’ revealed that both ‘universally’ and locally the models to administer, control and steer security companies and personnel were diversified. Both the governmental structures and the everyday practical organizations responsible for controlling of the industry were reflections of the local political and administrative models. It turned out that there are very few, if any, administrative models taking fully into consideration the special needs and challenges related to commercial security. They are primarily ‘normal’ bureaucratic state organisations. According to the thesis results it seemed crucial to have a system to update the regulations regularly without delays when there were changes in societies’ risk environments and security needs. If these are not taken into consideration by updating regularly the statutes on commercial security, problems and even conflicts will be faced in controlling these activities.

The thesis shows that in practice the key tasks in the existing industry specific legislation were related to licensing and the compulsory training connected to it. It became clear that in these matters there were many acute and even fundamental problems faced in the regulatory regimes. There are a lot of organisational and practical issues that need to be resolved by new regulations and practices as a matter of urgency.

The fundamental principles of commercial security governance

Throughout the thesis it was apparent that the regulation and control models set up for commercial security were not a primary concern for politicians and governments. Even the crucial decision, is this a commercial enterprise or a semi-public governmental activity had not been clarified in the legislative frameworks of any of the regulatory regimes. The lack of definition means that regulatory work on commercial security is to some extent blurred and contradictory. The contradiction in this fundamental question was expressed in a down-to-earth way by one of the interviewees saying:

“I am still thinking about the meaning of the word ‘private’ when we are talking of private security. To me it only means that we are private companies having to work by economic principles and standards, we have to make benefits. ...It is difficult to make the European institutions understand how ‘private’ you are if a very strict law is telling you what you can do, when you can do it, how you can do it, with whom you can do it. I think considering from that point of view, we are part of the law enforcement. The main challenge is to combine these two, to combine our commercial objectives and legal responsibilities. The fact is that we can only operate in a very strict legal framework. ...it is very difficult also to have this conversation and this dialogue with the public authorities responsible, because we are saying all the time: the more you are going to regulate us, the more difficult it will become for us to operate as commercial entities.” (Industry expert)

In the writing of this dissertation, most of the general theories and models explaining why a commercial enterprise should be regulated have not been of much help. Primarily they have been created to explain the need to steer and control economic activities and the behaviour of the different interest groups in the business market environment. The core content of existing private security regulation, the definitions of the industry, the shift of state tasks and powers from public to private actors, and the protection of basic human rights, seem to create a ‘special’ entity that does not fit in existing theoretical models very well. Human rights and the monopoly on violence are not negotiable or flexible ‘best practice’ or ‘self-governance’ matters. On the contrary, the theories on how regulation emerges, develops and declines tally quite well with the actual developments seen in commercial security. New ideas or issues upsetting the status quo, pressures of various interests, changes in habitat, as well as organisational failings, can all be found in the existing debate on the need and the content of commercial security regulation. Furthermore, the public interest, interest group, and institutional theories describe in many ways the present behaviour of different players in the regulation processes. It seems that on the theoretical level it is not, in a commercial security context, a question of market failures or social justice, which are often given as the main reasons for this kind of business regulation. Rather, a failure can be detected on the part of the state to provide a basic commodity, that is, adequate, equal and expected public security, the failure of which has led to a partly uncontrolled growth in demand and supply of new ‘public’ commercialised security services. The reasons for implementing regulation may be summarised as follows: Many states have failed to provide adequate public security. Nor have they met the new challenges and the public expectations connected to rapid social change. This has led to a partly uncontrolled commercialisation and privatisation of ‘public’ and ‘semi-public’ security tasks, mainly by commercial security providers. This transfer has created a governance challenge. The

state's traditional claim to be the primary provider of public security and its monopoly on violence are seen to be endangered. To bring this situation under control governments have been required to contemplate industry-specific private and commercial security regulations.

In addition to addressing the research questions, the thesis revealed that there are some basic things that have been 'forgotten' or at least not taken into consideration well enough in the research on commercial security regulation. The local history, the political system, the general compliance with the laws, the status of public police as well as the maturity of the administrative and business environments and cultures all impact on the private and commercial security activities and regulation in a regulatory regime. Ideas concerning private and commercial security's role and regulation needs are local and thus fragmented from country to country. As a consequence, the commercial security industry and its regulation do not constitute a global or identical entity. In a similar way it can be argued that to understand the world of commercial security, you need to understand every single country and regulatory regime and the industry specific statutory regulation (Berglund 1995:2). It can also be stated generally that if viewed internationally as well as historically, commercial guarding displays enormous variety. Security guards and the profession is not the same everywhere and because definitions are vague an uncertainty in their characterization will inevitably prevail for the time being (Bailey 1985:215). Sometimes there seems to be some nonchalance surrounding these basic truths in the commercial security research, forgetting that the industry is a part of the society and that its regulation and business performance are closely tied to the general values and maturity of its socio-economic environment. Every regulatory regime is different and needs to find its own application of regulation. Durable and functional improvements in private and commercial security can only be made in step with the general development of a society and its governance. The most significant contemporary trend within the industry is towards diversification and 'verticalisation', with the emphasis on the segmentation, specialisation and differentiation of commercial security services. All the parties within commercial security; regulators, administrators, trade associations, and security companies, are to an ever-increasing degree under pressure to organise themselves and their activities 'vertically', reflecting the ongoing diversification and specialisation of security needs in societies. This trend is already affecting the industry's activities, including regulation and regulation needs. The organising questions that shape this thesis: "Why?" "What/Who" and "How" to regulate should probably in the future be formulated more

specifically to one of the ('vertical') segments at a time. The time has passed, if it was ever here, when commercial security could be understood and handled as one entity, be it as an aspect of state governance or as a commercial enterprise.

There is the phenomenon of the growing transnational and inter-state reach of commercial security. For example, 'traditional' multinational security companies with hundreds of thousands of employees all over the world, private military companies with their visible role in the trouble spots of the globe, and the pressure for free movement of businesses and labour in internal markets are challenges to the international, regional, federal and local governance structures. There is a need to take steps to create appropriate transnational and inter-state regulation models to streamline the steering of the different segments of commercial security-related activities, as has been recently proposed by the (UN) Commission on Crime Prevention and Criminal Justice (2012). These steps are, however, slow and complicated processes that are always in danger of becoming outdated in the face of fast moving, market-oriented global changes.

The changing challenges of governance

Commercial security has developed steadily as a result of new security demands in societies. This has happened very much as with the development of any other service business within support industries. Governments as well as societies have gradually recognised private and commercial security as a 'normal' part of everyday life. It has been accepted that these services are needed because of the diverse risks and threats in today's societies. The acceptance has also been strengthened by acceptance that it is not possible or even appropriate to increase the public security resources to meet all new risks. The thesis results indicate that commercial security has stepped in to meet the new challenges quite effectively.

In the course of conducting this research it became apparent that it remains difficult for many academics and for representatives in the traditional legal and political structures to accept and admit the shifts that are taking place in security provision. The hidden political dimension was described by one of the interviewees:

"The politicians, they don't dare to talk to the population, to the citizens in general in an honest way. Because from an ideological point of view and a philosophical point of view, [politicians] cannot say to the population: we are going to protect you from now on, not by the police, we call in private security. They don't dare to say that. But when they are sitting down and they are counting, they have a really pragmatic view and they say to us [private security representatives]; we cannot do it in other ways. But towards the public they do not want to admit it. It is sad." (Industry expert)

The thesis findings show also that in the control of commercial security industry, a key player is the public police which have in many regulatory regimes a statutory role in commercial security governance and occupy a pivotal capacity to influence the industry's activities. One of the politicians' dilemmas in determining the exact role of commercial security in society is to decide how relations and cooperation between public and private security providers should be organised. Within the regulatory regimes under study there were different legal solutions on this matter, from total police control to total separation of the two sectors of security provision. Without clarifying this boundary, there will be on-going difficulties in cultivating commercial security services according to the societies' and consumers' changing needs.

The increasing specialization of commercial security services is affecting all parties involved. In order to achieve better profitability through a higher level of professionalism and continuous growth, the 'traditional' security companies have increasingly focused their business activities on the core segments of activity; guarding, CIT and alarms. Today the majority of commercial security companies have been organised according to the diversified customer segments (needs) in order to meet the demand for new types of services and the growing requirements of specialisation. This change creates new challenges to the regulators and police because the regulation and its implementation need to be diversified accordingly, and because some of the new services are outside the present legal frame and authorities' traditional core competences.

It is not possible to recommend one governance model as a result of the findings presented in this thesis. There are, however, core issues which need to be kept on mind by the politicians and authorities when planning the future organisations of (statutory) commercial security regulation and control:

- a) The role of commercial security in societies has to be defined (recognised) to make decisions which enable it to serve societies in the best way today but especially in the future.
- b) Legislative control of the industry has to be based on a vision that takes into consideration the predictable trends and demands in societies' future risk environments and the public resources available to face them.

- c) Commercial security is an entity with its own operational logics and organisational cultures, and it cannot primarily be considered and regulated as an auxiliary public police function.
- d) A risk prevails that regulatory overkill will result in a situation where commercial security's flexibility and strengths in anticipating and meeting customers' and societies' changing security needs will diminish.
- e) The practical management and control of the commercial security providers should be given to an independent authority which has professional knowledge of commercial security matters and which does not have ideological or interest group reasons to restrict the industry's activities or growth.

The thesis results showed that the day-to-day implementation of the regulations; the handling of licensing procedures and the organising of compulsory training are the key activities. They are the core of regulation and with the most practical challenges. They also affect crucially on a daily basis the business of the security companies and the recruiting of the guards. Even if there are a lot of problems in regulating and organising these activities in a satisfactory manner, there is a commonly expressed general willingness to streamline and speed up the licensing procedure to facilitate the recruitment of personnel.

In the interview comments the disputed points on which the opinions of the responsible authorities and the customers, security companies and employees, differed were not the licensing procedures as such but the length of time they took. On the one hand, the commercial security companies (customers) felt that the processes took too long and hindered their business activities. On the other hand, the authorities thought that the processing times were reasonable but admitted that there were certain internal bureaucratic procedures in getting all the information needed and this complicated the processes and caused delays.

In practice the thesis confirmed a consensus that training is needed and it should be an integral part of licensing requirements and procedures. The length of training required for licensing and the content of it varied between the regulatory regimes under study. The main problem was actually not the length or the content but the fact that the organisation of the training in many regulatory regimes was not adequately under the control of the licensors. Organisation and control had been left to some other governmental body, often under the Ministry of Education, and the actual training was

carried out by independent training organisations, public or private. The control of these bodies and their training activities varied a lot, creating a general picture of a difficult and partly neglected area within the commercial security licensing processes.

Recommendations for a commercial security research agenda

I have been involved in private security studies as a student at Helsinki University of Technology, the University of Leicester and City University London, as well as a lecturer on commercial security topics at Laurea University of Applied Studies for 15 years. At the same time I have had the possibility to meet in a professional capacity, hundreds of security industry managers and customers at all levels as well as thousands of guards from all over the world. During this time in the field of commercial security research, old ideas have been rehashed and no new ones have emerged. Many researchers have abandoned the study of the operational logics of commercial security, focusing instead on the implications of commercial security for social equality, human rights, democracy etc. Consequently, commercial security's regulation processes and developments have not garnered a lot of academic interest. Partly because of this, throughout the last thirty years the creation of working 'platforms' for this kind of research has been much ignored. In order to emphasize this argument, six examples taken from this thesis are given below:

First, there has been little attempt to define what is meant by private security or commercial security and what activities are included under these terms. As a consequence of this no methodologies have been developed to produce reliable and transnationally comparable data on the industry. At the same time scholars have ignored industry generated data on commercial security and based their texts on often unreliable secondary data.

Second, misleading myths, based on methodologically questionable data, have been created, such as (a) the routinely repeated argument that in many jurisdictions the public police are fewer in numbers than commercial security personnel, as well as (b) theories that emphasise the importance of mass private property and semi-public areas to the growth of the industry.

Third, in many cases, academic texts express a normative aversion towards commercial security and concentrate on revealing, in a 'shock, horror' manner that it is uncontrolled, undertrained, unreliable, threatens human rights, undermines state sovereignty and is illegitimate. These arguments are in most cases not based on research. Nor are they

evaluated against the inefficiencies, corruption, malpractice and violence associated with the public police.

Fourth, academics and politicians seem to think that by refusing to recognize its full significance the commercial security industry will vanish into thin air. Thus the research on regulation and control of the industry is in most cases a compulsive look in the rear mirror, not based on consideration of future developments of the security risks and security needs of societies.

Fifth, there are inevitable market derived pressures which propel changes in the commercial security sector. The differentiation and verticalisation of the industry, as well as what this will mean in the future for the control of it, have not been taken into consideration in the existing research.

Sixth, in most of the academic research on commercial security there is a failure to recognize that it is a business that acts and thinks like one. In many cases it has been conceptualized as a 'junior police' activity whose primary role is to support the public authorities. It has not been recognized that only a marginal part of commercial security is or will ever be provided as a supplement to actual public law enforcement.

As I was drafting this conclusion two texts were published by academics representing two diverse, traditional approaches in carrying out studies on commercial security. Thumala, et al (2011) focus in their article on evidencing the moral ambivalence of the security industry in Britain. The authors also indicate that some of their ideas can be generalized to apply to the whole industry worldwide. The core question handled in their article is the 'missing' legitimacy and identity of security industry. This is an academic issue which is not generally a topic for the security providers. Maybe it is a problem in Britain, but it did not emerge as an issue in this thesis or in any of the thousands of contacts worldwide with the industry's different interest group representatives. The authors of this article are part of a private security research tradition that foregrounds negative arguments about commercial security without giving practical ideas how to correct the situation. Their argument is that the industry has no distinctive identity or role and it is desperately seeking legitimacy. Given that, e.g. the (UN) Commission on Crime Prevention and Criminal Justice has proposed a resolution on the governance of civilian private security services and that in Europe alone there are over one million licensed and trained guards who are authorized to carry out manifold tasks, the question arises: how is this possible if this work has no legitimacy or

authorized identity? This article can be considered as a traditional academic (and political) text that is intended to undermine one profession, written to other academics but not for any constructive purpose to develop or change the commercial security industry. It is based on preconceived attitudes and skillful use of normative assumptions rather than a detailed empirically based knowledge of the industry. If these kinds of articles are the academic contribution to commercial security research, it is little wonder that interaction between researchers and the industry's professionals remain weak or non-existent.

The other new research work on commercial security is Sarre and Prenzler's (2011) comprehensive research report on the positioning of commercial security in the era of plural policing in Australia. This work represents the other school and is a comprehensive study on the future trends of the industry in diverse legal environments of the eight Australian States. It includes practical knowledge and empirical details on vital aspects of the industry and its activities. It also includes ideas and recommendations about what should be done by the central and local governments as well as the industry to steer commercial security activities. This kind of study, even if it is focused on Australia, is setting an invaluable platform both locally and transnationally for further discussion and research. But what is even more important; it is a tool for all interest groups to understand the key challenges in developing and steering the commercial security industry in different societies.

These two publications are good examples of the two different academic approaches that have dominated (commercial) private security research. The 'traditional' one represented here by Thumala, et al which is based on sociological theories and carried out by academics who do not approve of and would prefer not to acknowledge the legitimate existence of commercial security. The other, more pragmatic one, represented here by Sarre and Prenzler, is based on multidisciplinary methods and carried out by researchers who base their opinions and arguments on pragmatic and empirical studies. These academics are also worried about some aspects of commercial security activities but their goal is to give the decision makers and the industry tools to steer the industry so that it will serve in the best way the society as a whole.

The ideal would be to get politicians, regulators, police, academics and security industry representatives around the same table as happened at the Cropwood conference in 1971 (Wiles and McClintock 1972). This kind of open high-level exchange of thoughts on the future of commercial security would be a good start in developing our understanding of

the commercial security industry's unfolding alternative roles in different societies. Unfortunately this has not been possible for forty years, partly because many prominent academics question the legacy of commercial security. Cropwood was a British meeting but today the makeup of a 'round table' should be more transnational. This would also give a better possibility to have such academics involved that recognize the industry and thus are interested to take part in a discussion of the future roles of commercial security and how it should be researched. This kind of meeting, well organized, could also be a booster for more cooperation between the industry and the academia.

My ideas on what needs to be researched and what should be taken into consideration in future studies of commercial security regulation are as follows:

- a) The need to clarify the future authorised roles of the commercial security sector and its division of labour with the public authorities (police).
- b) The inevitable market steered development and realisation of new commercial security services and products which meet customer risks and needs.
- c) The further privatisation of public, including police-type, security tasks.
- d) The trend towards specialisation, diversification and verticalisation of commercial security industry's organisations and actual operations as well as its public control (governance).
- e) The transnationalisation and federalisation of commercial security industry and its control.

Finally

As has been noted in this thesis, the need for commercial security regulation in its present form has been acknowledged and addressed by governments for over a century. This has led gradually to statutory regulation of the industry across diverse jurisdictions. Some of the regulatory areas, such as protection of citizens' rights from illegal acts performed by commercial security operators, exclusion of criminal elements from the industry and the call for standardised minimum quality standards, have persisted through all these years. It seems that the basic and general reasons 'officially' given for commercial private security regulation are relatively constant. The actual challenge for regulation/regulators is to respond in a constructive manner to constantly changing risk environments and rapidly developing new security products and services created to meet them. To do so regulation needs to be premised on a deep future-oriented

understanding of rapidly changing sociological and operational environments. Morgan and Newburn (1998:109-110) have argued that “...it is time to give the law and order rhetoric a rest and have proper public debate, one that is grounded on fact”. For the Institute for Security Studies (2007:11) that ‘proper public debate’ needs to focus as a matter of urgency on “regulatory innovation because the industry is growing fast and legislation cannot keep up”. As in many other cases, the responsibility to provide this new regulatory innovation rests not only with legislators and authorities but with the commercial security industry and with academics, who need to produce high-quality empirically based data that is of relevance to rapidly developing security environments.

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APPENDICES

Appendix 1

'FAMILY TREE' OF COMMERCIAL SECURITY AS IT IS DEFINED IN THIS THESIS¹

| Commercial Security Services | | | | | | | | 'Policing' Services ² | Private Military Services ³ |
|---|------------------------------------|------------------------------------|---|----------------------------------|--|--|--|--|--|
| Security Consultancy | Private Investigation ⁵ | Crowd Management ⁶ | Guarding | Electronic Security ⁷ | Physical/Mechanical Security ⁹ | Cash Handling Services ⁸ | Information security ⁴ | Public order tasks Private Crime investigation Parking control Traffic control Court attendance | Armed protection Military services |
| Risk management Business intelligence Security planning Implementation | | Event security Door supervision | Static Mobile Security checks Close protection Alarm response Reception (Key holding) | Alarms Access control CCTV | Locks Barriers ¹⁰ Seals Lighting Safes Vaults | CIT Cash processing ATM maintenance Security transports | ICT security Document security ID security | | |
| Security Training ¹¹ | | | Monitoring and Alarm Receiving ¹² | | | | | Attention: Security industry is a free-form expression often used in different contexts of the security services, equipment production and activities connected for example, to the businesses described in this table and its foot-notes. As the expression is undefined and its content is wavering, certain caution should be exercised when using it. | |
| Protection of CNI ¹³ | | | | | Alarm receiving (& dispatching) Electronic surveillance & positioning Operational remote control Guard safety control CIT remote control | | | | |

¹ The focus in this table is on the 'manned' services and the most usual other 'bricks' of integrated security systems. In this presentation correctional service, actual fire and ambulance service, and production (industry) of security equipment have been excluded. Fire protection and ambulance services are, however, often provided for the customers within the scope of guarding (fire patrol/checks and first response), electronic security (installation of fire alarm equipment), and monitoring and alarm receiving (fire alarms). The lists of activities/products given under the different headings are not exhaustive, but give examples of activities/products belonging together.

² Here are included activities called often private policing, such as traditional or new public law enforcement services outsourced to, or for other reasons taken over by private security providers. Anyhow, tasks carried out in semi-public environments (e.g. malls, shopping centres, sports events and outdoor concerts) are considered in this context guarding or crowd management.

³ These are in the first place auxiliary services provided by personnel with combatant capability; for state organs, NGOs (Non-Governmental Organisations) and private businesses primarily in conflict & crisis areas, and in failing societies. The providers of these services are generally called private military companies. Mercenary activities are excluded.

⁴ Includes here e.g. information and communications technology security (ICT), document security (writing, handling, movement and storage), and identification security (ID) services like provision of IDs and ID protection.

⁵ The term private investigation has today in some contexts been taken over by 'private intelligence services' as the area of operation and the matters handled have been widened to new areas.

⁶ Also called crowd control.

⁷ Planning, installation and maintenance of Business to Business (B to B), Business to Consumer (B to C) and integrated systems

⁸ The cash handling could also be called transport of valuables which covers the transports of: blood for hospitals, pieces of art, different kinds of valuables, documents and so on. Because cash is by far the main item transferred and handled the whole security transport activity has here been called as cash handling.

⁹ Physical and mechanical security is considered as a part of commercial security services only if provided in connection of other services.

¹⁰ E.g. installation of security fences, gates, doors, windows, blockers, etc.

¹¹ Security training is an auxiliary, often licensed, service primarily aimed to fulfil the (legal) requirements imposed on operational security personnel, and which is carried out by security companies themselves, government representatives (e.g. police) or independent training providers (institutions).

¹² Monitoring is today positioned in a gray zone between guarding and electronic security.

¹³ The protection of Critical National Infrastructure (CNI) is a 'new' important and growing special (integrated/converged) security service entity which also includes the terrorist aspect (CBRNE). It has not been categorised in this presentation, and should probably be ranked in the same category as public order services or private military services.

Appendix 2

A GENERAL PROPOSAL FOR A MODEL AND PRINCIPLES TO GATHER BASIC STATISTICAL INFORMATION CONCERNING SECURITY INDUSTRY AND ITS PERSONNEL¹²⁷

In order to correct the existing situation the following (minimum) steps should be taken:

- Creation of a professional model (platform) and guidelines to streamline in the long run the gathering and presentation of commercial security related data on a national and transnational level by all parties, be they states, national and international associations/institutions, or researchers.
- Short-listing of the most important statistical figures to start with.
- Drawing up a draft questionnaire based on the approved short listing of the core figures needed (and possible to acquire), including guidelines to make the results comparable.

In all contexts there should be assessed and mentioned in some form what is the origin of the given figures, are they:

- From an official or semi-official statistical source (and if so what is the source)?
- Based on reliable industry associations' assessments or personal analyses?
- An individual or institutional 'best educated guess'?
- Based on a specific survey examination?

On all answers, whatever the source, there should also be mentioned the respondents assessment of the reliability and validity of the figure(s) on a scale from 1 to 3.¹²⁸

1 THE SIZE OF THE COMMERCIAL SECURITY INDUSTRY

The number of granted company licenses

In most of the countries there is a licensing system for the commercial security companies and personnel. In most of the countries also official state or regulatory authority's records are available on the number of licenses granted.

Question 1: How many valid security company/security provider licenses are there in your country?

Sub-Question 1.1: How many of the security company/security provider license holders carry on active security business in your country?¹²⁹

Sub-question 1.2: How many of these active license holders are involved in manned guarding business?

The number of individual security personnel licenses

Question 2: How many individual private security licenses are valid in your country (active and sleeping)?

Sub-question 2.1: How many of the active licenses are:¹³⁰

- * for guards (equivalent)?
- * for crowd controllers/door supervisors?
- * (for private investigators?)
- * (for bodyguards?)
- * (for cash services personnel?)
- * (for security electronics/other equipment installers and maintenance personnel)?

Question 3: How many individual private security license holders work actively within commercial¹³¹ security in your country?

Sub-question 3.1: How many of these active license holders work primarily:¹³²

- * as guards (equivalent):
 - * commercially (within security business)?
 - * in in-house organisations?
- * as crowd controllers/door supervisors:
 - * commercially (as employees of a security provider)?
 - * in in-house organisations?
- * (as private investigators?)
- * (as bodyguards?)
- * (as cash services, cit and cash handling, personnel?)
- * (as installers and maintenance personnel (security electronics/other equipment)?

Sub-question 3.2: How much unlicensed security personnel work:

- * as in-house guards?
- * as in house crowd controllers/door supervisors?
- * in registered private security and cowboy companies?

The total amount of security work and the comparable man year figures

Question 4: How many active operational guard (sold)¹³³ hours are performed commercially within the security industry annually in your country?

Sub-question 4.1: How many man years is this (based on the local employment laws)?¹³⁴

Sub-question 4.2: How many commercial man years are performed in:

- * guarding (equivalent)?
- * crowd control/door supervision?

Sub-question 4.3: What is the approximate total number¹³⁵ of working hours performed by one commercial guard in your country?

2 REMUNERATION

Basic salaries

Question 5: What is the monthly starting salary of a full-time (licensed), non-armed guard performing basic tasks (without overtime, weekend, evening, night, etc allowances)?

Sub-question 5.1: What is the monthly starting net¹³⁶ salary of the above mentioned guard (excluding the extras)?

2.2 Average salaries

Question 6: What is the average monthly gross salary of all guards (extra allowances included)?

Sub-question 6.1: What is the average net salary of the above mentioned guards?

2.3 Comparable industry salaries

Question 7: What is the average monthly gross salary of blue-collars in your country in:

- * the support (service) industry? (cleaning, catering, real estate services)
- * the engineering industry?

Appendix 3

INFORMATION AND QUESTION SHEETS USED FOR THE INTERVIEWS

Profile and Research description sent to chosen interviewee candidates

Dear Mr/Ms

Researcher's personal profile and activities

I am a Finn living today in Helsinki, the capital of Finland and working as a Senior Adviser for Securitas Security Services Europe. For the time being I am the Chairman of the Board of Securitas Oy Finland and a permanent member in four committees on European level which work with the harmonisation and standardisation of private security and the social dialogue between the social partners (employers' and employees' associations). I am also this year the Chair of ASIS chapter 210 Finland. At the side of this I am presently registered as an APG (Advanced Post Graduate) student at City University in London where I usually stay one week every month doing transnational research on private security regulation. The title of my research is: The Regulation of manned commercial security services – A transnational comparative study of Belgium, Estonia, New York, Queensland, South Africa and Sweden. This research is carried out to collect material for the ongoing debate of European and global) harmonisation in private security and to write a thesis for the University.

Education: Career Officer Examination / Finnish Defence College 1968, BSc in Mechanical Engineering / Technical College of Helsinki 1980 and MSc in Security Management / Leicester University 1998. My working career after ten years in the army have been: Security Supervisor in Bank of Finland Security Printing House 1973-75, Senior Consultant in Finnish Industrial Security Ltd 1975-80, Chief of Security Helsinki University Central Hospital 1981-85, Manager & Managing Director Securitas Finland 1985-2000, Military Observer (UN) in Kashmir 1989-90, Executive Vice President Securitas Security Services Europe Division 2001-2004. The last post included operational responsibility of Eastern Europe countries and Mexico plus the co-ordination of HR policies in the Division (90.000 employees).

Research description and activities

Within the comparative transnational research I have made a pilot study of the statutory regulation of 40 countries using documents, a survey with 90 handpicked experts and confirmation interviews with the same experts. Based on this pilot study and other sources I have planned to interview approximately 50 experts in the six main countries under study. Five to eight persons from different private security interest groups will be interviewed. These interviewees should represent the branch associations, company managers, security managers (buyers), unions, politicians, regulatory authorities, media and academics.

The interviews are focused on the private security statutory regulation, trying to get an idea how the present national regulations reflect the needs of different interest groups and how the successful the implementation has been. The main subjects of interest are the scope of regulation, licensing of companies and guards, compulsory training, control of compliance and future development needs. The interviews are planned to be used in the research text without interviewee names only as a summary of the different opinions of different groups. The chosen interviewees will be approached individually with a detailed list of the topics which should be discussed during a 45 to 60 minutes session.

Pre-information sent to actual interviewees at least one week before the meeting

Dear Mr/Ms

A part of the case studies of my thesis is carried out using semi-structured topical interviews. Six to eight representatives of different interest groups are interviewed in six regulatory regimes (countries), i.e. Belgium, Estonia, New York, Queensland, South Africa and Sweden. The goal is to find out opinions of existing private security environment, its regulation and the most important challenges in regulation development related in the first place to the individual interviewee's professional area.

The planned length of an interview is 45 to 60 minutes. A voice recorder is used if this is agreed by the interviewee. The interviewee can at any time during the interview ask the recording to be stopped if he/she wants to express opinions off the record. The answers will be handled anonymously and in the text the references will be used without notes to the regulatory regime or the person / occupation. These details will be

listed in a separate appendix of the final thesis depending on each interviewee's approval.

From the research point of view the following questions are planned to be included in the discussion. They are not, however, to limit the aspect of discussion which is meant to deal in addition to the interviewees special knowledge area his/her personal opinions.

- Why and in what situation is private security regulation needed in your country/state?
 - Constitution...
 - Changing roles...
 - Division of labour...
 - Unsuitable elements (personnel)...
 - Accountability...
 - Control of powers...
 - Breaches of privacy...
 - Status of the industry...
 - Global companies...
- What single elements have started up governmental (political) active measures in private security regulation matters in your country/state?
 - Public tasks...
 - Misbehaviour cases...
 - Interest group activity...
 - Media coverage...
- What private security domains, activities, tools, equipment, procedures should be regulated?
 - Approved areas of activity...
 - Business segments...
 - Companies...
 - Personnel groups...
 - Equipment – uniforms, night sticks, handcuffs...
 - Contracts...
 - Liability/infidelity insurance...
- How should private security be regulated?
 - Statutory or self-regulation...

- Federal centralised...
- Responsible governmental authority (business/security)...
- What should be the police authority's role in private security regulation and controlling processes?
 - No police role ...
 - Equal partner, junior partner, auxiliary police
- Is the present local regulation model working well administratively from your point of view?
 - Government interest/commitment...
- How could the licensing procedure and control of the private security companies and employees be improved?
 - special department/agency...
 - Time span in licensing...
 - inspections...
 - bigger industry self-control...
- Is the compulsory training of different groups of private security personnel effective and sufficient?
 - Groups included...
 - Length...
 - Specialisation...
 - Exams/certification...
 - Refreshment training...
- Are all licence holders in the industry treated equally by the authorities?
 - Licensing procedures...
 - Inspections...
- Is there a working dialogue between the different interest groups and the government/authorities
 - Reviews...
 - Permanent/ad hoc committees...
 - local police...
 - unions/employer associations...
- Are the regulations of firearm possession and use within private security industry adequate and meeting the needs?
 - General gun laws...

- special regulation for private security...
- the real need/case histories...
- the future development...

Appendix 4

TOPICS TO BE INCLUDED WHEN CONSIDERING WHAT TO REGULATE¹³⁷

1). Setting of the general legal preconditions for commercial security activity by defining the commercial security industry, its role in society and the governance model. Based on these fundamental decisions, making evaluation of: its sphere of operations, its relation to authorities, its division of labour with authorities (police), its physical appearance, its extra powers, its right to possess weapons and its control by authorities (including their industry specific powers). Answers to the following questions should be provided by the regulators:

- What is private and commercial security (definition)?
- What is the general role of commercial security in the society (business or semi-public law enforcement)?
- Where can commercial security operate (spheres)?
 - private spheres
 - public spheres
 - semi-public spheres
- Should inn-house security be regulated?
- What sort of tasks can commercial security generally take/perform?
- Should there be special regulation of protection of CNI objects by commercial security providers?
- How to organise the public/private division of labour?
 - co-operation between authorities/private/commercial actors
 - the role differentiation between police/private/commercial security
 - police officers holding an office working within private/commercial security
- How to identify security officers?
 - the diversification in appearance authorities/private/commercial security actors (uniforms)
 - the general markings and company badges on clothing
 - the personal ID, its issuance and use
- Is there a need for extra powers and extra protection?
- Is possession of weapons to be allowed?
 - non-lethal
 - firearms

- How should the control and accountability be ensured?
 - all over responsibility of private/commercial security regulation (the responsible authority)
 - controlling/licensing body and its status
 - formalised co-ordination body (authorities/industry)
 - appeal procedures
 - reports
 - inspections
 - internal avenue of appeal (licensing)
 - 3rd party complaints handling
 - sanctions

2) Setting of the industry specific legal preconditions for commercial security providers (companies/personnel) by defining : the segments of activity to be controlled, the basic compulsory requirements for companies and personnel, the minimum training, the equipment allowed, quality standards and the interplay between providers and customers. Questions to be considered and answered in this context are:

- What segments of security activity should be included?
- What basic controls are needed for legal persons?
 - companies
 - personnel
- What are the minimum training requirements and their content (exams)?
- How to organise the compulsory training?
- What requirements and control should be set on equipment?
 - dogs
 - uniforms and protective clothing
 - cars
 - weapons (non-lethal and firearms)

3) Setting of the business and quality related requirements, standards and codes of ethic to formalise the business relations, to protect the customers and to guarantee minimum quality of services. In this category belong also the working condition and social dialogue matters if they are not prescribed in other statutory regulations. Questions to be considered and answered in this context are:

- What compulsory rules are needed in security provider versus customer interactions?
 - compulsory written contracts
 - formalised minimum content of contracts
 - minimum liability and fidelity insurance obligations
 - formalised obligation of incident reporting and its preservation
- What arrangements would be recommended for trade union interaction?
 - collective agreement on wages and terms of employment
 - formalised social dialogue interaction
 - union representation on company boards

Appendix 5

DIRECTIVE LIST OF TOPICS TO BE CONSIDERED WHEN PLANNING HOW TO REGULATE

- Statutory or self-regulation?
- How are transnational treaties affecting the local regulation model?
- Should the regulation be harmonised (federal) or local (state)?
- Should the whole private security industry be regulated together?
 - different segments by the same or separate laws
 - all private security legislation administered by one or several authorities
 - is verticalisation affecting the law structure and content
- Who should have the administrative responsibility for the commercial security regulation?
 - writing of legislation
 - development of legislation
 - running of permanent advisory committee for public-private co-operation
- How to organise the administrative implementation and control of the regulation?
 - internal or (semi-)independent controlling authority?
 - centralised or divided authority?
 - centralised or decentralised execution of 'daily' control duties?
 - co-operation arrangements between the authorities and the industry
- How to organise the practical day to day execution of regulation duties?
 - granting of licenses and co-operation between authorities in the process
 - screening of security providers
 - training arrangements (exams)
 - the submission of certificates
 - the follow up through reports and inspections of security providers
 - citizens' and internal complaint handling
- How to fund the licensing and control procedures - fees?
- The granting and use of industry special authority powers?
- (How to regulate industry specific legal penalties and their execution powers?)

Appendix 6

DEFINITIONS ON SECURITY GUARD / SECURITY OFFICER ¹³⁸

| Main points in legal definitions of guards | BE | EE | NY | QLD | ZA | SE | CEN | ASIS |
|--|----|---------------------------------|--|-----|--------|----|---|--|
| Personal requirements: <ul style="list-style-type: none"> - citizenship/permanent residence - basic education - professional training - age - language proficiency – - personal characteristics/moral standards - physical condition and health | | x x x x x x x | | | | | x | |
| Performing functions: <ul style="list-style-type: none"> - protection of individuals - protection of property | | | x x | x | | | x x | |
| Performing tasks: <ul style="list-style-type: none"> - deterrence/prevention - observation - detection - screening employees and visitors - inspection of packages and vehicles - escorting visitors and parking issues assistance - reporting - preventing unauthorised entry/trespassing - street patrol service - response to security incidents - enforcement of established company rules - apprehension of violators - monitoring security and life safety equipment - utilising various security measures | | | x x x x x x x x x x | | | | x x x x x x x | x x x x x x x x |
| Employment: <ul style="list-style-type: none"> - employed by a guarding company - working for remuneration/fee/reward - other than police officer | | | x x x | | x x | x | x | |

Belgium: No specific definition(s) of a guard or a security officer.

Estonia: A guard¹³⁹ is a person who has undergone initial training and who performs the duties of a security guard on the basis of a contract of employment entered into for a specific term with a probationary period of up to four months, who is an Estonian citizen or a person holding a permanent residence permit in Estonia, who is at least 19 years of age and who has completed basic education, who is proficient in Estonian at the level established by law or by legislation issued on the basis thereof, who is capable of performing the duties of a security guard in terms of his or her personal characteristics, moral standards, physical condition and health, and whom the restrictions specified in subsection 23 (1)¹⁴⁰ of this Act do not apply.

New York: “Security guard” shall mean a person, other than a police officer, employed by a security guard company to principally perform one or more of the following functions within the state:

- a. protection of individuals and/or property from harm, theft or other unlawful activity;
- b. deterrence, observation, detection and/or reporting of incidents in order to prevent any unlawful or unauthorised activity including but not limited to unlawful or unauthorized intrusion or entry, larceny, vandalism, abuse, arson or trespass on property;
- c. street patrol service;
- d. respond to but not installation or service of a security system alarm installed and/or used to prevent or detect unauthorized intrusion, robbery, burglary, theft, pilferage and other losses and/or to maintain security of a protected premises.

Queensland: Who is a security officer;

- (1) A security officer is a person who, for reward, patrols or guards another person’s property.
- (2) Despite subsection (1), a person is not a security officer merely because the person-
 - (a) is an employee of a person who does not, for reward, patrol or guard another person’s property; and
 - (b) as an employee, patrols or guards the employer’s property.

South Africa: Security officer means a natural person-

- (i) who is employed by another person, including an organ of state, and who receives or is entitled to receive from such other person any remuneration, reward, fee or benefit, for rendering one or more security services; or
- (ii) who assists in carrying on or conducting the affairs of another security service provider, and who receives or is entitled to receive from such other security service provider, any remuneration, reward, fee or benefit, as regards one or more security services;

- who renders a security service under the control of another security service provider and who receives or is entitled to receive from any other person any remuneration, reward, fee or benefit for such a service; or
- who or whose services are directly or indirectly made available by another security service provider to any other person, and who receives or is entitled to receive from any other person any remuneration, reward, fee or benefit for rendering one or more security services;

Sweden: Security officer shall be understood to mean a person employed in an authorised security company performing security operations on behalf of another party, but not the party who is the guard or another party who performs security operations as referred to under Chapter 1 Section 1(2)¹⁴¹

CEN: Security officer/security guard:

Person who is paid a fee, wage or salary and is trained and screened and performs one or more of the following functions:

- prevention or detection of intrusion, unauthorized entry (access control) or activity, vandalism or trespass on public or private property;
- prevention or detection of theft, loss, embezzlement, misappropriation or concealment of merchandise, money, bonds, stocks notes or valuable documents or papers;
- protection of individuals from bodily harm;
- environmental protection and management in rural and maritime domains;
- enforcement of (whilst obeying) established company rules, regulations, policies and practices related to crime reduction;
- reporting and apprehension of violators as defined by national law.

ASIS¹⁴²: Security Officers

Organisations use security officers to supplement or amend other controls/measures where human presence and human decision making is needed.

Responsibilities: Security officers may carry out various responsibilities including, but not limited to,

- screening employees and visitors in reception areas;

- controlling access to the facility at other points
- monitoring security and life safety equipment
- conducting patrols on foot or using some type of vehicle
- responding to security incidents;
- documenting incidents;
- escorting visitors;
- assisting with parking issues;
- inspecting packages and vehicles;
- utilizing various security measures (doors, locks, alarms, CCTV cameras, lighting, etc).

ASIS¹⁴³ has in another publication defined a private security officer in the following way:

Private Security Officer – An individual, other than armoured car personnel or a public employee (federal, state, or local government), employed part or full time, in uniform or plain clothes, hired to protect the employing party's assets, ranging from human lives to physical property (the premises and contents). The definition excludes individuals who are not employed in the capacity of a private security officer.

Appendix 7

Main regulatory requirements concerning security guard / security officer

| | BE | EE | NY | QLD | ZA | SE |
|---|------------------|------------------|------------------|-----|------------------|------------------|
| Permanent national or EU / federal resident status | x ¹⁴⁴ | x | x | | x | |
| Time limits for residence or interruptions of it | | | | | x | |
| Not involved in certain other professions | | x ¹⁴⁵ | x ¹⁴⁶ | | | |
| Minimum age | x ¹⁴⁷ | x ¹⁴⁸ | x | x | x | x ¹⁴⁹ |
| Evidence for identity | | x | | x | | |
| National language skill level | | x | | | | x ¹⁵⁰ |
| Compliance with relevant training requirements | x ¹⁵¹ | x | x | x | x | x |
| Specific for management | x | x | x | | x | x |
| Specific for security officers | x | x | x | x | x | x |
| Possibility to get a restricted license without basic training | | x ¹⁵² | | x | | |
| Specific for former government 'security' officials | | | x ¹⁵³ | | | |
| Experience requirements for certain areas of activity | | | x | | | x ¹⁵⁴ |
| Requirements for approving a guard license | | | | | | |
| Not found guilty of specified offences (clean criminal record) | x | x | x | x | x | x |
| Also outside the regulatory regime | x | | x ¹⁵⁵ | x | | |
| Also unrecorded findings of guilt | x | | | x | | x |
| Specific list (definitions) of disqualifying offences | x | | | x | x | |
| Not found guilty of improper conduct (general suitability) | | x | x | x | x | x |
| The person is a risk to public safety | | | x | x | | |
| The license would be contrary to the public interest | | | | x | | x |
| Dishonesty or lack of integrity | | | | x | | |
| Use of harassing tactics | | | | x | | |
| Doubt of general trustworthiness | | x | x ¹⁵⁶ | | | x |
| Advance taking of the laws of bankruptcy | | x | | x | | |
| Medical requirements and/or test | x ¹⁵⁷ | x | x | | | |
| Psycho-technical requirements and/or examination | x ¹⁵⁸ | | x | | | |
| Known to have mental problems or abuse of narcotics | | | x | | | x |
| Clearance of former employment in public service | | | | | x | |
| Not been discharged from public enforcement position | | | x | | | |
| Restrictions if currently employed in public enforcement services | x | | | | x ¹⁵⁹ | |
| Restrictions if former police officer or equivalent | x ¹⁶⁰ | | | | | |

Appendix 8

Compulsory basic training regulation related requirements

| | BE | EE | NY | QLD | ZA | SE |
|--|----|------------------|------------------|-----|----|------------------|
| Compulsory basic training regulated | x | x | x | x | x | x |
| Specific (national) training committee | x | | | | x | |
| Official security officer grade system in training | | x | | | x | x |
| Compulsory further (refreshment) training | x | | x | | x | o ¹⁶¹ |
| Specification of the number of hours of all compulsory training | | x | x ¹⁶² | | | x |
| Specification of the maximum weekly hours and length of lessons | | | | | | x |
| Specification of the maximum number of pupils per instructor | | | | | | x |
| Specification on classroom and on the job training realisation | | | | | | x |
| Specification of the topics included in compulsory training | | x ¹⁶³ | | x | x | x |
| Manager | | | | | | x |
| Basic security officer | | x | | x | x | x |
| Special events security officer (crowd controller) | | | | x | x | x |
| Dogs and dog handlers | | x | | | | x ¹⁶⁴ |
| Cash-in-transit | | | | | | x |
| Shop surveillance | | | | | | x |
| Close protection | | | | | | x |
| Use of expandable (telescope) batons | | | | | | x |
| Qualifying examination | | x | | x | x | x |
| Authorised examination holders | | x | | x | | |
| Specific accreditation system for training establishments | x | x | x ¹⁶⁵ | x | x | x |
| Specific accreditation requirements for dog training centres | | | | | x | |
| Accreditation of training establishment trainer | x | x | x | x | x | x |
| Specific requirement for experience in security work | | | | | | x |
| Specific accreditation of dog and handler instructor | | | | x | | |
| Specific accreditation criteria for security firearms instructor | | | | x | | |
| Training certificate requirements and submission | | | | | x | x |

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ENDNOTES

Chapter 2

- ¹ There are several different words and definitions concerning the security activities carried out by non-governmental corporations and personnel. The most general is private security which is also used almost unanimously by the governments in their legislation. This word includes, however, also activities carried out by as in-house by companies, non-profit organisations, voluntary groups and vigilantes. This thesis is primarily focused on security activities carried out by business oriented companies and individuals who provide their services for a fee. That is why the words commercial security and (private) security industry have been used of them, when seen appropriate, parallel with private security. After the submission of this thesis (UN) Commission on Crime Prevention and Criminal Justice (2012) has published a proposition concerning the definition of civilian private security services.
- ² Within the sphere of crowd management different (national) words are used for the service and the people attached to this service. Terms; crowd manager, crowd controller, attendant, doorman, 'bouncer' and door supervisor are all used for the same functions according to the vocabulary of the regulatory regime under study.
- ³ Things to be taken into consideration when researching the figures on commercial security activities are: First, in most countries, especially regarding guarding and crowd control, there are a great number of part-timers and temporary staff who do not work full hours. How should they be handled in the statistics? Second, there is a question of how many hours full-time guards work in different countries? The weekly hours are different, as are holidays and other terms of employment. We have, for example, in Europe, the Nordic countries, where full-time guards normally work less than 160 hours per month, and the East European EU countries, the United Kingdom as well as Far Eastern countries, where the norm is, on an average, 230 hours per month (Flynn 1997:135; Hakala 2007; Button and Park 2009: 7). How can the size of the industry be compared by the number of guards if these facts are not taken into consideration? Third, the different countries define their private security segments differently. In addition, they collect and group the data and keep (or do not keep at all) the records concerning the industry in different ways (Kempa et al 1999:200). Consequently the figures presented in the available literature and even by industry's associations and governments do not provide a reliable basis for transnational comparison.
- ⁴ Studies commonly referred to in transnational texts are: a small size-ranking exercise (Berglund 1995; Nordberg 1996:2) made for an international 'Ligue' meeting of the all-over quality factors in the private security industry; George and Button's (1996; 1997a; 1999) and Button's (1998a; 2005a; 2005b; 2007a) studies, which were partly carried out to support the case for regulation in the UK; Ottens, et al's (1999) extensive book on private security arrangements in Europe; de Waard's (1993; 1999), de Waard and van de Hoek's (1991) research papers, which aimed to fill a gap of non-existing comparable data of the industry in the EU; Cukier, et al's (2002) article on Canadian private security regulation in an international perspective; Sarre and Prenzler's (2005:7-16), Prenzler's (2005a) and Prenzler, et al's (2009a) academic examinations of the Australian situation; and Weber's (2001: 2002a; 2002b; 2003) and Morre's (2004a; 2004b; 2006) by the Social Partners (CoESS & UNI-Europa) ordered comprehensive, partly comparative data collection reports of legal and other aspects of the private security industry in the EU. The last figures published have been collected by CoESS and its different local partners (CoESS 2008; INHES and CoESS 2008; CoESS and Almega 2009:8-10; FederSicurezza 2009:10-11; CoESS and APEG/BVO 2010:11-17; Sarre and Prenzler 2011).
- ⁵ Examples of texts including this comparison without any explanations: Kennedy 1995:101; Hume 1997:18; Kempa et al 1999; Johnston 1999:183-184; Griffith 1999; Sarre and Prenzler 1999:17; 2005b:14; Karlsson 2000; Westerberg 2000:20; Bayley and Shearing 2001:1; Button 2002:97-100; 2008:5-6; Prenzler 2005a:51-52; Caparini 2006:265; Camacho Vizcaino 2008:17; CoESS & ALMEGA 2009:10; FederSicurezza 2009:10-11; Zedner 2009:2; Button and Park 2009:2; United Nations Office on Drugs and Crime 2010:4-5; Hadley 2010; Abrahamsen and Williams 2011:1, 20-21 and Thumala, et al 2011:284.
- ⁶ Because of language limitations only theses submitted in English or Finnish were included in this review. A majority of the theses discussed here have been also published as books.
- ⁷ This engineering' approach to security is one more example of the way to widen multidisciplinary research in security studies. Pesonen gives one more aspect also on the guarding activities as he was the managing director of a big commercial security company.
- ⁸ The background of the author and his opinions are in a way 'unique' as he has worked a long time as a guard, a supervisor and a manager in commercial security as well as a full time university lecturer and barrister specialised in private security matters (Hakala and Pisto 2010).

- ⁹ Shearing and Stenning's definition of mass private property was introduced in this article (1981) in connection to growing private security presence in semi-public environments, especially shopping malls. This new area of service has been used wrongly in the literature as one major reason for the general growth of private security businesses globally, as is pointed out by: Jones and Newburn (1999); van Steden (2008:152-154) and Zedner (2009:92-93). There are, however, studies like the article by Hou and Sheu (1994:21) where the authors make a conclusion that the increasing wealth, the mass property, is the main reason for the growing use of private security services in Taiwan. This definition has been widened by M. Lalonde to 'mass private space' including also guarding objects like: universities, hospitals, gated communities and entertainment zones (United Nations Office on Drugs and Crime 2010:5).
- ¹⁰ Wood has used in this text a quotation on the 'messy realm' from Garland (1997:199)
- ¹¹ The difference in approach and thinking between the 'real life' actors and the academics can be well noticed when comparing security industry managements' and Zedner's (2009: 92-96) views on the business drivers. Zedner as an academic emphasizes the sociological changes in societies as business people within commercial security talk primarily of changing customer needs and thinking. There is a wide gap in approach; commercial security representatives are focused on customers, academics on society at large.
- ¹² The growth in the main markets of guarding (Europe and North America=64% of world market) has been during the last ten years stable and has followed the GDP development. This was also the case in 2009 when the growth in guarding business, due to global recession, was zero in Europe and negative in North America.
- ¹³ As a curiosity, it can be mentioned that in the European context there is an interesting family connection between some of the present multinational companies and their evolution. Out of the industry's main players during the last twenty years, Securitas, Group4 and Falck, as well as Secom have a common family-bound history (Söderberg 1979:192-197; Abrahamsen and Williams 2011:45).
- ¹⁴ Somewhat reliable Securitas (2007:49, 54-55; 2009: 30-32) figures are available for the North American and European guarding markets. They show that the 'globalisation' impact on private security is quite high compared with other businesses. In North America (US, CA & ME) 'foreign owned' market share in guarding is over 25% and in Europe over 35%.
- ¹⁵ In 2011 the size of the largest multinationals, measured by employment (Securitas:12, 25) was approximately: G4S – 635.000; Securitas – 316.000; Prosegur 120.000. The enormous recruitment challenge caused by guard turnover can be imagined as Securitas, for example, announced it to have been during the year 2011 in the USA 44% and in Europe 28%.
- ¹⁶ Both tables (5 and 6) have been modified from Nielsen's (2008) presentation slides based on Securitas and CoESS data. In the modification of the tables several sources concerning figures about the market and its growth in Europe and the USA were used, such as: Securitas (2000b); Security (2004:18-21; 2010:28); Zalund (2010:20-26). All these texts support the presented information on the basic trends in the table.
- ¹⁷ A comprehensive academic study by ASIS (2006) describes the present status of security organisations throughout the US, commenting also the impacts of 9/11 on the security measures and budgets. According to a US Government (1993:32-38) study, no drastic changes can actually be noticed in the basic structure of the US private security market. The situation described in a US Government paper (1975) is very similar with the later ones. The biggest companies dominated already then over 50% of the total market and even many of the firms on the present list are the same.
- ¹⁸ As in the majority of published official, academic and other texts on private security in English, the word regulation is primarily used in this thesis to mean jointly all the official private security related enactments published by the public authorities (governments); laws, acts, statutes, ordinances, decrees, executive orders, orders in council, bylaws, statutory regulations, directives, codes of conduct, and so on.
- ¹⁹ A general summary statement made by a regulation specialist (Vogel 2010:68) describes well the common opinion on this matter: "...while private regulation has resulted in some substantive improvements in corporate behavior, it cannot be regarded as a substitute for the more effective exercise of state authority at both the national and international levels. Ultimately, private regulation must be integrated with and reinforced by more effective state-based and enforced regulatory policies at both the national and international levels."
- ²⁰ This project is based on a resolution made by the (UN) Commission on Crime prevention and Criminal Justice (2009) and has included a background paper (United Nations Office on Drugs and Crime 2010) and several session and working papers both by the UN organisation and the international experts (Commission on Crime Prevention and Criminal Justice 2011a; 2011b; 2011c; 2011d). The process has led to a draft resolution recommendation by the Commission (2012) which includes a comprehensive list of definitions concerning the civilian private security services as well as principles for their oversight and regulation.

²¹ Confusingly the authors are here using the term ‘private police’ (not policing) as a synonym to private security in the same way as Draper (1978), Shearing and Stenning (1981:220) and Stenning (1992:147-148)

²² Some of the present problems and challenges concerning private security have been pointed out by van Steden and Sarre (2010) and Thumala, et al (2011) criticising heavily commercial security provision, the quality of its activities and the affect it has generally on policing functions. These articles reveal an interesting misunderstanding of the actual role, character and powers of the bulk of commercial security activity by mixing up the controlled and structured ‘business’ role it has in most industrialised democracies with the undefined and un-researched threats they say it poses. Button (2011) has taken up the ‘problem of non-existing compulsory training of security managers in the UK. He also emphasise the negative effect ex police and ex army officers working within the industry have on its development and quality. The problem with his argumentation is that he does not clearly indicate if he considers commercial security activities as a private business or as a semi-public policing activity which should be comprehensively controlled by state rules even for management education.

Chapter 3

²³ Definitions for terms, widely used in private security context worldwide (also by interviewees in this thesis), can be found in Green’s slang dictionary (2004:280, 435, 802, 797, 971). ‘Cowboy’ is a tradesman who ignores the basic ethics and business standards of his peers and aims only for money. ‘Fly by night’ is anyone dubious, crooked, criminal, especially used of a businessman who takes one’s money but fails to provide any or at least adequate recompense. ‘Mom and pop’ is a small corner store stocking just the bare essentials. ‘Moonlighter’ is one who takes a second job, undeclared for tax purposes. ‘Quack’ is an incompetent medical charlatan.

²⁴ At the time of the pilot study, the number of EU member states was 25.

²⁵ Anglo-American documents and regulations from the United States, Canada and Australia would have been available in abundance, but because of their similar legal environments and argumentation, only a limited sample of them was included to demonstrate the local culture in steering the private security.

²⁶ Private security related documents were utilised in this thesis from following regulatory regimes: ACT, AF, AU, BW, BE, BR, BU, CA, CL, CN, DK, EE, ES, FI, GE, IE, IN, IS, JP, KE, KR, LS, MT, NL, NO, NG, NSW, NT, NY, NZ, ON, PK, QC, QLD, PL, RU, SCT, SE, SG, SL, SK, SW, TR, TW, UA, UG, UK, YU, US & ZA.

²⁷ The magazines referred to here are: Aktuell Säkerhet (SE), CoESS Newsletter (BE/Europe), ESSPress (EE), Ligazette (CH/Worldwide), Securitanen (SE), Securitas Kliendleht (EE), Securitas Magazine (SE/Worldwide), Security Electronics (AU), Security Focus (ZA), Security Management (US/ASIS) and G4S Magazine (UK/Worldwide)

²⁸ These conferences and seminars were held in various locations in Africa, Australia, Europe and North America.

²⁹ The ‘other’ column includes security industry and public law enforcement experts who had all over local as well as cross-national expertise on the subjects under study.

³⁰ The theories and models of situational relativists are primarily connected to the theological studies, but present also ideas which can be used in this kind of comparative study as presented for example by Lilien (1974).

Chapter 4

³¹ The comments are based on the situation in South Africa when the new Security Industry Regulation Bill (South African Government 2001) was still in reading and its implementation principles open.

³² According to the resolution of The European Parliament and the Council of Europe (2006:Article 16/4), The European Commission (2007:15) must assess by December 28 2010 the possibility of presenting a vertical harmonisation instrument for the private security services industry. In the CoESS situational update presentation by Van Sand (2010) the Industry’s views on this pending matter are presented. European Commission has not submitted the assessment or given any explanation for the delay up till the fixed date.

Chapter 5

³³ The results of this internal CoESS survey analysis are used here primarily to support the other data presented in this thesis as the topics and methodology used in it correlate with the pilot study (Hakala 2007).

³⁴ This difference becomes obvious if the tasks performed by guards are looked at in a more exact way. Private security associations and individual security companies commonly publish summary statistics

on guards' reports. For example, Bevakningsbranchens Yrkes- och Arbetsmiljönämnd (2004) has occasionally done this in Sweden regarding nationwide the whole branch. When looking at the tasks performed (daily) by the guards in Sweden one gets a good understanding of the focus in their work. For example over 30.000 controls and clearings of fire exits (doors), over 21.000 closings of other doors and windows, over 8.000 call outs concerning burglary and technical alarms, over 33.000 contributions concerning pro-active protection of property, but 'only' 459 times a connection with police (assistance to them or a call for their help).

³⁵Survey data (Hakala 2007:12)

³⁶In his article Day (2007:7) tells of the consequences of a new regulation concerning 'bouncers' in the State of South Australia. Approximately 3000 of the 8000 doormen in the State parted from their right for or failed to renew their license because of the new regulation related requirements imposed on them.

³⁷The 'serious' commercial security companies are aware of the risks and try to manage them in a structured way. For example Securitas (2012:44-51) has a special model to manage contractual, operational assignment and financial risks connected to their business activities.

Chapter 6

³⁸Examples of such autonomous areas are: Greenland and the Faeroe Islands (DK), Svalbard (NO), Åland (FI), and Scotland and Northern Ireland (UK). In these areas with autonomous rights, national private security legislation is not automatically in force without the decision of the local council of representatives (parliament).

³⁹An example of the 'verticalisation' is that of Securitas which has listed in its Annual Report (Securitas 2012:9) twenty specialised customer segments: aviation, construction, cultural, education, energy, entertainment, events, financial, healthcare, high-tech, hotel and tourism, industry and manufacturing, logistics, maritime, offices, public, public transport, residential, retail ,and small and medium-sized enterprises.

Chapter 7

⁴⁰The considerable impact that immigration and ethnic diversification have had on security personnel and the provision and demand for security services (Ligazette 2008b:6-10) has been left out of this thesis.

⁴¹Different generally available sources have been utilised: Lindquist 1999; 2000; Lockwood 2005:1-16; Queensland Government 2009a; 2009c; Sweden:2009:3.

⁴²Different generally available data sources have been utilised: Welsh 1998; Shaw 2002:110-112; Sparks 2003; Van Berlo 2005:43-46; Judt 2005:13-17; Siebrits 2001:79-85; Reynebeau 2005:107-112; SouthAfrica.info 2009; Geddes 2010:1-16.

⁴³. If not otherwise stated, figures are based on United Nations' (2004, 2007) data.

⁴⁴Source: The Nelson A Rockefeller Institute of Government 2008.

⁴⁵Source: Australian Bureau of Statistics 2007: June Quarter.

⁴⁶Source: The Times 2000.

⁴⁷Source: About Australia 2009.

⁴⁸Source: US Census Bureau 2008. According to the presented figures, NY had the 3rd highest population of the US states (1st California and 2nd Texas).

⁴⁹Annual rate of increase 2001-2007.

⁵⁰Annual rate of increase 2001-2007. Annual growth of the whole Australia was 1.5%.

⁵¹Average annual rate of increase 2000-2004.

⁵²The difference between State counties is huge. For example, the population density in NYC is 27.309/km² and in Hamilton county 3.3/km², emphasising the differences amongst areas in the regulatory regime under study. This is of course the situation in all regulatory regimes in some way, affecting the possibility to organise and offer commercial security services profitably.

⁵³The GDP and GSP figures are not totally comparable, but they have been used here as the best available for comparison.

⁵⁴The presented figures are the ones that were available at the time of the interviews. After that they have developed remarkably in Estonia and South Africa.

⁵⁵Source: The Nelson A Rockefeller Institute of Government 2008.

⁵⁶Source: Australian Bureau of Statistics 2007:June Quarter.

⁵⁷For New York and Queensland the GSP is used.

⁵⁸Source: NationMasters.com 2009c. Listing of 141 countries (the worst is listed n:o1). New York figures are the average of the whole of the USA.

⁵⁹Source: Transparency International 2009. Corruption perception index (CPI) relates to perception of the degree of corruption as seen by business people and counting analysts. It ranges between 10 (highly

- clean) to 0 (highly corrupt). Figures are from 2009 summary comparing 180 countries. In the case of Australia and the USA, the figures apply to the whole country, not the state.
- ⁶⁰Source: Global Democracy Ranking 2009. The Democracy Ranking is an annual ranking of 103 democracies (country-based democracies) in the world, focusing on the Quality of Democracy in an international perspective. Maximum figure is 100. In the case of Australia and the USA, the figures apply for the whole country, not the state.
- ⁶¹Source: NationMaster.com 2009a. Ranking of 225 nations (the best is listed n:o 1). In the case of Australia and the United States, the figures apply to the whole country, not the state.
- ⁶²The ranking is based on the Esping-Andersen categorisation (1998:9-34; 2002:13-17). The regimes under study have been placed in the table in one of the three welfare state categories presented by the author: 1 = the 'liberal' welfare state; 2 = the 'corporatist' welfare state; 3 = the 'social-democratic' welfare state. Estonia and South Africa are difficult to classify because their internal situation and wealth do not fulfil the criteria of a welfare state. They have, however, emphasised striving towards a 'social democratic' (Nordic) welfare model. This classification is just one of many and the debate of the definitions and categories is on-going.
- ⁶³Source: NationMaster.com 2009b. Figures are from this website if not otherwise announced.
- ⁶⁴The figures apply to the whole of the USA.
- ⁶⁵The figures apply to the whole of Australia.
- ⁶⁶The ranking includes 164 countries. Country with the most prisoners per capita is listed n:o 1.
- ⁶⁷Source: NationMaster.com 2009b; Wikipedia 2009c. The NationMasters.com ranking includes 62 countries. Country with the most murders per capita is listed as n:o 1. The figures for Belgium and Sweden were not available from the NationMaster.com list and have been taken from Wikipedia list of intentional homicide rates.
- ⁶⁸Source: NationMaster.com 2009b. The ranking includes 32 countries. Country with the most armed murders per capita is listed n:o 1.
- ⁶⁹This figure is from Bagshave's (2009:48) article where he comments the official crime statistics and it is in line with the NationMaster.com figure. This figure is not in line with the total number of murders in ZA which shows the problems faced with this kind of statistics. According to the official crime statistics of the period 2008/09 more than 100 Police Service members lost their lives on duty during the annual period under review in ZA.
- ⁷⁰Source: South African Police Service 2009. The figures available for comparison are from different years (2003-2009). BE, EE & SE figures are taken from CoESS 2008, and checked/compared with INHES and CoESS 2008:24-25 and CoESS and ALMEGA 2009:8.
- ⁷¹Deviating from the other text some approximations on the number of law enforcement and commercial security are presented in this table to give an idea of the size of them in the regulatory regimes under study.
- ⁷²Sources: Belgian Government 1990; Judt 2005:21-25; Reynebeau 2005:132-136; CoESS 2008:BE; Private Security Regulation.Net 2009; Belgian Police 2009; The Open Door Web Site 2009; Wikipedia 2009a,b; Wielaard 2010; Fallon 2010; Lenoir 2010; CoESS and APEG/BVBO 2010:22.
- ⁷³Sources: Estonian Government 1993; 2003; Saar 2004; CoESS 2008:EE; Eesti Politsei 2009; CoESS and APEG/BVBO 2010:12-17.
- ⁷⁴Sources: Gotbaum 2005; Access Control & Security Systems 2006; New York Police Department 2009; Nalla 2009; New York Government 2009c. The presented OES figure on NY public police includes first-line supervisors and managers of police and detectives, detectives in criminal investigations and police and sheriff's patrol officers. According to official statistics (US Government 2008) the figure includes security guards and private detectives but not the supervisory personnel and CIT. In the OES statistics, the separately compiled, approximately 9000 crossing guards guiding and controlling vehicular or pedestrian traffic, are not included in the figure. These figures are not, however, as such comparable with those given by the security associations in other countries because they include also non-regulated in-house personnel. There is an Area Police/Private Security Liaison (APPL), headed by NYPD. It has anyhow been quite inactive during recent years (Blumenthal 1993; US Government 2000:7). The difficulty to have figures on security companies and personnel is obvious, as even the number of security companies in the USA was estimated to be between 11 000 to 15 000. The largest companies were Securitas, Wackenhut (G4S), Allied Burton, Guardsmark, US Security Associates and Initial Security. The two first are subsidiaries of European companies, which mean that there need to be specific legal arrangements so that they can be accepted as suppliers to US state contracts. Walker (2002) as an expert gives a comprehensive picture of the market, the industry and the general security business 'drivers' in the USA. In his article Zalund (2010:21) approximates the number of guards in the USA from 2008 to 2018 and predicts the general growth to be 14% within this ten year period.
- ⁷⁵Sources: Queensland Government 1989; 2009b; Sarre and Prenzler 2005:8-16; Prenzler 2005b; Prenzler and Sarre 2006:178; Guest 2009; Bligh 2009; Queensland Police Service 2009; 2010; Prenzler, et al

- 2009a. If the national figures are broken down according to the population in different states, it gives an approximate of 7000 to 8000 security employees in Queensland.
- ⁷⁶The principles of the former public 'security company' Australian Protection Services (APS) were similar to the ideas in Estonia and Sweden, but the 'final' solution model was Australian, resembling the one used in the former Estonian Soviet Socialist Republic with its separately regulated 'guarding' department (Valvekoondis) attached to the police (Australian Federal Police 2006; Wikipedia 2006).
- ⁷⁷Sources: Masuku 2001; Shearing and Berg 2006:204-205; Berg 2007:16-21; Pharoah 2008; Security Focus 2009:4 ; Bagshawe 2009:48; Private Security Industry Regulatory Authority 2009:27; South African Police Service 2010:1-16.
- ⁷⁸Sources: Söderberg 1979; CoESS 2008:SE; INHES and CoESS 2008:82-83; Polisen 2009a; 2009b; CoESS and ALMEGA 2009:8-10; CoESS and APEG/BVBO 2010.
- ⁷⁹Source: APEG/BVBO 2010:12-17.
- ⁸⁰Source: CoESS 2008: EE.
- ⁸¹Sources: Padwa 2001:3; US Government 2005; Manning 2006:111-112; The Service Employees International Union 2009; Access Control & Security Systems 2006; Gotbaum 2005:11.
- ⁸²Source: ASIAL 1999; 2011.
- ⁸³Sources: Ncube 2008b:38-39; Security Association of South Africa 2009; Security Industry Alliance (SIA) 2009. In 2006 the main unions representing guards went on strike for 96 days. The strike cost the industry some 1 million working days. On top of that, it resulted in widespread looting, damaging of property and violent crime. A number of members of rivalling unions (not on strike) were brutally attacked and murdered (almost 60) by the strikers. Some were thrown from trains other physically attacked, shot and hanged (allAfrica.com 2009; Mail&Guardianonline 2006; Zeilig 2006; Ncube 2008a:53; Wikipedia 2009b). The situation is still today turbulent which was noticed when a group of guards (crowd controllers) went on strike during the Soccer World Cup 2010 even if there was a general governmental agreement in the country to avoid this kind of conflicts during the event (Fihlani 2010; CNN 2010).
- ⁸⁴Sources: ALMEGA 2009:8-10; Svenska Säkerhetsföretag (SWESEC) 2009.

Chapter 8

- ⁸⁵This comment is supported by Judt (2005:27-29). The author points out the mixture of violence, corruption, organised crime and state administration in Belgium in the 1980s and '90s.
- ⁸⁶The circumstances have been described by Siemaszko (2005) who analyses the all over crime situation in former communist countries arguing that it was very serious after the transition in Estonia.
- ⁸⁷In his slang dictionary Green (2004:138) has defined bouncer as a large, tough man employed to keep order in premises, often a pub, club, concert hall, etc.
- ⁸⁸In Queensland Government (2006a; 2006b; 2006c) ministerial statements the strategies are outlined to rein in the problems of night-life violence caused by drunkenness and rough bouncing in Queensland's urban areas. Another more academic comment on the problem has been published in a University of South Australia (2006) press release. In it Sarre comments on the same problems emphasizing the need to improve the personal quality and training of bouncers as well as the state control on them.
- ⁸⁹The CIT robberies occurred during the daytime in urban areas in the middle of normal daytime traffic, and they included all kinds of firearms and the exploding of armoured vans. For the first time there was a serious public risk, connected to commercial security activities, affecting randomly the common citizens. Cash handling activities were not regulated and now the thirty years of idleness in developing the legal base of the industry backfired and led to a kind of 'panic' regulation. This was not common in Sweden. It also led to accusations and tensions between the different interest groups, tensions that were unfamiliar for the local culture. The situation also triggered a revision of other parts of the private security legislation, not just the CIT part of it.
- ⁹⁰In a newspaper article by Åkerblad (2005:6-7) the CIT management of commercial security companies and the union representatives comment the developments that led to the health and safety legislation based 'emergency' stop of Securitas CIT operations. The actual background and consequences of the Swedish situation are analysed by Eriksson (2007b:26-27) in an article in the aftermath of the new regulation.
- ⁹¹Action has been taken in Sweden after this interview. The government has imposed new statutory instructions on the training, similar uniforms, batches, protective clothing and extra powers of crowd controllers (Swedish Government 2010; Åkerblad 2010).
- ⁹²For example, the Queensland State's legal processes include a systematic evaluation, held at regular intervals, of all laws, also those on private security (Queensland Government 2006d).

Chapter 9

⁹³All tables (13-22) including regulation information are based on the following main laws/acts and bylaws supporting them as amended till the end of 2009, Belgian Government (1990); Estonian Government (2003); New York Government (1994); Queensland Government (1993); South African Government (2002); Swedish Government (1974).

⁹⁴Investigation is an activity especially prohibited in the law for licensed security companies (Estonian Government 2003:16(1)3).

⁹⁵The regulation includes a specific remark of mobile close protection.

⁹⁶In some regulatory regimes monitoring is considered a part of electronic surveillance, not a part of manned security.

⁹⁷The rules are included separately in the US Government (2006b) Homeland Security legislation to protect companies from exceptional risks related to terrorism.

⁹⁸The expression 'codes of conduct' which is here used of legally binding rules must not be mixed with the voluntary rules set by industry associations, standardisation bodies and so on, which are also often called 'codes of conduct'.

⁹⁹Basic training requirement set for a non-armed guard.

¹⁰⁰The requirement for security managers is a minimum of 80 hours on top of the guard training.

¹⁰¹Not defined by the law but by an agreement between the Ministry of the Interior and the Branch Association ETEL (today ASA).

¹⁰²Exemptions are granted for present or former state officials like police officers, correction officers, peace officers and sheriffs (New York Government 2009a).

¹⁰³The length depends on the organiser of the training and the approving authority. It usually varies between 5 to 10 days. The topics to be included are set by the authorities. See: Queensland Government (2008)

¹⁰⁴The length depends on the organiser of the training and the approving authority.

¹⁰⁵At least 160 hours of guided practical experience (training) is required between the two course modules to qualify as a participant on the second one (Swedish Government 2009:7:§4). The second module has to be taken within 4 years from starting the initial training. In practice the total length of compulsory basic training is according to collective agreement 302 hours (CoESS 2008:SE)..

¹⁰⁶Svenska Stöldskyddsföreningen (2004:135) has summarised in their article all the (special) powers granted for different guard categories in Sweden.

¹⁰⁷Attacking a guard on duty is punished according to the law (Swedish Government 1974:§7) as a more serious offence than the same act against a common citizen.

¹⁰⁸There are often exceptions granted for some tasks, for example, close protection and shop surveillance.

¹⁰⁹This rule applies only to crowd controllers.

¹¹⁰There is only a prohibition of the use of a headwear resembling that of a police (checkerboard hat).

¹¹¹A watchman, guard or private patrolman may wear on his outer clothing a rectangular metal or woven insignia approved by the Department of State.

¹¹²Pocket cards are issued by the licensing authority for those with licence certificates.

¹¹³There is a specific exemption concerning the guards working within public transport (railway) security.

¹¹⁴Gas sprays are totally banned in private security use.

¹¹⁵In Australia, a (Federal) Government run security firm, Australian Protective Service (APS), was set up by a special law to grant extra powers and to carry out guarding of primarily public objects. APS has now been gradually merged with the Australian Federal Police organisation under the name Australian Federal Police Protection Service (AFPPS) (Australian Federal Police 2006). In Sweden, a similar company, Almännas Bevaknings AB (ABAB), was set up by a special law (Swedish Government 1984) which included a monopoly and special powers to primarily protect public objects and CNI. ABAB was, however, also active from its start in the open market, which created unfair competition. When the political situation changed ABAB was privatised and sold in 1995 to Sodexo. The present operations of G4S in Sweden are based historically on this previously state-owned company.

¹¹⁶The liability aspect of on duty guns is discussed and commented in Michael's research (2002:216-217).

Chapter 10

¹¹⁷This is an interview opinion given by Lars Oscarsson (BYA) on the topics of streamlining the regulation and its implementation.

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- ¹¹⁸ Another authority, The Division of Criminal Justice Services, Office of Public Safety, which is not the actual licensing body provides rules and administrative oversight for commercial security training in New York State (New York Government 2009a).
- ¹¹⁹ The Police Administration Department within the Ministry of Justice, which is not the licensing body, has an important role in writing the detailed instructions for the security companies and the guards.

Chapter 11

- ¹²⁰ In this article an interviewee representing the industry comments on licensing timetables: “The turnabout time from PSIRA in terms of vetting and screening is far too long and should, in my opinion, be reduced to no more than one week.”
- ¹²¹ In an official notice South African Government (2009) calls for public comments on the latest draft regulation for the training of a security service provider. The process is pending. In Olivier’s (2009:23) article PSIRA manager Badenhorst is commenting optimistically on the ongoing process of the new statutory training standards.
- ¹²² The POSLEC SETA (Police, Private Security, Legal, Correctional Services and Justice Sector Education and Training Authority) and DIDTETA (Diplomacy, Intelligence, Defence and Trade Education and Training Authority) were amalgamated and a new SETA, called SASSETA (Safety and Security SETA), was formed on 1 July 2005 (SASSETA 2009).
- ¹²³ This is an interview opinion given by the national chairperson of SANSEA.
- ¹²⁴ All the answers from The Security Police go through this authority. It is a group of politicians who take in principle a stand on every single case and decides if the information can be given out or not. They have meetings once a week.
- ¹²⁵ The argumentation was that many provincial authorities had never got any denial in this context and that there was on average less than one negative answer annually. The goal was to smooth out the procedure and especially to speed it up. The risk was considered by the controlling authorities to be so small that it could be handled in some other ways. However, the politicians and the security industry wanted to keep the procedure unchanged.
- ¹²⁶ The licensing authority interviewee estimated that the handling time of individual licenses could have been cut to three days without the statement from the Security Police. Furthermore, proposals and attempts to make the process faster have not succeeded.

Appendices

- ¹²⁷ The Shearing, et al (1980:281-306) question lists of the ‘Toronto’ model have been used as a check list for this minimal questionnaire model.
- ¹²⁸ Scale categories: 1= less reliable/valid; 2=quite reliable/valid; 3=very reliable/valid for use in this context
- ¹²⁹ The aim of the question here is to find out what is the percentage of ‘sleeping’ or ‘drawer’ licenses.
- ¹³⁰ Questions of the last four bullet points should only be answered if the data is readily available.
- ¹³¹ Include persons rendering private security services for a fee as individuals or as employees in a security company.
- ¹³² Questions of the four last bullet points should only be answered if the data is readily available.
- ¹³³ Operational hours paid by the customer.
- ¹³⁴ To have comparable man years the total amount of hours is divided by the full ‘normal’ number of hours of a working month as it is mandated in the law or the collective agreement.
- ¹³⁵ The total number of hours including also overtime and other extra work.
- ¹³⁶ The amount of cash he gets after taxes and other (legal) deductions.
- ¹³⁷ The ideas and recommendations in the following texts have been taken into consideration when writing this list: US Government (1976); Prenzler (1988:9); Pillay (2006); ASIS International (2006); Prenzler and Sarre (2008; 2011). (UN) Commission on Crime Prevention and Criminal Justice has forwarded a proposal for a comprehensive list on regulation (2012).
- ¹³⁸ The following laws and texts have been used as a base for these comparisons: Belgian Government (1990); Estonian Government (2003:§21(2)); New York Government (1994:§89-f); Queensland Government (1993:§7); South African Government (2001: chapter 1. (1)); Swedish Government (1974: chapter 1(3)); ASIS International (2004b:10; 2008:41); CEN (2008:5).
- ¹³⁹ In Estonian private security regulation context the term ‘security officer’ is used for a person in supervisory position of responsibility who has higher requirements as a security guard.

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- ¹⁴⁰ Restrictions referred to here are: having restricted legal capacity, having criminal record, being private detective, being bankrupt or other incapability to meet the requirements set in the Security Act.
- ¹⁴¹ Activities referred to here as exceptions are for example: aviation security, security at sea, order of off-road driving, hunting order, order on fishing and security for socially important facilities.
- ¹⁴² Source: ASIS International (2008:41)
- ¹⁴³ Source: ASIS International (2004b:10)
- ¹⁴⁴ Does not apply to members of the executive board (non-operational) or auxiliary personnel or security companies.
- ¹⁴⁵ Do not simultaneously execute work as a private detective, a weapon or ammunition manufacturer, a weapons or ammunition dealer, or execute any other work that, may represent a threat to public order or the internal or external security of the State.
- ¹⁴⁶ There is a prohibition to be involved or hold a license in an employment agency business.
- ¹⁴⁷ Minimum age for managers and board of directors is 21, others 18.
- ¹⁴⁸ Minimum age for CIT personnel and crowd controllers (public places) is 21, others 19.
- ¹⁴⁹ Minimum age for Bodyguards is 25, for CIT and shop surveillance personnel 23 years.
- ¹⁵⁰ Reason to suspect that a person does not meet the set requirements exist when he has resided in the country for less than five years.
- ¹⁵¹ Do not apply to members of executive board (non-operational) or companies for security advice or training institutions or administrative and logistical personnel.
- ¹⁵² There is a compulsory initial training of 16 hours before starting to work.
- ¹⁵³ The requirement can be compensated by relevant experience not less than three years.
- ¹⁵⁴ Previous minimum work experience in other security operations; for bodyguards five years, CIT and shop surveillance personnel one year.
- ¹⁵⁵ Optional requirement decided by the licensing authority, if checked.
- ¹⁵⁶ In case of agency application a specific signed affirmation by five citizens who have known the applicant for more than five years confirming that they after reading the application believe every statement made therein is true, that such person is honest, of good character and competent, and not related or connected to the person so certifying by blood or marriage.
- ¹⁵⁷ Do not apply to administrative or logistical personnel of security companies or educational institutions nor consultants.
- ¹⁵⁸ As above.
- ¹⁵⁹ 'Former employer' means official military, security, police or intelligence force or service, whether in South Africa or elsewhere.
- ¹⁶⁰ Do not apply to personnel of educational institutions.
- ¹⁶¹ Not compulsory by the law but included in the collective agreement as a precondition for pay rise.
- ¹⁶² Exemptions are given for persons with public law enforcement service.
- ¹⁶³ Study programme established by the educational (licensed) institution in compliance with the Standards of Professions Act, and the study programme has to be approved by Police Board and the National Examination and Qualification Centre.
- ¹⁶⁴ There are specific comprehensive test instructions for dogs and their handlers.
- ¹⁶⁵ Stated in New York Government (2006) Executive Law §841-c.