



A comparative overview of legislation governing the private security industry in the European Union

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Paper prepared by Dr Tina Weber

ECOTEC Research and Consulting Ltd
Priestley House
28-34 Albert Street
Birmingham
B4 7UD
United Kingdom

Tel +44 121 616 3658
Fax +44 121 616 3699
Email Tina_Weber@ecotec.co.uk

1. Introduction

Issues of internal security at nation state level are today being affected by a number of key trends. Among the most significant is the Europeanisation and indeed globalisation of the economy, as well as law and policy making functions. Recent developments have highlighted all too graphically that internal security can no longer be limited to a single nation, but requires a more European and global perspective. Legislation and policy making need to adapt to these new requirements.

Similarly, the internal market in goods and services, as well as the freedom of movement of persons places new demands on the European Community, not only in order to allow this to become a reality, but also to protect European citizens from any resulting anomalies and uncertainties.

A number of recent studies on the legislation governing the operation of the private security industry including our own have shown the significant differences which persist in the legislation and practice governing the sector in the different member states of the European Union. In an environment where there are no longer any legislative barriers against private security companies offering services across national boundaries or against private security staff seeking employment in another member state, concerns need to be raised about the lack of harmonisation of the basic legal standards governing the industry. While member states can no longer limit access to companies and individuals wishing to offer private security services on their territory, they are at the same time unable to exercise any control over the quality or professionalism of the company or individual offering a service. In a recent comparative study on the law governing the industry, Brion and Kaminski (2001) argue that freedom of movement and establishment raises three key concerns:

1. the security of citizens who can no longer distinguish between the quality standards offered by different providers
2. the protection of companies and workers in the sector who are faced with having to compete with enterprises and operational staff who do not have to adhere to the same standards of quality or training. This could therefore lead to an overall lowering of quality standards in the industry
3. diminishing public order standards as a result of the entry onto the market of companies and individuals who do not respect the legislation of their host nation.

The development of a constructive approach to addressing these issues is of particular relevance as the size and role of the private security industry has increased significantly in recent years. Von Arnim (1999) argues that “despite some major differences, private security companies make an individual significant and indisputable contribution to internal security”.

This has partly been the result of constricting public budgets leading to more and more functions being contracted out, but has also resulted from ever increasing demands for private security functions from private sector clients and individuals. In a climate where private security companies are taking on additional functions and where operations are increasingly European, it is crucial for the legislative framework governing the sector to be reviewed.

It is argued in this paper that this should be achieved through a harmonisation of legal provisions on the basis of the implementation minimum baseline standards, which can provide assurances that all reputable providers in the sector are subject to the same minimum requirements without watering down higher standards which may be in place in individual member states. It is important that such minimum standards be set at also which contributes to the development of greater professionalism in the industry. Such an approach would clearly also require the dissemination of better information about the differences in legislative standards between member states to allow potential clients to make informed judgements when sourcing security services.

The setting of minimum standards would be no means be an easy task, particularly in relation to the transfer of sensitive information on issues such a criminal records and implementation. This paper seeks to act as a basis for debate on the potential for the establishment of such common baseline standards.

1.1 Scope of activity of the private security industry

The first difficulty one is faced with when seeking to compare or indeed harmonise the legislation and regulations governing the private security industry is that the definition and scope of activity of the sector varies from member state to member state with some countries displaying greater limitations regarding the activities of private security companies (see Table 1 below). These differences generally have their basis in historical, cultural and legal traditions, however, it is fair to say that the operational field of private security undertakings has expanded in all member states over the past few decades for the reasons outlined above.

1.2 Level of regulation

Several authors have sought to categorise member states according to the level of regulation governing the private security industry. Different categories have been applied by different authors. This highlights the difficulties of such an approach, particularly in a legislative environment which has been in flux in recent years, with a general tendency towards greater levels of regulation.

The recent report by Brion and Kaminski groups countries into three levels of regulation: those with the most restrictive regulation, i.e. Belgium, Spain and Luxembourg (the latter with less restrictive regulation) where there is seen to be a keen desire to delimit the potential areas of responsibility of the private security industry and where this responsibility is increasing to implement strong safeguard for the public from abuse by corrupt operators. In addition, there has long been the desire particularly in Belgium and Spain to protect the national sector and standards from foreign competition by leaving access to profession only open to nationals of the respective member state – an issue which has brought the condemnation of the European Court of Justice.

The second category of countries highlighted by Brion and Kaminski are the countries with the least restrictive regulation and the examples given here are Great Britain and Germany where legislation is much less precise and tends to leave the regulation of the sector to a certain degree up to the market and industry regulatory bodies.

The final group of countries are those member states, which lie between these two extremes with a median level of regulation. Countries such as France, Italy and the Netherlands are seen to possess a clear regulatory framework, but have so far placed little emphasis on the modalities of implementation bringing about divergences in application.

De Waard's (1997) classification is more specific in his five tier classification system, which breaks down as follows: countries with non-interventionist regulation (used to characterise Great Britain and Ireland prior to the introduction or recent drafting of regulation in both countries); minimal narrow regulation (describing the situation in Germany, Austria and Italy); minimal wide regulation (Luxembourg); comprehensive narrow regulation (seen to apply to Denmark, Finland, France, Portugal and Spain) and comprehensive and wide regulation (Belgium).

While such characterisations can necessarily only provide a snapshot of the level of legislation at any particular point in time and is influenced by the historical development of the sector (and vice versa), it can provide a useful starting point for our consideration of minimum standards and the distance which would need to be travelled by different member states to meet such minimum standards.

The table below sets out the key pieces of legislation and regulations governing the industry in each member state as well as outlining some of the key characteristics of the sector. In the following, the paper provides information on the specific provisions governing the industry in relation to:

- Entrance requirements for firms
- Restrictions on background of owners/managers
- Restrictions on background of operational staff
- Performance requirements for companies
- Minimum requirements for training and education
- Regulations governing the wearing of uniforms
- Legislation governing the use of (fire) arms
- Provisions regarding the use of dogs on duty
- Provisions relating to governing control and sanctions of the industry

Under each heading we include reflections on the potential for harmonisation of provisions or the implementation of minimum standards at European level.

Table 1: Key legislation governing the industry in each member state and general characteristics of the sector

| Country | Legislation | Areas covered by the legislation | General characteristics of the sector |
|----------------|--|---|---|
| Austria | No specific legislation General Commercial law (Gewerbeordnung) in which § 249-256 (Sicherheitspersonal) and § 254-256 (Bewachungsgewerbe) relate to the private security industry. | Protection of goods (static or in transit) Guarding of persons Guarding of transport of valuables, cash in transit | The private security industry in Austria is largely government by general commercial law and covers a wide range of activities. |
| Belgium | Law of 10/04/1990 on private security enterprises and company internal security providers (last modified on 10/06/2001) and Royal Decree of 31/12/1999 on training | Protection of goods (static or in transit) Guarding of persons Guarding of transport of valuables, cash in transit Central alarm systems Planning, installation and maintenance of alarm systems Guarding and control of persons and access in public places | Legislation in Belgium is rather strict and emphasises the protection of citizens from any abuse of power by private security providers. |
| Denmark | Law on Security Services (1986) and Act No 266 of 22 May and Regulation No 936 of 26 December 1986 which implement this legislation | Protection of goods (static or in transit) Guarding of persons Guarding of transport of valuables, cash in transit | Legislation contains strict requirements relating to authorisation and training. Scope of functions is very wide and similar to those in other Scandinavian countries and includes ambulance and fire services as well as security in public locations. |
| Finland | Law on private security providers (1983) | Protection of goods (static or in transit) Guarding of persons Guarding of transport of valuables, cash in transit Guarding and control of persons and access in public places | Legislation is applicable to many sectors in the private security industry and strict controls are applied. The scope of activities is rapidly expanding with private providers now responsible for providing services in many previously public functions. |

Table 1: Key legislation governing the industry in each member state and general characteristics of the sector

| Country | Legislation | Areas covered by the legislation | General characteristics of the sector |
|----------------|--|---|---|
| France | <p>Law 83-629 of 12 July 1983 on the activities of private security companies and cash in transit carriers.</p> <p>1986 decree on the administrative authorisation and recruitment of personnel</p> <p>1986 decree on the utilisation of materials, documents, uniforms and symbols</p> <p>New draft legislation (project de loi No 346 sur les activités de sécurité privées et la sécurité interne de certains services publics)</p> <p>New law on "daily security" of 31 October 2001</p> | <p>Manned guarding</p> <p>Cash in transit</p> <p>Protection of persons</p> | <p>Traditionally regulation has not been very strict but new law is set to change this by imposing stricter rules on authorisation and operational aspects.</p> |
| Germany | <p>No specific legislation.</p> <p>Law on professions (Gewerbeordnung) of 7 February 1927 (last amended 16 June 1998) and the regulation on private security undertakings (Verordnung über das Bewachungsgewerbe) of 14 December 1995</p> | <p>Guarding of transports</p> <p>Guarding and protection of persons</p> <p>Guarding of buildings and industrial sites</p> <p>Guarding of military installations</p> <p>Public order at events</p> | <p>Legislation and regulations remain minimal and non-specific and are largely based on general commercial law. Activities include responding to alarms, surveillance and transport of money and valuables. Many outsourced former public service activities.</p> |
| Greece | <p>Law 2518 on private security undertakings of 21 August 1997</p> | <p>Guarding of goods (static or in transit)</p> <p>Guarding of persons</p> <p>Cash in transit</p> | <p>Greece has specific legislation governing the sector but has traditionally suffered from divergences in the level of implementation</p> |
| Ireland | <p>Draft Private Security Industry Bill (2000)</p> | <p>Guarding of goods and persons</p> <p>Wheel clamping</p> <p>Private investigators</p> <p>Security consultancy</p> <p>Key holding</p> | <p>New legislation is currently in the process of drafting, which will give Ireland a similar framework for the industry to that recently introduced in the UK (see below)</p> |

Table 1: Key legislation governing the industry in each member state and general characteristics of the sector

| Country | Legislation | Areas covered by the legislation | General characteristics of the sector |
|--------------------|---|--|--|
| Italy | Law of 18/06/1931 on public security Law of 26/09/1935 Law of 06/05/1940 | Guarding of goods (static or in transit) Private investigations | The industry is governed by specific legislation, with detailed regulations often being set at regional level, reflecting the political and administrative structure of the country |
| Luxembourg | Law of 06/06/1990 on private guarding activities and draft law 4784/00 on private guarding activities | Guarding of goods (static or in transit) Guarding of persons Cash in transit Installation and maintenance of alarm systems | Luxembourg is seen to have a “minimum wide” level of legislation. |
| Netherlands | Law of 24/10/1997 on private security and private investigation companies Regulation of 03/03/1999 | Protection of persons and goods Cash in transit Private detective agencies Installation of alarm systems | The Netherlands has strict legislation governing the sector but is seen to place less emphasis on implementation |
| Portugal | Decree Law 276 of 10 August 1993 | | |
| Spain | Law 23/1992 on private security Royal decree 2364/1994 implementing the above law | Protection of goods (static or in transit) Guarding of persons Guarding of transport of valuables, cash in transit Central alarm systems Planning, installation and maintenance of alarm systems | Since the introduction of specific legislation, the industry has grown in size to include response to alarms, surveillance and transport of money and valuables. Legislation is very specific in many areas. |

Table 1: Key legislation governing the industry in each member state and general characteristics of the sector

| Country | Legislation | Areas covered by the legislation | General characteristics of the sector |
|-----------------------|--|--|--|
| Sweden | <p>Law and decree of 26/04/1974 on private security industry</p> <p>Law and decree on maintaining order (1980/578 and 1980/579) and</p> <p>Law and decree on the protection of institutions of national interest (1990, 217 and 1990, 1334)</p> <p>Law and decree on installation of alarm systems (1983/1097 and 1983/1099)</p> | <p>Guarding of buildings</p> <p>Guarding of public events</p> <p>Guarding of persons</p> <p>Cash in transit</p> <p>Installation and maintenance of alarm systems</p> | <p>Private security services in Sweden are considered by some authors (i.e de Waard, 2000) to be qualitatively among the best in the world. Legislation and regulations cover many sectors within the industry and strict requirements exist for authorisation and training. Government controls are seen to be strict. Activities are very diverse: ambulance services, patient transport, traffic control, assistance during fires, assistance during vehicle breakdown, surveillance activities for Ministry of Defence, transport of money and valuables, response to alarms, surveillance of neighbourhoods, airport services</p> |
| United Kingdom | <p>Private Security Industry Act of 11/05/2001</p> | <p>Guarding of goods and persons</p> <p>Wheel clamping</p> <p>Private investigators</p> <p>Security consultancy</p> <p>Key holding</p> | <p>The UK was for a long time exceptional for having the largest private security market with little or no regulation. This has recently been changed with the Private Security Industry Act (May 2001) which is currently being implemented. Despite these new regulations, controls and coverage of legislation are set to remain rather minimal.</p> |

2. Entrance requirements

The regulation of entrance requirements for companies active in the sector are generally designed to provide for:

- Checks on financial viability
- Checks on the reputable nature of the owner/management team of the company

Because of the sensitive nature of many private security functions, the regulation of entrance requirements and the rigor of their implementation can be seen to be more crucial than in relation to other commercial enterprises.

Differences in requirements across member states therefore pose potential uncertainties when companies seek to provide services across national borders.

2.1 *Licensing*

Across the member states, provisions vary as to the entrance requirements to be fulfilled by firms setting up to provide private security services. The vast majority of countries operate a system of licensing for private security companies. In the countries without specific legislation on the private security industry (Austria and Germany), general commercial law requires any new companies setting up to provide proof of financial viability and the reputable background of owners and/or managerial staff. However, there is significant variation in the nature and level of information required for licenses to be granted, the level of rigour of implementation and the level at which licenses are approved and reviewed.

2.2 *Financial viability*

While the setting of minimum financial viability checks at European level would be desirable a problem remains relating to the exchange or relevant data between countries. Mutual recognition of minimum provisions would need to be based on confidence in implementation mechanisms. The granting of licences to private security undertakings needs to be closely linked with checks on the background of owners and managerial staff of private security companies to prevent the establishment of companies by individuals with unsuitable backgrounds for the task of private security.

Table 2: Entrance requirements for companies

| Entrance requirements | Provisions | | |
|-----------------------|---|--|---|
| | <i>Licence required?</i> | <i>Awarding authority</i> | <i>Other entrance requirements</i> |
| Austria | Yes, but no specific legislation for the industry | Landeshauptmann | |
| Belgium | Yes, licence is valid for 5 years | Ministry of Interior in consultation with Ministry of Justice | |
| Denmark | Yes | Police authorities | |
| Finland | Yes | | Financial viability check, test of qualifications |
| France | Yes | Police authorities | |
| Germany | No specific legislation for industry | | Financial checks, reputable nature of owner/manager |
| Greece | Yes, licence required | Police authorities | |
| Ireland | New legislation is to require licensing | New authority specifically set up for this purpose | |
| Italy | Yes, licence required | Provincial prefect | |
| Luxembourg | Yes, licence required | Ministry of Justice | |
| Netherlands | Yes, licence required | Ministry of Justice | |
| Portugal | | | |
| Spain | Yes, licence required | Ministry of Justice | |
| Sweden | Yes, but no exclusion criteria set down | | |
| United Kingdom | New legislation requires licence | New Private Security Industry Authority (currently being set up) | |

3. Restrictions on background of owner/management team

Legislation and regulations governing the background of owners and managers of private security companies currently primarily relates to the following factors:

- Criminal background
- Minimum age requirements
- Cumulation with other activities
- Qualifications
- Financial viability

All countries currently have some form of regulation governing the restrictions placed on the background of owners and the management team of private security undertakings. However, a number of differences arise in relation to level of restrictions imposed and the way in which compliance is verified.

3.1 *Criminal background*

All Member States currently require a criminal background check. In most cases this is carried out by the police or justice authorities, but in some cases this is done by chambers of commerce or companies themselves, which can raise questions as to the veracity of checking procedures in times of staff shortage.

In addition, not all countries set down specific exclusion criteria relating to criminal background. While some countries deny access to individuals with any form of criminal record, others exclude those with offences leading to penal sanctions or a set term of imprisonment. In such cases, lesser terms of imprisonment often qualify as exclusion criteria if they relate to offences relevant to the tasks of private security.

Important differences also exist with regard to the level at which background checks are carried out (by national or local authorities, by representatives of the sector or by companies themselves) which could have an impact on the rigour of such background checks. The frequency with which periodic checks are carried out (if at all provided for) also varies significantly.

In setting minimum standards in this area, the sensitivity of exchanging data relating to criminal background needs to be borne in mind. In addition, any differences in the level of penal sanctions applied to certain offences and the thresholds set at which offences are registered on an individual's criminal record need to be considered. A level of harmonisation in relation to the application of criminal background checks appears highly desirable.

3.2 *Cumulation*

A significant number of member states see the management of private security undertakings as being incompatible with a number of other activities and therefore forbid the cumulation of such tasks with those of the ownership and management of a private security company. Examples include the activities of private investigation and the role of a civil servant. However, in a number of other countries, however, no such restrictions currently apply.

Because of the impact of cumulation on confidentiality, a degree of harmonisation in this area appears again desirable.

3.3 *Age limits*

Age limits are imposed by all countries, the limit is generally set at 18, with the exception of Belgium and Denmark which set age limits of 21 and 25 respectively for managerial staff.

3.4 *Training*

Finally, only a few countries currently require owners/managers of private security undertakings to have pursued relevant professional training. In the interests of the professionalisation of sector, the requirement of obligatory basic training of managerial staff needs to be an objective in the medium term. The same applies to training requirements for operational staff.

Table 3: Restriction on background of owner and managerial staff

| Restrictions on background of owner/management staff | Provisions | | | |
|--|--|-------------------------------------|--|--|
| Country | <i>Criminal record check/Responsible authority/Consent required?</i> | <i>Minimum age</i> | <i>Restrictions on cumulation with other activities</i> | <i>Other requirements</i> |
| Austria | No relevant criminal record | 18 | No specific provisions | Must have obtained professional qualification |
| Belgium | <p>Precise exclusion criteria are set based on criminal record. Individuals must not have been sentenced to more than 6 months in prison or any criminal offence or a lesser term for a relevant offence. This also applies to similar sanctions from other countries of the EU.</p> <p>Investigations carried out by official nominated by the Ministry of Justice (the police authorities). Consent is required.</p> | Minimum age 21 for managerial staff | Cumulation forbidden with private detective work and production or dealing of arms, or any other occupation likely to endanger public safety. Must not have been member of policy or secret service in last 5 years. | <p>Financial viability check</p> <p>Health status</p> <p>Training required</p> |
| Denmark | No criminal record | 25 for managerial staff | No provisions | Must have pursued a course of vocational training; must have financial means to run the business |
| Finland | No criminal convictions | 18-65 | No provisions | Financial viability check |

Table 3: Restriction on background of owner and managerial staff

| Restrictions on background of owner/management staff | Provisions | | | |
|--|--|--------------------|--|---|
| Country | <i>Criminal record check/Responsible authority/Consent required?</i> | <i>Minimum age</i> | <i>Restrictions on cumulation with other activities</i> | <i>Other requirements</i> |
| France | No criminal convictions leading to a term of imprisonment. Offences against commercial law can also be taken into account. New law states that refusal of licence can result from criminal actions even if they have not led to legal sanctions. Criminal background checks are carried out by the police authorities. No consent is required | 18 | The company must only be active in security - no cumulation with other work. | |
| Germany | Yes, but no specific exclusion criteria, beyond the requirement that they cannot be active state employees. Checks are carried out by commerce chambers. | 18 | No active state employees | |
| Greece | No criminal conviction leading to imprisonment for more than 6 months | 18 | No specific provisions | Greek or EU nationality Must have fulfilled military service |
| Ireland | New legislation requires character, financial and competence references | | No provisions | |
| Italy | No criminal convictions Checks are carried out by Provincial Prefect and do not require prior consent. | 18 | No provisions | |
| Luxembourg | There are restrictions, but no specific exclusion criteria. | 18 | Other work carried out must not conflict with the tasks of private security | |

Table 3: Restriction on background of owner and managerial staff

| Restrictions on background of owner/management staff | Provisions | | | |
|--|---|---|---|---------------------------|
| Country | <i>Criminal record check/Responsible authority/Consent required?</i> | <i>Minimum age</i> | <i>Restrictions on cumulation with other activities</i> | <i>Other requirements</i> |
| Netherlands | Permit required. No criminal convictions for the past 4 years or any criminal convictions in the last eight years which are subject to a term of imprisonment. Checks are carried out by the enterprise | 18 | | |
| Portugal | | | | |
| Spain | Authorisation required; no criminal convictions in last 5 years. Checks are carried out by public authorities | Legal age of maturity | No cumulation with private detective work or public service | |
| Sweden | No criminal convictions (check updated annually) | Legal age of maturity. For certain tasks 20 | No specific provisions | |
| United Kingdom | New legislation requires a criminal background check. Licence required which is valid for three years and renewable | No provisions | No provisions | Financial viability check |

4. Restrictions on the background of employees

Much of the adverse publicity associated with private security companies relates to the performance or actions of operational staff and some of the more spectacular headlines relating to the sector have been related to criminal activities on the part of guards. The regulation and implementation of strict background checks for the staff of private security companies is therefore one of the main concerns of legislation in this area.

The legislation and regulations governing the background of employees are similar to those for owners and managers of private security companies and currently primarily relates to the following factors:

- Criminal background
- Minimum age requirements
- Cumulation with other activities
- Qualifications

Again, all countries currently have some form of regulation governing the restrictions placed on the background of employees of private security undertakings. However, a number of differences arise in relation to level of restrictions imposed and the way in which compliance is verified.

4.1 *Criminal background*

All Member States currently require a criminal background check. In most cases this is carried out by the police or justice authorities, but in some cases this is done by chambers of commerce or companies themselves, which can raise questions as to the veracity of checking procedures in times of staff shortage.

In addition, not all countries set down specific exclusion criteria relating to criminal background. While some countries deny access to individuals with any form of criminal record, others exclude those with offences leading to penal sanctions or a set term of imprisonment. In such cases, lesser terms of imprisonment often qualify as exclusion criteria if they relate to offences relevant to the tasks of private security. In some countries, no exclusion criteria have so far been set and requirements often remain vague, such as the requirement for a recruit to be a "fit and proper person".

Important differences also exist with regard to the level at which background checks are carried out (by national or local authorities, by representatives of the sector or by companies themselves) which could have an impact on the rigour of such background checks. The frequency with which periodic checks are carried out (if at all provided for) also varies significantly.

In setting minimum standards in this area, the sensitivity of exchanging data relating to criminal background needs to be borne in mind. In addition, any differences in the level of penal sanctions applied to certain offences and the thresholds set at which offences are registered on an individual's criminal record need to be considered. A level of harmonisation in relation to the application of criminal background checks appears highly desirable.

4.2 *Cumulation*

A significant number of member states see the tasks of a private security guard as being incompatible with a number of other activities and therefore forbid the cumulation of such tasks with those of the ownership and management of a private security company. Examples include the activities of private investigation and the role of a civil servant. However, in a number of other countries, however, no such restrictions currently apply. Because of the impact of cumulation on confidentiality, a degree of harmonisation in this area appears again desirable.

4.3 *Age limit*

Age limits are imposed by all countries, the limit is generally set at 18 or at the legal age of maturity.

4.4 *Training*

Seven out of the 15 member states currently require security guards to undergo a course of basic training. In the remaining countries such training remains voluntary. As shown in section 6 below, number of hours of basic training and their content differ greatly from member state to member state. Similarly, the accreditation of trainers and training establishments also varies widely. In the interest of the professionalisation of the sector, the setting of an obligatory minimum standard of training appears desirable and the work of CoESS and Uni-Europa in developing basic training for guards can contribute to this process.

Table 4: Restrictions on background of employees

| Restrictions on background of employees | Provisions | | | |
|---|---|------------------------|--|--|
| Country | <i>Criminal record check/Responsible authority/Consent required?</i> | <i>Minimum age</i> | <i>Restrictions on cumulation with other activities</i> | <i>Other requirements</i> |
| Austria | No relevant criminal record; “reliability” | 18 | No specific provisions | |
| Belgium | Precise exclusion criteria are set based on criminal record. Individuals must not have been sentenced to more than 6 months in prison or any criminal offence or a lesser term for a relevant offence. Investigations carried out by official nominated by the Ministry of Justice (the police authorities). Consent is required. | 18 | Cumulation forbidden with private detective work and production or dealing of arms. Must not have been member of police or secret service in last 5 years. | Companies are required to terminate the employment relationship of staff convicted of any of a listed set of offences. |
| Denmark | No criminal record | 18 | No provisions | Must have completed or be in the process of completing 111 hours of training. |
| Finland | No criminal convictions | 18-65 | No provisions | Licence renewed every 5 years; health check; 100 hours training (under new legislation) |
| France | No criminal convictions leading to a term of imprisonment. Offences against commercial law can also be taken into account. New law states that refusal of licence can result from criminal actions even if they have not led to legal sanctions. Criminal background check are carried out by the police authorities. No consent is required. | No specific provisions | No cumulation with private detective work by companies BUT NOT STAFF. The new law is set to change this position and forbid staff to engage in private detective activity. | |

Table 4: Restrictions on background of employees

| Restrictions on background of employees | Provisions | | | |
|---|--|-----------------------|---|---|
| Country | <i>Criminal record check/Responsible authority/Consent required?</i> | <i>Minimum age</i> | <i>Restrictions on cumulation with other activities</i> | <i>Other requirements</i> |
| Germany | Yes, but no exclusion criteria set down. Criminal record can be taken into account. Checks are carried out by commerce chambers. Staff require certificate issued by police. | 18 | No special restrictions | |
| Greece | No criminal conviction leading to imprisonment for more than 6 months | 18 | No specific provisions | Greek or EU nationality Must have fulfilled military service |
| Ireland | Yes, but exclusion criteria not clearly stated. Must be “fit and proper person” | 18 | No provisions | |
| Italy | Yes, licence is required which must be renewed annually. Licence is granted in name of a judge and must show no criminal convictions | 18 | No provisions | Must have completed military service Italian or EU nationality |
| Luxembourg | There are restrictions, but no specific exclusion criteria. | 18 | Other work carried out must not conflict with the tasks of private security | |
| Netherlands | Permit required. Granted for 5 years then renewable. No criminal convictions for the past 4 years or any criminal convictions in the last eight years which are subject to a term of imprisonment. Permits are granted by regional police. | 18 | No cumulation with private detective work. | |
| Portugal | | | | |
| Spain | Authorisation required; no criminal convictions in last 5 years. Checks are carried out by public authorities. | Legal age of maturity | No cumulation with private detective work or public service. | |

Table 4: Restrictions on background of employees

| Restrictions on background of employees | Provisions | | | |
|---|---|---|---|---------------------------|
| Country | <i>Criminal record check/Responsible authority/Consent required?</i> | <i>Minimum age</i> | <i>Restrictions on cumulation with other activities</i> | <i>Other requirements</i> |
| Sweden | No criminal convictions (check updated annually) | Legal age of maturity. For certain tasks 20 | No specific provisions | |
| United Kingdom | New legislation requires a criminal background check. Licence required which will be valid for three years and renewable. No specific exclusion criteria set down | No specific provisions | No provisions | |

5. Performance requirements

The majority of countries currently have no specific provisions relating to performance requirements for companies through which their activities can be checked by the public authorities. Only few European countries require the submission of annual reports to the police or other authorities.

Considerations on whether the submissions of annual reports should form a minimum requirement at European level needs to be subject to a debate on the level of control public authorities are able to exercise on the basis of such reports.

Table 5: Performance requirements

| Performance requirements | Provisions |
|--------------------------|--|
| Country | <i>Reporting</i> |
| Austria | No specific provisions |
| Belgium | Annual report to be provided to Ministry of Interior to set format |
| Denmark | No specific provisions |
| Finland | Assessment of all guarding companies by the police; maintenance of daily report sheets |
| France | No specific provisions |
| Germany | Law requires maintenance of daily report sheets |
| Greece | No specific provisions |
| Ireland | No specific provisions |
| Italy | No specific provisions |
| Luxembourg | Must submit annual report to the Ministry of Justice |
| Netherlands | Annual report to be submitted to Ministry of Justice to set format |
| Portugal | No specific provisions |
| Spain | No specific provisions |
| Sweden | All guarding companies assessed annually by regional authorities |
| United Kingdom | No specific provisions |

6. Training/education

It is in the area of training and education that provisions vary most significantly between member states. This is an area which is inextricably linked with the image and developing professionalism of the sector, but also poses significant problems relating to freedom of movement through the lack of portability of qualifications.

Differences between member states relate to the following aspects:

- Is training obligatory and voluntary
- Are examinations required
- Are provisions made for obligatory continuous training?
- How is the quality of trainers and training providers regulated?

6.1 *Basic training*

Only seven of the 15 European Union member states currently provide for some form of obligatory training for private security guards. In the remaining member states the provision of such training is voluntary. Even in countries where basic training is obligatory, the number of hours and the content of training required varies significantly and ranges from 40-240 hours. In a number of countries the level of training required depends on the specific task to be carried out (e.g. those carrying fire arms or dog handlers required additional training).

In order to improve comparability and to increase professionalism in the sector, it seems appropriate to implement a European level requirement for obligatory basic (theoretical and practical) training which lies somewhere between the minimum and maximum currently provided in different member states. The training material developed by CoESS and Uni-Europa can act as a starting point in this area, in the absence of the portability of current qualifications.

Information on the level and content of training required of security guards in each country should be disseminated widely to allow customers to make an informed judgement on quality when tendering for private security services.

6.2 *Examinations*

Countries with obligatory training generally require trainees to pass an examination either after each module of study or at the end of the course. In some cases, the certification gained is time limited thus providing for the regular updating of skills. In order to enhance the professionalism of the sector the requirement to provide proof of attainment should become the norm. In the medium to longer term the possibility of a European level qualification or the mutual accreditation of examinations needs to be considered.

6.3 *Continuous training*

Currently, only Belgium and Spain make explicit provision for obligatory continuous training (12 hours every 5 years in Belgium and 75 classroom hours every three years in Spain). In all other countries continuous training is voluntary. In the light of rapid operational and technological innovations in the sector, consideration should be given to European level regulation relating to the regular updating of skills for operational and managerial staff in the sector.

Denmark has recently developed an advanced training programme for guards keen to make a career in the industry. The development of such schemes should be encouraged at member state level.

6.4 *Accreditation of trainers and training providers*

A number of countries make provision of state (regional) or industry accreditation of trainers and training providers to allow for a level of financial and quality control. Curricula are often set in co-ordination with representative organisations of the industry thus providing for a regular updating for training programmes to reflect developments in the sector and the needs of employers. In the majority of cases, employers fund basic training, sometimes with the assistance of state grants. In some cases, guards are responsible for funding their own training costs.

Table 6: Education/Training

| Training/education | Provisions | | | |
|---------------------------|--|---|--|---|
| Country | <i>Obligatory/voluntary initial training and duration</i> | <i>Examinations</i> | <i>Continuous training</i> | <i>Training providers/Control over training providers</i> |
| Austria | Voluntary | No provisions | No provisions | Employer organises training |
| Belgium | Training is obligatory; length varies depending on sector of activity. Managerial staff 72 hours; operational staff 66 hours. Additional 60 hours for those offering protection of persons; extra 40 hours for use of weapons; extra 16 hours for dog handlers | Yes, certificate awarded for 5 years | Yes, re-training of at least 12 hours for operational staff every 5 years (6 hours for management staff) | Trainers have to provide character references. Training takes place in centres approved for this purpose for 5 years at a time. |
| Denmark | 111 hours of basic training are obligatory | Yes | Not obligatory | Training establishments are state schools. |
| Finland | 40 hours obligatory training for operational staff. This is set to be raised to 100 hours by new to become operational in 2002 | Yes, those passing final examination receive "guard card" valid of 5 years after which it must be renewed | Not obligatory | Employers pay for basic training |

Table 6: Education/Training

| Training/education | Provisions | | | |
|---------------------------|--|--|-----------------------------------|---|
| Country | <i>Obligatory/voluntary initial training and duration</i> | <i>Examinations</i> | <i>Continuous training</i> | <i>Training providers/Control over training providers</i> |
| France | Initial training of 32 hours by collective agreement | Specific qualifications exist, some of them are recognised by the state. | No provisions | Training can be carried out in public, private and enterprise owned establishments. Only internal controls are carried out |
| Germany | Obligatory training. Managerial staff receive 40 hours theoretical training; operational staff 24 hours theoretical training | Yes, certification available to all attending courses | No provisions | Training is provided by the chambers of commerce and industry and by professional organisations representing the sector. No specific vetting. |
| Greece | Voluntary | No specific provisions | No provisions | Special Commission aims to set higher standards |
| Ireland | No obligation foreseen | | | |
| Italy | Voluntary training in theory and practice as set down in collective agreements (40 hours each) | No specific provision. Each region sets its own standards | Not obligatory | No specific provisions for licensing of schools or trainers. |
| Luxembourg | Voluntary | | | |
| Netherlands | Obligatory. Training varies according to the nature of activity | Those passing training receive Basic Diploma for Security Employees | Not obligatory | Association of private security enterprises |
| Portugal | | | | |

Table 6: Education/Training

| Training/education | Provisions | | | |
|---------------------------|---|--------------------------------|---|--|
| Country | <i>Obligatory/voluntary initial training and duration</i> | <i>Examinations</i> | <i>Continuous training</i> | <i>Training providers/Control over training providers</i> |
| Spain | Obligatory and tightly regulated by Ministry of Justice. 240 hours of theoretical and 20 hours of practical instruction | Examination and certification | Further training of 75 classroom hours or 15 working days is obligatory every three years | Training centres have to be approved by secretary of state for the interior and have to meet strict guidelines in terms of facilities and staffing |
| Sweden | Obligatory and must include 97 hours of theoretical instruction and 120 hours of practical experience | Examinations after each module | No regulated | 15 training centres; either Universities, employer associations or private training facilities. These are regulated by regional authorities. |
| United Kingdom | Voluntary | | No provisions | |

7. Outfits/equipment

Prescriptions in relation to the wearing of uniforms are more comparable between member states, with most countries making the wearing of uniforms by private security guards obligatory.

As in most cases, private security companies do not have the same rights as public order officials in relation to the use of force or powers of arrest, it is clearly set down in the legislation of most member states that the uniforms worn by private security guards must be clearly distinct from those of public order officials such as the police or army.

As the nature of uniforms tends to be specific to the employing undertaking of the nature of the site whether a guard is active, minimum provision in this area should only relate to the need for such distinctiveness (specifying that where companies operate across national boundaries, the specific provisions relating to the member state of in which operations are to be performed needs to be respected).

Table 7: Outfits and equipment

| Outfits/equipment | Provisions | |
|--------------------------|------------------------------------|---|
| Country | <i>Uniforms obligatory?</i> | <i>Special requirements</i> |
| Austria | Yes | Uniforms must not resemble those of public order officials |
| Belgium | Yes | Uniforms must not resemble those of public security agents and must be approved by the Ministry of the Interior. Guards must carry identification |
| Denmark | Yes | Uniforms must be distinct of public order officials. Uniforms must be approved by Commissioner of Police. Identity cards must be carried. |
| Finland | Yes | Uniforms must be distinct from police and other public order officials and must be approved by the authorities |
| France | Yes | Uniforms must be distinct of those of public order officials. |
| Germany | No specific provisions | |
| Greece | No specific provisions | |
| Ireland | No specific provisions | |
| Italy | Yes | Norms are set at provincial level |
| Luxembourg | No specific provisions | |
| Netherlands | Yes | |
| Portugal | | |
| Spain | Yes | |
| Sweden | Yes | Design of uniforms is regulated by legislation |
| United Kingdom | No specific regulations | |

8. Possession and use of (fire) arms

One key area where differences are evident and significant between member states relates to provisions on the carrying and use of firearms. These differences relate to the following aspects:

- Are guards permitted to carry firearms and under which circumstances are they permitted to use them?
- Are licences required?
- Do restrictions apply in relation to the storage of firearms while off duty?
- Is specific training required for guards carrying firearms?

Differences in relation in this area could potentially lead to significant problems in cross border operations, making it vital for national provisions on the permission to carry arms being respected and minimum standards being set for licensing and training where such use is permitted.

There are a number of countries where the carrying of firearms by security guards is entirely prohibited (Denmark, Ireland, the Netherlands and the United Kingdom). As such prohibitions are generally related to historical and cultural factors, European regulation as to permissions for private security guards to carry arms are not feasible.

However, in countries where their possession and use is permitted, the setting of minimum standards relating to licensing, use and training needs to be considered in order to avoid potential legal complications.

8.1 *Licensing*

In the majority of countries where the carrying and use of fire arms is allowed, a licence is required for each weapon, although the instances in which a licence can be refused or rescinded differs. The nature of the authority granting the licence is also country-specific.

8.2 *Storage of fire arms*

Only Belgium currently has legislation requiring fire arms to be stored in specially regulated, staffed arsenals while off duty. The majority of countries limit the use of fire arms to specific areas of activity in the private security industry (generally cash in transit and guarding of persons or military installations).

8.3 *Training*

The majority of countries where the carrying of weapons in permitted require guards licensed to carry such weapons to undergo specific training (training may also be a pre-requisite for obtaining the licence. Differences arise in relation to the number of hours of training required and the frequency with which such skills need to be updated. It appears imperative for minimum standards to be set in this area to ensure public safety.

Table 8: Possession and use of (fire) arms

| Possession and use of (fire) arms | Provisions | | | |
|--|--------------------------|---|--|---|
| | <i>Possession</i> | <i>Licensing/licensing authority</i> | <i>Restrictions on use and storage</i> | <i>Training required</i> |
| Austria | Yes | Licence required | No specific provisions | Training required |
| Belgium | Yes | Permit must be sought. Licences granted to individuals with appropriate training | Weapons must be stored in supervised arsenal when off duty | 40 hours training required |
| Denmark | No | | | |
| Finland | Yes | Licence required | Firearms must be carried for specific jobs only | Guards carrying weapons must have received special training. New law will require annual test of proficiency of use of firearms |
| France | No | Except for CIT with permit | Regular training | |
| Germany | Yes | Permit required | Only for certain tasks (e.g. cash in transit) | Special training is required |
| Greece | Yes | Permit required | Same restrictions as private individuals | Training required |
| Ireland | No | | | |
| Italy | Yes | Permits required which are issued by regional police commissioner | No special provisions | |
| Luxembourg | Yes | Permits must be sought from the Ministry of Justice. Police checks are carried out on application | Only used for certain tasks such as cash in transit | |
| Netherlands | No | | | |
| Portugal | | | | |
| Spain | Yes | Permits must be sought | Only allowed for certain tasks such as cash in transit and guarding of high risk installations | Attendance of bi-annual training obligatory |
| Sweden | Yes | Permit required | | Training required |
| United Kingdom | No | | | |

9. Use of dogs on duty

All EU countries permit the use of dogs in specific guarding environments. Differences arise in relation to licences required for dog and the level of training required by dog handlers (and the frequency with which this needs to be updated). The setting of minimum standards in this area therefore appears desirable.

Table 9: Use of dogs on duty

| Use of dogs | Provisions | |
|-----------------------|--|--|
| Country | <i>Use of dogs allowed?</i> | <i>Restrictions and other requirements</i> |
| Austria | Yes | |
| Belgium | Yes in certain circumstances | Dog handlers must have received at least 16 hours training. |
| Denmark | Yes | Use of dogs has to be approved by the Commissioner of Police |
| Finland | Yes | Dogs must be licensed and handlers require specific training |
| France | Yes | |
| Germany | Yes | Training is required which needs to be renewed annually |
| Greece | Yes | |
| Ireland | Yes | |
| Italy | Yes | Use of dog is governed by regional provisions |
| Luxembourg | Yes | |
| Netherlands | Yes | Dog has to be licensed and both dog and handler must receive special training. |
| Portugal | Yes | |
| Spain | Yes | |
| Sweden | Yes | |
| United Kingdom | Yes, regulated by specific legislation | |

10. Government control and sanctions

The majority of countries invest national, regional or local government authorities with the powers to withdraw a licence. However, not all countries set the same criteria justifying the withdrawal of a licence. It is feasible that minimum standards should be set in relation to these criteria and to make potential clients aware of differences existing between countries.

Table 10: Government control and sanctions

| Government sanctions | Provisions | |
|-----------------------------|--|--|
| Country | Sanctions available | Other provisions |
| Austria | Termination of license for repeated violation of the legislation | |
| Belgium | Withdrawal of license for up to 6 months | Pecuniary sanctions available for offences against certain elements of the legislation. |
| Denmark | Withdrawal of license | |
| Finland | Withdrawal of license | Staff of private security companies usually no rights other than those of private individuals. Guards mainly operate on private property or on areas where special restriction apply. Public order is at present limited to police only. |
| France | Authorisation can be withdrawn | |
| Germany | Permission to operate a business can be withdrawn | |
| Greece | | |
| Ireland | New law provides for possibility to withdraw licence. | |
| Italy | Suspension or revocation or licence possible | |
| Luxembourg | Withdrawal of licence | |
| Netherlands | | |
| Portugal | | |
| Spain | Annual report needs to be submitted to police authorities detailing activities and any changes in managerial staff | |
| Sweden | Withdrawal of license | |
| United Kingdom | Withdrawal of licence; new offence introduced of operating a security undertaking without a licence | |

11. Conclusion

The private security sector has been growing significantly in the European Union over the past 10-15 years. Today, private security companies are increasingly taking on roles previously provided in-house by private or public sector undertakings in an attempt to achieve greater efficiency and a higher degree of effectiveness through specialisation. As the sector becomes more sophisticated and quality demands are growing, legislation is becoming increasingly important as a guarantor for ensuring the development of greater professionalism in the sector.

This is particularly important in the context of freedom of movement for goods, services and personnel as it is crucial that purchasers of private security services are aware of the quality and legislative standards applied by companies bidding for their work. While this certainly requires a significant degree of awareness raising in relation to the legislative standards applied to the operation of private security companies in each member state, this is no longer sufficient to ensure public safety.

This study illustrates the differences which exist in the level of regulation governing the operation of the industry from member state to member state in areas as significant as the background of owners and staff and the level of training received by guards.

In order to ensure full freedom of movement of services while guaranteeing the morality of company managers and the reliability of companies, it is important that comparable baseline legislation is in place in relation to the licensing of security companies and background checks for owners and managers of such undertakings. Minimum rules should be set down in relation to the commercial, financial and moral standards to be applied. In addition, there should be comparability in the agencies responsible for enforcement should be ensured to allow for the exchange of transparent information and ability on the part of companies to obtain authorisation to provide services in another member state.

Professionalism in the sector can be fostered by applying common basic minimum rules to the moral and professional aptitudes required of guards active in the sector. Therefore a common set of rules should be applied in relation to the agencies responsible for checking the criminal record of any individual applying for employment in the sector. To ensure staff mobility, authorisations granted need to be recognised across the member states. Similarly, steps need to be taken to ensure greater comparability of the level of training received. Currently, not all member states provide for obligatory training for operational staff and even where such requirements exist, the level of training received varies significantly. While some of these differences can be attributed to the different operational contexts of private security companies, a level of harmonisation appears nevertheless desirable to ensure professionalism and freedom of movement. In an effort to create a basic minimum standard in this area, the social partners in the sector, CoESS and UNI Europa have developed a joint training manual, which could act as a baseline in this area, while not undermining and more detailed provision set down in the legislation of any member state.

With regard to the rules applying to the use of dogs and weapons on duty, provisions again vary significantly from country to country. While cultural differences need to be respected fully in relation to whether, for example, the use of weapons by private security guards is acceptable, common standards need to be developed as to the situations in which weapons can be used and the basic level of training required by guards carrying weapons to avoid conflicting provisions.

Finally, the impact that working conditions have on the motivation of staff and the quality of services provided should not be ignored. Services tendered on the basis of the lowest price bid only run the risk of leading to a lowering of working conditions and training infrastructure and thus generating security risks. It is therefore important that basic minimum standards apply in relation to health and safety provisions and maximum working hours. In addition, the social partner have jointly work on a manual and an awareness raising campaign to encourage the selection of the "economically most advantageous" rather than the lowest price provider.