



Ref. No. 603

OHCHR REGISTRY

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Geneva, 3rd August 2012

Dear Ms. Patel,

In response to your letter Ref. No. GVA-0340/26.06.2012, please, find enclosed copies of the laws and regulations of the Republic of Bulgaria relevant to private military and security companies, their personnel and their activities, as follows:

1. Private Security Business Act;
2. Ordinance № 13-2895 Of 15 November 2011 on the Procedure to be Followed by Merchants under Art. 2 Para. 2, Item 2 Of The Private Security Services Act To Attest They Meet The Requirements of the Private Security Business Act.

Yours Sincerely,

Ivan Piperkov,
Ambassador, Permanent Representative

Ms. Faiza Patel,
Chairperson-Rapporteur,
WG on the use of mercenaries as a means of
violating human rights and impeding the exercise
of the right of peoples to self-determination

Private Security Business Act

Promulgated SG. 15/24.02.2004, amended, SG No. 105/29.12.2005, effective 1.01.2006, SG No. 30/11.04.2006, effective 12.07.2006, SG No. 34/25.04.2006, effective 1.01.2008 (*)(**), amended and supplemented, SG No. 82/10.10.2006, amended, SG No. 109/20.12.2007, effective 1.01.2008, amended and supplemented, SG No. 69/5.08.2008, supplemented, SG No. 35/11.05.2010, effective 11.05.2010, amended, SG No. 59/31.07.2010, effective 31.07.2010, SG No. 73/17.09.2010, effective 17.09.2010, amended and supplemented, SG No. 43/7.06.2011, amended SG No. 44/12.06.2012, effective 1.07.2012

(*) effective 1.07.2007 - amended, SG No. 80/3.10.2006, effective 3.10.2006

(**) effective 1.01.2008 - amended, SG No. 53/30.06.2007, effective 30.06.2007

Text in Bulgarian: Закон за частната охранителна дейност

Chapter One GENERAL PROVISIONS

Article 1. This act shall regulate social relations in connection with the private security business, its administrative regulation and control.

Article 2. (1) Private security business shall be an activity related to guarding facilities, events and persons, and their rights and lawful interests against illegal encroachment.

(2) (Amended, SG No. 43/2011) The activity under paragraph 1 shall be carried out on the basis of a written contract by.

1. traders registered under the procedure of the Commerce Act or under the law of a European Union member-state, of another state - party to the European Economic Area Agreement or of the Swiss Confederation who have obtained a licence under the procedure herein;

2. traders registered in a European Union member-state, in another state - party to the European Economic Area Agreement or of the Swiss Confederation who are entitled to engage in such activities under the law of the state in which they are established and who can certify that they comply with the requirements herein.

(3) (New, SG No. 43/2011) The activities under paragraph 1 shall be carried out also by self-defence units in the structures of traders or legal persons who have obtained a licence under

the procedures herein.

(4) (New, SG No. 43/2011) The Minister of the Interior jointly with the Minister of Economy, Energy and Tourism shall issue a regulation on the procedure pursuant to which the traders under paragraph 2 shall certify that they comply with the requirements herein.

Article 3. The private security business shall be carried out by observing the following principles:

1. respect for the rights, freedoms and dignity of citizens;
2. cooperation with the bodies of the Ministry of the Interior (MoI) in the fight against crime and protection of public order;
3. guaranteeing security and safety in the guarded facilities;
4. carrying out preventive activity on the basis of analysis of the causes and the conditions for violations of the law in the guarded facilities.

Article 4. (1) (Amended, SG No. 43/2011) Private security business shall be carried out only upon obtaining a licence or a certification of entitlement of the persons under article 2, paragraph 2, item 2.

(2) The licence may be issued for engaging in activity on the territory of the entire country or on the territory of individual regions.

Article 5. (1) The following types of activities shall be carried out under this act:

1. personal protection of natural persons;
2. protection of the property of natural or legal persons;
3. guarding of events;
4. guarding of valuable consignments and goods;
5. (amended, SG No. 43/2011) self-protection of property of traders or legal persons.

(2) The activities under paragraph 1 may also be carried out through technical security systems and auxiliary devices.

Article 6. Personal protection shall be an activity related to the protection of the bodily inviolability of natural persons against illegal encroachment, as well as their prevention and interception.

Article 7. (1) Protection of property shall be an activity for its physical protection against illegal encroachment.

(2) The physical protection activity may include also the introduction of an admission regime on the facilities.

Article 8. The activity of guarding events shall be a set of measures directed at providing the undisturbed and unimpeded holding of mass events or activities of a short-term nature.

Article 9. (1) Protection of valuable consignments and goods shall be an activity of protecting money, securities, precious metals, works of art and other valuables whose transportation is obligatorily carried out with armed guard, specially equipped transport, reliable communication and other technical and auxiliary protection means.

(2) The Minister of the Interior shall determine by an ordinance the order for organising security when transporting valuable consignments and goods under paragraph 1.

Article 10. Protection with the help of technical security systems shall be an activity of surveillance and control by technical means of the guarded facilities and checking up the obtained signals.

Article 11. (1) (Amended, SG No. 43/2011) Self-protection of the property of traders or a legal persons shall be an activity carried out by employees of the traders or legal persons, differentiated in separate structural units for protection.

(2) The self protection units shall not be used in any form whatsoever for guarding persons, facilities and property, besides the one specified in paragraph 1.

Article 12. (1) The security work shall be carried out by unarmed or armed guards.

(2) In case of armed protection the requirements of the Weapons, Munitions, Explosive Substances and Pyrotechnical Products Act and the secondary statutory instruments on its implementation shall be observed.

Chapter Two

LICENCE FOR ENGAGING IN SECURITY BUSINESS

(Title amended, SG No. 43/2011)

Article 13. (1) (Previous Article 13, amended, SG No. 43/2011) Licences for engaging in private security business under Article 5, paragraph 1, items 1 - 4 shall be issued only to traders registered under the procedure of the Commerce Act or the law of a European Union member-state or of another state - party to European Union Area Agreement or of the Swiss Confederation.

(2) (New, SG No. 43/2011) Licences for engaging in private security business pursuant to article 5, paragraph 1, item 5 shall be issued to traders or legal persons.

Article 14. (Amended, SG No. 69/2008, SG No. 44/2012, effective 1.07.2012) Licences for engaging in private security business shall be issued by the director of the National Police Directorate General or by persons authorised by him.

Article 15. (1) (Amended, SG No. 43/2011) For obtaining a licence for carrying out activities under Article 5, paragraph 1 traders shall apply with a written request to the competent body.

(2) The following shall be enclosed with the application under paragraph 1:

1. (amended, SG No. 34/2006, supplemented, SG No. 43/2011) current certificate or record in the commercial register or the BULSTAT register;

2. (amended, SG No. 105/2005, repealed, SG No. 34/2006);

3. (amended, SG No. 105/2005, supplemented, SG No. 43/2011) a certificate under Article 87, paragraph 6 of the Tax and Social Insurance Procedure Code, that the trader and general partners in a commandite or general partnership company or the legal person have no liabilities;

4. (supplemented, SG No. 43/2011) an affidavit stating that the trader or the legal person has no pecuniary liabilities to the state, established by an effective act of a competent body, neither liabilities to social insurance funds;

5. samples of a personal identification card, an identification sign or uniform clothes;

6. document for paid stamp duty.

(3) (Supplemented, SG No. 43/2011) Besides the documents under paragraph 2 the natural persons registered as sole traders, the members of the managing body of the trade company or the legal person, as well as the unlimited liable partners of a limited joint-stock company or general partnership shall enclose additionally:

1. a certificate of no previous conviction;

2. (supplemented, SG No. 82/2006, amended, SG No. 69/2008) an official letter by the National Investigation Service and the regional directorate of the Ministry of the Interior certifying the absence of instituted penal proceedings for premeditated crimes of a general nature;

3. (amended, SG No. 82/2006) an affidavit by the persons stating that no pre-trial-proceedings have been instituted against them for a deliberate crime of general nature;

4. a medical certificate certifying that the persons do not have mental disorders.

(4) (New, SG No. 43/2011) Traders registered under the law of another European Union member-state, of another state or party to European Union Area Agreement or of the Swiss Confederation shall attach to the request under paragraph 1 documents equivalent to the ones specified in paragraphs 2 and 3 issued by the competent authorities of the state where they are

established accompanied by an official Bulgarian translation.

(5) (Renumbered from Paragraph 4, SG No. 43/2011) The circumstance under paragraph 3, item 3 shall also be verified ex-officio.

(6) (Renumbered from Paragraph 5, SG No. 43/2011) The licences under paragraph 1 shall be issued in a form approved with an order of the Minister of the Interior.

Article 16. (1) (Amended, SG No. 69/2008, SG No. 44/2012, effective 1.07.2012) The applications for issuing licences under Article 14 shall be submitted to the Director of the National Police Directorate General.

(2) (Supplemented, SG No. 43/2011) When the submitted documents are incomplete or do not meet the obligatory requirements herein the trader or the legal person shall be notified thereof in writing within 14 days after their submission.

(3) (Supplemented, SG No. 43/2011) The trader or the legal person shall correct the incompleteness and noncompliance of the documents or shall submit additionally the required documents and information within 14 days after the notification under paragraph 2. If within this period the shortcomings of the application are not corrected the proceedings on issuing a licence shall be terminated.

Article 17. The competent body under Article 14 shall issue or shall refuse to issue a licence within one month after the submission of the application, from the removal of the incompleteness or non-compliance of the documents, or the filing of additionally required documents respectively.

Article 18. (1) The licence for engaging in activities under this act shall be issued without a fixed term.

(2) (Amended, SG No. 43/2011) By 31 March of every calendar year the traders shall file a statement that no change has occurred in the circumstances under Article 15.

(3) Stamp duty shall be collected for the issued licences in amounts determined by the Council of Ministers.

Article 19. (1) (Supplemented, SG No. 43/2011) When the licence for engaging in security business is lost, taken away illegally or destroyed the trader or the legal person shall, within seven days after the occurrence of the circumstance, notify the body that had issued it, describing the circumstances under which this has happened.

(2) The body that had issued the licence shall issue a duplicate of the document within 14 days from the notification, for which a stamp duty shall be collected in an amount determined by the Council of Ministers.

Article 20. (Amended, SG No. 43/2011) The traders or legal persons shall be obliged to notify within 14 days the body that had issued the licence or recorded the certification under

article 2, paragraph 2, item 2 about a change of the circumstances under Article 15 and Article 27, paragraph 1.

Article 21. (1) No licence shall be issued and the issued licence shall be withdrawn when:

1. (supplemented, SG No. 43/2011) the trader or the legal person:

a) has monetary liabilities to the state, established by an effective act of a competent body, or liabilities to social insurance funds, unless the competent body has allowed rescheduling or deferment of the liabilities;

b) has been declared bankrupt;

c) engages in a type of security business for which he has no licence or performs it outside the territory for which he has a licence;

d) submits firearms to the guards employed by him who do not possess the respective permit for carrying and using them;

2. the sole trader, the manager or the member of the managing body or the unlimited liable partner of a limited joint-stock company or general partnership:

a) has been convicted for a premeditated crime of a general nature;

b) is the subject of penal proceedings instituted against him for a premeditated crime of a general nature;

c) suffers from a mental disorder;

3. (amended, SG No. 43/2011) the head of the security business or the employees appointed as guards do not meet the requirements of Article 27, paragraph 2.

(2) (Amended, SG No. 43/2011) The issued licence shall not be withdrawn if within one month the trader or the legal person corrects the allowed non-compliance with Article 27, paragraph 1.

(3) On withdrawal of the licence the persons under paragraph 1 may not apply for being issued a new licence for a period of one year from the withdrawal, and on refusal to issue a licence the term shall be 6 months.

Article 22. (Amended, SG No. 30/2006) The refusal to issue a licence and its withdrawal may be appealed against in court through the body that has issued the act within 14 days under the procedure of the Administrative Procedure Code.

Article 23. (Repealed, SG No. 43/2011).

Chapter Three

RIGHTS AND OBLIGATIONS OF THE PERSONS ENGAGING IN PRIVATE SECURITY BUSINESS AND OF THEIR EMPLOYEES

Article 24. (1) When organising protection the persons engaging in the activity under Article 5 shall:

1. assess the condition and the degree of security of the guarded facilities where necessary, but at least once a year;
2. create the necessary organisation for protection and security, including through obligatory daily and periodic briefings of the guards;
3. draw up and keep rules and instructions on the specifics of the types of security business carried out, approved by the assignor under the contract or by a representative authorised by him.

(2) (Amended, SG No. 43/2011) For each facility under guard the persons engaging in the activity under Article 5 shall draw up and keep at the facility a plan for protecting the facility, including:

1. the particularities of the protected facility;
2. the organisation of the protection (posts, routes, shifts, armament, communications and instructions on the tactics of action in different situations);
3. data on the weapons, if ones are used for protecting of the site;
4. data on the motor vehicles, if used in carrying out the protection;
5. data on installing video cameras, as well as similar technical devices or systems allowing video recording;
6. regulations on the admission regime approved by the assignor under the protection contract or by a person authorised by him;
7. a list and a time schedule for the work of the guards.

(3) (Amended, SG No. 82/2006, SG No. 69/2008, SG No. 43/2011) Within 14 days from the execution of the protection contract or of the actual takeover of the facility for protection pursuant to Article 5, paragraph 1, item 5 the persons engaging in the activity under article 5, paragraph 1 shall notify in writing the body that has issued the licence or entered the registration under article 2, paragraph 2, item 2 and the respective the regional directorate of the Ministry of the Interior, on whose territory the activity is carried out.

Article 25. The persons engaging in activity under Article 5 shall be prohibited:

1. to introduce and use, when carrying out the activity, methods or devices exposing to danger the life and health of other persons or injuring the honour and the dignity of citizens;
2. to accept to implement obligations contradicting to an act of parliament or another statutory instrument;
3. to use uniform clothes, symbols and insignia, police lamps, camouflage hoods or signs introduced for the structural units of the MoI or for other state bodies which demonstrate an affiliation to them;
4. to submit or cede to other persons their licence for carrying out private security business.

Article 26. (Amended, SG No. 109/2007) The persons engaging in private security business shall be obliged to submit to the bodies of the MoI, and about the guarded facilities of the Ministry of Defence and of the Bulgarian army - to the Military Police, the information they have regarding perpetrated, being perpetrating or prepared criminal activity.

Article 27. (Amended, SG No. 82/2006, SG No. 69/2008, SG No. 59/2010, effective 31.07.2010, SG No. 43/2011) (1) Head of protection activities or guards may be persons who are employed mainly under employment contracts for the position "head of protection activity", "guard" respectively, pursuant to the National Classification of Professions and Positions on the basis of concluded employment contracts with persons engaged in activities under article 5.

(2) The persons engaged in the activity under Article 5 may conclude employment contracts only with adult and legally able persons with education not lower than secondary for the position "head of protection activities", and for guards - with adult and legally able persons with education not lower than elementary education, who:

1. are citizens of a European Union member-state or of another state - party to the European Economic Area Agreement or of the Swiss Confederation;
2. have not been convicted for a premeditated crime of a general nature;
3. are not subject to criminal proceedings for a perpetrated premeditated crime of a general nature;
4. are mentally and physically fit.

(3) When concluding the employment contract the person under paragraph 2 shall produce the following documents:

1. a document that he/she is a citizen of a European Union member-state or of another state - party to the European Economic Area Agreement or of the Swiss Confederation;
2. a document of graduated education;

3. no previous convictions certificate;

4. an official letter from the National Investigation Service that the person has not been indicted as a defendant for a premeditated crime of a general nature;

5. an official letter from the regional prosecution office (the Sofia City Prosecution Office) at the permanent residence of the person that he/she has not been indicted as a defendant for a premeditated crime of a general nature;

6. a statement of the person that he/she has not been indicted as a defendant for a premeditated crime of a general nature;

7. a medical certificate that the person is physically and mentally fit.

(4) The citizens of another European Union member-state, of another state - party to the European Economic Area Agreement or of the Swiss Confederation shall submit documents equivalent to the ones specified in paragraph 3, items 3-5 issued by the competent authorities of the respective state, accompanied with an official Bulgarian translation.

(5) The documents under paragraphs 3 and 4 should have been issued not earlier than six months before the execution of the employment contract with the exception of the documents under paragraph 3, items 1 and 2.

(6) Within 14 days after the execution of the employment contract the persons engaging in activity under Article 5 shall notify in writing thereof the competent body that has issued the licence or recorded the certificate under article 2, paragraph 2, item 2, stating the full name, Personal Identity Number (PIN) or the personal number of the person, the number of the employment contract and its term. Within the same period the competent body shall also be notified about a termination of the legal terms of employment. The notification shall be made through the director of the respective regional directorate of the Ministry of the Interior, on whose territory the persons under paragraph 1 work.

(7) The persons engaging in activity under Article 5 shall keep for a period of three years after the termination of the employment contract and, upon request, submit for inspection to the competent bodies the documents under paragraphs 3 and 6.

Article 28. (1) (Amended, SG No. 43/2011, effective 1.01.2012) The persons occupying the positions "head of protection activities" and "guard" shall undergo initial training in educational establishments entitled to train persons for the profession of "guard". The persons who have professional qualification of "guard" shall not undergo initial training.

(2) (Amended, SG No. 43/2011, effective 1.01.2012) The employees shall carry out protection activity only after successfully passing the initial training course.

(3) (Amended, SG No. 69/2008, SG No. 44/2012, effective 1.07.2012) The training under paragraph 1 shall be carried out on the basis of a syllabus which shall include a mandatory

minimum programme, drawn up by the MoI Academy and approved by the director of the National Police Directorate General.

(4) The employees shall also undergo additional training depending on the type of security work, the specifics of the guarded facility, the degree of risk, the requirements of the assignor etc.

Article 29. When performing the activity the employees shall carry a personal identification card with a photograph, an identification sign and uniform clothes.

Article 30. (1) When performing the activity under Article 5 the guards shall:

1. require the observance of the admission regime established by the assignor under the contract for entering and leaving the guarded facility and its internal order, including by giving and observing obligatory instructions on:

a) checking identification documents of outside persons and the official passes of the employees;

b) checking luggage, cargo and/or motor vehicles and their accompanying documents;

2. check signals received from facilities equipped with technical security systems and connected to centralised and local surveillance and control systems, the inspection being carried out by mobile duty teams.

(2) The citizens shall be informed obligatorily through information boards, put at a visible place, that on entering and leaving the guarded facility they shall be subject to the inspections under paragraph 1, item 1, letter "a" and "b".

(3) The check shall be carried out in a way not injuring the honour and dignity of citizens.

(4) The information boards under paragraph 2 shall inform citizens about the use of technical devices for surveillance and control of the facility, without specifying their location.

(5) The video recordings obtained shall be destroyed not later than 30 days after they have been made, of which a written record shall be made by the manager of the security business, except in the cases when they contain data on a committed violation of public order or a crime.

(6) The video recordings obtained containing data on a committed violation of public order or a crime shall be submitted to the law enforcement authorities.

Article 31. (1) When a check establishes a violation of the prescribed admission regime or of the internal order rules in the guarded facility the guards shall notify thereof their chief forthwith.

(2) (Amended, SG No. 109/2007) In the presence of data on a committed crime the prosecutor and the respective police bodies shall be informed immediately, and in the presence of data on a committed crime in guarded facilities of the Ministry of Defence and the Bulgarian