

## SUMMARY

This is the summary of a Dutch report on *International Security Guards and Investigators: Survey of Regulations on Private Security and Investigation in Six EU Countries (2006)*. The research was carried out by Regioplan Policy Research for the Research and Documentation Centre of the Dutch Ministry of Justice.

### 1) Background

The Court of Justice of the European Union (EU) has ruled that the Netherlands needs to remove the obstacles to foreign security guards and investigators wishing to work in the Netherlands caused by the application of Dutch licensing legislation. The EU Treaty requires the Netherlands to take into account the requirements that companies and staff have already met in their own country. This means that companies or staff that have met requirements in their own country that are comparable with the Dutch requirements must not again be required to meet conditions regarding trustworthiness and professional expertise.

If we are to take the requirements that companies and their staff have already met in their own countries into account in future we need to know about the statutory requirements to which other EU countries subject private security guards and investigators.

### 2) Survey

This report first surveys the legislation and regulations on private security firms and detective agencies in Belgium, Germany, France, Ireland, Poland and the United Kingdom, looking at the following topics:

- The scope of the legislation (what activities it covers)
- The statutory requirements regarding trustworthiness of staff
- The statutory requirements regarding professional expertise of staff

The report also discusses:

- How the law is administered (the licensing system, the charges made to licence applicants), and
- How the rules are enforced

### 3) Main question

The main question that this survey sets out to answer is:

*What are the differences and similarities between the Netherlands and Belgium, Germany, France, Ireland, Poland and the United Kingdom in the regulations on the trustworthiness and professional expertise of private security guards and investigators?*

The second question, which was examined in less detail, is:

*What can we say about the differences and similarities between these countries as regards the administration and enforcement of the regulations?*

### 4) Approach

The research was carried out by Regioplan in collaboration with six research agencies in the countries under consideration. The agencies examined, using document analysis and a number of interviews with experts on the industry, how and to what extent the legislation and the way it is administered ensure the trustworthiness and professional expertise of private security guards and investigators. Regioplan carried out the comparative analysis and is responsible for this report.

### 5) Findings for each country compared with the Netherlands

The differences and similarities between the six EU countries under consideration and the Netherlands are set out below. Table 0.1 gives a summary.

#### ***Belgium***

The scope of the 1990 and 1991 Belgian legislation is broader than the Dutch legislation, and it includes 'security consultancy'. It is administered centrally in Belgium, by the Interior Ministry, unlike in the Netherlands, where the licensing of staff is decentralized.

As in the Netherlands, screening for trustworthiness in Belgium is repeated periodically. There are no assessment criteria laid down for the security industry: hence there is no limit, for instance, on how far back searches in criminal records can go, nor is it laid down what offences irrevocably result in rejection of a licence application. There is a tough (and strict) assessment criterion for investigators, however: they must have a clean criminal record. Licences are valid for five years as a rule in Belgium. The requirements as regards professional expertise in Belgium are similar to the Dutch requirements, but the required training level for investigators is higher than in the Netherlands, for one thing because of the compulsory retaking of courses.

The legislation is enforced in Belgium by the licensing authority (the Ministry) and the police, whereas in the Netherlands it is the police that are mainly responsible for enforcement. There is criticism of the level of enforcement in both countries.

### **Germany**

Germany requires security firms to be licensed but not, unlike the Netherlands, detective agencies. The licensing requirement is largely the result of *general* regulations, i.e. those concerned with the licensing of new companies in the business services sector: in this respect Germany differs from the Netherlands. An unusual point is that store detective work is regarded as investigation work and not as a security activity. Licensing is decentralized, through the Chambers of Commerce.

The trustworthiness of new firms in the security and investigation industry is checked in the same way as that of any new company in the business services sector, by obtaining a certificate of good conduct. Unlike in the Netherlands, there is no repeated screening for trustworthiness, and (again unlike in the Netherlands) there are no specific trustworthiness criteria. There is a minor statutory safeguard for the professional expertise of security industry staff: they take a theory course at the Chamber of Commerce. Security guards who come into frequent contact with the general public have been required since 2002 to take a supplementary examination. There are hardly any requirements as regards professional expertise for investigators. The Chambers of Commerce and the local authorities (municipality and police) are responsible for enforcing the licensing law, but there is little if any enforcement of the regulations.

### **France**

France has had legislation on the licensing of security guards and investigators since 1983. The scope is similar to that of the Dutch legislation. An unusual point is that licences are personal and not required for companies. They are issued by a local representative of the State responsible for police matters and are valid for an indefinite period.

Screening for trustworthiness is carried out on a one-off basis; in the Netherlands managers and staff are screened repeatedly. The French act lays down a large number of offences that are an obstacle to the granting of a licence. There are no exemptions, unlike in the Netherlands. France has no regulations on professional expertise as yet: the act laid down requirements as regards professional expertise but did not elaborate them. It was decided in 2005 that security guards and investigators should have an approved qualification, but these decisions too have only been elaborated to a limited extent, compared with the Dutch situation.

The legislation is enforced by the local authorities, in this case the police. There is no regular enforcement.

### ***Ireland***

The Irish licensing act has been in existence since 2004 and applies to the security and investigation industry. The scope of the act is broader than the Dutch regulations, including safe fitters, security consultants and CCTV control room operators. Licensing is being phased in in consultation with the industry. From April 2006 two categories of staff (door supervisors and guards) have to be licensed. Investigators are not covered by the act at present. Licences are issued by a central government agency. They are required for companies and individual staff. A licence is valid for two years, less than in the Netherlands.

Screening for trustworthiness is not based on any tough or less tough assessment criteria: the administering body has a lot of latitude in this respect, more than a Chief Constable in the Netherlands. As regards professional expertise, rules have only been agreed on door supervisors and guards in Ireland; consultations with the industry are still in progress on the other categories.

The licensing authority in Ireland is also responsible for enforcement. There is no experience of this yet: the first enforcement activities are to begin in 2007.

### ***Poland***

Poland has required security guards and investigators to be licensed since 1997 and 2001 respectively. An unusual point is that security work only needs to be licensed in designated areas or buildings, such as airports, military sites and government buildings. This means that security work can be carried out by unlicensed staff outside the 'designated areas' in Poland, something that is not permitted in the Netherlands. The Interior Ministry is responsible for administering the licensing system. The police are responsible for issuing licences to staff. Licence applicants are subjected to a medical examination, something that is not done in the Netherlands.

The police carry out the checks on trustworthiness. The screening goes back no more than ten years: depending on the seriousness of the offence, data are deleted after five to ten years. There are no exemptions. The screening procedure is not always carried out properly in practice, however. Like the Netherlands, Poland has laid down requirements for security guards and investigators as regards professional expertise: in both cases they have to take an examination run by the police. Poland has no approved training courses for private investigators.

There is little if any enforcement of the legislation and regulations on the private security and investigation industry in Poland.

### ***United Kingdom***

The United Kingdom has required the security and investigation industry to be licensed since 2001. The scope of the act is broader than the Dutch legislation: it includes security consultants and operators of CCTV systems, for instance, unlike in the Netherlands. Licensing is being phased in in consultation with the industry. Investigators and security consultants do not need to apply for licences at the moment.

Licences are issued by a central government agency and they are personal. This differs from the situation in the Netherlands, where firms also have to be licensed. A licence is valid for three years, as in the Netherlands.

There are no rules on tough and less tough assessment criteria for the trustworthiness of licence applicants. In this respect the licensing authority has a lot of latitude, more than in the Netherlands. The United Kingdom has hardly any rules as yet on professional expertise. The only one is that seven categories of staff have to meet requirements as regards professional expertise, but requirements have only been laid down so far in the case of door supervisors; consultations with the industry are still in progress on the details of the training requirements for the other categories.

The licensing authority is also responsible for enforcement, which is project-based. Limited staffing and the priority accorded to issuing licences stand in the way of more intensive enforcement at the moment.

## **6) Conclusions**

Below are the conclusions on the two research questions (see also Table 0.1):

### ***Scope***

The scope of the legislation is similar in all the countries, but there are differences:

- Licences are personal in France and the United Kingdom.
- In the other five countries, including the Netherlands, firms also have to be licensed.
- The legislation in Belgium, Ireland and the United Kingdom covers more activities than the Dutch legislation, for example security consultancy and operating CCTV systems.
- Investigators do not require licences in Germany.
- In Poland it is possible to carry out security work without an employee's licence; authorization to carry out security work is only required in designated areas or buildings.

### ***Administration of the legislation and regulations***

- The licensing system in Belgium, Ireland and the United Kingdom is centrally administered by a ministry (in Belgium) or a separate public agency (in Ireland and the United Kingdom).
- In Poland and the Netherlands administration is partly centralized (ministries) and partly decentralized (police).
- Administration is completely decentralized in Germany and France: the municipalities are responsible in France, and Germany is unusual in that administration is carried out by the Chambers of Commerce.
- Belgium and Ireland charge the highest fees for licences. Belgium charges an annual fee.
- Licences are issued free of charge in France.
- The other four countries (the Netherlands, Germany, Poland and the United Kingdom) are somewhere in between.

### ***Trustworthiness requirements***

Firms and staff in the security and investigation industry are screened for trustworthiness in all the countries, among other things by checking whether the applicants have committed criminal offences. There are differences between the Netherlands and the six countries under consideration in the legislation on screening for trustworthiness and how it is administered.

The main *general* differences are:

- Some countries lay down assessment criteria for trustworthiness by law, others do not.
- In those countries where the trustworthiness criteria are not laid down the licensing authorities have a lot of latitude.
- In some countries the trustworthiness of applicants is checked on a one-off basis, whereas in others it is repeated periodically.

We found the following differences *between countries*:

- Germany has no specific regulations to ensure the trustworthiness of staff and firms in the security industry: they are covered by general rules on trustworthiness which also apply to other types of service companies. As a result the statutory safeguards for trustworthiness are not as strong in Germany as in the other countries.
- The Netherlands, France and Poland lay down assessment criteria for trustworthiness by law. Belgium only has tough trustworthiness criteria for investigators.
- The United Kingdom, Ireland and Germany do not have any criteria for trustworthiness laid down by law.

- The Netherlands, Belgium, Ireland and the United Kingdom have recurrent screening for trustworthiness; in the other countries it only takes place on a one-off basis.
- In the Netherlands, Belgium (as regards security), Germany, Ireland and the United Kingdom the licensing authorities have latitude.
- In France and Poland the licensing authorities have the least latitude and the trustworthiness criteria are the toughest: a conviction for a serious offence will result in the application being rejected.
- In Poland there is fundamental criticism of the way the regulations on trustworthiness are administered.

### ***Requirements as regards professional expertise***

In all the countries under consideration the legislation lays down requirements for the professional expertise of security guards and investigators. This is done by laying down a minimum training level for the two categories, and also by specifying—to a greater or lesser extent—the content of the training courses that have to be taken. We found the following differences between the countries under consideration:

- The Netherlands and Belgium have the best safeguards for the professional expertise of security guards. Belgium stands out when it comes to statutory safeguards for the training level of investigators.
- Germany and Poland lay down requirements as regards professional expertise by law, but the level is lower than in the Netherlands and Belgium.
- In France, Ireland and the United Kingdom the legislative process as regards professional expertise is still in progress: they still have a long way to go when it comes to the content of training courses and the accreditation of training establishments, teachers and examiners.

### ***Enforcement of the legislation and regulations***

Based on a number of interviews for each country we draw the following conclusions:

- There is criticism of enforcement in Belgium and the Netherlands (not a high enough priority), but the level of enforcement is higher than in the other five countries in the study.
- There is little if any enforcement of the legislation in Germany, Poland and France.
- Ireland and the United Kingdom aim to enforce it, but there is little if any active enforcement there at present.

**Table 0.1 Summary of the findings of the Survey of Regulations on Private Security and Investigation**

Country	Scope	Administration	Trustworthiness	Professional expertise	Enforcement
Netherlands	One act (1993)  Licences for companies Authorization for managers/staff	Ministry of Justice and Regional Police Forces Central and decentralized Central and decentralized database. Limited charges	Tough criteria laid down. Latitude Search in criminal records max. 8 years Repeated screening Office staff also screened	Security guard certificate (basic level)  Private investigator certificate (lower level than security guard)	Police  Priority not particularly high
Belgium	Two acts (1990 & 1991) Broad scope, including security consultancy  Licences for companies and staff	Interior Ministry and Crown prosecutor Central and decentralized Central database High charges	No criteria laid down (security) Latitude. No time limit on search in criminal records. Repeated screening. Investigators checked more rigorously Office staff also screened	Approved qualifications and training establishments  Training for investigators: higher level than in the Netherlands	Interior Ministry and police  Priority not particularly high
Germany	General legislation Narrower scope than in the Netherlands: no licences for investigators Authorization for staff	Chambers of Commerce Decentralized Central database Limited charges	No criteria laid down. Latitude No time limit on search in criminal records. One-off screening (and when changing employers)	Limited training requirements Training provided by Chambers of Commerce Dutch requirements higher	Chambers of Commerce in collaboration with municipal authorities  Hardly any regular enforcement
France	One act (1983)  Licences are personal	Local representative. State official responsible for police matters (Préfet de police) Decentralized. Central database No charges	Tough criteria laid down: no convictions. No latitude No time limit on search in criminal records One-off screening	Training requirements not elaborated in any detail	Préfet de police  Hardly any regular enforcement
Ireland	One act (2004), broad scope, including security consultancy, CCTV etc. Licences are personal	Private Security Authority (PSA) Central Central database High charges	No criteria laid down No time limit on search in criminal records, large latitude Repeated screening	Training requirements agreed for door supervisors and guards No training requirements agreed yet for other services	Private Security Authority (PSA) and police No regular enforcement (yet), probably from April 2007
Poland	Two acts (1997 & 2001) Licensing only required in designated areas	Interior Ministry and local police Central and decentralized Central database Limited charges	Tough criteria, one-off screening Search in criminal records max. 10 years. No latitude Investigation of social background Quality of screening controversial	Training requirements laid down, examination run by the police	Police  Hardly any regular enforcement
United Kingdom	One act (2001), broad scope, including security consultancy, CCTV etc. Licences are personal	Security Industry Authority (SIA) Central Central database Limited charges	No criteria laid down No time limit on search in criminal records, large latitude Repeated screening	No training requirements agreed (yet) with the industry	Security Industry Authority (SIA) Project-based enforcement Enforcement capacity limited

