



PRIV-WAR Report – Belgium

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Belgian National Report on Private Military and Security Companies

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PRIV-WAR

Regulating privatisation of “war”: the role of the EU in assuring the compliance
with international humanitarian law and human rights

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Belgian National Report on Private Military and Security Companies

This report on the Belgian legislation is part of the work package on the existing regulatory context for private military and private security services at the national and European level, carried out in the frame of the ‘PRIV-WAR’ project on the regulation of the privatisation of war.

I. General framework

Belgium provided mercenaries during the period of crisis that followed the independence of the Democratic Republic of Congo, in the 1960s. They were employed on several occasions; in particular, to promote the secession of Katanga, to defeat the patriotic nationalist forces, to execute a *coup d'état*, and to protect the commercial interests and concessions of the Belgian private company *Union Minière*. More recently, Belgian mercenaries have been used by the official Congolese government for military support against the rebels, in 1996.

In May 2002, Belgium ratified the 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries,¹ which had entered into force in 2001, with a reservation to the effect that “no provision of the Convention should be interpreted as implying, for Belgium, an obligation to extradite Belgian nationals”. It has entered a further reservation to the effect that “no provision of the present Convention should be interpreted as implying an obligation of mutual judicial assistance” or “an obligation of extradition if the requested state party has reason to believe that the request [...] has been submitted for the purposes of prosecuting or punishing a certain person on the grounds of ethnic origin, religion, nationality or political views, or if acceding to the request would prejudice the situation of that person on any of those grounds”. Belgium is a monist state. The application of international rules can be claimed directly before the national courts and they have precedence over contradictory domestic legislation.

At the national level, in 1979, the Belgian parliament passed legislation, banning the recruitment and participation of its nationals in foreign armies to fight in foreign countries, but the necessary royal decree to enact this law has not been issued. As a result, there is a regulatory vacuum in Belgian law and no set of rules specifically

¹ UN General Assembly, Resolution 44/34, 4 Dec. 1989, *International Convention against the Recruitment, Use, Financing and Training of Mercenaries*, UN Doc. A/RES/44/34.

dealing with the use and conduct of private military companies and private security companies outside of the national borders.

On the other hand, private militias and private military companies have been prohibited on national territory since 1934.² The 1990 law on private security services excludes from the scope of this prohibition private safe-keeping and security companies to which it applies.³ In consequence, it constitutes the main regulatory frame for the exercise of private military and security activities in Belgium. It also derogates from the ordinary rules regulating the carriage of weapons and ammunitions.⁴ Beside the law on private security services, the law organising the profession of private detective is equally relevant as it also transfers traditional police or security powers to private companies and individuals. In addition, the two laws and complementary royal decrees deal with similar issues and they are subjected to the oversight of the same administrative body, the consultative council on private security. Hence, this report concentrates on a detailed analysis of these two sets of norms.

II. Law on private security services

A. Scope

The 1990 law on private security services entered into force in 1991. It was amended on 18 July 1997,⁵ 19 April 1999,⁶ 9 June 1999,⁷ 10 June 2001,⁸ 25 April 2004⁹

² **Law Prohibiting Private Militias**, 29 July 1934, *Moniteur Belge*, 6 Aug. 1934.

³ **Law on Safe-keeping Companies, Security Companies and Internal Safe-keeping Services**, 10 Apr. 1990, *Moniteur Belge*, 29 May 1990 [henceforth, **Law on Private Security Services**]. **Law Modifying the 1990 Law on Private Security Services, the 1934 Law Prohibiting Private Militias and the 1991 Law Organising the Profession of Private Detective**, 7 May 2004, *Moniteur Belge*, 3 June 2004, Article 24.

⁴ **See**, in this regard: **Law on the Fabrication, Trade and Carrying of Weapons and on the Ammunitions Trade**, 3 Jan. 1933, *Moniteur Belge*, 22 June 1933.

Law Regulating Economic and Individual Activities with Weapons, 8 June 2006, *Moniteur Belge*, 9 June 2006.

Law Modifying the 2006 Law Regulating Economic and Individual Activities with Weapons, 9 Jan. 2007, *Moniteur Belge*, 1 Feb. 2007.

Law Modifying the 2006 Law Regulating Economic and Individual Activities with Weapons in order to Prolong the Delay for the Declaration of the Detention of Weapons, 23 Nov. 2007, *Moniteur Belge*, 31 Dec. 2007.

Law Modifying the 2006 Law Regulating Economic and Individual Activities with Weapons, 25 July 2008, *Moniteur Belge*, 22 Aug. 2008.

⁵ **Law Modifying the 1990 Law on Private Security Services, the 1991 Law Organising the Profession of Private Detective and the 1933 Law on the Fabrication, Trade and Carrying of Weapons and on the Ammunitions Trade**, 18 July 1997, *Moniteur Belge*, 28 Aug. 1997.

⁶ **Law Modifying the Code of Criminal Procedure, Various Police Laws and the 1990 Law on Private Security Services**, 19 Apr. 1999, *Moniteur Belge*, 13 May 1999.

⁷ **Law Modifying the 1990 Law on Private Security Services**, 9 June 1999, *Moniteur Belge*, 29 July 1999.

and 7 May 2004,¹⁰ simplified in 2005¹¹ and renamed the ‘law regulating private security’. The consolidated text regulates the provision of private security, safe-keeping services, training and consulting activities relative to the security industry, and safety measures implemented inside public transportation companies. As such, it applies to all physical and moral persons offering to a third party on a permanent or temporary basis services of: surveillance and protection of movable or immovable goods, and of the transportation of valuables; protection of persons; instalment, management or repair of alarm systems; surveillance and monitoring of persons in the frame of security maintenance activities, be it in private places or in specific (listed) public areas; reporting on the situation of goods located on the public domain, by order of the competent authority or holder of a public concession, including the denunciation of legal infractions including an administrative sanction; accompanying for road-security purposes of groups of motorists, cyclists, participants in sports competitions or school-children; advice aimed to prevent the commission of infractions against persons or goods; and internal security provided by public transportation companies on their own network.¹²

Originally, it excluded from its scope individuals bound by a labour contract or close family ties, as well as companies counting no more than four associates exercising the said activities. Yet, all these exceptions have been annulled by a 1998 decision of the *Cour d’arbitrage*,¹³ the Belgian constitutional court. Companies which are part of the same society or associated with it cannot be considered third parties and remain, thus, excluded from the application of the law on private security services.

B. Authorisation

The provision of security and safe-keeping services needs to be authorised by the interior minister, after consultation with the security of state department and either the King’s prosecutor of the place where the company is established or the justice minister. The interior minister may delegate this task to a designated civil servant, with the exception of first requests and denial of the authorisation or of its renewal. The licence may exclude the exercise of given activities and the use of certain means and methods or subordinate it to specific conditions. The interior minister recognises the

⁸ **Law Modifying the 1990 Law on Private Security Services**, 10 June 2001, *Moniteur Belge*, 19 July 2001.

⁹ **Law Inserting an Article 17 bis in the 1990 Law on Private Security Services**, 25 Apr. 2004, *Moniteur Belge*, 3 June 2004.

¹⁰ **Law Modifying the 1990 Law on Private Security Services, the 1934 Law Prohibiting Private Militias and the 1991 Law Organising the Profession of Private Detective**.

¹¹ **Law Simplifying the 1990 Law on Private Security Services**, 2 Sept. 2005, *Moniteur Belge*, 27 Sept. 2005.

¹² **Law on Private Security Services**, Article 1 and Article 11 § 3.

¹³ **Cour d’arbitrage**, No 126/98, 3 Dec. 1998, *Moniteur Belge*, 25 Dec. 1998, pp. 41191-41196.

training prescribed by the law and can specify the centres charged with the organisation of the exams. The interior minister can also issue a quality label to some authorised security consultancy companies.¹⁴

The licence mentions the authorised activities and is conditioned to the respect of the legal prescriptions regarding the minimum number of personal employed and the organisational and technical means at the disposal of the company. It is granted for an initial period of five years, renewable every five or ten years, depending on the type of services provided. It can be suspended or annulled by demand of the authorised company and in the event of a breach of its legal duties or risk for the public order or state security.¹⁵ The special licences required to hold or bear arms is granted for the same period of time as this general licence and may also be suspended or revoked in case of contravention of the law.¹⁶

C. Conditions of exercise and liability

Security and safe-keeping companies need to respect ordinary Belgian company law rules or those of another member state of the European Union. They have to be established on the territory of a member state of the European Union.¹⁷ They cannot act unless their civil liability is covered by a recognised insurance company. The insurance contract gives to the prejudiced party a direct claim against the insurer. The latter cannot oppose against it any clause of exception or nullity but only reserve itself the right to fall back on the insured party. More detailed rules regarding insurance cover, in particular the extent of the coverage, are specified by royal decree.¹⁸ Specific rules for the surveillance and protection of the international transportation of valuables can also be determined by royal decree.¹⁹

The persons effectively managing security and safe-keeping companies or sitting on their board of directors need to fulfil a certain number of conditions. They may neither have been convicted (at home or abroad) of any criminal offence, with the exception of infractions to the regulations on road traffic, nor gravely breached professional deontology rules, and they ought to meet with the security requirements necessary to the exercise of their function. They need to be at least twenty-one years old, European Union citizens and have their main residence on the territory of a European member state. They must satisfy the prescribed conditions of professional

¹⁴ **Law on Private Security Services**, Article 2 §§ 1, 2 and 5, and Article 4.

¹⁵ *Ibid.*, Articles 4 *bis* and 17.

¹⁶ **Royal Decree on the Weapons Used by the Companies, Services, Organisms and Persons to Which Applies the 1990 Law on Private Security Services**, 17 Nov. 2006, *Moniteur Belge*, 24 Nov. 2006.

¹⁷ **Law on Private Security Services**, Article 2 § 3.

¹⁸ *Ibid.*, Articles 3 and 4 *ter*.

¹⁹ *Ibid.*, Article 2 § 4.

training and experience, which have been specified by royal decree. They cannot simultaneously exercise the profession of private detective, weapons and ammunitions manufacturer or trader, and any other activity which could constitute by the mere conjunction of both functions a threat for the public order or state security. In addition, they cannot concurrently manage or work for companies that provide security services and services to cafés or dance clubs. People employed during the five previous years by the police or a public intelligence service and the persons who have exercised other public functions listed in a royal decree are similarly disqualified.²⁰ Initially, the law also barred people who had exercised military functions but another 1998 decision of the *Cour d'arbitrage* invalidated this clause.²¹

People working for security or safe-keeping companies in a non-managerial position have to abide by the same rules as their managers regarding the requirements of security, nationality, residence, professional training and the concurrent performance of multiple activities. They need to have reached the age of eighteen and to undertake the medical and psychological checkups prescribed by royal decree. However, they are submitted to less strict conditions regarding past criminal activities. Members of the board of directors are exempted of the conditions of nationality, residence and professional training, provided that they do not assume the effective direction of the company. The same exemption applies to the individuals belonging to the administrative or logistics personnel; that is to say, the persons who do not take any active part in the provision of security or safe-keeping services. Besides, in contrast with people involved in safe-keeping services, the managers and employees of companies that deal with alarm systems, consultancy and training are not bound to comply with all the listed conditions.²²

Investigations related to the requisite security conditions are initiated by the civil servant that the interior minister entrusts with this task in circumstances specified by royal decree. They are undertaken by the police, the state security department or any other authority in charge of the application of the law on private security services. The inquiry is subjected to the prior consent of the person against whom it is directed and the data collected are destroyed as soon as a definitive administrative decision has been reached.²³

²⁰ **Law on Private Security Services**, Article 5.

Royal Decree on the Conditions of Professional Training and Experience, the Conditions of Psychological Exam for the Exercise of a Managerial or Executive Function in a Safe-Keeping Company, and the Approval of Trainings, 21 Dec. 2006, *Moniteur Belge*, 18 Jan. 2007.

²¹ **Cour d'arbitrage**, No 124/98, 3 Dec. 1998, *Moniteur Belge*, 25 Dec. 1998, pp. 41168-41173.

²² **Law on Private Security Services**, Articles 5 and 6.

Royal Decree on the Conditions of Professional Training and Experience, the Conditions of Psychological Exam for the Exercise of a Managerial or Executive Function in a Safe-Keeping Company, and the Approval of Trainings.

²³ **Law on Private Security Services**, Articles 7 and 16.

D. Supervision of activities, means and methods

The interior minister regulates the working uniform worn by the members of private security and safe-keeping services and the vehicles they use (both of which ought never be confused with those of the public police force), as well as the stocking, detention and carrying of weapons. Firearms are stocked in a magazine, under the direct responsibility of a specific employee, and a register is kept that mentions each incident in which a weapon has been used, by whom and for which mission. It is forbidden to bear arms for the management of alarm systems, the surveillance and monitoring of persons, reporting on the situation of goods located in the public domain, road-security activities, the surveillance and protection of goods located in places accessible to the general public, and consultancy purposes. Both the detention of weapons and the exercise of armed safe-keeping activities are subjected to distinct special licences delivered by the interior minister after verification that the required conditions are met. In particular, the liabilities related to the bearing of arms must be expressly covered by insurance. The use of dogs is conditional on the prior authorisation of the interior minister. Only shepherd dogs are allowed in the frame of safe-keeping activities and they must be constantly muzzled and kept on a leash. Torch lamps whose light-ray exceeds thirty centimetres of length are proscribed.

The law compels employees of private security companies to carry at all times an identification card or comparable document, whose modalities of deliverance, validity and destruction is determined by royal decree. Safe-keeping agents who exercise mobile activities, or work in a place where neither other guardians nor third parties are, and those who are in charge of inspecting shops must constantly be able to communicate with a call centre or a person responsible for the security service.

Members of private security companies can never act beyond the rights which any citizen holds or outside the competences that the law expressly confers on them. The means, methods and procedures they are allowed to employ can be further specified by royal decree. Besides, in case of emergency or grave and imminent threat to the public order, the interior minister may either ban the exercise of given activities and the use of certain means and methods in public places (be it on a temporary or permanent basis) or impose complementary measures of security. In the absence of prior consent, nobody can be subjected to personal surveillance or protection. The methods and procedures utilised while monitoring individuals and personal goods, and the circumstances in which they are admissible, are strictly regulated.²⁴ Above all, safe-keeping agents can never refuse someone access to public places on directly or

²⁴ **Law on Private Security Services**, Article 8.

Royal Decree Regulating Certain Safe-Keeping Methods, 7 Apr. 2003, *Moniteur Belge*, 7 May 2003.

Royal Decree on the Weapons Used by the Companies, Services, Organisms and Persons to Which Applies the 1990 Law on Private Security Services, 17 Nov. 2006, *Moniteur Belge*, 24 Nov. 2006.

Royal Decree Modifying the 2003 Royal Decree Regulating Certain Safe-Keeping Methods, 26 July 2007, *Moniteur Belge*, 13 Aug. 2007.

indirectly discriminatory grounds as defined, and prohibited, in the 2003 law designed to fight discrimination.²⁵

A specific regime has been adopted for the organisation of security services inside public transportation companies. In particular, their agents can only be armed with a small neutralising spray that cannot cause permanent corporal or material damage and a pair of handcuffs, in application of a decision of the federal trusteeship authority if the company is national and of the interior minister if it is regional. Moreover, their activities are monitored by the police (more specifically, by the permanent supervisory committee of the police) and other designated agents and civil servants.²⁶

Private security and safe-keeping companies need to inform the police or the interior minister of the nature and specifics of their activities. They must also transmit without delay to the judicial authorities, whenever the latter request it, information relative to criminal infractions that they gathered in the exercise of their activities.²⁷ In contrast, they can never communicate to third parties information regarding their clients. Moreover, they are prohibited from intervening in political disputes and labour conflicts, as well as in relation to actions taken by trade unions or acts of a political nature. The monitoring of political, philosophical, religious or trade union opinions, their expression, and the creation of data banks in this aim are similarly proscribed.²⁸

E. Monitoring of contraventions and sanctions

Private security companies send a yearly report of their activities to the interior minister, who drafts in turn a report on the application of the relevant law for the house of representatives, Belgium's lower parliamentary chamber. In addition, the interior minister informs the chamber on a yearly basis of the evolution of the technical means, which might limit the risks undertaken by safe-keeping agents in the exercise of their functions, and of the measures adopted in order to encourage their use.²⁹ Private security companies need to take all necessary precautions so that the people working for them abide by the law and their managers must exercise effective control over other employees in order to guarantee its respect. Independently of the possibility to refer noticed irregularities to the judicial authorities, people can denounce them to the interior minister. Nobody can employ the services of a private safe-keeping or security company which has not been legally authorised and duly licensed.³⁰

²⁵ **Law Striving to Fight Discrimination and Modifying the 1993 Law Creating a Centre for the Equality of Chances and the Struggle against Racism**, 25 Feb. 2003, *Moniteur Belge*, 17 Mar. 2003, Article 2 §§ 1-2.

²⁶ **Law on Private Security Services**, Articles 13.1-13.17 and Article 16.

²⁷ *Ibid.*, Articles 9 and 10.

²⁸ *Ibid.*, Article 11 §§ 1 and 2.

²⁹ *Ibid.*, Article 14.

³⁰ *Ibid.*, Article 15.

Members of the police forces and civil servants and agents designated for that purpose by royal decree monitor the application of the law on private security companies. Other civil servants and agents can ask the assistance of the police in the exercise of these functions. They are competent to draft statements of offences that are deemed accurate until proven otherwise. They have at all times access to both the premises of the company and the places where it exercises its activities, as well as to the documents needed for their supervisory tasks. They can order the immediate cessation of any action that constitutes an infraction. A statement of offence must, then, be sent during the next fifteen days to the civil servant in charge.³¹

In case of breach of the law, the interior minister can suspend for a term of maximum six months or annul a company's licence or confiscate the identification document of one of its employees. The same applies to companies that exercise activities incompatible with the public order or state security. The adoption of such measures is conditioned to a prior consultation with the interested parties, in the respect of the rights of the defence, and the decision must be motivated and legally notified to them. In the event of a condemnation for breach of the criminal law, private security companies are liable for the payment of the costs and fines owed by their managers and workers. Civil offences are sanctioned by either a simple warning or an administrative fine, whose amount might be eventually diminished following a friendly settlement, within a maximum period of three years after the incriminating event, at the end of which there is *prescription* and no legal action can be pursued anymore. Here again, these pronouncements ought to be adequately motivated and to respect the rights of the defence. The companies remain liable for the payment of the administrative fines incurred by their members. The companies whose head office is situated outside Belgium provide a security deposit for that purpose. Administrative fines are contested before the tribunal of first instance of Brussels. This appeal suspends the execution of the decision. No further appeal can be introduced against the tribunal's verdict.³²

III. Law organising the profession of private detective

A. Scope

The 1991 law organising the profession of private detective³³ was amended on 30 December 1996³⁴ and 7 May 2004.³⁵ It applies to people who exercise on a regular

³¹ *Ibid.*, Article 16 and Article 19 § 2.

³² *Ibid.*, Articles 17, 18 and 19.

³³ **Law Organising the Profession of Private Detective**, 19 July 1991, *Moniteur Belge*, 2 Oct. 1991.

³⁴ **Law Modifying the 1991 Law Organising the Profession of Private Detective**, 30 Dec. 1996, *Moniteur Belge*, 14 Feb. 1997.

³⁵ **Law Modifying the 1990 Law on Private Security Services, the 1934 Law Prohibiting Private Militias and the 1991 Law Organising the Profession of Private Detective**, 7 May 2004, *Moniteur Belge*, 3 June 2004.

basis, for third parties and in exchange for remuneration, activities such as searching for missing persons and stolen or lost goods; collecting information relative to the civil status, conduct, morality and financial solvency of persons; gathering pieces of evidence or recording litigious facts; investigating industrial spying activities; or any further activity determined by royal decree. Journalists, bailiffs, notaries, lawyers and genealogists who carry out such activities as part of their professional functions are excluded from the scope of this law.³⁶

B. Authorisation

As for private security companies, the exercise of the profession of private detective needs to be authorised by the interior minister, after consultation with the state security department and either the King's prosecutor of the place where the person is principally residing or the justice minister. The licence may exclude the exercise of given activities and the use of certain means and methods or subordinate it to specific conditions. It is granted for an initial period of five years, renewable every ten years. It can be suspended or annulled by demand of the authorised detective and in the event of a breach of its terms. The minister's decision must be notified to the applicant within six months.³⁷ Upon authorisation, the detective is granted an identification card. The exact procedure and requirements for the initial application and renewal requests have been specified by royal decree.³⁸

C. Conditions of exercise

The agreement is conditioned to the fulfilment of a certain number of requirements. Private detectives may not have been convicted (either home or abroad) of any serious or related criminal offence, as determined by the law. They need to be at least twenty-one years old and European Union citizens. They must satisfy requirements of professional training and experience, which have been specified in a set of royal decrees. They are not allowed to work at the same time for a private security company, and they cannot simultaneously exercise the profession of weapons and ammunitions manufacturer or trader, a profession giving access to personal data or any other activity which could constitute by the mere conjunction of both functions a threat to the public order or state security. People employed during the five previous years by the police or a public intelligence service and the persons who have exercised military or other public functions listed in a royal decree are similarly disqualified. This delay is extended to ten years in case of dismissal. Moreover, applicants not established in Belgium must elect a place of establishment with an authorised private detective already established on

³⁶ **Law Organising the Profession of Private Detective**, Article 1.

³⁷ *Ibid.*, Articles 2 and 18.

³⁸ **Royal Decree on the Authorisation to Exercise the Profession of Private Detective**, 29 Apr. 1992, *Moniteur Belge*, 15 May 1992.

national territory, who guarantees the respect of their legal obligations, monitors their activities and drafts a report on them to the interior minister once every three months.³⁹

D. Supervision of activities, means and methods

In the absence of a specific derogation granted by the interior minister, the profession of private detective can only be undertaken as a main professional activity and detectives cannot work for public agents or entities. They are compelled to carry at all times their professional identification card and must declare without delay its eventual loss or destruction to the police. Spying and taking pictures of persons in places inaccessible to the general public is proscribed, without the consent of the concerned individuals and the manager of that space. Detectives are also barred from gathering information relative to people's political, philosophical, religious or trade-union opinions, and their expression of such opinions; their health; their social and ethnical origins; and their sexual preferences, with the exception of acts constitutive of an infraction or a ground for divorce when they work for the person's spouse. The means and methods detectives are allowed to employ can be further specified by royal decree.⁴⁰

The detectives and their clients sign a written agreement, which describes in a detailed manner the object and duration of the mission to be undertaken and needs to be retained for five years. Whenever the client is at the same time the employer of the detective, the latter is instead bound to keep a register of the activities carried out. At the end of their missions, detectives must send a report to their clients and they cannot accept jobs that run counter to the interests of the latter for a period of three years after the date of the said report. The information gathered is not communicated to any person other than the clients, unless upon request from the interior minister, the justice minister or other judicial authorities with the intention of protecting the public order and state security or preventing and investigating infractions of the criminal law.⁴¹

³⁹ **Law Organising the Profession of Private Detective**, Articles 3 and 16 *bis*.

Royal Decree on the Delivery of a Certificate in order to Exercise the Profession of Private Detective and the Approval of the Organisms Authorised to Deliver this Certificate, 14 Sept. 1992, *Moniteur Belge*, 29 Sept. 1992.

Royal Decree Modifying the 1992 Royal Decree on the Delivery of a Certificate in order to Exercise the Profession of Private Detective and the Approval of the Organisms Authorised to Deliver this Certificate, 9 June 1997, *Moniteur Belge*, 9 July 1997.

Royal Decree Modifying the 1992 Royal Decree on the Delivery of a Certificate in order to Exercise the Profession of Private Detective and the Approval of the Organisms Authorised to Deliver this Certificate, 17 Feb. 2005, *Moniteur Belge*, 8 Mar. 2005.

⁴⁰ **Law Organising the Profession of Private Detective**, Articles 4, 5, 6, 7, 12 and 13.

Royal Decree on the Authorisation to Exercise the Profession of Private Detective, Articles 3 and 4.

Royal Decree Modifying the 1992 Royal Decree on the Authorisation to Exercise the Profession of Private Detective, 26 May 1998, *Moniteur Belge*, 19 June 1998, Article 1.

⁴¹ **Law Organising the Profession of Private Detective**, Articles 9, 10 and 16 § 2.

E. Monitoring of contraventions and sanctions

The interior minister prepares an annual report on the application of the relevant law for the house of representatives. The civil servants and agents competent to monitor the application of the law organising the profession of private detective are designated by royal decree. They can ask the assistance of the police in the exercise of these functions. They are competent to draft statements of offences that are deemed accurate until proven otherwise. They have access to the detective's agency during the usual opening or working hours, as well as to the documents and pieces of evidence needed for their supervisory tasks. In addition, they are entitled to proceed to any type of enquiry, check, hearing or information-gathering that they deem necessary. In the case of a breach of the law, the interior minister can suspend the detective's licence for a term of maximum six months or annul it. The adoption of such measures is conditioned to a prior consultation with the interested parties and the decision must be motivated.⁴²

IV. Policy considerations

A special fund destined to cover the administrative and supervisory costs incurred while dealing with safe-keeping and security companies or detectives, which is financed by the contributions of the said private actors, is inscribed on the budget of the interior ministry.⁴³ Finally, a consultative council on private security is created with the mission of advising the interior minister on the application of the laws regulating private security and organising the profession of private detective, and on related policy issues.⁴⁴

V. Conclusion

Belgium is a party to the 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries. No domestic legislation further regulates the recruitment and participation of Belgian nationals in foreign armies to fight in foreign countries. However, because of its strong attachment to monism and the prevalence of international over national norms, this regulatory vacuum does not affect or qualify in any manner the total ban on such activities under Belgian law. The use of private military companies on national territory has been forbidden since 1934. And the activities of private security companies or other private actors exercising traditional police or security related functions, like private detectives, are strictly regulated. As a result, the adoption of a more systematic or specific law at the municipal level does not seem to be warranted.

⁴² *Ibid.*, Articles 15, 17 and 18.

⁴³ **Law on Private Security Services**, Article 20.
Law Organising the Profession of Private Detective, Article 20 § 2.

⁴⁴ **Law on Private Security Services**, Article 23 *bis*.
Law Organising the Profession of Private Detective, Article 23 *bis*.