



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Federal Department of Foreign Affairs FDFA
Directorate of Political Affairs DP
Division for Security Policy

14.08.2019

2018 annual report on the implementation of the Federal Act on Private Security Services Provided Abroad

(1 January 2018 – 31 December 2018)

1. Introduction

Private security is a thriving sector currently experiencing rapid growth. The most common services are support for armed or security forces and the protection of persons. However, new types of services have appeared in recent years in conjunction with the use of advanced technologies. The types of companies providing private security services have also changed. The Federal Act on Private Security Services Provided Abroad (PSSA)¹ does not just apply to traditional security companies, but also to other stakeholders, such as consulting firms, intelligence agencies and industrial companies.

2. Implementation of the PSSA

The PSSA entered into force on 1 September 2015. The Act is intended to safeguard Switzerland's internal and external security, achieve Switzerland's foreign policy objectives, preserve its neutrality and guarantee compliance with international law (Art. 1 PSSA). Accordingly, the Act lays down procedures for monitoring the provision of private security services abroad, requiring Swiss companies to declare their activities and, where appropriate, undergo a review procedure.²

The unit in charge of implementing and interpreting the new federal Act (the competent authority) is the Private Security Services Section (PSSS) within the Directorate of Political Affairs (DP) of the Federal Department of Foreign Affairs (FDFA). It is tasked with implementing the PSSA and handling the administrative procedures laid down in the Act. It furthermore helps to formulate Switzerland's policy on private security services and engages in dialogue at national and international level on the rules and standards applying to private security companies.

Art. 37 PSSA provides that the competent authority must submit an annual report on its activities to the Federal Council. This report is published on the website of the FDFA.

2.1 Information and cooperation with other services

During the year under review, the competent authority continued, as in previous years, its information campaign to raise awareness among companies that might be affected by the PSSA. It met with many companies in order to better assess their activities and explain to them the procedure, the legal framework and their obligations under the Act.

The competent authority also works closely with the State Secretariat for Economic Affairs (SECO). A certain number of cases are subject to both the PSSA and the SECO licensing procedure for export trade under the War Material Act (WMA)³ and the Goods Control Act (GCA)⁴. The *Aide-mémoire relatif à la LPSP* (PSSA Information Sheet)⁵, published by the competent authority, contains practical information on this procedure.

To optimise this coordination, the FDFA and SECO put in place additional measures during the year under review. These include regular working meetings for 2019 and changes to the SECO-ELIC electronic licensing system for application processing. The changes include the introduction of mandatory fields to enable greater automation of the transmission of relevant requests from SECO to the FDFA.

¹ SR 935.41

² The Act completely prohibits two scenarios. It explicitly prohibits direct participation in hostilities (Art. 8 PSSA). It also prohibits companies from providing, from Switzerland, private security services if it may be assumed that the recipients will use the services in connection with the commission of serious human rights violations (Art. 9 PSSA).

³ SR 541.21

⁴ SR 946.202

⁵ https://www.eda.admin.ch/content/dam/eda/fr/documents/aussenpolitik/sicherheitspolitik/merkblatt-verhaeltnis-bps_FR.pdf

2.2 Revision of the *PSSA Guidelines and Information Sheet*

The *PSSA Guidelines and Information Sheet*⁶ clarify the definitions set out in the PSSA and provide useful instructions on the declaration and review procedure for activities subject to the act. Work for the publication of a third edition was carried out during the year under review. This new edition will be published on the website of the competent authority⁷ in summer 2019. The main updates in the new edition include more recognition of services in connection with new technologies.

2.3 Training requirements for private security company personnel

The PSSA stipulates that the personnel of companies whose activities are subject to the Act must possess the required training for the intended activity (Art. 14 para. 2 let. b PSSA). To address companies' requests for clarification, the Private Security Services Section defined training requirements for private security company personnel in relation to international humanitarian law and human rights. These training requirements were published at the end of 2017⁸ and communicated to companies subject to or potentially subject to the PSSA. The requirements, which are organised into modules, serve as guidelines for companies on training their staff. The requirements were the focus of three round tables organised by the competent authority in 2018.

The clarification of various issues related to the content of the training and the implementation of the requirements has proven useful, in particular in view of the fact that the competent authority will not provide any training itself, in the absence of a mandate going in this direction. Companies may choose to have their staff trained directly by specialised consultants, associations (such as Swissmem⁹), non-governmental organizations (NGO) or in-house trainers, whose qualifications have been verified by the competent authority.

During the round table meetings, the authority scheduled a follow-up with the companies, and deadlines to develop an appropriate training concept to submit to the authority. The training itself will then take place in a second phase.

2.4 Engagement at international level

At the international level, the competent authority engages in dialogue on national and international standards for private military and security companies and on oversight mechanisms for these types of activities.

In the year under review, the authority took part in the following events:

- The 2018 General Assembly of the International Code of Conduct for Private Security Service Providers' Association (ICoCA) in Geneva
- The fourth plenary meeting of the Montreux Document Forum in Geneva
- The first Montreux Document Forum (MDF) Regional Meeting in Latin America and the Caribbean (LAC)
- A discussion with the *Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination* took place in Geneva
- Different events organised by the Organization for Security and Co-operation in Europe (OSCE)
- The Geneva Dialogue on Responsible Behaviour in Cyberspace¹⁰ in Geneva

⁶ https://www.eda.admin.ch/dam/eda/en/documents/aussenpolitik/sicherheitspolitik/wegleitung-BPS-ausland_EN.pdf

⁷ <https://www.eda.admin.ch/eda/en/home/foreign-policy/security-policy/bundesgesetz-ueber-die-im-ausland-erbrachten-privaten-sicherheit.html>

⁸ https://www.dfae.admin.ch/dam/eda/en/documents/aussenpolitik/sicherheitspolitik/Ausbildungsanforderungen-BPS_en.pdf

⁹ Swissmem is the leading association for SMEs and large companies in Switzerland's mechanical and electrical engineering industries (MEM industries) and related technology-oriented sectors.

¹⁰ <https://genevdialogue.ch/>

2.5 Contact with Parliament and the media

During the year under review, several parliamentary committees considered the 2017 annual report on the implementation of the Federal Act on Private Security Services Provided Abroad: the National Council Security Policy Committee (SPC-N)¹¹ and the sub-committees of the Control Committees¹².

In addition, the competent authority has received a number of enquiries from the press, Swiss online media and interested parties regarding the implementation of the PSSA in general or specific situations involving Swiss companies operating in the sector.

¹¹ <https://www.parlament.ch/en/organe/committees/specialist-committees/committees-spc>

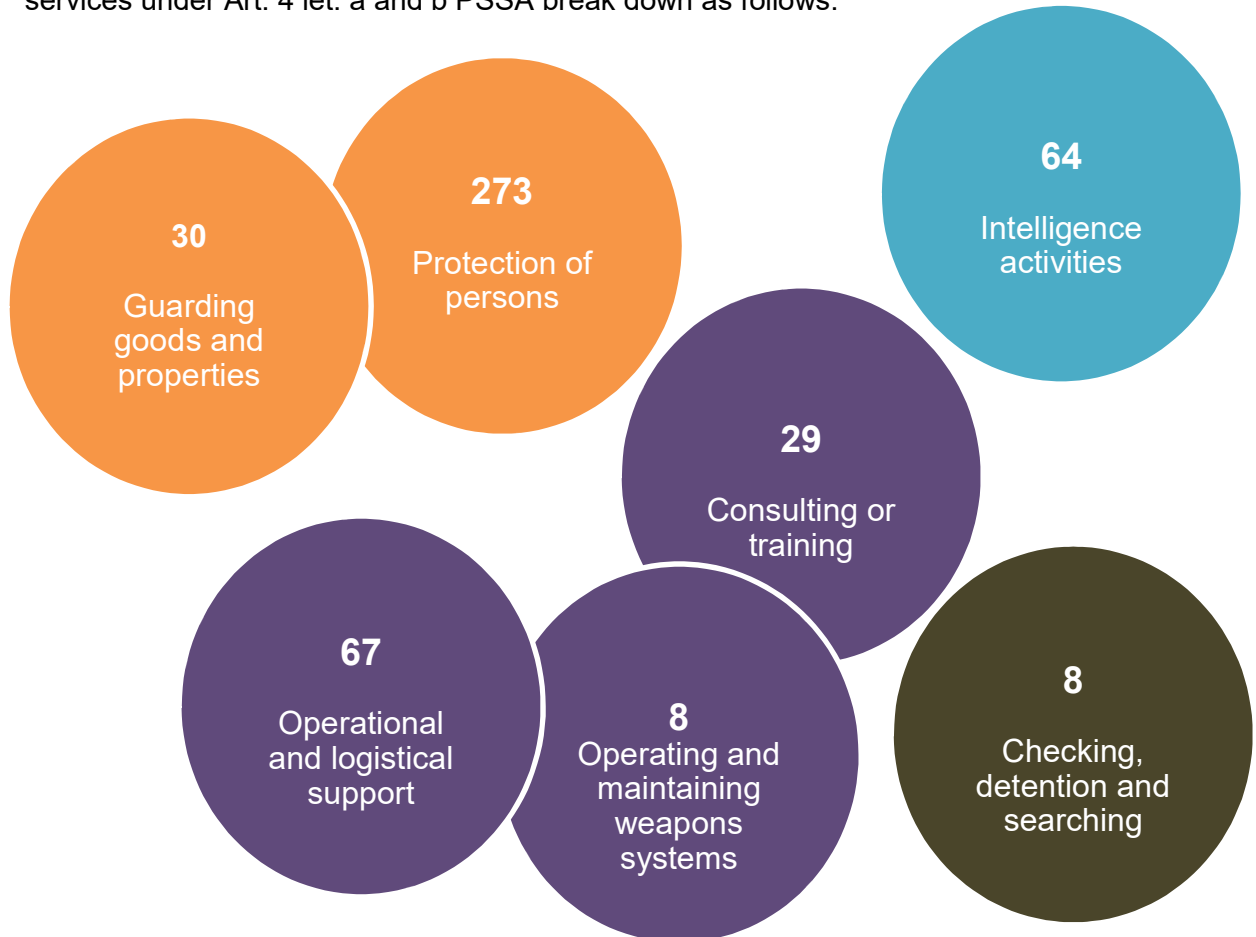
¹² <https://www.parlament.ch/en/organe/committees/supervisory-committees/control-committees-cc/sub-committees-cc>

3. Statistics

3.1 Figures

Between 1 January and 31 December 2018, 24 companies submitted 479 declarations to the competent authority regarding an activity (services; 2017: 457; 2015/2016: 306).

The **declarations submitted during 2018** to the competent authority for private security services under Art. 4 let. a and b PSSA break down as follows:



No service in connection with private security service abroad

No guarding, caring for, transport of prisoners, operating prison facilities

No security services at events

3.1.1 Declaration procedures¹³

The declarations are mainly broken down into three groups of security services:

- **Orange circles: 303 activities (2017: 279; 2015/2016: 114) concerning the protection of persons and the guarding or surveillance of goods and properties in complex environments (Art. 4 let. a para.1 and 2 PSSA).** Companies providing services in relation to the protection of persons or the guarding of goods are private security companies – generally small to medium-sized – in the commonly accepted

¹³ Between the entry into force of the PSSA on 1 September 2015 and 31 December 2018, 54 companies submitted a declaration: 45 companies submitted a declaration regarding the provision of services under Art. 10 PSSA and nine submitted a declaration relating to the company itself. A total of 1,242 declarations have been submitted to the competent authority in respect of private security services under Art. 4 let. a and b of the PSSA since 1 September 2015.

meaning of the term; they provide services corresponding to the definition of 'security services' under the Code of Conduct.

- **Blue circle: With 64 declarations (2017: 109; 2015/2016: 115), intelligence activities (Art. 4, let. a, para. 9 PSSA) made up a second segment.** It is mainly investigative agencies, usually active in the business sector and especially banking, which operate in the area of private intelligence.
- **Purple circles: A third group with 104 declarations (2017: 50; 2015/2016: 59) concerned services for armed or security forces in the area of operational or logistical support, operating and maintaining weapons systems and advising or training members of armed or security forces (Art. 4 let. a para. 6–8 PSSA).** Most of the companies providing services in this field are industrial companies – of widely varying size – in the war material and dual-use goods sector. The volume of activities undertaken in this sector also varies and the declarations are of varying natures. In some cases, these are services that require a constant physical presence on site, but there are also less vital services requiring only an ad hoc presence. In some cases the services are even provided in Switzerland. Moreover, the types of products are also highly variable. These may include military equipment, dual-use goods or other technological products. The area of 'training' also comprises specialist consultants, for example in the field of police training.

3.1.2 Review procedures

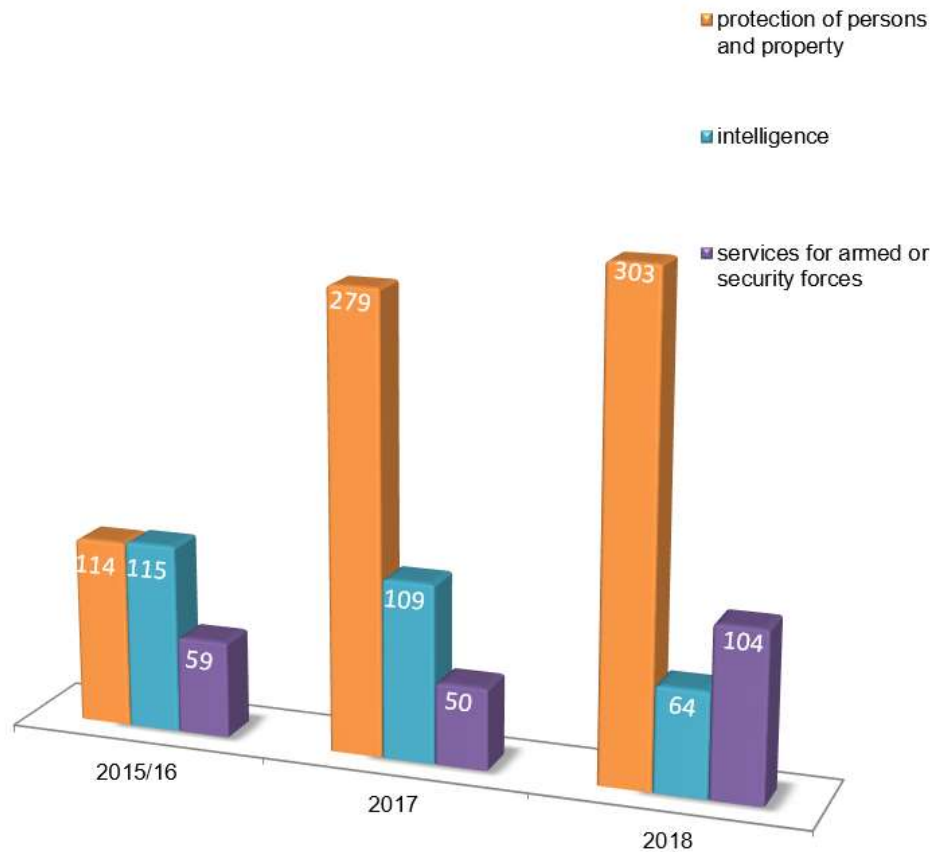
The competent authority initiated 16 review procedures (2017: 18; 2015/2016: 6) in accordance with Art. 13 PSSA. In three instances, the company was allowed to carry out the declared activity. In seven instances, the competent authority prohibited the declared activity. Six cases are pending.

3.1.3 Prohibitions

The seven instances where the activity was prohibited (2017: 2; 2015/2016: 1) involved operations in connection with armed or security forces. These activities were prohibited because there was a risk of non-compliance with international law or because the activities were inconsistent with Switzerland's foreign policy objectives. No appeal was made against the competent authority's decisions.

During the period under review, the competent authority did not receive information about companies providing services that would be in breach of Articles 8 and 9 of the PSSA. In addition, no sanctions under Articles 21 to 27 PSSA were imposed by the Office of the Attorney General of Switzerland during the period under review.

3.1.4 Main groups of services - Evolution¹⁴



The table above shows the evolution of the declarations broken down into the three main groups of security services indicated above, for the periods 1 September 2015–31 December 2016, 1 January 2017–31 December 2017 and 1 January 2018–31 December 2018.

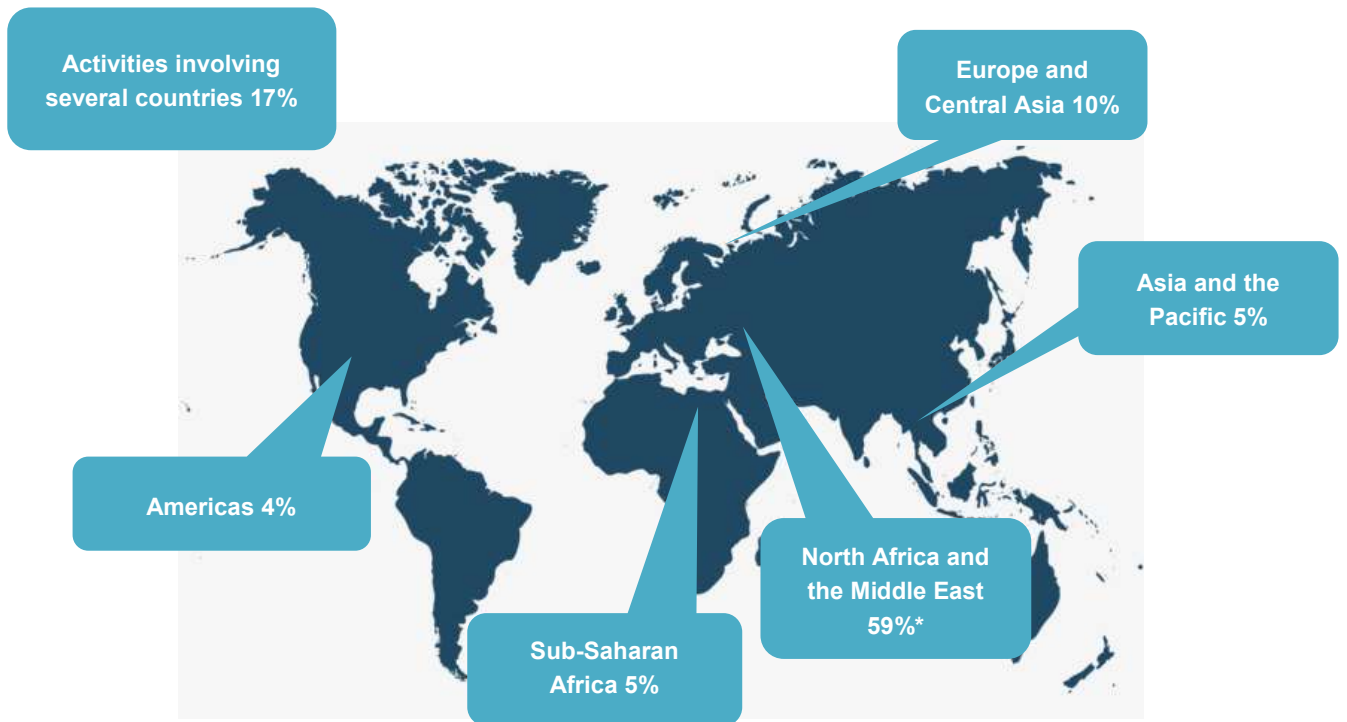
Between 1 January and 31 December 2017 and the year under review, the competent authority observed a fall in intelligence-related services and a sharp rise in the number of declarations relating to services for armed or security forces (Art. 4 let. a para. 6,7 and 8 PSSA) which more than doubled. The increase in military services can be explained by the fact that many companies have now become aware of their obligation to report thanks to the awareness raising.

Regarding private security services, i.e. the protection of persons and property in complex environments (Art. 4 let. a para.1 and 2 PSSA), the number of declarations did not vary significantly between 2017 and 2018.

3.1.5 Geographic breakdown of activities (1 September 2015–31 December 2018)

From a geographical perspective, the activities subject to the Act are mainly concentrated in the regions of North Africa and the Middle East, where about half of the activities declared since the PSSA came into force were carried out, in addition to Europe and Central Asia.

¹⁴ Data related to checking, detention and searching is not taken into account in this statistic.



* This percentage is higher because of insecurity in the region, particularly in Iraq, and the protection of persons and property that is required.

4. Contracting of security companies by federal authorities for protection tasks carried out abroad

According to the PSSA, Swiss representations abroad can only mandate a security company for protection in a complex environment if it is a member of ICoCA.

The competent authority and FDFA's Crisis Management Centre (KMZ) regularly evaluate the list of complex environments, taking into account recent developments of the situation in various countries and regions.

In Pakistan, private security providers which are ICoCA members were ordered by the country's ministry of the interior to revoke their membership or their licence to provide security services would be cancelled. This governmental order also applied to the private security company hired locally by the Swiss representation. As the country's capital is not located in a complex environment, there were no direct legal consequences for the Embassy under the provisions of the PSSA and the Ordinance on Private Security Services provided Abroad (OPSA)¹⁵. Nevertheless, the developments in this country regarding the question of ICoCA membership are worrisome. Such measures could potentially be adopted in other countries.

¹⁵ SR 935.411

5. New types of services

Increasing use is being made of complex weapon systems requiring significant technical experience, and this expertise is often provided worldwide by companies active in the arms industry and private security.

Private security services are in increasing demand when it comes to activities involving drones, semi-autonomous or autonomous weapons or cybersecurity technologies. For example, more and more companies active in the field of cybersecurity are offering training or advice to armed or security forces to help them secure their IT systems and prevent potential cyberattacks.

The competent authority is closely following these developments in Switzerland and worldwide. It has also taken steps to include these in the revised *PSSA Guidelines*.

6. Conclusions and outlook

The competent authority draws a positive assessment of the third year of implementation of the PSSA. There is growing recognition regarding the importance of the oversight mechanism introduced by the PSSA for private security services abroad and the pioneering role played by Switzerland in this field.

The competent authority has extended its efforts to provide information and raise awareness in new companies, further increasing their understanding of their obligations under the PSSA.

In 2019, the competent authority will continue to improve the processes involved in the implementation of the PSSA. Specifically, it will follow through with the reciprocal coordination and information mechanisms put in place with SECO and publish a new version of the *PSSA Guidelines* and *Information Sheet*.

Moreover, the competent authority remains committed to improving governance in the private security sector both in Switzerland and internationally. To this end, it will pursue its efforts to ensure wider dissemination of the aims and provisions of the PSSA. Drawing on Switzerland's pioneering experience, the competent authority will keep working for the promotion of rules and standards in other countries and international organisations such as the OSCE. Furthermore, it will work together with the other relevant institutions towards a coherent strategy for the regulation of private security services.

The competent authority will also continue to apply itself to challenges such as the emergence of new technologies and the increasing importance of cyberspace.

Private Security Services Section

Federal Department of Foreign Affairs FDFA
Directorate of Political Affairs DP
Division for Security Policy DSP

Effingerstrasse 27, 3003 Bern

Tel. +41 58 464 69 88

spsd@eda.admin.ch

<https://www.eda.admin.ch/eda/en/home/foreign-policy/security-policy/bundesgesetz-ueber-die-im-ausland-erbrachten-privaten-sicherheit.html>