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ANNUAL REPORT ANALYSIS OF THE PRIVATE SECURITY INDUSTRY REGULATORY AUTHORITY (PSIRA) 2020/21

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1. INTRODUCTION

This paper provides a summary of the financial and service delivery performance of PSIRA during the 2020/21 financial year. The paper is completed in preparation for the engagement of the Portfolio Committee on Police on the 2020/21 Annual Report hearing scheduled for 24 November 2021.

2. SUMMARY

The Private Security Industry Regulatory Authority (PSIRA) was established in terms of Section 2 of the Private Security Industry Regulation Act, No. 56 of 2001. The Authority is mandated to regulate the private security industry and to exercise effective control of security service providers in the public and national interest and the interest of the security industry itself.

PSIRA received its third consecutive clean audit in 2020/21. This means that the Authority did not record any financial misstatements and there were no material findings on reporting on performance objectives or non-compliance with legislation. PSIRA's financial sustainability increased in 2020/21 compared to the previous financial year. At year-end, PSIRA closed with a surplus of R33.348 million, which is a significant improvement against R3.437 million recorded in the previous financial year. The significant increase in the surplus is mainly due to a significant decrease in expenditure (R28.615 million).

The Authority has achieved 86% of its predetermined performance indicator targets at the end of the 2020/21 financial year (25 targets achieved from 29), which is a decrease in performance compared to an 96% achievement rate in 2019/20. At the end of March 2021, the PSIRA had 311 permanent staff members, of which most are attached to Law Enforcement (171 staff), followed by Finance and Administration (99 staff), Communication and Training (24 staff) and Registrations (17 staff).



Nine years after being introduced in Parliament, the Private Security Industry Regulation Amendment Bill, 2012 (B27-2012) was signed into law by the President on 23 September 2021 and it became the Private Security Industry Regulation Act, 2014 (No. 18 of 2014). The key legislative challenge for PSIRA remains its outdated funding model, which it cannot address before the Minister of Finance reintroduces the Private Security Levies Act, 2002 in Parliament.¹

The previous PSIRA Council's term of office expired in January 2020. The Minister of Police only appointed the new Council on 01 January 2021 – as such, PSIRA operated without a Council for a full year. For the duration of this period, the PSIRA Director governed and controlled the Authority and was appointed as the Acting Accounting Authority by the Minister under section 49(2) of the PFMA.

Note: The Minister of Police also failed to appoint the Executive Director of the Independent Police Investigative Directorate (IPID) and the National Forensic Oversight and Ethics Board (DNA Board) within the legislative framework provided.

3. OVERVIEW OF THE PRIVATE SECURITY INDUSTRY 2020/21

In 2020/21, PSIRA had 2 577 138 (2.5 million) registered security officers and 11 195 registered security businesses. Less than a quarter of the total number of security officers are actively registered and working (557 277 officers) and 10 830 registered security businesses are active.

Since 2014, active security businesses increased from 8 144 to 10 830 in 2021 and active security officers increased from 487 058 to 557 277 over the same period. The largest concentration of active security officers and businesses are located in Gauteng, KwaZulu-Natal and the Western Cape.

In 2021, the private security industry remained male dominated, comprising of 77.5% male officers (432 100) and 22.4% female officers (125 177). Compared to the previous year, the number of female officers decreased from 29% to 22.4% in 2020/21 and male officers increased from 71% to 77.5%. In terms of age profile, most guards are between 31 and 40 years of age (216 966 guards), followed by 41 to 50 years (166 832 guards).

4. REPORT OF THE AUDITOR GENERAL

PSIRA received its third consecutive **clean audit** in 2020/21. This means that the Authority did not record any financial misstatements and there were **no material findings** on reporting on performance objectives or non-compliance with legislation. Importantly, the AG did not identify any significant deficiencies in internal control.

As in previous financial years, the AG identified two **matters of emphasis** that the Authority should address, both of which were previously identified. These are –

- **Material impairment:** Provision for an impairment to the amount of R16 496 789 was raised on trade debtors. Furthermore, material losses of R6 261 851 was incurred as a result of a write-off of irrecoverable trade debtors.

¹ Parliament approved the Private Security Industry Levies Act, 2002 and the President signed it into law, but it was never operationalised. As this is a Money Bill in terms of section 77 of the Constitution, it must be re-introduced in Parliament by National Treasury as the custodian of all Money Bills.



- Uncertainty relating to litigation:** PSIRA is a defendant in several legal actions. The estimated liability as at the end of March 2021, is R5 390 000, which is a significant increase compared to the previous financial year (R1 050 000).

The table below show the audit outcomes for PSIRA over the past decade (2009/10 to 2020/21). PSIRA has made significant gains to clear previous material findings, especially in terms of its financial sustainability.

Financial year	Audit outcome
2009/10	Qualified
2010/11	Unqualified with material findings
2011/12	Unqualified with material findings
2012/13	Qualified
2013/14	Unqualified with material findings
2014/15	Unqualified with material findings
2015/16	Unqualified with material findings
2016/17	Unqualified with material findings
2017/18	Unqualified with material uncertainty relating to the entity's ability to continue as a going concern.
2018/19	Unqualified with no material misstatements and findings (Clean audit).
2019/20	Unqualified with no material misstatements and findings (Clean audit).
2020/21	Unqualified with no material misstatements and findings (Clean audit).

5. STATEMENT OF FINANCIAL PERFORMANCE 2020/21

PSIRA's financial sustainability increased in 2020/21 compared to the previous financial year. At year-end, PSIRA closed with a **surplus of R33.348 million**, which is a significant improvement against R3.437 million recorded in the previous financial year. *(Note: In 2017/18, PSIRA recorded a R12.4 million deficit).* The significant increase in the surplus is mainly due to a significant decrease in expenditure (R28.615 million).

The table below provides a breakdown of the Authority's financial performance in 2020/21 compared to the previous financial year.

Table 1: Statement of Financial Performance

Financial year	2020/21	2019/20
Revenue		
Total revenue from exchange transactions	288 259 392	290 076 613
Revenue from non-exchange transactions	29 284 507	26 067 559
Total Revenue	317 543 899	316 144 172
Expenditure	(284 019 671)	(312 634 997)
Operating surplus (deficit)	33 524 228	3 509 175
Surplus/ (Deficit) for the year	33 348 822	3 437 727

Source: 2020/21 PSIRA Annual Report



During the year under review, the Authority's total revenue increased from R316.144 million in the previous financial year to R317.534 million. PSIRA's expenditure decreased significantly from R312.634 million in 2019/20 to R284.019 million in 2020/21, which is a decrease of R28.615 million. Expenditure on finance costs increased from R1.3 million in 2019/20 to R6.7 million in 2020/21 and debt impairments on trade debtors increased from R15.7 million in 2019/20 to R16.4 million in 2020/21. The decrease is mainly in other (general) operating expenses, like advertising, cleaning, postage, etc.

The following decreases in expenditure should be noted:

Table 2: Decreases in selected items under general expenses

Item	2020/21 (R)	2019/20 (R)	Decrease (R)
Consulting and professional fees	4 046 033	6 953 650	- 2 907 617
Council member fees	738 952	1 735 219	- 996 267
Fingerprint cost	6 454 725	10 136 835	-3 682 110
Functions and workshops	440 070	5 738 308	- 5 298 238
Legal fees	3 292 639	8 737 579	- 5 444 940
Travel (local)	1 865 109	7 777 366	- 5 912 257

Source: 2020/21 PSIRA Annual Report

At the end of 2020/21, the **debt impairment** was R16.49 million.

PSIRA is a defendant in a number of legal actions. It is not possible at this stage to determine the actual losses that PSIRA would suffer in the event that the court found against PSIRA. Estimated **liability amounts** to R5 390 000 for the period ended 31 March 2021, which is a significant increase compared to that of the previous financial year (R1 050 000).

The Authority did not incur **irregular expenditure** during the 2020/21 financial year. This is the fourth consecutive year in which the Authority did not incur irregular expenditure.

During the 2020/21 financial year, **fruitless and wasteful expenditure** increased significantly from R98 577 in 2019/20 to R162 178. In 2020/21, the Authority incurred fruitless and wasteful expenditure of R66 615, of which R60 000 was for failure to stop a salary.

Comments and questions

- 1) The Council was only appointed on 01 January 2021 (thus for only three months of the 2020/21 financial year), and although the Authority reported that it did not impact on performance, it did impact on the Authority's finances. In 2019/20, Council member fees amounted to R1.735 million and in 2020/21, it was R737 952.00. As such, it was almost R1 million less and contributed to the Authority's surplus at year-end.
- 2) The increase in debt impairment on trade debtors should be of concern to the Committee. The increase (+R715 870.00), read together with the material losses of R6 261 851, does not paint a positive picture and, if not monitored closely, could easily spiral out of control to the amounts recorded in previous financial year that led to qualified audit opinions.



- 3) The significant decrease in expenditure (-R28.6 million), especially on the items listed in table 2 above contributed significantly to the substantial increase of the surplus recorded in 2020/21 (R33.34 million) compared to the previous financial year (R3.43 million). Going forward (post-COVID-19 restrictions), will the Authority aim to continue the savings realised on items like local travel (R5.2 million saving)? Based on the Authority's continued performance, these expenses do not have a significant impact on the Authority's operations and performance.
- 4) The Authority should indicate why it is paying for the criminal background checks (fingerprints) of applicants. Should this expense not be carried by the applicants? In 2019/20, the Authority spent R10.13 million on fingerprints and in 2020/21, R6.45 million. This is a significant expense for the Authority to carry.

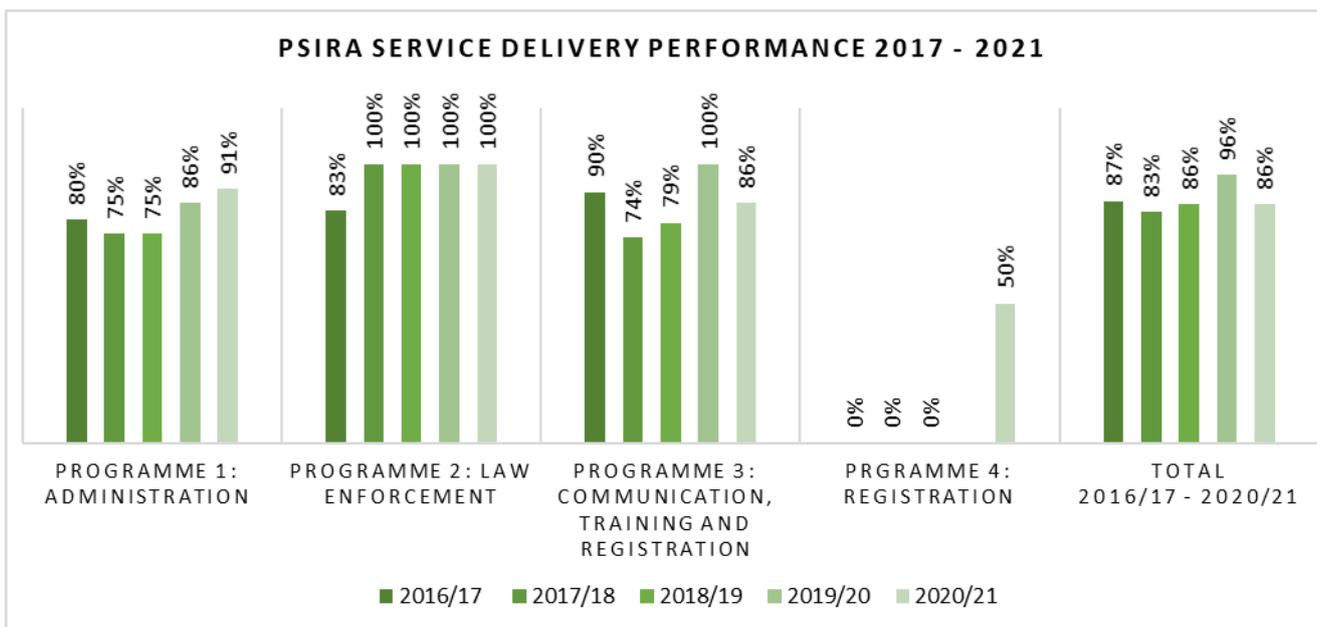
6. PERFORMANCE AGAINST PREDETERMINED TARGETS FOR 2020/21

Achieved 25 from 29 targets
86% Achievement rate

The Authority has achieved 86% of its predetermined performance indicator targets at the end of the 2020/21 financial year (25 targets achieved from 29), which is a decrease in performance compared to an 96% achievement rate in 2019/20. *Note: In 2020/21, the Authority split the Communication, Training and Registration Programme into two separate Programmes, namely Programme 3: Communication and Training and Programme 4: Registration.*

The graph below shows a visual representation of performance between 2015 and 2020. In 2019/20, the Authority recorded its best performance in five years.

Graph 1: Comparative performance between 2016/17 and 2020/21





6.1. Administration Programme

Purpose: Provide leadership, strategic management and administrative support to the Authority.

Measurable Objectives: The programme aims to ensure effective leadership, management and administrative support to the Authority through continuous refinement of organisational strategy and structure in line with appropriate legislation and best practice.

Achieved 10 out of 11 performance targets
91% Achievement Rate

The Administration Programme achieved 10 out of 11 performance targets, which is an achievement rate of 91%, which is an improvement compared to the previous financial year. The target missed was on the design and approval of the Guarantee Fund. The project was deferred due to a lack of funds that will only be available when the funding model is addressed.

Comments and questions

- 1) The implementation of the Guarantee Fund is dependent in the operationalisation of the Levies Act to provide seed capital to fund the Guarantee Fund. The implementation has been deferred until the Authority has certainty on the implementation of the Levies Act which will allow for the capitalisation of the fund. Why has National Treasury not yet made the required amendments to the Act and introduce it as a Money Bill in Parliament? What engagements has the Authority had with National Treasury in this regard?
- 2) What percentage of debt is for Small Security Businesses with 0 to 5 security officers employed and struggling to get contracts, which is affecting revenue collection? Provision for bad debts has decreased. PSIRA should indicate the number of small security businesses in operation. What is the average amount owed by these companies?
- 3) The implementation of virtual training sessions led to an overachievement on the Authority's target for employee training, as these sessions required less coordination and an efficient method for employees to attend training. Will the Authority continue to provide virtual training post-COVID-19 restrictions?
- 4) At the end of 2020/21, 20% of the digital business strategy was completed – when will the strategy be fully completed and implemented?

6.2. Law Enforcement Programme

Purpose: Ensure that there are effective regulations in the security industry and enforcement of law and compliance to the regulations

Measurable Objectives: The programme aims to ensure that Security Service Providers comply with the regulations by doing regular inspections for both security officers and security businesses and ensure that those who are complying with the regulations are charged and prosecuted.



Achieved 7 out of 7 performance targets
100% Achievement rate

The Law Enforcement Programme achieved 100% of its seven predetermined performance targets at the end of the 2020/21 financial year, most of which were exceeded. It is the fourth consecutive year (2017/18 to 2020/21) in which the Programme achieved 100% of its performance targets. The following should be noted:

Targets exceeded in Programme 2: Law Enforcement

Number of security businesses inspected to enforce compliance with applicable legislation <ul style="list-style-type: none"> • Target: 6 725 • Achievement: 7 558 • Deviation: +833 	Number of security officers inspected to enforce compliance with applicable legislation <ul style="list-style-type: none"> • Target: 35 940 • Achievement: 39 805 • Deviation: +3 865 	Percentage of investigations finalised against non-compliant security service providers <ul style="list-style-type: none"> • Target: 90% • Achievement: 98% • Deviation: +8%
Number of security businesses licences for firearms inspected <ul style="list-style-type: none"> • Target: 1 500 • Achievement: 1 793 • Deviation: +293 	Percentage of criminal cases opened against non-compliant security service providers <ul style="list-style-type: none"> • Target: 95% • Achievement: 100% • Deviation: +5% 	Percentage of cases of non-compliant security service providers successfully prosecuted per year <ul style="list-style-type: none"> • Target: 92% • Achievement: 98% • Deviation: +6%

Comments and questions

- 1) The fact the Programme continuously exceeds its performance targets might be sufficient reason to increase the targets and further improve service delivery.
- 2) The overachievements on targets were all realised during the second half of the 2020/21 financial year during which COVID-19 restrictions were eased. The Authority should provide a quarterly breakdown of its performance, especially for the various investigations. It should be questioned whether that many investigations can be done in six months.
- 3) The Authority should explain how robust the compliance self-assessment programme is which allows for security businesses to essentially “inspect themselves”. How does this assessment work and do businesses supply documentary proof to substantiate their assessment?
- 4) Despite the Central Firearm Register (CFR) being in disarray with significant backlogs, the Authority managed to inspect 1 793 businesses licenced for firearms (this includes verifying the licenses of the business itself as well as the officers carrying firearms) – does the Authority get priority from the CFR in checking licences?
- 5) What is the main role of Compliance and Enforcement Officers? The Authority reported that the target for the number of security officers inspected was exceeded because these officers assisted with inspections. Who normally does the inspections?



- 6) Many of the functions performed by the Authority must be done in cooperation with the SAPS, such as firearm licence checks, arrests and criminal investigations against non-compliant service providers, which necessitates a good relationship with SAPS – what is the quality of this relationship?
- 7) International studies show that the police often have an adversarial relationship with private security, especially in terms of crime prevention due to a perceived encroachment into a policing mandate – how would the Authority address this challenge?
- 8) Does the Authority have a good working relationship with the National Prosecuting Authority (NPA) in terms of criminal prosecutions of non-compliant service providers?
- 9) In 2020/21, 1 377 criminal cases were opened against non-compliant service providers, of which 473 cases were successfully finalised - What number of security guards have been successfully prosecuted during 2020/21, on what offences and what were the sanctions imposed?
- 10) What number of security guards were killed on duty in 2020/21?
- 11) What number of civilians were killed by private security guards during 2020/21? How are these guards held accountable, other than 'normal' criminal prosecutions – these guards are performing quasi-policing functions and should be held accountable through an investigative unit like the Independent Police Investigative Directorate (IPID).
- 12) The fact that the 2020/21 Annual Report does not mention the *Eyes and Ears* crime prevention initiative between the SAPS, Business against Crime (BACSA) and private security companies should be of serious concern and must be explained. According to the SAPS Annual Report, this initiative also includes PSIRA. It makes little sense that this is not mentioned in the PSIRA Annual Report. *Please see section 8 of this research paper below.*

6.3. Communication and Training Programme

Purpose: Provide effective stakeholder engagement. Ensure that training standards are adhered to and the registration process is done in accordance with the PSIR Act.

Measurable Objectives: Ensure effective and meaningful stakeholder communication. Ensure that all training institutions are aligned to the required standard of training. Ensure that the registration process is effective and authentic. Continuous research to support core business initiatives and policy development.

Achieved 6 out of 7 performance targets
86% Achievement rate

The Communication and Training Programme achieved six out of seven performance target for 2020/21, which is an 86% achievement rate, and a decrease compared to 100% achievement rate of the previous financial year. *Note: Although the percentage decrease seems high, in both financial years only one target was missed.* The Authority failed to develop three new accredited courses during the



2020/21 financial year. The identified courses identified for developments included: 1) Assets in transit; 2) Special events; and 3) Armed reaction officers. According to the Authority, there was no interest shown on the request for quotations in the first half of the financial year to develop the identified courses.

Comments and questions

- 1) The Authority should explain why the accreditation process for security training service provided is cumbersome and what can be done to make the process more efficient.
- 2) The current legislation on NQF accreditation is non-binding, which explains a reluctance by training service providers to be accredited. The Authority should indicate the manner in which this can be addressed. Are there any incentives that the Authority can offer to incentivise NQF-accreditation?
- 3) Can the Authority indicate the success rate of security officers attending the security training courses at accredited training service providers?
- 4) What security-related courses draw the most interest?
- 5) The Authority's Executive Committee (EXCO) approved a concept document on online assessments/examinations during 2020/21. What does this entail and is this also dependent on the implementation of the Authority's broader digital strategy? Will the Authority appoint a service provider to develop such platform and how will this method of assessment work? Will the system be run and/or monitored by the Authority of the training service provider? The Authority should provide more details on the concept document for online assessments/examinations.
- 6) The Authority reported that two external training assessments centre were established during the 2020/21 financial year – the Authority should indicate where these centres were established (location). The Authority should further explain the mandate of these centres and the types of assessments done at the centres. What number of such centres are established countrywide?
- 7) The Authority managed to conduct 81 additional awareness workshops and campaigns than planned (target: 170; achievement: 251) through the use of digital platforms. Will the Authority continue to use digital platforms to promote PSIRA post-COVID-19 restrictions?
- 8) The Authority should explain the nature of the agreement entered into with the Private Security Authority of Ireland (Republic of Ireland). Why did the Authority choose Ireland? The Authority's five-year target is to enter into six new co-operation agreements with international security industry regulatory bodies. Has the Authority identified the other countries yet?
- 9) The Private Security Industry Regulation Amendment Act, 2014 takes a stronger regulatory position on involvement of private security outside the SA border. It provides for far greater restrictions and detailed prohibitions/requirements imposed on security services rendered outside the Republic. How will the Authority incorporate these new function into its already constrained resources?



6.4. Registration Programme

Purpose: Ensure the registration of industry businesses and security officers are done in accordance with the PSIR Act.

Measurable Objectives: The programme aims to ensure the private security industry is efficiently registered and transformed.

Achieved 2 out of 4 performance targets
50% Achievement Rate

The Registration Programme achieved 2 out of 4 performance targets, which is an achievement rate of 50%. In 2020/21, the Programme was split from the Communication and Training Programme.

According to PSIRA, the target to turnaround applications from security officers within an average of 20 days was missed due to third party dependencies. Security guards must be South African citizens and have no criminal record. As such, applicants must be screened against the criminal record database of the SAPS. This is currently done through a third party provider (intermediary company), **Afiswitch, mandated by the SAPS to conduct commercial searches against SAPS's Automated Fingerprint System (AFIS)**. Due to COVID-19 related down time and delays in the SAPS system being offline with *Afiswitch*, the company was unable to conduct the criminal record verification and thus delayed the registration turnaround time. In 2020/21, PSIRA spent R6.45 million on fingerprint costs (in 2019/20, this expense was R10.136 million).

The target to implement online registrations during 2020/21 was missed due to the broader digital strategy developed and approved towards the latter part of the financial year (quarter 3). As such, the appointment of a service provider to develop the digital registration platform could not be finalised. The tender was advertised and evaluated by the Bid Adjudication Committee (BAC). During the evaluation, the BAC made several recommendations and follow-up requests were made on the service provider's pricing.

Comments and questions

- 1) The Authority should explain the relationship between PSIRA, the SAPS and *Afiswitch* regarding criminal record verifications. Does the Authority pay the company directly for this service or is it funnelled through SAPS? This arrangement should be of significant concern to the Committee, as the SAPS Criminal Record Centre Subprogramme is mandated to conduct criminal checks. In 2020/21, the subprogramme had a budget of R2.5 billion.
- 2) Why is the Authority doing (or paying for) criminal record verification services? Should this cost not be borne by the applicant?
- 3) Is it realistic for the Authority to have direct electronic access to the Integrated Justice System which will result in the Authority no longer requiring the services of *Afiswitch* or any other provider?
- 4) If the average turnaround time for applications is 20-days, the Authority should indicate the longest wait period currently experienced.



- 5) The Authority should indicate what the estimated cost is of the development of the digital registration platform – what was the recommendations made by the BAC in this regard. Has the service provider been appointed yet? If so, the Authority should provide the Committee with all the relevant details regarding the company appointed, costs and time-frames for the development and implementation of the digital registration platform.

7. HUMAN RESOURCES

At the end of March 2021, the PSIRA had 311 permanent staff members, of which most are attached to Law Enforcement (171 staff), followed by Finance and Administration (99 staff), Communication and Training (24 staff) and Registrations (17 staff). PSIRA further had 36 employees on a fixed-term contract and no interns during 2020/21. Personnel expenditure constitutes 60% (R169 322 356) of the Authority's total expenditure (R282 766 696) in 2020/21.

As at 31 March 2021, the average vacancy rate for the Authority was 4.82%, which is a significant increase compared to the 1.85% vacancy rate at the end of the previous financial year (15 vacancies). During the 2020/21 financial year, 50 personnel left the employment of PSIRA, of which one staff member retired, 13 employees resigned, three staff members were dismissed for misconduct and 33 employees' contracts expired.

Comments and questions

- 1) In 2019/20, the Authority had 12 employees on a fixed-term contract, which increased to 36 employees on a fixed term contract in 2020/21. The Authority should explain the significant increase in the number of contract workers.
- 2) Coupled to the question above, in 2020/21 the Authority reported that 33 employees' contracts expired. This is a significant number. The Authority should explain its reliance on contract workers.
- 3) What is the average duration of service of a contract-employee?

8. ROLE OF PRIVATE SECURITY IN CRIME PREVENTION: EYES AND EARS INITIATIVE

The core-policing mandate of public police has grown and changed considerably over time, especially in the 21st century. Increasingly, public police are drawn into areas beyond their traditional roles (visible policing and crime investigation) and into community-based initiatives or 'soft' policing that encompass a variety of social issues. In some instances, the public police act as mediators and social workers, like in domestic disputes. Given these expanded roles, it may be unrealistic for the public police to be everywhere all the time. The private security industry (PSI) can fulfil the role of a force multiplier based on its geographic footprint and sheer numbers. However, there is pushback from both public police and the PSI. The main challenge for collaboration remains distrust, driven by opposing loyalties, as the public police serve all citizens equally whereas private security serves paying clients. This is compounded by the increasing encroachment of the PSI into public spaces, which is the traditional mandate and legislative space of public police.

The PSI can play a meaningful role in crime prevention through either outsourcing of police functions or collaborative partnerships with police. **The key challenges to a collaborative approach and to**



outsourcing policing duties relate to accountability, transparency and the principles of democratic policing. The public police are subjected to a strict legal and regulatory framework as opposed to the PSI that only report to the private security companies by which they are employed. In most countries, there is no formalised policy framework to guide outsourcing or collaboration, nor is there a public oversight body to ensure accountability, especially in relation to human rights abuses. In the UK, attempts have been made to extend the powers of the Independent Office for Police Conduct (IOPC) to oversee the functions and operations of private security businesses that perform policing duties, but these have not been successful.

In South Africa, the role of the PSI in crime prevention has been outlined in various policy documents, notably the National Development Plan (NDP) that calls for joint operations to be supported and extended. However, there is no formalised policy framework to guide the collaboration between the SAPS and the PSI. This is a major challenge to establishing successful collaborative efforts in crime prevention between the PSI and the SAPS. There is some informal collaboration between local police stations and private security companies, but such initiatives have never been formalised at a national level, until the *Eyes and Ears Pilot Project* that was launched in 2019. This pilot brings together the PSI, SAPS and Business against Crime South Africa (BACSA) in a formalised partnership.

According to the SAPS Annual Report, PSIRA is included in this project, but this is not mentioned in the PSIRA Annual Report and BACSA also does not mention PSIRA as a partner in this project.

According to the SAPS 2020/21 Annual Report:

“The Eyes and Ears initiative is a joint crime fighting initiative between the SAPS, Business against Crime South Africa (BACSA) and the Private Security Industry Regulatory Authority (PSIRA), aimed to enhance the situational awareness and appropriate response by the SAPS. The initiative was piloted, in Gauteng, in 2019 and was rolled out to KwaZulu-Natal, Limpopo, the Eastern Cape and the Western Cape.” SAPS 2020/21 Annual Report, page 17).

During 2020/21, the Authority produced a research paper titled *“Eyes and ears: Exploring the role of neighbourhood watches in relation to security in SA”*. The study is focused on the problematic nature of neighbourhood watch structures that operates outside the rules applicable to Community Policing Forums (CPFs) and conducting themselves as security service providers, yet not registered with PSIRA (because these are non-profit organisations) and thus not regulated by PSIRA. The study made several recommendations on strengthening regulations for neighbourhood watch structures and community patrollers. [Please click here to access the study from the PSIRA website.](#)

Although this is an excellent research study, it can be confused with the Eyes and Ears initiative between the SAPS, BACSA and private security.

Comments and questions

- 1) The Authority should clarify whether they are part of this project. If so, in what capacity and if not, the Authority should explain their absence, as the only regulatory authority of the PSI.
- 2) The success and failures of the Eyes and Ears project must be studied to inform future (and improved) partnerships. The Authority can play a leading role in this analysis and make recommendation for strengthening these partnerships.



- 3) The lack of a public accountability structure to oversee the operations of the PSI in South Africa is a significant gap. This allows the PSI to operate, to some degree, with impunity and without the same oversight measures as are placed on the police. Although the PSI has a code of conduct, adherence to a strict doctrine of democratic policing values is not legislated. Violations to human rights, including the right of privacy, are often not reported or investigated. The IPID oversees the actions of SAPS and is described as “guarding the guardians”. As the PSI is also a “guardian”, it begs the question – who guards the guardians in the PSI? The PSIRA plays only a business regulatory role and has no mandate to oversee the operations of the PSI. The Committee should give consideration to the development of such an oversight body for the PSI within a well-defined policy framework.
- 4) Should it be considered to allow the IPID to investigate the PSI, if only in cases of the discharge of firearms or death as a result of actions by a private security guard?

9. PRIVATE SECURITY INDUSTRY REGULATION AUTHORITY AMENDMENT ACT, 2014

Note: The Private Security Industry Regulation Act, 2014 (No. 18 of 2014) (hereafter referred to as the Amendment Act) amends the Private Security Industry Regulation Act, 2001 (No. 56 of 2001) (hereafter referred to as the Principle Act).

The President signed the Private Security Industry Regulation Amendment Bill, 2012 (B27-2012) into law on 23 September 2021 and it became the Private Security Industry Regulation Act, 2014 (No. 18 of 2014). The Amendment Bill was first introduced to the National Assembly on 05 September 2012 and had a difficult journey through Parliament. Between October 2012 and January 2014, the Portfolio Committee on Police had 17 meetings to consider the Amendment Bill and adopted it on 28 January 2014. On 25 February 2014, the National Assembly adopted the Amendment Bill and it was transmitted to the National Council of Provinces (NCOP) Select Committee on Security and Justice for concurrence. The NCOP passed the Bill on 04 March 2016 and it was sent to the President for assent. As mentioned above, the President assented to the Bill on 23 September 2021 and was published in the Government Gazette (No. 45295, Vol. 676) on 08 October 2021.

The aim of the Amendment Act is to amend the Principal Act (*Private Security Industry Regulation Act, 2001*) so as to:

- amend certain definitions (*notably to include locksmiths and define the ‘Minister’ as the Minister of Police instead of the Minister of Safety and Security*);
- to provide for additional powers of the Minister (*notably in terms of strengthening the accountability of the PSIRA Council to the Minister*);
- to provide for the appointment of the Director and Deputy Directors for the Authority;
- to provide for cooperation with the Civilian Secretariat for Police;
- to provide for the finances and accountability of the Authority;
- to provide for limitation on foreign ownership;
- to provide for the establishment and functions of the Exemption Advisory Committee;
- to regulate security services rendered outside the Republic;
- to empower the Minister to make regulations for the transportation of cash and other valuables;
- to provide for offences and penalties; and



- to provide for matters connected therewith.

The Amendment Act strengthens the Council's accountability to the Minister of Police. It provides that the Council must submit a quarterly report to the Minister in connection with the activities of the Authority, including:

- The number of security service providers registered, sold, transferred, liquidated, suspended, dormant, merged, de-accredited and prosecuted;
- The number of security officers registered, including category and functions;
- The details of training undertaken by registered security officers and training institutions;
- The number of training institutions registered, sold, transferred, liquidated, suspended and dormant;
- The number of firearms registered to, lost by, stolen from, transferred by security businesses or destroyed in terms of the Firearms Control Act, 2000 (Act No. 60 of 2000);
- Instances in which firearms were discharged by a security officer in the performance of his or her duties causing death or injury; and
- Information of criminal complaints and investigations relating to security service providers reported to the Service by the Authority;

In terms of finances, the Authority is a Schedule 3 private entity in terms of the Public Finance Management Act, 1999 and financed through its own enterprises. However, the Amendment Act, through section 17 amends section 16 of the Principal Act to clarify that PSIRA is financed from registration fees, levies or moneys from any legitimate source which have accrued to the Authority in terms of this Act, the Levies Act or any other law. Importantly, the Amendment Act opens the possibility for state funding through the provision that PSIRA is also financed from money that may be appropriated by Parliament, where necessary, appropriate and justifiable. Furthermore, the Amendment Act states clearly that the Council is the accounting authority of PSIRA. Previously, this could only be ascertained from the Public Finance Management Act, 1999 and created confusion as to whether the Director of PSIRA is the accounting authority, where in fact the Council takes full responsibility for the finances and operations of PSIRA. This is now clarified.

One of the most contentious provisions of the Bill was the limitation on foreign ownership of private security companies. On 13 November 2012, the Portfolio Committee on Police withdrew the provision, but it was abruptly reinstated during the voting process of the Committee on 28 January 2014. This provision was retained and was signed into law. Section 20 of the Principal Act, relating to the *obligation to register and exemptions*, is amended to stipulate that a security business may not use the services of a person who is not registered in terms of the Amendment Act to render a security service (the registration formerly only applied to persons performing executive or managing functions). Section 20(c) states that a security business may only be registered as a security service provider if at least 51 per cent on the ownership and control is exercised by South African citizens. However, the Minister may, taking into account the security interest of the Republic, prescribe by regulation a different percentage of ownership and control in respect of the different categories of security businesses. The Act also establishes an Exemption Advisory Committee (consisting of the Authority, Civilian Secretariat, Department of Home Affairs, SAPS, Department of Trade and Industry and the State Security Agency), which can make recommendations to the Minister on exemptions. The transitional arrangements of the Amendment Act provide that the implementation of section 20(2)(c) (limitation on foreign ownership) with regard to a security business that is registered as a security service provider at the commencement



of the Amendment Act must be done in accordance with legislation promoting and protecting investment in the Republic and the Republic's international trade obligations.

A significant challenge of the private security industry is that many uniforms and insignia used by private security guards closely resembles that of the SAPS or South African National Defence Force (SANDF). This creates significant confusion in the public eye and guards could be easily mistaken for a police member or soldier. This is particularly concerning based on the difference in the powers bestowed on the police/soldiers with regards to the use of coercive force. The Amendment Act now provides that, when registering, a security business must provide a design, sketch or photograph of the security service provider's insignia, emblem, title of symbol whether on a uniform, vehicle or otherwise and a colour sketch or photograph of the security service provider's uniform. It should be noted that in May 2019, the Minister of Police published amendment regulations to address the challenge with the use of uniforms and insignia. At the time, the regulations were developed specifically to address the 'misuse' of uniforms because the Amendment Bill (which makes provision for the use of uniforms and insignia) had been pending assent for five years.

The Amendment Act recognises 11 separate categories of security businesses that must register with PSIRA and include, (1) guarding, (2) close protection, (3) response security, (4) assets in transit, (5) event security, (6) manufacturers, importers and distributors of listed equipment defined in the Interception of Communications and Provision of Communication related Information Act, 2002 (Act No. 70 of 2002), (7) private investigators, (8) security training, (9) electronic security, (10) locksmiths and (11) security advisers. The Minister may, by notice in the Gazette, determine additional categories of security businesses and the Minister must table these additional categories in Parliament for notification within 14 days if Parliament is in session; or 14 days after the next ensuing session if Parliament is not in session. PSIRA must determine training standards in respect of the 11 separate categories of security businesses.

Section 34 of the Act, relating to the powers of a PSIRA inspector, is amended to provide that any inspection of a premises or private dwellings may only be carried out when authorised by a warrant issued by a competent court. Previously, an inspector was empowered to conduct such searches without any authorisation. *It should be noted that the Constitutional Court, on 22 October 2021, declared section 13(7)(c) of the SAPS Act, 1995 (No. 68 of 1995) relating to warrantless searches unconstitutional and severed it from the SAPS Act, 1995. Police members must obtain a warrant or authorisation from the Provincial or National Commissioner to conduct a search of any person, premises or vehicles within a cordoned-off area.*

A key section of the Amendment Act (section 36A) relates to *security services rendered outside the Republic*. The Principal Act was silent on this area. The Amendment Act now provides that any person who, within the Republic, recruits, trains, hires out, sends or deploys any other person to provide a security service outside the Republic, must provide such information (as may be prescribed regarding such recruitment, training, hiring out, sending or deployment or nature of the security service) within the prescribed time limits to the Director of PSIRA on a quarterly basis. Furthermore, the Amendment Act prescribes that a person rendering security services outside South Africa may not engage in any activity, or render any assistance, that is prohibited in terms of the Prohibition of Mercenary Activities and Regulation of Certain Activities in Country of Armed Conflict Act, 2006 (Act No. 27 of 2006), or the Regulation of Foreign Military Assistance Act, 1998 (Act No. 15 of 1998). The Amendment Act further stipulates that any person who is employed by another person from outside the Republic, and is



deployed from the Republic to perform armed guarding services outside the Republic, must at least two weeks before the deployment inform the Authority of such deployment in the prescribed manner and PSIRA must submit this information to the State Security Agency within seven days of receipt of the notification.

In terms of the *transitional arrangements*, the following should be noted:

- Any category or class of security service providers, which was not obliged to be registered as such in terms of this Act, immediately before the commencement of the Amendment Act, will not be subject to the provisions of this Act or the Levies Act until such date as the Minister may determine by notice in the *Gazette*.
- The Exemption Advisory Committee and an Appeal Committee, as contemplated in sections 20A and 30(2A) must be appointed by the Minister before the commencement of the Amendment Act.
- The fixed establishment of the Authority referred to in section 14(1B) must be determined within 24 months of the commencement of the Amendment Act and the Minister must report any delay in the process to Parliament.
- **The Minister must report, on a quarterly basis, to Parliament on the progress made in the implementation of the Amendment Act.**
- The implementation of section 20(2)(c) with regard to a security business that is registered as a security service provider at the commencement of the Amendment Act must be done in accordance with legislation promoting and protecting investment in the Republic and the Republic's international trade obligations.

Comments and questions

The Committee should schedule a dedicated meeting to unpack the provisions of the Amendment Act and how it impacts on the operations of PSIRA. The Committee should also invite National Treasury to ascertain what is the holdup with the Private Security Industry Levies Act, 2002. The Act is crucial to the financial stability of the Authority and the introduction thereof by the Minister of Finance (as a Money Bill) should be prioritised.

10. REFERENCES

Private Security Industry Regulatory Authority (PSIRA) (2021). *2020/21 Annual Report*.

Private Security Industry Regulatory Authority (PSIRA) (2020). *2019/20 Annual Report*.

Private Security Industry Regulation Act, 2001 (No. 56 of 2001)

Private Security Industry Regulation Amendment Act, 2014 (No. 18 of 2014)