



International
Code of Conduct
Association

21 December 2017

Mr. Mark King
Ms. Anne-Katrin Arnold

CC: World Bank Safeguards Team and Relevant Stakeholders

Re: Guidance Note for Environmental and Social Framework: ESS4.B Security Personnel

Dear Safeguards team and other Stakeholders,

The International Code of Conduct Association (ICoCA) is a non-profit multi-stakeholder organization established in 2013 to implement and oversee the International Code of Conduct for Private Security Service Providers, an instrument that articulates standards for the private security industry by incorporating international human rights and humanitarian law norms. Through its core functions, the ICoCA ensures that Member companies act in accordance with the Code and are subject to regular oversight and monitoring.

The ICoCA takes the opportunity to recognize the importance of the attention devoted by the World Bank to the responsible use of private security services and security arrangements in relation to the implementation of projects supported by the Bank. In particular, the Association takes note of the Bank's commitments to avoid or minimize security risks and impacts on affected communities, as expressed in paragraph 2 of ESS4. It is indeed our shared interest to ensure that private security personnel contracted by Borrowers in high-risk areas perform their duties consistent with the highest standards of professionalism and with respect for human rights, as set out in the Code.

The ICoCA is grateful for the opportunity to make recommendations on the Guidance Note for the World Bank's Environmental and Social Standard 4 (ESS4). Of particular interest to the Association is Section B of ESS4 on "Security Personnel" and accordingly paragraphs 24.1 to 27.1 of the Guidance Note.

As a first recommendation, the ICoCA invites the World Bank to consider including within its GN24 a requirement or to strongly encourage that in the selection of their security providers and as part of their procurement procedures, Borrowers require their security providers to be ICoCA Members. The inclusion of such wording would reflect a growing international practice and provide additional guarantees regarding the commitment of contracted companies towards compliance with international standards. Many entities, both public and private, already recognize the added value of ICoCA Membership in their procurement policies. Switzerland's Federal Act on Private Security Services Provided Abroad (PSSA), for instance, requires security companies providing services to Swiss representations abroad to adhere to the Code and comply with it (Article 31). The European Parliament, also recently urged – through Resolution 2016/2238(INI) – the European Commission and the European External Action Service to "*only use ICoC-certified providers*" and emphasized "*the importance of making the award of contracts to PSCs conditional on [...] their participation in the ICoC*". Most recently, the U.S. Congress urged similar measures with regards the Department of Defense – and analogous requirements can be found in the procurement policies of other states, international organizations, and multinational corporations.

As a second recommendation, the Association submits that there is room to further develop the Guidance Note and streamline some of the pre-existing provisions to better guide Borrowers in reducing the risk of human rights violations and personnel misconduct in complex and high risk operating environments. In particular, the Guidance Note might benefit from reference to relevant Code provisions addressing issues related to the selection, vetting and training of security personnel (Code paragraphs 45 to 49, 55 and 59), the potential human rights impact of private security companies' operations (Code paragraphs 35 to 42), and the rules for the use of force (Code paragraphs 30 to 32).

Paragraph 26 of ESS4.B, for instance, requires borrowers to make reasonable inquiries to verify non-involvement of (direct or contracted) security personnel in past human rights abuses as well as adequate training. In the Association's view, this provision might be further strengthened by specifying in a new GN26.1 that *"Borrowers are expected to make reasonable inquiries regarding the fact that security personnel are selected, vetted and trained in accordance with the principles contained in paragraphs 45 to 49, 55 and 59 of the International Code of Conduct for Private Security Providers"*.

With regards the potential human rights impact of private security companies' operations on the ground, GN24.4 recognizes that *"The security arrangements for a project may themselves pose risks and impact on project workers and local communities"*, and affirms that *"It is important to take these risks and impacts into consideration and to determine measures to address them"*. This GN could be further strengthened through reference to specific human rights risks by modifying the first sentence as follows: *"The security arrangements for a project may themselves pose human rights risks and impact on project workers and local communities, including those risks identified in paragraphs 35 to 42 of the ICoC and particularly relevant to the operations of security providers"*.

Finally, and with respect to the use of force by security personnel, paragraph 24 of ESS4.B guides that *"The Borrower will not sanction any use of force by direct or contracted workers in providing security except when used for preventive and defensive purposes in proportion to the nature and extent of the threat"*. This requirement overlooks important elements in the use of lawful force, such as strict necessity and the need to face an imminent threat of death or serious injury. As a third recommendation, the ICoCA would therefore submit that GN24.5 could be refined by making clear that *"ESS4.B sanctions the use of force only when exercised in accordance with the principles expressed in paragraphs 30 to 32 of the ICoC. Private security forces employed by the project are expected to act in accordance with these principles and, as a minimum, with the standards established by the United Nations' Basic Principles on the Use of Force and Firearms by Law Enforcement Officials"*.

We appreciate the importance that you are according to mitigating the risks posed by the security arrangements of Borrowers, including the contracting of security providers, and remain at your disposal to further contribute to this Guidance Note and its implementation as required.

Yours sincerely,



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