

**Inputs on the topics to be discussed during the fourth session of the Forum on Human Rights, Democracy and the Rule of Law, under the theme “Strengthening democracies to build back better: challenges and opportunities”**

**Topic: Private security, the rule of law, and human rights during and in the aftermath of COVID-19**

**Rationale: The increased role of the private security industry during COVID-19 – often in the framework of emergency measures taken by States – raises serious concerns for the respect of human rights and the rule of law worldwide, particularly if not phased out after the end of the pandemic.**

Since the start of the COVID-19 pandemic there has been a sharp increase in demand from States and other clients for private security services. Many governments have categorised private security as an “essential service” or “critical occupation” and turned to private security providers to fill public security gaps. For example, private contractors provided security and controlled access at hospitals and at COVID-19 testing and quarantine sites throughout the pandemic, as they also did for venues selling food, water, and items of first necessity. At the same time, the use of private security in other spaces such as detention facilities continued to grow.

With increased reliance by States and other actors on private security throughout COVID-19, human rights concerns linked to the industry intensified. Persons in vulnerable situations or particularly marginalised groups in contact with private security providers such as migrants, racialized persons, persons with disabilities, homeless persons, and the LGBTQ+ community, were of particular concern. Multiple examples arose of detainees and incarcerated individuals subject to private security controls being denied access to adequate healthcare in violation of the right to healthcare. Increasing data gathering and data management activities during the pandemic also raised concerns: private security personnel were tasked with collecting and processing biometric data such as fingerprints, as well as operating tracking and tracing tools. Such activities could lead to privacy breaches, discrimination, and other human rights violations.

Emergency measures implemented by states as a temporary response to the pandemic sanctioned new and sensitive roles for private security, and facilitated easier recruitment and procurement of providers thereby increasing the risk of human rights violations occurring. In many places private security providers were authorised to use force and detain people in relation to COVID-19 “movement restrictions and curfews,” to operate prisoner transport, and to run detention facilities. For example, the Danish government authorised the use of force and detention by private security providers to support the public health response to the pandemic under the Danish Epidemic Act. Public procurement tendering processes were eased, such as allowing the direct award of contracts without competitive tendering. These measures impacted the quality of the services provided and lowered labour standards. The likelihood of observance of crucial health and safety standards for personnel was reduced. In addition, concerns arose in relation to security guards themselves. Mortality rates for the private security sector during the pandemic were among the highest of all workers, with reports of increasingly poor working conditions, often with no access to Personal Protective Equipment. Lesser requirements for training and vetting raised concerns, especially regarding training in human rights and in the use of force.

There is a real risk that emergency contingency measures adopted to manage the pandemic will be extended, and eventually embedded within legal systems. The reduction in standards for recruiting, contracting, vetting, and training of private security personnel, and other corporate governance standards, could become established practice in the future. Paradoxically, the reduction in standards happen in contexts where private security providers are called on to play increasingly sensitive roles with potentially high human rights impacts. In parallel, emergency provisions restricting freedom of movement and assembly, authorising harsh stop, search and detention powers, and imposing severe curfews, are also at risk of enduring, and which are likely to impact the most marginalised.

#### **Opportunities, aims & objectives:**

- Raise awareness on the sensitive roles that private security providers are called on to undertake, especially during crises, and increase understanding on the wide array of human rights impacts of private security activities
- Provide an overview of the long-lasting risks to the rule of law posed by private security-related emergency measures during the pandemic
- Offer an opportunity to reflect on measures that States, and other actors should take to prepare for future crises to ensure the safeguard of the rule of law and the protection of human rights

#### **When addressing the topic of private security, rule of law, and human rights in the context of COVID-19 the following questions should be addressed:**

- Given the increasingly important roles that private security providers are called on to play, what are the lessons learnt from the pandemic to strengthen regulatory frameworks to promote the protection of human rights and the accountability of the industry?
- To what extent is there a clear understanding of the impact of private security on human rights, especially on the rights of persons in vulnerable situations and marginalized groups?
- How can we ensure that temporary or emergency measures are phased out as soon as possible, and as such do not have long term negative implications on private security regulation and thus on the promotion of human rights for all?
- How can we ensure that regulatory frameworks are strengthened to reflect the new sensitive roles that the private security industry was called on to play during the pandemic

#### **Outcomes**

- Raised awareness of private security impacts on human rights during and after crises
- Reflection by all stakeholders on the measures required to reduce negative impacts of private security on human rights during and after a crisis
- Guidance received by law- and policy-makers on the steps needed to reform private security legal and regulatory frameworks to safeguard the rule of law and human rights before, during, and after a crisis

#### **Audience**

This topic will be of relevance especially for international organisations and initiatives, governments, legislators, regulators, policymakers, civil society, the private security industry, and scholars.