



WORKING GROUP ON THE INTERNATIONAL CODE OF CONDUCT ASSOCIATION

24TH OF JUNE 2020

CHAIR'S SUMMARY

1. INTRODUCTION

The 12th exchange of the Working Group on the International Code of Conduct Association (ICoCA Working Group) was attended by Montreux Document Participants, the co-Chairs of the Montreux Document Forum, Switzerland and the ICRC, the Montreux Document Forum Secretariat, DCAF, as well as the Executive Director and the Chairman of the Board of Directors of ICoCA. The meeting constituted the first ICoCA WG meeting configured in an online format, allowing representatives of participating States to join the meeting from capital.

2. OPENING STATEMENT BY THE CHAIR (UNITED STATES OF AMERICA) OF THE ICoCA WORKING GROUP

During the opening remarks, Mr. Ian McKay, representing the United States of America as the Chair of the Working Group, noted that the mandate of the ICoCA Working Group is to serve as the advisory forum of Montreux Document participating States to ICoCA and to promote dialogue between participating States and ICoCA. Thereafter, the Chair summarised the last ICoCA Working Group meeting, held in September 2019. During the meeting, the WG had received an update on the activities of ICoCA by the Executive Director, including a presentation of ICoCA's strategic plan. The Chair's summary of this meeting is available on the website of the Montreux Document Forum.

3. OPENING STATEMENT BY CHAIRMAN OF THE BOARD OF DIRECTORS OF THE ICoCA

Subsequently, the Chairman of the Board of Directors of ICoCA provided an opening statement to participants. The Chairman stated that ICoCA managed to ensure business continuity during COVID-19, focusing on visibility issues, improvements to the website and the development of different outreach materials, such as podcasts containing interesting information about the industry, ICoCA

activities, and the certification process for PSCs. The Chairman stressed the importance for States to address different human rights issues in the realm of private security. In order to do so, the Chairman encouraged States to integrate different international initiatives, such as ICoCA or the Voluntary Principles (VPs), in their National Action Plans (NAP) and human rights agendas.

4. UPDATE FROM MDF CO-CHAIRS

Switzerland, as co-Chair of the Montreux Document Forum, represented by Jonathan Cuénoud from the Directorate of International Law of the Federal Department of Foreign Affairs of Switzerland, first updated the attendees on two logistic/administrative issues.

- The next Montreux Document Forum Plenary meeting will take place in November 2020. An exact date has not yet been set. Whether the meeting will be organised physically or virtually is to be confirmed.
- The Montreux Document Forum regional event in Kuwait, originally planned in March 2020, was postponed due to COVID-19. The co-Chairs will inform participants as soon as a new date has been identified.

Secondly, Jonathan Cuénoud introduced the first results of joint reflections by the co-Chairs on the future of the Montreux Document Forum. The co-Chairs stressed that the Forum has allowed to further develop the main objectives of the initiative, namely outreach and implementation. However, the co-Chairs registered a difficulty to create greater participation and interactions during plenary meetings, with only few regulatory practitioners attending the Geneva-based meetings. The co-Chairs will thus suggest a transformation of the MDF into a platform for exchanging good practices and addressing challenges in private military and security regulation as they arise, with more flexible working methods. This means there will no longer be regular plenary meetings in Geneva. The co-Chairs recognized the important work of the Working Groups and emphasized that the Working Groups will continue their regular meetings. In addition, the co-Chairs see the value of organizing regional MDF meetings to address challenges specific to certain regions and to reach out to States in regions where the Montreux Document does not yet enjoy wide support. After the summer break, the co-Chairs will share these suggestions in writing along with proposed changes to the working practices with Montreux Document Participants (MDP)s. In case there are any comments between now and the next plenary meeting, the co-Chairs are open for bilateral discussions.

5. UPDATE FROM THE ICOCA EXECUTIVE DIRECTOR

5.1 Operational update

- The new Board of ICoCA is composed as follows: Caleb Wanga (Civil society organisation, Kenya), David Hornus (Private security company, France), Michelle Quinn (Private security company, United States of America), Frédéric Chenais (Government, Switzerland), Cliff Johnson (Government, United States of America).
- During the 2019 Annual General Assembly, a new category was adopted for PSCs joining the Association, namely the “affiliate” category. This new category aims to encourage local PSCs that have not yet achieved the requirements of the certification process to engage in the activities of the Association. Affiliate companies are not Members of the Association and are not certified to the Code; however, they agree to operate in compliance with the Code, are subject to monitoring by the Association and must complete the annual Company Self-Assessment. There are already 3 companies recognised as affiliates to the Association.
- The ICoCA published the *Guidelines on Preventing and Addressing Sexual Exploitation and Abuse*. This document seeks to support ICoCA member companies in complying with Paragraph 38 of the International Code of Conduct, addressing sexual exploitation and abuse as well as gender-based violence.
- In July 2020, the Annual Company Self-Assessment will be issued. This is a mandatory process for member PSCs that incorporates a range of human rights indicators. The Company Self-Assessment provides an overview of the current state of each company in integrating the Code. This process will also identify areas in which the Association can improve the support to PSCs.

5.2 COVID-19: Response and Impact on PSCs

ICoCA identified several impacts of COVID-19 on the private security industry and reflected on how the ICoCA could provide support to its members during the pandemic. ICoCA currently counts 95 PSCs registered as members and 3 PSCs as affiliates. The major impacts of the COVID-19 pandemic on the private security industry ICoCA witnessed were related to lockdowns, curfews and restricted international movement. This led to the evacuation of clients and limited staff rotations given travel restrictions. Consequentially, PSCs relied more on support from local staff. Secondly, since security personnel was often active on the front line, their risk of exposure to COVID-19 increased. This raises questions regarding the duty of care owed to employees of PSCs. This duty of care is directly applicable to the management of the PSC, but also extends to responsibilities that clients and local authorities may have in the protection of security guards exposed to the COVID-19 as a result of

their duties. Moreover, ICoCA identified a medium to long-term negative economic impact on PSCs. Finally, the pandemic is likely to induce the development of new security actors, new services offered, such as risk management on pandemics, and therewith new technology.

5.3 COVID-19: Response and Impact on CSOs

Lockdowns, curfews and movement restrictions affected the advocacy work of CSOs directly and complicated monitoring of human rights and security concerns. A medium to long term negative financial outlook can be expected, with government donors holding back funds and suspending projects, and major foundations being likely to be impacted by a potential recession. This is a challenge that may be of interest to address for the Montreux Document Forum. Moreover, ICoCA member CSOs feel that support from States is strongly focused on large humanitarian and development organisations, at the expense of small or medium sized local CSOs.

5.4 COVID-19: Response and Impact on Governments

The media focus on COVID-19 at the expense of other issues may induce redirecting of funding to COVID-19 responses to the detriment of other programs. Furthermore, there is a risk of COVID-19 leading to heightened insecurity, increasing human rights abuses, and limiting oversight in contexts with weak governance. Finally, there are question marks regarding the fulfilment of a duty of care owed to security personnel. It is necessary to define the scope of this duty, which directly concerns governments as donors, clients, and regulators of private security.

5.5 Recommendations

The Executive Director of the ICoCA proposed the following recommendations: Firstly, to strengthen engagement of States in addressing security and human rights concerns arising from the COVID-19 pandemic and improve oversight of PSCs. Secondly, to renew efforts required by States to promote responsible security and respect for the International Code of Conduct (including through reference to the International Code of Conduct in public statements, procurement requirements, and donor requirements). Thirdly, to build on statements of intent and positioning to pragmatic and impactful actions and solutions.

6. DISCUSSION

One participant inquired about the capacity of CSOs to work with human rights monitoring mechanisms during the pandemic. The Executive Director clarified that many CSO members of the ICoCA faced difficulties conducting continuous advocacy work due to COVID-19; while noting that

the ICoCA does not disclose specific information regarding their engagement with human rights mechanisms.

Further, an attendee inquired regarding ICoCA's activities to support vulnerable groups during the COVID-19 pandemic. In this regard, ICoCA has to date focused on the issue of sexual abuse, although the question of addressing other vulnerable groups was raised in several contexts. Therefore, the ICoCA welcomes any suggestion on this matter.

Another participant asked whether ICoCA will develop a guidance for PSCs to help them navigate through the impact of technology on human rights. ICoCA addressed the intersection of private security and technology during a recent workshop and acknowledges that it is an issue that will need further guidelines and on which ICoCA will be working on going forward.

Finally, Montreux Document participants discussed the psychological health of private security providers and whether the ICoCA or governments could provide further support to protect mental health of security personnel. The Executive Director distinguished the potential psychological issues specific to international private security providers and to local PSCs. Moving forward, the impact of COVID-19 on mental health needs to be addressed further.

In closing, the Chair once again invited Montreux Document participants to further engage bilaterally with the Association, and to discuss priority areas of interest for the ICoCA.

In case there are further questions or comments, please refer them to the Secretariat of the Montreux Document Forum (c.valdesarguelles@dcaf.ch).