



WE ARE ALL IN THIS TOGETHER

PROF. JUSTYNA KUREK-SOBIERAJ, ADVOCATE AT ŁASZCZYK & PARTNERS, WRITES ABOUT THE ROLE OF ENTREPRENEURS IN SUPPORTING NATIONAL SECURITY AND THE CHALLENGES OF PARTICIPATING IN NATIONAL DEFENSE PROGRAMS.

With a full-scale war is going on beyond the Polish eastern border, both citizens and businesses in Poland are involved in the process of reinforcing Poland's national security, including the preparations of state defense. With this, it is safe to say that business contribution to national security becomes, in addition to social responsibility and concern for the environment, another key pillar of Corporate Social Responsibility.

PREPARATIONS

Polish legislation does not define "defense preparations." However, the Homeland Defense Law (HDS) and its implementing acts comprehensively regulate the outsourcing of security tasks to the private sector, and the extent of business and citizen involvement in state defense activities.

Leaving aside the definition of "state defense preparations" it should be emphasized that they involve nearly all areas of state activity, including businesses. In their nature they are extraordinary because their subject matter, implemented in peacetime, acquires its full meaning only when a real threat to state security take place: during mobilization and in wartime. Proper preparation and implementation of defense tasks without the involvement of business is not possible.

However, each situation can be seen as a burden or a challenge. The growing range of defense tasks and services that the state must use to ensure national security makes it necessary for the state to outsource some of the tasks to the private sector. This offers new opportunities for various industries to secure stable contracts for the Polish armed forces and allied troops.

TELECOMS

Telecoms are critical to national security. They are obliged to set aside a part of their infrastructure for the

military telecommunications system. In addition, they may have to prepare and maintain network elements for the provision of telecommunications for the needs of the national security command system, including crisis management.

MILITARY PERSONNEL

The Defense Ministry plans to increase the active and passive reserves and activate the Territorial Defense Forces (WOT). It will pose a huge logistical challenge for businesses. Individuals in the active reserve are mostly professionals active in the labor market who have had military training and took the Oath of Enlistment, under the age of 55, and 63 in the case of non-commissioned officers.

The process of Poland's defense preparations involves extensive efforts by the Defense Ministry to strengthen the personnel of the armed forces. The ministry plans to double the number of troops called up to the so-called active reserve—up to 20,000—and increase the number of individuals in the passive reserve to 200,000. These plans will not be without impact on business. Businesses will be obliged to cover their employees who serve in the military with special labor protection.

HDS imposes obligations on businesses that employ trained soldiers. Employers often find out that their workers serve in the designated formations only when they are called for training or assigned to rotational service. Although regulations impose an obligation on the employee to inform the employer of his/her involvement in active reserve, failing to do so is not subject to any sanctions. Employers cannot refuse to release their workers for military training simply because they did not know they had enlisted for military service.

The labor law does not list infor-

mation about a person's relationship to military service as a category of data that an employer could process in recruitment. In the case of WOT and the active reserve, soldiers are called up for rotational service and participate in mandatory training. For the employer, this means that they must be released from work for the duration of their military duties. During this time, the employee is granted unpaid leave at their request, while a replacement must be arranged at the workplace. Employers often do not know that in such a case they are entitled to financial compensation from the State Treasury to cover the costs of organizing a replacement for the employee-soldier.

Drafted individuals are under special labor protection. Their work contracts may be terminated only with their consent except when contract is terminated due to the employee's fault, bankruptcy and liquidation of the employer. Also, fixed-term contracts of up to 12 months or for a probationary period, are not extended.

Drafting employees may be a challenge for business. Professionals critical to defense include doctors, nurses, veterinarians, translators, IT specialists, electrical engineers and drivers.

PROACTIVE ROLE OF BUSINESS

Providing security requires that state authorities organize services and resources they do not otherwise have. The involvement of businesses in national defense is not limited to passive actions such as allowing employees to serve in Armed Forces. Business is obliged to take part in defense preparations under HDS and the

Decree of the Council of Ministers of April 21, 2022. It defines the manner of performance of tasks under defense duties. Obligations imposed on businesses may include production, repair and service for the Armed Forces; maintaining in peacetime the production, repair and service capacity necessary to carry out these tasks; militarization; protection of facilities of particular importance for the security or defense of the state; and other tasks carried out for the Armed Forces and allied troops.

EXCEPTIONS

The obligations are imposed on businesses by an administrative decision of the Defense Minister. In certain circumstances, however, the minister may amend or revoke the decision on the company's request. However, once the decision is final, the administrative body enters into an appropriate agreement with the entrepreneur specifying the scope of cooperation. Businesses may apply for a special purpose grant to cover the costs duties imposed on them.

However, the regulations contain certain conditions that must be met by companies to qualify to work for the defense. They must have the appropriate licenses, concessions, permits, and industrial security clearance. Also, they must not be under bankruptcy or liquidation, and must have a good track record of fulfilling tax and other public obligations. In addition, supervisory board and management board members must not be convicted felons. The role of business in national defense is crucial and the involvement in it marks a significant organizational and legal challenge.