



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

FSC.EMI/52/10  
14 April 2010

ENGLISH only

**Delegation of Switzerland to the Organization  
for Security and Co-operation in Europe (OSCE)**

**Note 17/10**

The Delegation of Switzerland to the Organization for Security and Co-operation in Europe presents its compliments to all Delegations to the OSCE Forum for Security Co-operation in Vienna and to the Secretariat of the Conflict Prevention Centre. With reference to the Decision No. 2/09 "Technical Update of the Questionnaire on the Code of Conduct FSC.DEC/2/09", dated 1 April 2009, the Delegation has the honour to convey relevant and updated information to

**Switzerland's OSCE questionnaire on the *Code of Conduct on Politico-Military Aspects of Security*, valid as of 15 April 2010.**

The Delegation of Switzerland avails itself of this opportunity to renew to all other Delegations of the OSCE Forum for Security Co-operation in Vienna and to the Secretariat of the Conflict Prevention Centre the assurance of its highest consideration.

*lcm*



Vienna, 15 April 2010

To all Permanent Missions/Delegations to the OSCE  
To the Conflict Prevention Centre

V i e n n a



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

Federal Department of Defence,  
Civil Protection and Sport DDPS

Swiss Armed Forces  
Armed Forces Staff AFS

FSC.EMI/52/10  
14 April 2010

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## OSCE

# Information Exchange on the Code of Conduct on Politico-Military Aspects of Security

FSC.DEC 2/09  
1 April 2009

(Substantial updates of information relating to the Annual Exchange 2009  
are in bold and italics)

# Switzerland

15 April 2010

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## QUESTIONNAIRE ON THE CODE OF CONDUCT ON POLITICO-MILITARY ASPECTS OF SECURITY

### Section I: Inter-State elements

#### 1. Account of measures to prevent and combat terrorism

1.1 To which agreements and arrangements (universal, regional, subregional and bilateral) related to preventing and combating terrorism is your State a party?

##### *United Nations*

Switzerland condemns all acts of terrorism. It has become a State Party to the following United Nations Conventions and Protocols relating to terrorism as stipulated in the United Nations Security Council Resolution 1373 (2001) and pledged in paragraph 5 of the Bucharest Plan of Action for Combating Terrorism (2001):

1. *Convention on Offences and Certain Other Acts Committed on Board Aircraft*, signed at Tokyo on 14 September 1963. This convention was signed by Switzerland on 31 October 1969, was ratified on 21 December 1970 and entered into force for Switzerland on 21 March 1971 (SR 0.748.710.1<sup>1</sup>).
2. *Convention for the Suppression of Unlawful Seizure of Aircraft*, signed at The Hague on 16 December 1970. This convention was signed by Switzerland on 16 December 1970, was ratified on 14 September 1971 and entered into force for Switzerland on 14 October 1971 (SR 0.748.710.2).
3. *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation*, signed at Montreal on 23 September 1971. This convention was signed by Switzerland on 23 September 1971, was ratified on 17 January 1978 and entered into force for Switzerland on 16 February 1978 (SR 0.748.710.3).
4. *Convention on the Prevention, Prosecution, and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents*, adopted by the General Assembly of the United Nations at New York on 14 December 1973. This convention was signed by Switzerland on 5 March 1985 and entered into force for Switzerland on 4 April 1985 (SR 0.351.5).
5. *International Convention against the Taking of Hostages*, adopted by the General Assembly of the United Nations at New York on 17 December 1979. This international convention was signed by Switzerland on 18 July 1980, was ratified on 5 March 1985 and entered into force for Switzerland on 4 April 1985 (SR 0.351.4).
6. *Convention on the Physical Protection of Nuclear Material*, signed at Vienna on 3 March 1980. This convention was signed by Switzerland on 3 March 1980, was ratified on 9 January 1987 and entered into force for Switzerland on 8 February 1987 (SR 0.732.031).
7. *Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of*

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<sup>1</sup> SR = Systematische Rechtssammlung, <http://www.admin.ch/ch/e/rs/rs.html>

*Civil Aviation*, signed at Montreal on 24 February 1988. This protocol was signed by Switzerland on 24 February 1988, was ratified on 9 October 1990 and entered into force for Switzerland on 8 November 1990 (SR 0.748.710.31).

8. *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation*, done at Rome on 10 March 1988. This convention was signed by Switzerland on 10 March 1988, was ratified on 12 March 1993 and entered into force for Switzerland on 10 June 1993 (SR 0.747.71).
9. *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf*, done at Rome on 10 March 1988. This protocol was signed by Switzerland on 10 March 1988, was ratified on 12 March 1993 and entered into force for Switzerland on 10 June 1993 (SR 0.747.711).
10. *Convention on the Marking of Plastic Explosives for the Purpose of Detection*, signed at Montreal on 1 March 1991. This convention was signed by Switzerland on 1 March 1991, was ratified on 3 April 1995 and entered into force for Switzerland on 21 June 1998 (SR 0.748.710.4).
11. *International Convention for the Suppression of Terrorist Bombings*, adopted by the General Assembly of the United Nations at New York on 15 December 1997. This international convention was signed by Switzerland on 12 January 1998, was ratified on 23 September 2003 and entered into force for Switzerland on 23 October 2003 (SR 0.353.21).
12. *International Convention for the Suppression of the Financing of Terrorism*, adopted by the General Assembly of the United Nations at New York on 9 December 1999. This convention was signed by Switzerland on 13 June 2001, was ratified on 23 September 2003 and entered into force for Switzerland on 23 October 2003 (SR 0.353.22).
13. *International Convention for the Suppression of Nuclear Terrorism*, adopted by the General Assembly on 13 April 2005, the signature of which was pledged by the OSCE in the Ministerial Statement on the International Convention for the Suppression of Nuclear Terrorism of 20 June 2005 (MC.DOC/1/05). This convention entered into force for Switzerland on 14 November 2008 (SR 0.353.23).
14. ***United Nations Convention against Corruption (UNCAC)*, entry into force on 14 December 2005. This convention was signed by Switzerland on 10 December 2003, was ratified on 24 September 2009 and entered into force for Switzerland on 24 October 2009 (SR 0.311.56).**

On 19 December 2001, pursuant to paragraph 6 of Resolution 1373 (2001) of the UN-Security Council concerning counter-terrorism, Switzerland submitted its first Report on Counter-Terrorism to the "Counter-Terrorism Committee (CTC)" of the United Nations Security Council. On 11 July 2002, Switzerland submitted a supplementary report with answers comments and questions of the CTC concerning the first Swiss report. On 20 August 2003, Switzerland submitted a second supplementary Report to the CTC, which was followed by a third supplementary report on 16 February 2005. On 28 July 2006, Switzerland submitted a fourth supplementary report to the CTC answering questions concerning the implementation of Resolution 1624 (2005) of the UN Security Council (UN Document S/2006/604).

#### *Council of Europe*

1. *European Convention on Extradition*, opened for signature in Paris on 13 December 1957. This convention was signed by Switzerland on 29 November 1965, was ratified on 20 December 1966 and entered into force for Switzerland on 20 March 1967 (SR 0.353.1).
2. *Additional Protocol to the European Convention on Extradition*, opened for signature in Strasbourg on 15 October 1975. This protocol was signed by Switzerland on 17 November 1981, was ratified on 11 March 1985 and entered into force for Switzerland on 9 June 1985 (SR 0.353.11).

3. *Second Additional Protocol to the European Convention on Extradition*, opened for signature in Strasbourg on 17 March 1978. This protocol was signed by Switzerland on 17 November 1981, ratified on 11 March 1985 and entered into force for Switzerland on 9 June 1985 (SR 0.353.12).
4. *European Convention on Mutual Assistance in Criminal Matters*, opened for signature in Strasbourg on 20 April 1959. This convention was signed by Switzerland on 29 November 1965, was ratified on 20 December 1966 and entered into force for Switzerland on 20 March 1967 (SR 0.351.1).
5. *Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters*, opened for signature in Strasbourg on 17 March 1978. This protocol was signed by Switzerland on 17 November 1981 but was not ratified because of reservations of the Swiss Parliament concerning judicial assistance in fiscal matters. For further information see the respective report of the Federal Council (BB1 1983 IV 121).
6. *Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters*, opened for signature in Strasbourg on 8 November 2001. This protocol was signed by Switzerland on 15 February 2002, was ratified on 4 October 2004 and entered into force for Switzerland on 1 February 2005 (SR 0.351.12).
7. *European Convention on the Suppression of Terrorism*, opened for signature in Strasbourg on 27 January 1977. This convention was signed by Switzerland on 27 January 1977, was ratified on 19 May 1983 and entered into force for Switzerland on 20. August 1983 (SR 0.353.3).
8. *Protocol Amending the European Convention on the Suppression of Terrorism*, opened for signature in Strasbourg on 15 Mai 2003. This protocol was signed by Switzerland on 15 Mai 2003 and was ratified by Switzerland on 7 September 2006. However, it is not yet in force, as it has to be ratified by all members of the European Convention on the Suppression of Terrorism.
9. *Convention on the Transfer of Sentenced Persons*, opened for signature in Strasbourg on 21 March 1983. This convention was signed by Switzerland on 21 March 1983, was ratified on 15 January 1988 and entered into force for Switzerland on 1 May 1988 (SR 0.343).
10. *Additional Protocol to the Convention on the Transfer of Sentenced Persons*, opened for signature in Strasbourg on 18 December 1997. This protocol was signed by Switzerland on 9 July 2001, was ratified on 18 June 2004 and entered into force for Switzerland on 1 October 2004 (SR 0.343.1)
11. *Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime*, opened for signature in Strasbourg on 8 November 1990. This convention was signed by Switzerland on 28 August 1991, was ratified on 11 May 1993 and entered into force for Switzerland on 1 September 1993 (SR 0.311.53).
12. *Criminal law Convention on Corruption*, entry into force on 1 July 2002. Switzerland signed the Convention on 26 February 2001 and ratified the instrument on 31 March 2006. It entered into force on 1 July 2006 (SR 0.311.55).
13. *Additional Protocol to the Criminal law Convention on Corruption, entry into force on 1 February 2005*. The protocol was signed by Switzerland on 3 June 2004 and was ratified on 31 March 2006. It entered into force for Switzerland on 1 July 2006 (SR 0.311.551).
14. *Convention on Cybercrime*, opened for signature in Budapest on 23 November 2001. This convention was signed by Switzerland on 23 November 2001. **The process of ratification is ongoing. The convention should be submitted to parliament in 2010.**
15. *Additional Protocol to the Convention on Cybercrime, Concerning the Criminalisation of Acts of a Racist and Xenophobic Nature Committed through Computer Systems*, opened for signature in

Strasbourg on 28 January 2003. This protocol was signed by Switzerland on 9 October 2003 but has hitherto not been ratified.

16. *Convention on Action against Trafficking in Human Beings*, in force since 1 February 2008. This convention was signed by Switzerland on 8 September 2008 but has hitherto not been ratified.

#### *Bilateral agreements*

Switzerland has a number of bilateral agreements on police cooperation with all its neighbours as well as with Albania, Macedonia, Bosnia-Herzegovina, Hungary, Romania, Czech Republic, Slovenia and Latvia. On 27 March 2009, Switzerland signed a memorandum of understanding with Bulgaria. An agreement with Serbia was approved by the Swiss Council of States (The smaller chamber of the Federal Parliament) in March 2010 and its ratification is still in progress at the time of writing. The agreements and the memorandum contain a number of dispositions regarding cooperation between law enforcement authorities in the fight against criminal activities, including terrorism (ex. coordination of operations, exchange of information, joint working groups, etc). In order to improve the co-operation between Swiss and US law enforcement authorities in investigating terrorist attacks, the Federal Council concluded an agreement to Combat Terrorism and the Financing of Terrorism. This agreement replaces a previous "Operative Working Arrangement" of September 2002, and is in force since 1 December 2007.

#### *Further initiatives*

Switzerland is also active in the field of non-proliferation as far as counter-terrorism is concerned. For instance, Switzerland organised a "Eurasia Counter-terrorism Conference on International Cooperation to Combat Bioterrorism" in December 2004 in Zurich. Furthermore it held an "International Conference on Securing the Future of Seversk and Zeleznogorsk after Reactor Shutdown" in Spiez in February 2005. A follow-on event on "Securing the Future through an Integrated Nuclear Non-proliferation Strategy" was organised in Spiez in October 2007.

From 7 to 8 September 2006, the United States Department of State and the Federal Department of Foreign Affairs of Switzerland co-hosted a Bioterrorism International Coordination Exercise (called "Black ICE") in Montreux, Switzerland. This two-day tabletop exercise was an opportunity for officials from numerous international organisations to examine the critical co-operation and coordination issues that would be necessary to respond to an international bioterrorism attack. The possibility of organising follow-on exercises is currently under consideration.

On 22 November 2002, the Member States of the Euro-Atlantic Partnership Council (EAPC) adopted the "Partnership Action Plan against Terrorism (PAP-T)" at their Prague Summit in order to enhance co-operation in preventing and combating terrorism and to coordinate the different actions and efforts in this field. Among others, the PAP-T provides for regular consultation on relevant security policy issues, an exchange of information on all aspects of combating terrorism as well as more efficient control over weapons of mass destruction. Switzerland, as an EAPC Member State, welcomes the PAP-T as a useful instrument to reinforce efforts by EAPC members to fulfil their obligations under international law with respect to combating terrorism. Switzerland wants to contribute to its implementation according to her priorities and capabilities and considers the PAP-T as an instrument of practical co-operation in the fight against terrorism in accordance with the framework provided by UNSC Resolution 1373.

Switzerland organised several EAPC/PfP activities with a view to contributing to the implementation of the PAP-T. Switzerland also hosted an EAPC seminar on PAP-T "Two Years on - Lessons Learned and Future Prospects" in Lugano in March 2005. A series of workshops were organised on counter-terrorism issues such as Countering Terrorism Financing in 2003, 2004 and 2005, "Threat convergence" (i.e. the linkages between WMD proliferation, terrorism and weak/failed States) in 2007, and Countering Jihadist Propaganda in 2008. Workshops on "Integrated Border Management" were held in Tirana in 2004 and in

Ohrid in 2005. A further series of five workshops on Critical Infrastructure Protection were organised between 2003 and 2007 in Zurich.

Switzerland offered a "Course about the handling of Nuclear, Biological and Chemical (NBC) Emergencies on a Tactical Level" held at the NBC centre of expertise in Spiez in November 2005.

Furthermore, Switzerland is actively engaged in the implementation of Section V of the OSCE Document on Small Arms and Light Weapons, in particular by giving expert advice to participating States, and the OSCE Document on Stockpiles of Conventional Ammunition, which also contribute to the efforts in combating terrorism.

Switzerland is also an invited member of the G8's Counter Terrorism Action Group (CTAG) since its creation in 2003.

**Finally, since 1 January 2010, Switzerland holds the chairmanship of the Committee of Experts on Terrorism (CODEXTER) of the Council of Europe.**

1.2 What national legislation has been adopted in your State to implement the above-mentioned agreements and arrangements?

On a national level, preventive and repressive measures are taken in order to prevent that acts of terrorism are carried out in Switzerland and to ensure that political conflicts are settled peacefully. In addition, these measures aim at insuring that Swiss territory is not used to endanger domestic and international security, either directly or indirectly.

In the wake of the terrorist attacks of 11 September 2001, Switzerland promptly provided the required information following requests from the United States for co-operation, and also addressed judicial co-operation requests to US authorities. The Swiss Government has outlawed all activities of the Al Qaeda organisation on its territory. Switzerland has systematically implemented the decisions of the Security Council Counter-Terrorism Committee, established pursuant to the Resolution 1267 (1999) and the following relevant resolutions of the UN-Security Council aiming at the freezing of assets of individuals and entities linked to terrorism.

In view of the ratification and implementation of the International Convention for the Suppression of the Financing of Terrorism (in force since 23 October 2003), a new article 260quinquies of the Swiss Penal Code (SPC) entered into force on 1 October 2003. This regulation provides for a penalty of up to 5 years imprisonment for anyone who collects funds or makes them available with the intention of financing a violent criminal act aimed at intimidating a group of people or at forcing a State or international organisation to carry out or refrain from carrying out any act. Article 260quinquies supplements, among others, article 260ter SPC (on criminal organisations) by making the financing of isolated individuals or loosely structured groups a fully-fledged offence, punishable even if no terrorist act has yet been committed or attempted. In addition, new provisions on the criminal responsibility of legal entities (articles 102 and 102a of the SPC) were introduced, covering also the crime of financing of terrorism.

Moreover, the Federal Council extended the ordinance prohibiting the terrorist organisation Al Qaeda and its related organisations (SR 122) as well as the ordinance concerning the extension of the obligation to inform and the right to communicate (SR120.1) by three years. The latter ordinance is based on art. 13, al. 3 of the Federal Act on Measures to Safeguard Internal Security of 21 March 1997 (SR 120). Furthermore, the Federal Act on Measures to Safeguard Internal Security of 5 December 2008 (MSA, SR 361), allows the information flow, originating from the Swiss participation in the Schengen Information System (SIS) and in Europol to be integrated into the existing information systems.

In addition, the Federal Council decided on 2 July 2008 to sign the Council of Europe Convention on Action against Trafficking in Human Beings. This convention defines judicial standards applicable to criminal law, victim's assistance, rights of foreigners and procedural and extra-procedural protection of



witnesses. A comprehensive legislation concerning this field is currently under way in view of the ratification of the Convention.

**On 1 September 2009, the Federal Council approved the modification of the Federal Act on Measures to Safeguard Internal Security (MSA, SR 120), as well as the adaptations of the Ordinance concerning the extension of the obligation to inform and the right to communicate of 7 November 2001 (SR 120.1). The modifications apply to the measures against violence during sport events. These measures have been implemented by the Cantons on 1 January 2010 by their participation in the “concordat against violence during sport events”. This concordat takes over the provisions of the MSA concerning measures limited in time (exclusion orders, obligation of presenting oneself to the police and police custody).**

**Furthermore, the Federal Act on Information Exchange between Schengen States (Schengen Information Exchange Act, SR 362.2) aims at transposing the European Union Council Framework Decision 2006/960/JHA of 18 December 2006 simplifying the exchange of information and intelligence between law enforcement authorities of the member states of the European Union into national law. It entered into force on 1 January 2010. This act is designed to simplify and accelerate the information exchange in order to prevent and pursue violations of law. Therefore, the information at the disposal of the competent federal and cantonal law enforcement authorities can be transmitted following a request of a Schengen State. The legal text also envisages an improvement of the automated information exchange by obliging the competent law enforcement authorities of the Schengen States to provide spontaneously all information likely to prevent and enable to pursue gross violations of law like trafficking in human beings, child pornography, terrorism or corruption.**

Finally the revised Federal Act on Arms, Accessories of Arms and Munitions of 20 June 1997 (SR 514.54) which entered into force on 12 December 2008, facilitates the fight against the abusive use of arms and offers a guarantee in relation to the controls undertaken in this area. Since its entry into force, Cantons are obliged to register all transactions into cantonal databases. This constitutes an essential element to contain illicit trafficking of arms.

1.3 What are the roles and missions of military, paramilitary and security forces and the police in preventing and combating terrorism in your State?

The Swiss Armed Forces may support the authorities in a subsidiary way if the civilian assets and capabilities are insufficient in terms of personnel and material resources (article 67, section 2 of the Federal Act on the Armed Forces and the Military Administration of 3 February 1995, valid as of 1 January 2009 (Act on the Armed Forces) SR 510.10). Such support is granted by the Federal Council only at the request of civilian authorities. The operations in which the Armed Forces provide support, remain under civilian leadership and command. If more than 2000 Armed Forces personnel are involved or if the operations last more than 3 weeks, the approval of the Swiss Federal Assembly is required. The Armed Forces will augment the freedom of action of the political authorities, cover important areas, locations and vital important installations, protect the population against massive force and provide assistance in the event of disasters or other emergencies. Furthermore, the Armed Forces provide support for large scale events requiring enhanced security measures (e.g., World Economic Forum in Davos) as well as to reinforce the Border Guard Corps or the protection of certain embassies. Finally, surveillance and policing of the Swiss air space is a main task of the Swiss Air Force. Within this framework, the Armed Forces become part of the "National Security Co-operation". In extreme circumstances, such as an evident and imminent terrorism threat, the Armed Forces could also be deployed on active service. Such a deployment would also require the consent of the Federal Assembly. In cases of urgency, the Federal Council may decide on such a deployment, but the Federal Assembly has to be convened immediately if more than 4000 Armed Forces personnel are involved or if the deployment lasts for more than 3 weeks (article 77 of the Act on the Armed Forces).

Switzerland concluded bilateral treaties on cross border co-operation against non military airborne threats (e.g. renegade aircraft) with France in 2004 (SR 0.513.234.91), with Italy in 2006 (SR 0.513.245.41), with Germany in 2007 (SR 0.513.213.61) and with Austria in 2008 (SR 0.513.216.31). The treaties provide a legal basis for enhanced co-operation such as Recognised Air Picture, the identification and observation of unknown aircraft and, with permission and under the control of the receiving State, cross border operations including the use of warning flares (except with Germany and Austria). However, the firing of ammunition against an aircraft remains in the exclusive competence of the State in control of the airspace. Similarly, Switzerland has several Memoranda of Understanding with partner countries on the deployment of in-flight security officers on civilian flights.

Combating terrorism in the context of domestic security is primarily a civilian task for the police and legal authorities. It is part of preventive and repressive measures in the framework of national security. Prevention and, at least partially, the combating of terrorism are settled in the Federal Act about Measures to Safeguard Internal Security of 21 March 1997 (SR 120).

After the terrorist attacks of 11 September 2001, several parliamentary initiatives requested a stronger role for the national security agencies as well as an increase of their resources and instruments. Consequently, the Federal Council tasked the Federal Department of Justice and Police in November 2001 to submit proposals to improve the resources to fight terrorism. In June 2002, the Federal Council approved the report "Situation and Threat Analysis of Switzerland after the Terrorist Attacks of 11 September 2001" and took note of the thematic subdivision into two separated topics, the second including "terrorism/extremism". In October 2004, the Federal Council acknowledged the first considerations and commissioned the Federal Department of Justice and Police to prepare a draft act for consultation. Adoption of the respective legal and penal regulations is considered one of the top priorities. The revised Act on the protection of the internal security of Switzerland is still in consultation.

In 2001, the special unit Task Force Terror USA was set up by the Federal Attorney and the Federal Office of Police to coordinate criminal investigation and to ensure co-operation with foreign authorities. By 1 January 2004, because of the high burden and topicality within the Federal Office of Police, the Task Force Terror USA was replaced by a permanent commissioner's office in charge of suppression of the financing of terrorism. This is where specialised information and expertise are accumulated and the respective investigation is coordinated. While the commissioner's office basically deals with prosecution, the **Federal Intelligence Service** (FIS) within the Department of Defence, Protection of the Population and Sport performs preventive duties and intelligence gathering in the field of counter-terrorism.

The Money Laundering Report Office (MROS) is the national authority for the receiving, analysis and dissemination of Suspicious Transaction Report (STR) and other information regarding potential money laundering or terrorist financing. Moreover, it exchanges relevant information with similar entities on the international level. Finally, an interdepartmental working group on terrorism, comprising relevant offices of the various federal departments, has been charged to coordinate efforts. This group also reviews the compatibility of the Swiss legal system with Security Council Resolution 1373 (2001).

In May 2002, the US minister of health visited the surgeon general of the Swiss Armed Forces for an information exchange on the subject of strategies in medical aspects to combat bioterrorism.

1.4 Provide any additional relevant information on national efforts to prevent and combat terrorism, e.g., those pertaining *inter alia* to:

#### *Financing of terrorism*

The revised Federal Act on Combating Money Laundering and Terrorist Financing in the Financial Sector (Anti-Money Laundering Act, AMLL, SR 955.0) entered into force on 1 February, 2009. It now contains explicit references to the financing of terrorism. **The Federal Ordinances on Combating Money Laundering and Terrorist Financing in the Financial Sector have also been amended. The aforementioned act and ordinances remedy most of the deficiencies noted in the results of the mutual evaluation of Switzerland conducted in 2005 by the Financial Action Task Force (FATF). In October 2009, the FATF finished its international monitoring with regard to Switzerland under the third round of Mutual Evaluations. The FATF thereby recognised that Switzerland has made significant progress in strengthening the systems it has in place to combat money laundering and fight terrorist financing.**

In 2009, the Money Laundering Reporting Office Switzerland (MROS) received seven notifications from financial intermediaries in relation to suspicions of terrorism financing. The amount of these notifications totalled CHF 9'458.84 representing 0.0004 % of the total amount of all notifications of financial transactions made in 2008.

In the context of terrorism financing, the Federal Council decided on 5 November 2008, to take measures in order to limit the activities of the PKK and related organizations. Condemning the attacks committed in autumn 2008 against persons and equipment belonging to the Turkish Community in Switzerland and other European Countries, the Federal Council expressed its firm opposition to the resort to violence as a political mean in a free country governed by the rule of law. Among the measures adopted in order to limit the increased resort to violence, art. 184, al.3 of the Federal Constitution was invoked to prohibit the collecting of funds in Switzerland during Kurdish celebrations, if the purpose of this money causes any doubts. Therefore, only funds collected for humanitarian purposes and which can be verified as such are accepted. Moreover, the Federal Council called upon the Cantons to be strict when authorizing requests for manifestations. Also, the Cantons have been invited to intensify their information gathering concerning the PKK and related organizations. Finally, the Federal Council asked for an evaluation of the need to adopt an ordinance allowing the confiscation of incorporeal assets intended for the financing of violent extremism.

#### *Border controls*

Border controls on the Swiss borders are generally fall in two categories:

- On the external Schengen frontier the identity of all passengers in international airports is checked.
- On the Schengen internal-frontier, identity controls are made for self protection or on initial suspicion. Principal points of entry are constantly staffed; others according to clearly defined opening hours and furthermore there are mobile controls and controls according to circumstances in the border area. Controls take place in public, on trains and on ground. Controls of private merchandise are under the responsibility of the border guards, whereas the civil customs control the entering trade-flow.

Since the 1 May 2009, the new ordinance about the control of trans-border cash trafficking (SR 631.052) is applied in the frame of customs control. It allows for the temporary confiscating of cash that could be related to terrorism. The Money Laundering Reporting Office Switzerland (MROS) and the relevant police forces are informed about this.

With the existence of the bilateral treaties with its direct neighbouring countries, Switzerland enjoys enhanced cooperation in the airspace regarding exchange of information.

### *Travel document security*

Switzerland attributes great importance to the measures against counterfeiting of its travel documents. It was one of the first countries to be connected to the Interpol- database on lost and stolen travel documents.

Furthermore, on 17 May 2009, Swiss citizens accepted the Federal Decision for the implementation of the EC- Regulation Nr. 2252/2004 on passports with biometric data and travel documents. **As of 1 March 2010, Switzerland issues exclusively 2<sup>nd</sup> generation e-passports with an electronically stored facial image and two fingerprints. In order to participate in the global effort to enhance travel document security, Switzerland has become member of the International Civil Aviation Organization Public Key Directory Board (ICAO-PKD) and will start the up- and download of certificates in summer 2010. To contribute to the future developments of secure travel documents, Switzerland participates also in the relevant ICAO working groups.**

**Asides from issuing state-of-the-art travel documents, Switzerland actively participates since 2010 in the EU-FADO-Database (False and Authentic Documents) and makes this information available to boarder guard and police authorities.**

### *Container and supply chain security*

In various countries measures aiming at increasing security of the international supply chain were taken. The EU for example introduced summary advance-reservation (security data) for all imported goods originating from third countries and all goods leaving the EU towards third countries. These procedures enable risk analysis in relation to security. Moreover, the EU has introduced a status of Authorized Economic Operator (AEO-Status). This status confirms, that the operator guarantees for security. The AEO-Status grants the operator certain simplifications for security-related border controls.

Switzerland applies security standards, corresponding to the ones of the EU. For this reason, Switzerland and the EU concluded a treaty which recognizes their standards. The objective was to abstain from security measures in bilateral trade between Switzerland and the EU. On 13 May 2009, the Federal Council approved the changes in the trans-border trade and decided to sign the adapted treaty on the traffic of goods. After the signature on 26 June 2009 the parliament now needs to ratify the revised treaty. subject to acceptance by the relevant commissions, it should be applied as from of 1 July 2010.

The acknowledged equal security standards between Switzerland and the EU allow for bilateral trade between Switzerland and EU without advance-declaration. Instead, the direct trade in goods between Switzerland and non-EU-States are going to fall under the new security regulations. **Moreover, Switzerland created on 27 November 2009 a status of Authorized Economic Operator equal to the EU and therefore recognized by the EU (modification of the Custom Ordinance of 1 November 2007, SR 631.01).**

### *Security of radioactive sources*

The Swiss legislation on radiological protection fixes a procedure of licenses and inspection for the use of ionizing radiation (radioactive sources and radiological installations). The licensing authority is the Federal Office of Public Health (SFOPH). According to the code of conduct on the safety and security of radioactive sources, the SFOPH manages an inventory of high activity radioactive sources which lists the most dangerous sources present in various Swiss companies. The SFOPH regularly collects information on their state and location and reinforces the control system with local inspections in order to improve compliance with the above mentioned code of conduct. The transport of such sources is done according to international legislation.

*Use of the internet and other information networks for terrorist purposes*

The Swiss Reporting and Analysis Unit for Information Assurance (MELANI) is the Swiss federal government's basis for the protection of Critical Information Infrastructure. It consists mainly of three separate entities,. The Federal Strategy Unit for Information Security (FSUIT) within the Ministry of Finance has the strategic lead over MELANI. The GovCERT.ch within the FSUIT provides MELANI's technical expertise, while the situation analysis centre, within the **Federal Intelligence Service (FIS)**, located in the Ministry of Defence, Civil Protection and Sport, operates MELANI's operational tasks. MELANI's customer base or constituency are private companies and government bodies, which are considered part of Switzerland's national critical infrastructure (NCI), and are relying on, or providing, network services. They recruit from various sectors, such as finance, energy, transportation, industry and government. The public private partnership (PPP) between MELANI and these NCI is based heavily on confidentiality, trust and mutual information sharing between the NCI and MELANI on one hand, and inter-sector, as well as intra-sector information sharing between the NCI.

Information shared by MELANI and its constituency are derived from different sources. On the side of MELANI, these are mainly technical pieces of information, commonly coming from CERT channels as well as confidential information, received by partner intelligence services.

MELANI's situational analysis centre within the **Federal Intelligence Service (FIS)** therefore is the government's operational centre for the use of internet and other networks for espionage, sabotage and terrorism. In addition to these already existing capacities, the FIS within the Ministry of Defence, Civil Protection and Sport is tasked with building and staffing a monitoring and analytical unit, to keep track of the use of internet by terrorists and its supporters in regard to threats against Switzerland and its institutions.

The use of internet for terrorist purposes is documented in different proceedings, conducted by the Federal Criminal Police (FCP). These proceedings demonstrate that certain target-subjects increasingly mistrust cell phones, but instead turn towards communicating via internet (ex. Skype, VoIP, Pal talk), which is more difficult to monitor. Another phenomenon encountered by the FCP is the use of dead e-mail addresses, meaning an e-mail address to which several persons have access, but from where no messages are sent. The target-persons simply write messages they save under "drafts" without sending them. In doing so, another person, having the password, can log in the e-mail account, read the message and reply to it with the same technique. This method has the advantage that no transmission of data is made from this type of e-mail account, and without the help of the providers (yahoo, hotmail, maktoob etc.), it is strictly impossible for the security forces to detect (and thus monitor) this type of communication.

Even the classical use of e-mail conversations causes difficulties for police forces insofar as providers are not necessarily easy to reach, even in cases of legal assistance. It is well known that the procedures to receive assistance in terms of backing up, blocking and finally transmitting data from an e-mail account hosted in foreign countries is long, complex, burdensome and uncertain.

*Legal co-operation including extradition*

The Swiss Federal Office of Police and the Federal Criminal Police have developed a long and fruitful relationship with its European and non-European counterparts initiated at the end of 2001. Swiss authorities and its security / Police partner services have worked together in some of the most important proceedings developed in Switzerland:

The neutralization of an Al Qaeda linked network dismantled in January 2004 brought a wealth of information and authoritative knowledge about Al Qaeda, its related networks in the Arab region and their connections in Europe and Switzerland. This first major operation brought successes to both countries due to the cooperation of fedpol with both its European and non European partners. The case of

a suspected Al Qaeda financier was uncovered and pursued due to a central piece of information brought to Switzerland by foreign partners.

Another case investigated in Switzerland and then successfully sentenced in a third country was carried out with support of European and non European partners both in the intelligence and law enforcement fields.

A case linked to the use of internet as propaganda and recruitment tool led to the first judicial success of the Swiss Government against Al Qaeda and its related networks. The operation's major suspects were both found guilty of having supported Al Qaeda. The leader of the group was given a six month prison sentence. The main associate received six month suspended sentences.

The fight against Al Qaeda in Iraq (Iraqi pipeline related operations), the Iranian Mujahedeen al khalq group and the internet network are the last three topics that have been a subject of international cooperation in the field of counter-terrorism and terrorism financing in Switzerland.

The Swiss Federal Office of Police and its European and non-European partners both intend to continue (and deepen) their collaboration in the field of counter-terrorism.

#### *Safe havens and shelter to terrorists and terrorist organizations*

**The Swiss Federal Office of Police, the Federal Office of Migration and the Federal Intelligence Service cooperate closely in order to prevent individuals involved in terrorist activities and/or supporting a terrorist organization from entering Switzerland. However, as the case of a Tunisian national granted asylum in Switzerland and later convicted for abetting Al-Qaida illustrates, it is not possible to detect every potential terrorist, i.e. anticipate future terrorist activity when a residence permit is granted. Both the Federal Office of Police and the Federal Office of Migration have the ability in consultation with their internal security partners to use a number of administrative measures (e.g. entry bans, expulsions, etc.) to prevent (potential) terrorists from entering or residing in Switzerland. The abovementioned offices are also attentive to the activities of individuals in Switzerland who may attempt to facilitate the entry of foreign nationals affiliated with terrorism. In the past, the Swiss authorities have investigated and prosecuted a network involved in such activities.**

## **2. Stationing of Armed Forces on foreign territory**

2.1 Provide information on stationing of your States Armed Forces on the territory of other participating States in accordance with freely negotiated agreements as well as in accordance with international law.

The temporary stationing of Swiss military personnel on the territory of other OSCE participating States in the context of peace support operations is governed by the agreements between the respective OSCE participating State and the responsible international organisations (e.g. the OSCE and/or the United Nations).

In October 1999, Switzerland deployed the logistics unit "Swiss Company" (Swisscoy) in the multinational NATO force in Kosovo (KFOR). This unit, based in Camp Casablanca in Suva Reka, is assigned to Manoeuvre Battalion DULJE (OPCON), one of the Manoeuvre Battalions operating under the command of Multinational Battle Group South (MNBG S). The Manoeuvre Battalion is primarily operating in the greater region of Prizren, but deployable in the whole of KFOR's area of responsibility. The legal basis for the engagement in KFOR is UNSC-Resolution 1244 of 10 June 1999. The personnel for this unit is trained at the Peace-Keeping Training Centre (TC SWISSINT) in Stans.

Since October 2002, the members of the SWISSCOY (7th contingent) are fully armed (for self-defence) and the contingent's personnel strength has been increased to a maximum of 220 members of the Armed Forces. The increase involved primarily the provision of a mechanised infantry platoon and an air transport element consisting of 2 medium transport helicopters.

Ever since April 2007, (with the deployment of the 16th Swiss contingent) the infantry element has been gradually increased to roughly 90 troops, while the logistics elements have been downsized. The total number of SWISSCOY personnel has never exceeded the authorised maximum of 220 troops.

On 11 June 2008, the Federal Assembly approved the current SWISSCOY engagement within KFOR until 31 December 2011.

With the decision of "Deterrent Presence" of 11 June 2009, KFOR entered the next mission phase which will bring along important reductions in troop numbers and a shift towards activities in the areas of observation and liaison. Switzerland will re-evaluate its contribution towards KFOR. At any rate, this re-evaluation will have to take place towards the end of 2011, at which time the mandate given by Parliament will expire.

**Currently, there are 19 members of the Swiss Armed Forces deployed in the European Force (EUFOR) in Bosnia and Herzegovina (Operation ALTHEA). They operate as two liaison and observation teams (LOT). Ever since May 2005, two transport helicopters have been allocated to EUFOR ALTHEA. These two helicopters were withdrawn from the area of operations on 30 September 2009.**

**As of 15 March 2010, 18 Swiss officers are serving in United Nations Peace Support Operations: 11 in the UN Truce Supervision Organization (UNTSO) in the Middle East, 1 in the Bureau intégré des NU au Burundi (BINUB), 3 in the Mission de l'Organisation des Nations Unies en République démocratique du Congo (MONUC), 3 in the UN Mission in Nepal (UNMIN).**

**Additionally, 6 Swiss demining experts are engaged in Mine Action Programmes in Laos (4 advisors, UNDP) and Sudan (FSD/NPA, 1 adviser for each NGO).**

Finally, 5 Swiss officers form the Swiss delegation to the Neutral Nations Supervisory Commission (NNSC) in Korea.

The temporary deployment of Swiss military personnel on the territory of other OSCE participating States in the context of training co-operation (e.g. joint courses or exercises) is governed by bi- or multilateral agreements with the respective states or by PfP agreements.

With a partial adaptation of the Act on the Armed Forces approved by the people on 10 June 2001 in a referendum, the Federal Council was given the power to conclude Status of Forces Agreements (i.e. the "Agreement among the States Parties to the North Atlantic Treaty and the other States participating in the Partnership for Peace regarding the Status of their Forces" the so-called PfP-SOFA). This allows the Federal Council to conclude international training agreements. Additionally, the Federal Council was authorised to arm Swiss troops in peace support operations, if required. If however an armed mission abroad involves more than 100 members of the Armed Forces or lasts more than 3 weeks, approval by the Federal Assembly is mandatory. On 26 March 2003, the Federal Council decided to approve and to ratify the PfP-SOFA SIPOL dated 19 June 1995 along with its amended protocol. This approval simplifies the conclusion of bilateral treaties with other PfP States such as the agreement on co-operation on air policing between Switzerland and its neighbouring countries.

**With regard to civilian police support, Switzerland has been present in Kosovo and Bosnia-Herzegovina for several years: first under the mandate of the United Nations and afterwards within the missions of the European Union. At the present time, Switzerland provides the European Union Police Mission (EUPM) in Bosnia-Herzegovina with one civilian police officer and the European Union Rule of Law Mission in Kosovo (EULEX) with three civilian police officers advising the local**

**authorities. Moreover, until the end of its mandate in 2008, Switzerland supported the United Nations Observer Mission in Georgia (UNOMIG) with one civilian police officer.**

### **3. Implementation of other international commitments related to the Code of Conduct**

3.1 Provide information on how your State ensures that commitments in the field of arms control, disarmament and confidence- and security-building as an element of indivisible security are implemented in good faith.

Switzerland's arms control and disarmament policy is based on the principle of undiminished security at the lowest possible level of armament.

Switzerland believes that the full implementation of the *Treaty on the Non-Proliferation of Nuclear Weapons* is of particular importance. Accordingly, it calls upon States to adopt a balanced approach towards the three pillars of the treaty. In order to support the full and timely implementation of the *Chemical Weapons Convention (CWC)*, Switzerland contributes to efforts towards the destruction of existing chemical weapons stockpiles. In particular, Switzerland has provided financial support for the destruction of stockpiles in Russia and Albania. Switzerland also supports the implementation of the CWC through contributions to the *Organisation for the prohibition of Chemical Weapons*, providing among other things training for its inspectors. In the field of biological weapons, Switzerland supports the adoption of a verification protocol to the *Convention on the prohibition of Biological Weapons (BWC)* which would contribute to ensuring the full implementation of this international instrument. Switzerland also promotes the adoption of confidence-building measures within the framework of the BWC and provides training on the international level in the field of bio security.

In the field of conventional weapons, Switzerland supports the full implementation of the *UN Programme of Action on Small Arms and Light Weapons*. In addition, Switzerland is also active at the operational level. It assists other countries in meeting their commitments through the financing of several projects in the fields of training, of the destruction of stockpiles and of the development of national capacity, as well as through the provision of expertise. Switzerland also assists States in meeting their commitments under the *Convention on the Prohibition of Antipersonnel Landmines* by providing, among other things, assistance towards demining or destruction of stockpiles. This is illustrated through its support to the *Geneva International Centre for Humanitarian Demining* and through its contribution to the setting up of the *Information Management System for Mine Action*.

Switzerland is actively involved in the NATO PfP Trust Fund, which was created in September 2000 to assist Partner countries in undertaking the safe destruction of stockpiled anti-personnel landmines. The Trust Fund was subsequently extended to include the destruction of conventional ammunition, along with Small Arms and Light Weapons (SALW). Since 2007, the Trust Fund Policy also includes programs aiming at tackling corruption.

In particular, Switzerland, along with the UK and Poland, is co-lead nation of a project called "Building Integrity and Reducing Corruption Risk". The Federal Department of Foreign Affairs (FDFA) is steering Switzerland's involvement in this project, with the participation of the Federal Department of Defence. On the whole, for 2008 Switzerland invested CHF 140'000 in "Building Integrity and Reducing Corruption Risk".

In South Sudan, Switzerland leads a Security Sector Reform (SSR) project with two agencies of the FDFA, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and the Swiss Federal Department of Defence. In this context, since March 2008 the Swiss Armed Forces are assisting the Sudan People's Liberation Army (SPLA) in its transformation process and in the implementation of the peace agreement between North and South Sudan. Whereas the FDFA has the political lead on the project, the Department of Defence is responsible for its realisation.



The project provides instruction modules such as Human Rights, International Humanitarian Law, Democratic Control of the Armed Forces, and Instruction Methodology to the SPLA instructors. In addition, workshops for civilian and military staff are organised in order to help the local authorities in fixing priorities and define the next steps to be followed for the overall implementation of the SSR scheme. In this spirit of capacity building, Switzerland provides counselling for the establishment of the future Sudanese Military Academy, the Dr. Garang Memorial Military Academy (DGMMA).

The Swiss Armed Forces team in Southern Sudan consists of a maximum of three military experts. On an occasional basis and after authorisation, additional experts can be sent to the region for the purpose of teaching special instruction modules.

In Mali, Switzerland grants a yearly amount of EUR 75'000 to the École de Maintien de la Paix (EMP) of Bamako. This support also includes a position in the administration council of the EMP, the appointment of a civilian expert from summer 2009 onwards, and the launching of new instruction modules in collaboration with the FDFFA and the Geneva Centre for Security Policy (GCSP).

Furthermore, two Fact Findings Missions in Mali, conducted in February and June 2009 provide substantial information for a foreseen project on Physical Security and Stockpile Management and Destruction of Small Arms and Light Weapons (SALW).

3.2 Provide information on how your State pursues arms control, disarmament and confidence- and security-building measures with a view to enhancing security and stability in the OSCE area.

Within the OSCE framework, Switzerland contributed to the elaboration of its *Document on Small Arms and Light Weapons* as well as with its *Document on Stockpiles of Conventional Ammunition*. It also co-authored (with Spain and the UK) one of the eight Best Practice Guides on SALW of the OSCE (Guide on stockpile management and security). In addition, Switzerland supported OSCE projects in the field of SALW destruction with the provision of experts.

Switzerland benefits from its participation in NATO's *Euro-Atlantic Partnership Council* (EAPC) and *Partnership for Peace* (PfP) in promoting and implementing the adopted norms and instruments. Within this framework, Switzerland has organised a number of seminars and workshops in order to address specific issues and reinforce the coordination of the actions taken by different regional organisations.

In addition, Switzerland supports financially a number of projects concerning the destruction of surplus SALW and conventional ammunitions. In the framework of the PfP Trust Fund, Switzerland has disarmament projects in Albania, Serbia & Montenegro, Azerbaijan, Kazakhstan, Georgia and Ukraine covering clearance and destruction of Unexploded Ordnance (UXO), and destruction of missiles and rockets, SALW and Man-Portable Air Defence Systems (MANPADS).

In Albania, Switzerland participates in two projects. The first aims at the destruction of 1.6 million anti-personnel landmines, whereas the second intends to destroy 11'000 tons of SALW ammunition, hand grenades and mortar rounds. In 2008, the overall Swiss donation for this project reached CHF 450'000.

## **Section II: Intra-State elements**

### **1. National planning and decision-making process**

1.1 What is the national planning and decision-making process in determining/approving military posture and defence expenditures in your State?

The lead for foreign and security policy, and hence also for the military posture and defence expenditures, lies with the government i.e. the Federal Council. Within the parameters set by the Federal Constitution, the Federal Council develops and presents periodically its policy in a report on security policy. This paper is drafted within the administration, but a wider public may be involved through a precursory study group, hearings or a consultation with an advanced draft. The report covers the whole spectrum of Swiss security policy: threats and dangers, the international environment, interests and objectives, basic strategy and the instruments of security policy as well as organisational and resource matters. It determines a general outline for the military posture.

The currently relevant document for Swiss security policy is “Security through Co-operation - Report of the Federal Council to the Federal Assembly on the Security Policy of Switzerland (Report 2000 on Security Policy)” of 7 June 1999. It was submitted to the Parliament and was acknowledged by the National Council on 22 December 1999 as well as by the Council of States on 21 March 2000. From now on, the report on security policy shall be updated or totally rewritten every four years, starting in 2010. **The drafting process for a new report on security policy is currently ongoing.**

The government report on security policy is published and submitted to Parliament for discussion. Parliament can acknowledge the report or refuse to do so, but it cannot amend the report, as it reflects the government's intentions. However, any amendments to existing laws or promulgation of new laws that may be needed for the implementation of the security policy are subject to parliamentary approval and a facultative referendum: If more than 50'000 citizens sign a call for a referendum within a hundred days, the adoption of these laws must be submitted to a referendum. This instrument has been used repeatedly. Parliament has also the final say on defence expenditures, as part of the federal budget. The budget proposal submitted by the Federal Council is first discussed in the respective parliamentary commissions of both chambers (in the case of the defence budget by the Committees on Finance and on Security Policy) before being presented to the plenary session. Moreover, the two chambers of the Federal Assembly vote separately on requests for appropriations by the Federal Council on procurement programmes for the Armed Forces (including weapons and ammunition) and military construction programmes (both drafted by the DDPS) on the basis of annual requests. In the past, it was the rule that the report on security policy (dealing with the entire scope of security policy) was followed within a few years by so-called Armed Forces guidelines, dealing solely with the Armed Forces and specifying the military posture, including the Armed Forces' missions, organisation, training, etc. The last Armed Forces guidelines were drafted in 2001. The need to adapt the Armed Forces more frequently than in the past to new requirements or conditions may lead the government to drop Armed Forces guidelines for more frequent and less comprehensive documents on Armed Forces development. As is the case with reports on security policy, projects laid out in Armed Forces guidelines are subject to parliamentary approval in-so-far as they involve amendments to laws or expenditures.

1.2 How does your State ensure that its military capabilities take into account the legitimate security concerns of other States as well as the need to contribute to international security and stability?

There is no particular process for taking into account these considerations. Given the peaceful relationships with other countries, its centuries-long traditions of neutrality and military non-aggression, its relatively small demographic and geographic size, and the openness of its political and resource allocation process, including the process of formulating security and defence policies, Switzerland does not feel the need to establish such a process.

## 2. Existing structures and processes

2.1 What are the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence services and the police?

#### *Armed Forces*

Democratic control of the Swiss Armed Forces is ensured by the principle of the primacy of politics in defence matters and by the rule of law. In fact, important decisions have to be submitted to the Federal Assembly for acknowledgement or approval. Additionally, they are subjected to popular vote either mandatorily or at the request of 50'000 citizens (optional referendum). Furthermore, amendments of federal laws, adopted by the Federal Assembly, can also be subjected to popular vote (optional referendum). At the request of 100'000 citizens, any military matter can be subjected to a popular vote for a constitutional amendment (people's initiative). Thus, the Swiss Armed Forces are effectively controlled by the following constitutional procedures:

- authorisation procedures of the Federal Assembly;
- people's initiative
- mandatory or optional referendum.

#### *Paramilitary forces*

Switzerland has no paramilitary forces.

#### *Internal security forces*

Switzerland has no internal security forces at the federal level.

#### *Intelligence services*

**Switzerland has 2 principal intelligence services which are both within the Federal Department of Defence, Civil Protection and Sport since January 2010:**

- **Since the beginning of 2010 the former Strategic Intelligence Service (SIS) (Foreign Intelligence Service) and the former Service for Analysis and Prevention (SAP) (Domestic Intelligence Service) are integrated in one new Federal Intelligence Service (FIS) office. The Federal Council implemented the regulations on 4 December 2009, which created, among other things, the only civil Intelligence Service of the Swiss Confederation as of 1 January 2010. The FIS operates on the basis of Federal Act on Measures to Safeguard Internal Security (MSA, SR 120), the Federal Act on the Competencies in the Area of the Civil Intelligence Service (CISL, SR 121) and the Ordinance concerning the Federal Intelligence Service (O-FIS) (SR 121.1).**

**The focus is on acquiring information with a political, economic, military and/or scientific-technical background from abroad that is, or could be, important for Switzerland. A list of priorities is drawn up and its content selected by the political leadership at regular intervals. It also consists in taking preventive measures for a timely recognition and countering of threats of terrorism, illicit intelligence activities, violent extremism and violence during major events. These measures include the discovery of preparatory acts of weapons trafficking and radioactive materials as well as of illicit transfer of technology. In compliance with Switzerland's federalist structures, FIS closely co-operates with cantonal and communal police authorities. Furthermore, on the federal level FIS coordinates specific security measures and co-operates with foreign police. Abroad, the FIS stays in contact with over 100 police and security agencies worldwide. These bilateral and multilateral contacts are authorized by the Federal Council .**

- **The Military Intelligence Service provides joint intelligence on senior command level in order to respond to the specific needs of the Armed Forces. It is part of the Swiss Armed Forces Joint Staff (J2).**

The Security Committee (composed of the Heads of the Federal Departments of Defence, Civil Protection and Sport, of Justice and Police, and of Foreign Affairs) has a staff for coordination of cross-departmental security issues. Its tasks were specified in an ordinance of the Federal Council of October 2007 and include drafting regular assessments of the security situation based on contributions from different branches of the federal administration, scenario-based contingency planning for crisis management on the federal level, assisting the authorities in charge of managing the government response in specific crisis situations, and assisting the relevant federal departments in matters of co-operation.

Parliamentary oversight of the intelligence services is exercised by a delegation of the Control Committee of the Federal Assembly. It is regularly informed on structures, budget and activities of the intelligence services, including interagency co-operation, and periodically inspects them. The delegation supervises mainly legal aspects, usefulness and effectiveness of the activities of the intelligence services. It publishes an annual report on its findings but is not authorised to alter government decisions.

### *Police*

The federal system of Switzerland is also mirrored in the police structures. According to art. 57 of the Federal Constitution (SR 101), the Confederation and the Cantons are, within the borders of their respective competencies and by coordinating their efforts in the field of internal security, responsible for the security of the country and for the protection of the population. According to art. 123, section 2 of the Constitution and art. 338 of the Penal Code (SR 311), police forces and police authority is a cantonal competence. Each Canton has its own sovereign police force with similar control mechanisms (26 different regulations). Some major cities also have their own police force. The cantonal and communal police forces are primarily responsible for safeguarding public order and security within their districts.

On the federal level, the Federal Office of Police (fedpol) is responsible for safeguarding national security. Pursuant to art. 336 ff. of the Penal Code, fedpol also assumes tasks connected with criminal prosecution, particularly in connection with combating organised crime. Besides coordinating investigation procedures within the state borders as well as in international cases, the Federal Criminal Police (FCP) within fedpol runs its own investigations under the direction of the Federal Prosecutor of Switzerland in cases of serious crimes involving organised crime including drug trafficking, money laundering, corruption, counterfeit and economic crime. Moreover, the FCP is also responsible for the investigation of suspected acts of terrorism, financing of terrorism, crimes connected to explosives, illegal intelligence activities, offences against the Federal Act on War Material (War Material Act, WMA), the Federal Act on nuclear energy, the Federal Act on the control of civil and military goods (SR 946.202), as well as the Federal Act on aviation. The FCP coordinates intercantonal criminal investigations and ensures information exchange with Interpol, Europol and the Schengen framework. It also carries out criminal analysis in the areas of its competencies.

**Following the transfer of the Service for Analysis and Prevention (SAP) from the Federal Office of Police (fedpol) to the Federal Department of Defence, Civil Protection and Sport at the end of 2008, fedpol took over part of the police- and administration- related activities which had been conducted previously by SAP. According to the Federal Act on Foreigners (SR 142.20), fedpol can in particular issue denials of entry, as well as decide expulsions in order to preserve the internal or external security of Switzerland. It can also, according to the Federal Act on Measures to Safeguard Internal Security (MSA, SR 120), issue limitations to outward departure from Swiss territory and order the confiscation of materials containing propaganda inciting to violence. This includes the recommendation to internet providers for deletion or blocking of websites.**

**Moreover, a special unit within fedpol manages the electronic database «HOOGAN» (database for the registration of Hooligans) and represents the Office in national and international working groups concerning hooliganism. In its quality, the special unit Hooliganism takes over the functions of a National Football Information Point (NFIP). In case of international football games, the Swiss NFIP provides data and analyses on Swiss football teams and potential risks to the NFIPs of other countries. This system ensures the data exchange with police authorities during such events.**

Since 1 January 2009, the Cybercrime Coordination Unit (CYCO) is part of the Federal Criminal Police within fedpol. This unit detects and analyses any contents on the internet which could have criminal implications, as, for example, inciting terrorism. It then passes on the information to the competent law enforcement authorities, in Switzerland and abroad.

**According to a decision of the Federal Council of 29 May 2009, an additional unit was created within the Federal Criminal Police with the competency of investigating cases of cybercrime in connection with organised crime, economic crime, terrorism and financing of terrorism, as mandated by the Federal Prosecutor's Office.**

Police forces can be supported by the Border Guard Corps (uniformed and armed service of the Federal Customs Directorate) as well as by railway police (part of Swiss Federal Rail). In general, fedpol cooperates closely with cantonal police services in matters involving the Cantons.

Federal tasks, including those related to the Armed Forces, border guards and intelligence services, are periodically and systematically reviewed by the federal departments, the Federal Chancellery and the federal offices. Inter-departmental activities of the Confederation are evaluated together with the administrative units by the Ways and Means Committees of the Federal Assembly, unless another agency has been designated by legislation as responsible. If suspicion arises during investigations that laws may have been broken and that the situation may call for disciplinary or penal measures, the Ways and Means Committees immediately inform the superior agency. After completion of the investigation, the Control Committee reports to the Federal Chancellor. This report is then submitted to the Federal Council together with a statement of the administrative organisation concerned and proposals for measures to be taken. Finally, on the legislative level, the Federal Assembly can establish a "Special Parliamentary Investigation Commission" and entrust it with high powers, such as subpoena summons of witnesses and access to classified files and documents.

2.2 How is the fulfilment of these procedures ensured, and which constitutionally established authorities/institutions are responsible for exercising these procedures?

Democratic control of the Swiss Armed Forces and the police forces is ensured by their subordination in all respects to the democratically elected political authorities. Thus, the Swiss Armed Forces are effectively controlled by the following democratically elected constitutional bodies:

- the Federal Assembly (Parliament);
- the Federal Council (Government, accountable to the Federal Assembly);
- the Foreign Policy Commissions of both chambers;
- the Security Policy Commissions of both chambers;
- the Finance Commissions of both chambers;
- the Defence Minister who is at the same time Federal Councillor and Head of the DDPS (elected by the Federal Assembly) with regard to the control over the Armed Forces and control over the FIS;
- the Minister for Justice and Police who is at the same time Federal Councillor and Head of the Federal Department for Justice and Police (FDJP) with regard to the control the federal police and the federal security service.

*Federal Assembly (Parliament)*

The Federal Assembly is the supreme legislative body. It discusses and formally takes note of reports by the government on security policy or the Armed Forces. It has the final say on all measures related to establishing, funding and equipping the Armed Forces. Amendments to laws relevant to the military are subject to detailed parliamentary deliberation and require for their adoption a simple majority in both chambers of the Federal Assembly. Federal acts and treaties passed by the Federal Assembly are subject to an optional referendum (and in very particular cases to a mandatory referendum, i.e. urgent federal laws without a constitutional foundation or treaties of accession to international security organisations).

Each chamber of the Federal Assembly has a Security Policy Commission, where the Federal Council regularly informs the Federal Assembly on important defence and security matters concerning, inter alia, the military posture, and where Federal Council proposals to the Federal Assembly are prepared for discussion in the plenary. The Security Policy Commissions prepare decisions relating to military defence, civil protection, national economic supply, peace and security policy, alternate civilian service and the export of military equipment, and supervise administrative activities for their respective chambers. The processes described in section 2 (including the role of the Finance Commission) as well as the delineation of responsibilities between legislative and executive bodies provide for democratic political control. Their tasks and powers are listed in the respective regulations of both chambers of the Federal Assembly.

Furthermore, the Federal Assembly can also play an active part by submitting motions, by setting up special investigation commissions and by drafting or amending laws on issues of defence and security policy. The Federal Council determines the military posture within the framework established by the Federal Assembly (Act on the Armed Forces and decisions on defence budget and procurement programmes).

#### *Federal Council (Government)*

As the supreme executive authority at the federal level, the Federal Council (i.e. the Swiss Government, consisting of seven Federal Councillors) decides on all defence matters that have to be submitted to the Federal Assembly (e.g., report on security policy, Armed Forces guidelines, proposals for amendments to the Act on the Armed Forces, procurement and construction requests) and on any deployment of the Armed Forces within Switzerland or abroad. The Government Security Committee is composed of the heads of the Federal Departments of Defence, Civil Protection and Sports, of Justice and Police, and of Foreign Affairs. It prepares the deliberations of the Federal Council on security issues and identifies interministerial intelligence needs. According to article 185 of the Swiss Federal Constitution, the Federal Council is obliged to summon the Federal Assembly without delay whenever an operation within Switzerland involves more than 4'000 military personnel for active service or lasts for more than 3 weeks. The Federal Assembly makes the final decision whether the measures initiated by the Federal Council are to be continued or not.

#### *Head of the Federal Department of Defence, Civil Protection and Sports (Minister of Defence)*

The Head of the Federal Department of Defence, Civil Protection and Sport (DDPS) is a Federal Councillor (i.e. a civilian). He is politically responsible for that department's activities and thus also for overall defence planning.

The DDPS is charged with the execution of all decisions related to matters of defence and civil protection adopted by the Federal Council. It also has the lead in the elaboration of reports on security policy, defence guidelines, the Act on the Armed Forces and on Civil Protection and other proposals of the Federal Council to the Federal Assembly.

Due to the consensus character of the Federal Council, all important decisions concerning the military or civil protection postures are taken not by a single federal department, but by the Federal Council as a

whole. Other federal departments are regularly and closely involved in the definition of security policy and the military and civil protection postures, especially the Federal Department of Foreign Affairs and the Federal Department of Justice and Police.

#### *Head of the Federal Department of Justice and Police*

Like the minister of defence, the minister of justice and police is an elected Federal Councillor. The portfolio of his department includes the federal office of justice (FOJ), the federal office of police (fedpol), the federal prosecutor's office as well as the federal office of migration. In his function, he is responsible for the political and strategic orientation of those offices as well as for the development of their cooperation with foreign countries and international institutions.

2.3 What are the roles and missions of military, paramilitary and security forces, and how does your State control that such forces act solely within the constitutional framework?

#### *Military forces*

The Federal Council is the supreme authority of the Swiss Armed Forces. All flag officers of the Swiss Armed Forces are appointed by the Federal Council who, at any time, can also dismiss officers of any rank. The Federal Council and, in particular the DDPS, are responsible for controlling and ensure that the Swiss Armed Forces act entirely in accordance with the Constitution and the subsequent legislation.

Members of the Federal Assembly can draw attention to acts of the Swiss Armed Forces, which in their view may be contrary to the Constitution. Parliamentary approval is necessary for the posture of the Swiss Armed Forces, the defence budget as well as procurement programmes and construction of military infrastructure. In wartime, a Commander-in-Chief (CINC) of the Swiss Armed Forces is elected by the Federal Assembly (who can also demote him at any time). In peace time, there is no CINC, but a Chief of the Armed Forces (CAF). He reports to the Head of DDPS.

According to art.1 of the Federal Act on the Armed Forces the Swiss Armed Forces have the following types of missions:

1. The Armed Forces contribute to the prevention of war and the preservation of peace.
2. The Armed Forces protect the population and the State against the use of force of strategic magnitude. Already below the threshold of war, the Swiss Armed Forces protect strategically important areas and facilities and contribute thereby to security and stability. In the case of a military threat to Switzerland, the Swiss Armed Forces defend population, territory and airspace and provide maximum freedom of action for the Federal Council. If defence is no more possible on an autonomous basis, they will be authorised by the federal authorities to conduct defence within a coalition with other states .
3. Subsidiary operations in support of civilian authorities to prevent and overcome dangers which pose a vital threat: The Armed Forces' support of civilian authorities consists of their participation in disaster relief, support operations (e.g. care) and security operations (e.g. facility protection, assisting police or the border guard). In all these cases, Armed Forces assets are employed in a subsidiary way under the operational responsibility of civil authorities. The Armed Forces are engaged primarily when civilian means are insufficient or a major effort is required. Within this framework, the Armed Forces become part of the national security co-operation.
4. Contribution to international peace support and crisis management: The contribution to international peace support and crisis management includes the deployment of military personnel and troop contingents for stabilisation and international crisis management under mandates covered by

international law and the preparation for such operations in multinational or bilateral co-operation with Armed Forces of other states.

The Armed Forces are prepared to increase their defence capabilities if the military threat appears to increase. This becomes more important as the capabilities for territorial defence against conventional military aggression are reduced in favour of increased capabilities for protection, guarding and surveillance missions within Switzerland.

#### *Paramilitary forces*

Switzerland has no paramilitary forces.

#### *Security forces*

Switzerland has no internal security forces at the federal level.

### **3. Procedures related to different forces personnel**

3.1 What kind of procedures for recruitment and call-up of personnel for service in your military, paramilitary and internal security forces does your State have?

#### *Military forces*

Recruitment procedures are defined in the Federal Council Ordinance on Recruitment of 10 April 2002. The minimum age to be recruited is 18 years. Recruitment is within the responsibility of the Chief of the Armed Forces. The J1 division of the Armed Forces Joint Staff is responsible for recruitment and determines the number of recruits required for the various functions and branches. The Medical Services of the Armed Forces Logistics Organisation is responsible for the medical doctrine and the medical guidelines for the recruitment.

Since 2003, conscription begins with the registration of conscripts at the age of eighteen. Prior to the recruitment all conscripts are called-up for an information day and interested women are invited. Recruitment also includes a written orientation to all future conscripts and women at the age of sixteen. The actual recruitment, starting at the age of nineteen, is organised on a federal level at 6 permanent locations under the supervision of the Recruitment Command. The recruitment takes place between 12 months at the earliest and 3 months at the latest before the intended start of basic training and lasts up to 3 days. These recruitment days count as service days in the liability to military service of the able conscripts. The main purpose of this recruitment is to register the physical, psychological, intellectual and professional potential in a performance profile. For the assignment to the Armed Forces, the performance profile is compared with the requirement profile. At this stage, it is determined whether the conscript may serve as a single-term conscript or not. Moreover, the potential for and the interest in a cadre function as officer or NCO is also evaluated. At the same occasion, it is determined whether conscripts who are not fit for military service can serve within the framework of the civil protection which does not count as liability to military service.

The Recruitment Command:

- directs recruitment at Swiss Armed Forces level at 6 permanent recruitment centres;
- evaluates the requirement profile for the roughly 270 functions;
- supervises the conduct of the roughly 5'000 aptitude tests and about 500 technical examinations;
- conducts the evaluation of the potential candidates for a cadre function for the following levels:



- cadre level I: for NCOs
- cadre level II: for senior NCOs or subaltern officers
- cadre level III: for unit commanders (captains)
- cadre level IV: for battalion commanders (LTC) and GS officers
- cadre level Z: for contracted military personnel (militia officers and NCOs contracted for a limited time period)
- co-operates with 26 cantonal military authorities;
- deals with requests for military service without weapons for reasons of conscience.

According to the directives of the Recruitment Command, the military authorities of the Cantons call up those liable to join the Swiss Armed Forces (2003: 24,538, 2004: 28,510, 2005: 33,923, 2006: 38,525, 2007: 39,686, 2008: 38'597 and 2009: 39'849).

For the organisation of the recruitment, the Recruitment Command has the following offices at his disposition:

- 6 permanent recruitment centres.
- The military authorities of the Cantons and the regional command in charge, respectively, are responsible for registering, enrolling and informing the conscripts prior to recruitment. They are also responsible for the organisation of the information day prior to recruitment and for call-up for recruitment.
- The Medical Services of the Armed Forces Logistics Organisation is responsible for military medical examinations. It nominates the chief physician in charge, his deputy physician and the medical personnel supporting the Recruitment Command and the recruitment centres.
- The Federal Office for Sports conducts physical performance tests within the framework of the recruitment days.

Recruits fit for military service are called up usually at the age of 20 for basic military training (recruit school) according to the directives of the Armed Forces Personnel, J1 of the Armed Forces Joint Staff. Call-up is given via a personal marching order, which contains information on date, time and location of reporting and dismissal. According to the Federal Council Ordinance on Military Service Liability, recruit school lasts 21 weeks for about 2/3 of the conscripts and 18 weeks for 1/3, depending on the branch they serve in. Recruit schools have 3 starting dates: March, July and November. The schools are overlapping. Students have the opportunity to accomplish the recruit school in 2 parts.

According to the Federal Council Ordinance on Military Service Liability, some of the militia soldiers (maximally 15% of conscripts of a recruiting year) have the opportunity to fulfil their entire compulsory service of 300 days (for sergeants 430 days, for senior NCOs 500 days and for subaltern officers 600 days) in one single term (single term conscripts). In principle, the number of service days for conscripts in refresher courses and for single term conscripts is equal. The additional 40 days to be accomplished by single term conscripts compensate for their advantages regarding supplementary leave days. After completion of the compulsory service days, single term conscripts normally remain in the reserve for another 10 years. They will be dismissed at the end of the year in which they reach the age of 30.

The Armed Forces Personnel, J1 of the Armed Forces Joint Staff, is authorised to grant postponement of recruit school upon request for family, professional or educational reasons.

At the end of the recruit school the newly trained soldiers are assigned to units of the Armed Forces or to the personnel reserve. They are then called up by personal marching order for refresher courses until they have completed their total number of compulsory service days.

As a rule, the marching order has to be sent to the person liable to military service at least 6 weeks before the service starts. Furthermore, the refresher courses' agenda for the forthcoming year is always published in the autumn. For persons liable to military service, this public poster is in itself equivalent to a marching order and obliges them (and their employers) to adjust their civilian activities. Since 2006, each person liable to military service receives an announcement 20 weeks before service.

Whoever fails to respond to a public call-up or marching order without being excused is reported to the military justice for penal prosecution.

Dismissal from civilian employment is null and void during a period of military service. If the term of service exceeds 11 days, dismissal within 4 weeks before or after service is also null and void. In addition, service personnel have a legal claim to compensatory income deficit payment.

#### *Paramilitary forces*

Switzerland has no paramilitary forces.

#### *Security forces*

Switzerland has no internal security forces at the federal level.

### 3.2 What kind of exemptions or alternatives to military service does your State have?

#### *Exemptions*

Liability to military service is an integral part of universal conscription. It begins with recruitment. All male Swiss citizens are obliged to serve in the Armed Forces. Liability to military service encompasses all types of service (training service, assisting service and active service as well as some parts of the voluntary peace-keeping service) as well as off-duty obligations. Women may apply voluntarily for military service. The following groups are exempt from military service for the duration of their tenure or employment (aprox. a total of 5,400 persons):

- members of the Federal Assembly and of the Federal Council;
- the clergy, unless they serve voluntarily as chaplains in the Armed Forces;
- indispensable personnel in the health services;
- professional personnel in the rescue services, fire brigades and police;
- border guards;
- postal staff and staff of transport companies with a federal concession;
- persons employed in those parts of the administration that, in extraordinary situations, are responsible for general defence.

Exemptions are only possible after basic military training has been completed.

#### *Alternatives to compulsory military service*

Service duties are fulfilled by completing compulsory military service or alternative civilian service. Conscripts who do neither military nor civilian service have to fulfil civil protection duties and are required to pay a tax (compensatory military tax) in compensation for the military service that they have not performed.

Since 1996 conscripts who feel unable to serve in the Armed Forces for reasons of conscience may be assigned to alternative civilian service. This is undertaken outside the Armed Forces in civilian deployment enterprises. It serves civilian purposes and involves duties in the public interest. Those accepted for alternative civilian service are mainly employed in the following fields: health and social services, nature conservation and environmental protection, forestry and agriculture, development co-operation and humanitarian aid. The Federal Department of Economic Affairs is responsible for civilian service; it decides whether a candidate is acceptable or not.

Civilian service duty lasts 50% longer than regular military service.

In 2009, 7'213 applications for assignment to civilian service were submitted (in 2008, there were 1'946 applications). In 2009, 6'720 applications were approved and 8 rejected (2008: 1'631, rejected 59). In 2009, 7'302 persons liable to military service performed civilian service (2008: 5'327 persons). As of the end of 2009, a total of 17'871 people were liable to perform civilian service. Fewer than 0.1 per cent of these are women.

Since 1 April 2009, there have been new regulations in the admission procedure for civilian service: those wishing to perform civilian service are no longer required to submit detailed evidence of their conscientious objection to military service. Readiness to undertake civilian service, which lasts one and a half times as long as military service, is regarded as sufficient proof of conscientious objection. Due to the new rules, the number of candidates for civilian service has considerably risen.

Legal status, rights of appeal, remuneration, grounds for exemption and penalties for breaches of duty largely correspond to those that apply to persons performing military service. The civilian criminal courts have jurisdiction, and not the military courts. There is a right of appeal to the Federal Administrative Court against all decisions made by the civilian service authority. Persons performing civilian service may contact the civilian service authorities at any time if they have a grievance against the deployment enterprises. The civilian service authority conducts inspections of the deployment enterprises to ensure that the civilian service projects are being carried out properly.

Laws or other relevant documents regulating exemptions or alternatives to compulsory military service:

- The Federal Act on the Armed Forces, particularly articles 2, 17, 18, 26 and 145;
- The Federal Act on Alternative Civilian Service of 6 October 1995 (SR 824.0)

3.3 What are the legal and administrative procedures to protect the rights of all forces personnel as well as conscripts?

#### *Principles on the legal status of military personnel*

Military personnel are entitled to their constitutional and legal rights during military service as well. This applies, in particular, to the protection of personality, freedom of confession and conscience, the right to freely express one's opinion as well as to practise one's political rights. However, basic rights and freedom are limited during military service. But these limitations are only applied as far as they are necessary for the accomplishment of the mission of the Armed Forces, of the unit and of the individual person on duty. The Act of the Armed Forces and Service Regulation provide the legal basis for these restrictions.

#### *List of rights of military personnel<sup>2</sup>*

<b>Protection of personality</b>	Right to the respect of one's personality and to the greatest possible preservation of one's personal sphere
<b>Right of information</b>	Right to regular information on security and military policy issues
<b>Counselling and care</b>	Military personnel requiring help are given pastoral, medical, psychological and social advice and support

<sup>2</sup> Service Regulation 04, articles 93-101.

<b>Right to military pay, board and lodging as well as special contributions</b>	Special contributions are: - no postal charges during service - free public transportation during service
<b>Military insurance</b>	Right of compensation from military insurance in the event of accident or illness in context with military service
<b>Compensation for loss of income</b>	Right of compensation for loss of income due to military services
<b>Suspension of legal proceedings relating to prosecutions during service</b>	Article 57 of the Federal Act on Debt Collection and Bankruptcy of 11 April 1889 (SR 281.1)
<b>Protection against dismissal from employment</b>	Article 336 Paragraph 1 lit. e of the Federal Act completing the Swiss Civil Code of 30 March 1911 (Book 5: Code of Obligations; SR 210)
<b>Right of complaint /legal assistance</b>	Right of proceedings within an order of law to protect the individual against unlawful administration or against abuse of power by the administration or a military superior, compulsory defence counsel in the case of a trial before a military court

*Summary list of decrees relating to legal assistance of military personnel*

<b>Issue</b>	<b>Regulation of process / List of decrees</b>
<u>Service complaint proceedings</u> Service complaint of Armed Forces personnel is permitted: - against directives of military superiors - against certain directives of military authorities (verdicts on conscription and promotion) - in all cases where Armed Forces personnel consider themselves unjustly treated	Articles 36-40 of the Federal Act on the Armed Forces and the Military Administration (Act on the Armed Forces, AOA) of 3 February 1995 (SR 510.10) Sections 102-109 of Service Regulation 04 of 22 June 1994 (SR 510.107.0)
<u>Legal administrative proceedings</u> Legal assistance in certain non-monetary issues such as: - Verdicts on expulsion from the Armed Forces - Verdicts on exemption from service	Article 40 of the Federal Act on the Armed Forces and the Military Administration (Act on the Armed Forces, AOA), the Federal Act of 20 December 1968 on Administrative Proceedings (SR 172.021) and the Federal Act of 17 June 2005 on the Federal Administrative Court (SR 173.32)
Personal talk or confidential hearing with the commanding officer	Section 103 of Service Regulation 04
Complaint against assessment of military fitness	Article 39 the Federal Act on the Armed Forces and the Military Administration (Act on the Armed Forces, AOA)
Reconsideration of verdicts regarding - service postponements - advance services - voluntary services - dispensation from active service	Article 38 the Federal Act on the Armed Forces and the Military Administration (Act on the Armed Forces, AOA)
Means to contest a disciplinary penalty (disciplinary appeal)	Military Criminal Code of 13 June 1927; articles 180 ff.
Means and proceedings for dealing with penal cases	Military Criminal Code of 13 June 1927 (SR 321.0), Federal Act on Military Criminal Procedure (MCPA) of 23 March 1979 (SR 322.1) and Federal Council Ordinance on Military Criminal Judicature (MCJO) (SR 322.2)

The Military Penal Code<sup>3</sup> provides in its second book a catalogue of sanctions, which includes, among others, arrest from 1 to 10 days and disciplinary fines up to 500 Swiss Francs during military service and up to 1000 Swiss Francs between military service periods.

#### **4. Implementation of other political norms, principles, decisions and international humanitarian law**

4.1 How does your State ensure that International Humanitarian Law and Law of War are made widely available, e.g., through military training programmes and regulations?

The international law of armed conflict is fully integrated in the Service Regulation of the Swiss Armed Forces. A major effort has been done to introduce the most important notions in general military manuals for conduct and tactics. An instruction leaflet for all members of the Armed Forces has been issued in 5 languages (German, French, Italian, Rumantsch Grischun, and English) and is distributed by unit commanders. Specialised manuals providing an overview on the legal framework of all missions of the Swiss Armed Forces, including an introduction to human rights and international humanitarian law have been published in German and French and are distributed to all active officers and senior non-commissioned officers since 2005/2006.

Armed Forces personnel are educated in the Law of Armed Conflict during basic training (recruit school) and in all military cadre schools.

- Basic training includes: basic knowledge of the Geneva and Hague Conventions including Additional Protocols I - III (laws and traditions of war and corresponding behaviour). All soldiers are instructed with CD-ROM LOAC I containing an introductory theory and a test. The theoretical knowledge is put into practice during combat training exercises.
- NCO schools: Repetition and strengthening of expertise gained during basic training, responsibilities of a group/squad leader.
- Officers' schools: Enabling officers to teach their subordinates the Law of Armed Conflict.
- Prospective company commanders are trained in the Law of Armed Conflict and in the rules concerning the protection of cultural property (incl interactive training with CD-ROM LOAC II).
- The Law of Armed Conflict is part of the curriculum of the Swiss Armed Forces Training Centre (all cadre courses, including courses for General Staff Officers), the Swiss Military Academy as well as of schools and courses for legal advisors.
- Legal advisors attend the Military Course on International Humanitarian Law at the San Remo Institute.
- Peace Support Operations: Members of the Armed Forces participating in PSO receive an instruction on the Law of Armed Conflict and on specific Rules of Engagement.

Dissemination of the Law of Armed Conflict to a wider public shall continue to be promoted by interactive CD-ROMs and an internet website. The LOAC-website of the Staff Chief of the Armed Forces is available at [www.loac.ch](http://www.loac.ch) in French and German .

An e-learning tool on IHL, legal aspects of PSO and human rights is available online on the PfP Learning Management System (LMS, see <http://pfp.ethz.ch>, "FDFA-DDPS IHL Course"). Switzerland offers a variety of courses on LOAC to NATO and EAPC/PfP Partner nations (Course for military medical personnel, course CENTROC alternating with an IHL competition for middle-rank officers, workshop on the OSCE Code of Conduct). In all those courses LOAC is an important subject. Switzerland also cooperates with the San Remo Institute of International Humanitarian Law (IIHL) by providing financial assistance and teaching staff. From time to time, Switzerland also offers support as Host Nation for other IHL activities with third parties (such as, for example, ICRC).

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<sup>3</sup> <http://www.admin.ch/ch/d/sr/3/321.0.de.pdf>

4.2 What has been done to ensure that Armed Forces personnel are aware of being individually accountable under national and international law for their actions?

As all members of the Armed Forces receive throughout their military training the rank-specific instruction on the Law of Armed Conflict, they are fully aware of their obligations, duties, and their individual accountability.

Mission oriented ROE (Rules of Engagement) are reviewed during the instruction sequence preceding a mission. Pocket Cards reminding the characteristics of a mission and its specific ROE are handed out to each member of deployed units.

During active service, all Armed Forces personnel are committed by oath or vow to observe the Law of Armed Conflict.

4.3 How does your State ensure that Armed Forces are not used to limit the peaceful and lawful exercise of human and civil rights by persons as individuals or as representatives of groups nor to deprive them of national, religious, cultural, linguistic or ethnic identity?

All operations of the Armed Forces are subject to the provisions of the Act on the Armed Forces (which has been debated in public before adoption), and all but very minor operations require parliamentary approval. In addition, the open and free media, as well as the fact that the Swiss Armed Forces consist largely of conscripts, contribute to openness about operations, which is a further element to prevent Armed Forces operations which might serve to limit the exercise of human and political rights. If the Armed Forces are used in support of the police, it is the duty of the police authorities to ensure that the operation is legal and legitimate. Even then, Armed Forces are employed primarily for guarding and protection duties, freeing up police forces for duties where the risk of confrontation is higher.

4.4 What has been done to provide for the individual service member's exercise of his or her civil rights and how does your State ensure that the country's Armed Forces are politically neutral?

As members of the Armed Forces the citizens have the same rights as enshrined in the Constitution and the laws as civilians. This is especially the case for personal freedom, freedom of religion and conscience, freedom of expression and freedom of assembly and association. However, fundamental rights and freedoms are somehow restricted as far as necessary to guarantee an undisturbed course of the military service. So members of the Armed Forces may express their opinion freely. This also includes opinions about the military service. But the free expression must not prevent from carrying out tasks, nor interfere with the rules of obedience, discipline, team spirit and service operation. On the other hand it is forbidden for members of the Armed Forces to organise or participate in political meetings, declarations, propaganda, or collect signatures for political purposes.

These rights are guaranteed in the Federal Act of the Armed Forces (art. 28) and in Service regulation 04 (art. 93-99). Conscripts who declare that military service is not compatible with their conscience have the possibility to fulfil an alternative civilian service.

According to the Constitution and the Federal Act, the Armed Forces are subordinate to civilian authorities. Its highest leading and executing agency is the Federal Council which is governed by decisions that are taken by the Federal Assembly in accordance with the Constitution and the law. These authorities have to examine and to decide about the compatibility with neutrality of each engagement of the Armed Forces. Article 66 of the Act on the Armed Forces of 3 February 1995 specifies that every peace support engagement of Swiss troops has to correspond to the principles of the Swiss foreign and security policy.

#### 4.5 How does your State ensure that its defence policy and doctrine are consistent with international law?

Open public debate, the requirement for parliamentary approval for the Armed Forces budget and major acquisitions as well as operations, and the requirement of a UN Security Council mandate or an OSCE mandate for peace support operations help ensure that defence policy and doctrine are in accordance with international law. This is reinforced by a policy of neutrality and a practice of restraint vis-à-vis participation in operations outside Switzerland.

### **Section III: Public access and contact information**

#### **1. Public access**

##### 1.1 How is the public informed about the provisions of the Code of Conduct?

The Swiss Federal Department of Defence, Civil Protection and Sport, together with the Federal Department of Foreign Affairs, regularly organises an international, one-week Workshop on the OSCE Code of Conduct. This event is designed to increase awareness amongst parliamentarians, diplomats, civil servants as well as military commanders and staff officers about political and operational aspects of the Code of Conduct implementation. The national mass media is invited to cover this event and regularly reports in the press.

The Code of Conduct is an integral part of the Military Academy curricula at the Swiss Federal Institute of Technology (ETH) Zurich. Equally, the ETH runs its own OSCE-internet site where the Code of Conduct is one of the central themes. Furthermore, the internet website of the Swiss parliament, an official information site especially designed to inform the Swiss population, also refers to the Code of Conduct.

##### 1.2 What additional information related to the Code of Conduct, e.g., replies to the Questionnaire on the Code of Conduct, is made publicly available in your State?

The Code of Conduct and its provisions are selectively taught in Officers schools of the Armed Forces. Due to the Swiss militia system, where almost all soldiers are at the same time civilian citizens, this ensures a very good dissemination of the provisions of the Code of Conduct among the Swiss population.

Finally, the Code of Conduct is mentioned on the internet site of the Swiss Verification Unit, which deals with the obligations deriving from numerous international regimes and treaties in the area of arms control and disarmament.

##### 1.3 How does your State ensure public access to information related to your State's Armed Forces?

Public access to information on the Swiss Armed Forces is guaranteed, first of all, by the fact that all politically or legally relevant documents and decisions are published (see internet address [www.admin.ch](http://www.admin.ch)) and thus accessible to the general public. Furthermore Switzerland has a militia army. This ensures that a large part of male citizens (and women doing voluntary military service) are regularly immersed in the Armed Forces. Beyond that, the Federal Council and the DDPS regularly inform the public on all issues relevant to the security policy and the military posture.

In addition, the Act on Public Access came into force on 1 July 2006. Its provisions contribute towards transparency and thus towards the democratic control of the Armed Forces. This law enables every person to demand access to the administration's documents. This demand can only be refused for specific reasons such as:

- The documents serve for a political or administrative decision that has not yet been taken;
- The demand concerns documents that are still being discussed or considered.

Moreover, access to documents can be refused, for example, if it endangers the internal or external security, the foreign policy interests or international relations of the country, the concrete application of an administrative decision, the economic or monetary policy of the country or the free formation of the administration's opinion or will.

<http://www.vbs.admin.ch/internet/vbs/en/home/documentation/bases.html>

<http://www.admin.ch/ch/d/sr/sr.html>

## 2. Contact information

2.1 Provide information on the national point of contact for the implementation of the Code of Conduct.

Federal Department of Defence,  
Civil Protection and Sport DDPS  
Swiss Armed Forces  
Staff Unit Chief of the Armed Forces Staff CAF  
International Relations Defence  
Verification

Location: Kasernenstrasse 7, CH-3003 Berne

Mail: Papiermühlestrasse 20, CH-3003 Berne

+41 31 324 44 09 (phone)

+41 31 325 30 40 (fax)

[verifikation@vtg.admin.ch](mailto:verifikation@vtg.admin.ch)

[http://www.vtg.admin.ch/internet/vtg/en/home/themen/internationale\\_kooperation/ver.html](http://www.vtg.admin.ch/internet/vtg/en/home/themen/internationale_kooperation/ver.html)

2.2 Any other information:

Switzerland is willing to support and to sponsor regional workshops or seminars on the OSCE Code of Conduct aiming to raise further awareness and to foster the universalisation of this cross-dimensional, norm-setting document on the principles for an effective democratic control of the Armed Forces.

In 2009, the Republic of Austria and the Swiss Confederation co-sponsored in co-operation with the Conflict Prevention Centre and the OSCE Mission to Bosnia and Herzegovina, a regional "*Seminar on the Implementation of the Code of Conduct on Politico-Military Aspects of Security in South Eastern Europe*", which was held in Sarajevo-Ilidza, Bosnia and Herzegovina, from 3 to 5 November 2009. The event was organized with the intention of implementing FSC Decision 01/08, enabling the FSC to fulfill its duty to organize annually a specialized event with the aim of raising awareness of the CoC principles. It was directed to relevant governmental authorities of Albania, BiH, Croatia, Montenegro, Serbia, and the former Yugoslav Republic of Macedonia. The seminar did not only witness a high level of participation by respective Ministries of Foreign Affairs and Defense, including representatives of national parliaments, but the participants were also particularly familiar with the Code and its provisions, thus allowing very fruitful discussions and a substantial exchange of ideas on a high working level.



The purpose of the seminar was, as it is the intention of FSC Decision 01/08, to promote awareness about the implementation responsibilities among the relevant national authorities from the Western Balkan States. Special emphasis was placed on the Document's practical implementation efforts, the identification of loopholes as well as possible improvements. It also aimed at fostering dialogue and co-operation among ministries and senior military personnel from the region involved in the oversight of the armed forces, in order to promote full implementation of commitments stemming from the Code of Conduct.

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