



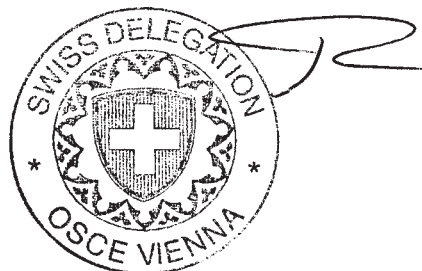
**Delegation of Switzerland to the Organization  
for Security and Co-operation in Europe (OSCE)**

**Note 11/12**

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 2012.**

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.



Vienna, 15 April 2012

To all Delegations to the OSCE Forum for Security Co-operation  
To the Secretariat of the Conflict Prevention Centre

Vienna



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/95/12  
13 April 2012

ENGLISH only

## 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 2011  
are in bold and italics)

# Switzerland

15 April 2012

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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 in 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 in 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 in 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 in 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 in 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 in 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 = Classified Compilation of Federal Legislation, <http://www.admin.ch/ch/e/rs/rs.html>

*Civil Aviation*, signed in 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. *Amendments to the Convention on the Physical Protection of Nuclear Material*, signed in Vienna on 8 July 2005. The amendments were ratified by Switzerland on 15.10.2008
9. *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation*, held in 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).
10. *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf*, written in 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).
11. *Protocol to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf*, done on 14 October 2005 in London, ratified on 15.10.2008 (SR 0.747.711.1)
12. ***Protocol to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation. This Protocol was ratified on 15 October 2008 and entered into force on 28 July 2010 (SR 0.747.712).***
13. *Convention on the Marking of Plastic Explosives for the Purpose of Detection*, signed in 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).
14. *International Convention for the Suppression of Terrorist Bombings*, adopted by the General Assembly of the United Nations in 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).
15. *International Convention for the Suppression of the Financing of Terrorism*, adopted by the General Assembly of the United Nations in 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).
16. *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).

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 the parliament's reservations concerning judicial assistance in fiscal matters. For further information see the respective report of the Federal Council (BBl 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 May 2003. This protocol was signed by Switzerland on 15 May 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 Convention entered into force for Switzerland on 1 January 2012 (SR 0.311.43).***

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. The process of ratification is ongoing. ***The convention has been approved by the parliament on 23 December 2011. The convention is expected to be ratified in the course of 2012.***
17. *Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, entry into force on 1 July 2010. This convention was signed by Switzerland on 16 June 2010. The process of ratification is ongoing.*
18. *European Convention on the Compensation of Victims of Violent Crimes. It was ratified on 7 September 1992 and entered into force on the 1 January 1993 (SR 0.312.5).*

#### *Bilateral agreements*

Switzerland has bilateral agreements on police co-operation 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 entered into force on 7 February 2011. The agreements and the memorandum contain a number of dispositions regarding the co-operation between law enforcement authorities in the fight against criminal activities including terrorism (e.g. 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 on the employment of joint investigation teams in the fight against terrorism and its financing.

#### *Further initiatives*

Switzerland's counter-terrorism efforts are emphasised in the field of non-proliferation. She is also an invited member of the G8's Counter Terrorism Action Group (CTAG) since its creation in 2003.

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 actively engaged in the preparation work for a future Arms Trade Treaty (ATT). Switzerland remains committed to a comprehensive legally binding instrument containing clear and effective parameters regulating the international arms trade and setting high standards, notably regarding compliance with existing international obligations, international humanitarian law and human rights law. A strong ATT will build an effective tool to combat illicit trade and to prevent diversion of arms to unauthorised end users who might use these weapons to support, encourage or perpetrate terrorist acts.

Moreover, , Switzerland held the chairmanship of the Committee of Experts on Terrorism (CODEXTER) of the Council of Europe from 2010 to 2011.

***To optimise counter-terrorism coordination between the recently established Global Counterterrorism Forum (GCTF), the UN and other international and regional organisations, Switzerland hosted an international conference in Interlaken on 23 and 24 February 2012. The conference was organised by***

*the Federal Department of Foreign Affairs FDFA. The conference helped coordinate the activities of the various actors in the fight against terrorism and underscored the key role played by the UN.*

## **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 acts of terrorism being carried out in Switzerland and to ensure that political conflicts are settled peacefully. In addition, these measures aim at ensuring 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 co-operation requests from several countries.. The parliament 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 subsequent 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 Criminal Code (Swiss Criminal Code (SCC) SR 311.0) 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 (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 SCC) 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 Information Systems of the Police of the Federation (ISPA) 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 signed on 8 September 2008 the Council of Europe Convention on Action against Trafficking in Human Beings. This convention defines judicial standards applicable to criminal law, victim's assistance and rights of foreigners, as well as procedural and extra-procedural protection of witnesses. A comprehensive legislation concerning the extra-procedural protection of witnesses 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 (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 supercedes 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 the pursuing of gross violations of law such as trafficking in human beings, child pornography, terrorism and corruption.

The revised Federal Act on Weapons, Weapons Accessories and Ammunitions (Weapons Act, WA SR 514.54) which entered into force on 12 December 2008, facilitates the fight against the abusive use of weapons and guarantees that more controls will be carried out in this area. Since its entry into force, Cantons are obliged to register all transactions.

On 28 July 2010 amendments on the Federal Act on Weapons, Weapons Accessories and Ammunition (SR. 514.54) came into force. Amendments were, inter alia, necessary for the incorporation of the Directive amending Directive 2008/51/EC on control, acquisition and possession of weapons as part of development of the Schengen acquis. Amendments concern the compulsory marking of ammunition, the extension of the storage time for record keeping, the setting up of computerized weapon registers, as well as provisions regulating the seizure of unlawfully marked weapons.

### **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 civilian personnel, material resources and capabilities are insufficient (article 67, section 2 of the Federal Act on the Armed Forces and the Military Administration (AOA, SR 510.10)). Such support is granted by the Federal Council only on request of the civilian authorities. The operations in which the Armed Forces provide support, remain under civilian leadership and command. If more than 2'000 Armed Forces personnel are involved or if the operations last more than 3 weeks, the approval of the parliament is required. The Armed Forces may increase the freedom of action of the political authorities, control 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 may 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 embassies. Finally, surveillance and policing of the Swiss air space is one of the main tasks 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 in active service. Such a deployment would also require the consent of the parliament. In cases of urgency, the Federal Council may decide on such a deployment, but the parliament has to be convened immediately if more than 4'000 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 aircrafts and, with permission and under the control of the receiving State, cross border operations including the use of warning flares (except for Germany and Austria). However, the firing of ammunition against an aircraft remains 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 (sky marshals) on civilian flights.

Combating terrorism in the context of domestic security is a shared task for the Intelligence Service, the police and legal authorities. The task combines preventive and repressive measures in the framework of national security. Prevention is settled in the Federal Act about Measures to Safeguard Internal Security (MSA, 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 divided the topic into two sub 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. The adoption of the respective legal and penal regulations is considered one of the main priorities. The revised Act on the protection of the internal security of Switzerland has passed parliamentary consultation in the end of 2011.

In 2001, the special unit Task Force Terror USA was set up by the Office of the Attorney General and the fedpol 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 fedpol, 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 investigations are coordinated. While the commissioner's office basically deals with prosecution, the Federal Intelligence Service (FIS) within the Federal Department of Defence, Civil Protection and Sports (DDPS) performs preventive duties and intelligence gathering in the field of counter-terrorism.

The Money Laundering Report Office (MROS) is the national authority for receiving, analysing and disseminating of Suspicious Transaction Reports (STR) and other information regarding potential money laundering or financing of terrorism. Moreover, it exchanges relevant information with similar entities on the international level. Finally, an interdepartmental working group on terrorism, comprising of the 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).

#### **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, AMLA, 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 Switzerland conducted in 2005 with 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 the fighting of terrorist financing.

In 2010, the Money Laundering Reporting Office Switzerland (MROS) received thirteen notifications from financial intermediaries in relation to suspicions of financing of terrorism. The amount of these notifications totalled CHF 23'098'233.85 representing 2.73% of the total sum of all notifications of financial transactions made in 2010.

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 means, 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 seemed to be suspicious. 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 such events. The Cantons have also 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.

***At the beginning of 2011, investigations were conducted in several Swiss cantons against cadres of former LTTE charged with (inter alia) participating in a criminal organisation, money laundering and extortion.***

***In late 2011 the parliament amended the Federal act on Measures to safeguard Internal Security, allowing to prohibit activities of individuals or organizations that pursue terrorist or violent extremist goals. These bans can be prolonged for as long as the threat to Switzerland's domestic or external security persists. This amendment will take effect in mid-2012, provided no referendum will be taken up against it.***

#### *Border controls*

Swiss border control is generally divided into two categories:

- At the external Schengen borders (international airports) the identity of all passengers is checked. A thorough immigration check according to the Schengen regime is carried out on all incoming and outbound passengers. A customs inspection is carried out either by the border guards or the civil customs depending on the nature of the merchandise.
- At the internal Schengen borders (land borders), identity checks are carried out for self protection or on initial suspicion. Customs inspections are performed. Checks on private merchandise are carried out under the responsibility of the border guards, whereas the civil customs supervise the entering trade-flow. Principal points of entry are constantly staffed; others according to clearly defined opening hours. Furthermore, mobile checks and controls depending on operational analysis may be performed in the border areas. Checks take place in public, on trains and on the ground.

Since the 1 May 2009, the new ordinance on the Control of Trans-Border Cash Trafficking (SR 631.052) is applied in the frame of customs inspections. It allows the temporary confiscation of cash that could be related to terrorism. The Money Laundering Reporting Office Switzerland (MROS) and the relevant police forces are informed about this.

Due to the existence of the bilateral agreements with its direct neighbouring countries, Switzerland enjoys enhanced co-operation in the fields of police, customs and migration.

#### *Travel document security*

Switzerland attributes great importance to the measures against the 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 2252/2004 on passports with biometric data and travel documents. As of 1 March 2010, Switzerland issues exclusively 2nd 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 established in January 2011 an active connection to the ICAO-PKD for the up- and download of certificates. These certificates are made on-line available to border guards and law enforcement authorities in Switzerland. To contribute to the future developments of secure travel documents, Switzerland participates also in the relevant ICAO working groups, such as the Technical

Advisory Group (TAG), the New Technologies Working Group (NTWG) and the Implementation and Capacity Working Group (ICBWG).

Besides issuing state-of-the-art travel documents, Switzerland also 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-declaration (security data) for all imported goods originating from third countries and all goods leaving the EU towards third countries. These procedures enable security risk analyses. 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 Agreement on the Carriage of Goods between Switzerland and the EU. The revised treaty entered into force on 1 January 2011.

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 is going to be handled by 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*

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 (FOPH). According to the code of conduct on the safety and security of radioactive sources, the FOPH manages an inventory of high activity radioactive sources, which lists the most dangerous sources present in various Swiss companies. The FOPH 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 Centre for Information Assurance (MELANI) is the Swiss Government's basis for the protection of Critical Information Infrastructure. It consists of three main separate entities: The Federal Strategy Unit for Information Technology (FSUIT) within the Federal Department of Finance has the strategic lead over MELANI. The GovCERT.ch within the FSUIT provides MELANI's technical expertise, while the Operations and Information Centre within the Federal Intelligence Service (FIS), located in the Federal Department of Defence, Civil Protection and Sport (DDPS), operates MELANI's operational tasks. MELANI's customer-base or target-group is private companies and government bodies which are considered part of Switzerland's national critical infrastructure (NCI), and rely on, or provide, 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 heavily based on confidentiality, trust and mutual information exchange between the NCI and MELANI on one hand, and intra-sector information sharing between the NCIs.

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 Operations and Information Centre situational analysis centre is within the Federal Intelligence Service (FIS) and is therefore the government's operational centre for the use of internet and other networks for espionage, sabotage and terrorism. *In 2011, the Federal Intelligence Service (FIS) and fedpol, based on a decision by the parliament, strengthened their capabilities for monitoring Jihadi activities on the internet. Both services are coordinating their respective activities in view of optimizing the results of their monitoring activities.*

#### *Legal co-operation including extradition*

Since the end of 2010 the fedpol has developed a long and fruitful relationship with their European and non-European counterparts. Swiss authorities and their security / police partner services have worked together in some of the most important proceedings developed in Switzerland. *In April 2011, for example, jihadists committed an attack with explosives against a café in the city of Marrakech, a Morocco tourist centre. Among the 17 casualties were two Swiss nationals and one foreign resident in Switzerland. Fedpol gained important information for its investigations from its cooperation with the Moroccan authorities.*

Fedpol 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*

Fedpol, 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. Both fedpol and the Federal Office of Migration have the ability to consult 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).

Since October 1999, the Swiss Armed Forces have been involved in the international peace support mission of the Kosovo Force (KFOR) with SWISSCOY in Kosovo – short for SWISS Company. SWISSCOY is composed of up to 220 voluntary military persons that are armed for self defence with pistols, assault rifles and riot agent dispensers. The deployment of SWISSCOY dates back to the Federal Council's decision on 23 June 1999 to participate in KFOR on the basis of UN Resolution 1244. The

mandate was limited by parliament until the end of 2011. The budget for 2011 amounts to 37.5 million CHF. Together with the Austrians, the Swiss forces are stationed at Camp Casablanca which is situated on the premises of a former rubber factory at Suva Reka (between Prizren and Pristina). The Federal Council decided by November 2010 to extend the deployment of SWISSCOY until the end of 2014 and to increase its personnel strength by up to 80 people in case of emergency, extraordinary circumstances or to reinforce the KFOR HQ for a period of up to 12 months. ***The parliament approved this prolongation in June 2011.***

The positive development of the security situation in Kosovo has led to changes in KFOR structures and a step-by-step reduction in the number of security elements. For this reason, instead of two infantry platoons, the elements EOD (Explosive Ordnance Disposal) and LMT (Liaison Monitoring Team) have formed part of SWISSCOY since April 2010. The originally two LMTs were increased to four in November 2010. The two first LMTs are stationed in Malishevo (Battle Group South) and in Camp Novo Selo which lies south of Mitrovica (Battle Group North). In October 2010, Switzerland took over a third LMT in Prizren (Battle Group South) and in November a fourth in the area of Battle Group North. ***On 1 January 2012, Switzerland has taken up the responsibility as lead nation of JRD N (Joint Regional Detachment North). Hence the posting of the Commander JRD N is manned by a Swiss Colonel (OF-5).***

Currently, there are 20 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). As of October 2011, the Swiss LOT houses have transferred from Bosanska Gradiska and Bugojno in the north to Mostar and Trebinje in the south. From May 2005 to 30 September 2009, two transport helicopters were allocated to EUFOR ALTHEA.

Furthermore, in the OSCE area, one Swiss officer is deployed to the OSCE headquarters in Vienna.

Moreover, some specialised professional military personnel can be called up on short notice for humanitarian operations, as it was done for the unarmed task force PELO, comprising some 40 personnel and three medium transport helicopters, which were deployed to Greece for fire fighting in August/September 2007.

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 the PfP-SOFA 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 Organization 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 parliament 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 time of writing, Switzerland provides the European Union Police Mission (EUPM) in Bosnia-Herzegovina with one border guard officer and one criminal justice advisor. The European Union Rule of Law Mission in Kosovo (EULEX) is also supported with three civilian police officers and three border guards advising the local authorities.

### **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 (OPCW), 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 is a State Party to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (CCW) and supports its full implementation. Switzerland further 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 has signed the Convention on Cluster Munitions (CCM) in 2008 and is currently in the process of its ratification. Switzerland also assists States in meeting their commitments under the Convention on the prohibition of anti-personnel mines by providing, among other things, assistance in demining or destruction of stockpiles. This is illustrated through Switzerland's important support and contribution to the Geneva International Centre for Humanitarian Demining and its establishment of the Information Management System for Mine Action.

In accordance with its humanitarian tradition, experts of the Swiss Armed Forces make specific contributions towards the implementation of existing international arms control and disarmament regimes. Activities are both geographically and thematically focused. Thematically, they focus on physical security and stockpile management (PSSM) in the regions of origin of SALW, disposal and destruction in the receiving states and marking and tracing procedures. Geographically, Switzerland puts an emphasis on areas of interest, on regions which are heavily affected by the SALW problematic and in which Switzerland can maximise the added value of its contribution. The activities are coordinated and implemented at the international level with the Multinational Small Arms and Ammunition Group (MSAG) and supported by the Swiss SALW experts' pool from which the Swiss Armed Forces can draw experience and personnel. Activities until now included PSSM seminars in Albania, Bosnia, Burundi, Ethiopia, Mozambique and Tajikistan, several fact-finding missions in Mali and in Bosnia as well as assessment visits and verification activities in Belarus.

*Switzerland has been an active EAPC/PfP partner in financing PfP Trust Funds activities in Europe, Central Asia, the Near East and North Africa, contributing to 13 projects since 2002 and co-leading 2 of them. By doing so, Switzerland participates in the fight against the dissemination and illegal trafficking of small arms and light weapons. It also supports the destruction of weaponry and*

*ammunition surpluses as well as capacity building in partner countries. Most recently Switzerland has been co-financing Trust Funds in Mauritania, Ukraine and Tajikistan and a feasibility study for a project in Kirghizstan.*

*Switzerland has been co-leading the Trust Fund on Building Integrity and reducing the risk of Corruption in the security sector since its inception. Its main contributions are the compendium of best practices (in 4 languages up to now: an Arabic translation will be available soon and the translation to Dari is ongoing), experts for training modules' development and for mobile training teams, VNC to support NATO IS and financial contributions.*

As an additional contribution to EUFOR ALTHEA, Switzerland will provide elements of a multinational Mobile Training Team (MTT) for capacity building in ammunition and weapons storage site management. The MTT will be Swiss-led and consist of ammunition and weapons experts from Austria, Sweden and Switzerland. On 16 February 2011, the Federal Council authorized the Swiss Armed Forces to deploy up to six small arms, ammunition and language specialists to EUFOR ALTHEA. First training modules are planned to be offered as of June 2011. The project is envisaged to last between three and five years and will also include complementary activities such as the establishment of national procedures and structures, life-cycle management and at a later stage capacity building for disposal and destruction.

### **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 (SALW) 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 (Best Practice Guide on National Procedures for Stockpile Management and Security). *In 2011, Switzerland supported two OSCE projects (approx. 100'000 CHF) in the field of SALW destruction in Bosnia-Herzegovina and in Moldova and provided experts. In March 2012, additional 50'000 CHF were pledged for a similar OSCE project in Serbia.*

*As an contribution to EUFOR ALTHEA, the Swiss Armed Forces provide experts for a Swiss-led multinational Mobile Training Team (MTT) to rebuild the capacity for physical security and stockpile management within the Armed Forces of Bosnia and Herzegovina. In terms of capacity building the Swiss experts are mainly responsible for physical security aspects, particularly with regard to the use of lethal and non-lethal means in accordance with the International Humanitarian Law and the OSCE Code of Conduct.*



## 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 current report on security policy dates from 2010. The report was approved by the Federal Council on 23 June 2010 and then submitted to the parliament. The parliament acknowledged it on 29 September 2011. Until now, reports on security policy were elaborated every ten years roughly (the previous report dated from the year 2000). From now on however, the report on security policy shall be updated or totally rewritten roughly every four years (once in every legislative period).*

*The Report 2010 on Security Policy was complemented by the Report 2010 on the Armed Forces which focuses on one specific instrument of the Swiss security policy, i.e. the Armed Forces. It sets out their mandate and performance profile, while pointing out the parameters for their future development. After the governmental approval on 1 October 2010 the parliament took note of this report. Proceeding from an additional report requested by the Commission on Security Policy of the lower Chamber, in September 2011 both Chambers of the parliament agreed to set a framework for the Armed Forces with a strength of 100'000 men and an annual budget ceiling of 5 bn. CHF.*

The government reports on security policy are 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 policy and 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. The 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 committees 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 parliament 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.

#### 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 and private military and security companies?

#### *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 parliament 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 two principal intelligence services which are both within the DDPS 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) have been merged into the newly created Federal Intelligence Service (FIS). The Federal Council implemented the regulations on 4 December 2009, which created, among other things, the only civilian Intelligence service of the Swiss Confederation as of 1 January 2010. The FIS operates on the basis of the Federal Act on Measures to Safeguard Internal Security (MSA, SR 120), the Federal Act on the Responsibilities in the Area of the Civilian Intelligence Service (CISL, SR 121) and the Ordinance concerning the Federal Intelligence Service (O-FIS) (SR 121.1).

A list of priorities is drawn up and is being adapted by the political leadership at regular intervals. These priorities consist 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 detection of preparatory acts of weapons trafficking and radioactive materials, as well as of the illicit transfer of technology. Moreover the FIS collects and analyzes information on political, military and economic developments abroad in order to support the Federal government in its decision making. In compliance with Switzerland's federalist structures, the FIS closely co-operates with cantonal and communal police authorities. Furthermore, at federal level, the FIS coordinates specific security measures and co-operates with foreign police authorities. 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 a 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).

Parliamentary oversight of the intelligence services is exercised by a delegation of the Control Committee of the Federal Assembly. It is regularly informed and periodically inspects the structures, budget and activities of the intelligence services, including interagency co-operation. The delegation supervises mainly the 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*

Switzerland's federal structure is also mirrored in the organisation of policing responsibilities. According to art. 57 of the Federal Constitution (SR 101), both 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. 3 of the Federal Constitution (SR 101), the Cantons are sovereign except to the extent that their sovereignty is limited by the Federal Constitution. As the Federal Constitution does not assign the issue of police forces and police authorities to the Swiss Confederation, they are primarily cantonal competences. Each Canton has its own sovereign police force. Additionally, some major cities have their own local forces.

However, specific tasks have been transferred to the federal level. Fedpol is responsible for the safeguarding of national security. These responsibilities encompass the criminal prosecution, particularly in connection with combating organised crime, the coordination of investigation procedures within the state borders as well as in international cases, investigations in cases of serious crimes involving organised crime including drug trafficking, money laundering, corruption, counterfeit and economic crimes, 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 SR 514.51), 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 Aviation Act (SR 748.0) and the coordination of inter-cantonal criminal investigations, the information exchange with Interpol, Europol and the Schengen framework and the analysis in the areas of its competencies. Following the transfer of the Service for Analysis and Prevention (SAP) from fedpol to the DDPS at the end of 2008, and its subsequent merger with the former Strategic Intelligence Service (SIS) to the Federal Intelligence Service (FIS) in 2010, fedpol took over part of the police- and administration- related activities which had been conducted previously by the SAP. Fedpol can in particular issue denials of entry, decide on expulsions in order to preserve the internal or external security of Switzerland, issue limitations to outward departure from Swiss territory and order the confiscation of materials containing propaganda inciting to violence.

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 the Swiss Federal Railways). 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. Unless another agency has been designated by legislation as responsible, Inter-departmental activities of the Confederation are evaluated together with the administrative units by the control committees of the Federal Assembly. If suspicion arises during investigations that laws may have been broken and that the situation may call for disciplinary or penal measures, the control 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 parliament 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.

On 1 January 2011, the Federal Criminal Procedure Code (CPC, SR 312) entered into force. The criminal procedure in Switzerland and the competences of the police force on federal and those forces on cantonal level are now regulated by federal law. Until the end of 2010, each canton used to have its own criminal procedure rules.

#### *Private military and security companies*

Based on a 2005 report on private military and security companies, the Federal Council decided to examine, firstly, whether or not the general conditions that private security companies must fulfil to be awarded a contract from the Swiss Confederation should be specified and, secondly, whether or not providers of military or security services which operate in areas of crisis or conflict from a base in Switzerland should be subject to authorisation requirements or a licensing system.

After corresponding inquiries, the Federal Council concluded that regulatory action with regard to contracting of private military and security companies indeed needed to be taken. It took the view that against the background of the increasing role played by private security companies, cantonal regulations needed to be more closely harmonised. On 31 October 2007, it adopted an ordinance on the assignment of federal government tasks to private military and security companies. The ordinance defines the minimum conditions under which the federal government may award contracts to private military and security companies. The conditions are designed to ensure that only companies likely to behave responsibly will be contracted. The current draft federal law on the police duties of the federal government of November 2009 seeks to recapitulate these conditions.

According to the decision of 16 February 2011, the Federal Council instructed the Department of Justice and Police in co-operation with other Federal Departments to draw up a consultation draft about a regulation of private military and security companies which operate in areas of crisis or conflict from a base in Switzerland until mid 2011. ***The decision is in accordance with two parliamentary motions that had been submitted to the Federal Council stating a need for action for a legal regulation of these companies. The consultation on the draft lasted until the end of January 2012.***

## **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 Committees of both chambers;
- the Security Policy Committees of both chambers;
- the Finance Committees 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 the FIS;
- the Minister of Justice and Police who is at the same time Federal Councillor and Head of the Federal Department of Justice and Police (FDJP) with regard to the control of the federal police and the federal security service.

#### *Federal Assembly (Parliament)*

The parliament 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 a simple majority in both chambers of the parliament for their adoption. Federal acts and treaties passed by the parliament are subject to an optional referendum (and in very particular cases to a mandatory referendum, i.e. urgent federal laws without a constitutional basis or treaties of accession to international security organisations).

Each chamber of the parliament has a Defence Committee, where the Federal Council regularly informs the parliament on important defence and security matters concerning, inter alia, the military posture, and where Federal Council proposals to the parliament are prepared for discussion in the plenary. The Defence Committees prepare decisions relating to military defence, civil protection, national economic supply, peace and security policy, alternative 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 Committee) 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 parliament 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 parliament (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 parliament (e.g., reports 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 DDPS, of Justice and Police, and of Foreign Affairs. It prepares the deliberations of the Federal Council on security issues and identifies inter-ministerial intelligence needs. According to article 185 of the Federal Constitution, the Federal Council is obliged to summon the parliament 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 parliament 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 (DDPS) (Minister of Defence)*

The Head of the DDPS is a Federal Councillor (i.e. a civilian). He is politically responsible for his 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 Federal Acts and ordinances concerning the Armed Forces and Civil Protection and other proposals of the Federal Council to the Federal Assembly.

Due to the collegial nature 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 her department includes the Federal Office of Justice (FOJ), the fedpol, the Office of the Attorney General as well as the Federal Office of Migration (FOM) and the Federal Office of Metrology. In her function, she is responsible for the political and strategic orientation of those offices as well as for the development of their co-operation 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 senior staff 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, is responsible for controlling that the Swiss Armed Forces act entirely in accordance with the Constitution and the subsequent legislation.

Members of the parliament 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 parliament (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 the DDPS.

According to art. 58 of the Federal Constitution and art.1 of the *Federal Act on the Armed Forces and the Military Administration* (AOA SR 510.10) 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 a 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. This is done 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* (SR 511.11) 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 also 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 towards the number of days that an able conscript must complete. 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 (as opposed to a conscript that completes recruit school and subsequently yearly refresher courses). Moreover, the potential for, and the interest in a cadre function as officer or NCO is also evaluated. On the same occasion, it is also 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 in the armed forces;
- 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 (conscript 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 conscientious objectors.



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, 2009: 39'849, 2010: 40'798 and 2011: 42'800 conscripts).

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

- Six 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 the 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 of Sport (FOSPO) 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 (SR 512.21) recruit school lasts 21 weeks for about  $\frac{2}{3}$  of the conscripts and 18 weeks for  $\frac{1}{3}$ , depending on the branch they serve in. Recruit schools have 3 starting dates: March, July and November. The school dates overlap one another. Students have the possibility to complete the recruit school in 2 parts.

According to the Federal Council Ordinance on Military Service Liability, some of the conscript soldiers (maximum 15% of all conscripts per 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 of supplementary leave days. After completion of the compulsory service days, single-term conscripts normally remain in the reserves 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 either 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 for military service at least 6 weeks before the service starts. Furthermore, the refresher courses' agenda for the forthcoming year is always published on a public poster in the autumn. For persons liable for 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 for 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 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 services) 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 (approx. a total of 5'400 persons):

- members of the parliament 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 are in extraordinary situations making them 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) as compensation for the military service that they have not performed.

Since 1996 conscientious objector conscripts who feel unable to serve in the Armed Forces may be assigned to alternative civilian service. This is undertaken outside the Armed Forces in civilian 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 to be accepted or not.

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

In 2011, 5'800 applications for assignment to civilian service were submitted (in 2010, there were 7'396, in 2009, there were 7'222 applications). In 2011, 4'670 applications were approved and 1'028 were not approved (2010: 6'823, not approved 248; 2009: 6'717, not approved 197). In 2011, 14'328 persons liable to military service performed civilian service (2010: 11'062; 2009: 7'384 persons). As of the end of 2011, a total of 26'985 people were liable to perform civilian service (2010: 22'215). Less than 0.1 per

cent of these were women (19).

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 risen considerably. On 1 February 2011 new regulations were introduced at ordinance level.

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 and the Military Administration (Act on the Armed Forces, AOA, SR 510.10), particularly articles 2, 17, 18, 26 and 145;
- The Federal Act on Alternative Civilian Service (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 continue to be entitled to their constitutional and legal rights during military service. 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 freedoms are limited during military service. 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 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
<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 the context of military service

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

<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, and a 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: <ul style="list-style-type: none"> <li>- against directives of military superiors</li> <li>- against certain directives of military authorities (verdicts on conscription and promotion)</li> <li>- in all cases where Armed Forces personnel consider themselves unjustly treated</li> </ul>	Articles 36-40 of the Federal Act on the Armed Forces and the Military Administration (Act on the Armed Forces, AOA SR 510.10) of 3 February 1995 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: <ul style="list-style-type: none"> <li>- Verdicts on expulsion from the Armed Forces</li> <li>- Verdicts on exemption from service</li> </ul>	Article 40 of the Federal Act on the Armed Forces and the Military Administration (Act on the Armed Forces, AOA), the Federal Act on Administrative Proceedings (SR 172.021) of 20 December 1968 and the Federal Act on the Federal Administrative Court (SR 173.32) of 17 June 2005
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 SR 510.10)
Reconsideration of verdicts regarding <ul style="list-style-type: none"> <li>- service postponements</li> <li>- advance services</li> <li>- voluntary services</li> <li>- dispensation from active service</li> </ul>	Article 38 the Federal Act on the Armed Forces and the Military Administration (Act on the Armed Forces, AOA SR 510.10)
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 SR 322.1) of 23 March 1979 and Federal Council Ordinance on Military Criminal Judicature (MCJO) (SR 322.2)

The Military Criminal Code 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 CHF during military service and up to 1'000 CHF 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 (LOAC) 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, Romansh, 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 (IHL) 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 LOAC 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 customs of war and corresponding behaviour). All soldiers are instructed using '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 LOAC.
- Prospective company commanders are trained in the LOAC and in the rules concerning the protection of cultural property (incl. interactive training with 'CD-ROM LOAC II').
- LOAC 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 LOAC and on specific Rules of Engagement.

Dissemination of LOAC 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 held by the ICMM, course CENTROC alternating with an IHL content for middle-rank officers in Geneva, workshop on the OSCE Code of Conduct). In all those courses LOAC is an important subject. Switzerland also co-operates 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, the Senior Workshop on International Rules Governing Military Operations, which is run by the ICRC).

### **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 LOAC. They are fully aware of their obligations, duties, and their individual

accountability. During instruction, special attention is placed on command responsibility and its current development.

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 LOAC.

#### **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 Federal Act on the Armed Forces and the Military Administration (Act on the Armed Forces, AOA SR 510.10), and all but very minor operations require parliamentary approval. Additionally, 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. Human Rights are also taught to Armed Forces personnel during training and courses. 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?**

Generally, members of the Armed Forces have the same rights and obligations as citizens have. 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 restricted as far as necessary to guarantee an undisturbed course of military service. 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 the tasks being carried out, 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 on the Armed Forces and the Military Administration ((SR510.10 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 parliament 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 regarding participation in operations outside Switzerland.

#### **4.6 What has been done to integrate women into conflict prevention, crisis management and post-conflict rehabilitation through its activities?**

##### **I: Prevention**

1. Measures to increase armed forces personnel understanding of the special needs and contributions of women in conflict.

*Inclusion of specific matters related to the protection of women's and girl's rights in the basic education of armed forces.*

*Diversity management is a management tool of the Federal Office of Human Resources which integrates the needs of the different stakeholders (gender, language and age groups, as well as the protection of women's and girl's right). According to an order of the Chief of the Armed Forces concerning the handling of diversity management, all members of the Armed Forces (career and militia) are to be trained in these matters.*

*Availability of specialised in-service training for armed forces personnel on the protection of women's and girl's rights.*

*Training courses on matters of equal opportunity, issues relating to sexual discrimination and harassment, as well as mobbing are compulsory for all cadres of the Swiss Armed Forces.*

*Inclusion of specific matters related to the protection of women's and girl's rights in the pre-deployment training for international peacekeeping missions.*

*Within the Swiss Armed Forces, the Swiss International Command Training Centre (SWISSINT TC) as the superior national headquarters is responsible for the planning and management, recruitment, support and control, and training of all military contingents and individuals engaged in peace-support operations abroad. Generally, all pre-deployment courses cover training on gender related issues. In gender specific training, SWISSINT TC has two different approaches to pre-deployment training: One for domestic audience (KFOR and EUFOR) and another for an international audience (UN Military Observers). In training, the main focus lies on UN Res 1325 and general sexual exploitation and abuse (SEA) related issues that a national contingent may have to deal with. Training (is consistent with) the UNDPKO guidelines (as the international Swiss Military Observer Course is a UN certified course).*

*Availability of plans to address and gather information from local women populations in areas at risk of conflicts.*

*Gathering of information from local women populations is covered by the individual information collection programme of the respective missions, in which Swiss Armed Forces military personnel is deployed (eg KFOR, EUFOR-ALTHEA, UNTSO, UNMISS, MONUSCO).*

*Inclusion of systematic gender analysis of areas at risk of conflicts, including gender-disaggregated socio-economic indicators and power over resources and decision making.*

***The main focus of any PSO-mission is the assessment of the local security situation. Therefore, gathered information is generally reported to the respective HQ. This includes - when mentionable - the analysis of gender related issues. The subsequent reporting's are not to be disclosed to the national HQs of the troop contributing countries, but to UN DPKO, NATO HQ (SHAPE) or the EUSG.***

2. *Measures to address the violation of the rights of women and girls, in line with international standards.*

*Number and percentage of military manuals, guidelines, national security policy frameworks, codes of conduct and standard operating procedures/protocols of national security forces that include measures to protect women's and girls' human rights.*

In 2010, the Federal Council released a report\* on military ethics in the Swiss army, fulfilling hereby a parliamentary postulate of 2005, which aimed at raising the awareness on the obligations of military personnel regarding the inviolability of human rights and fundamental rights and therefore women's and girl's rights as stipulated in the Federal Constitution. Chapter 3.4 and 4.5.3 addresses the equal opportunities for women and gender diversity. The Federal Council answered this postulate by drafting a detailed and extensive report on 'Military Ethics in the Swiss Armed Forces' which concluded that the existing ethical and legal foundations are already laid down in the existing laws and ordinances and affirms that they are consistently emphasized, implemented and trained to all Armed Forces Personnel. However, the Federal Council acknowledged, that an improvement towards a more systematic and holistic approach regarding implementation should be envisaged. Essentially, no serious loopholes which would require immediate action were identified regarding the respect of and awareness rising on ethical and legal principles within the Swiss Armed Forces. Nevertheless, the Swiss Armed Forces being a mirror of the civil society will not remain unaffected by problems and challenges of the modern and multifaceted globalised world. Therefore, youth violence, youth unemployment and extremism are observed and monitored closely in order to avoid relevant abuses during military service.

\* (german: <http://www.news.admin.ch/NSBSubscriber/message/attachments/20300.pdf>,  
french: <http://www.news.admin.ch/NSBSubscriber/message/attachments/20301.pdf>)

*Number and percentage of directives for peacekeepers issued by head of military components and standard operating procedures that include measures to protect women's and girl's human rights.*

***Besides pre-deployment training, the guidelines and SOPs of the specific mission contain regulations as well as measures concerning the respect of human rights and the protections of women's and girls rights.***

## **II: Participation**

1. Measures to increase the number of women in general and in decision-making positions in the armed forces and the ministry of defence.

*Number and percentage of women applying to be part of the military forces.*

***Roughly 2 % of the career and 0.5 % of the militia personnel are women. These figures are due to the fact that according to the Federal Constitution, military service is not compulsory for female Swiss citizens. However, as members of the Armed Forces their civilian skills can be made use of and enhanced. Once they have successfully passed through the recruitment process, female members of the Armed Forces commit themselves to fulfilling their service duties as laid down by current legislation.***



*They can attain the same ranks and fulfil the same functions in the Armed Forces as their male counterparts.*

*Young women can apply to be called up as recruits from the age of 18. They must have attended recruit school by the time they are 26. Thereafter, female Armed Forces personnel attend the same duties as their male colleagues. Men and women receive identical training. Moreover, women are equipped with the same personal weapons as the men in the same functions. They are also fully trained on all the weapons held by the unit.*

*Establishment of policies to attract female candidates (Targeted campaigns, review of accession tests, etc).*

*At the age of sixteen, future conscripts and women receive a written explanation of the Armed Forces. Conscriptation begins with the registration for recruitment of conscripts at the age of eighteen. Prior to recruitment, all male conscripts are called-up and interested women are invited to an information day.*

*All functions are open to women in the Swiss Armed Forces. A prerequisite is, of course, that they have successfully passed through the recruiting process and have met the physical performance standards demanded for their chosen function. As regards their assignment to a particular function, account is taken of the candidates' wishes on the one hand, and the requirements of the Swiss Armed Forces on the other.*

*Establishment, promotion, maintenance and use of specialised rosters of female profiles in the military fields.*

*Roughly half of the women serving in the armed forces opt for a cadre career. This means that it is no longer a rarity for female cadre personnel to command sections, platoons, sub-units or even battalions.*

*Number and percentage of women in the military forces disaggregated by rank.*

<i>Rank structure</i>	<i>Rank category</i>	<i>Effective strength</i>			<i>1 March 2011</i>
		<i>Women</i>			<i>Total</i>
		<i>J</i>	<i>N</i>	<i>R</i>	
<i>Officers</i>	<i>Senior staff officers</i>				
	<i>Staff officers</i>	4	46	7	57
	<i>Captains</i>		52	5	57
	<i>Subaltern officers</i>		163	3	166
	<i>Officers total</i>	4	261	15	280
<i>NCOs</i>	<i>Senior NCOs</i>		77		77
	<i>Junior NCOs</i>		189	4	193
	<i>NCOs total</i>		266	4	270
<i>Junior ranks</i>	<i>Privates total</i>		490	13	503
<i>Overall</i>		4	1017	32	1053

*J* General staff officer  
*N* Officer  
*R* Member of the red cross service

*Number and percentage of discrimination and sexual harassment complaints that are referred, investigated and acted upon.*

***The Military Justice opened investigations in 6 cases that occurred in the year 2011 dealing with charges of sexual background, including harassment, to the disadvantage of women. Another reported incident was transferred to the respective civilian authorities.***

*Development of regular analysis of retention and promotion practices for men and women in the forces.*

***For the period 2008 – 2011 the following focal points concerning equal opportunities were specified: Career promotion of female cadres, continuation of awareness raising measures, and the implementation of binding action plans.***

2. Measures to increase the number of women in peacekeeping forces.

*Number and percentage of women in peacekeeping forces disaggregated by rank.*

***Currently, out of a total of 259 peacekeeping forces personnel, 19 (7.34%) are female: 5 women officers, 6 women NCOs, 8 enlisted women.***

*Number and percentage of international missions where gender advisors were appointed.*

***In contingents, the contingent commander, the senior national representative and the legal advisor are in charge of gender issues. In the case of individual deployments, the senior national representative is responsible. Out of 13 missions, 6 (46.15%) missions have a senior national representative responsible for gender issues. The seven remaining engagements consists only of max 2 personnel and have no specific appointment in this matter.***

*Number and percentage of participating State's international missions that address specific issues affecting women and girls in their terms of reference and the mission reports.*

***The reports of operations are not a national responsibility, they are delivered to the respective mandator. In all missions, internal reports are established only on the basis of a specific occurrence.***

### **III: Protection**

1. Increased access to justice for women whose rights are violated.

*Number and percentage of reported cases of exploitation and abuse allegedly perpetrated by uniformed peacekeepers that are referred, investigated and acted upon.*

***In the year 2011, there was no reported case involving Swiss peacekeepers.***

#### IV: Other information

*Information on the development, implementation and evaluation of a National Action Plan to implement UNSCR 1325.*

UN Security Council Resolution 1325 (UNSC 1325) on Women, Peace and Security was unanimously adopted on 31 October 2000. It is the first UN Security Council Resolution to expressly mention the particular effect which armed conflicts have on women and girls, and it underlines the importance of women's participation in peace processes. Switzerland's commitments at the bi- and multilateral levels in the context of UNSC 1325 already includes gender-sensitive project work specifically for implementation of the requirements of UNSC 1325. Switzerland is also committed to the deployment of gender experts as well as to internal measures in the areas of recruitment, training and internal policy with regard to gender equality. ***On a multilateral level and, among others, as a member of the "Group of Friends of 1325", Switzerland is actively involved in the promotion of women, peace and security policy, among others.***

***Switzerland is committed to the creation of framework conditions in the United Nations, as well as in other regional and international organizations such as OSCE, that will enable women to participate in peace building efforts on an equal footing with men. This commitment to the equal rights of both sexes is based on quantitative criteria (proportion of women to men), as well as with regard to opportunities and the contribution on decision-making, position in the hierarchy, financial and other resources, security measures, capacity building, etc.***

In order to strengthen and coordinate Switzerland's efforts a National Action Plan for the implementation of UNSC 1325 (NAP 1325) has been established (2007, revised version in 2010). The aim of the NAP 1325\* is to ensure that gender aspects are taken into consideration in all areas of peace policy and in all concrete peace building measures. Switzerland's NAP 1325 is adapted on a regular basis and its contents are subject to constant review. An implementation report is planned for the end of 2012.

Switzerland supports and promotes, directly and indirectly, programs and projects designed specifically to ensure the participation of women in peace processes on an equal footing with men. Furthermore, efforts are to be made to systematically include gender aspects in all peace building programs and projects, through the proper training of those in charge of programs, the deployment of experts, as well as through gender responsive budgeting, etc.

Switzerland promotes the participation of women in peace processes by means of its policy with regard to recruitment and secondment as well as in its support for qualified candidates. This is to ensure that the experts seconded to civilian peace building operations as well the participants in military peacekeeping operations will receive a high level of training in the specific area of gender in preparation for their deployment on missions.

\*([http://www.eda.admin.ch/etc/medialib/downloads/edazen/doc/publi/phumig.Par.0004.File.tmp/Nationaler\\_Aktionsplan\\_UNO-Sicherheitsratsresolution\\_1325\\_en.pdf](http://www.eda.admin.ch/etc/medialib/downloads/edazen/doc/publi/phumig.Par.0004.File.tmp/Nationaler_Aktionsplan_UNO-Sicherheitsratsresolution_1325_en.pdf))

## **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 DDPS, 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 about political and operational aspects of the Code of Conduct implementation amongst parliamentarians, diplomats, civil servants, as well as military commanders and staff officers. The national mass media is invited to cover this event and regularly reports about it 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 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 conscript 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 in the internet\* and thus accessible to the general public. Furthermore Switzerland has a conscript army. This ensures that a large part of male citizens (and some women) are regularly present 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.

Additionally, the Federal Act on Freedom of Information in the Administration (Freedom of Information Act, FoIA, SR 155.3) 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.

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<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  
Regional Military Co-operation

Location: Kasernenstrasse 7, CH-3003 Berne  
Mail: Papiermühlestrasse 20, CH-3003 Berne  
+41 31 324 44 09 (phone)  
+41 31 325 30 40 (fax)  
rmk.astab@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 that aim 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.

*Furthermore, to foster the implementation of the CoC, Switzerland organised for the fifth time a seminar in Ukraine. Previous seminars had been organised in Kazakhstan, Bosnia-Herzegovina and in Belarus. In 2012, Switzerland will continue to promote the implementation of the CoC by organizing yet another seminar in Latvia from 18 to 20 June 2012 as well as through the translation of the CoC in Arabic and its dissemination amongst member States of the Arab League. In addition, Switzerland seconded a Support Officer to the Conflict Prevention Centre of the OSCE in order to facilitate the work of the Forum for Security Cooperation. Last but not least, Switzerland continues to support the “Geneva Centre for the Democratic Control of Armed Forces” which promotes the implementation of the CoC.*

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