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**Note 15/2017**

The Permanent Mission of Switzerland to the OSCE, the United Nations and the International Organizations 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 Permanent Mission 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 2017.**

The Permanent Mission 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, 13 April 2017



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

V i e n n a



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

Federal Department of Defence, Civil Protection and Sport  
DDPS

Swiss Armed Forces  
Armed Forces Staff AFS



# 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 2016  
are in bold and italics)

# Switzerland

15 April 2017

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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, sub regional and bilateral) related to preventing and combating terrorism is your State a party?

###### *United Nations*

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. *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.
8. *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 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).

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<sup>1</sup> SR = Classified Compilation of Federal Legislation, <http://www.admin.ch/ch/e/rs/rs.html>

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).
17. *UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (Firearms Protocol), supplementing the United Nations Convention against Transnational Organized Crime (UNTOC)*, adopted by the General Assembly in 2001. It entered into force for Switzerland on 27 December 2012 (SR 0.311.544).
18. *The Arms Trade Treaty*, adopted by the General Assembly of the United Nations in New York on 02 April 2013. This convention was signed by Switzerland on 03 June 2013, was ratified on 30 January 2015 and entered into force for Switzerland on 30 April 2015 (SR 0.518.61).

#### *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. *Third Additional Protocol to the European Convention on Extradition, opened for signature in Strasbourg on 10 November 2010. This protocol was signed by Switzerland on 23 October 2014, ratified on 15 July 2016 and entered into force for Switzerland on 1 November 2016 (SR 0.353.13).*
5. *Fourth Additional Protocol to the European Convention on Extradition, opened for signature in Vienna on 20 September 2012. This protocol was signed by Switzerland on 23 October 2014, ratified on 15 July 2016 and entered into force for Switzerland on 1 November 2016 (SR 0.353.14).*
6. *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).
7. *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).
8. *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).
9. *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).
10. *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 13 members of the European Convention on the Suppression of Terrorism.
11. *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).
12. *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).
13. *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).
14. *Criminal law Convention on Corruption*, entered 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).
15. *Additional Protocol to the Criminal law Convention on Corruption*, entered 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).

16. *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).
17. *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 not been ratified to date.
18. *Convention on Action against Trafficking in Human Beings*, in force since 1 February 2008. This convention was signed by Switzerland on 8 September 2008 and ratified on 17 December 2012. It entered into force for Switzerland on 1 April 2013 (SR 0.311.543).
19. *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).

Moreover, Switzerland has signed the following conventions

- The Convention on the Prevention of Terrorism of 16 May 2005 and its additional Protocol of 22 October 2015. The convention was signed by Switzerland on 11 September 2012 and its additional Protocol on 22 October 2015.
- A further multilateral agreement is the Convention on Cluster Munitions (CCM), adopted in Dublin on 30 May 2008. This international convention was signed by Switzerland on 3 December 2008, was ratified on 17 July 2012 and entered into force for Switzerland on 1 January 2013 (SR 0.515.093).

#### *Bilateral agreements*

Switzerland concluded bilateral agreements on police co-operation with all its immediately adjacent states as well as with Albania, Macedonia, Bosnia-Herzegovina, Hungary, Kosovo, Romania, Czech Republic, Slovenia, Latvia and Serbia. Still in the process of ratification is the bilateral agreement on police co-operation with Montenegro, which was signed in April 2016. With the USA, on 12 December 2012 Switzerland signed an Agreement on Enhancing Co-operation in Preventing and Combating Serious Crime (PCSC). The PCSC Agreement has not yet entered into force. Furthermore, Switzerland concluded Memoranda of Understanding with the following states: On 12 September 1994, Switzerland signed a MoU with Russia regarding, among others, combating crimes against life and limb, illegal weapons and explosives trade and falsified travel documents. On 27 March 2009, Switzerland signed a MoU with Bulgaria and on 13 July 2012 one with Turkey, establishing a joint operational police working group for combating transnational crime, especially terrorism. On 12 December 2012, Switzerland and the USA signed a MoU for the Exchange of Information on Individuals Connected to Activities Related to Terrorism (Homeland Security Presidential Directive [HSPD-6]) and the Agreement on Enhancing Co-operation in Preventing and Combating Serious Crime (PCSC). The agreements and the memoranda contain a number of provisions 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 in 2006 an agreement on the employment of joint investigation teams in the fight against terrorism and its financing.

#### *Further initiatives*

Switzerland's fight against terrorism is defined in the 'Counterterrorism strategy for Switzerland', which was adopted by the Federal Council on 18 September 2015, and focuses on the four following areas of action: prevention, law enforcement, protection and crisis management provisions.

Switzerland is committed to fighting terrorism and its causes through pursuing the following strategic objectives: it prevents terrorism on its territory, it prevents the export of all forms of terrorism and all

support for terrorism from its territory; it supports the rest of the international community in its efforts to prevent terrorism; it rejects terrorist blackmail; it is prepared to cope with acts of terrorism, and it is recognised internationally as a reliable and prudent player that is committed to international law.

Switzerland is deeply involved in the fight against terrorism at the international level; its national and international action is guided by the United Nations Global Counter-Terrorism Strategy (adopted by the UN General Assembly in 2006). It is essential for Switzerland that counterterrorism efforts and policies are carried out within the framework of international law and particularly of human rights law, maintaining a balanced approach between prevention and repression. Moreover, in the context of armed conflict, all parties and individuals shall apply international humanitarian law without any exception.

In conformity with the four pillars of the UN CT Global Strategy, Switzerland has developed its international co-operation and a wide range of effective instruments to combat terrorism and the financing of terrorism.

Addressing the conditions conducive to the spread of terrorism (Pillar I), Switzerland is strongly engaged in development programmes worldwide, as well as in peace-keeping and peace-building processes, ensuring notably mediation in various conflict zones. It supports many initiatives at the level of international or regional organisations, including the Global Counterterrorism Forum (GCTF) and the OSCE.

*Concerning the prevention and fight against terrorism (Pillar II), Switzerland is, as a member of the Financial Action Task Force (FATF), implementing the Recommendations of the FATF on the fight against money laundering, the financing of terrorism and proliferation. As a member, it is periodically subject, as every other member states, of an evaluation by peer FATF member states of its anti-money laundering and terrorism financing system. Switzerland has been undergoing its forth mutual evaluation by FATF in 2016. The Mutual Evaluation Report of Switzerland has been published and is accessible through the following link:*

*<https://www.news.admin.ch/news/message/attachments/46552.pdf> or on the FATF-Website. In its report, the FATF acknowledges the quality of the Swiss system for combating money laundering, the financing of terrorism and proliferation.*

*Switzerland has effective legislation to permit rapid co-operation in the sphere of mutual legal assistance in criminal matters, in particular for the purpose of blocking funds. It has also introduced a federal law on the allocation of confiscated assets (LVPC),<sup>2</sup> which lays down the procedure for dividing those assets between Switzerland and foreign States.*

Switzerland is encouraging and strengthening international and inter-institutional co-operation and coordination, supporting global or regional initiatives and events related to prosecution (bringing terrorists to justice), investigation (special investigation techniques) or the financing of terrorism. In December 2014, Switzerland hosted in Basel the meeting of the OSCE Ministerial Council during which two Ministerial Declarations were adopted concerning counterterrorism: one on Kidnapping for Ransom, the other on Foreign Fighters. Moreover, on the topic of Foreign Fighters, Switzerland mandated the Geneva Academy of International Humanitarian Law and Human Rights (ADH) for a Study on the status of Foreign Fighters and the issue of the application of international humanitarian law: the study (Academy Briefing) “Foreign Fighters and International Law” is available on the ADH website<sup>4</sup>.

Switzerland contributes to the strengthening of the UN system concerning the capacity-building of the States to prevent and combat terrorism (Pillar III). It supports notably the global and regional work and initiatives of the UNODC, the GCTF and the OSCE. Switzerland supported notably the development of capacity-building and best practices within OSCE by contributing to the drafting, translation and launch

<sup>2</sup> LVPC, RS 312.4; the text of this Federal law is available, in three languages, at the following address:

[http://www.admin.ch/ch/f/rs/312\\_4/index.html](http://www.admin.ch/ch/f/rs/312_4/index.html)[http://www.admin.ch/ch/f/rs/312\\_4/index.html](http://www.admin.ch/ch/f/rs/312_4/index.html)

<sup>4</sup> <http://www.geneva-academy.ch/academy-publications/academy-briefings>



of a guidebook entitled “Preventing Terrorism and Countering Violent Extremism and Radicalisation that Lead to terrorism”.

Finally, the respect of human rights and the rule of law (Pillar IV) is the fundamental basis for Switzerland in the fight against terrorism: it is essential that the counterterrorism efforts and policies are carried out within the framework of international law and particularly of human rights, maintaining a balanced approach between prevention and repression. Switzerland is promoting exchanges on issues relevant to accountability, transparency and legality in the fight against terrorism, and is also supporting training on human rights and counter-terrorism for police officers from South Eastern Europe and the South Caucasus. This programme has been developed with the participation of ODIHR.

Switzerland welcomes the Plan of Action on the Prevention of Violent Extremism of the UN Secretary General, especially the emphasis it gives to the 1st and 4th pillars of the UN Global CT Strategy: this will allow a full and balanced implementation of the Strategy, underlining the necessity to ensure the respect of human rights and the rule of law preventing violent extremism. In order to support the efforts of the UN on this theme, Switzerland has co-organized with the UN an International Conference on Preventing Violent Extremism on 7-8 April 2016 in Geneva.

***Switzerland systematically implements the decisions of the UN Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning ISIL (Da'esh), Al-Qaida, and associated individuals, groups, undertakings and entities (“the Sanctions Committee”) and supplies financial intermediaries with the lists of names of individuals or organisations provided by other countries. Switzerland is convinced that targeted sanctions are an important tool to maintain peace and security.*** Targeted sanctions must be consistent with fundamental due process rights if there is to be any guarantee that they will be fully implemented by the member States of the United Nations. Switzerland, together with the Group of Like-Minded States on Targeted Sanctions, plays a crucial role in the improvement of procedural safeguards relating to the sanctions regime of the UN Security Council, leading to the creation of an the office of the Ombudsperson in 2009. Switzerland and the Group of Like-Minded States continue to advocate for further improvements.

***The Analytical Support and Sanctions Monitoring Team pursuant to resolutions 1526 (2004) and 2253 (2015) concerning ISIL (Da'esh), Al-Qaida and the Taliban and associated individuals and entities (“the Monitoring Team”) of the Sanctions Committee visited Switzerland on 5-7 September 2016 and could meet all government authorities, departments and services that are relevant for their work. The various meetings aimed at fully informing the Monitoring Team on the Swiss perspectives on the threat of terrorism and the challenges in implementing the United Nations sanctions against ISIL (Da'esh) and Al-Qaida and their affiliates.***

Switzerland’s counter-terrorism efforts are emphasised in the field of non-proliferation. It 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” (SALW), in particular by giving expert advice to participating States, and of the “OSCE Document on Stockpiles of Conventional Ammunition” (SCA), which also contribute to the efforts to prevent the proliferation of SALW / ammunition to organisations with terrorist intent.

Switzerland has been actively engaged in the elaboration of the Arms Trade Treaty (ATT) which has been adopted on 2 April 2013 by the General Assembly of the United Nations. Throughout the negotiations of this treaty, Switzerland has remained 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. The ATT is dealing with the issue of terrorism as one of the elements which must be considered as part of the risk assessment of the exporting State before deciding whether or not to authorize an export of conventional arms or of items covered by the treaty. It entered into force for Switzerland on 30 April 2015.

Switzerland is actively participating in the Committee of Experts on Terrorism (CODEXTER) of the Council of Europe, and supported the creation of a new Committee under the authority of Codexter (the Committee on Foreign Terrorist Fighters and other related issued, COD-CTE) for drafting during the first half of 2015 the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism, aiming at criminalizing passive recruitment and training, and implementing UN Security Council Resolution 2178 on Foreign Terrorist Fighters, which has been opened to signature in Riga on 22 October 2015.

Switzerland is a founding member of the Global Counterterrorism Forum (GCTF), officially launched in New York at the Foreign Ministers level on 22 September 2011. Since then, the Forum has demonstrated some very valuable action-oriented capabilities and has become a global player in that matter. Many political instruments have been adopted within the framework of the GCTF: (see the website of the GCTF, [www.thegctf.org](http://www.thegctf.org)) Therefore, Switzerland is actively supporting the activities and the development of the GCTF. Since 2014, Switzerland is hosting in Geneva the Global Fund for Community Engagement and Resilience (GCERF), born from a GCTF initiative, and is financially supporting its activities. Switzerland is also supporting the activities of the International Institute for Justice and the Rule of Law, also born from a GCTF initiative and created in 2014 in Valetta (Malta).

Switzerland considers that international security cannot be ensured on a lasting basis unless states strengthen their co-operation with a view to eradicating poverty, preventing and resolving conflicts and effectively promoting human rights and the rule of law. Dialogue and mutual understanding between cultures and religions will inevitably help to prevent conflicts and terrorist acts. With this view, Switzerland has actively participated in the creation of the GCERF in Geneva.

*Switzerland initiated within the GCTF the development of the Neuchâtel Memorandum on Good Practices for Juvenile Justice in a Counterterrorism Context<sup>5</sup> to address the emerging questions regarding the involvement of children in terrorist activities and the protection of their rights. This GCTF framework document was adopted on 21 September 2016 at the Ministerial Meeting in New York. Switzerland is now supporting the implementation of the Neuchâtel Memorandum within different projects.*

## **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. In addition, these measures aim at ensuring that Swiss territory is not used to endanger domestic and international security, neither directly nor 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-Qaida* group on its territory. Switzerland has systematically implemented the decisions of the Security Council Counter-Terrorism Committee, established following 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. The activities of the two groups “Al Qaeda” and “Islamic State” are considered a growing threat to the domestic and external security of Switzerland. That is why the Swiss Parliament adopted the urgent federal law banning the groups *Al-Qaida* and *ISIL (Da'esh)* as well as other related organizations (Federal Act prohibiting the terrorist groups Al Qaeda, Islamic State and its related organizations, SR 122). The ban concerns not only all the activities of these organizations in Switzerland and abroad, but also all actions intended to provide them with financial, material or personnel-related support, such as dissemination of propaganda, fund-raising or recruitment of new members. *From now on, violations of the ban on the Al-Qaida and the ISIL (Da'esh) groups will also be subject to Swiss federal jurisdiction and be sanctioned by prison sentences of*

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<sup>5</sup> <https://www.thegctf.org/Portals/1/Documents/Toolkit-documents/English-Neuch%C3%A2tel-Memorandum-on-Juvenile-Justice.pdf>

***up to five years or by fines, unless more severe criminal provisions are applicable.*** The urgent federal law entered into force on 1 January 2015 and will be applicable until 31 December 2018 and substitutes several previous ordinances dealing with this subject. The Federal Assembly adopted this law by a large majority.

In view of the ratification and implementation of the International Convention for the Suppression of the Financing of Terrorism (in effect since 23 October 2003), a new Art. 260<sup>5</sup> 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 of 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. Art. 260<sup>5</sup> supplements, among others, Art. 260<sup>3</sup> (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, also covering the crime of financing terrorism.

The Swiss Code of Criminal Procedure (SR 311.0) determines various measures of procedural protection to safeguard potentially endangered witnesses. These include the possibility of anonymous witness testimony as well as the exclusion of the general public from court proceedings. In the framework of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, which defines judicial standards applicable to criminal law, victim's assistance and rights of foreigners, as well as procedural and extra-procedural protection of witnesses, the Federal Council adopted in 2013 the Federal Act on Extra-procedural Witness Protection. The Witness Protection Act provides the implementation of witness protection programs for the benefit of threatened witnesses in criminal proceedings. For this purpose, a special national witness protection unit was formed within the Federal Office of Police (fedpol). This unit is responsible for the implementation of the witness protection program, offering advice and support to police authorities in cases where a witness protection program cannot be implemented, but where special protective measures must nonetheless be undertaken by the police.

On 1 September 2009, the Federal Assembly 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 sports events. These measures have been implemented by the Cantons on 1 January 2010 by their participation in the *concordat against violence during sports events*. This concordat supersedes the provisions of the MSA concerning measures limited in time (exclusion orders, obligation of presenting oneself to the police and police custody).

In 2011, the Federal Assembly passed an amendment to the Federal Act on Measures to Safeguard Internal Security (MSA). Inter alia, the existing Ordinance concerning the Extension of the Obligation to inform and the right to communicate was raised at legislative level and transferred into ordinary law. The expanded Obligation to inform and the Right to communicate does also apply on terrorism. This amendment entered into force on 16 July 2012.

***On 12 December 2014, Parliament passed the Federal Act for implementing the Recommendations of the Financial Action Task Force that were revised in 2012. The law further strengthens the existing framework for the fight against money laundering, the financing of terrorism and the financing of proliferation in Switzerland. The technical compliance with the FATF-Recommendations and the effectiveness of the Swiss dispositive has been acknowledged in the FATF Mutual Evaluation Report of Switzerland of 7 December 2016.***

Furthermore, the Federal Act on Information Exchange between criminal-prosecution authorities of the Confederation and those of other 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, insofar as a special law or an agreement provides the exchange of data between the authorities

concerned. 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 act also envisages an improvement of the automated information exchange by obliging the competent law enforcement authorities of the Schengen States to spontaneously provide 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 existing Schengen Information System (SIS) has been upgraded to an improved technical version, the so-called SIS II, on 9 April 2013. The ordinance on the N-SIS from 8 March 2013 regulates the operation of the system.

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 to 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 amending Directive 2008/51/EC (which amends Directive 91/477/EEC of 18 June 1991) on control, acquisition and possession of weapons as part of the development of the Schengen acquis. The amendments refer to the compulsory marking of each elementary package of complete 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. The United Nation's Firearms Protocol and the International Tracing Instrument have been integrated into the Federal Weapons Act. The statutory provisions became operative on 1 January and 1 July 2013. These provisions prescribe that from 1 July, 2013, firearms destined to be imported to Switzerland must be provided with an importation mark. This mark enables the identification of the arms dealer who imported a specific firearm and the year a firearm was imported or marked. Firearms, their parts and components imported to Switzerland without proper marking will be confiscated by the competent authorities. To be able to efficiently trace back firearms, the Central Arms Office has begun operating a database on firearm marks.

In the 2015 summer and autumn sessions of the Swiss Federal Assembly, parliament passed the Federal Act on Improving the Exchange of Information between the Authorities on Handling Weapons (Weapons Information Act). The act grants public prosecutors and courts the power to inform the army about persons who could pose a danger to themselves or others if permitted to carry a firearm. In addition, authorised offices will now be able to consult all cantonal weapons registers and the ARMADA database operated by the Federal Office of Police by means of a single search. A further aspect of the new law concerns the active notification of civil and military authorities on new entries in the ARMADA database, which contains information on the refusal or withdrawal of weapons licences and the removal of firearms. The act entered into force on 1 July 2016. According to the Federal ordinance on explosives, marking for identification was compulsory in Switzerland already before the Montreal Convention on the Marking of Plastic Explosives for the Purpose of Detection had been signed. 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).

***In September 2016, Swiss citizens endorsed in a popular referendum a new Intelligence Service Act. In line with the evolution of the threat situation, the new legal framework will give new authorities and powers to the FIS. Especially, the FIS will be able to apply the same measures as law enforcement (wire tapping, CNO, etc.), which will be most effective, among others, against terrorist threats. It will enter into force on 1 September 2017.***

Finally, under the Federal Act on Foreign Nationals (FNA) a foreign national can be banned from entering Switzerland in order to safeguard the country's internal or external security. ***Switzerland may also order the expulsion of a foreign national in order to safeguard the internal or the external security of Switzerland.*** This applies especially where Switzerland's security is at risk from terrorism, violent extremism or organised crime.

### **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 assist the civilian authorities in a subsidiary way if civilian personnel, material resources and capabilities are insufficient (Art. 67<sup>2</sup> 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 upon request by the civilian authorities. The Armed Forces' missions to support civilian authorities are always under civilian leadership. If more than 2'000 Armed Forces personnel are engaged or if the support lasts for more than 3 weeks, parliamentary approval is required. The engagement of the Armed Forces can help to increase the political authorities' freedom of action by controlling important areas, locations and installations of vital importance, protecting the population against massive use of force and providing assistance in the event of disasters or other emergencies. Additionally, the Armed Forces may provide support for large scale events requiring enhanced security measures (e.g. World Economic Forum in Davos, OSCE Ministerial Council in Basel) as well as reinforce the Border Guard Corps or the protection of foreign embassies on Swiss territory. Finally, surveillance and policing of the Swiss air space is one of the Swiss Air Force's main tasks. Within this framework, the Armed Forces are part of the 'National Security Co-operation'. In extreme circumstances, such as an evident and imminent terrorism threat, the Armed Forces can, pending parliamentary approval, be called to active service. In cases of emergency, 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 called to duty or if the deployment lasts for more than 3 weeks (article 77 AOA).

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). These treaties provide a legal basis for enhanced co-operation in fields 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 exclusively within the competence of the State in control of the airspace. Similarly, Switzerland signed several Memoranda of Understanding with partner countries on the deployment of in-flight security officers (sky marshals) on civilian flights.

Fighting terrorism in Switzerland is a shared task between the federal government, the cantons and the municipalities. It cuts across the various departments of the Federal Administration and is done in cooperation with foreign partners.

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. As mentioned above, the revised Federal Act on Measures to Safeguard Internal Security (MSA) passed parliamentary consultation at the end of 2011 and entered into force on 16 July 2012. Further, the Federal Act prohibiting the terrorist groups Al Qaeda, Islamic State and its related organizations (SR 122) has substituted previous ordinances dealing with this subject by the Federal Assembly.

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 Task Force Terrorist Tracking” is in charge of achieving the following goals: No terrorist attacks are carried out in Switzerland. Its territory is neither misused for terrorist financing, nor for the provision of logistical support or the planning of terrorist activities within Switzerland or abroad.* This Task Force, comprising all relevant services of the whole federal administration, and the Cantons under the chairmanship of the Federal Office of Police, notably the Federal Intelligence (FIS), the Office of the Attorney general of Switzerland, and the Federal Department of Foreign Affairs (FDFA; Swiss Counterterrorism Coordination), *coordinates all counterterrorism activities of the above mentioned relevant services.*

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

##### *The Swiss CT Coordination and the Swiss Ambassador at large for Counter-Terrorism*

In September 2015, the Federal Council adopted a Counterterrorism strategy for Switzerland. Summarized, the main objective of this strategy is formulated as follows: No terrorist acts are perpetrated in Switzerland. Its territory is neither misused for terrorist financing, nor the provision of logistical support or the planning of terrorist activities within Switzerland or abroad.

Within the four areas Prevention, Repression, Protection and Crisis preparedness, the strategy defines six strategic goals to achieve the main objective. The strategic goals are:

- Switzerland prevents terrorism on its territory
- Switzerland prevents the export and support of terrorism from its territory
- Switzerland supports foreign partners in preventing terrorism
- Switzerland refuses to be blackmailed by terrorists
- Switzerland is prepared to cope with terrorist attacks
- Switzerland is a reliable, prudent partner at the international level, committed to international law

Along strategic lines of action (consisting each of several specific measures) the strategy describes how to achieve these strategic goals, and finally the main objective.

Currently a working group is planning and supervising the implementation of all the drafted measures.

An operational Task Force TETRA (“Terrorist Tracking”) is active to coordinate intelligence, law enforcement and political activities concerning terrorist activities against and in Switzerland.

The international efforts of Switzerland with regard to the fight against terrorism are carried out by the Swiss Ambassador at large for Counter-Terrorism and the Counter-Terrorism Coordination Unit within the Directorate for International Law of the Federal Department of Foreign Affairs (FDFA). The CT Coordination is holding the responsibility of developing and coordinating the Swiss foreign policy in this matter, and the Coordinator chairs the “Interdepartmental Working Group on Terrorism” (as mentioned above) and manages the commitment of the Swiss Government towards the improvement of the cooperation with foreign States and International Organisations in the fight against terrorism. It is to be underlined that this coordination function is without prejudice of the material competence of the other federal services, which are keeping the responsibility of these issues within their respective operational domain.

### *Money Laundering and Financing of terrorism*

Within the framework of the implementation of the revised FATF recommendations, the Federal Council created on 29 November 2013 a permanent inter-agency working group with the aim of coordinating all national efforts pertaining to money-laundering and the financing of terrorism in Switzerland, thereby conducting, on a regular basis, a national risk assessment (NRA). The working group is composed of representatives from the relevant agencies attached amongst others to the Federal Department of Justice and Police, the Federal Department of Finance and the Federal Department of Foreign Affairs, at directorate or office level.

***In 2016, the Money Laundering Reporting Office Switzerland (MROS) received 25 notifications from financial intermediaries in relation to suspicions of financing of terrorism. The amount of these notifications totalled CHF 180'754'864. Of the 25 SARs in connection with suspected terrorism financing in 2016, six were related to a financial intermediary of the payment services sector, and 19 came from the banking sector. 15 SARs were submitted based on outside information the financial intermediary had obtained either from media reports or information from third parties, including information from the compliance databases of private providers used by financial intermediaries to match clients, and 5 SARs revealed a connection to the official lists according to the embargo laws. MROS forwarded 6 of the 25 reports to the prosecuting authorities following its own evaluation of the facts of the case and the people involved.***

### *Border controls*

As an Associated State to the Schengen Co-operation, Switzerland has external as well as internal borders defined by the Schengen acquis:

- At the external Schengen borders (international airports) all passengers are checked. For persons enjoying the Community right of free movement (basically passengers holding a passport from the Schengen area and their family members), those checks remain rather cursory with the main intent to ensure identity between the person and the travel document shown. Third country nationals in contrast are subject to thorough immigration checks in accordance with the Schengen regime. Customs inspections are carried out either by uniformed border guards or by other customs officials.
  
- At the internal Schengen borders (mainly land borders, but also airports as far as Schengen flights are concerned), identity checks are in principle not allowed anymore. Such checks may only be made on an initial suspicion or if deemed necessary due to a general risk assessment or for self-protection due to a risk assessment. ***Given the state of emergency declared by the French government following the terrorist attacks in Paris on Friday 13 November 2015, the French authorities have decided to re-establish internal border controls and the French Ministry of the interior has called for the implementation of supplementary control measures. The additional control checks concern all international flights within and outside the Schengen area at 22 designated airports including the swiss-french Basel-Mulhouse Airport. Since Wednesday, 25 November 2015 and until further notice, all departing and arriving passengers at the EuroAirport are undergoing systematic border controls by the police except for travellers to and from airports situated on French territory.*** Customs inspections are performed in a more systematic way. Checks on private merchandise are carried out by the uniformed border guard, whereas civilian customs officials control the entering cargo. Principal points of entry into Switzerland are manned 24/7. Other border crossing points operate during opening hours or are subject to random controls by mobile units. The Swiss Border Guard is authorized to conduct mobile police controls in a clearly defined area along the Swiss borders. Checks take place on public roads, on trains and at the green border. Helicopters, as well as drones of the Swiss Armed Forces are used randomly.

Since 1 May 2009, the 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 might be related to terrorism. In this regard, the Swiss Border Guard cooperates with the Money Laundering Reporting Office Switzerland (MROS) and the relevant police forces.

Due to bilateral agreements with its direct neighbouring states, 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 connected to the INTERPOL-database on lost and stolen travel documents (SLTD).

Furthermore, on 17 May 2009, Swiss citizens accepted by referendum the Federal Decision for the implementation of the EC-Regulation 2252/2004, amended by EC-Regulation 444/2009 of 28 May 2009 on standards for security features and biometrics in passports and travel documents issued by Member States which are part of the Schengen acquis. 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 an active connection to the ICAO-PKD for the up- and download of certificates in January 2011. These certificates are made available online to border guards and law enforcement authorities in Switzerland. The chair of the board was held by Switzerland from May 2012 until the end of 2016, which undertakes great endeavors to promote the use of this important security infrastructure. ***In order to contribute to this effort, Switzerland remains on the Executive Body of the ICAO PKD.*** To contribute to the future developments of secure travel documents, Switzerland also participates 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 border-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. This treaty entered into force on 1 January 2011. The objective was to abstain from security measures in bilateral trade between Switzerland and the EU. ***On 16 December 2016 the Swiss Parliament authorized the Federal Council to ratify a similar agreement with Norway.***

The acknowledged equal security standards between Switzerland/Norway and the EU allow for trilateral trade between Switzerland/Norway and EU without advance-declaration. Instead, the direct trade in goods between Switzerland and non-EU-States (except for Norway) will be handled by the security regulations. Moreover, Switzerland created a status of Authorized Economic Operator equal to the EU and therefore recognized by the EU and by Norway.



### *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 published by the International Atomic Energy Agency (IAEA), 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. Currently, the Swiss legislation on radiological protection is under revision in order to implement new international standards.

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

For the information exchange in cases of imminent threats involving information and communication technologies against the Swiss National Critical Infrastructure (NCI), the Reporting and Analysis Centre for Information Assurance (MELANI) is the Swiss Government's information sharing platform: The Federal IT Steering Unit (FITSU) within the Federal Department of Finance has the strategic lead over MELANI. The GovCERT.ch within the FITSU 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 Sports (DDPS), operates MELANI's operational tasks. MELANI's customer-base or target-group are 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 is 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.

In 2012, the Federal Council adopted the national strategy for protection of Switzerland against cyber risks and approved the implementation plan one year later in 2013. It wants to use this strategy in cooperation with public authorities, the private sector and operators of critical infrastructure to minimise the cyber risks with which they are confronted on a daily basis. Within this national cyber strategy, MELANI is mandated to establish by the end of 2017 an integral threat assessment on a national level, within the cyber domain.

Furthermore in 2012, the Federal Office of Police (fedpol) and the Federal Intelligence Service (FIS), based on a decision by the parliament, strengthened their capabilities for monitoring Jihadi activities on the internet. Both services coordinate their respective activities in view of optimizing the results of their monitoring activities.

In 2016, both fedpol and FIS pursued their collaborative efforts to monitor online jihadist activities and to conduct investigations in the field of Internet jihadism. In general, online jihadist propaganda was primarily aimed at supporting the activities of *ISIL (Da'esh)* and other groups involved in the Syrian conflict.

### *Hostage Taking; Blackmail*

Fedpol's Special Task Force for hostage-taking and Blackmail (SOGÉ) deals with crisis situations involving blackmail resulting from criminal acts subject to federal jurisdiction and therefore compel the federal authorities or foreign authorities to act. SOGÉ follows and assesses the situation, prepares political decisions and requests to the Federal Council, and presents the Federal Council with proposals

for solving the crisis. In addition to that, fedpol, together with the Crisis Management Centre of the Federal Department of Foreign Affairs and *the Federal Intelligence Service*, acts as first response in case of kidnappings of Swiss citizens abroad. In addition to having a specialized crisis management unit, a special quick response pool of specialists has been created in 2013 within fedpol in order to offer a 24/7 deployment possibility in case of such kidnappings or other crises. In January 2016, SOGE was merged with the crisis management unit of fedpol to become one single unit in order to create synergies between the two structures.

### *Explosives*

*Fedpol is responsible for the certification of explosives and pyrotechnical devices put on the market in Switzerland. It ensures that the legislation in this area is enforced, issues import and manufacturing licences and checks that the compliance requirements are fulfilled. Fedpol also operates a database on all incidents occurring in Switzerland involving explosives and pyrotechnical devices, and provides other agencies and private individuals with advice.*

*In addition, fedpol operates the Swiss national Bomb Data Center and is actively involved in the international Bomb Data Center Working Group (IBDCWG) and Network.*

### *Explosives precursors*

*Based on a report written by fedpol, the Swiss Federal Council took the decision to propose a law to the Parliament by the end of 2018 that restricts the access to explosives precursors (regulations analogous to the EU Regulation No 98/2013) and that clarifies the process to announce suspicious transactions. The new act will enter into force not before 2020. Immediate measures were taken in the meantime until the new law enters into force. Vendors of products containing explosives precursors have the possibility to announce suspicious incidents on a voluntary basis to the newly established National Contact Point at fedpol. fedpol has informed the economic operators about the possibility to report suspicious transactions and other events involving explosives precursors. Further information material will be prepared and distributed in the upcoming months.*

### *Legal co-operation including extradition*

Since the end of 2010, Swiss authorities have developed a long and fruitful relationship with their European and non-European counterparts. Swiss authorities and their security/police partner services abroad have worked together in some of the most important proceedings developed in Switzerland.

Fedpol and its European and non-European partners both intend to continue (and intensify) 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 possibility 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. ***Whilst the Federal Intelligence Service does not issue entry bans, it can suggest to fedpol to do so, based on prior assessment.*** The above mentioned 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.

Switzerland remains at risk of being used as a financial and logistical base to support jihadi groups in planning and carrying out terrorist attacks. In 2015, Swiss authorities pursued their investigations with

regards to the March 2014 discovery of a suspected *ISIL (Da'esh)* cell in Switzerland, which was allegedly in the early stages of planning a terrorist attack. On 30 April 2015, following an appeal initiated by one of the cell's members against another extension of his pre-trial detention, the Swiss Federal Criminal Tribunal in Bellinzona ruled *ISIL (Da'esh)* to be a criminal organization in accordance with Art. 260<sup>3</sup> of the Swiss Criminal Code (SCC). In October 2015, the Office of the Attorney General filed charges with the Swiss Federal Criminal Court against the four cell members for participating in or supporting a criminal organization (Art. 260<sup>3</sup> SCC), depicting violence on multiple counts (Art. 135<sup>1</sup> SCC) and violating immigration laws (Art. 116 of the Foreign Nationals' Act). On 18 March 2016 the Swiss Federal Criminal Tribunal sentenced three of the four accused to several years in prison.

## 2. Stationing of Armed Forces on foreign territory

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

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

In relation with peace operations, the Federal Council determines if deployed personnel is to be armed. Since members of the Swiss Armed Forces are not allowed to participate in combat and coercitive operations in the framework of peace enforcement operations, they are only armed for self-defence and for the accomplishment of the mandate. If 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.

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 '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' dated 19 June 1995 (PfP-SOFA) along with its amended protocol.

On 26 March 2003, the Federal Council decided to approve and to ratify the PfP-SOFA of 19 June 1995 along with its amended protocol. This approval simplifies the conclusion of bilateral treaties with other PfP States such as training agreements and the agreement on co-operation on air policing between Switzerland and its neighbouring countries.

The Swiss Armed Forces have been engaged in Kosovo in the international Kosovo Force (KFOR) peace support mission, with a company-size unit (Swisscoy) since October 1999. In June 2014, the Federal Parliament approved the extension of the deployment of Swisscoy until the end of 2017. SWISSCOY is composed of up to 235 voluntary military personnel that are armed for self-defence. The deployment consists of elements of logistical support and transport (including airlift capacities), engineer support (explosive ordnance disposal) as well as liaison and monitoring capacities. The Swiss Armed Forces man four Liaison and Monitoring Teams (Mitrovica, Zubin Potok, Malishevo and Prizren) and the command post of the most exposed regional detachment, JRD-North in Mitrovica. The Swiss Armed Forces also provide KFOR's most efficient means of airlift with its two Super Puma helicopters. The demand for these important contributions is likely to remain unchanged once the KFOR posture is further reduced and Switzerland will continue its contribution independently of the size of KFOR until the end of 2017. ***On 23 November 2016, the Federal Council passed a further extension of the Swisscoy mandate until the end of 2020. It is the Government's intention to maintain its contribution to KFOR yet to reduce it gradually in troop numbers. By April 2018, the Federal council plans to reduce the contingent from 235 to 190 military personnel and by November 2019 from 190 to 165. The mandate extension is subject to parliamentary debate in the first half of 2017.***

Currently, 20 members of the Swiss Armed Forces are deployed in the European Union Force (EUFOR) in Bosnia and Herzegovina (Operation ALTHEA). Some operate as staff officers in the EUFOR HQ in Sarajevo, while the majority is deployed in the framework of two Liaison and Observation Teams (LOT, *Mostar and Trebinje*).

As an additional contribution to EUFOR Operation ALTHEA, Switzerland is providing elements of a multinational Mobile Training Team (MTT) for capacity building in ammunition and weapons storage site management. The MTT is Swiss-led and consists of ammunition and weapons experts from Austria, Sweden and Switzerland. The MTT project is fully integrated in the international community's effort to assist the Armed Forces of Bosnia and Herzegovina in disposing of its surplus weapons and ammunition and introducing a sustainable life-cycle management (incl. national procedures and structures). The efforts of the MTT focus on stockpile management, but also include physical security aspects, particularly with regard to the use of lethal and non-lethal means during guard duties in accordance with the International Humanitarian Law and the OSCE Code of Conduct. Since the beginning of 2013, Switzerland also seconds the Special Ammunition and Weapons Advisor (SAWAD) to COM EUFOR. He is in charge of advising both COM EUFOR and the Minister of Defence of BIH on issues related to weapons and ammunition.

*Additionally the Swiss Armed Forces have engaged 56 individuals (Military Experts on Mission [UNMEM].), Military Staff Officers [MSO], mine awareness - and training experts) in 11 peace-support operations or headquarters (UN, OSCE) abroad (March 01, 2017).*

With regard to civilian police support, Switzerland has been present in Kosovo and Bosnia-Herzegovina for several years: in Kosovo at first under the umbrella of United Nations Mission in Kosovo (UNMIK) and afterwards within the missions of the European Union Rule of Law Mission in Kosovo (EULEX). In Bosnia-Herzegovina, Switzerland currently provides the European Union Police Mission (EUPM) with one border guard officer and one criminal justice advisor.

### 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 provided assistance in the destruction of stockpiles in Syria. 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 at the Designated OPCW Laboratory in Spiez. *In the field of biological weapons, Switzerland is not opposed to the resumption of negotiations on 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 strengthening of the BWC confidence-building measures, which represent an important element to generate transparency in the absence of a verification system. Finally, Switzerland provides training at the international level in the fields of biosafety and biosecurity.*

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), including all its Protocols, and supports its full

implementation. Additionally, Switzerland as a State Party to the Convention on Cluster Munitions (CCM) and to the Convention on the Prohibition of Anti-Personnel Mines assists States in meeting their commitments by providing, among other things, assistance in clearance, victim assistance and/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. Furthermore, Switzerland became a State Party to the Arms Trade Treaty on 30 April 2015. As part of ratification, Switzerland has declared that it will apply Articles 6 (prohibited transfers) and 7 (export assessment) immediately, as provided for in the treaty. Together with the instrument of ratification the Federal Council has also deposited an interpretative declaration which specifies how Switzerland intends to interpret and apply several key provisions of the treaty. This is in keeping with the country's traditional role as an advocate for humanitarian concerns, *in particular with regard to international humanitarian law and Switzerland's active peace policy. Switzerland supports the full implementation of the UN Programme of Action on Small Arms and Light Weapons. In addition, Switzerland is also active at the operational level. It assists requesting states in meeting their commitments through the financing of projects in the fields of training, destruction of stockpiles and development of national capacity, as well as through the provision of material or expertise.*

In accordance with Switzerland's humanitarian tradition, Swiss Armed Forces experts make specific contributions towards the implementation of existing international arms control and disarmament regimes. *Activities are thematically focused on the safe and secure management (PSSM, see Para 2.1) as well as the disposal of surplus, obsolete and expired weapons and ammunition. 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 expert pool from which the Swiss Armed Forces can draw experience and personnel.* All activities are conducted within the multilateral frameworks of the UN, OSCE and EAPC.

Switzerland has been an active EAPC/PfP partner in financing PfP Trust Fund activities in Europe, Central Asia, the Near East and North Africa. In 2014, Switzerland supported the PfP Trust Funds in Jordan, Mauritania and Ukraine as well as the Building Integrity Trust Fund disbursing a total amount of approximately 285'000.— CHF. Experts were deployed in support of the PfP Trust Funds in Jordan and Serbia as well as in support of the fact-finding in Tunisia. By doing so, Switzerland participates in the fight against the *proliferation* and illegal trafficking of small arms, light weapons and ammunition. It also supports the destruction of weaponry and ammunition surpluses as well as capacity building in partner countries.

Switzerland is a member of the Europol firearms committee and participates in the Europol Focal-Point "Firearms". Because of many secured weapons in Europe with a link to Switzerland and the likelihood of illegal deliveries of weapons to Switzerland, Switzerland is examining a participation in the EMPACT-Priority "Firearms" of Europol and to the iArms system of INTERPOL. Further, Switzerland is using the Evofinder-system to internationally compare firearm traces.

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, voluntary national contributions to support NATO as well as financial contributions.

By the decision of the Federal Council of 16 February 2011, the Swiss Armed Forces are authorized to deploy up to six weapons and ammunition experts as an additional contribution to EUFOR ALTHEA. These experts constitute under the lead of Switzerland and with the support from Austria and Sweden a Mobile Training Team (MTT) responsible to build capacity within the Armed Forces of Bosnia and Herzegovina for ammunition and weapons storage site management. The project will last up to seven years and includes complementary activities such as the establishment of national procedures and structures, life-cycle management as well as capacity building for ammunition disposal and destruction (see Para 2.1).

By the decision of the Federal Council of 4 Mai 2016, the Swiss Armed Forces are authorized to deploy up to six experts to the Comprehensive Programme for SALW and Conventional Ammunition in Moldova of the OSCE.

**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.**

*Switzerland supports the re-launching of the discussions on the future of conventional arms control in Europe, which it considers a vital ingredient of cooperative security. It will support the holding of the structured dialogue in the framework of the OSCE.*

Within the OSCE framework, Switzerland contributed to the elaboration of the OSCE Document on Small Arms and Light Weapons (SALW) as well as the OSCE Document on Stockpiles of Conventional Ammunition (SCA). Since 2014, Switzerland supported the OSCE projects in Bosnia and Herzegovina, Moldova, Montenegro and Serbia with 410'000 CHF. In addition to financial contributions, Switzerland also endeavours to provide technical expertise for selected projects (e.g. 2014-16: training on transportation of dangerous goods incl. ammunition in Moldova).

## 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 for 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 Swiss 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.

*These reports define the guidelines for Swiss security policy for the next five to ten years. The last such report was published in August 2016. As usual, the draft of the report was submitted to the cantons, parties and associations for consultation prior its approval by the Federal Council. The report is presented to Parliament for debate in the course of 2017 (not for formal approval as it is merely a policy document of the government). The focus of the new report is on analysing Switzerland's security policy environment. This applies particularly to the deterioration of the relationship between the West and the Russian Federation, the accentuation of the Islamic terror threat, the challenges of the actual migration crisis, the undreamt extent of illegal activities in cyberspace and – as the greatest challenge – the possible combination and mutual reinforcement of various threats. The report lays out what strategy Switzerland wants to apply in the field of security policy, and what the various security instruments contribute and how they cooperate to prevent, repel and overcome the threats and dangers.*

*The new Security Policy report confirms the planned reform of the Armed Forces that was initiated by the Report 2010 on the Armed Forces that was published alongside with the last Security Policy Report 2010. Therein, the Federal Council proposed an adaption of the defence capability to the geostrategic threat level as well as the financial and demographic situation, allowing for a reduction in structure and strength. It concluded that Switzerland had to retain but a core military capacity and expertise to be able to repel a military aggression. Since a purely conventional military threat against Switzerland in the distant future cannot be ruled out completely, Switzerland will retain its core military capacity and military expertise to be capable of repelling such aggression. Subsequently, the Federal Council proposed to Parliament the concept of the future Armed Forces within the planning parameters of 100'000 armed forces personnel and an annual defence budget of 5 billion Swiss Francs. **The ensuing modifications of the Law on the Armed Forces were approved by parliament in early 2016. The legal modifications and along with them the adapted concept for the Armed Forces will enter into effect on 1 January 2018.***

Parliament has 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) before being presented to the plenary session. Moreover, the two chambers of 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 e.g. adjustments on the Act on the Armed Forces, armaments programme, etc., have to be submitted to parliament for acknowledgement or approval. Additionally, federal decrees and the ratification of international treaties may be subject to popular vote either mandatorily or at the request of 50'000 citizens (optional referendum). Furthermore, amendments to federal laws, adopted by the Federal Assembly, are subjected to the optional referendum. An emergency federal act, that does not have the Constitution as its basis is subjected to a mandatory referendum if its period of validity surpasses one year. At the request of 100'000 citizens, any military matter can be subject 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<sup>6</sup>
- mandatory or optional referendum<sup>7</sup>.

#### *Paramilitary forces*

Switzerland has no paramilitary forces.

#### *Internal security forces*

Switzerland has no internal security forces at federal level.

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<sup>6</sup> For example, on 22 September 2013, some 73% of the People voted to maintain the compulsory military service and thereby rejected a popular initiative on its abolition.

<sup>7</sup> For example, on 18 May 2014, the People rejected the Federal Law on the funding of 22 Gripen aircraft by a majority of 53%.



### *Intelligence services*

Switzerland has two intelligence services which are both within the DDPS:

- The Federal Intelligence Service (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). ***On September 2016 the Swiss population approved a new law for the Federal Intelligence Service (FIS). The new law as well as the regulating ordinances should enter into force in September 2017.***
- ***The Federal Intelligence Service is also the home agency of the central offices for dual-use goods, war material and nuclear and radioactive materials. These offices are tasked, based on their specific legislation, to collect information to prevent the illicit use of the goods in their defined area of responsibility.***
- On the basis of articles 99 and 100 of the Act on the Armed Forces (AOA) (SR 510.10) the Military Intelligence Service (MIS) provides joint intelligence on military-strategic and senior command level in order to respond to the specific needs of the Ministry of Defence (DDPS), the Chief of the Armed Forces and its Commanding Staff. It is attributed to the HQ of Swiss Armed Forces Joint Staff (fulfilling therefore and thereby also the J2 Tasks). MIS analysis and production is predominantly focussed on situation awareness and threat analysis regarding all theatres and missions (PSO), where members of the Swiss Armed Forces are deployed. Organized like a unit of the Military Police (MP) but located close to the MIS, the Service for Preventive Protection of the Armed Forces (SPPAF) deals with counter intelligence issues within the Armed Forces, domestic as well as on missions abroad.
- An internal oversight unit in the DDPS supervises the Federal Intelligence Service and the Military Intelligence Service. The main aspects of this supervision are the legal compliance, usefulness and effectiveness of the Services' actions. The unit reports directly to the Head of the DDPS. ***Simultaneously with the new law for FIS, this (internal) oversight unit will be replaced by an independent oversight that is not bound by directions and guidance of the DDPS.***

Parliamentary oversight of the intelligence services is exercised by a delegation of the Control Committee of the Federal Assembly. It periodically inspects the intelligence services' structure, budget and activities, including interagency co-operation. The delegation supervises mainly the legal aspects as well as usefulness and effectiveness of the intelligence services' activities. 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 to which 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. The Federal Office of Police (fedpol) is responsible for the safeguarding of national security. These responsibilities encompass the criminal prosecution, particularly in connection with fighting against 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. Fedpol can also 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.

The AFIS DNA Division, a unit at fedpol, analyses print and DNA traces with the aid of AFIS, an automated fingerprint identification system, and CODIS, a DNA database. The federal, cantonal and communal police forces, the Border Guard Corps, the Federal Office for Migration, and the Department for Foreign Affairs rely on the AFIS DNA Service for the identification of living and dead persons. DNA technology can also link a crime scene profile to a DNA database reference profile, thereby identifying a previously unknown suspect to the crime.

Fedpol, especially through the Federal Security Service, works with the cantonal authorities to ensure the security of federal officials and facilities, as well as people and buildings granted protection under international law. A variety of measures are implemented to protect heads of state and government, ministers, royalty, federal councillors, federal judges, federal officials at special risk and federal parliamentarians.

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

There are a number of internal and external controlling mechanisms that supervise the federal offices' accomplishment of tasks. First, the federal departments are legally obligated to supervise their own endeavours internally. Second, the parliamentary supervision committees guarantee an external control of the offices. At last, due to the particular nature of its tasks, the FIS is supervised by a Special Parliamentary Investigation Commission.

As mentioned above, police authority is exercised by the cantons, which are considered sovereign states within the Swiss Confederation. Law enforcement in Switzerland is therefore the responsibility of all 26 cantons, which each disposes of cantonal police agencies. Some cities also operate municipal police agencies as provided for by cantonal law. The 26 cantonal police agencies and numerous municipal police agencies are not subordinated to federal authorities and their commanding officers report to the head of the respective cantonal or municipal department of police, who is a member of the cantonal or municipal governing council.

On 1 January 2011, the Federal Criminal Procedure Code (CPC, SR 312) entered into force. The criminal procedures in Switzerland as well as the competences of the police force on federal and 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*

***For the detailed information exchange on Private military and security companies (PMSC) according to the Working Paper to Improve the Reporting on the OSCE Code of Conduct on Politico-Military Aspects of Security (FSC.DEL/29/15), please refer to Annex II: Voluntary information on Private Military and Security Companies (PMSC).***

## 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 at both cantonal and/or federal level. Thus, the Swiss Armed Forces and the police forces are effectively controlled by the following democratically elected constitutional bodies:

- the Federal Assembly (Parliament);
- the respective Cantonal Assembly;
- the Federal Council (Government, accountable to the Federal Assembly);
- the respective Cantonal Governing Council;
- the Foreign Policy Committees of both national chambers;
- the Security Policy Committees of both national chambers;
- the Finance Committees of both national chambers;
- the Finance Committee of the respective Cantonal Assembly;
- 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 Office of Police (fedpol) and the Federal Security Service.

*Swiss Citizens (Supreme political and deciding organ)*

***The Swiss citizens, in their role as supreme political and deciding state organ at both cantonal and federal level, can both propose constitutional amendments of their own, or thwart legislation already approved by parliament. Amendments to federal laws are subjected to an optional referendum.*** An emergency federal act, that does not have the Constitution as its basis, is subjected to a mandatory referendum if its period of validity surpasses one year. Other federal acts and the ratification of international treaties may be subjected to an optional referendum and in particular cases to a mandatory referendum, i.e. ratification of treaties of accession to international security organizations. ***The Swiss citizens also have the final say on parts of the measures related to establishing, manning, funding and equipping the Armed Forces.*** However, the annual defence budget or the procurement programs are per se not subjected to the optional referendum. By means of a popular initiative citizens may even decide on fundamental questions, like whether Switzerland should dispose of Armed Forces or not.

*Federal Assembly (Parliament)*

The Parliament is the supreme legislative body. It discusses and formally takes note of governmental reports on security policy or the Armed Forces. It decides on all measures related to establishing, funding and equipping of the Armed Forces. ***However, a number of measures are, as mentioned above, subject to a popular referendum. Amendments to laws relevant to the military are subject to detailed parliamentary deliberation and require for adoption a simple majority in both chambers of the parliament.***

Each chamber of Parliament has a Security Policy Committee, which is regularly informed by the Federal Council on important defence and security matters concerning, inter alia, the military posture. Also the Security Policy Committee prepares plenary discussions on Federal Council proposals to Parliament. The Security Policy Committees propose decisions to their respective houses on all matters 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 delimitation 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, Parliament can 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 military posture is proposed by the Federal Council and has to be ratified by Parliament (Act on the Armed Forces and decisions on defence budget and procurement programmes).

#### *Cantonal Assemblies and Governing Councils (Cantonal Parliaments and Governments)*

Because police authority is exercised by the cantons, democratic control over the police forces is exercised by the Cantonal Assemblies (legislative power) and Governing Councils (executive authority). The specific procedures and responsible authorities / institutions for ensuring democratic political control over the police are established by cantonal law.

#### *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 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 both within Switzerland and abroad. Pursuant to Art. 66b<sup>4</sup> and Art. 70<sup>2</sup> of the Federal Act on the Armed Forces and the Military Administration (AOA SR 510.10), approval by parliament is however required for deployments lasting more than three weeks and involving more than 2000 Armed Forces personnel in subsidiary deployments both domestically and abroad respectively more than 100 Armed Forces personnel for peace support deployments abroad. Due to the Federal Council's collegial nature, decisions and projects 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 (FDFA) and the Federal Department of Justice and Police (FDJP). The Government Security Committee is composed of the heads of DDPS, FDJP and FDFA. It prepares the deliberations of the Federal Council on security issues and identifies inter-ministerial intelligence needs.

#### *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 the 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 leads the elaboration of reports on security policy, defence guidelines, the Federal Acts and ordinances concerning the Armed Forces and Civil Protection.

#### *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 department portfolio includes the Federal Office of Justice (FOJ), the Federal Office of Police (fedpol), the Federal Office of Migration (FOM) and the National Commission for the Prevention of Torture (NCPT). In his function, the minister of justice and police 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 Parliament can draw attention to Swiss Armed Forces acts that 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 and contribute to its safety.
3. The Armed Forces support the civilian authorities in case their needs do not suffice in order to avert severe threats to internal security and to manage extraordinary situations, in particular in cases of natural disaster both in Switzerland and abroad.
4. The Armed Forces contribute to international peace support and crisis management.

Emphasizing the individual accountability of the service personnel, Art. 32<sup>3</sup> of the Federal Act on the Armed Forces and the Military Administration (Act on the Armed Forces, AOA, SR 510.10) provides that members of the Armed Forces are not obliged to execute an order which requires a behavior punishable according to domestic or international law.

#### *Paramilitary forces*

Switzerland has no paramilitary forces.

#### *Security forces*

Switzerland has no internal security forces at 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 an officer or a 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. In the framework of the next development step of the Swiss Armed Forces expected in 2018, these procedures will be analysed, overhauled and adapted to current requirements and needs.

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, 2011: 42'800, 2012: 40'789, 2013: 41'691, 2014: 40'869, **2015: 39'857 and 2016: 39'884 conscripts**).

For the organisation of the recruitment, the Recruitment Command has the following offices at its 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 the 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 by means of a poster on the public information board of every town and village of Switzerland in autumn every year. 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 nil and void during a period of military service. If the term of service exceeds 11 days, dismissal within 4 weeks before and after service is also nil 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 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, assistance service and active service as well as some parts of the voluntary peace-keeping services) as well as off-duty obligations. Women may voluntarily apply for military service. The following groups are exempt from military service for the duration of their tenure or employment (*in 2016 a total of 4'747 people*):

- 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 contribution (compensatory military contribution) as compensation for the military service which 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 service is performed outside the Armed Forces in civilian institutions. The conscientious objectors serve civilian purposes and are assigned to duties of public interest. They 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, Education and Research (EAER) is responsible for civilian service issues; its Civilian Service Authority decides whether a candidate is to be accepted or not.

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

***In 2016, 8'032 applications for assignment to civilian service were submitted (2015: 7'519, 2014: 7'357, 2013: 6'561, 2012: 6'404). In 2016, 6'169 applications were approved and 1'580 not approved (in 2015: 5'836; 1'609 not approved; in 2014: 5'757, not approved 1'641; in 2013: 5'423, not approved 1'392; in 2012: 5'139, not approved 1'277). In 2016, 19'338 persons liable to military service performed civilian service (2015: 18'227; 2014: 14'850; 2013: 18'636; 2012: 14'989 persons). As of the end of 2016, a total of 44'650 people were liable to perform civilian service (2015: 40'827; 2014: 34'487; 2013: 33'320; 2012: 30'022). 0.1 per cent of these were women (54).***

Since 1 April 2009, there are 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 for 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. *A delay of reflection and confirmation of the application before the admission was established. In July 2016 new regulations about the procedure of admission were introduced at law and ordinance level. Candidates for civilian service can submit their application online by the web site of the civilian service and have to visit an introductory course before admission.*

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. Only 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 employing enterprises. The civilian service authority conducts inspections of the employing 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*

Art. 58 of the Swiss Federal Constitution stipulates: “Switzerland has armed forces. They are primarily organised according to the principle of a militia<sup>8</sup>.” 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 exercise 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 provides the legal basis for these restrictions.

#### *List of rights of military personnel<sup>9</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>8</sup> Applicable definition of militia: citizens enrolled for military service, called out periodically for drill but serving full time only in war and emergencies. Not to be confounded with paramilitary groups or irregular, non-constitutional fighters!

<sup>9</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 abusive 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>Protection against untimely dismissal from employment</b>	Article 336c Paragraph 1 lit. a of the Federal Act completing the Swiss Civil Code of 30 March 1911 (Book 5: Code of Obligations; SR 210) (cf. above section 3.1)
<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 (e. g. decisions 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>- Decisions on expulsion from the Armed Forces</li> <li>- Decisions 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 of the Federal Act on the Armed Forces and the Military Administration (Act on the Armed Forces, AOA SR 510.10)
Reconsideration of decisions 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 of 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 (MCC SR 321.0), articles 180 ff.
Means and proceedings for dealing with penal cases	Military Criminal Code of 13 June 1927 (MCC 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 and reflected in the Military Criminal Code (MCC SR 321.0) as well as the Rome Statute of the International Criminal Court (SR 0.312.1) that penalize war crimes, crimes against humanity and genocide. A major effort has been done to introduce the most important notions in general military manuals for conduct and tactics. An instruction leaflet for all members of the Armed Forces has been issued in 5 languages (German, French, Italian, Rumantsch 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 by using the e-learning tool online on the Learning Management System (LMS) of the Swiss Armed Forces 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.
- Officer 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 the e-learning tool '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. The website on IHL of the Federal Department of Foreign Affairs is available at <http://www.eda.admin.ch/eda/en/home/topics/intla/humlaw.html>.

An e-learning tool on IHL, legal aspects of PSO and human rights is available online on the Partnership for Peace Consortium, Advanced Learning Management Services (PfPC LMS, see <https://pfpcadl.act.nato.int>, '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). A training course on IHL and its consequences for Switzerland was put in place by the FDFA in 2013. It aims at conveying the basic principles and rules of IHL to its employees and those of other services of the Swiss administration. The training course, based on the pragmatic approach of Switzerland's engagement in the field of IHL, combines theoretical and practical aspects through presentations by academic, institutional and governmental experts.

On 16 October 2013, Switzerland's updated strategy on the protection of civilians in armed conflict received the support of the Federal Council. With this strategy, Switzerland wants to achieve greater impact and commitment on behalf of victims of armed conflict. This strategy is structured by theme and encompasses all of the activities of the various federal departments and offices, with the aim of identifying possible synergies as part of a whole-of-government approach. The strategy is built on the following three axes: 1) Achieve greater compliance with the normative framework; 2) Consolidate actions taken in favour of persons to be protected; 3) Lend support to international peacekeeping missions. ***This strategy is currently under revision.*** In addition to this Strategy, on 14 October 2014, the Swiss Federal Department of Foreign Affairs adopted an Action Plan for the protection of children associated with armed forces or groups in armed conflict for the period of 2014 – 2016. With the adoption of this Action Plan Switzerland has set itself the following objectives: 1. Strengthening respect for and dissemination of the normative framework on children; 2. Strengthening its commitment to promoting the protection of children in the multilateral framework; 3. Strengthening the commitment of both Switzerland and its partners in the field.

Switzerland published beginning of 2014 an updated version of its ABC of International Humanitarian Law. This publication is essentially a glossary of terms explaining the key concepts of international humanitarian law. It is available both on-line and in brochure form and can therefore be consulted by everyone having an interest in international humanitarian law.

The Interdepartmental Committee for International Humanitarian Law (ICIHL) is tasked with the administration-internal exchange of experience and information on IHL and its implementation in Switzerland. It ensures optimum coordination among the Federal authorities and maintains relations with the scientific community, civil society, and other organizations concerned with IHL, such as ICRC. The Committee also supports the ICRC in its yearly up-date of its study on Customary International Humanitarian Law. In so doing, the Committee compiles new declarations, legal texts, and judgments on the part of Switzerland.

#### **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?**

All members of the Armed Forces receive rank specific instructions on LOAC, throughout their military training. 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 Armed Forces deployments 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 with the exception of very minor deployments 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 deployments, which is a further element to prevent Armed Forces deployments that might serve to limit the exercise of human and political rights. Human Rights are also taught to Armed Forces personnel during basic training and in the context of specialized courses. In the case of Armed Forces deployment as support of the civilian authorities, the latter oversee the subsidiary deployment's legality and legitimacy. Armed Forces personnel are – even in such cases – 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. 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 it is 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 armed forces and 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 (SR 510.10 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 render 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.

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

Art. 58 of the stipulates: "The armed forces shall serve to prevent war and to maintain peace; they shall defend the country and its population. They shall support the civilian authorities in safeguarding the country against serious threats to internal security and in dealing with exceptional situations." By vesting those missions with constitutional legitimacy and issuing them to the Armed Forces for implementation, the Swiss Federal Constitution reflects international law by emphasizing the prevention of violence (UN Charter. art. 2, al. 4: Prohibition of threat or use of force in international relations), taking into account the exception of self-defence (UN Charter, art. 51). The implementing federal authorities are therefore inherently observing international law. Further, an 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.

## 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?

At the occasion of the OSCE Ministerial Council 2014 in Basel, Switzerland published the “Commemorative Study: 20 Years of OSCE Code of Conduct on Politico-Military Aspects of Security”: This publication pays tribute to the unique and remarkable history, development, achievements and outreach of OSCE’s key document for the democratic control of the armed forces and the security sector. Didier Burkhalter, Swiss Foreign Minister and 2014 OSCE Chairperson-in-Office presented this Commemorative Publication to OSCE Secretary General Lamberto Zannier at a special event held on 5 December 2014 during the 21st OSCE Ministerial Council in Basel, Switzerland. It is freely available at: <http://www.osce.org/cio/128961>

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.

Furthermore, organizations and think tanks that are Swiss based and partly funded by the Swiss government, such as the Centre for Democratic Control of Armed Forces (DCAF) or the Centre for Security Studies (CSS) of ETH, as well as the International Security Network (ISN), regularly publish research on the Code of Conduct.

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 (<https://www.admin.ch/gov/de/start/bundesrecht/systematische-sammlung.html>). 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.

## 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 Sports DDPS  
Swiss Armed Forces  
Staff Unit Chief of the Armed Forces Staff CAF  
International Relations Defence  
Verification unit  
LtCol Thomas Schmidt

Location: Kasernenstrasse 7, CH-3003 Berne

Mail: Papiermühlestrasse 20, CH-3003 Berne

+41 58 463 20 14 (skype voice)

+41 79 277 55 58 (mobile)

+41 58 465 30 40 (fax)

[ver.astab@vtg.admin.ch](mailto:ver.astab@vtg.admin.ch)

<http://www.vtg.admin.ch/fr/actualite/themes/internationale-beziehungen.html>

### 1.2 Any other information:

Switzerland puts strong emphasis on further strengthening awareness raising, better implementation and outreach of the "OSCE Code of Conduct on Politico-Military Aspects of Security". In 2016, the following events and projects were realized:

- *"Workshop on the OSCE Code of Conduct on Politico-Military Aspects of Security" in Amman, Hashemite Kingdom of Jordan. This seminar aimed at following up the promotion of the OSCE Code of Conduct towards the Mediterranean OSCE Partners for Co-operation with special emphasis on the fight against terrorism and the challenges of migration. It was successfully hold in October 2016, co-sponsored by Germany and Austria;*

Further, the following activities are planned for 2017:

- *"Seminar on the OSCE Code of Conduct on Politico-Military Aspects of Security for participating States and Partners for Co-operation," in Budva, Montenegro. The objectives of the seminar in Montenegro are to raise awareness, to promote the Code of Conduct among participating States, particularly from South East Europe, and to engage in discussions and dialogue about its important principles and commitments. The seminar will further address issues related to the democratic control of armed and security forces, security sector reform, parliamentary oversight and the respect for international humanitarian and human rights law for armed forces personnel.. The seminar is planned to be hold in May 2017, co-sponsored by Switzerland, Germany and Austria.*
- *"Outreach conference on the OSCE Code of Conduct on Politico-Military Aspects of Security for participating States of North America" in Washington D.C., USA. The objectives of the envisaged conference in Washington D.C. are to raise awareness, to promote the Code of*

*Conduct among the participating States of North America and to engage in discussions and dialogue about its important principles and commitments. The conference will address issues related to the democratic control of armed and security forces, security sector reform, parliamentary oversight and the respect for international humanitarian and human rights law for armed forces personnel. The seminar is planned to be held in autumn 2017.*

- Preparation of the “Compilation of Practical Examples on Democratic Control of Armed and Security Forces” (CPE DCAF): In order to further improving the dissemination of norms and principles of the OSCE Code of Conduct, Switzerland and several co-sponsors aim at producing and providing a compilation of practical implementation examples of the prescriptions of the Code as another and useful toolkit to support awareness raising, better implementation and outreach activities. The document is intended to be contemporary, practical and easy to implement. Further, the document aims at identifying and highlighting practical and feasible examples, fulfilling the norms and provisions enshrined in the Code, stemming primarily from almost 20 years of implementation experience of 57 OSCE participating States. The CPE DCAF is scheduled to be introduced at the OSCE Ministerial Meeting 2017 in Vienna.

Previously, Switzerland co-organised and co-sponsored, mainly together with Austria and Germany, the seminars of Kazakhstan, Bosnia-Herzegovina, Belarus, Ukraine, Latvia, Malta, Mongolia, Tunisia, and Serbia.

Through the translation of the OSCE Code of Conduct in Arabic and its dissemination amongst member States of the Arab League, Germany and Switzerland hope to increase awareness on democratic control of the armed forces and IHL among its member states and in Northern Africa.

In addition, Switzerland is seconding since September 2011 a Support Officer to the Conflict Prevention Centre of the OSCE in order to facilitate the work of the Forum for Security Co-operation regarding the implementation and general activities related to the OSCE Code of Conduct. This secondment has been reconducted and extended until April 2017.

Last but not least, Switzerland continues to support the “Geneva Centre for the Democratic Control of Armed Forces” which also promotes the implementation of the OSCE Code of Conduct.

Switzerland remains strongly committed to support and to sponsor multilateral or bilateral activities or assistance on the OSCE Code of Conduct with the aim to raise further awareness by fostering the universalization of this cross-dimensional, norm-setting document, to strengthen its ever better implementation within the OSCE and to actively promote its outreach beyond the OSCE area.

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## **Annex I: Voluntary information regarding implementation of the UNSCR 1325 (FSC.DEC/5/11 (Annex))**

### **I: Prevention**

#### **1. Measures to increase armed forces personnel's 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, sexual orientation, language balance 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, gender, issues relating to discrimination of sexual orientation and harassment, as well as mobbing are compulsory for all Swiss Armed Forces cadres.

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

Within the Swiss Armed Forces, the Swiss International Command (SWISSINT) 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 Training Centre (TC) has two different approaches to pre-deployment training: One for domestic audience (KFOR and EUFOR) and another for an international audience (Military Experts on Mission [UNMEM].) and Military Staff Officers [MSO]). 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 Experts on Mission 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 program of the respective missions, in which Swiss Armed Forces military personnel is deployed (e.g. 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<sup>10</sup> on military ethics in the Swiss army, hereby fulfilling 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.

*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 girl's 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. UN Charter**

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

Roughly 2.6 % of the career of the career and 0.7 % 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.

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<sup>10</sup> (German: <http://www.news.admin.ch/NSBSubscriber/message/attachments/20300.pdf>,  
French: <http://www.news.admin.ch/NSBSubscriber/message/attachments/20301.pdf>)

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.

*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 2017</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>1</i>		<i>1</i>
	<i>Staff officers</i>	<i>6</i>	<i>53</i>	<i>5</i>	<i>64</i>
	<i>Captains</i>		<i>82</i>	<i>1</i>	<i>83</i>
	<i>Subaltern officers</i>		<i>174</i>	<i>2</i>	<i>176</i>
	<i>Officers total</i>	<i>6</i>	<i>310</i>	<i>8</i>	<i>324</i>
<i>NCOs</i>	<i>Senior NCOs</i>		<i>102</i>		<i>102</i>
	<i>Junior NCOs</i>		<i>206</i>	<i>3</i>	<i>209</i>
	<i>NCOs total</i>		<i>308</i>	<i>3</i>	<i>311</i>
<i>Junior ranks</i>	<i>Privates total</i>		<i>488</i>	<i>29</i>	<i>517</i>
<i>Overall</i>		<i>6</i>	<i>1'106</i>	<i>40</i>	<i>1'152</i>

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

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

The Military Justice opened investigations in **4 cases that occurred in the year 2016** dealing with charges of sexual background, including harassment, to the disadvantage of women serving in the armed forces.

*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.*

***As of 1 March 2017, out of a total of 293 peacekeeping forces personnel, 39 (13.31%) are female: 13 women officers, 14 women NCOs, 11 enlisted women and 1 female civilian (POLAD KFOR).***

*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 as of March 1 2017, 12 (92.30%) missions have a senior national representative responsible for gender issues. The only remaining engagement consist only of 1 personnel and has 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 2016, two cases dealing with charges of sexual background, including harassment, to the disadvantage of a Swiss woman serving as uniformed peacekeeper was reported to the Military Justice.***

### **IV: Other information**

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

UN Security Council Resolution 1325 (UNSCR 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 bilateral and multilateral level in the context of UNSCR 1325 already include gender-sensitive project work specifically for

implementation of the requirements of UNSCR 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 the Women, Peace and Security agenda.

Switzerland is committed to the creation of framework conditions in the United Nations, as well as in other international and regional organizations such as the OSCE, that will enable women to participate in peace building efforts on an equal footing with men. This commitment to equal rights 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 UNSCR 1325 (NAP 1325):

([https://www.eda.admin.ch/dam/eda/en/documents/publications/MenschenrechtehumanitaerePolitikundMigration/Frauen-Frieden-und-Sicherheit\\_en.pdf](https://www.eda.admin.ch/dam/eda/en/documents/publications/MenschenrechtehumanitaerePolitikundMigration/Frauen-Frieden-und-Sicherheit_en.pdf)) has been established (2007, revised versions in 2010 and 2013). ***In 2017, a further revision of the NAP 1325 is planned.*** 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 has been published 2015. ***The actual report on the implementation is in the draft and will be available mid of 2017.***

Switzerland supports and promotes, directly and indirectly, programs and projects designed specifically to ensure the effective participation of women in peace processes. 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 as the participants in military peacekeeping operations will receive a high level of training in the sensitization on gender issues in preparation for their deployment on missions.

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## **Annex II: Voluntary information on Private Military and Security Companies (PMSC) (FSC.DEL/2/15)**

### **I. International Engagement**

#### **1. What are your States' international engagements aimed at promoting standards of good governance and good practices for PMSCs?**

*Information on engagement with voluntary initiatives aimed at promoting more effective regulation of PMSCs, such as the Montreux Document and the International Code of Conduct for Private Security Providers (ICoC).*

*Information on your State's position on joining the Montreux Document and the ICoC Association (ICoCA).*

*Switzerland initiated together with the International Committee of the Red Cross (ICRC) the Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict of 17 September 2008. The Montreux Document is now endorsed by 54 States and three international organizations (the OSCE endorsed the Montreux Document on 22 November 2013). The Montreux Document Forum was launched during a Constitutional Meeting which took place on 16 December 2014 in Geneva. A second plenary meeting of the Montreux Document Forum was held on 29 January 2016 in Geneva and a third is going to take place on 27 and 28 April 2017 in Geneva. By providing a venue for informal consultation among Montreux Document participants, the Montreux Document Forum seeks to support national implementation of the Montreux Document and the development of implementation tools, as well as to bring more states to actively support it. The Forum further aims to strengthen dialogue on lessons learned, good practices and challenges related to the regulation of PMSCs.*

*On a parallel basis, Switzerland encouraged a follow-up by the PMSC industry to the Montreux Document. The International Code of Conduct for Private Security Service Providers of 9 November 2010 was launched by Switzerland and the private security sector, with the participation of civil society and other governments, with the aim of setting human-rights compliant industry standards and good practices. The ICoCA which was set-up in Geneva in September 2013 and constituted as a Swiss association operating under Swiss law, exercises an independent governance and oversight of the ICoC's implementation. Its overarching purpose is to promote the responsible provision of security services as well as respect for human rights, national and international law in accordance with the principles set out in the Code. Currently, 93 private security companies, 7 governments and 18 NGOs are members of the ICoCA. In 2016, the procedures of the core functions of the ICoCA's oversight mechanism – certification, monitoring and complaints process – were finalized and approved by its members. The Geneva-based ICoCA secretariat has started operationalizing these functions as of the 1st of January, 2017.*

*Information on participation in the consultations of the United Nations Open-ended intergovernmental working group to consider the possibility of elaborating an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies and information on your State's position on this international regulatory framework.*

*Switzerland has participated in each session of the Open-ended intergovernmental working group and supports a dialogue on the elaboration of a legally binding instrument. It is important that such a dialogue focuses on precise themes capable of obtaining a large international approval. A binding instrument would create new obligations for States and would go further than the Montreux Document which, above all, rephrases the States' existing international obligations related to PMSCs. Switzerland*

*considers that the Montreux Document and a possible convention, although different, are complementary initiatives which share a common objective: promoting compliance with international law. During the Montreux +5 Conference which took place in 2013, it was emphasized that the multinational nature of private military and security companies constitutes a major challenge for national legislations. In this sense, additional discussions on the way to deal with certain issues such as jurisdiction and mutual legal assistance, including by way of an international binding treaty, are welcome.*

*Information on engagement with other voluntary initiatives such as the Voluntary Principles on Security and Human Rights (VPs), the United Nations Global Compact, the United Nations Guiding Principles on Business and Human Rights.*

*Switzerland was admitted as a participating government within the Voluntary Principles on Security and Human Rights (VPs) initiative in September 2011. From March 2013 until March 2014, Switzerland chaired the Steering Committee (StC) and hosted the Plenary Meeting from March 26-27, 2014 in Montreux. The Swiss Presidency was appreciated by all stakeholders and facilitated several positive developments: A three-year strategy was agreed upon with the aim of strengthening the implementation of the VPs, the transparency and accountability, as well as of aligning the VPs with the UN Guiding Principles on Business and Human Rights.*

*The Swiss Government supports the United Nations Global Compact (UNGC) financially through the Global Compact Trust Fund and through the funding of specific activities on topics such as gender equality, the fight against corruption, or the conduct of companies in conflict regions. In addition, the Swiss United Nations Global Compact Network, which has concluded a cooperation contract with the Swiss Government, plays an important role for the promotion of topics regarding corporate social responsibility. For instance, on the occasion of the first Swiss Global Compact Dialogue on Responsible Business in February 2017, presentations by leaders from economy as well as from the administration have reached about 200 participants.*

*On 9 December 2016 the Swiss Federal Council adopted a report outlining a national action plan for the implementation of the United Nations Guiding Principles on Business and Human Rights. Switzerland is one of the first countries to adopt such a strategy in order to promote coherence between business activities and human rights. The Federal Council's report was drawn up in response to the parliamentary postulate 12.3503, which was submitted in June 2012 by National Council member Alec von Graffenried. The strategy focuses on the duty of the state to protect human rights and provide access to remedies. It contains 50 instruments aimed at ensuring that Swiss companies operating in Switzerland and abroad respect human rights, for example by including the topic of business and human rights in political consultations and ensuring that Swiss representations abroad raise companies' awareness of the issue. The report was drawn up following a broad consultation process involving the private sector, non-governmental organisations, social partners, the academic community and research institutes. The measures proposed in the strategy are set to be implemented on a four-year basis synchronized with the legislative periods.*

## **II. Policy, Legislation, Regulation**

### **2. Information on the policy, legislation, and regulations relevant for PMSCs that operate domestically and internationally, and how PMSCs are registered, licensed and monitored.**

*Specific laws, regulations, policies and other provisions relevant for PMSCs (as set out in the good practices of the Montreux Document)*

*Legislation pertaining to the export and import of PMSC services.*

*Due to several parliamentary interventions and based on a 2010 report on private military and security companies (PMSCs), the Federal Council concluded that regulatory action with regard to PMSCs which provide services abroad needed to be taken. On 27 september 2013, the Federal Assembly passed the Federal Act on Private Security Services Provided Abroad (PSSA) which entered into force on 1 September 2015.*

*The aim of the PSSA is to contribute to the safeguarding of the internal and external security of Switzerland, the realization of Switzerland's foreign policy objectives, the preservation of Swiss neutrality and the respect of international law, in particular, human rights and international humanitarian law. The Act applies to natural and legal persons that provide private security services abroad or services in connection with private security services provided abroad. Further, it applies to those who establish, base, operate, or manage a private security company in Switzerland and to those who exercise control from Switzerland over such a company. It does not, however, apply to companies providing security services within Switzerland, which are regulated by cantonal authorities.*

*Private security services as defined by the PSSA means the protection of persons and the guarding or surveillance of goods and properties in complex environments, security services at events, the checking, detention, or searching of persons, searching of premises or containers, and seizure of objects, the guarding, caring for, and transporting prisoners, operating prison facilities, and assisting in operating camps for prisoners of war or civilian detainees, the advising, training and operational or logistical support for armed or security forces, the operating and maintaining of weapons systems and intelligence activities.*

*The competent authority within the Federal Department of Foreign Affairs (FDFA) reviews the information provided by the company on a case by case basis and initiates a review procedure whenever there are indications suggesting that the envisaged activity could be in conflict with the purposes of the Act. All companies that fall within the Act's scope of application have a duty to declare their intended activities and are obliged to become signatories of the International Code of Conduct for Private Security Service Providers (ICoC). The Ordinance on Private Security Services provided Abroad (OPSA) specifies that Companies are deemed to have acceded to the ICoC if they are members of the International Code of Conduct Association.*

*The PSSA further prohibits under all circumstances any activities carried out for the purpose of direct participation in hostilities abroad and the provision of services of which it may be assumed that they will be utilized by the recipient in the context of the commission of serious human rights violations.*

*Moreover, the PSSA regulates the contracting of security companies for the protection of persons and the guarding of goods and properties by the federal authorities in complex environments abroad and defines the minimal requirements with respect to the companies concerned. In particular, the provisions determine the requirements with regard to education, equipment and internal control mechanisms of the contracted private security companies. The PSSA requires the contracted companies to become a signatory of the ICoC. To complement the PSSA, the Ordinance on the Use of Private Security Companies by the Federal Government (OUPSC) entered into force on 24 June 2015. The ordinance regulates the contracting of security companies within Switzerland and in non-complex environments and defines similar requirements with regards to the contracted companies.*

*Information on institutions/organisations monitoring compliance.*

*The competent authority in charge of the implementation of the PSSA is the Private Security Services Section of the FDFA's Directorate of Political Affairs. The competent authority is responsible for the implementation of the PSSA and the administrative procedures it introduces. In addition, the competent authority takes part in the national and international dialogue on norms and standards applicable to private security companies and publishes an annual report which is publicly available on its website: <https://www.eda.admin.ch/eda/en/home/foreign-policy/security-policy/bundesgesetz-ueber-die-im-ausland-erbrachten-privaten-sicherheit.html>*



*PMSCs operating within Switzerland are monitored by cantonal authorities according to cantonal laws. In the French-speaking part of Switzerland, the Commission concordataire concernant les entreprises de sécurité (Inter-cantonal commission on security companies) is responsible for the monitoring of private security companies.*

### III. Number of PMSCs

**3. How many PMSCs are registered in your State and what services do they deliver, both domestically and internationally?**

*List number of PMSCs headquartered or based in your State.*

*List number of foreign-based PMSCs providing services in your State.*

*Between 1 September 2015 and 31 December 2016, 34 swiss-based companies submitted 306 declarations for activities abroad in accordance with Art. 10 PSSA. Due to the fact that PMSCs operating within Switzerland are regulated by cantonal authorities, there are no official numbers regarding their activities. It is estimated that around 700 private security companies provide services on Swiss territory.*

*Provide information on the types of services they provide, e.g. transport, logistics, surveillance, protection of persons, goods and property, maintenance of weapons systems, operation of detention centres, etc.*

*Provide information on geographical concentration of PMSCs activity when services are being delivered abroad.*

*Approximately one-third of the declared activities involve the protection of persons and the guarding or surveillance of goods and properties in complex environments. Private intelligence activities represent another important segment. A third significant group concerns activities related to the export and use of war materiel and dual-use goods and to expertise in the military sector in general. This third group involves services in the areas of logistical support for armed or security forces, operating and maintaining of weapons systems and advising or training members of armed or security forces. However, no decisive geographical concentration of PMSCs activity can be identified at this time.*

*Provide information on what services your State outsources to PMSCs*

*According to art. 30 PSSA and art. 1 OUPSC, the Swiss Governemnt is only authorised to contract with companies that provide private security services for the performance of protection tasks abroad, namely the protection of persons and the guarding or surveillance of goods and properties.*

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