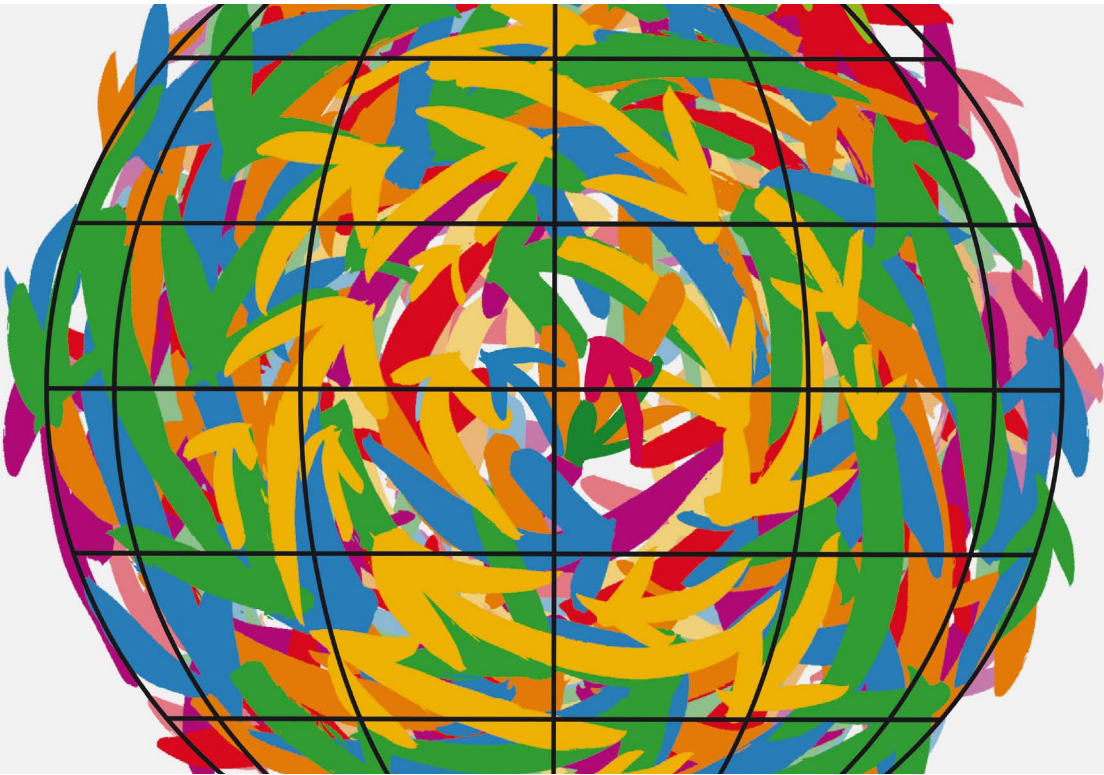


# Swiss Guidelines on human rights defenders



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

Federal Department of Foreign Affairs FDFA



Protests against rising cost of electricity in Yerevan, Armenia. (Front Line Defenders, July 2015)

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# Procedure to follow in cases involving human rights defenders under threat

1

## What is an HRD?

- => Three criteria (p. 6)
- Recognise the universality of human rights
- Champion human rights causes
- Conduct peaceful activities



2

## What is the actual situation?

- => Information sources (p. 13)
- Official reports
- UN reports
- Diplomatic representations in other countries
- International/regional institutions
- National human rights institutions
- Local, national and international NGOs and HRDs
- Reliable and verifiable press articles
- Social media



3

## What do other local actors do?

- => Possible types of contact (p. 17)
- Contact with 'like-minded' countries
- Creation of an HRD working group
- Dialogue with the UN/ICRC/NGOs
- Organise round tables/briefings



6

## Monitoring

- => Information to be provided (p. 20)
- HRD situation in human rights report
- Notify any major developments in specific cases
- Warn about other emergency situations



5

## Coordinate action with head office

- => Resources available (p. 20)
- Examine and coordinate individual cases
- Discuss the HRD situation in the country
- Send alerts
- Share further information



4

## What steps can be taken?

- => With the HRDs (p. 13)
- => With the authorities (p. 15)
- => With companies (p. 16)
- => Public statements (p. 16)
- => With NGOs and international actors (p. 17)
- => Visas/relocations (p. 18)

# 1. Background and goals

Switzerland's efforts to support human rights defenders (HRDs) have a solid legal basis and draw on the mandate in the Federal Constitution to protect the liberty and rights of the people (Art. 2 para. 1), and to promote respect for human rights (Art. 54 para. 2). This mandate is set out in the Federal Act on Measures pertaining to Civil Peace Support and the Promotion of Human Rights, which aims to enhance the promotion of human rights, a remit in which HRDs play a key role. The main international reference document is the 1998 UN Declaration on HRDs (see pp. 8–9).

On a strategic level, promoting human rights is a key pillar of Switzerland's foreign policy. The FDFA's human rights strategy is central to Switzerland's commitment to human rights. As individuals committed to promoting human rights, HRDs play a specific role in this strategy.

In many countries, there is a general trend to restrict civic space and the role and possibilities of involvement of non-governmental actors, in particular in the context of electoral processes or public demonstrations. The legislative framework and administrative regulations are sometimes tailored to prevent HRDs from registering as NGOs or securing foreign funding; their associations may even be banned. Moreover, in a number of countries, counter-terrorism strategies provide a pretext for governments to curtail civil liberties and limit the role of NGOs. In these situations, HRDs are often the first targets of threats and attacks, the scope of their involvement diminishes and becomes increasingly complex.

The aims of these guidelines are to:

- 1. raise awareness among staff of both the network of representations and head office on the problems faced by HRDs**
- 2. encourage a consolidated bilateral and multilateral approach to improving the protection of HRDs**
- 3. set out specific courses of action to provide efficient and consistent support to HRDs**

## 1.1 HRDs: definition and context

### Definition

In the context of these guidelines, a human rights defender is any person who, individually or in association with others, acts or seeks to act to promote, protect or realize human rights at the local, national, regional and international levels.

It is difficult to define what 'criteria' HRDs must meet to be considered as such. The Office of the High Commissioner for Human Rights (OHCHR) has identified the following elements, based on the UN Declaration on HRDs:

- Champion human rights causes.
- Recognise the universality of human rights: all human rights are universal and indivisible, interdependent and interrelated.
- Conduct peaceful activities: HRDs' actions must be peaceful in order to fall under the protection of the UN Declaration on HRDs.

Switzerland recognises the positive and essential role HRDs play in protecting and promoting human rights and the rule of law. HRDs undertake not only to defend the most vulnerable people against violations of their rights, they also play a key role in the adoption of laws, for example, legislation that promotes gender equality and the rights of minorities. They therefore make tangible improvements to the situation of these groups in their country or region. HRDs make a vital contribution to implementing internationally recognised human rights standards. Their efforts include:

- the fight against impunity;
- compensation for victims of human rights violations (through legal and medical support);
- documenting violations of human rights;
- taking a public stand for human rights.

In many countries, HRDs fight for human rights at real personal risk and make numerous sacrifices. Their peaceful action can sometimes be met with violent repression. HRDs and their families are regularly intimidated, threatened, obstructed, subjected to illegal searches, physically attacked or arbitrarily imprisoned and convicted by governmental or non-governmental actors. Experience has shown that some of the main perpetrators of violence against HRDs are the police and security forces. It is also important to note that women HRDs and those who defend lesbian, gay, bisexual, transgender and intersex (LGBTI) rights, land and environmental rights and the rights of indigenous peoples are groups that are particularly at risk.

## Women HRDs

Women HRDs (Women Human Rights Defenders – WHRDs) include all female human rights defenders who are committed to realizing, respecting and promoting human rights. The definition also extends to everyone, regardless of their gender, who defends women's rights, gender equality or sexual and reproductive health rights.

WHRDs face gender-specific threats, such as gender-based attacks, rape or other forms of sexual violence. By opposing prevailing socio-cultural norms, WHRDs are also vulnerable to stigmatisation in their communities.

Switzerland is committed to increasing the visibility and recognition of WHRDs, both multilaterally and with the public, to ensure that they may express themselves freely, without fear of reprisals against them, their families or communities.

## 1.2 International instruments

The HRDs' work derives its legitimacy, among others, from the 1966 UN covenants on economic, social and cultural rights (ICESCR) and on civil and political rights (ICCPR), both of which were ratified by Switzerland and the majority of other countries, as well as the 1998 UN Declaration on HRDs.

In 2000, at Norway's initiative, the UN created the office of the Special Rapporteur on the situation of HRDs, with support from many like-minded countries, including Switzerland. Regional mechanisms, such as the Organization of American States (OAS), the African Union (AU), the Association of Southeast Asian Nations (ASEAN), the Organization for Security and Co-operation in Europe (OSCE), the Council of Europe (CoE) and the European Union (EU) have also actively contributed to protecting HRDs, for example by appointing a special rapporteur on this issue or by publishing their own guidelines.

Several countries, such as Canada, Finland, Norway and the United Kingdom, have adopted guidelines on protecting HRDs. Other states, such as Ivory Coast, Burkina Faso, Mali, Honduras and Mexico have passed binding laws on the protection of HRDs.

## 1.3 Switzerland's role

It is primarily the state's responsibility to protect, promote and implement human rights. The specific duty to protect HRDs stems from this obligation. Switzerland is committed to the rights of HRDs, regardless of where they are located.

Switzerland is committed to enhancing HRDs' room for manoeuvre and freedom to act. The Swiss network of representations act as invaluable contacts for HRDs and aim, via this document, to provide a toolbox of tried-and-tested approaches and best practice to be implemented in the host country as required by the situation and context.

# UN Declaration on HRDs










## RIGHTS AND PROTECTIONS ACCORDED TO HUMAN RIGHTS DEFENDERS

<p>TO PROMOTE HUMAN RIGHTS IN THEIR COUNTRIES AND GLOBALLY</p> 	<p>DEFEND HUMAN RIGHTS ALONE OR WITH OTHERS</p> 	<p>TO FORM ASSOCIATIONS AND NON-GOVERNMENTAL ORGANIZATIONS</p> 
<p>TO SUBMIT TO THE AUTHORITIES CRITICISM AND PROPOSALS FOR IMPROVING THEIR FUNCTIONING AND TO ALERT THEM ON ANY THREAT ON THE REALIZATION OF HUMAN RIGHTS</p> 	<p>TO MAKE COMPLAINTS ABOUT OFFICIAL POLICIES AND ACTS RELATING TO HUMAN RIGHTS AND TO HAVE SUCH COMPLAINTS REVIEWED</p> 	<p>TO OFFER AND PROVIDE PROFESSIONALLY QUALIFIED LEGAL ASSISTANCE OR OTHER ADVICE AND ASSISTANCE IN DEFENCE OF HUMAN RIGHTS</p> 
<p>TO THE LAWFUL EXERCISE OF THE OCCUPATION OR PROFESSION OF HUMAN RIGHTS DEFENDER</p> 	<p>TO EFFECTIVE PROTECTION UNDER NATIONAL LAW WHEN PEACEFULLY ACTING AGAINST HUMAN RIGHTS VIOLATIONS</p> 	<p>TO SOLICIT, RECEIVE AND UTILIZE RESOURCES FOR THE PURPOSE OF PROTECTING HUMAN RIGHTS</p> 
<p>TO MEET OR ASSEMBLE PEACEFULLY</p> 	<p>TO SEEK, OBTAIN, RECEIVE AND HOLD INFORMATION RELATING TO HUMAN RIGHTS</p> 	<p>TO DEVELOP AND DISCUSS NEW HUMAN RIGHTS IDEAS AND PRINCIPLES AND TO ADVOCATE THEIR ACCEPTANCE</p> 
<p>TO ATTEND PUBLIC HEARINGS, PROCEEDINGS AND TRIALS TO ASSESS THEIR COMPLIANCE WITH NATIONAL LAW AND INTERNATIONAL HUMAN RIGHTS OBLIGATIONS</p> 	<p>TO COMMUNICATE WITHOUT ANY RESTRICTION WITH NON-GOVERNMENTAL AND INTERGOVERNMENTAL ORGANIZATIONS</p> 	<p>TO BENEFIT FROM AN EFFECTIVE REMEDY</p> 

ARTICLES  
1, 5, 6, 7, 8, 9,  
11, 12 AND 13



## THE DUTIES OF STATES

<p>TO PROTECT, PROMOTE AND IMPLEMENT ALL HUMAN RIGHTS</p> 	<p>TO ENSURE THAT ALL PERSONS UNDER ITS JURISDICTION ARE ABLE TO ENJOY ALL HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS</p> 	<p>TO ADOPT SUCH LEGISLATIVE, ADMINISTRATIVE AND OTHER STEPS TO ENSURE EFFECTIVE IMPLEMENTATION OF RIGHTS AND FREEDOMS</p> 
<p>TO PROVIDE AN EFFECTIVE REMEDY FOR PERSONS WHO CLAIM TO HAVE BEEN VICTIMS OF A HUMAN RIGHTS VIOLATION</p> 	<p>TO CONDUCT PROMPT AND IMPARTIAL INVESTIGATIONS OF ALLEGED VIOLATIONS OF HUMAN RIGHTS</p> 	<p>TO TAKE ALL NECESSARY MEASURES TO ENSURE THE PROTECTION OF EVERYONE AGAINST ANY VIOLENCE, THREATS, RETALIATION, ADVERSE DISCRIMINATION, PRESSURE OR ANY OTHER ARBITRARY ACTION AS A CONSEQUENCE OF THEIR HUMAN RIGHTS WORK</p> 
<p>TO PROMOTE PUBLIC UNDERSTANDING OF CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS</p> 	<p>TO ENSURE AND SUPPORT THE CREATION AND DEVELOPMENT OF INDEPENDENT NATIONAL HUMAN RIGHTS INSTITUTIONS</p> 	<p>TO PROMOTE AND FACILITATE THE TEACHING OF HUMAN RIGHTS AT ALL LEVELS OF FORMAL EDUCATION AND PROFESSIONAL TRAINING</p> 

ARTICLES  
2, 9, 12, 14  
AND 15



## THE RESPONSIBILITIES OF EVERYONE

<p>TO PROMOTE HUMAN RIGHTS, TO SAFEGUARD DEMOCRACY AND ITS INSTITUTIONS AND NOT TO VIOLATE THE HUMAN RIGHTS OF OTHERS</p> 	<p>PERSONS EXERCISING PROFESSIONS THAT CAN AFFECT THE HUMAN RIGHTS OF OTHERS, IN PARTICULAR POLICE OFFICERS, LAWYERS, JUDGES, ETC HAVE A RESPONSIBILITY IN PROTECTING THESE RIGHTS</p> 
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ARTICLES  
10, 11 AND 18



For more information : [www.protecting-defenders.org](http://www.protecting-defenders.org)

## 2. Instruments of the Swiss network of representations

These guidelines are primarily intended for the Swiss network of representations. Whether embassies, consulates or cooperation offices, these representations provide valuable contacts for HRDs. Where a representation acts on behalf of a HRD who is under threat, it must be with the explicit agreement of the person in question, their close circle of acquaintances or, if they cannot be contacted, of organisations representing their interests. The approach and measures taken to protect HRDs vary depending on local circumstances and the form and substance of actions taken must be tailored to each situation. Examples of best practice can be found in an annex to this document.

Action is particularly recommended in certain situations, such as if Switzerland has close ties with a HRD (the representation's regular contact person, project partner, member of an organisation with links to Switzerland); if Switzerland has already acted on behalf of this HRD; if the HRD champions causes that are priorities for Switzerland (e.g. abolition of the death penalty, the fight against torture, women's rights, freedom of expression, the right to peaceful assembly and association); if the HRD is prevented from attending an international conference in Geneva or if the HRD is at risk as a consequence of receiving recognition for their work.

On the other hand, some individuals require closer examination before action is taken, such as HRDs who have displayed violent behaviour in the past or HRDs involved in politics, particularly in an electoral context.

### Role of head office

Where activities that support HRDs are part of the normal course of events (meetings, invitations to the representation, field visits, information gathering, preparing reports, etc.), the representation may use its own initiative based on these guidelines.

If protecting HRDs involves approaching the authorities or action to be taken by the state, the Office of Human Rights Policy of the Human Security Division (HSD) and the relevant regional division must be consulted, along with FDFA Information if the media are involved. If the action could have an impact on bilateral relations, the agreement of the hierarchy must imperatively be obtained.

### Role of representations

- **Be acquainted with the local HRDs and civil society** and the possible challenges they face.
- **Publicly acknowledge the work of the HRDs**, including the important and legitimate work of WHRDs and strive to protect them.
- **Commit to supporting WHRDs** and all who actively promote the rights of women and other particularly vulnerable groups, such as ethnic minorities, indigenous people, migrants, LGBTI communities and land rights activists.
- **Call for genuine compliance with all provisions in international law** that protect HRDs.

## The Swiss network of representations can encourage the national authorities to:

- **Seek dialogue** with HRDs, where appropriate, in the form of regular institutionalised consultations.
- Draw up national **protection programmes** for HRDs and abide by them at all times.
- **Ratify important international treaties** to which the country is not a party, bring national legislation in line with international obligations and not undermine or criminalise the activities of HRDs.
- **Promote the implementation of the UN Declaration** on HRDs at national level.
- **Demand inquiries** into defamation of HRDs, threats and attacks against them, and **criminal prosecution** of the perpetrators.
- **Ensure host states train security personnel**, particularly the police and army, on human rights and comply with them at all times.
- **Invite the mandate holders of UN special procedures and regional mechanisms**, namely the Special Rapporteur on the situation of HRDs, and implement their recommendations.
- **Publicly denounce** human rights violations and abuses, as well as violations of international humanitarian law in armed conflict.
- **Collaborate with the national human rights institution** to promote and protect HRDs.
- **Support local civil society** and involve it in decisions on HRDs.

## 2.1 Groups to be considered

### a) *The state*

International law is centred on the state. The obligations it sets out arise from international treaties (ICESCR and ICCPR, among others), customary international law and from peremptory norms of international public law (*jus cogens*), such as the prohibition of torture. Hence the state's obligation to respect and protect human rights.

### b) *NGOs*

Switzerland recognises the key role that free and independent NGOs can play in, among others, taking a critical view of the government's policies. NGOs act as an important liaison between the demands of the groups of people they represent and the government. They therefore occupy a central position in monitoring the implementation, promotion and development of human rights.

### c) *Companies*

In order to improve the mechanisms that protect HRDs, it is essential to involve non-governmental actors as well. If, owing to private economic interests, multinational companies fail to act responsibly, their activities may have a negative impact on human rights and economic and social rights in particular.

Conversely, responsible companies can help to uphold human rights, for example by working with the authorities to protect HRDs who are under threat, or by setting a positive example in their sector.

Since they were endorsed in 2011, the UN Guiding Principles on Business and Human Rights have become the key reference on the economy and human rights. The Federal Council has adopted a National Action Plan (NAP) for the implementation of the UN Guiding Principles on Business and Human Rights. Based on this, the Federal Council expects companies domiciled and/or operating in Switzerland to respect human rights in all their activities, regardless of where they operate and to prevent any negative repercussions on human rights.

*d) Other international actors on the ground*

Collaborating with foreign actors in the country can be a major asset in improving protection of HRDs, whether these be the offices of international organisations, such as the UN, or representations from other countries. This may involve sharing information and analysis work, coordinating follow-up on HRD cases or taking joint action. The advantages to the Swiss representation are reduced exposure in the host country, better distribution of the workload and ultimately, a stronger impact. The advantages and disadvantages of collaboration should be examined on a case-by-case basis and possible joint measures coordinated with head office.

*e) Multilateral bodies*

Multilateral human rights bodies, such as the Human Rights Council (HRC) or the Third Committee of the United Nations General Assembly, also provide opportunities for action, such as the recommendations in the Universal Periodic Review (UPR). Several resolutions or decisions at the UN, OSCE or the Council of Europe also directly address the protection of HRDs. Switzerland is always extensively involved in the negotiation of these texts.

## 2.2 Information gathering and reporting

HRDs play a key role in documenting human rights violations. Practical support cannot be provided to HRDs without regularly sharing information with other local bodies and sending the information to the Federal Administration in Bern. Time is of the essence. It is particularly difficult to make a swift assessment of the severity of the threat a HRD faces or to obtain credible information. It is therefore helpful to be able to rely on a broad and flexible network of reliable sources. In some cases, this information makes it possible to anticipate any adverse developments that may be detrimental to the HRDs. Signs of a shrinking democratic space point to repressive measures being used against HRDs. Certain periods, especially around election time, can be particularly sensitive for their work and safety. Thanks to this outreach work, the Swiss network of representations can prevent these risks and avoid emergency situations.

The situation for HRDs should be included in the Swiss representation's annual human rights report. If there is a serious threat, information should be sent on an ad hoc basis to the HSD HRP section, which is available to answer questions or share its expertise on HRD issues (see Section 3). The representations are of course free to make specific recommendations on the next steps to be taken (e.g. demarches or press releases).

## Information sources

- **Official reports.**
- **UN reports**, in particular those from the Special Rapporteur on the situation of HRDs, regional human rights mechanisms, the UPR and reports for the treaty bodies.
- **Diplomatic representations** from other countries with shared values.
- **International/regional institutions** on the ground, in particular OHCHR and branches of regional organisations (OAS, AU, OSCE, etc.).
- **National human rights institutions.**
- **Local, national and international NGOs and HRDs.**
- Reliable and verifiable **press articles.**
- **Social media** should be used with caution and facts should be carefully verified.

## 2.3 Direct contacts with HRDs

Direct contact with Swiss representations can often provide an effective means of protecting HRDs. International attention and public support can legitimise their work and help to ensure they are protected. However, each contact must be appropriate to the local context and requires cooperation between representatives of the international community. Possible negative consequences for HRDs or their families that may result from a visible support from the international community should be avoided at all costs. Such consequences should be evaluated with the individuals in question in light of the local context. It is also important to choose a suitable venue and to brief the HRDs on security precautions and concrete measures they should take to protect themselves. Cybersecurity should also be considered. Various applications allow secure digital communication in addition to the systems provided by the Confederation (secure email and TC).

## Types of contacts with HRDs

- **Participation in seminars and meetings:** attendance by foreign diplomatic representatives at meetings, press conferences or seminars organised by HRDs demonstrates solidarity and support.
- **Bilateral meetings:** discussions with HRDs on their situation can have a positive impact on the recognition of their work and allow the representation to collect useful information, in particular in the context of drafting the human rights report.
- **Inviting HRDs to events:** for example, on a public holiday or on international HRD (9 December), human rights (10 December) or women's (8 March) days.
- **'Safe space':** the representation's meeting rooms can be made available to provide HRDs with a safe place to meet, either alone or with their partners.
- **Visiting HRDs in rural areas:** HRDs who live far away from the capital cities also need international support. Field visits by the representation, either alone or with other partners, offer support to HRDs and strengthen their protection.
- **Observing legal proceedings against HRDs:** an international presence aims to ensure a fair trial and to denounce breaches of procedure and of international human rights standards.
- **Prison visits:** prison visits can reassure the prisoner that they have not been forgotten. They can also be used to verify that the prison meets minimum detention standards. The representations should also publicly denounce cases of arbitrary detention.



HRDs from the Standing Rock Sioux tribe march toward a sacred site during the North Dakota pipeline protests, USA. (Front Line Defenders, September 2016)

- **Return to the home country:** the representation may pick up HRDs from the airport if there is a risk that they may encounter difficulties on returning to their home country.
- **Sending information:** confidential information may be sent via diplomatic channels (e.g. to OHCHR) in exceptional cases and having consulted the HRDs and/or their family.
- **Temporary protection:** HRDs can be temporary relocated in a safe place in the region. In exceptional and particularly compelling cases, the representation may grant the HRD temporary protection at the embassy's premises. See also Section 2.10 on the Swiss visa policy.

If there is no Swiss representation in the country in question, the work of the representations from like-minded countries (e.g. EU countries or Norway), international organisations or NGOs can be supported.

## 2.4 Contacts with the relevant authorities

The HRDs' situation may be addressed both directly with the relevant authorities or through diplomatic demarches – either of a general nature or focused on a specific case. The relevant authority might not be the ministry of foreign affairs – it may also be a ministry in charge of the police, justice, the army or security, as well as regional and local authorities. Authorities in the host country can also play a positive role, for example by adopting national laws that recognise and protect HRDs.

### Types of contacts with the host country's authorities

- **Formal or informal meetings:** the HRDs' situation and specific cases may be mentioned during political talks, other bilateral visits, or in formal or informal contacts with the authorities in question.
- **Demarches** (possibly with other representations): allow one to convey messages, obtain information or even propose negotiations.  
*Reference document:* Demarches: instructions. A guide for the systematic use of diplomatic instruments in the event of violations of international humanitarian law or human rights (internal document)
- **Advocate for a safe and enabling environment:** persuade the authorities of the importance of the NGOs' activity and of supporting HRDs through the government's words and actions, as well as by establishing a supportive legal framework and national protection mechanisms.

## 2.5 Contacts with Swiss companies in the field

The National Action Plan (NAP) adopted by Switzerland clarifies the Federal Council's expectations of businesses and sets out in policy instruments how Switzerland implements the UN Guidelines. The NAP aims to improve human rights protection in business. It also provides an opportunity to raise awareness of human rights issues in the private sector, strengthen collaboration with businesses and improve consistency in the government's activities. Various Swiss representations in conflict zones abroad have, often on an ad hoc basis and based on UN Guidelines, launched innovative initiatives to promote corporate social responsibility among Swiss companies.

### Types of contact with Swiss companies

- **Raise awareness on the challenges** faced by HRDs in the host country, particularly in relation to certain companies' activities.
- **Remind of the Federal Council's expectations** on respect for human rights in their operations abroad.
- Consider the risks, threats and restrictions to HRDs **in light of financial advice** provided by the representation.

## 2.6 Public statements on protecting HRDs

Switzerland may publicly intervene on behalf of HRDs if they have sufficient reliable information on the case. It can also denounce repeated threats against HRDs, a climate of oppression, restrictions on fundamental freedoms and overt intimidation. Action aimed at one single HRD can often influence the protection of other HRDs or entire organisations.

The nature and content of the intervention should be based on international human rights conventions (ICESCR and ICCPR, in particular) and on the UN Declaration on HRDs and should relate to the most common violations of the HRDs' human rights.

Such an intervention is particularly worth considering if there are restrictions on the right to freedom of expression, peaceful assembly and association, as well as in cases involving torture, arbitrary detention, unfair trials, extrajudicial executions, disappearances, death threats or intimidation.

In each case, consideration must be given as to whether or not a public statement will create additional difficulties for a HRD or their family.



## Types of state interventions

- **Press releases:** the representation may issue a local press release, either on its own or as part of a coalition with other countries, with the agreement of the FDFA in Bern. The ultimate decision lies with the FDFA Information Service, following consultations with the relevant divisions.
- **Interviews and op-eds in local newspapers:** it is possible to take a public stand on a human rights-related event, such as a human rights' dialogue or a visit from a UN Special Rapporteur. The FDFA Information Service also makes the final decision regarding interviews.

## 2.7 Cooperation with international bodies, representatives of countries with shared values and national and international NGOs

Coordinated action taken, either on the ground or within multilateral agencies, with international bodies and representatives of like-minded countries or with national and international NGOs, can have a considerable impact on the effectiveness of an intervention.

### Types of exchanges with international actors

- **Ongoing contact** with representatives of like-minded countries and with international NGOs with a view, for example, to joint action through interventions or field visits or by observing legal proceedings.
- **Setting up a working group on HRDs** with countries, NGOs and even companies committed to protecting them, helps to coordinate and distribute the case monitoring work and reduces Switzerland's exposure.

- **Discussions** with local UN agencies, including OHCHR, the ICRC or national and international organisations.
- **Round tables/briefings** on the situation of HRDs organised by the Swiss representation and NGOs to raise awareness among other diplomatic missions.
- **Protection of HRDs' psychosocial health:** in collaboration with NGOs, measures for training and support from experts in psychosocial health can be taken. This contributes to reducing the risk of burnout and secondary traumatisation, and can improve how they care for their own mental and physical health.

## 2.8 Presence at the United Nations in Geneva

In general, Switzerland encourages active NGO participation in Geneva, for example at UN HRC sessions, as part of the UPR, and when submitting national reports to UN treaty bodies.

Even during the negotiation stage when the UN HRC was first set up, NGO participation was one of Switzerland's priorities. With Geneva as recognized centre of international human rights policy, Switzerland must, politically, logistically and financially encourage HRDs to attend meetings that concern them.

For more details on issuing visas, see Section 2.10.

## 2.9 Reprisals against HRDs

First-hand information provided by HRDs is very important to the UN. HRDs who cooperate with UN institutions or other international organisations attract attention and can therefore be exposed to greater security risks. In 2016, concerned about reprisals against HRDs, the UN Secretary-General appointed the Assistant Secretary-General for Human Rights to lead efforts in the UN system to address the problem of intimidation and reprisals against those working with the UN on human rights issues.

The diplomatic community must pay close attention to HRDs who have appeared before the HRC or after a visit from a UN Special Rapporteur. All HRDs who have good reason to fear reprisals should first contact the Swiss embassy in their country of origin, which will then be able to respond swiftly where necessary.

## 2.10 Visa policy

The aim is to protect HRDs in the field as effectively as possible so that they are able to carry out their work free from threats. If adequate security cannot be guaranteed in their own country and where a HRD is in fear of their life, a straightforward practical solution must be found as swiftly as possible. The possibility of a temporary stay abroad can be considered as a last resort.

Where possible, Switzerland advocates regional solutions and, thanks to support from regional or international HRD networks, it helps HRDs with a temporary move to another city or country in the region. In rare cases, it can happen that no appropriate regional solution is found and HRDs apply to remain somewhere safe in Switzerland.

Depending on the situation, a short or long term stay in Switzerland can be considered in cases of direct, serious and real threat to a HRD's life or physical safety. For a long-term stay, the asylum procedure is available. However, since serious threats are often considered as temporary, individuals concerned will not depend on asylum if they have their organisation's active support. In such cases, Switzerland can issue humanitarian visas (see below).

If a HRD leaves their country temporarily for Switzerland this carries a risk and can give rise to logistical and emotional problems. After an extended stay abroad, the HRDs may encounter additional difficulties in settling back into their country of origin. For example, there may only have been a slight improvement in the political situation and any media attention given to the HRD's return could present new challenges.

## Types of visas

- **Humanitarian visa:** since 2012, it has no longer been possible to submit an asylum application to a Swiss representation. However, those who are persecuted, including HRDs, can still obtain a humanitarian visa, subject to approval from the SEM. To do so, there must be a direct, serious and real threat to a person's life or their physical safety in their home or country of origin.

*Reference document:* SEM directive of 6 September 2018.<sup>1</sup>

- **Visa to attend international conferences and meetings:** HRDs may be invited to travel to Switzerland in the context of International Geneva, for example for meetings organised by international organisations with which Switzerland has a headquarters agreement. Visa applications in this category fall within the remit of the FDFA, namely of the Permanent Mission of Switzerland in Geneva.

*Reference document:* Information for people travelling to Switzerland within the "International Geneva" context.<sup>2</sup>

The Swiss representation may provide various types of support to HRDs.

## Support for the representation

- **First, regional solution:** evaluation of the possibility of relocating the HRDs to another city or a neighbouring country.
- **Advisory meeting:** if no adequate regional solution can be found, the Swiss visa procedure and the conditions to be met are explained to the HRD. The HRD is advised that the visa process takes time and their application should therefore be submitted as soon as possible and formal requirements must be observed.
- **Entered in ORBIS and assessed:** in the case of a humanitarian visa, the representation enters the information from the application into the ORBIS system and forwards the visa application to the SEM. They attach a memo with a brief statement.
- **Contact:** the representation may contact the Federal Administration in Bern (HSD, SEM) or the Permanent Mission in Geneva to verify the legitimacy of a visa application or to request support if the case is urgent.

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1 <https://www.sem.admin.ch/dam/data/sem/rechtsgrundlagen/weisungen/auslaender/einreise-ch/20180915-weis-visum-humanitaer-f.pdf> (in French only)

2 <https://www.eda.admin.ch/missions/mission-onu-geneve/en/home/manual-regime-privileges-and-immunities/introduction/manual-visas/schengen-visas-entry-exit-travel.html>

# 3. Support available to representations

The Swiss Guidelines on HRDs are regularly reviewed and updated to reflect the latest developments and lessons learnt. The Guidelines were first revised in 2019, based in particular on information provided by the Swiss network of representations.

The HSD is the centre of expertise in the FDFA for questions related to HRDs. It relies on regular reporting for an overview of the Swiss network of representations' activities:

## Information to be provided on HRDs

- The HRDs' situation should be included in the **annual human rights report**.
- **Situations of imminent threats** to HRDs should be reported to the HSD as soon as possible.
- **Monitoring** must be conducted of major developments in cases where Switzerland has intervened.

The HSD also offers a service to Swiss representations that wish to support HRDs. The division is available to discuss the measures to be taken if the Swiss representation is faced with an emergency situation involving a HRD.

Contact: [pd-ams-menschenrechte@eda.admin.ch](mailto:pd-ams-menschenrechte@eda.admin.ch)

## Services provided by the HSD

- **Examining urgent cases** submitted by the representations and coordinating with other relevant Federal Administration units.
- **Discussions with the representations** about the HRDs' situation in the country or special cases and issuing advice on the measures to be taken.
- **Sending alerts** if the HRDs' situation in the country becomes serious.
- **Sharing information**, including expert reports and other relevant material about HRDs.
- In countries where this might be relevant, the HRDs' situation is discussed during the **deployment briefing**.
- **Briefings** for staff at representations that work closely with HRDs (including Human Security Advisers).
- **Training module** on the situation of HRDs as part of the diplomatic training.
- **Small loans** ("Kleinkredite") for representations can be used for projects that support HRDs. Aside from small loans, the HSD is also prepared to examine specific projects submitted to it.



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# Annex I: Examples

## Urgent work to support an HRD

In July 2017, in an increasingly restrictive environment, marked by a gradual crackdown on dissenting and critical voices, the president of Amnesty International's local section was arrested by country X's security forces, while taking part in a workshop attended by several HRDs. He was detained and charged by the country's courts with, among other things, 'membership of a terrorist organisation'.

Following a consultation and approval from the Office of Human Rights Policy of the HSD and the relevant geographical division, Switzerland became involved bilaterally via its local representation. Although a demarche in such a situation is politically sensitive, it was deemed necessary to intervene because, in addition to being an organisation with a worldwide reputation for its work on defending human rights, Amnesty International is also a long-standing partner of the FDFA. The local Swiss representation attended the HRD's court hearing. It also increased bilateral demarches at various government offices, on its own or with others. The case was also explicitly mentioned several times in statements at multilateral level, notably before the Council of Europe. The HRD was finally released after 14 months of detention. The attention paid by the international community to this specific case helped to prevent further human rights violations, such as torture or degrading detention conditions. The release also demonstrated the importance of regular interventions, which can ultimately influence policy decisions.

## A HRD's administrative challenges

A partner organisation contacted the Office of Human Rights Policy about a HRD from an Asian country obtaining a visa to attend an HRC session in Geneva. For several years, this journalist had been a victim of harassment by his country's authorities. Between 2014 and 2016, he had also spent more than 1,300 days in prison. Despite having been granted a visa by the Swiss embassy in his country, the HRD feared that his country's authorities would prevent him from visiting Geneva.

In this instance, Swiss action was highly recommended as the HRD was due to attend a UN event in Geneva and a partner organisation had reported the case.

## **Formal coordination group for HRDs under threat**

In one African country, pressure has been mounting on civil society since 2015, as well as on critical voices and opposition politicians. The number of arrests and convictions of journalists and HRDs is rising.

In response to ever increasing cases of abuse, the Swiss cooperation office suggested that the local Office of the High Commissioner for Human Rights (OHCHR) launch a coordinated project to monitor cases of HRDs who are under threat or have been convicted. The aim of this project was to share information on specific instances, to share responsibilities ('burden-sharing') and ensure better coordination in the event of an intervention or demarche. A formal group was set up in June 2018 and included Switzerland, the European Union and its Member States, the African Union, the United States and the OHCHR office. This project was regarded as good practice because it prevented work from being duplicated and ensured a broad spread enabling multiple interventions.

## **Business and human rights**

The Voluntary Principles on Security and Human Rights is a tripartite initiative involving governments, NGOs and businesses. The initiative focuses on security issues and aims to prevent human rights violations by private or public security forces at mining sites. National and regional working groups have recently been set up in several countries and serve as a forum for these various actors to discuss and tackle specific situations. Members of the working groups talk and share information to develop best practice on protecting HRDs. In Guatemala, for example, different actors have expressed an interest in setting up a similar group. The Swiss embassy in Guatemala City has launched a working group in collaboration with other governments that are members of the initiative.

In Colombia, the Swiss embassy supports a project run by a local NGO to develop guidelines for companies to act in a manner that is responsible and respectful of human rights. This practical guide provides companies with ways to interact with local communities and their representatives who defend their rights. The guidelines are now being implemented by a group of Swiss companies based in Colombia.

# Annex II: documents and relevant links

## Relevant links

### **Federal Department of Foreign Affairs (FDFA),**

**internet:** <https://www.eda.admin.ch/eda/en/home/fdfa/organisation-fdfa/directorates-divisions/directorate-political-affairs/hsd.html>

**intranet:** <https://www.eda.admin.ch/eda/en/home/fdfa/organisation-fdfa/directorates-divisions/directorate-political-affairs/hsd.html>

**State Secretariat for Migration (SEM):** <https://www.sem.admin.ch/sem/en/home.html>

### **Humanrights.ch** (introduction to the HRD theme and relevant standards):

<https://www.humanrights.ch/en>

### **International Federation for Human Rights – FIDH** (observatory for HRDs):

[www.fidh.org/en/issues/human-rights-defenders](http://www.fidh.org/en/issues/human-rights-defenders)

### **Front Line Defenders – FLD** (hotline and emergency support for HRDs):

<https://www.frontlinedefenders.org>

### **International Service for Human Rights – ISHR** (model legislation on protecting HRDs):

<https://www.ishr.ch/news/model-law>

### **World Organisation Against Torture – OMCT** (observatory for HRDs): [www.omct.org](http://www.omct.org)

### **Peace Brigades International – PBI** (escorts and protects HRDs): [www.peacebrigades.org](http://www.peacebrigades.org)

### **Committee to Protect Journalists – CPJ** (aimed at journalists): <http://www.cpj.org>

### **Amnesty International – AI** (in French only):

<https://www.amnesty.ch/fr/themes/defenseurs-des-droits-humains>

### **Environment-rights.org** (specific to environmental HRDs): <https://www.environment-rights.org>

## Existing guidelines on protecting HRDs

### **Ensuring Protection – European Union Guidelines on HRDs:**

[https://eeas.europa.eu/sites/eeas/files/eu\\_guidelines\\_hrd\\_en.pdf](https://eeas.europa.eu/sites/eeas/files/eu_guidelines_hrd_en.pdf)

### **Norway's efforts to support HRDs:**

<http://www.regjeringen.no/upload/UD/Vedlegg/Menneskerettigheter/Menneskerettighetsforkjaempere/VeiledningMRforkjengelskFIN.pdf>



## Relevant international human rights standards

### **International Covenant on Civil and Political Rights, 1966 (ICCPR),**

<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

### **International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR),**

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

### **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 (CAT),** <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx> **Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 2002 (OPCAT),**

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx>

### **Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW),**

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>

### **International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (CERD),**

<https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>

### **Convention on the Rights of the Child, 1989 (CRC),**

<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

### **Convention on the Rights of Persons with Disabilities, 2006 (CRPD),**

<https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx>

### **International Convention for the Protection of All Persons from Enforced Disappearance, 2006 (CED),**

<https://www.ohchr.org/en/hrbodies/ced/pages/conventionced.aspx>

### **Declaration on the Rights of Indigenous Peoples, 2007,**

<https://www.ohchr.org/EN/Issues/IPeoples/Pages/Declaration.aspx>

### **Guiding Principles on Business and Human Rights, 2011,**

[https://www.ohchr.org/documents/publications/GuidingprinciplesBusinessshr\\_eN.pdf](https://www.ohchr.org/documents/publications/GuidingprinciplesBusinessshr_eN.pdf)

### **Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 2011,** <https://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersjuly2011.pdf>

## UN Special Rapporteur on the situation of HRDs

<https://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx>

## Assistant Secretary-General for Human Rights, in charge of combating intimidation and reprisals

<https://www.ohchr.org/EN/Issues/Reprisals/Pages/ReprisalsIndex.aspx>

## Regional protection mechanisms for HRDs

**ASEAN Intergovernmental Commission on Human Rights:** <http://aichr.org>

**OAS,** Rapporteur on the rights of HRDs of the Inter-American Commission on Human Rights: <http://www.oas.org/en/iachr/defenders/mandate/composition.asp>

**African Commission,** African Commission on Human and Peoples' Rights, Special Rapporteur on HRDs: <https://www.achpr.org/specialmechanisms/detail?id=4>

**ODIHR – Office for Democratic Institutions and Human Rights (OSCE),** focal point within the OSCE for issues pertaining to human rights defenders and national human rights institutions: <https://www.osce.org/odihhr>

**Council of Europe:** [http://www.coe.int/t/commissioner/Activities/HRD/default\\_en.asp](http://www.coe.int/t/commissioner/Activities/HRD/default_en.asp)

## List of abbreviations and acronyms

ASEAN	Association of Southeast Asian Nations	LTV	Limited Territorial Validity Visa
AU	African Union	NGO	Non-Governmental Organisation
EC	European Council	OAS	Organization of American States
FDFA	Federal Department of Foreign Affairs	OHCHR	Office of the High Commissioner for Human Rights
FDJP	Federal Department of Justice and Police	OSCE	Organization for Security and Cooperation in Europe
HRC	Human Rights Council	SDC	Swiss Agency for Development and Cooperation
HRD	Human Rights Defenders	SEM	State Secretariat for Migration
HSD	Human Security Division	UN	United Nations
ICESCR	International Covenant for Economic, Social and Cultural Rights	UPR	Universal Periodic Review
ICCPR	International Covenant on Civil and Political Rights	WHRD	Women Human Rights Defenders
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex		



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