

# Swiss Guidelines on the Protection of Human Rights Defenders



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

Federal Department of Foreign Affairs FDFA



# Introduction

Protecting and promoting human rights and strengthening the rule of law are among Switzerland's foreign policy objectives. These objectives can only be reached if internationally recognised human rights norms and standards are effectively implemented. Human rights defenders play a key role in this.

Because human rights defenders are committed to the full protection of and compliance with the rights and liberties of all individuals and entire groups, they are frequently prevented from carrying out their work, intimidated, subject to repression and in extreme cases even threatened with the loss of life and limb. In this light the protection of these actors is crucially important.

Switzerland recognises the essential role of human rights defenders in promoting human rights in the Federal Council's "Message to Parliament concerning the continuation of measures relating to civilian peacebuilding and the promotion of human rights 2012–2016". Each of the six core areas<sup>1</sup> on which Switzerland focuses its activities is closely related to human rights. Switzerland's expertise in these areas is widely acknowledged.

---

<sup>1</sup> These are: peace and security; democracy, elections and the separation of powers; dealing with the past and preventing atrocities; the promotion and protection of human rights; the protection of civilians in armed conflicts; migration and the fight against human trafficking.



Switzerland has long advocated for a better protection of human rights defenders, and intervenes in situations in which state agencies threaten human rights defenders and hinder their work. In order to standardise and give due consideration to existing Swiss practice, the FDFA presents this set of guidelines for their protection. This clearly organised collection of proven practices aims to provide a uniform approach to working with these actors and to make all employees of Swiss representations aware of the problems and challenges they face. These guidelines offer a concrete set of instruments for supporting human rights defenders and a useful tool for the day-to-day work of Swiss representations as well as other institutions and organisations.

Federal Departmental of Foreign Affairs, FDFA

A handwritten signature in black ink, appearing to read 'D Burkhalter', written over a white background.

Didier Burkhalter  
Federal Councillor



# Table of Contents

<b>1. Introduction</b>	<b>7</b>
1.1 Objective of the Guidelines on the Protection of human rights defenders	7
1.2 Definition of “human rights defenders”	8
1.3 Context	9
<b>2. Swiss Guidelines on the Protection of human rights defenders</b>	<b>10</b>
2.1 Information-gathering and reporting	11
2.2 Direct contact with human rights defenders	12
2.3 Contact with the competent authorities	13
2.4 Public statements on the protection of human rights defenders in individual cases	13
2.5 Cooperation with international bodies, representatives of like-minded states and national and international NGOs	14
2.6 Media work	14
2.7 Presence at the United Nations in Geneva	14
2.8 Reprisals against human rights defenders	15
2.9 Visa policy	15
<b>3. Implementing the Guidelines</b>	<b>17</b>
3.1 Role of the capital	17
3.2 Monitoring	17
<b>Annex</b>	<b>19</b>

Human Rights Defenders refers to all persons who, alone or together with others, act to promote and to defend human rights<sup>2</sup>.

*“Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels”*. Article 1, UN Declaration on Human Rights Defenders<sup>3</sup>

Switzerland attaches great importance to the protection of human rights defenders, who are at risk in many places around the world as a result of their commitment to the implementation of internationally recognised human rights norms. The principal objective of these Swiss Guidelines is therefore to improve protection for human rights defenders.

---

2 Human rights are upheld by individuals. Switzerland therefore focuses primarily on individuals and their rights, while acknowledging that freedom of association and freedom of assembly protect individuals' rights to form groups.

3 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144, [http://www.unhcr.ch/huridocda/huridoca.nsf/\(symbol\)/a.res.53.144.en](http://www.unhcr.ch/huridocda/huridoca.nsf/(symbol)/a.res.53.144.en).

# 1. Introduction

In its efforts to implement the UN Declaration on Human Rights Defenders (HRD), the Federal Department of Foreign Affairs (FDFA) has undertaken, in the future, to work even more closely and in a more structured way with Switzerland's official representations, SDC Cooperation Offices, the Directorate of Political Affairs, the Directorate of International Law and the other federal government departments which share responsibilities related to the issue, as well as with Swiss civil society organizations within Switzerland and abroad. With regard to this, the FDFA has defined certain thematic issues; these guidelines are one such priority<sup>4</sup>.

The objective of these guidelines is to:

- a) draw the attention of staff at both the representations and the capital<sup>5</sup> in Berne to the problems HRD face;
- b) promote a common approach (at both bilateral and multilateral levels) that will provide more effective protection for HRD;
- c) set out specific approaches for providing efficient and systematic support to HRD.

It is primarily the duty of the state to protect, promote and implement human rights and fundamental freedoms. This gives rise to the specific duty to protect HRD. Switzerland therefore has a part to play in protecting HRD, even when these individuals are active outside Switzerland.

---

4 The six objectives set out in the "Message on the Continuation of Measures to Promote Peace and Human Security 2012–2016" include "Help to improve protection for human rights by means of a stronger, refocused human rights policy, to be accompanied by specific local projects in selected countries".

5 *Capital*, as used in this document, refers to all the relevant departments within the federal administration in Berne.

## 1.1 Objective of the Guidelines on the Protection of human rights defenders

Switzerland recognises the key role played by HRD in protecting and promoting human rights and strengthening the rule of law. HRD contribute significantly to the implementation of internationally recognised human rights norms – not only civil and political rights, but also economic, social and cultural rights. In addition, HRD are a decisive factor in the effective elimination of violations of human rights and fundamental freedoms, and also have a further key role to play in the assertion of existing rights and the development of new norms and legal standards. Examples of this commitment include:

- fight against impunity;
- compensation for victims of human rights violations (with medical and legal support, in particular);
- documenting violations of fundamental freedoms and human rights.

The legal foundation for the work of HRD is given by three UN instruments: (1) the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966)<sup>6</sup>; (2) the International Covenant on Civil and Political Rights (ICCPR, 1966)<sup>7</sup> – both of which have been ratified by Switzerland and a majority of other states; and (3) the *UN Declara-*

---

6 International Covenant on Economic, Social and Cultural Rights (ICESCR): <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

7 International Covenant on Civil and Political Rights (ICCPR): <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

*tion on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* (1998).

Switzerland's human rights policy lays a particular emphasis on the protection of HRD who, as politically independent agents, are highly important elements of the public opinion-forming process, and who face elevated risks in their dedication to particularly vulnerable groups. Despite the internationally recognised principle that a person may act to protect and implement human rights, HRD face obstacles, not to mention frequent direct or indirect threats as a result of their work, in many countries. Now more than ever, attention must be drawn to the situation of HRD, and their protection must be improved.

In their work, HRD and their families often face intimidations, harassments, threats, obstructions, attacks or arbitrary imprisonment or punishment by state and non-state actors, such as armed groups or private companies. Women HRD, LGBTI-rights<sup>8</sup> activists, land rights activists and indigenous groups are particularly exposed to such circumstances.

The following offences and constraints are particularly obstructive to the work of HRD:

- various parties, including government officials may use violence and, in particular, anonymous death threats against HRD: the police and other security agencies being among the principal users of force against HRD, in particular by means of arbitrary arrests, illegal searches and physical violence;

- public authorities are responsible for laws and administrative regulations which may refuse the registration of HRD as recognised NGOs and associations, so preventing their work.

Switzerland is already active at both multilateral and bilateral levels to secure effective protection for HRD. Many of the instruments set out in these Guidelines are already in use on an individual case basis.

**Switzerland's representations are important points of contact for HRD who are under threat or fear of being persecuted. This document is intended to provide an easily digestible compilation of tried-and-tested approaches and best practices, which may be useful in different situations and settings in individual host countries.**

## 1.2 Definition of "human rights defenders"

HRD are committed to, either individually or in association with others (as registered or non-registered non-governmental organisations, NGOs) complying with human rights within the context of their professional or private activities. The definition of a HRD is action and context-based, as HRD often work to secure the rights of others, rather than their own. To avoid new civil society agencies being immediately excluded by omission, Switzerland has always resisted drawing up a specific list of individuals and organisations that fall into this category<sup>9</sup>. Switzerland has adopted this action-based definition in its efforts to protect HRD,

<sup>9</sup> Hina Jilani (former UN Special Representative) describes HRD as follows: "HRD are identified above all by what they do, and it is through a description of their actions and of some of the contexts in which they work that the term can best be explained". <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Defender.aspx>.

<sup>8</sup> Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI)-rights activists.

and thus refers explicitly here to ICESCR and ICCPR as well as the UN Declaration on HRD. The following fields of law are of key importance to HRD:

- the right to freedom of expression (Art. 19 ICCPR)
- the right to freedom of peaceful assembly (Art. 21 ICCPR)
- the right to freedom of association (Art. 22 ICCPR)

HRD recognize the universality, interdependence and indivisibility of human rights, irrespective of gender, ethnicity, nationality, religion, sexual orientation or other characteristics. They are committed to implementing, upholding and promoting human rights by non-violent means.

### 1.3 Context

In 1998, the UN General Assembly adopted 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*. Switzerland worked hard towards the adoption of this Declaration which, together with the ICESCR and ICCPR, has formed the reference framework for the protection of HRD right up to the present.

At the initiative of Norway, and with the support of many like-minded states, including Switzerland, the UN created the office of the Special Rapporteur on the situation of human rights defenders in 2000. The first holder of this office was Hina Jilani, from Pakistan (2000–2008). She was succeeded in 2008 by Margaret Sekaggya, from Uganda. Regional mechanisms for the protection of human rights, such as the Organisation of American States (OAS), the African Union (AU), the Organisation for Security and Cooperation in Europe (OSCE) and the Council of Europe (CoE) also play a major part in protecting HRD.

Based on the UN Declaration on HRD and on the Commentary to the Declaration<sup>10</sup>, the European Union also issued guidelines on the protection of HRD<sup>11</sup> in 2004 and Norway followed with its own guidelines in 2005<sup>12</sup>.

The Swiss Guidelines on the protection of HRD intentionally differ from existing guidelines in that they:

- a) reflect the specific experience of Swiss representations and Swiss non-governmental organisations (NGOs) which are active abroad in connection with HRD; and
- b) take due account of international developments within the context of the protection of HRD since 2005.

---

<sup>10</sup> <http://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersjuly2011.pdf>.

<sup>11</sup> *Ensuring Protection – European Union Guidelines on Human Rights Defenders*: <http://www.consilium.europa.eu/uedocs/cmsUpload/16332-re01.en08.pdf>. Since then, the embassies of EU countries have set up *HRD Focal Points*.

<sup>12</sup> *Norway's efforts to support human rights defenders*: <http://www.regjeringen.no/upload/UD/Vedlegg/Menneskerettigheter/Menneskerettighetsforkjaempere/VeiledningMR-forkjengelskFIN.pdf>.

## 2. Swiss Guidelines on the protection of human rights defenders

These Guidelines on the protection of HRD apply primarily to Swiss representations, which are an important point of contact for HRD. The Guidelines are formulated as minimum standards. Individual options for action may be amended and extended to reflect the situation at hand. Where a representation intervenes in support of a HRD at risk, it is important that any action taken is at the expressed wish of and in close consultation with the person concerned, their family, or close friends and colleagues. Different courses of action may be applicable in different situations and political contexts.

The state is the principal legal entity in international law. Binding obligations under international law arise from international law conventions (such as the ICESCR and ICCPR), from customary international law, and from peremptory norms (*jus cogens*; such as the prohibition of torture). This gives rise to the state's obligation to respect and to protect human rights.

If the mechanisms which protect human rights are to be improved, it is essential that this obligation be extended to non-state actors also<sup>13</sup>. If multinational companies for example are not managed responsibly, their activities can negatively impact human rights, economic and social rights in particular. As a state which is an active proponent of human rights, coherent action is in Switzerland's

own interests. The focuses and approaches of action to protect HRD vary according to the local contexts<sup>14</sup>. The form and content of such action must be adapted to the situation at hand. Swiss representations are expected to act according to the points under (a), and they are urged to strive towards those under (b):

- a) Awareness-raising: Swiss representations should:
- recognise the work of HRD and act to ensure their protection;
  - be committed to supporting women HRD and all of those who actively promote the rights of women and of other particularly vulnerable groups, such as ethnic minorities, indigenous peoples, migrants, LGBTI- and land rights activists;
  - call for genuine compliance with all provisions of international law which are intended to protect HRD.
- b) Swiss representations may call upon representatives of national authorities of their host state to:
- as quickly as possible sign any relevant international conventions which have not yet been ratified, to bring national legislation into line with international obligations and not to hinder or to criminalise the work of HRD (e.g. by means of more restrictive media or security laws);
  - promote the implementation of the UN Declaration on HRD at the national level;

---

<sup>13</sup> Switzerland has recently joined a number of initiatives aimed at better compliance with human rights standards on the part of international companies, specifically the *International Code of Conduct for Private Security Providers* (<http://www.icoc-psp.org>) and the *Voluntary Principles for Security and Human Rights*, ([http://www.voluntaryprinciples.org/files/voluntary\\_principles\\_english.pdf](http://www.voluntaryprinciples.org/files/voluntary_principles_english.pdf)).

---

<sup>14</sup> The Swiss Agency for Development and Cooperation (SDC) refers in this connection to *Conflict Sensitive Programme Management*

- draw up national protection programmes for HRD, and abide by them at all times;
- strive to ensure that the defamation of HRD, as well as threats and attacks against HRD, are investigated and prosecuted;
- set up specific protection programmes for HRD, and accept HRD who face acute threats into these programmes;
- support host states in training of security personnel, particularly the police and army, on human rights;
- invite the UN Special Rapporteur on the situation of HRD, as well as those in charge of regional protection mechanisms to visit their country, and support the implementation of any recommendations that these officers submit;
- summon host states to strictly abide by international humanitarian law in situations involving armed conflict;
- collaborate with the relevant national human rights institution to promote and protect HRD;
- support local civil society and publicly condemn individual cases in which HRD are threatened;
- consistently involve civil society in relevant decision-making processes;
- seek dialogue with HRD, possibly in the form of regular, institutionalized consultations (e.g. in connection with reporting in the context of *Universal Periodic Review* (UPR) process);

## 2.1 Information-gathering and reporting

HRD play a key role in documenting violations of human rights. Swiss representations can support HRD in their monitoring activities, and work towards ensuring that the applicable legal framework does not change to the disadvantage of HRD.

One of the tasks of every representation is to contact and exchange with international and local members of civil society who are active within their area. There does not need to be a direct link between the HRD and Switzerland for the representation to show public support for that HRD. Irrespective of their nationality, the HRD's commitment to human rights is sufficient justification in itself.

Practical support for HRD cannot be provided without a regular exchange of information with other local bodies, and reporting to the capital in Berne. Time is a decisive factor. The major challenges when dealing with HRD are to quickly assess the immediate threat, and to obtain credible information. A broad and flexible network of reliable sources is key factor.

The situation with regard to HRD should be included in the Swiss representation's annual human rights report. *Ad-hoc* reporting is also required in cases in which the threat is acute. The representations are of course free to make specific recommendations on next steps that could be taken (e.g. demarches or press releases).

The following organisations and sources may be useful in providing relative information:

- national and regional UN institutions in the local area, specifically the local branches of the Office of the UN High Commissioner for Human Rights, and branches of regional institutions such as the OAS, the AU, the OSCE and the CoE;
- UN reports, primarily reports issued by the UN Special Rapporteur on the situation of HRD and the regional human rights mechanisms, as well as the reports issued by other Special Rapporteurs<sup>15</sup>;

<sup>15</sup> List of *Special Procedures*: <http://www2.ohchr.org/english/bodies/chr/special/themes.htm>.

- reports to UN treaty bodies and other international or regional monitoring organisations, as well as reports which form part of the *Universal Periodic Review* (UPR) process;
- national and international NGOs (especially local HRD, Swiss NGOs and Switzerland-based international NGOs which are regarded as reliable sources of information);
- foreign diplomatic representations from like-minded states in the same local area;
- national human rights institutions;
- reliable and verifiable media reports.

## 2.2 Direct contact with human rights defenders

Direct contact with Swiss representations can often provide an important means of protection for HRD. International attention and public support can legitimise the work of HRD, and help to ensure that they are protected effectively. However, each contact must be appropriate to the local context, and representatives of the international community should coordinate among themselves. In all cases, care must be taken to avoid the possibility of negative consequences for HRD or for their families as a result of the visible commitment of the international community. Possible consequences must be assessed in dialogue with the person concerned and in consideration of the local context at that time. It is also important to choose a venue for contact that is appropriate to the situation at hand, and to brief the HRD on security precautions and specific security measures which they can take themselves. Internet security is a particularly important point here.

With this in mind, the following activities might be considered:

- **inviting HRD to the Swiss representation:** inviting HRD to public events at the Swiss representation (e.g. Swiss national holiday celebrations on 1 August, Human Rights Day on 10 December or International Women's Day on 8 March) can make it easier to establish informal contact between the representation and HRD, and help to build and maintain a network.
- **visiting HRD in rural areas:** HRD in rural areas and outside of principal cities also rely on international support. Such visits (e.g. joint project visits by several foreign diplomatic representations) can provide significant moral support for HRD and improve their protection.
- **temporary protection at the embassy:** in particularly acute cases, which must remain the exception, the representation may grant the HRD temporary protection within the embassy premises.
- **return to/entry into home country:** if there is the risk that the HRD might experience difficulties when they return to their home country, the representation may collect the HRD concerned from the airport (e.g. after they have taken part in a UN conference in Geneva).
- **conveying information:** in exceptional cases and in consultation with the HRD and/or their family, confidential information may be conveyed via diplomatic channels (e.g. a confidential communication to the Office of the UN High Commissioner for Human Rights).
- **observing legal proceedings against HRD:** an international presence should help guarantee a fair trial, and condemn violations of procedural law and international human rights norms. Depending on the situation, the embassy may wish to refer the HRD to an NGO specialised in providing legal support.

- **prison visits:** prison visits can reassure the prisoner that they have not been forgotten. Such visits can also be used to check whether or not the prison complies with minimum standards. It goes without saying that such visits should be made only after a thorough examination of the case in question. Furthermore, representations should make public statements in cases in which a person was arrested arbitrarily.
- **attendance at seminars and meetings:** the presence of diplomatic representatives at seminars, meetings or press conferences organised by HRD can express solidarity.
- **measures to protect the psychosocial health of HRD:** training and support from experts in psychosocial health can support HRD facing the risk of *burnout* and secondary traumatisation, and can improve how they care for their own mental and physical health.
- **if there is no established Swiss representation in the country in question,** it may be necessary to enter into alliances with like-minded states (for example EU countries or Norway), international organisations or NGOs, and to help support the efforts of these alliance partners in the interest of protecting HRD.

## 2.3 Contact with the competent authorities

The situation of HRD can be taken up both in direct contact with the competent authorities, and in diplomatic demarches. The latter may be made either generally or with regard to a specific case:

- a) **formal and informal talks:** these might be held, for example, as part of regular political consultations, official bilateral visits, or in formal and informal exchanges with the competent local authorities.

- b) **demarches and interventions:** this form of communication, either independently or coordinated with other embassies, is directed towards the competent government. This approach may primarily be used to gain verbal or written information on specific situations and to propose negotiations using diplomatic notes, *aides-mémoires*, *non-papers* or personal visits.

## 2.4 Public statements on the protection of human rights defenders in individual cases

Switzerland may intervene in support of HRD if there is sufficient and reliable information on the basis of which to do so. Such interventions may take place both in cases of serious or systematic violations of human rights, such as in cases of repeated threats, as well as in a climate of oppression in which fundamental freedoms are restricted and there are specific incidents of intimidation. An intervention in the name of a single HRD can often influence the behaviour of several other HRDs or entire organisations.

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

Such an intervention might be considered if the following areas, in particular, are affected:

- restrictions on the right to freedom of expression;
- restrictions on the right to freedom of association and freedom of assembly;
- torture and other cruel, inhuman or degrading treatment or punishment;

- arbitrary arrests;
- unfair trials;
- extrajudicial executions;
- enforced disappearances;
- death threats and other forms of intimidation.

## 2.5 Cooperation with international bodies, representatives of like-minded states and national and international NGOs

Coordinated action with international bodies, representatives of like-minded states both locally and within multilateral bodies, as well as with national and international NGOs, can further reinforce the effect of intervention. The following points should be considered in the case of coordinated action:

- regular exchange with locally-based UN institutions and the ICRC;
- ongoing contact with representatives of like-minded states, as well as with international NGOs with a view to joint intervention or field visits, or the observation of legal proceedings;
- invitation of international bodies on missions to the host country to participate in round-table talks, or to discuss the situation of HRD within the host country with stakeholders from local civil society.

## 2.6 Media work

As a rule, Switzerland will only publicly condemn violations of human rights in particularly grave cases, such as serious and excessive limitations to freedom of expression, the passing of restrictive laws, arbitrary killings, extrajudicial trials, or politically motivated arrests. In each individual case, consideration must be given to whether or not a public statement will simply cause additional dif-

iculties for an HRD or their family. The following courses of action might be taken following consultations with the capital:

- **Press releases:** the representation might issue a press release, having first agreed its content with the capital. The ultimate decision on whether or not to publish lies with the FDFA Information Service, in consultation with the competent internal services and the Head of Department.
- **Interviews in local newspapers:** the FDFA might publicly state its position in the context of organised human rights-related events, such as bilateral human rights consultations, or in the event of a visit from a UN Special Rapporteur. Here too, the ultimate decision lies with the FDFA Information Service.

## 2.7 Presence at the United Nations in Geneva

Switzerland supports the active participation of civil society organisations at the UN in Geneva<sup>16</sup>.

Even during the negotiation stage when the UN Human Rights Council was first set up, NGO participation was one of Switzerland's priorities in terms of the Council's institutional balance. Geneva's position as the centre of international human rights policy demands a particular political, logistical and financial commitment from Switzerland to ensure that local HRD participate in relevant UN meetings.

The decision on whether or not visas to enter Switzerland are issued is essentially that of the Federal Office for Migration (FOM)<sup>17</sup>, part of the Federal

<sup>16</sup> e.g. at meetings of the UN Human Rights Council, in the *Universal Periodic Review (UPR)* process, and in the country reporting procedures of UN treaty bodies.

<sup>17</sup> <https://www.bfm.admin.ch/content/bfm/en/home.html>

Department of Justice and Police. The FDFA is responsible for granting VTL<sup>18</sup> visas for attendance at UN events in Geneva. In practice, the decision is made by the mission in Geneva, in consultation with the capital.

## 2.8 Reprisals against human rights defenders

HRD who cooperate with UN institutions or other international organisations attract increased attention, and can therefore be exposed to greater security risks. At the same time, the first-hand information provided by HRD is very important to the UN. The UN is extremely concerned about such reprisals against HRD, and has begun to increasingly call for all states, whatever their structure, to refrain from the use of force against HRD. The issue has been on the agenda of the UN Human Rights Council on several occasions in the recent past, and several resolutions have been adopted.

HRD are particularly vulnerable in this context. The diplomatic community must for example be vigilant following the departure of a UN Special Rapporteur. It is therefore recommended that all HRD who fear reprisals should contact the relevant embassy in their home country in advance, so that the latter is able to respond swiftly in the case of an emergency.

---

18 "Where exceptional or urgent circumstances make it necessary, particularly in connection with Switzerland's international obligations or if Switzerland has issued an official invitation, the representation may, by way of exception, issue visas of limited territorial validity (LTV) in accordance with the Schengenacquis. These visas only permit the holder to enter, and stay, in Switzerland. They do not permit the holder to visit another state in the Schengen area. Furthermore, the holder of an LTV visa must enter and depart via Switzerland, without passing through another member state of the Schengen area." <http://www.eda.admin.ch/eda/en/home/topics/intorg/un/unge/gepri/manvis/manvi2.html>.

## 2.9 Visa policy

The aim is to protect HRD as effectively as possible in the field, so that they are able to go about their work without fear, intimidation or threat. In some cases, this protection cannot be sufficiently guaranteed in their own country. Where a HRD is in fear of their life, a straightforward solution must be found as quickly as possible. A short-term stay abroad might be considered as *last resort*.

It may be that HRD who apply for a visa request a longer stay in Switzerland in order to live in a place of safety for some time. Since the acute threat is generally assessed as temporary, it is highly unlikely that these individuals will be interested in asylum proceedings. However, Switzerland wherever possible supports regional solutions and, with the support of regional or international HRD networks, will help the applicant to move temporarily to another city or to a nearby country.

Regular visa applications under the Schengen rules, as well as asylum applications, must be processed in accordance with FOM guidelines. Switzerland also has the option of examining visa applications which apply to Switzerland exclusively. These are known as LTV (limited territorial validity) visas.

Representations may provide the following types of local support for HRD applying to travel to Switzerland:

- The applying HRD should be notified that the visa process takes considerable time, so the visa application should be submitted as early as possible. Formal requirements must be observed in every case;
- The representation may at any time consult with FDFA capital in Berne, should doubts about the legitimacy of a visa application arise. FDFA capital may, in turn, issue recommenda-

tions to the FOM and confirm the credibility of an applying individual or organisation.

- HRD who are under acute threat should be briefed on the possibility of a regional solution. If a short-term stay nearby is out of the question, the possibility of transfer to a country in a different geographical context may be explored.
- Should a detailed examination of the case at hand confirm that leaving the country is the most expedient option, the FDFA will intervene to permit a degree of flexibility in the Swiss visa awarding process.

There are both logistical and emotional problems that could be associated with a temporary stay in Switzerland. Furthermore, an individual may experience additional difficulty reintegrating into the home country after an extended stay abroad. There for example may have been only slight improvement in the political situation, and any media attention related to the return of the HRD could destabilize the situation.

# 3. Implementing the Guidelines

The Swiss Guidelines for the protection of HRD should regularly be reviewed and adjusted in line with prevailing circumstances. This should ensure that the Guidelines remain up to date, and that the latest experience made in the field is reflected in them.

## 3.1 Role of the capital

HRD should be notified of the existence of the Swiss Guidelines on the protection of HRD, and the Guidelines should be translated into a number of languages. Both the competent government bodies at capital and the representations should make a public commitment to implementing the Guidelines.

The Guidelines are a practical tool for representations when dealing with HRD. They imply a variety of responsibilities for the competent administrative bodies at capital and the representations.

- As the office in charge, FDFA capital is willing to organise and conduct specific training courses for those embassy staff who work in particularly close contact with HRD (specifically *Human Security Advisors*). These specially trained staff will then be able to act as *focal points* and multipliers, and pass on their knowledge to their colleagues.
- The *focal points* may, upon request, be provided with a PowerPoint presentation on the Guidelines.
- The problems that may be encountered with and by HRD should also be incorporated into basic diplomatic training, and should be raised again in pre-posting briefings.

- Sufficient financial and staff resources are required if the Guidelines are to be implemented properly. It must be remembered that the presence of diplomatic staff can awaken expectations, especially when they visit rural areas. It is therefore proposed that a part of the small credit facility that is available to representations be used for such activities. FDFA capital is also prepared to examine specific projects in this area.
- Representations should develop the reflex to assess risk situations on a case-by-case basis and to take necessary action. The capital will provide close support.

## 3.2 Monitoring

The Human Security Division (HSD) functions as the point of contact for HRD within the FDFA. The HSD relies on regular reporting to maintain an overview of the activities of representations:

- the situation concerning HRD should be included in the annual human rights report;
- the representations are requested to notify the capital immediately of acute individual cases.

The capital will ensure that the information on HRD that is prepared by representations receives due attention, and that it is forwarded to the individuals in charge of the issues in question. Any follow-up action will be evaluated in consultation with the representation concerned.



# Annex

## Relevant links:

humanrights.ch; <http://www.humanrights.ch>

## Existing guidelines on the protection of HRD

“Ensuring Protection – European Union Guidelines on Human Rights Defenders”:

<http://www.consilium.europa.eu/uedocs/cmsUpload/16332-re01.en08.pdf>

“Norway’s efforts to support human rights defenders”:

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

## Relevant international human rights norms:

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

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

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

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

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 (CAT)

<http://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)

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

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

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

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:

<http://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersjuly2011.pdf>

## UN Special Rapporteur on the situation of Human Rights Defenders

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

### Regional mechanisms for the protection of human rights

**OAS:** Rapporteur on the Rights of Human Rights Defenders – José de Jesus Orozco Hernandez: <http://www.oas.org/en/iachr/defenders/mandate/composition.asp>

**African Commission:** African Commission on Human and Peoples' Rights – Special Rapporteur on Human Rights Defenders: <http://www.achpr.org/mechanisms/human-rights-defenders/>

**OSCE, ODIHR:** Focal Point for Human Rights Defenders and National Human Rights Institutions: <http://www.osce.org/odihr/103584>. Report: *Human Rights Defenders in the OSCE Region: Challenges and Good Practices*: <http://www.osce.org/odihr/29714>

**Council of Europe (COE):** [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

AU	African Union
EC	European Council
FDFA	Federal Department of Foreign Affairs
FDJP	Federal Department of Justice and Police
FOM	Federal Office for Migration
HRD	Human Rights Defenders
HSD	Human Security Division
ICCPR	International Covenant for Civil and Political Rights
ICESCR	International Covenant for Economic, Social and Cultural Rights
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex
LTV	Visas of limited territorial validity
NGO	Non-Governmental Organization
OAS	Organization of American States
OSCE	Organization for Security and Cooperation in Europe
SDC	Swiss Agency for Development and Cooperation
UPR	Universal Periodic Review



## **Imprint**

Editor:

Federal Department of Foreign Affairs FDFA

**Directorate of Political Affairs DP**

3003 Bern

[www.eda.admin.ch](http://www.eda.admin.ch)

Design:

Visual Communication FDFA, Bern

Photographs :

From the exhibition «Faces of Human Rights Defenders and the Extractive Industry», © 2013, Daniel Schweizer

Orders:

**Information FDFA**

Phone: +41 (0)31 322 31 53

e-mail: [publikationen@eda.admin.ch](mailto:publikationen@eda.admin.ch)

Specialist contact:

**Human Security Division**

+41 (0)31 322 30 50

e-mail: [pd-ams@eda.admin.ch](mailto:pd-ams@eda.admin.ch)

This strategy is also available in French, German and Italian.

Bern, 2013



