

March 2015

## **SWITZERLAND**

### **1. Title, rank and position of the Legal Adviser**

The Legal Adviser usually is a career diplomat, and holds the rank of Ambassador. In the past, the functions of Legal Adviser and Head of the Directorate of International Law (DIL) were separate. A few years ago, the two functions were combined to strengthen the position of the Legal Adviser within the Federal Department of Foreign Affairs (FDFA).

### **2. Principal functions of the DIL**

The DIL deals with the legal aspects of Switzerland's international relations. It is considered to be the "juridical conscience" of the FDFA and the federal government's centre of competence for all questions relating to international law. Among its objectives are the safeguard of the interests of Switzerland and its citizens in matters relating to international law, the correct application of international law by Swiss authorities (at home and abroad) and the promotion of the respect for international law and its development, particularly through the Sixth Committee of the United Nations General Assembly.

The DIL advises the Minister of Foreign Affairs and the Swiss Government, the Federal Council, on questions of international law and the conduct of Swiss foreign policy. Representatives of the DIL assist in the negotiation, conclusion and implementation of international treaties and contribute to ensuring that Switzerland's rights and legal interests are respected abroad.

### **3. Staff employed by the DIL**

There are currently over sixty staff members working at the DIL, including forty-five lawyers and fifteen administrative specialists and assistants. Less than 20% of the staff is part of the diplomatic service of the FDFA. 60% of the staff members are female; this pertains to approximately half of the lawyers, including the diplomatic staff, as well as most of the administrative specialists and assistants.

### **4. Recruitment and promotion policies and provisions**

According to the Federal Ordinance of 3 July 2001 on the Personnel of the Swiss Confederation, measures are taken to fulfil equal opportunities and equality between men and women, a balanced representation of the linguistic regions, as well as equal opportunities and professional inclusion of persons with disabilities. This obligation is translated into directives of the Federal Council concerning the Federal Administration as a whole, as well as into an Equal Opportunities Policy (2010 – 2020) including specific target values and a Workplace Policy on equal opportunities and on protection from discrimination in the workplace specifically designed for the FDFA.

### **5. Training on gender equality issues**

The FDFA has a specialized Equal Opportunities Unit which contributes to the advancement of equality and equal opportunities between men and women and regularly organizes events

for the FDFA (including DIL) staff in order to raise awareness on these issues. The Vice-Director of the DIL is in charge of equal opportunity issues within the DIL.

## 6. Organization and structure of the DIL

The DIL is headed by the Legal Adviser, a Deputy Director and a Vice-Director, each with the rank of Ambassador. The DIL is organized into two thematically structured divisions and three supplementary offices:

**Division I** comprises three sections dealing in particular with the following issues (in cooperation with other offices of the Federal Administration):

- **Human rights**, including the negotiation and ratification of international instruments in this field and the preparation of reports on their implementation in Switzerland for the attention of the United Nations committees and other international monitoring bodies concerned
- **Combating terrorism (co-ordination in foreign policy)**, respect for human rights and international humanitarian law in the fight against terrorism
- **International criminal justice**, including issues related to the International Criminal Court and all other international(-ized) criminal tribunals
- **International humanitarian law**, including issues related to the applicability of international humanitarian law (qualification of armed conflict), conducting thematic initiatives with the aim of clarifying and strengthening this body of law to ensure that it meets the challenges of contemporary armed conflicts and initiatives aiming at improving respect for international humanitarian law in specific situations of armed conflict
- **Secretariat of the International Humanitarian Fact-Finding Commission** according to Art. 90 of Additional Protocol I to the Geneva Conventions
- **Legal status of diplomatic and consular representations and their employees**, including foreign representations in Switzerland and Swiss representations abroad: embassies, consulates and permanent missions to international organizations
- **Legal status of international organizations and their employees in Switzerland**, including negotiation and adoption of Headquarters' Agreements and status of delegations to international conferences held in Switzerland
- **Legal status of other personalities such as Heads of State or government, ministers, etc.**

**Division II** comprises three sections dealing in particular with the following issues (in cooperation with other offices of the Federal Administration):

- **General questions of international law**, as for instance State recognition
- **Swiss neutrality, international security and peaceful settlement of disputes**
- **Institutional aspects in relation with the European Union (EU), as well as bilateral agreements Switzerland-EU**
- **Diplomatic and consular protection**
- **Economic**
- **and fiscal matters, as well as international sanctions**
- **Relationship between international and national law**
- **Treaty making power** and procedures for the **conclusion of international treaties**
- **Information** of the federal administration, the cantons, the courts and individuals **about the agreements Switzerland** has concluded with foreign partners
- **Depositary functions** related to some 80 multilateral international treaties including the four Geneva Conventions and their three Additional Protocols
- **International legal assistance and cooperation in civil, criminal and administrative matters**
- **Diplomatic aspects of the recovery of stolen assets** of politically exposed persons

The **Office of the Ambassador-at-Large for the Application of International Humanitarian Law** is responsible for heading, together with the ICRC, an initiative to strengthen compliance with international humanitarian law international humanitarian law.

The **Office of the Ambassador-at-Large for Counter-Terrorism** is responsible for coordinating foreign policy efforts in counter-terrorism.

The **Swiss Maritime Navigation Office** supervises maritime navigation under the Swiss flag. It is attached to the DIL because maritime navigation is considered a matter of international law.

The Heads of divisions and offices report to the Head of the DIL.

## **7. DIL's place within the FDFA**

The DIL is placed as a functional service assisting the whole of the FDFA in matters relating to international law. In organizational terms, the DIL is one of six directorates within the FDFA.

The other directorates are:

- Directorate of Political Affairs
- Directorate of European Affairs
- Swiss Agency for Development and Cooperation
- Consular Directorate
- Directorate for Resources

The Legal Adviser reports directly to the Foreign Minister.

## **8. Main contacts of the DIL within the government**

As well as providing legal advice within the FDFA, the DIL is the main centre of expertise on public international law within the government and is often consulted by other federal government departments as well as by cantonal authorities on international law issues.

## **9. Relations of the DIL with academics, private lawyers and legal institutions**

Part of the DIL's role is to engage in legal debates at both the national and the international level in order to enhance the respect for international law and its promotion. With the aim to contribute to the coherence and credibility of international law, the DIL takes an active part in the public international law community in Switzerland, comprising lawyers from the public service and private practice as well as academic lawyers.

The DIL has a program of outreach to the international law community in Switzerland through regular seminars in order to discuss issues of international law. Representatives of the DIL regularly participate in conferences and meetings, write articles or books for publication and visit universities to speak to students about the work of the DIL. The DIL issues a series of publications about different aspects of international law: <http://www.eda.admin.ch/eda/en/home/doc/publi/pintl.html>

For further information please visit our website:

Organizational structure of the DIL:

<http://www.eda.admin.ch/eda/en/home/dfa/orgcha/sectio/dil.html>

Areas of activities: <http://www.eda.admin.ch/eda/en/home/topics/intla.html>

Swiss practice of international law: <http://www.eda.admin.ch/eda/en/home/topics/intla.html>