

SWITZERLAND

Definition and Prosecution of Terrorist Acts

Swiss law does not define “terrorism” per se; however, select provisions of the Swiss Penal Code criminalize the following offenses: murder, hostage-taking, use of explosives with criminal intent, and spreading of an illness to humans. All of these criminal offenses carry a lengthy prison term. Additionally, heavy penalties are provided where a criminal act endangers the lives and physical integrity of several persons or causes major damage. Instigation, complicity, and attempt at said offenses are also punishable.

Recruitment of terrorists within the borders of Switzerland where the recruiters use coercive means to incite individuals to join a group; where it is linked to sufficiently concrete preparatory acts; under support for a criminal organizations; and in particular, where firearms and munitions are sold, leased, given, made available to a third party, or are procured with the knowledge that they are to be used in the commission of an offense or a crime.

Prevention of Terrorism – Security Measures

Although no terrorist organizational structure has ever been detected in the country, the Swiss government proactively banned participation in such groups providing them physical or material support, organizing propaganda actions on their behalf or on behalf of their goals, requiring adherents or promoting their activities in any other way. Violation carries three years’ imprisonment or a fine. Additionally, the organization’s assets will be confiscated.

Swiss law acts to prevent and suppress possible terrorist attacks. To accomplish these goals, Switzerland recently passed a law instituting measures for the maintenance of internal security and requiring law enforcement authorities to adopt preventative measures to combat terrorism. In adherence to this new law, the Federal Police Office established a Division of Analysis and Prevention. This division has the responsibility for assessing possible terrorist threats.

Switzerland’s counter-terrorism strategy originates from the Federal Council. This council relies on information from the Commission on Security, which is made up from the heads of the Department of Foreign Affairs, the Department of Justice and Police and the Department of Defence, Civil Protection and Sports. An interdepartmental group that specializes in counter-terrorism implements this strategy. This group is coordinated by the Department of Foreign Affairs and is made up of members from the Department of Defence, Civil Protection and Sports, the Department of Justice and Police, the Department of the Economy, and the Department of Finance. It also has members from the Federal Banking commission. Counter-terrorism strategy originates from the Federal Council. This council relies on information from the Commission on Security, which is made up from the heads of the Department of Foreign Affairs, the Department of Justice and Police and the Department of Defence, Civil Protection and Sports.

Laws Pertaining To Biology

To fight against diseases transmissible to man, the Federal Law on Epidemics regulates identification of laboratories through permits delivered by the Swiss Institute of Therapeutic Products. It also regulates the trade in pathogenic agents and requires an authorisation from every person disseminating pathogens for research or commerce. The Federal Council is authorized to regulate the transport, importation, exportation and the transit of pathogens, to limit or to ban the use of certain pathogens, and to fix the conditions for persons using pathogens. This law also outlines the provisions for quarantine, vaccination, and disease surveillance and reporting requirements. Violation of these provisions, intentionally or by negligence, leads to imprisonment or a fine.

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A number of laws contribute to biosafety. The Ordinance on Occupational Safety in Biotechnology defines general security measures for the protection of the workers by employers. Accordingly, employers must regularly identify and evaluate the risks to which workers are exposed; this information must be notified to the Bureau de Biotechnologie de la Confédération. A significant aspect of this is that it defines micro-organisms and genetically modified micro-organisms and techniques for genetic modification. To protect people as well as animal and plant habitats from the harmful effects of biological organisms, the Ordinance on the Contained Use of Organisms provides for the contained use of organisms, in particular genetically modified or pathogenic organisms; the Ordinance also contributes to the maintenance of biodiversity and soil fertility.

Export of goods usable for military purposes as well as specific military goods are strictly regulated. The Federal Law on War Material prohibits the development, production, indirect transfer, acquisition, import, export, transit and stockpiling of nuclear, biological or chemical weapons. Swiss citizens may come within the scope of this prohibition if the offense is committed abroad if they are in violation of international law that is binding on Switzerland. The Ordinance on War Material regulates the authorisations that are required for the manufacture, the brokerage, the import, the export and the transit of war materials, as well as the conclusion of contracts to transfer incorporeal property, including know-how and the concession of related rights. Most specific is the Federal Law on the Control of Goods Suitable for Civilian and Military Purposes and Specific Military Goods which regulates the import, export and transit of microorganisms and toxins. This law also outlines the measures that the Federal Council is responsible to take regarding licenses, reporting requirements, and surveillance measures for import, export, transit, production, storage, transfer and use of such goods.

Money Laundering – Prevention and Prosecution

Switzerland has incorporated a wide range of legislation making it possible to prevent and punish the individuals or organizations that use Swiss banks to finance terrorism. Swiss law also requires financial institutions to monitor financial transactions and verify the economic beneficiary. Failure to abide by this rule carries a penalty of up to one year in prison. The government can freeze any financial assets as soon as criminal offenses are suspected provided that a criminal proceeding is instituted.

The Swiss Penal code criminalized money-laundering stemming from an offense perpetrated either in Switzerland or abroad. The penalty for such acts can reach up to five years' imprisonment. A similar punishment is applied where an association of individuals constitutes a criminal organization.

A recent anti-money-laundering law strengthens these provisions by requiring bank and other financial institutions to notify the Money Laundering Reporting Office of any suspicious activity and immediately blocking the assets in question for up to five business days. During this time, the prosecuting authority will investigate and decide whether the blockage of these accounts should be upheld through a court order.

As a member of FATF, Switzerland worked closely on the development of the group's 40 recommendations that strengthen financial standards in an effort to more effectively combat money laundering.

Information Sharing

Recently, the Swiss Public Prosecutor's Office and the Federal Police Office set up the Task Force Terror USA to enhance the effectiveness of cooperation with foreign authorities. This task force serves as the center for coordinating Swiss terrorist investigations, defining missions of inquiry, evaluating reports, setting priorities, and establishing contact and cooperation with foreign law enforcement agencies. Additionally, the International Judicial Cooperation Division,

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within the Federal Justice Office, is responsible for dealing with request for judicial cooperation and extradition. The Division receives and processes all requests for criminal prosecution from foreign authorities seeking the transmittal of exhibits, the hearing of witnesses, the seizure of assets, etc.

Switzerland has also signed several multilateral conventions against terrorism. These agreements allow Switzerland to cooperate in criminal matters with other countries. The Act of Judicial cooperation in criminal matters and its implementing regulations allows Switzerland to cooperate in judicial with states with which no treaty exists.

Bibliography of Relevant Laws

Definition and Prosecution of Terrorist Acts

1. Swiss Penal Code, Articles 112, 185, 224, 231, 260, 271

Laws Pertaining To Biology

1. Ordinance on Occupational Safety in Biotechnology, 25 August 1999
2. Ordinance on the Contained Use of Organisms, 1999
3. Federal Law on Epidemics, 18 December 1970
4. The Ordinance on the Release of Organisms into the Environment
5. Ordinance on War Material, 25 February 1998
6. Ordinance on the export, import, and passage in transit of goods usable for civilian and military purposes and specific military goods, 25 June 1997
7. Federal Law on War Material RS 514.51, 13 December 1996
8. Federal Law on the Control of Goods Suitable for Civilian and Military Purposes and Specific Military Goods, 13 December 1996

Money Laundering – Prevention and Prosecution

1. Swiss Penal Code, Articles 260, 305, 322

Information Sharing – Other States

1. Law Instituting Measures for the Maintenance of Internal Security, Article 2
2. Act on Judicial Cooperation in Criminal Matters, Article 1