

VISIT OF THE OSCE PA AD HOC COMMITTEE ON COUNTERING TERRORISM TO SWITZERLAND

21-22 March 2023

NOTE-TO-THE-FILE

Executive Summary

On 21-22 March 2023, the OSCE PA Ad Hoc Committee on Countering Terrorism (CCT) paid an official visit to Switzerland. Led by CCT Chair Reinhold Lopatka (Austria), five CCT members and the Adviser on Anti-Terrorism Issues from the OSCE Office for Democratic Institutions and Human Rights (ODIHR) visited Geneva to exchange views with selected representatives of international organizations, including the Office of the



United Nations High Commissioner for Human Rights (OHCHR), the International Committee of the Red Cross (ICRC), the Geneva Centre for Security Policy (GCSP) and the Global Community Engagement and Resilience Fund (GCERF). Subsequently, the delegation traveled to Bern, where it met with the Federal Department of Foreign Affairs and the Federal Office of Police. The visit, facilitated by CCT member Ida Glanzmann-Hunkeler (Switzerland) and organized with the support of the Swiss Parliament, enabled the Committee to learn more about the work of important international and national actors involved in countering terrorism and violent extremism, with a special focus on human rights and preventive efforts.

Among the key issues discussed during the two-day visit were the **main drivers of terrorism** - which comprise climate change, failed states, new geopolitical confrontations, new technologies and organized crime - as well as **trends and challenges related to terrorism in modern societies**. These include new and easily accessible technologies like AI, 3D printing and drones, and social media as an increasingly important “source” of radicalization for youth and children. Another important issue explored was the **complementarity between**

International Humanitarian Law (IHL) and the international counter-terrorism legal framework, with a key takeaway being the critical importance of including humanitarian exemptions in counter-terrorism legislation. The **need to ensure fundamental rights in all counter-terrorism efforts**, and especially in preventive ones, was repeatedly stressed, as well as the **key role played by local communities** in preventing and countering radicalization. The plausible **involvement of the so-called Wagner Group in acts of terrorism was also noted**, with a general call for greater scrutiny of the conduct of private military groups. Finally, the CCT had the opportunity to learn extensively about the **latest counter-terrorism efforts of the Swiss authorities**, which include the repatriation of family members of Foreign Terrorist Fighters (FTFs) and brand-new legislation granting special preventive powers to police authorities.

Counter-Terrorism Trends and Challenges

At the **Geneva Centre for Security Policy (GCSP) and the Global Community Engagement and Resilience Fund (GCERF)**, former OSCE Secretary General Thomas Greminger introduced GCSP's mission, which is to provide a platform for people from different backgrounds to come together in a safe and inclusive environment to gain knowledge, seek solutions to global challenges, build relationships and trust across political divides, and expand a community of individuals and organizations to advance peace, security and international cooperation. Guided by the principles of impartiality, independence and inclusivity, GCSP engages in five areas: education (executive education); facilitation (diplomatic dialogue); advising (policy advice and research); inspiring (global fellowship initiative); and connecting (global community). The GCSP has activities in 174 countries and 29 community hubs, including its work on Preventing Violent Extremism (PVE). Since 2018, the GCSP has been offering standard customized courses on PVE, for instance on "Building a National Strategy for Preventing Violent Extremism".



According to the GCSP Head of Terrorism and Preventing Violent Extremism, Christina Schori Liang, the main drivers of terrorism and violent terrorism nowadays include: 1) climate change; 2) the new geopolitics; 3) persistent weakness of states (weaker now due to Covid); 4) criminal markets and criminal actors worldwide (impacted by the Global War on Terror and, most recently, by the war in Ukraine as well as by the expanding synthetic drugs market); and 5) the new technologies.

According to Dr. Liang, the complex threat posed by climate change, for instance, makes many governments look particularly weak in the eyes of their citizens, undermines communities' livelihoods, jeopardizes food security and, ultimately, triggers tensions over scarce resources and generates new migratory pressures. All these dynamics combined are exploited by

terrorists to spread their propaganda, fuel social unrest and nourish distrust in democratic authorities. Moreover, terrorists are increasingly engaging in criminal businesses to finance their operations, including the smuggling of goods and people, kidnapping, cyber-crimes, etc. Ultimately, new and widely accessible technologies have empowered many individuals to do more harm than ever before in human history. Drones, 3D printing, AI, robotics, cyber weapons and social media, their pervasive reach and almost universal accessibility, even to children, are posing growing risks to our societies. On social media, like Twitter and Facebook, lies tend to spread significantly faster than the truth. The role of the internet and social media should be better analyzed and algorithms duly refined, as current ones tend to create more extreme and narrow views among users (e.g., so-called echo chambers and group polarization). The current design of the internet makes it easier to target vulnerable audiences with propaganda and gives conspiracy theories more prominence. Hence, according to Ms. Liang, “a keyboard has become more dangerous than a bullet”. Against this backdrop, better intelligence work, stronger public-private partnerships and greater expertise in new technologies are instrumental to stay one step ahead. National security actors must embrace this new reality.

Private military companies, such as the Wagner Group, are also very problematic and potential terror actors, also because they undermine state authorities (e.g. the Sahel region of Africa). The Sahel is the area in the world most affected by terrorism. In this part of the world, it was noted that community-based prevention actions (vs. the ‘hard’ security approach) are not taken into consideration by state authorities, private mining actors are not engaged in preventing terrorism and violent extremism, and citizens have very limited trust in their governments. Right-wing extremism is also on the rise it was noted, especially in the Western world.



Mr. Khalid Koser, the Executive Director of the Global Community Engagement and Resilience Fund (GCERF), stressed how preventing terrorism is key, as proactive efforts are normally less expensive and carry fewer negative consequences than reactive measures. Hence, investing in prevention should be prioritized. In this context, the work of local communities (schools, churches, sport centers, etc.) is critical, as people normally radicalize in local context and dynamics. It is more likely for members of the middle

classes to radicalize, because they may more easily feel marginalized due to a lack of real opportunities while having obtained a certain level of education, having experienced the parental pressure to succeed in universities, and having the capacity to access and process dangerous information. Another major concern continues to be the return and rehabilitation of Foreign Terrorist Fighters (FTFs) in the Western Balkans. Reintegration, if not done properly, risks radicalizing former terrorists even further. Social cohesion, community agency (trust in public authorities), equal access to social-economic opportunities and a sense of purpose are critical to prevent terrorism. Most people will opt for a brighter future instead of radicalizing, and working directly with local communities is often more effective than working with governments.

Counter-Terrorism and Human Rights

At the **Office of the United Nations High Commissioner for Human Rights (OHCHR)**, the delegation met with Senior Human Rights Officer Mr. Simon Walker, and Human Rights Officer Ms. Marina Narvaez. The CCT delegation was briefed on the work of OHCHR and their engagement in countering terrorism. The United Nations has eight different working-groups on counter-terrorism, including one dedicated to human rights, which is coordinated by OHCHR. Besides monitoring human rights in different states,



OHCHR provides guidelines on non-discrimination to Member States and prepares reports on anti-discrimination legislation. The OHCHR has three main areas of focus on counter-terrorism, always from a human rights perspective: criminal legislation; foreign fighters & repatriation of children; and new technologies. The importance of finding the right balance between security, freedom and democracy was repeatedly stressed. In this regard, the critical role played by human rights organizations to help state institutions in fighting terrorism in a human-rights compliant manner was duly recognized. Finally, it was noted how repatriating the wives and children of terrorists from conflict-affected zones is challenging but necessary. Ultimately, all concurred that protecting human rights is integral to any effective counter-terrorism strategy and effort.

Counter-Terrorism and International Humanitarian Law



The **International Committee of the Red Cross (ICRC)** started working on counter-terrorism after 9/11. Notably, ICRC work on the ground has been (negatively) impacted by what national authorities treat as terrorism. International Humanitarian Law (IHL), especially in the case of non-international armed conflicts, applies to terrorism as well, if the conditions of armed conflict are fulfilled. In this instance, terrorists would be treated as non-state actor belligerents and IHL would provide additional tools for states to fight them (including, allegedly, the right to imprison/kill them). While terrorism has led to conflicts and vice-versa, it is critical that the counter-terrorism legal framework does not undermine the ability of IHL actors to work on the ground.

Therefore, it is essential to foresee "humanitarian exemptions" in counter-terrorism legislation and to ensure that countries, while implementing counter-terrorism measures, fully comply with IHL. For instance, if the Wagner Group - which is structured as an organization - actively engaged in a conflict of a certain threshold, as it is currently doing in parts of Africa or in Ukraine, IHL could apply, including those provisions

on spreading terror among the population.¹ Potentially, however, IHL and the global counter-terrorism legal framework could also clash. For instance, according to IHL, an attack by belligerents on a military objective is legitimate, while it would be illegal and criminal according to the counter-terrorism legal framework. The lack of a globally agreed definition of terrorism at the international level does not help to draw a clear line between IHL and counter-terrorism legislation.



In the context of the conflict in Ukraine, which is the biggest ICRC operation ever (around EUR 329,000,000 last year), the ICRC assisted approx. 10 million people on both sides of the conflict. Among others, the ICRC provided extensive medical support to the local population and combatants, accessed POWs (likely thousands), visited over 1,500 prisoners and facilitated their exchange, helped the tracing of missing people, and promoted the return of the deceased to their families. The neutrality and impartiality of the ICRC in this complex and polarized context is key.

The Swiss Experience in addressing Terrorism and Violent Extremism



Within the premises of the **Federal Swiss Parliament** in Bern, the CCT delegation briefly met the President of the National Council, Mr. Martin Candinas, and subsequently compared notes with the **Federal Office of Police** and the **Federal Department of Foreign Affairs** on the latest trends and legislative efforts.

The authorities informed the delegation that, although Switzerland has never experienced a serious terror attack, the threats posed by lone actors, small groups and returnees in the country remain high. There have been no recorded attacks from right/left-wing extremists, and only a few from jihadists. Right-wing extremists have thus far only been punished for hate speech (around 260 cases so far).

The main goal of the Swiss counter-terrorism strategy is to protect Swiss citizens. The National Action Plan to Prevent and Counter Radicalization and Violent Extremism is key in this regard.

¹ Article 51 (2) of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977; Article 13 (2) of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.

All measures are taken to prevent uncontrolled entries of FTFs/terrorists into Switzerland, by cantonal and federal intelligence, police and prosecution authorities. Switzerland is committed to prosecuting all persons engaged in terrorist-motivated travel who return to Switzerland. Rehabilitation and reintegration measures are also implemented in line with the Action Plan, mostly at the community level.

The Swiss security architecture comprises the following actors at the federal level: the Federal Department of Justice and Police; the Federal Department of Finance; the Federal Department of Defence, Civil protection and Sports; and the Federal Department of Foreign Affairs. Switzerland has a three-layered security system, mirroring the structure of the state (Federal, Cantonal and Communities), for a total of 20,000 police officers. Subsidiarity is a key principle, with the lower-level actors/measures triggered first. Higher-level actors/measures are activated only if the lower-level ones prove ineffective.

The new Law on Preventive Counter-terrorism Police Measures completed the legal counter-terrorism framework by enabling police authorities to undertake preventive actions against possible terrorists. The new law was approved by referendum in June 2021 with a 56.5% majority. The rationale behind the new legislation is that the police should be allowed to act before a criminal act is committed, based on “concrete and current indications” of a terrorist threat. Mere assumptions and vague indications would not be enough to trigger the new measures. Ultimately, there has to be a reasonable probability that a terrorist activity will take place.

More specifically, the law foresees the following measures, which can be applied only by the Federal Police: 1) mandatory reporting; 2) contact bans; 3) confinement to or from an area; 4) travel bans (abroad); 5) mandatory talks with specialized professionals (allowing for regular risk assessments and facilitating possible disengagement); and 6) house arrest, which must be approved by a court, as a last resource in the most severe



cases and for a maximum of 3 months (which can be extended 3 times). All other measures are limited to a maximum of 6 months, with the possibility of extending them for a further 6 months. After that period, there must be new elements to justify a new measure. Electronic monitoring and mobile phone localization are used to monitor implementation of measures. If the above measures are violated, the person subject to the measures can be fined or imprisoned.

When questioned about possible human right concerns and discriminatory application of the new measures², which provide the police with far-reaching powers without prior judicial control and due process guarantees, the authorities explained that the new legislation actually foresees a number of legal safeguards. For instance, besides the right to be heard before any measure is applied, any person subject to a preventive measure can immediately appeal it before a federal (administrative) court, which can suspend its application. Ultimately, any discriminatory or arbitrary application of the new law would be sanctioned in court, possibly jeopardizing important convictions, hence it is in the direct interest of the police to apply all measures restrictively and in line with human rights standards.

In fact, each case and each measure are assessed individually, in close coordination with social and police authorities in local communities and cantons, and applied only if believed to be effective. These measures could also be used in case of intel pointing to a possible imminent attack.

According to long-standing legislation, Swiss authorities can also request to withdraw the citizenship of their nationals in case they participate in a terrorist network, and only if they possess dual citizenship, which is not uncommon in Switzerland. Hardly ever used in the past, this legislation proved rather effective in dealing with FTFs. The case needs to be brought before a local court (5 finished and 10 pending).

Working for a terrorist organization - which does not include disseminating its propaganda - is currently punished with a 10-year imprisonment sentence. Switzerland can also deport non-nationals to their home countries, for instance dangerous preachers and radicalized individuals (approx. 37 cases since 2015). Swiss authorities may also issue entry bans for foreign nationals who are deemed dangerous.

Owing to a strong reporting system on all financial transactions, the federal police may temporarily freeze suspicious transactions and pass the case over to federal prosecutors for further processing. There are approx. 24,000 reports per year of suspicious transactions, but not necessarily related to terrorism.

Approximately 90 Swiss nationals left the country as FTFs, while 8 Swiss nationals are currently held in custody in camps in Syria. Only a few children have been repatriated thus far, through rather complex operations launched upon childcare authorities' determinations and carried out if deemed in the best interest of the child.

² The new Law on Police Measures to Combat Terrorism has raised concerns domestically and has been criticized by some international NGOs. Amnesty International Switzerland, together with the NGO Platform Human Rights, an alliance of over 80 Swiss non-governmental organizations, has spoken out firmly against the Federal Act in a joint statement. Amnesty International called the Federal Act "draconian", "...providing Federal Police with far-reaching powers, mostly without prior judicial control and due process guarantees. The measures – including the use of foot shackles, no-contact orders, zone bans and preventive house arrest – risk violating the right to liberty and security of the person, the right to a fair trial and the rights of children. Many of the measures could be applied to children from 12 years of age. The World Organization Against Torture (OMCT) and the members of its global Torture and Terrorism Working Group have expressed concerns over the serious risk of arbitrariness such reforms could entail and the human rights violations their implementation could bring about, including breaches of the right to liberty and security of the person.

List of Participants:

- Mr. Reinhold Lopatka – Vice-President of the OSCE PA, Chair of the OSCE PA CCT (Austria)
- Ms. Vilija Aleknaitė-Abramikienė – Member of OSCE PA CCT (Lithuania)
- Mr. Ravshanbek Alimov – Member of OSCE PA CCT (Uzbekistan)
- Mr. Tsogbaatar Damdin – Member of OSCE PA CCT (Mongolia)
- Ms. Ida Glanzmann-Hunkeler – Member of OSCE PA CCT (Switzerland)
- Mr. Johannes Heiler – Adviser on Anti-Terrorism Issues, OSCE ODIHR
- Mr. Alex Tiersky – Senior Policy Advisor, U.S. Helsinki Commission
- Ms. Nadine Gabron – Staff of the Austrian Delegation to the OSCE PA
- Ms. Céline Nerny – Secretary of the Swiss Delegation to the OSCE PA
- Ms. Line Ariane Bühler – Staff of the Swiss Delegation to the OSCE PA
- Mr. Marco Bonabello – Senior Advisor, OSCE PA
- Mr. Sherif Abdili – Programme and Administrative Officer, OSCE PA