



# Global Migration POLICY BRIEF #1

## The Swiss Vote against Mass Immigration and International Law: A Preliminary Assessment

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On 9 February 2014, the Swiss population adopted a popular initiative aimed at stopping mass immigration. Though the text was adopted by a very slim majority of 50,34%, the consequences of the new constitutional provisions are straightforward. They require that immigration be restricted by means of quantitative limits and quotas.

The wording of the new article 121a of the Swiss Constitution is both vague and wide-ranging. Immigration quotas will apply to “any permission to remain delivered in accordance with the law on foreign nationals, including asylum” as well as “cross-border commuters”.<sup>1</sup> The quotas must be based on “the overall economic interests of Switzerland with due respect for the national preference” for Swiss citizens.<sup>2</sup> Article 121a of the Constitution further requires that “no international treaty contrary to this article will be concluded”, while existing treaties “shall be renegotiated and adapted within the time-limit of three years”.

For the time being, the new constitutional provisions are not directly applicable.<sup>3</sup> They entail the adoption of a new

legislation for the purpose of implementing them. Although the devil is in the detail, measures of implementation will be crucial for specifying the exact scope and limits of immigration quotas.

The purpose of this policy brief is to identify which treaties are in contradiction with the new article 121a of the Swiss Constitution. Though this survey is not exhaustive, no fewer than 58 treaties appear to be incompatible with immigration quotas.<sup>4</sup> While covering various fields of international law and relations, these treaties mainly concern three key areas:

- headquarter agreements concluded with international organizations;
- conventions governing refugee protection and
- treaties on the free movement of persons concluded with the European Union and the European Free Trade Association.

Of course, it is premature to conclude that Switzerland has violated these treaties since the new constitutional provisions require renegotiating and adapting them. It must be noted however that Switzerland's margin for manoeuvring is particularly thin and such negotiations are bound to be extremely difficult. In any event, according to the law of treaties, Switzerland cannot unilaterally revise or terminate a treaty except where this is provided for by the treaty in question and, in the absence of such possibility, any amendment must be approved by all States party to the treaty.<sup>5</sup> The following sections shall examine which treaties are contrary to immigration quotas and assess the different options for the Swiss authorities.

*Specialized Agencies* adopted on 21 November 1947.

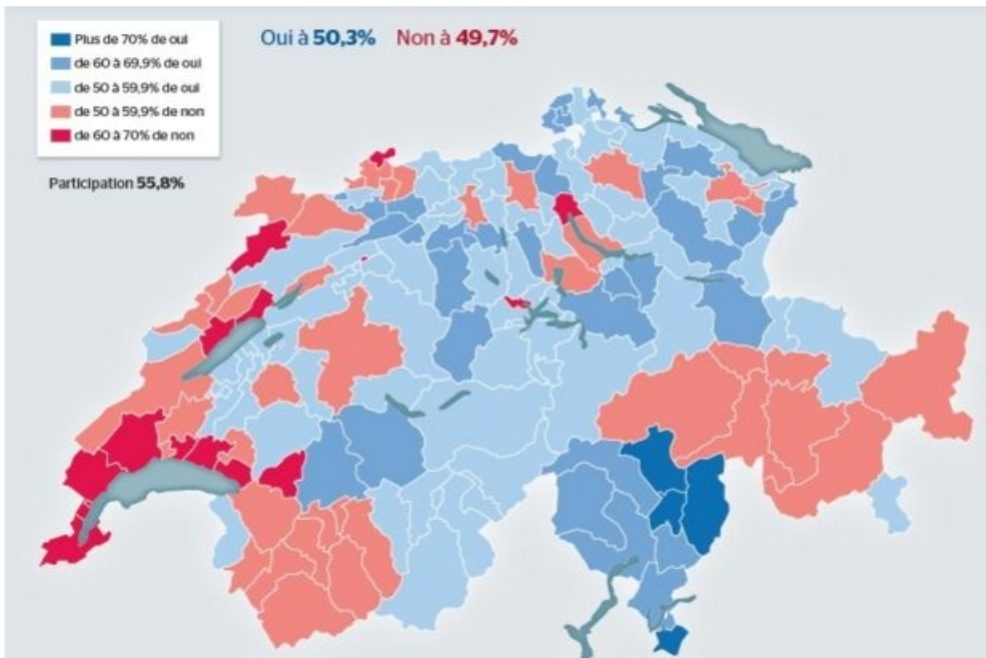
Furthermore, most UN agencies hosted by Switzerland have concluded headquarter agreements for the same purpose. This notably concerns the International Labour Organization, the World Meteorological Organization, the World Health Organization, the International Bureau of Education (UNESCO) and the World Intellectual Property Organization. These agreements recall that "the Swiss Authorities will adopt all measures necessary to facilitate the entry onto Swiss territory, the sojourn on this territory and the exit therefrom of all persons called upon in an official capacity". They further specify that "all measures

[...] aimed at restricting the entry into Switzerland of foreigners, or of controlling the conditions of their stay, will not be applicable".<sup>7</sup>

This clear-cut exemption from immigration quotas is not limited to UN agencies. The same provisions can be found in many agreements concluded with a broad variety of key actors, including the World Trade Organization, the International Committee of the Red Cross, the International Olympic Committee, the Bank for International Settlements, the Inter-Parliamentary Union, the European Organization for Nuclear Research (CERN) or the Geneva International Centre for Humanitarian Demining.<sup>8</sup> Besides

international institutions hosted by Switzerland, a similar exemption from immigration restriction applies to officials of many other organizations, such as the Council of Europe, the European Patent Organization and the Asian Development Bank.<sup>9</sup>

Overall, Switzerland has concluded 53 agreements with international organizations and other related bodies for the purpose of exempting their staff from quotas and immigration restrictions. Against such substantial number of treaties, Switzerland has only two alternatives:



Swiss vote against mass immigration: map of the 9 February vote results by districts.  
Image: I. Caudullo/P. Forney. Source: OFS

## 1. Introducing immigration quotas is contrary to all agreements concluded between Switzerland and international organizations

The *Agreement on Privileges and Immunities of the United Nations* concluded between the Swiss Federal Council and the UN Secretary-General on 19 April 1946 explicitly excludes any kind of immigration restrictions. According to its Article V section 15(d), "Officials of the United Nations shall [...] be immune, together with their spouses and relatives dependent on them from immigration restriction and alien registration".<sup>6</sup> This clause was restated in the *Convention on the Privileges and Immunities of the*

### **Option 1: The less probable option would be to renegotiate all these agreements.**

Such a course of action is still legally possible and even foreseen in most of these agreements. For instance, the 1946 *Agreement on Privileges and Immunities of the United Nations* provides that it can be modified only by agreement between the Secretary-General and the Swiss Federal Council. If agreement cannot be reached, the Secretary General or the Swiss Federal Council may denounce the whole of, or any section in, this treaty.

However, such eventuality would be particularly time-consuming and cost-intensive. Perhaps more importantly, it would drastically undermine the attractiveness and credibility of Switzerland as a host country of international organizations.

### **Option 2: The more probable option would be to interpret the new constitutional provisions as excluding these agreements from immigration quotas.**

Indeed, according to the text of the new article 121a, immigration quotas will be applicable to “any permission to remain delivered in accordance with the law on foreign nationals”. However, residence permission for officials of international organizations is not granted by virtue of the law on foreign nationals. Instead, they have been excluded from any rules or measures based on the Swiss legislation on foreigners. They are thus not covered by the new constitutional provisions. This literal interpretation of article 121a should be confirmed by the Swiss authorities in order to avoid any ambiguity about the scope and the limits of immigration quotas.

## **2. Introducing immigration quotas is contrary to the Geneva Convention relating to the Status of Refugees, the United Nations Convention against Torture and the European Convention of Human Rights**

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While article 121a of the Swiss Constitution says nothing about officials of international organizations, it explicitly includes asylum within the scope of immigration quotas. The new constitutional provision thus mixes up economic migrants with refugees in blatant contradiction with the

*United Nations Convention relating to the Status of Refugees.*

Granting asylum depends on the need for protection and cannot be subordinated to economic considerations. The self-declared objective to exclude so-called economic refugees is all but convincing.<sup>10</sup> In fact this would generate the exact opposite result since introducing quotas based on the economic interests of Switzerland would attract “economic refugees” at the detriment of “real refugees” in need of protection.

In any event, the new constitutional provisions cannot relieve Switzerland of its obligations arising from the principle of non-refoulement which prohibits removing an individual to a country of persecution, torture, inhumane or degrading treatment. This cardinal principle of refugee protection is based on article 33 of the Geneva Convention and reinforced by article 3 of the *United Nations Convention against Torture* and the *European Convention of Human Rights* as interpreted by the European Court.

The principle of non-refoulement is further endorsed by article 25 of the Swiss Constitution and this basic guarantee remains plainly applicable since the new constitutional provisions have not superseded it. Furthermore the principle of non-refoulement has been acknowledged by the Federal Council as a peremptory norm of general international law<sup>11</sup> and, according to the Swiss Constitution, peremptory norms cannot be violated by a popular initiative aimed at revising the Constitution.<sup>12</sup>

Against this legal framework, immigration quotas introduced by article 121a of the Swiss Constitution are inapplicable to foreigners who suffer persecution, torture, cruel, inhuman or degrading treatment in their own countries. As a result, the new constitutional provisions can only be applied in very specific circumstances, i.e. when there is no risk of persecution or other related mistreatment but the removal is still impossible for other reasons (such as material obstacle or health considerations). Even in such cases, it is difficult to see how immigration quotas can be implemented and in particular to what extent the economic interest of Switzerland can be accommodated with the existing legislation governing temporary admission.

One possible way of implementing the new constitutional provisions would be to introduce quotas for refugees who are not in Switzerland. Such resettlement schemes are implemented by several host countries in the European Union. Quite ironically, the possibility of requesting asylum abroad at a diplomatic mission has been suppressed by a popular vote in June 2013.<sup>13</sup> But here again, even if such a possibility is reintroduced in the Swiss legislation, this begs the question how economic considerations can be balanced with the need of protection for the purpose of implementing quotas.

### 3. Introducing immigration quotas is contrary to the Agreements on the Free Movement of Persons concluded with the European Community and the European Free Trade Association

The impact of the new constitutional provisions on these two agreements is the most complex issue. EU and EFTA citizens represent indeed around 66 percent of the total population of foreigners in Switzerland.<sup>14</sup>

and quotas for non-nationals) were possible up to 30 April 2011. Then, during a further three-year period, the safeguard clause could be invoked for the purpose of reintroducing quotas. According to this clause, Switzerland could unilaterally limit the number of new residence permits for employed and self-employed EU citizens to the average of the three preceding years plus 5%.<sup>15</sup> This possibility has been used twice in 2012 and 2013 by the Federal Council<sup>16</sup> with this transitional period set to end by 31 May 2014.<sup>17</sup>

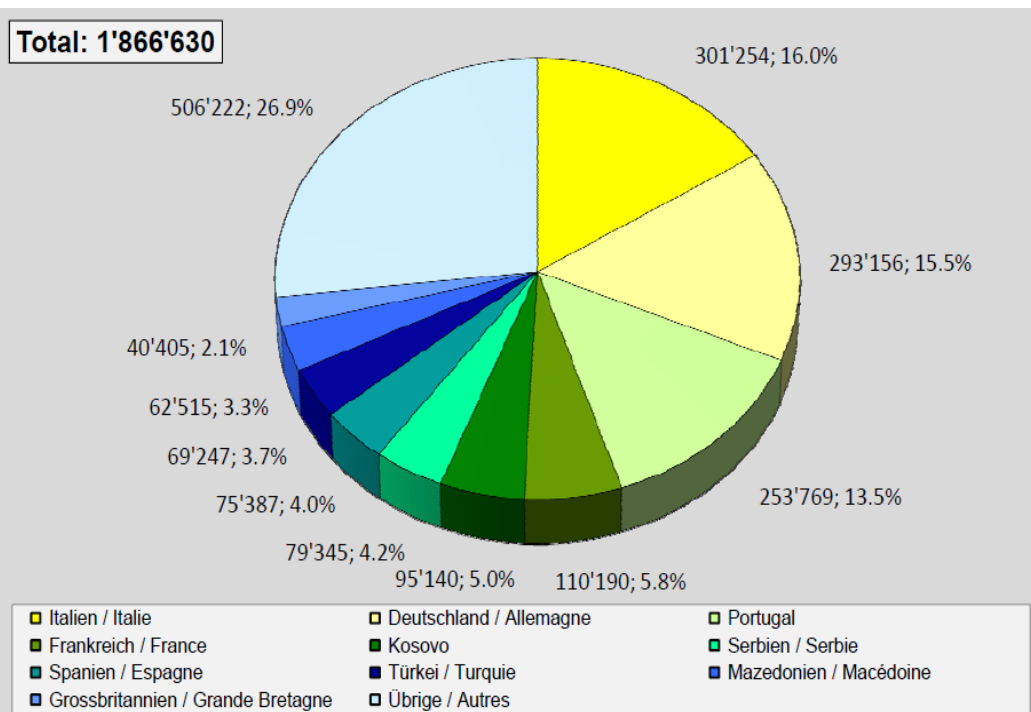
It is not difficult to see that the very purpose of the popular vote is to block the full realization of free movement once the transitional period is over. Swiss authorities have thus hardly any alternatives:

**Option 1: The new constitutional provisions could still be construed as excluding the free movement agreements from their scope.**

Though this option has not been discussed so far, nothing in the text of article 121a explicitly includes EU citizens within the scope of immigration quota. It is true however that the

new constitutional provisions are broad and inclusive as quotas concern “any permission to remain” and they include “cross-border commuters”.

One could however argue that, as a matter of principle, the Swiss Constitution must be interpreted in conformity with international law. Furthermore, the Swiss Federal Act on Foreign Nationals states that it applies to non-nationals “provided no other provisions of the federal law or international treaties concluded by Switzerland apply” (article 2(1)). Its article 2 further confirms that it applies only to the extent that the agreements



Number of foreign nationals permanently residing in Switzerland as of December 2013. Source: Federal Office for Migration.

Both agreements lay down transitional measures during which immigration can be restricted in two different manners. During the first transition period, limitations for access to the labour market (including priority to nationals

on free movement concluded with the European Community and the European Free Trade Association do not contain any different provisions.

Following this stance, immigration quotas would be limited to persons who are not citizens from Member States of the European Union and of the European Free Trade Association. Of course, such interpretation will be criticized as neutralizing the popular vote for the very purpose of maintaining the current applicable legislation. On the other hand one could reply that this was the price to pay for having submitted to a vote a particularly ambiguous text which has been finally approved by a very slim majority.

**Option 2: The second alternative would be to renegotiate the free movement agreements in order to maintain the safeguard clause, whether for an additional period of transition or as a permanent mechanism.**

The possibility of requesting a revision is explicitly provided by Article 18 of the bilateral agreement. However, negotiation will not be easy. It largely depends on the goodwill of the European Union since it is not obliged to accept an amendment in contradiction with existing treaties. The bargaining power of Switzerland is further undermined by its economic dependence vis-à-vis the European Union: around 60% of Swiss exports are done with EU member States.<sup>18</sup>

**Option 3: If negotiation fails, the European Community or Switzerland may terminate the agreement on free movement by notifying its decision to the other Party. This can be done even in the absence of negotiations.<sup>19</sup>**

The consequences of such unilateral denunciation will be particularly drastic for Switzerland. It will impact many other areas of cooperation largely beyond the issue of free movement.

According to the “guillotine clause” contained in article 25(4), termination of the agreement on free movement will automatically trigger, within six months of its notification, the termination of the six other agreements concluded with the European Union. These agreements concern a broad range of different fields, such as agricultural products, air transport, road and rail carriage of passengers and goods, government procurement, as well as scientific and technological cooperation. Moreover, Swiss citizens would no longer benefit from free movement within the European Union.

One should further stress that even the radical option of terminating the free movement agreement will not be totally in line with the new constitutional provisions. Indeed termination of a treaty is only valid for the future. Article 23 of the agreement further restates that its termination shall not affect the rights acquired by private individuals during the previous application of the free movement agreement. This means in substance that both EU and Swiss citizens already settled in the territory of the other Contracting Party are still protected despite the termination of the agreement.<sup>20</sup>

## Conclusion

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The popular initiative aimed at introducing immigration quotas has put Switzerland in a very difficult position. It will not only impact a broad range of treaties that Switzerland has ratified, but also the country’s political and economic stance generally. The ambiguity of the text submitted to popular vote was probably the main reason behind its approval by a slim majority. The adoption of a new legislation to implement article 121a of the Swiss Constitution will be thus critical for clarifying the exact scope and limits of immigration quotas. However the alternatives available to Switzerland are few. Needless to say, any choice between the different options open to Switzerland will be, above all, highly political. Against such a complex background, a new vote on a more precise text could even become a realistic alternative.

## Notes

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<sup>1</sup> This is a free translation of the author based on the French version of the new constitutional text.

<sup>2</sup> Article 121a adds that the criteria for granting permissions to remain notably include a request from an employer, the integration capacity of foreigners as well as a sufficient and independent source of income.

<sup>3</sup> The only exception concerns the prohibition of concluding new treaties which are in contradiction with article 121a. Few days after the vote, Switzerland has refused to sign the Protocol on free movement with Croatia.

<sup>4</sup> All treaties mentioned in this policy brief are listed in annex.

<sup>5</sup> Article 54 of the Vienna Convention on the Law of Treaties. This does not prejudice the obligations of States under international customary law. For an overview see: V. Chetail, "The Transnational Movement of Persons under General International Law: Mapping the Customary Law Foundations of International Migration Law" in: V. Chetail & C. Bauloz (eds), *Research Handbook on International Law and Migration*, Cheltenham: Edward Elgar Publishing, 2014, pp. 1-74.

<sup>6</sup> This agreement applies by analogy to the Universal Postal Union and to the International Organization for Migration. The same clause has been inserted in other agreements concluded with the International Telecommunication Union, the Intergovernmental Organization for International Carriage by Rail and the International Federation of Red Cross and Red Crescent Societies.

<sup>7</sup> Agreement between the Swiss Federal Council and the World Meteorological Organization to govern the legal status of this Organization in Switzerland, article 14. See in annex the list of the other relevant treaties concluded with the above mentioned UN agencies.

<sup>8</sup> A similar provision can be found in other agreements concluded with the following institutions: Advisory Centre on WTO Law, the OSCE Court of Conciliation and Arbitration, Centre Sud, Global Alliance for Vaccines and Immunization, International Civil Defence Organization, International Union for the Protection of New Varieties of Plants.

<sup>9</sup> This also concerns the African Development Bank, the Organisation for the Exploitation of Meteorological Satellites, the European Organisation for Astronomical Research in the Southern Hemisphere, the European Centre for Medium-Range Weather Forecasts, the Organisation for the Prohibition of Chemical Weapons, the European Committee for the Prevention of Torture

and Inhuman or Degrading Treatment or Punishment, the International Criminal Court, INTELSAT, the European Telecommunications Satellite Organization, the International Mobile Satellite Organization, the Common Fund for Commodities, the Inter-American Development Bank and the International Atomic Energy Agency.

<sup>10</sup> *Argumentaire: Initiative populaire 'contre l'immigration de masse'*, Comité interpartis contre l'immigration de masse, 17 décembre 2013, p. 40.

<sup>11</sup> Conseil fédéral, *Message concernant les initiatives populaires "pour une politique d'asile raisonnable" et "contre l'immigration clandestine"*, 22 Juin 1994, FF 1994 III 1471, p. 1486 ; *Message relatif à une nouvelle constitution fédérale*, 20 novembre 1996, FF 1997 I 369, pp. 441 et 454 ; *Message relatif à l'initiative populaire "contre l'immigration de masse"*, 7 décembre 2012, FF 2013 279, p. 287.

<sup>12</sup> Article 194(2) of the Swiss Constitution. See also Article 139(3) and Article 193(4).

<sup>13</sup> Federal Act of 28 Sept 2012 (Emergency Amendments to the Asylum Act), with effect from 29 Sept. 2012 to 28 Sept. 2015 (AS 2012 5359; BBI 2010 4455, 2011 7325).

<sup>14</sup> *Statistique des étrangers à fin décembre 2013*, Office fédéral des migrations, 2013.

<sup>15</sup> According to article 10(4) of the bilateral agreement, the safeguard clause can be used only if the number of residence permits in a given year exceeds the average for the three preceding years by more than 10%.

<sup>16</sup> RO 2012 2391 ; RO 2013 1247 ; RO 2013 1443.

<sup>17</sup> For Bulgaria and Romania which joined the EU in 2007, the first transitional period can run up to 31 May 2016 and the safeguard clause can be invoked until 31 May 2019.

<sup>18</sup> *Foreign trade – Indicators: Balance of Trade*, Swiss Confederation, 2012. Economists are used to acknowledge that trade has been the key to prosperity in Switzerland. Exports account for 50% of its GDP:

<http://www.tradingeconomics.com/switzerland/exports>

<sup>19</sup> Article 25(3) of the Agreements on the Free Movement of Persons.

<sup>20</sup> Article 23 further provides that the EU and Switzerland shall then settle by mutual agreement what action is to be taken in respect of acquired rights.

## ANNEX

### List of Treaties

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#### 1. Agreements concluded with International Organizations

##### United Nations System

###### ILO

Agreement between the Swiss Federal Council and the International Labour Organization concerning the legal status of the International Labour Organization in Switzerland, 11 March 1946 (RS 0.192.120.282), article 14.

Arrangement for the execution of the Agreement between the Swiss Federal Council and the International Labour Organization concerning the legal status of the International Labour Organization in Switzerland, 11 March 1946 (15 UNTS 377), article 7.

###### UN

Agreement on privileges and immunities of the United Nations concluded between the Swiss Federal Council and the Secretary-General of the United Nations (SR 0.192.120.1), article IV, section 9 (d) and article V, section 15 (d).

Convention on the Privileges and Immunities of the Specialized Agencies, 21 November 1947 (33 UNTS 261), articles V, section 13 (d) and VI, section 19 (e).

###### IBE/UNESCO

Agreement between the United Nations Educational, Scientific and Cultural Organization and the Swiss Government by exchange of letter, 1 January 1969 (RS 0.192.120.241).

###### UPU

Exchange of letters between Switzerland and the Universal Postal Union concerning the legal status of the Universal Postal Union in Switzerland, 5 February / 22 April 1948 (SR 0.192.120.278.3).

###### WHO

Agreement between the Swiss Federal Council and the World Health Organization concerning the legal status of the World Health Organization and Arrangement for the

execution of the said Agreement, approved by the First World Health Assembly on 17 July 1948 and by the Swiss Federal Council on 21 August 1948, and an Exchange of Notes relating to the entry into force of the Agreement and Arrangement (SR 0.192.120.281), article 14.

###### WMO

Agreement between the Swiss Federal Council and the World Meteorological Organization to govern the legal status of this Organization in Switzerland, 10 March 1955 (SR 0.192.120.242), article 14.

Plan of execution of the agreement concluded between the Swiss Federal Council and the World Meteorological Organization to govern the legal status of this organization in Switzerland, 10 March 1955 (SR 0.192.120.242.1), article 5.

###### WIPO

Agreement between the Swiss Federal Council and the World Intellectual Property Organization to govern the legal status of this Organization in Switzerland, 9 December 1970 (SR 0.192.122.23), articles 12, 13 (f) et 16(b).

###### ITU

Agreement between the Swiss Federal Council and the International Telecommunication Union concerning the legal status of that organization in Switzerland, 22 July 1971 (RS 0.192.120.278.41), articles 12, para. 1 (c), 16(b), 17 (a) and 18.

##### Other organizations

###### IOM

Exchange of letters of 7 April/3 May 1954 concerning the legal status of the Intergovernmental Committee for European Migration in Switzerland (RS 0.192.122.953).

###### CERN

Agreement between the Swiss Federal Council and the European Organization for Nuclear Research concerning the legal status of that organization in Switzerland, 11 June 1955 (RS 0.192.122.42), articles 12, 14, para. 1(d) and 17 (c).

###### EFTA

Agreement between the Swiss Federal Council and the European Free Trade Association concerning the legal

status of that association in Switzerland, 10 August 1961 (RS 0.192.122.632.3), articles 11 and 17 (c).

### **IPU**

Agreement between the Swiss Federal Council and the Inter-Parliamentary Union to settle the legal status of the Inter-Parliamentary Union in Switzerland, 28 September 1971 (RS 0.192.121.71), articles 6 and 8 (e).

### **ICDO**

Agreement regarding the legal status in Switzerland of the International Civil Defence Organization, 10 March 1976 (RS CC 0.192.122.52), articles 15 (b) and 16.

### **UPOV**

Agreement between the Swiss Federal Council and the International Union for the Protection of New Varieties of Plants to settle the legal status of this Union in Switzerland of, 17 November 1983 (RS 0.192.122.25), articles 12, 13 (f) and 16 (b).

### **BIS**

Agreement between the Swiss Federal Council and the Bank for International Settlements to determine the Bank's legal status in Switzerland, 10 February 1987 as amended by exchange of letters of 18 December 2002/13 January 2003 (RS 0.192.122.971.3), articles 12 (e) and 15 (b).

### **OTIF**

Agreement between the Swiss Federal Council and the Intergovernmental Organization for International Carriage by Rail to settle the legal status of this organization in Switzerland, 10 February 1988 (RS 0.192.122.742), articles 12 (e) and 15 (b).

### **International Committee of the Red Cross**

Agreement between the International Committee of the Red Cross and the Swiss Federal Council to determine the legal status of the Committee in Switzerland, 19 March 1993 (RS 0.192.122.50), articles 12 (b) and 16.

### **WTO**

Agreement between the Swiss Confederation and the World Trade Organization concerning the legal status of that organization in Switzerland, 2 June 1995 (RS 0.192.122.632), articles 26, 29, para. 1 (e), 33 (a), 35 (c) and 39.

### **International Federation of Red Cross and Red Crescent Societies**

Agreement between the Swiss Federal Council and the International Federation of Red Cross and Red Crescent Societies to settle the legal status of that Federation on Switzerland, 29 November 1996 (RS 0.192.122.51), articles 15 (c), 17 (b), 20 (c) and 23.

### **Centre Sud**

Agreement between the Swiss Confederation and the Centre Sud to settle the legal status of the Centre in Switzerland, 20 March 1997 (RS 0.192.122.972.11), articles 13, para. 1 (e), 16 (b), 19 (c) and 22.

### **Court of Conciliation and Arbitration within the OSCE**

Agreement between the Swiss Federal Council and the States Parties to the Convention on Conciliation and Arbitration within the OSCE to settle the legal status in Switzerland of the Court of Conciliation and Arbitration within the OSCE, 17 November 1997 (RS 0.192.120.193.1), articles 17 (c), 19 (c) and 22.

### **Advisory Centre on WTO Law**

Agreement between the Swiss Federal Council and the Advisory Centre on WTO Law to determine the legal status of the Centre in Switzerland, 18 October 2001 (RS 0.192.122.632.12), articles 13, para. 1 (e), 16 (b), 17 (c), 20 (c) and 23.

### **Geneva International Centre for Humanitarian Demining**

Agreement between the Swiss Federal Council and the Geneva International Centre for Humanitarian Demining concerning the legal status of the Centre in Switzerland, 25 February 2003 (RS 0.192.122.53), articles 8, para. 1 and 10.

### **Global Fund to Fight Aids, Tuberculosis and Malaria**

Agreement between the Swiss Federal Council and the Global Fund to Fight Aids, Tuberculosis and Malaria to determine the legal status of the Fund in Switzerland, 13 December 2004 (RS 0.192.122.818.11), articles 13, para. 1 (e), 16 (b), 19 (c), and 22.

### **GAVI**

Agreement between the Swiss Federal Council and Global Alliance for Vaccines and Immunization to determine the legal status of GAVI Alliance in Switzerland, 23 June 2009



(RS 0.192.122.818.12), articles 13, para. 1 (e), 16 (b), 19 (c), and 22.

### **Drugs for Neglected Diseases initiative**

Agreement between the Swiss Federal Council and Drugs for Neglected Diseases initiative concerning the privileges and immunities of DNDi in Switzerland, 9 December 2010 (RS 0.192.122.818.13), article 6.

### **Foundation for Innovative New Diagnostics**

Agreement between the Swiss Federal Council and Foundation for Innovative New Diagnostics concerning the privileges and immunities of FIND in Switzerland, 9 December 2010 (RS 0.192.122.818.15), article 6.

### **Medicines for Malaria Venture**

Agreement between the Swiss Federal Council and Medicines for Malaria Venture concerning the privileges and immunities of MMV in Switzerland, 9 December 2010 (RS 0.192.122.818.14), article 6.

### **GAIN**

Agreement between the Swiss Federal Council and Global Alliance for Improved Nutrition concerning the privileges and immunities of GAIN in Switzerland, 16 December 2010 of 16 December 2010 (RS 0.192.122.818.16), article 6.

### **CIO**

Agreement between the Swiss Federal Council and the International Olympic Committee concerning the legal status of the Committee in Switzerland, 1 November 2000 (RS 0.192.122.415.1), articles 7 and 9.

### **International Atomic Energy Agency**

Agreement on the privileges and immunities of the International Atomic Energy Agency, 1 July 1959 (374 UNTS 148), article V, section 12 (d), article VI, section 18 (d) (iii) and article IX.

### **Council of Europe**

General agreement on privileges and immunities of the Council of Europe, 2 September 1949 (CETS No. 002), articles 9 (d) and 18 (c).

Second Protocol to the general agreement on Privileges and immunities of the Council of Europe, 15 December 1956 (CETS No. 022), article 1 (c).

Fourth Protocol to the general agreement on privileges and

immunities of the Council of Europe, 16 December 1961 (CETS No. 036), article 2 (b).

### **European Patent Organization**

Protocol on privileges and immunities of the European Patent Organization (Protocol on Privileges and Immunities), 5 October 1973 (1065 UNTS 500), articles 11, 12 (e) and 14 (d).

### **European Organization for the Exploitation of Meteorological Satellites**

Protocol on the privileges and immunities of the European Organization for the Exploitation of Meteorological Satellites (EUMETSAT), 1 December 1986 (1522 UNTS 162),

### **European Organization for Astronomical Research in the Southern Hemisphere**

Protocol on the privileges and immunities of the European Organization for Astronomical Research in the Southern Hemisphere, 12 July 1974 (1001 UNTS 205), article 17 (c).

### **European Centre for Medium-Range Weather Forecasts**

Protocol on the privileges and immunities of the European Centre for Medium-Range Weather Forecasts, 11 October 1973 (1000 UNTS 32), articles 11, 12 (d), and 13 (d).

### **Organization for the Prohibition of Chemical Weapons**

Agreement between the Swiss Federal Council and the Organization for the Prohibition of Chemical Weapons on the privileges and immunities of the OPCW, 20 July 2005 (RS 0.192.110.951.5), articles 5, para. 1 (e), 6, para. 2 (e) and 9.

### **CPT**

European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 26 November 1987 (CETS No. 126), articles 8, para. 2 (a) and 16, para. 2 (b).

### **ICC**

Agreement on the privileges and immunities of the International Criminal Court, 9 September 2002 (2271 UNTS 3), articles 13, para. 1 (e), 16, para. 1 (f), 18, para. 1 (e), 20, para. 1 (d), 21, para. 1 (h).

### **INTELSAT**

Protocol on INTELSAT privileges, exemptions and

immunities, 19 May 1978 (RS 0.192.110.978.4), articles 7, para. 1 (d), 8 para. 1 (c) and 8, para. 2 (b).

### **EUTELSAT**

Protocol on the privileges and immunities of the European Telecommunications Satellite Organization (EUTELSAT), 13 February 1987 (1512 UNTS 23), articles 7, para. 1 (d), 8, para. 1 (c), 9, para. 1 (d), 11, para. 1 (d) and 15.

### **IMSO**

Protocol on the Privileges and Immunities of the International Mobile Satellite Organization, 1 December 1981 (RS 0.192.110.978.47), articles 7, para. 1 (d), 9, para. 1 (d), and 10, para. 1 (d).

### **Common Fund for Commodities**

Agreement establishing the Common Fund for Commodities, 27 June 1980 (1538 UNTS 3), article 47 (b).

### **African Development Bank**

Agreement establishing the African Development Bank, 7 May 1982 (1276 UNTS 3), article 56 (ii).

### **IABD**

Agreement establishing the Inter-American Development Bank, 8 April 1959 (OAS Treaty Series No. 14), article IX, section 8 (b) and (c).

Agreement establishing the Inter-American Investment Corporation, 19 November 1984 (RS 0.972.42), article VII, section 8 (b) and (c).

### **ADB**

Agreement establishing the Asian Development Bank, 4 December 1965 (571 UNTS 123), article 55 (ii) and (iii).

Exchange of letters of 23 July/11 August 1971 between the Federal Political Department and the Asian Development Bank concerning the Bank's office in Zurich (RS 0.192.122.975), paras. 1 and 2.

## **2. Human Rights Treaties**

### **1950 ECHR**

Convention for the Protection of Human Rights and Fundamental Freedoms, 4 November 1950 (CETS No. 005), article 3.

### **1951 Refugee Convention**

Convention relating to the Status of Refugees, 28 July 1951 (189 UNTS 137), articles 1, 31 and 33, as amended by its Protocol of 31 January 1967 (606 UNTS 267).

### **1984 CAT**

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984 (1465 UNTS 85), article 3.

## **3. Free Movement Agreements**

### **EU Agreement**

Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, OJ L 114/6, 30.04.2002, articles 4, 5 and 10 mainly, and Annex I.

### **EFTA Agreement**

Convention establishing the European Free Trade Association, 4 January 1960 (370 UNTS 3), article 20.

## **About the Global Migration Centre**

The Global Migration Centre (GMC) based at the Graduate Institute of International and Development Studies offers a unique interface between academia and the international community. The GMC conducts advanced research, policy-relevant expertise and training on the multifaceted causes and consequences of global migration.

The major distinctive features and assets of the GMC are its focus on the transnational dimensions of migration and its interdisciplinary orientation. By doing so the GMC seeks to fully grasp the complexities of mobility in a globalized world. To this end, it combines inputs from lawyers, political scientists, economists, historians, anthropologists and sociologists.

While its primary function is to lead policy and academic research, the GMC also aims to influence the direction of future practices and norms through dissemination and training. It regularly organizes summer courses, international conferences, lectures and panel discussions.



### **GLOBAL MIGRATION CENTRE**

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