



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Federal Department of Foreign Affairs FDFA

Directorate of Political Affairs DP

Political Affairs Division IV – Human Security:
Peace, Human Rights, Humanitarian Policy, Migration
Human Rights Policy Section
Desk Human Security and Business

Fact Sheet

International Code of Conduct for Private Security Service Providers (ICoC)

November 2011



Académie de droit international humanitaire
et de droits humains à Genève
Geneva academy of international humanitarian law
and human rights



THE GRADUATE INSTITUTE | GENEVA
GRADUATE INSTITUTE OF INTERNATIONAL
AND DEVELOPMENT STUDIES

I. Background information

The increased use of private actors to provide security and military services poses significant challenges to existing oversight and accountability mechanisms within the industry concerned. These service providers offer many services relevant for the protection of and respect for human rights, whether these be military, security, contingency or intelligence services. As part of its ongoing efforts to promote respect for international law and standards by private service providers, the Swiss government has supported initiatives that aim to both clarify international standards for the industry, as well as to improve oversight and accountability of the industry. Since the “Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict” (Montreux Document) was finalised in September 2008, it has succeeded in establishing itself as a reference text with regard to private contractors. The process has also encouraged members of the private contractor industry to reflect intensively on their role and the positive contribution they could make regarding the respect for international humanitarian law and human rights standards. Consequently, the industry embarked on a process to take standard-setting and oversight further by developing an International Code of Conduct (ICoC) for their services.

II. The process so far

To be effective, such an international industry standard needed to be based on international humanitarian and human rights law, developed through a transparent and inclusive multi-stakeholder process, and overseen by an independent institution with sufficient means to hold those who violate the standards accountable. After a series of workshops with different stakeholders culminating in a Wilton Park Conference in June 2009, substantial agreement was reached on the need for, and general structure of the International Code of Conduct. Following this commitment, a draft of the ICoC was developed by members of the private security industry in cooperation with the Swiss Department of Foreign Affairs and facilitation by the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and the Geneva Academy of International Humanitarian Law and Human Rights (ADH). In a series of multi-stakeholder workshops the final version of the ICoC was agreed upon at the multi-stakeholder conference at the end of September 2010. Representatives of private security companies, industry associations, the governments of various countries including the USA, UK, Canada, as well as humanitarian and non-governmental organisations participated in the discussion facilitated by the Swiss government. The ICoC articulates principles for private service providers in accordance with international humanitarian law and international human rights standards. It also sets the foundation for a second phase of standard-setting, implementation and institution building, including the development of a global institution that will provide meaningful and independent oversight of and effective accountability to the ICoC.

The signatory ceremony took place on 9 November 2010 in Geneva, Switzerland. 58 private security providers signed the ICoC at the event and others stated their interest in doing so in the future. By 1 October 2011, the number of Signatory Companies had risen to 211, with the Swiss government still receiving new applications

While the ICoC is only open for signature by private security service providers, governments and non-state clients, such as humanitarian organizations, international organizations and private companies, have made supportive policy statements, with some committing themselves to require adherence to the code as a precondition for future service contracts with private security. Further, as a statement of the good principles that private security companies should be striving towards, the ICoC is now frequently referred to in national and international fora regarding its role in helping to provide better oversight of the industry. It has also become an important source document, used by a wide range of organizations, governments and associations as they set national and international standards formulate procurement policies or draft legislation.

III. Looking forwards

The setting of industry principles and standards firmly based on international human rights and humanitarian law principles provides several opportunities. By setting a high bar, such standards can have an immediate effect on corporate practices, such as on due diligence performance in selecting personnel and in serving clients. The ICoC also sets the bar against which provision of services and management practices will be measured, and from which meaningful and independent oversight and effective means of accountability of its members will be developed. Furthermore, clients of private security providers can require in their contracts that services be performed in accordance with the ICoC. Setting clear guidelines and standards for the selection and training of industry personnel, as well as for the manner in which services are provided, will have a preventative effect, helping to head off potential violations before they arise.

However, such measures are not enough to support effective oversight and accountability of private security activities. Indeed, the industry itself has asserted that the ICoC will only be effective insofar as it can be independently and effectively enforced. Accordingly, signatory companies have committed to work with other stakeholders to, within 18 months, establish external independent mechanisms for effective governance and oversight. At a minimum, these mechanisms will include certification of companies' compliance, auditing and monitoring of their work in the field, including reporting, and a mechanism to address alleged violations of the code.

Responding to this, the second phase of standard-setting, implementation and institution-building has commenced with the creation of a multi-stakeholder Steering Committee, tasked with developing and documenting the initial arrangements for the independent governance and oversight mechanism. The Steering Committee has since then held multiple meetings and, after the release of a work plan in March 2011 and consultation with multi-stakeholder Working Groups, has started to develop a proposed draft charter for the independent governance and oversight mechanism. This draft will be released for comment by the beginning of 2012 with the aim of setting up the institution by the middle of 2012. The ICoC will not be complete until oversight and governance mechanisms and effective accountability mechanisms are developed, as well as implementing and enforcing such measurable standards against participating companies.

As a non-state mechanism, the ICoC is supplementary to any national governmental measures, encouraging member compliance and offering an additional facility through which companies can be held accountable, potentially including redress for victims. In places where there is little or no governmental authority it might provide the only means of recourse. Ultimately, accountability for private service providers is a win-win situation for both the industry and for society at large.

The Code's website – www.icoc-psp.org – has been established as a portal for sharing information on the ICoC. It is regularly updated and contains not only the latest list of Signatory Companies, but also more detail on the ICoC process generally, minutes of Steering Committee and Working Group meetings and relevant documents.

DCAF - Privatisation of Security Programme

In response to the growing role of private service providers as a significant component of the security sector, DCAF has created the Privatisation of Security Programme. Within this framework, DCAF has undertaken a number of activities aimed at ensuring democratic accountability of the industry, transparency in their activities and development of viable international and domestic regulations. In collaboration with national parliaments and governments and international organisations such as the UN Working Group on the use of Mercenaries, the Parliamentary Assembly of the Council of Europe, and the Swiss Department of Foreign Affairs, DCAF engages in a variety of research and policy activities, including undertaking policy studies, expert consultations, capacity building and dissemination.

Further contacts: Anne-Marie Buzatu, Project Coordinator
+41 22 741 7781 | a.buzatu@dcaf.ch | www.dcaf.ch

Geneva Academy of International Humanitarian Law and Human Rights

The Geneva Academy of International Humanitarian Law and Human Rights (ADH) engages in research and teaching in all branches of international law related to armed conflict. With expertise in the legal roles and responsibilities of non-state actors, including private service providers, the Academy contributes its specialist knowledge in the process of developing and implementing legal instruments and standards, including the ICoC. The Academy's work on this issue draws on expertise developed in connection with its Master's programme on international humanitarian law and the work of its other research projects on the rule of law in armed conflicts and human rights law and policy.

Further contacts: Andrew Clapham, Professor
+41 22 908 5806 | andrew.clapham@graduateinstitute.ch | | www.adh-geneva.ch

Federal Department of Foreign Affairs (Switzerland) / Desk Human Security and Business

The promotion of peace and human rights and the provision of a sustainable socio-economic order is the responsibility of the state. Switzerland therefore regards dialogue with non-state actors with a specific impact on human rights, such as corporations in general and private security providers in particular, and their integration into peace and human rights policies as an important form of co-operation. With a specific focus on conflicts the Political Affairs Division IV (Human Security) is therefore constantly working together with representatives of the private sector, civil society and governments to develop methods and instruments aimed at minimising the negative influences of business activities on the course of conflicts, and promoting ways in which they can have a positive impact.

Further contacts: Rémy Friedmann, Desk Human Security and Business
+41 31 325 87 73 | remy.friedmann@eda.admin.ch | www.eda.admin.ch