

[Source: “Agreement between the International Committee of the Red Cross and the Swiss Federal Council”, *IRRC*, No. 293, 1993, pp. 152-160; footnotes omitted]

## **Agreement between the International Committee of the Red Cross and the Swiss Federal Council to determine the legal status of the Committee in Switzerland**

The International Committee of the Red Cross, on the one hand, and the Swiss Federal Council, on the other,

wishing to determine the legal status of the Committee in Switzerland and, to that end, to regulate their relations in a headquarters agreement,

have agreed on the following provisions:

### **I. Status, privileges and immunities of the ICRC**

#### **Article 1. Personality**

The Federal Council recognizes the international juridical personality and the legal capacity in Switzerland of the International Committee of the Red Cross (hereinafter referred to as the Committee or the ICRC), whose functions are laid down in the Geneva Conventions of 1949 and the Additional Protocols of 1977 and in the Statutes of the International Red Cross and Red Crescent Movement.

#### **Article 2. Freedom of action of the ICRC**

The Swiss Federal Council guarantees the ICRC independence and freedom of action.

#### **Article 3. Inviolability of premises**

The buildings or parts of buildings and the adjoining ground used for the purposes of the ICRC, by whomsoever they may be owned, shall be inviolable. No agent of the Swiss public authority may enter them without the express consent of the Committee. Only the President or his duly authorized representative shall be competent to waive this right of inviolability.

#### **Article 4. Inviolability of archives**

The archives of the ICRC and, in general, all documents and data media belonging to it or in its possession shall be inviolable at all times, wherever they may be.

#### **Article 5. Immunity from legal process and execution**

1. In the conduct of its business, the ICRC shall enjoy immunity from legal process and execution, except:
  - a. in so far as this immunity is formally waived, in a specific case, by the President of the ICRC or his duly authorized representative;
  - b. in respect of civil liability proceedings brought against the ICRC for damage caused by any vehicle belonging to it or circulating on its behalf;
  - c. in respect of a dispute, on relations of service, between the Committee and its staff, former staff or their rightful claimants;
  - d. in respect of seizure, by court order, of salaries, wages and other emoluments owed by the ICRC to a member of its staff;
  - e. in respect of a dispute between the ICRC and the pension fund or provident fund referred to in Article 10, paragraph 1, of the present agreement;
  - f. in respect of a counter-claim directly related to principal proceedings brought by the ICRC; and
  - g. in respect of execution of a settlement by arbitration pursuant to Article 22 of the present agreement.
2. The buildings or parts of buildings, the adjoining ground and the assets owned by the ICRC or used by it for its purposes, wherever they may be and by whomsoever they may be held, shall be immune from any measure of execution, expropriation or requisition.

#### **Article 6. Fiscal position**

1. The ICRC, its assets, income and other property shall be exempt from direct federal, cantonal and communal taxation. With regard to immovable property, however, such exemption shall apply only to that which is owned by the Committee and which is occupied by its services, and to income derived therefrom.
2. The ICRC shall be exempt from indirect federal, cantonal and communal taxation. Exemption from federal purchase tax shall be granted only for purchases intended for the official use of the Committee, and in so far as the amount invoiced for one same and single purchase exceeds five hundred Swiss francs.
3. The ICRC shall be exempt from all federal, cantonal and communal charges which do not represent charges for specific services rendered.
4. If necessary, the exemptions mentioned above may be applied by way of reimbursement at the request of the ICRC and in accordance with a procedure to be determined by the ICRC and the competent Swiss authorities.

#### **Article 7. Customs position**

The customs clearance of articles intended for the official use of the ICRC shall be governed by the Ordinance of 13 November 1985 on the customs privileges of international organizations, of the States in their relations with such organizations and of special Missions of foreign States.

#### **Article 8. Free disposal of funds**

The Committee may receive, hold, convert and transfer funds of any kind, gold, any currency, specie and other securities, and may dispose of them freely both within Switzerland and in its relations with other countries.

#### **Article 9. Communications**

1. The ICRC shall enjoy for its official communications treatment not less favourable than that accorded to the international organizations in Switzerland, to the extent compatible with the International Telecommunication Convention of 6 November 1982.
2. The ICRC shall have the right to dispatch and receive its correspondence, including data media, by duly identified courier or bags which shall have the same privileges and immunities as diplomatic couriers and bags.
3. No censorship shall be applied to the duly authenticated official correspondence and other official communications of the ICRC.
4. Operation of telecommunication installations must be coordinated from the technical standpoint with the Swiss PTT [*Post, Telegraph and Telephones*].

#### **Article 10. Pension fund**

1. Any pension fund or provident fund established by the ICRC and officially operating on behalf of the President, the members of the Committee or ICRC staff shall, with or without separate legal status, be accorded the same exemptions, privileges and immunities as the ICRC itself with regard to its movable property.
2. Funds and foundations, with or without separate legal status, administered under the auspices of the ICRC and devoted to its official purposes, shall be given the benefit of the same exemptions, privileges and immunities as the ICRC itself with regard to their movable property. Funds set up after the entry into force of the present agreement shall enjoy the same privileges and immunities, subject to the agreement of the competent Federal authorities.

### **II. Privileges and immunities granted to persons serving the ICRC in an official capacity**

#### **Article 11. Privileges and immunities granted to the President and the members of the Committee and to ICRC staff and experts**

The President and the members of the Committee, and ICRC staff and experts, irrespective of nationality, shall enjoy the following privileges and immunities:

1. immunity from legal process, even when they are no longer in office, in respect of words spoken or written and acts performed in the exercise of their functions;
2. inviolability for all papers and documents.

#### **Article 12. Privileges and immunities granted to staff not of Swiss nationality**

In addition to the privileges and immunities mentioned in Article 11, ICRC staff who are not of Swiss nationality shall:

- a. be exempt from national service obligations in Switzerland;
- b. be immune, together with their spouses and relatives dependent on them, from immigration restrictions and aliens' registration;
- c. be accorded the same privileges in respect of exchange and transfer facilities for their assets in Switzerland and in other countries as are accorded to officials of the other international organizations;
- d. be given, together with their relatives dependent on them and their domestic staff, the same repatriation facilities as are accorded to officials of the international organizations;
- e. remain subject to the law on old-age and survivors' insurance and continue to pay AVS/AI/APG [*Old-age, survivors' disability and loss of earnings insurance*] contributions and unemployment and accident insurance contributions.

#### **Article 13. Exceptions to immunity from legal process and execution**

The persons referred to in Article 11 of the present agreement shall not enjoy immunity from legal process in the event of civil liability proceedings brought against them for damage caused by any vehicle belonging to them or driven by them or in the event of offences under federal road traffic regulations punishable by fine.

#### **Article 14. Military service of Swiss staff**

1. In a limited number of cases, leave of absence from military service (leave for foreign countries) may be granted to Swiss staff holding executive office at ICRC headquarters; persons granted such leave shall be dispensed from compulsory training service, inspections and shooting practice.
2. For the other Swiss staff of the ICRC, applications for dispensation from or rescheduling of training service, providing all due reasons and counter-signed by the staff member concerned, may be submitted by the ICRC to the Federal Department of Foreign Affairs for transmission to the Federal Military Department, which will give them favourable consideration.
3. Finally, a limited number of dispensations from active service will be granted to ICRC staff in order to enable the institution to continue its work even during a period of mobilization.

#### **Article 15. Object of immunities**

1. The privileges and immunities provided for in the present agreement are not designed to confer any personal benefits on those concerned. They are established solely to ensure, at all times, the free functioning of the ICRC and the complete independence of the persons concerned in discharging their

duties.

2. The President of the ICRC must waive the immunity of any staff member or expert in any case where he considers that such immunity would impede the course of justice and could be waived without prejudice to the interests of the ICRC. The Assembly of the Committee shall have the power to waive the immunity of the President or of the Committee members.

#### **Article 16. Entry, stay and departure**

The Swiss authorities shall take all necessary measures to facilitate the entry into, the stay in, and the departure from Swiss territory of persons, irrespective of their nationality, serving the ICRC in an official capacity.

#### **Article 17. Identity cards**

1. The Federal Department of Foreign Affairs shall give the ICRC, for the President, each member of the Committee and each staff member, an identity card bearing the photograph of the holder. This card, authenticated by the Federal Department of Foreign Affairs and the ICRC, shall serve to identify the holder vis-à-vis all federal, cantonal and communal authorities.
2. The ICRC shall transmit regularly to the Federal Department of Foreign Affairs a list of the members of the Committee and staff of the ICRC who are assigned to the organization's headquarters on a lasting basis, indicating for each person the date of birth, nationality, residence in Switzerland or in another country, and the post held.

#### **Article 18. Prevention of abuses**

The ICRC and the Swiss authorities shall cooperate at all times to facilitate the proper administration of justice, secure the observance of police regulations and prevent any abuse in connection with the privileges and immunities provided for in this agreement.

#### **Article 19. Disputes of a private nature**

The ICRC shall make provision for appropriate modes of settlement of:

1. disputes arising out of contracts to which the ICRC is or becomes party and other disputes of a private law character;
2. disputes involving any ICRC staff member who by reason of his or her official position enjoys immunity, if such immunity has not been waived under the provisions of Article 15.

### **III. Non-responsibility of Switzerland**

#### **Article 20. Non-responsibility of Switzerland**

Switzerland shall not incur, by reason of the activity of the ICRC on its territory any international responsibility

for acts or omissions of the ICRC or its staff.

#### **IV. Final provisions**

##### **Article 21. Execution**

The Federal Department of Foreign Affairs is the Swiss authority which is entrusted with the execution of this agreement.

##### **Article 22. Settlement of disputes**

1. Any divergence of opinion concerning the application or interpretation of this agreement which has not been settled by direct negotiations between the parties may be submitted by either party to an arbitral tribunal composed of three members, including the chairman thereof.
2. The Swiss Federal Council and the ICRC shall each appoint one member of the tribunal.
3. The members so appointed shall choose their chairman.
4. In the event of disagreement between the members on the choice of chairman, the chairman shall be chosen, at the request of the members of the tribunal, by the President of the International Court of Justice or, if the latter is unavailable, by the Vice-President, or if he in turn is unavailable, by the longest-serving member of the Court.
5. The tribunal shall be seized of a dispute by either party by petition.
6. The tribunal shall lay down its own procedure.
7. The arbitration award shall be binding on the parties to the dispute.

##### **Article 23. Revision**

1. The present agreement may be revised at the request of either party.
2. In this event, the two parties shall consult each other concerning the amendments to be made to its provisions.

##### **Article 24. Denunciation**

The present agreement may be denounced by either party, giving two years' notice in writing.

##### **Article 25. Entry into force**

The present agreement enters into force on the date of its signature.

Done at Berne, on 19 March 1993, in two copies in French.

For the International

Committee of the Red Cross

*The President*

Cornelio Sommaruga

For the Swiss Federal Council

*The Head of the Federal*

*Department of Foreign Affairs*

René Felber

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