

**Swiss Confederation
Head of the Federal Department of Foreign Affairs**

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International Humanitarian Fact-Finding Commission (IHFFC), legal status in Switzerland

Mr President,

I am writing in regard to your recent discussion with representatives of the Federal Department of Foreign Affairs (FDFA) on the legal status of the International Humanitarian Fact-Finding Commission (IHFFC) in Switzerland. It has indeed been found necessary that the IHFFC enjoy a status in Switzerland which ensures its independence and the confidentiality of its activities.

I am pleased to inform you that on 21 June 2017, the Federal Council decided to recognise the IHFFC as an international institution under article 2 paragraph 1b and under article 7 of the Federal Act on the Privileges, Immunities and Facilities and the Financial Subsidies granted by Switzerland as a Host State (SR 192.12). It also recognised the international legal personality and legal capacity of the IHFFC in Switzerland.

Furthermore, the Federal Council decided to grant the International Humanitarian Fact-Finding IHFFC the following privileges and immunities:

1) For the IHFFC:

a) Immunity from jurisdiction and execution:

The IHFFC shall enjoy immunity from the criminal, civil and administrative jurisdiction of the host State, unless it expressly waives this immunity in a particular instance.

b) Inviolability of premises:

Buildings or parts of buildings used for the purposes of the IHFFC, irrespective of ownership, and the land ancillary thereto, shall be inviolable.

c) Inviolability of archives:

The archives and documents of the IHFFC, as well as all data media and elements gathered in the context of the IHFFC's investigations, shall be inviolable at all times and in all places. This inviolability shall extend in particular to the archives of the IHFFC held by the Secretariat.

- 2) For the members of the IHFFC, the members of the IHFFC Secretariat and IHFFC experts on mission:

Immunity from jurisdiction and execution:

The members of the IHFFC, the staff of the IHFFC Secretariat and experts on mission for the IHFFC, irrespective of nationality, enjoy immunity from legal, civil and administrative proceedings in respect of acts performed and words spoken or written in the exercise of their functions on behalf of the IHFFC, even when they are no longer members of the IHFFC or its Secretariat or experts on mission.

- 3) The Federal Council has taken note that waiver of the aforementioned privileges and immunities in the event of judicial proceedings (in Switzerland or in the context of mutual legal assistance) falls within the competence of the IHFFC for as long as the above-mentioned decision is in force. Insofar as the members of the Secretariat are employees of the FDFA, the FDFA shall determine whether there is cause also to waive official secrecy.
- 4) The beneficiaries of these privileges and immunities must respect Swiss laws and regulations.

Please accept, Mr President, the assurances of my highest consideration.

Didier Burkhalter
Federal Councillor