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## Constitutional Determinants of Local Government Responsibility for Civil Protection as a Part of Security System in the Confederation of Switzerland

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Anna Gołębiowska<sup>1</sup>, Weronika Jakubczak<sup>2</sup>

**Abstract:**

**Purpose:** The research aims to characterize legal and security aspects of constitutional determinants of local government responsibility for civil protection as a part of security system in the Confederation of Switzerland.

**Design/Methodology/Approach:** Authors discuss various legal regulations of security aspects explained in Swiss security system, in particular in the text of Federal Constitution, where it expressed that it is based upon two components - armed forces and civil protection. During the research, authors use legal and comparative analysis as well as structural and functional analysis. Moreover, the interpretation method is also present, which makes it possible to interpret legal acts regulation security aspects. Authors use elements of the concept - descriptive and improving functional and modeling, and diagnostic and functional.

**Findings:** The working hypothesis refers to assumption that current Swiss constitutional regulations highlighting the importance of Civil Protection and other legal acts enable the whole system to work efficiently. Moreover, good implementation of the aforementioned regulations are to be notices as an important part. Therefore the Swiss system can be taken as an example for other countries.

**Practical Implications:** As a result of conducting the research, it is possible to identify threats and present some recommendations for legal and security aspects of ICT and Industry 4.0 so Financial Industry 4.0 can be developed safely as a part of critical infrastructure.

**Originality/Value:** This is a complete research for legal and security aspects of ICT and Industry 4.0 importance for Financial Industry 4.0 development.

**Keywords:** Security, security system, Swiss local government, Swiss Constitution, security, civil protection.

**JEL classification:** R59, F52, N40.

**Paper Type:** Research article.

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<sup>1</sup>The Main School of Fire Service, Warsaw,  
ORCID ID: 0000-0003-0478-5047 [agolebiowska@sgsp.edu.pl](mailto:agolebiowska@sgsp.edu.pl);

<sup>2</sup>The Main School of Fire Service, Institute of Internal Security, Warsaw,  
ORCID ID: 0000-0003-1501-5064 [wjakubczak@sgsp.edu.pl](mailto:wjakubczak@sgsp.edu.pl);

## **1. Introduction**

Bearing in mind rising number and scale of various threats, the necessity to build and sustain effective civil protection forces and mechanism is increasing. Globalisation and growing human population increases the probability of various dangerous scenarios to happen. In particular, there were authors (A World at Risk, Annual report on global preparedness for health emergencies, Global Preparedness Monitoring Board, 2021), (Craft, 2013) addressing health security but as many other threats, pandemic as one caused by COVID-19 was not seen as the top priority danger before it have become very real.

The situation is very dynamic also with the respect to the implications of Climate Change - extreme weather conditions are becoming more and more common (Intergovernmental Panel on Climate Change, Special Report, Climate Change and Land, An IPCC Special Report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems, 2020) (in Switzerland land slides and floods). The scale of the aforementioned phenomena is growing therefore it is crucial for every country to efficiently address the problem - using without a delay formations that can protect civilians (Jakubczak, 2020). In Switzerland Civil Protection system can help with addressing the aforementioned problems. Despite of the fact that the Civil Protection in Switzerland operates on all levels and includes many bodies also on the federal level - its local components are of the great value and will be the main focus of this work.

To fully understand the Swiss Civil Protection it is important to explain how does the functioning of territorial self-government in Swiss Confederation works. From the European and world perspective Switzerland is seen as an unique country. It is unique in terms of the nation content as it has several official different languages. In addition, Swiss statehood functions in exceptional geographical and political conditions, formed on created from the centuries tradition of direct political power linking democracy with the principles of federalism. Therefore, structure and functioning of territorial self-government in Swiss Confederation is interesting.

The idea of federalism appears in many concepts when creating an entity where peace would be ensured between states. Moreover, the idea of federalism is understood as a kind of striving for the greatest possible decision-making power to be as close to the citizen as possible. Thus, it can be said that a fundamental principle of the Swiss system - federalism and connected to it subsidiarity principle - assigns a large role to human freedom and autonomy. The preamble to the Constitution emphasizes that, the Swiss people and the cantons” are considered to be the source of power, while „the restoration of the Federation” is the purpose of the enactment of the Federal Constitution of the Swiss Confederation. In art. 2 of the Constitution presents the basis goals of the Federation, which include, inter alia,

protection of the freedoms and rights of the nation, the independence and security of the country.

## **2. The Scope and Methods of Research**

The study was based on a desk research analysis using quantitative data available for legal and security aspects of constitutional determinants of local government responsibility for civil protection as a part of security system in the Confederation of Switzerland. The analysis of available literature and legal acts was also conducted. The theoretical issues were determined based on the analysis of available literature and legal regulations. The practice examples were taken under considerations as thoroughly analyzed. The research methods used in the study included a critical analysis of the literature, legal acts, comparative analysis and secondary data analysis.

## **3. Local Government**

Swiss law presents the principle of a federal state, while the Swiss statehood was founded as a bottom process of connecting independent (sovereign) cantons. Traditions and principles of the territorial self-government were built when there was no Swiss State (Confederatio Helvetica). Switzerland in accordance with the legal regulations contained in the Federal Constitution of the Swiss Confederation (Federal Constitution of the Swiss Confederation, 1999) is a federal state divided into federal states, or cantons (Rycerska, 2010), which in turn are divided into municipalities. Such division of Switzerland allows the identification of three groups of administrative units, namely:

- the federation;
- cantons;
- municipalities (Kriesi, 2005).

There are 26 cantons and 2495 municipalities (Amtliches Gemeindeverzeichnis der Schweiz, Gemeindeliste-Liste d. Communes, 2021). The number of cantons does not change as oppose to number of municipalities (gradually declining). Each Swiss canton has both its own constitution and government authorities and therefore it has a wide range of power and independence (Meylan, 1952). In turn, the Swiss municipalities (Kriesi, 2008) are the only territorial self-government units (Czeszejko-Sochacki, 2015).

Constitution guarantees cantons the possibility of cooperation in the regulation of law at the federal level through the Council of States. It stipulates that the Federation is obliged to inform cantons of its intentions and seek their opinion, if they relate to their operation. Cantons are obliged to implement federal laws in accordance with the constitutional provisions and laws, although Federation should leave cantons the

greatest possible freedom to create legal relationship (Linder, 2011) and it should take into account the autonomy of individual cantons (Gołębiowska, 2017).

At the same time, it should be clarified, that the number of municipalities is constantly changing, which is associated with connecting them together, what concerns the smallest municipalities the most. There is a general desire to reduce their numbers, although there were cases of division the existing municipalities (Papacella, 2009). Therefore, within the range of this autonomy, the municipalities are free to be connected with other municipalities or keep their independence, which cannot be taken away from them by cantons. In addition, the cantonal legislation gives them both freedom to choose the appropriate structure of political power and administration, as well as the right to provide taxes to satisfy their own needs and freedom of action in matters, which do not belong to the competence of the cantons or Federation (Gołębiowska, 2019).

In Swiss Confederation municipalities are divided into many types, but the most common is a general municipality. The tasks of municipalities include all political matters, not reserved for the federation and the canton (Gołębiowska, 2016). In the municipalities of Swiss Confederation, there are two types of governance and therefore there are municipalities of ordinary and of extraordinary power structure<sup>3</sup> (Gołębiowska, 2016). Another division is between the rural and city municipalities (Schaffhauser, 1999). Municipal unions are allowed in order to execute vital functions (Steiner, 2003). In Swiss Confederation the supervision of municipalities is given to cantons (Rajca, 2009).

#### **4. Swiss Security System and Civil Protection**

The security system in Switzerland is based upon regulations of Federal Constitution. *Art. 2 Aims* states: “1. *The Swiss Confederation shall protect the liberty and rights of the people and safeguard the independence and security of the country.*” Furthermore, the most vital aspect of Swiss security system is explained in *Section 2 Security, National Defence, Civil Defence* where the text of *Art. 57 Security* explains that “1. *The Confederation and the Cantons shall within the scope of their powers ensure the security of the country and the protection of the population.* 2. *They shall coordinate their efforts in the area of internal security*” (Bundesrat, Swiss Federal Constitution, 1999).

Further articles clarify what is the position of armed forces (art.58) within the Swiss security system - *they serve to prevent war and to maintain peace; they defend the country and its population, (...) shall support the civilian authorities in safeguarding*

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<sup>3</sup>*At the same time the attention should be paid to the terminology used in Switzerland. In most countries, the resolution entities are called municipal councils, while in Switzerland the municipal council is the executive entity communes.*

[http://www.swissworld.org/en/politics/general\\_information/communes/](http://www.swissworld.org/en/politics/general_information/communes/)

*the country against serious threats to internal security and in dealing with exceptional situations. - and their organization (art.59) (Bundesrat, Swiss Federal Constitution, 1999).*

The Civil Protection (Zivilschutzthe, Zivilschutz) (Bundesrat, Swiss Federal Constitution, 1999) general regulations are expressed in Art. 61 Civil defense:

<sup>1</sup> *The legislation on the civil defence of persons and property against the effects of armed conflicts is the responsibility of the Confederation.*

<sup>2</sup> *The Confederation shall legislate on the deployment of civil defence units in the event of disasters and emergencies.*

<sup>3</sup> *It may declare civil defence service to be compulsory for men. For women, such service is voluntary.*

<sup>4</sup> *The Confederation shall legislate on fair compensation for loss of income.*

<sup>5</sup> *Persons who suffer damage to their health or lose their lives while doing civil defence service are entitled to appropriate support from the Confederation, whether for themselves or for their next of kin.*

Further regulations are expressed in legal act of *Bundesgesetz über den Bevölkerungsschutz und den Zivilschutz* (Bundesrat, Bundesgesetz über den Bevölkerungsschutz und den Zivilschutz, 2020), where in Art. 2. the federal level mandate is explained as follows: *“to protect the population and its livelihoods in the event of disasters and emergencies and in the event of armed conflicts and to contribute to the limitation and management of damaging events.* (and Art. 4) *The civil protection system fulfills this mandate by informing the population about possible hazards and existing protective measures, alerting them in case of danger, and giving instruction on how to behave* (Risk and Resilience Team, Center for Security Studies, 2021). Civil protection is also responsible for coordinating preparation and operations of partner organizations and takes leading role in the event of a crisis as well as guarantees preparedness and capability to “build up” its capacities (Aufwuchsfähigkeit). Since Swiss people are aware of the broad spectrum of nowadays threats as disasters and emergencies, the Swiss model of integral risk management indicates the goals of Swiss Civil Protection by (among others) regularly updated national risk analysis impacting prevention, crisis management and adaptation.

It is important to explain the difference between German terms *Bevölkerungsschutz* that is used to describe the entire integrated system of civil protection und *Zivilschutz* - the name of the organization within the integrated civil protection system. The two aforementioned terms can state in English *civil protection*. Therefore the German word *Zivilschutz* will be used as of now in this paper to refer to the latter - the organization within the integrated civil protection system. It is worth mentioning that although Swiss Civil Protection is regulated on many levels and the local governments roles are very important. In particular, the aforementioned

formation is organized as an integrated system (Verbundssystem) consisting of 5 main partner organizations: police, fire service, healthcare, technical services and Zivilschutz.

The 26 Swiss cantons bear responsibility for how these organizations operate within their respective municipal, regional, and cantonal territories and that includes their deployment in the context of civil protection. All of the partners work together when taking part in actions, still each within its own area of responsibility. The composition of staff within the five partner organizations differs greatly depending upon the situation. Each force focuses upon ensuring its own best operational readiness, by conducting proper staffing, training, and providing logistics. All the cooperating organizations coordinate with one another to support command and control. In case there are several organizations deployed during the same action dealing with an emergency situation, either municipal, regional, and/or cantonal command and control bodies are operating in order to coordinate requests for support and measures to be taken.

The resources of the 5 partner forces are deployed in a modular way. Police, fire department, and ambulance services respond independently to everyday cases in their municipality, region or canton. However, whenever a major event takes place, the technical services and the Zivilschutz of the same municipality, region, or canton might be required. According to the law - in case of inability of some or all partner organizations of a municipality, region, and one or multiple cantons to cope with effects of an event on their own, additional actors, such as private companies, associations or the army, may be called upon in order to provide subsidiary support.

The responsibilities within the Swiss civil protection system connected to each force are as follows:

- Police - maintains security and order. On cantonal and municipal levels police officers are mainly professionals. Canton regulates organizational aspects and issues related to training or equipment. According to the law Police can rely upon the Zivilschutz to support high demands for personnel (ABS, Die Polizei im Bevölkerungsschutz, 2020).

- Fire service - is responsible for rescue, general damage prevention, nuclear and chemical protection activities. The municipalities organise their fire brigades, and cantons regulate aspects of general organisation, training and equipment. Members of fire brigades are usually compulsory service personnel and volunteers. There has been a tendency to regionally merge local fire brigades in order to build more cost-effective and better-equipped joint fire brigades (*Verbundfeuerwehren*). At the same time in large cities or big companies there are professional fire brigades. In case of an event legally regulated at a cantonal level, there is a possibility of Zivilschutz to take over certain tasks (fire watch, traffic control). This is practiced in order to

relieve the fire brigades personnel while longer operations are conducted (BABS, Die Feuerwehr im Bevölkerungsschutz, 2020).

- Healthcare (medical care excluding nursing) - has tasks related to the medical care of the population and the emergency services. The healthcare personnel group mainly consists of professionals. There is a division within organization, training, equipment regulations/financing between the regional that covers ambulance services and cantonal level responsible for hospital services. Cantonal law gives directions as to under what circumstances members of the Zivilschutz may be called upon to perform tasks (care, administration, transport, etc.) in case of an event with great number of casualties. Additionally, the federal government is prepared to involve a coordination body and provide additional resources for such situations (BABS, Das Gesundheitswesen im Bevölkerungsschutz, 2020).

- Technical services - their responsibilities include protection of infrastructures and their functioning with the respect to applicable legal regulations. They consist of private and public entities operating in field of electricity, water and gas supply, waste management, transport and communication infrastructure. The personnel consists predominantly of specially trained professionals. In case it is needed, the technical services can draw on the resources of all other partner forces (BABS, Die technischen Betriebe im Bevölkerungsschutz, 2020).

- *Zivilschutz* - although the original purpose was to support functions in armed conflicts, modern *Zivilschutz* states for a civilian organization focused on disaster and emergency management. As a component of the civil protection system, it commands support and assistance (to individuals seeking protection), provides technical assistance and logistics. *Zivilschutz* can also provide specialized services, i.e., repair works or rubble rescue. The *Zivilschutz's* responsibilities focuses upon supporting, strengthening, adding and relieving the other involved in the action forces. The aim is to ensure the sustainability of the integrated system. Vast majority of the active *Zivilschutz* personnel are drawn from compulsory service personnel via the militia system. The responsibility of cantons is to take care of organization, training and deployment of their *Zivilschutz* personnel. That offers great flexibility - each canton is able to adjust their *Zivilschutz* forces to the threats observed/expected to occur on their territory as well as political and topographical conditions.

Federal government sets legal requirements and assumes tasks for the cantons in certain areas of training, warning, and communication systems. In particular, varying from the size canton to canton, approx. 15% of the *Zivilschutz* are organized at the cantonal level, 70% at the regional level, and 15% at municipal level (BABS, Organisation des Zivilschutzes, 2020). There have been on-going discussions concerning the creation of inter-cantonal *Zivilschutz*. The reason behind them is to obtain higher level of coordination of deployment and procurement of resources at the inter-cantonal level (BS, Umsetzung Strategie Bevölkerungsschutz und Zivilschutz 2015+, 2016). Furthermore these would enable to concentrate

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specialized capabilities and resources, in particular, protection against CBRN events - generally not necessary or too costly for one canton to acquire (BABS, Der Zivilschutz im Bevölkerungsschutz, 2020).

In Switzerland the principle of subsidiarity plays an important role, therefore the political responsibility for the protection of the Swiss population, and for civil protection, is divided between the responsible executives at the three levels of government: municipal (local council), cantonal (cantonal government), and federal (Federal Council). They manifest the strategic-political leadership structures in crisis management. Respectively, at each level, they designate the command and control structures (*Führungsorgan*) - the provision of the operational leadership. Among their responsibilities is planning, management, as well as coordination in case of disasters and emergencies.

Cantonal Leadership Structures play an important role right next to Federal Leadership Structures. There is a tendency observed in larger cantons - they have several governing bodies that oversee command and control at multiple levels. In case of smaller cantons which have only one governing body at the cantonal level. In both cases regional bodies are appointed by cantons. At the municipal level executives appoint their municipal governing bodies for command and control purposes. Regardless of the level the aforementioned management entities must be able to cope with disasters and emergencies through the coordinated deployment of all partner forces and by ensuring their own 24/7 operational preparedness. The cantonal governing bodies are expected to be able to respond to disasters at inter-cantonal level. Principle of subsidiarity plays a very important role in case of operational leadership in civil protection. In the case of normal size incidents, the partner organizations are led by their own operational command (*Einsatzleitung*).

In the case of major size cases, an overall operational command (*Gesamteinsatzleitung*), consisting of representatives of all involved partner organizations, leads the deployed partner forces. The civil protection municipal, regional, or cantonal command and control bodies only take over leadership if several or all partner organizations in their jurisdiction are deployed over a longer time period. While conducting inter-cantonal operations, each canton commands its own resources (VBS, *Umsetzung Strategie Bevölkerungsschutz und Zivilschutz 2015+*, 2020). The Federal Council leads in disasters and emergencies of national dimension. For the purpose of keeping this article brief the structure and function on the federal level will be omitted.

As mentioned before the whole system is much more complex and federal administration plays a very important role, still for the purpose of this paper this will not be further explained as it requires deeper explanation. Naturally, both authors are aware that detailed description of the legal regulations referring to each canton or municipality would result in creation of a book therefore this matter will be addressed to broader extend in more elaborative paper or a book.



## **5. Conclusions**

In the era of uncertainty - when new and old threats are emerging and occur more and more often - the efficient security system is a necessity. As explained in Federal Constitution, in Switzerland it is based upon two components - armed forces and civil protection. For the purpose of this article it has been decided to focus upon the civil protection which in Switzerland works with the accordance to general subsidiary principle and respect for autonomy. Functioning of public administration in Swiss Confederation is based on the independence and autonomy of each unit of territorial self-government, but with the necessary relationships and dependencies from the federal government. This system enables the Civil protection to work effortlessly. Therefore, cantons independently in many areas despite of diversity in terms of area and population - are able to execute the power, satisfying the needs of the residents. Similarly, autonomously and independently municipalities, they perform specified by cantonal law tasks, but not always their size allows for the expected independence and efficiency.

With the respect to civil protection the same trend is present - all levels cooperate with one another when needed and each compliments the others. Nowadays increasing number of threats and their larger scale (pandemics, climate change related disasters) requires efficiently working system of civil protection.

Swiss Civil Protection works on all the levels and the local governments role is very important. It is organized as an integrated system (Verbundssystem) consisting of 5 main partner organizations: police, fire service, healthcare, technical services and Civil Protection (Zivilschutz). Cantonal Leadership Structures of Civil Protection play an important role right next to Federal Leadership Structures. Swiss constitutional regulations highlight the importance of Civil Protection and other legal acts enable the whole system to work efficiently.

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