

## Switzerland

### At-a-Glance

Official name:	Swiss Confederation (Confoederatio Helvetica)
Capital:	Berne
Population:	7,317,873 of which 1,463,574 (20%) are foreign nationals (2000)
Size:	15,943 sq mi (41,293 sq km)
Languages:	German 65%, French 18.4%, Italian 9.8%, Romansch 0.8%, other 6% (1997)
Religions:	Roman Catholic 41.8%, Protestant 35.3%, Muslim 4.3%, other religious communities 3.2%, none 11.1%, no details 4.3%
National or ethnic composition:	German 65%, French 18%, Italian 10%, Romansch 1%, other 6%
Date of independence or creation:	Founding of the Swiss Confederation (Independence) August 1, 1291. Federal State (Confederation) since 1848.
Type of government:	Constitutional democracy
Type of state:	Federal state
Type of legislature:	Bicameral parliament
Date of constitution:	January 1, 2000
Date of last amendment:	May 11, 2004

Switzerland is a parliamentary democracy with a clear division of executive, legislative, and judicial powers. By constitutional law, the state's activities are based on and limited by the rule of law. Switzerland is also obliged by the constitution to respect international law.

Organized as a confederation, Switzerland is made up of 26 sovereign cantons. Its federal constitution explicitly declares social goals and provides for far-reaching guarantees of human rights, the essence of which are declared inviolate by the constitution. The federal constitution is widely respected by the public authorities; if a violation of the constitution does occur there are effective remedies for the individual that are enforceable by an independent judiciary. The judiciary includes a strong Federal Tribunal.

The federal president is not the head of state, because that position does not exist in Switzerland. The president only presides over the Federal Council. The presidency, as well as the vice presidency, rotates annually. The Federal Assembly elects the president and the vice-president of the Swiss Confederation each year from among its members following the principle of seniority. The central political figures are the seven federal councilors, elected by the parliament for four year-terms; they are constitutionally obliged to make their decisions as a collective body.

Free, equal, general, and direct elections of Federal Assembly members are guaranteed. The pluralistic system of political parties has intense political impact.

The economic system can be described as a social economy. By constitutional law, Switzerland is obligated to respect the principle of economic freedom, ensure balanced economic development, protect consumers, employees, and the needy, and fight restrictions on competition.

The military is organized as a militia and is subject to the civil government in law and fact.

### *Constitutional History*

Switzerland is regarded as having been founded in 1291, when the three valley communities of Uri, Schwyz and Unterwalden (now divided into Nidwalden and Obwalden), the so-called “Ur-Kantone,” came together to struggle against the rule of the counts of Habsburg, who held the German imperial throne of the Holy Roman Empire and attempted to assert feudal rights in the area. The three communities signed the Letter of Alliance, agreeing to reject any administrative and judicial system imposed from outside. A citizen of each of these communities swore, in early August 1291 at a small meadow named “Ruetli” the following oath: “We will be a one and only nation of brothers ...”

This led to the term confederation (in German translated as “Eidgenossenschaft”), which grew further with the adherence of the following cantons: Lucerne in 1332, Zurich in 1351, Glarus and Zug in 1352, Berne in 1353, Fribourg and Solothurn in 1481, Basel and Solothurn in 1501, and Appenzell in 1513. Switzerland’s independence from the Holy Roman Empire and its neutrality were officially recognized in 1648 in the Treaty of Westphalia, which ended the Thirty Years War.

In 1798, the armies of the French Revolution conquered the Swiss territory and Napoleon Bonaparte, future emperor of France, unified Switzerland under the name of the Helvetic Republic. The Helvetic Republic was proclaimed and its new constitution confirmed on April 12, 1798 by 121 representatives of the territories Aargau, Basel, Berne, Fribourg, Léman (Vaud), Lucerne, Oberland, Schaffhausen, Solothurn and Zurich. The new constitution was similar to that of the French Republic. The constitution, imposed on the territories and written by Napoleon, eliminated the federal tradition of Switzerland and established a bicameral parliament, an executive (the board of directors), and a supreme court of justice.

In addition, the Helvetic Republic gave up the traditional policy of neutrality and signed a Treaty of Alliance with France in August 1798. As a consequence of that decision Switzerland became a battleground: Austrian and Russian troops fought French troops on Swiss territories, with the aim of bringing

the country, or parts of it, under their own control. Throughout the five years of the Helvetic Republic, the country was very unstable politically; as centralists and federalists fought each other.

In 1802, a civil war (the so called war of the sticks) brought the Helvetic Republic to an end. Napoleon Bonaparte intervened in October of 1802 and managed to put an end to the civil war. Realizing that the Swiss people would never accept a centralist state and that it was in his interest to have Switzerland as an ally, Napoleon withdrew his occupying troops. Under his mediation a new constitution (the Mediation Act) was negotiated in March 1803. The Mediation Act, approved by the Swiss people, restored the Swiss Confederation. It gave most of the responsibility to 19 cantons. Six new cantons of Sankt Gallen, Grisons, Aargau, Thurgau, Ticino, and Vaud were added to the existing 13 cantons.

Switzerland's final boundaries were established in 1815 at the Congress of Vienna, which also recognized the perpetual neutrality of Switzerland. All the European Kings and statesmen, after defeating Napoleon, were interested in reducing the influence of France in Switzerland by guaranteeing Swiss neutrality. They also decided that Valais, Geneva and Neuchâtel would become full members of the Swiss Confederation. Switzerland consisted herewith of 22 cantons, which recovered their sovereignty in all matters except foreign affairs.

The years between 1815 and 1830 are called the Restoration period. Each canton once again minted its own money, imposed taxes and customs, and introduced its own system of weights and measures.

Around 1830, a liberal renewal movement, the Regeneration, began in Switzerland. It demanded full democratic rights and equality between citizens in cities and the countryside. Within one year 12 cantons changed their constitutions, established representative governments, abolished aristocratic rule and censorship of the press, and instituted freedom of trade and industry.

In 1847, another civil war broke out, this time between the Catholic and the Protestant cantons (the "Sonderbundskrieg"); it lasted for less than one month as General Henri Dufour, leading federal troops, managed to defeat the Catholic conservatives and to bring the crisis to an end before the European powers could intervene. The "Sonderbundskrieg" was the last armed conflict to occur on Swiss territory.

As a consequence to this civil war, Switzerland adopted a federal constitution in 1848, which, modeled in part on the U.S. constitution, is regarded as the main instrument for the foundation of modern Switzerland. The Swiss Confederation changed from a group of cantons to a united federal state.

The constitution of 1848 was completely revised in 1874, giving the central government more responsibilities, such as defense, trade, and legal matters. In

1971, the Swiss people voted for the women's right to vote in federal elections and to hold federal office.

The last canton to join the confederation was the canton of Jura. In 1978, several French speaking regions left the canton of Berne, attained independence and formed the new canton of Jura.

The legal foundation of the Swiss Confederation is the new Federal Constitution of April 18, 1999. It entered into force on January 1, 2000.

#### *Form and Impact of the 1999 Constitution*

The Swiss constitution is codified in a single document. It is significant, not only as the legal system of the country, but also as a source of fundamental values for the functioning of Swiss society. It is widely respected by the federal and cantonal authorities. All law must comply with the provisions of the federal constitution. Federal law takes precedence over contradicting cantonal law. The confederation and the cantons also must respect international law.

### *Basic Organizational Structure*

Switzerland is a multi-ethnic, multilingual and multi-religious parliamentary democracy based on the diversity of its regions. It is a confederation of 26 autonomous cantons. Its present form was established by the 1848 constitution. Switzerland is one of the 23 federal states in the world, the second oldest after the United States of America. Its federal structure is based on three different political levels: the confederation, the 26 cantons, often referred to as the “states,” and the 2,873 municipalities.

### *THE CONFEDERATION*

Confederation is the term used in Switzerland to describe the central state. The confederation has authority in all areas in which it is empowered by the federal constitution, for example, in foreign and security policy, customs and monetary affairs. It power to pass nationally applicable legislation, and controls certain other matters that are in the common interest of all Swiss citizens. Tasks which do not expressly fall within the domain of the confederation are left to the authority of the cantons. The cantons are sovereign, insofar as their sovereignty is not limited by the federal constitution, and they exercise all rights which are not transferred to the confederation.

International relations are a federal matter. According to the constitution, the confederation must strive to preserve the independence of Switzerland and its welfare; it must also contribute to alleviate need and poverty in the world and to promote respect for human rights, democracy, the peaceful coexistence of nations, and the preservation of natural resources. It shall take into consideration the powers of the cantons and protect their interests.

Federal matters also include legislation in the fields of civil and criminal law, and immigration, emigration and asylum. The postal and telecommunication services as well as radio, television and other forms of public telecasting of features and information are federal responsibilities. Legislation on weights and measures, on the production, importation, refining and sale of distilled spirits, and on gambling and lotteries are federally regulated. Additional federal issues include the maintenance and use of the Swiss army, civil protection, transportation, nuclear energy and fuel pipelines.

#### *THE CANTONS*

Article 1 of the Federal Constitution names the 26 Swiss cantons and guarantees their juridical existence by providing that the Swiss people and the cantons form the Swiss Confederation. A constitutional amendment is required to

create or suppress a canton; it must be approved in a national referendum by a majority of votes as well as a majority of cantons.

The cantons differ considerably in geographic area, population size, and economic strength. According to Article 3 of the constitution, the cantons are sovereign insofar as their sovereignty is not limited by the federal constitution; they exercise all rights which are not transferred to the confederation.

Each canton has its own constitution, parliament, executive, and judiciary. According to Article 51 of the constitution, every canton shall adopt a democratic constitution, which must be approved by the people and must be subject to revision if a majority of the people so desires. The canton's legislatures and executives are of great importance, as are the courts. The courts of justice in Switzerland are cantonal, unless there is a final appeal to the Federal Tribunal.

The cantons retain attributes of sovereignty, such as their own procedural law system, the maintenance of law and order, the implementation of federal laws, fiscal autonomy, and the right to manage internal cantonal affairs. This is especially true in the fields of education and culture, the relationship between church and state, public health, commercial policy, taxation, and licensing of gambling. The cantons are also involved in town and country planning, which includes concerns such as the protection of nature and the cultural heritage; energy use in buildings; and the naturalization of foreigners. The cantons,

however, no longer have any authority to make civil law and have only limited authority to make criminal law.

The cantons are also entitled to initiate legislation in the federal parliament.

#### *THE LOCAL AUTHORITIES: THE MUNICIPALITIES*

All the cantons are divided into autonomous municipalities or communes, of which there are currently 2,873. This number is declining, however, due to the amalgamations of individual communes.

All Swiss people are first and foremost citizens of a commune. It is from this status that they automatically derive citizenship of a canton, and of the country as a whole. Foreigners wishing to become Swiss citizens must apply to the commune where they live.

The autonomy of the municipalities is guaranteed within the limits fixed by cantonal law. The confederation must take into account the possible consequences of its activities on the municipalities, in particular the special situation of cities, urbanized areas and mountainous regions.

### *Leading Constitutional Principles*

Switzerland is a parliamentary democracy and a confederation, with a strong division of the executive, legislative, and judicial powers, based on checks and balances. No individual may simultaneously belong to more than one of the three federal authorities – parliament, executive, and Supreme Court. The Swiss constitutional system is defined by a number of leading principles: democracy, rule of law, social welfare, and federalism.

State activity must be in the public interest and proportional to the goals pursued. State organs and officials must act in good faith, and the confederation and the cantons must respect international law. Fundamental rights must be realized throughout the legal system. Whoever exercises a function of the state must respect fundamental rights and contribute to their realization. The authorities shall also ensure that fundamental rights are respected in relationships between private parties, whenever the analogy is applicable.

Political rights protect the free opinion and expression of citizens. Various direct democracy instruments granted to the Swiss people and the cantons, such as popular initiatives, referenda, and political parties, are meant to contribute to the formation of the opinion and will of the people.

### *Constitutional Bodies*

Switzerland has a unique political system. It is different from systems used in most countries, which are based on the dynamics between the administration in power and opposition parties. The Swiss system is based on consensus. National cohesion is achieved by involving the whole population in the decision-making process and by allowing citizens to participate in direct democracy.

### *THE PEOPLE AND THE IMPACT OF DIRECT DEMOCRACY*

Legislation cannot be vetoed by the executive, or reviewed for constitutionality by the judiciary. However, all laws, with the exception of the budget, can be reviewed through a popular referendum before taking effect.

There are very few countries in which the people have such far-reaching rights of direct democracy as in Switzerland. The long democratic tradition, the comparatively small size, both in terms of geography and population, and ultimately the high level of literacy and the diversity of media, are critical in ensuring the proper functioning of this particular form of state.

Direct democracy has played a key role in shaping the modern Swiss political system. Yet one may question the actual impact of direct democracy on legislative issues that, in other countries, are the responsibility of elected

representatives. On one hand, it could be argued that the impact of direct democracy has been limited. In the first century of using the initiative (1891-2004), only 14 initiatives were passed in Switzerland. Yet to consider this statistic alone ignores the considerable indirect impact of direct democracy. Although the majority of initiatives fail, the fact that there has been an initiative, and therefore a campaign, increases publicity surrounding the issue in question and therefore the public's knowledge of it. This may well increase pressure on the government to introduce measures dealing with the issue, even if the referendum itself is not successful. Thus many initiatives are filed but subsequently withdrawn when the government decides to act before an initiative reaches the referendum stage.

Another impact of the direct democracy mechanisms is that it forces the government to seek a wider consensus regarding the statutory and constitutional measures that it seeks to introduce than it would in a purely representative system. In a representative system, the party of government may, in the absence of a large majority, have to develop cross-party consensus on an issue in order to ensure that the measure is approved. In the Swiss system, the possibility of an optional referendum forces the government to ensure consensus even with groups outside of parliament to prevent the possibility of these groups seeking to overturn the new legislation.

Conversely, the significance of direct democracy in the Swiss system is often cited as the cause of the weakness of Swiss political parties and the relatively low significance attached to normal elections. Given the prominence of direct democracy, political parties are not solely responsible for controlling the federal agenda. In addition, direct democracy often raises cross-cutting issues on which members of political parties might not be in agreement.

#### *THE LEGISLATIVE AUTHORITY*

The Swiss parliament, the Federal Assembly, is the legislative authority of the country elected by the Swiss citizens. Subject to the rights of the people and the cantons, it is the highest authority of the confederation. The Federal Assembly may be legally dissolved only after the adoption of a popular initiative calling for a total revision of the federal constitution.

The Assembly consists of two chambers with equal powers--the National Council and the Council of States. The chambers legislate, approve treaties, vote on the budget and loans, and supervise the Federal Council and the Administration. The bicameral parliamentary system was introduced in Switzerland to ensure that the larger cantons would not dominate the smaller ones.

Both chambers are directly elected by the people. The National Council is elected in accordance with federal rules and the Council of States according to provisions differing from canton to canton. In both cases, the cantons form the constituencies.

The 200-member National Council represents the Swiss people as a whole. The individual cantons are represented in proportion to the number of their inhabitants, but there is at least one representative from each canton. The members of the National Council are elected by popular vote to serve four-year terms. The system of proportional representation, the distribution of seats according to the strength of the political parties, makes it possible for small political parties to win one or more seats in the National Council.

The Council of States represents the 26 cantons. Regardless of the size of the canton's population, 20 cantons each send two members to the Council of States, while the six cantons of Appenzell Outer Rhodes, Appenzell Inner Rhodes, Basel-City, Basel-Land, Nidwald and Obwald send only one member each. The members of the Council of States also serve four-year terms. Only large parties are represented in the Council of States because in all the cantons, except in the canton of Jura, elections to the Council of States use the system of simple majority.

### *THE EXECUTIVE AUTHORITY*

Switzerland's executive branch consists of the seven members of the Federal Council, as well as the Federal Chancellor. The Chancellor, while entitled to propose motions and to speak during the meetings of the Federal Council, has no vote. The Federal Chancellery is the general staff of the Federal Council. One member of the Federal Council is elected for just one year to be the federal president, and another member to be the federal vice-president. Their function is mostly representative, and they each continue to administer their own department.

Switzerland has one of the most stable governments in the world. Changes in the Federal Council in practice only occur if a member resigns or dies. A federal councilor remains in office for the entire legislative period, and usually serves during multiple Assemblies. Every four years, after parliamentary elections, he or she, to remain in office, must submit to re-election by a majority vote, but this is mostly a formality.

The Federal Council, from 1959 to November 2003, was composed of a coalition of all four major parties (a system of power sharing known as concordance). According to the *Zauberformel*, the unwritten "magic formula," there were two members from the Radical Free Party, two from the Social Democratic Party, two from the Christian Democratic Party, and one from the Swiss People's Party.

This formula was broken after the 2003 elections, when the Swiss People's Party gained 26.9 percent of the vote and a plurality of seats in the National Council, and demanded a second seat in the Federal Council. The Federal Assembly acceded to the demand, and a new magic formula was achieved. This was the first time in 131 years that a federal councilor standing for re-election was rejected by the legislative body. Additionally, the Federal Assembly prefers to elect a member of the same language group and sex to replace the resigning member of the Federal Council.

The seven members of the Federal Council, like the federal chancellor and the members of the Federal Assembly enjoy immunity.

Although each councilor heads one of the seven departments (ministries), and is responsible for preparing legislation in the field of its authority, the councilors are expected to act neither as individual ministers nor as representatives of their political parties. Rather, they take collective *responsibility* for the decisions of the Council.

Not only is there is not only is no head of state in the confederation, there is also no real opposition party. Another form of opposition exists, however. The proposals made by the Federal Council are often rejected by the Federal Assembly or by the Swiss people, but such a rejection does not lead to a

government crisis, votes of confidence, or to resignations, because the Federal Council as a body is not dependent on a parliamentary majority.

Being the highest governing authority and the supreme executive authority of the confederation, the Federal Council is primarily responsible for the activities of government. It must continuously assess the situation arising from developments in the state and society and from events at home and abroad. It must define the fundamental goals of state action and determine the resources needed to attain them, plan and co-ordinate government policy and ensure its implementation, and represent the confederation at home and abroad.

Furthermore, the Federal Council must regularly and systematically scrutinize the work of the federal administrative authorities in order to ensure their efficiency as well as the legality and practicality of their activities. The Federal Council itself only takes administrative action in exceptional cases.

The Federal Council also takes part in the legislative procedure by leading the preliminary proceedings of legislation, submitting federal laws and decrees to the Federal Assembly, and enacting regulations in so far as the federal constitution or federal law empowers it to do so. The Council drafts the budget and the state accounts. It can also approve or reject cantonal decrees in certain controversial cases, as long as this is provided for in a federal decree and backed by a referendum.

## **The Law-Making Process**

The process leading to the adoption of a new law is complex and often lengthy. It takes at least 12 months, and in extreme cases can take up to 12 years. However, the number of laws adopted has increased greatly in recent years. On average, one new law or amendment comes into force each week.

A new law progresses through five stages: the initiative stage; the drafting stage; the verification stage; the final decision stage; the entry into force.

A bill may be initiated by an individual citizen or interest group, a member of parliament or of an administrative department, a canton or the Federal Council. To prepare a first draft, the Federal Council often sets up a committee with between 10 and 20 members, including representatives of interested parties. The draft is then forwarded for consultation to the cantons, parties, associations, and other groups, who are all entitled to state their position and propose amendments. The federal administrative authorities then revise the draft and submit it to the Federal Council. The Federal Council verifies the text: it either refers it back again for more detailed consideration, or forwards it to the National Council and Council of States for parliamentary debate.

The Speakers of the chambers decide in which chamber the new law is to be debated first. A preparatory committee of the chamber concerned – which is

generally one of the 12 permanent committees – discusses the text and presents its conclusions to the whole chamber.

The chamber has three options. First, it may regard the new law as superfluous and take no further action – in which case the text is shelved. Second, it may refer the text back to the Federal Council for revision. Third, it may discuss the law in detail and finally make a decision.

This procedure is repeated in the other chamber: the preparatory committee begins by examining the text adopted by the first chamber. The second chamber then considers the matter in plenary session. It has the same options as the first chamber.

If the decisions of the National Council and Council of States differ, a reconciliation procedure begins. If different versions of the new law still exist after three debates, the conciliation conference is convened, consisting of members of the two committees who worked on the bill, to seek a compromise, which is then submitted to the two chambers for a final vote.

The new law adopted by parliament enters into force unless a referendum is sought within 100 days. To be valid, the signature of 50,000 electors must be obtained in favor of a popular ballot. A public vote is compulsory for constitutional amendments, which must win in a majority of cantons.

## *THE JUDICIARY*

The administration of justice is primarily a cantonal function. The cantons dispense justice even when it concerns the application of federal statutes.

On the level of the confederation, there is the Federal Tribunal, made up of the Federal Supreme Court, the Federal Criminal Court (since April 2004), the new Federal Administrative Court (which will begin its duties in 2006), and the independent Federal Insurance Court. The Federal Tribunal represents the highest judicial authority of the country but its jurisdiction is limited. It is neither an American-type "Supreme Court," nor a German "Bundesverfassungsgericht," nor a French "Conseil constitutionnel." It has no power to declare federal laws unconstitutional, though it may overturn cantonal legislation on those grounds.

Generally speaking, the Federal Tribunal is entrusted with the control of the unity of interpretation of federal law, especially to insure the uniformity of the civil and criminal codes of the country. The Federal Supreme Court has 30 full-time and 30 part-time judges. The new Federal Criminal Court of first instance currently has 11 judges, and the Federal Insurance Court consists of 11 full-time and 11 part-time judges. The federal judges are elected by the United Federal Assembly on the basis of linguistic, regional, and party affiliation. The period of office lasts six years and the judges are eligible for reelection. In

principle, the office is open to all Swiss citizens. No legal training is required under constitutional law, although it is in practice.

#### *THE FEDERAL SUPREME COURT*

The Federal Supreme Court has jurisdiction over complaints regarding the violation of constitutional rights or the violation of communal autonomy and other cantonal guarantees. It also hears complaints regarding the violation of international or inter-cantonal contracts, as well as public law disputes between the confederation and the cantons or between cantons.

On appeal, it reviews the decisions of the highest cantonal courts and other authorities of the confederation to ensure they are compatible with the applicable law. It is the highest court to rule on disputes concerning civil law, criminal law, and public and administrative law (disputes between persons and the state, between cantons, and between the confederation and the cantons).

The new Federal Criminal Court rules in first instance on criminal cases that fall within federal jurisdiction. The future Federal Administrative Court, which is expected to begin its duties in 2006, will replace the Supreme Federal Court in the field of appeals against acts of federal administrative authorities.

The Federal Insurance Court is considered to be an organizationally independent division of the Federal Supreme Court. Its 11 federal judges and

11 part-time judges are responsible for social insurance law as part of administrative law.

### *Political Parties*

The federal constitution provides for political parties to help give form to the opinions and will of the people. A number of different political parties exist in the country, competing for the favor and the votes of the public. In the 2003 elections, the four major parties gained the support of around 80 percent of the electorate.

### *Citizenship*

Swiss citizenship is primarily acquired by birth. A child acquires Swiss citizenship if one of his or her parents is a Swiss citizen (*ius sanguinis*). It is of no relevance where a child is born.

Swiss citizenship is derived from membership in a Swiss commune. According to Article 37 of the federal constitution everyone who holds citizenship of a commune and of the canton to which it belongs has Swiss citizenship. It also provides that no one should enjoy privileges or suffer loss because of their

citizenship. A foreigner can acquire Swiss citizenship by applying to the commune where he or she lives.

### *Fundamental Rights, Civil Rights and Social Goals*

The federal constitution defines fundamental rights in Title 2, “Fundamental Rights, Civil Rights and Social Goals.” immediately following the general provisions. In doing so, the framers of the constitution have emphasized the fundamental importance of the rights of the people for the smooth functioning of the state and society.

Article 35 declares that the fundamental rights must be realized throughout the legal system. Everyone who carries out any state function must respect the fundamental rights and contribute to their realization. The authorities must also ensure that fundamental rights are respected in relations among private persons, whenever the analogy is applicable. Article 36 declares that the essence of fundamental rights is inviolable.

### *THE FUNDAMENTAL RIGHTS*

The federal constitution explicitly guarantees the following fundamental rights: human dignity; equality before the law; protection against arbitrariness and

the principle of good faith; the right to life and personal freedom; protection of children and young people; the right to aid in distress; the right to privacy; the right to marriage and family; freedom of religion and conscience; freedom of opinion and information; freedom of the media; freedom of language; the right to basic education; freedom of science; freedom of art; freedom of assembly; freedom of association; freedom of residence; protection against expulsion, extradition, and removal by force; the right to property; economic freedom; freedom to form unions and the right to strike; general procedural guarantees; guarantee of access to a judge; guarantees in judicial proceedings; *habeas corpus*; rights in criminal procedures; and the right of petition.

#### *CIVIL RIGHTS*

Article 34 of the constitution provides that political rights are guaranteed and that these guarantees protect the free formation of opinion by the citizens and the unaltered expression of their will.

#### *SOCIAL GOALS*

The constitution requires the confederation and the cantons, while encouraging personal responsibility and private initiative, to strive to ensure that every person benefits from social security and necessary health care; every family

as a community of adults and children is protected and encouraged; every person capable of working is able to sustain himself or herself through work under fair and adequate conditions; every person looking for housing shall find, for him or herself and his or her family, appropriate housing at reasonable conditions; children, young people, and people of working age shall benefit from initial and continual education according to their abilities; children and young people shall be encouraged in their development to become independent and socially responsible persons, and they shall be supported in their social, cultural, and political integration. Every person shall be insured against the economic consequences of old age, disability, illness, accidents, unemployment, maternity, orphanhood, and widowhood. The confederation and the cantons shall strive to realize the social goals within the framework of their constitutional powers and with the means available to them.

#### *IMPACT AND FUNCTIONS OF FUNDAMENTAL RIGHTS*

Social rights cannot be derived from the social goals, which do not confer any special rights to state services. These social goals remain a program to be followed by public authorities. Fundamental and civil rights, however, are directly applicable to every individual citizen. Fundamental rights, civil rights, and social goals are widely respected in Switzerland.

### *LIMITATIONS TO FUNDAMENTAL RIGHTS*

Any limitation of a fundamental right requires a legal basis; it must be justified by the public interest or the need to protect the fundamental rights of other persons; and it must be proportionate to the need. Serious limitations cannot be imposed unless expressly foreseen by statute. The essence of fundamental rights is inviolable.

### *Economy*

The Swiss economic system can be described as a social free market economy. It combines aspects of social responsibility with market freedom. The constitution itself proclaims an economic system based on free competition. The legislature is thus free to structure the economy, but only according to a set of conditions provided by the framers. Switzerland is not explicitly defined by the constitution as a social state, but the constitution provides for minimum social standards.

### *Religious Communities*

The federal constitution expressly guarantees complete freedom of religion or philosophical convictions. Everyone has the right to choose their religion or philosophical convictions freely and to profess them alone or in community with others. Everyone has the right to join or to belong to a religious community and to follow religious teachings. No person can be forced to join or belong to a religious community, to participate in a religious act, or to follow religious teachings.

No state church exists, but all cantons support, with public funds, at least one of the three traditional Christian denominations: Roman Catholic, Old Catholic, and Protestant, through the “church tax.” Each individual may, however, choose not to contribute to church funding, by declaring that he or she does not wish not to belong to any of the three traditional denominations.

Article 72 of the federal constitution addresses the relation between the church and state. The regulation of the relationship is considered a cantonal matter. The confederation and the cantons may, within the framework of their powers, take measures to maintain public peace between the members of the various religious communities.

Foreign missionaries must obtain a “religious worker” visa to work in the country. Requirements include proof that the foreigner would not displace a

citizen from performing that job, that the foreign worker would be financially supported by the host organization, and that the country of origin of the religious worker also grants visas to Swiss religious workers.

Religion is taught in public schools. The doctrine presented depends on which religion predominates in the particular canton. However, those of different faiths are free to attend classes of their own creeds during the class period. Atheists may also be excused from the classes. Additionally, parents may send their children to private religious schools or teach their children at home.

#### *Military Defense and Civil Protection*

According to Article 58 of the federal constitution, Switzerland shall have an army, organized in principle as a militia. The army shall contribute to the prevention of war and the maintenance of peace, it shall defend the country and protect the population. It shall lend support to the civil authorities to repel serious threats to internal security, to master other exceptional circumstances, or to perform additional tasks that statutes may provide.

In urgent cases, the Federal Council may mobilize troops. If it mobilizes more than 4,000 members of the armed forces for active duty, or if the

mobilization is expected to last more than three weeks, the Federal Assembly must be convened without delay.

The use of the army is a federal matter. The cantons may engage their troops to maintain public order on their territory if the means of the civil authorities no longer suffice to deter serious threats to inner security. Legislation on the military and the organization, instruction, and equipment of the army is also a federal matter. Within the limits of federal law the cantons may form cantonal units, appoint and promote officers of such units, and furnish a portion of their clothing and equipment.

Every Swiss man must render military service. The law provides for an alternative service for conscientious objectors. Military service is voluntary for Swiss women. Swiss men who render neither military nor alternative service owe a tax. In 2003 Swiss voters approved the military reform project "Army XXI," according to which the size of the Swiss army will be drastically reduced and the mandatory term of service curtailed.

Legislation on civil defense is also a federal matter and has the purpose of protecting individuals and property against the consequences of armed conflicts. The confederation is authorized to legislate concerning the intervention of the armed forces in catastrophes and emergencies, and has the right to impose mandatory civil defense service for men.

### *Amendments to the Constitution*

Amendments to the federal constitution can be initiated through popular initiatives, and are subject to a compulsory referendum. The initiative mechanism, as well as the mechanism for a total revision of the constitution, requires 100,000 valid voters' signatures, collected within 18 months of the initiative being filed.

A total revision of the federal constitution may be proposed by the people, by one of the two parliamentary chambers, or by the Federal Assembly as a whole. If the initiative emanates from the people, or if the chambers disagree, the people shall decide whether a total revision should be undertaken. Should the people accept a total revision, new elections to both chambers are held.

The government may not violate any mandatory provisions of international law. Similarly, no revision of the federal constitution may violate such provisions. The federal constitution, revised in whole or in part, shall enter into force as soon as it is accepted by the people and the cantons.

#### Further Reading:

Constitution in English (online):

<http://www.admin.ch>; <http://www.swissemb.org/legal/const.pdf>.

The Federal Constitution in German, French and Italian (online):

<http://www.admin.ch>; and can be ordered via internet:

<http://www.bundespublikationen.ch>.

Secondary Sources: *The Swiss Confederation, a brief guide 2004* (Publications of the Swiss Federal Chancellery); Rigamonti, Cyrill P. (JURIST's Switzerland Correspondent): *The New Swiss Constitution and Reform of the Federal Judiciary*: <http://jurist.law.pitt.edu/world/swisscor1.htm>; Confoederatio Helvetica, The Federal Authorities of the Swiss Confederation: *The political structure of Switzerland*: <http://www.admin.ch/ch/e/schweiz/political.html>; Confoederatio Helvetica, The Federal Authorities of the Swiss Confederation: *How is a new law enacted?* (Legislative procedure): [www.admin.ch/ch/e/gg/index.html](http://www.admin.ch/ch/e/gg/index.html); *Direct Democracy in Switzerland: The Players*: [www.swissworld.org/dvd\\_rom/eng/direct\\_democracy-2004/content/involved/involved.html](http://www.swissworld.org/dvd_rom/eng/direct_democracy-2004/content/involved/involved.html); *Direct Democracy in Switzerland: The Political system in Switzerland*: [www.swissworld.org/dvd\\_rom/eng/direct\\_democracy\\_2004/content/politsystem/politsystem.html](http://www.swissworld.org/dvd_rom/eng/direct_democracy_2004/content/politsystem/politsystem.html); *Direct Democracy in Switzerland: The Future*: [http://www.swissworld.org/dvd\\_rom/eng/direct\\_democracy\\_2004/content/history/history.html](http://www.swissworld.org/dvd_rom/eng/direct_democracy_2004/content/history/history.html); *Government: The smallest political division: the commune*: <http://www.swissworld.org/eng/index.html?siteSect=701&sid=4052816&rubricId=1501>; *Focus on direct democracy: Swiss direct democracy*: [www.aceproject.org/focuson/direct\\_democracy/swiss.htm](http://www.aceproject.org/focuson/direct_democracy/swiss.htm); *Nation-By-Nation: Switzerland*: <http://www.nationbynation.com/Switzerland/Human.html>.

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