

International Committee of the Red Cross

CONCLUSION OF A HEADQUARTERS AGREEMENT BETWEEN THE INTERNATIONAL COMMITTEE OF THE RED CROSS AND THE SWISS CONFEDERATION

On 19 March 1993 in Berne, Mr. René Felber, Head of the Federal Department of Foreign Affairs, and Mr. Cornelio Sommaruga, President of the ICRC, signed an agreement to determine the legal status of the ICRC in Switzerland.

The purpose of this agreement was threefold:

The Swiss Confederation wished to confirm, by a legal instrument, the independence of the ICRC, which the federal authorities have in any case consistently respected in the past. The objectives of such an agreement were clearly stated in the report by the study group set up by the Federal Council to consider future Swiss foreign policy:

"The federal authorities should avoid mixing up Switzerland's policy with the activities of the ICRC and the neutrality of the State with the Committee's humanitarian neutrality. They should not attempt to influence the decisions of the ICRC and should respect its independence. This position would become clearer if Switzerland were to conclude a headquarters agreement with the Committee, granting it the international immunities and privileges usually accorded to international organizations in Geneva".¹

For the International Committee, the agreement served to confirm the international status of the institution, whose functions are laid down in the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto, and in the Statutes of the International Red Cross and Red Crescent Movement; to place relations between the ICRC and the Confederation on the footing of public international law; and to guarantee the ICRC's independence irrespective of any changes in Switzerland's foreign policy.

Finally, a headquarters agreement would serve to clarify all legal relations between the International Committee and the Swiss Government.

¹ *Swiss Neutrality Put to the Test — Swiss Foreign Policy between Continuity and Change, Report by a Study Group on Questions of Swiss Neutrality*, Berne, Federal Chancellery, March 1992, page 25.

The agreement of 19 March 1993 fully meets the above objectives.

Under the agreement, the Federal Council recognizes the ICRC's international juridical personality and legal capacity in Switzerland, and guarantees its independence and freedom of action. The agreement confers on the ICRC the immunities granted to international organizations having their seat in Switzerland (inviolability of premises, archives, correspondence and means of communication, customs exemptions, immunity from legal process and execution, etc.); it also accords the members and staff of the ICRC, and experts consulted by it, immunity from legal process for all acts accomplished in the course of their duties. On the other hand, the agreement does not confer any fiscal immunities on the members and staff of the ICRC; the International Committee decided of its own accord not to request such an exemption because the members and the large majority of its staff are Swiss citizens, and also having regard to the magnitude of the Confederation's financial support for the ICRC's work, in particular its financing of a major part of the institution's headquarters budget. In this respect, the agreement of 19 March 1993 differs from those which have been concluded with countries where the ICRC has a delegation. The articles governing the settlement of disputes on the application or interpretation of the agreement are aligned on those contained in several of the 45 headquarters agreements which the ICRC has previously concluded with various countries, and those contained in the headquarters agreements concluded between the Swiss Confederation and intergovernmental organizations having their seat in Switzerland. Thus, although it is concluded between Switzerland and a legal person domiciled in Switzerland, the agreement of 19 March 1993 is unquestionably an international agreement under international law.

In signing the headquarters agreement with the Confederation, the ICRC in no way wishes to reject its Swiss origins, nor does it forget the generous support which it has always received from the Swiss Confederation and the people of Switzerland. It intends to maintain the friendly ties which have always existed between Berne and Geneva. Similarly, the ICRC trusts that the Confederation, which is the depositary State of the Geneva Conventions, will continue in future to grant it the same support as it has unfailingly provided in the past.