



Bern, 23.02.2018 - FRY

Management Response to the evaluation of DCAF's project: The International Code of Conduct Association (ICoCA) Implementation Support and Promotion (SAP 632243)

Introduction - the process

1. In October 2017, the FDFA mandated Blomeyer & Sanz to undertake the external evaluation of the project called "The International Code of Conduct Association - Implementation Support and Promotion" by the Geneva Centre for the Democratic Control of the Armed Forces (DCAF).

The overall objective was to assess the contribution of DCAF support to the ICoCA and implementation of the International Code of Conduct for Private Security Service Providers (ICoC), and identify key priorities and avenues of DCAF support in an eventual next phase. The evaluation included the two levels of DCAF support to ICoCA: direct support to the Association itself and DCAF's contribution to the promotion and implementation of the ICoC through its wider programmatic activities on private security governance at the national and regional level.

2. The FDFA welcomes the submission of the evaluation report and would like to express its appreciation and thanks for the work done by Mr. Roland Blomeyer and his team, who conducted the evaluation as mandated and through regular, frank and open dialogue.

Overall appreciation of the evaluation report

3. The FDFA confirms that the evaluation report addresses all of the issues and questions as agreed in the Terms of Reference, and confirms that the methodology applied was based on both the TORs and regular exchanges between the evaluator and FDFA.

4. The evaluation report identifies the need to maximize the opportunities offered by the DCAF project in the future while at the same time ensuring that ICoCA is reinforced and sustainable as an independent entity. This will provide the basis to clarify the project both in terms of direct support to ICoCA and in terms of where wider activities can create space for ICoCA or otherwise promote implementation of the ICoC.

5. The evaluation accurately identifies the elements that constitute the added value of the project, namely:

- The **relevance** of the project's support to the operationalization of ICoCA, including in what pertains to the complementarities with the Montreux Document.

The evaluation identifies the coordination areas between the two initiatives and DCAF's contribution in operationalising their common framework. DCAF's capacity to monitor and follow emerging developments in the private security sector, assess its impact for the normative framework and inform about it, is identified as being crucial. DCAF's added value to the project is noted as being based on its characteristics as a neutral, independent, and long-standing organization with a wide range of expertise and global operations.

The future relevance of the project was also noted with respect to DCAF's capacity to help ICoCA to address emerging needs, related for instance to the enlargement of participation in the initiative by smaller companies, new clients, non-western members, and in the integrated discussion of the various initiatives.

- The **effectiveness** of the project in reaching its immediate objectives, including strengthening ICoCA's capacities. The evaluation has noted the project's key importance in operationalising ICoCA thanks to DCAF's thematic support to the development of key procedures.

The evaluation notes the project's substantial contribution to both organizational and functional aspects of ICoCA. The project is evaluated as having been essential in its contribution to the setting up of ICoCA, the development of its core functions and to bridging the leadership gap with the unexpected departure of the first Executive Director.

Through the secondment of the project officer, it has contributed to the finalization and operationalization of the certification, monitoring and complaints functions, and through the dedicated position within the DCAF team, the wider implementation work.

- The **efficiency** of the project in helping to ensure **sustainability** of ICoCA's secretariat: the technical support, including the secondment by DCAF of a full-time project officer, has been instrumental in providing and building the capacity of ICoCA during its foundational years. The project structure and processes were deemed suitable and efficient to implement project activities.

Main focus of the recommendations

5. The evaluation report contains useful recommendations for the development of the project, particularly on monitoring performance and enhancing project reporting, strengthening visibility and communication, the development of CSO capacities and DCAF's support to strengthening membership and diminishing barriers to ICoCA membership.

6. Although the recommendations contain important indications on possible amendments and improvements, some of them apply more broadly to the ICoCA initiative as such and not to the project itself. The DCAF project to support ICoCA is as an integral component of a broader international system, which includes multilateral and multi-stakeholder initiatives and regional and national programs to ensure the respect of humanitarian and human rights law by Corporate entities, Governments and private security companies operating in complex environments. Given the proliferation of the use of private security companies by governments, companies, international organizations and NGOs, the regulation, oversight and capacity building of PSCs are a common thread within this international system. They are directly connected to many aspects of the respective mandates of ICoCA and DCAF.

7. With regard to the **specific recommendations**, FDFA generally welcomes them, seeing a great deal of value in implementing those related to:

- **Monitoring performance and enhancing project reporting** (recommendation 1 and 13): Developing a logical framework could indeed significantly strengthen the project and provide valuable lessons for the ICoCA secretariat. It could draw on DCAF's *Theory of Change and Results Based Management* framework. This could be specified in the new contract between the FDFA and DCAF. This may also provide useful insights for ICoCA reporting to its donors.

- **Strengthen visibility of the project and communicating the Swiss initiative more clearly** (recommendations 2 and 3): this would benefit the project, and raise the potential of attracting other donors. This is subject to the caveat under 'missing elements' and distinguishing between the project and the Swiss initiative as such. A guiding line should be to act as force multipliers and partners without conflating or confusing the roles and responsibilities of ICoCA and DCAF.

- **The development of CSO monitoring and complaints capacities** (recommendation 6, 7 and 12): the role of civil society members within ICoCA and the communication between civil society members are elements crucial to a more robust oversight of the private security industry. The future project could build on the Observatory project developed by DCAF.

- **Strengthening membership / diminishing barriers to membership** (recommendations 7, 9 and 10) are extremely important to ensure the diversity and wide representation the ICoCA requires, including about multi-lingual work. These recommendations fall mainly upon the ICoCA itself, but DCAF could provide research support on government and private client incentives for compliance with regulatory or legal requirements or norm and good practices.
- **Building PSC capacities** (recommendation 11): ICoCA has a key role here, but DCAF can also meaningfully develop capacities of PSC concerning the understanding for regulation and the need to implement international norms and good practices, as it is already doing in Latin America and the Caribbean and in Sub-Saharan Africa.
- **Better communication between the ICoCA and DCAF** (recommendation 14) is crucial – regular meetings and the establishment of coordination mechanisms should be reinforced.

Useful recommendation not directly linked to the project:

- **Intensify the dialogue between the Montreux Document Working Group on ICoCA and ICoCA** and consider attracting non-ICoCA members to assume a leading role in the Working Group (Recommendation 4). This recommendation is not directly linked to the project, since participation in the Working group on ICoCA is determined by the internal process of the Montreux Document Forum and not through this project. This has been a constant concern as the ICoCA working group was originally meant as the platform for interaction between ICoCA and Montreux Document participants that are not yet ICoCA members. The focal point of the FDFA on the Montreux Document (which also mandates and finances DCAF work on it) is the Department for International Law, which would need to be included in this discussion.

Missing elements:

8. There are a number of **missing elements** related to DCAF's support to ICoCA :

- The products and outcomes of the **advisory support** provided by the project's DCAF-based Project Coordinator are not fully reflected in the report. The report does indicate the direct support provided on the complaints procedure, but does not highlight the fact that the work under that position has **been responsible for developing many of the links between ICoCA and the wider work of DCAF**. This includes integrating ICoC good practices in national legislation and regulatory frameworks and creating openings for ICoCA with stakeholders in LAC and Sub-Saharan Africa.
- While correctly highlighting the need for greater coherence across initiatives supported by Switzerland (ICoC, MD, VPs), these initiatives are **not always described in an accurate manner**: the 'Swiss initiative' regroups the Montreux Document and the International Code of Conduct, not the 'Voluntary Principles'. In some instances, the ICoC is wrongly reflected in the evaluation report as an 'implementation mechanism' for the Montreux Document.
- The report **sometimes conflates 'DCAF and ICoCA'**, particularly within the recommendations. In order to establish a sound basis for the next phase of the project it is important to start with a clear understanding of the respective mandates, roles, and activities of DCAF and ICoCA.

Clarifications:

- 9. *Recommendation 5*: on assessing potential benefit from the experience of the Voluntary Principles - structured exchange. The report seems to ignore that the ICoCA has an observer status at the VP and viceversa, and that VPI member companies are observers to the ICoCA.
- *Recommendation 6*: development of CSO monitoring and complaints capacities. The challenge is not about the capacity development of civil society and corresponding networks per se, but rather how this oversight capacity can contribute to the ICoCA's monitoring function.
- *Recommendations 7 and 12* regarding CSO membership refer to two separate elements. One is the civil society membership within the ICoCA, which is part of the Association's

governance and membership development. The other relates to the empowerment of civil society's role in oversight and accountability of the private security sector.

- *Recommendations 8 and 10*: DCAF's and ICoCA's respective mandates need to be taken into account when talking about cooperation venues. DCAF's mandate is to develop and foster implementation of international norms and good practices as a means to promote good security sector governance. ICoCA is by definition a multi-stakeholder initiative driven by the specific needs of its constituencies as defined in its core functions.

Follow-up on the Project:

10. The support to a new phase of the project, from 1st April 2018 to 31st March 2020, should take into account the following action points:

(i) Confirming continued secondment of DCAF project officer (100%). As ICoCA moves into its operational phase to meet deliverables linked to core functions, the seconded HR resource remains key, until growth and long-term sustainability of ICoCA can be ensured. This will come about in the next two years through increase in membership payments from companies and diversification of funding sources, in particular from governments. The project will then be reassessed in view of possible phase out.

(ii) Prioritize stronger and **complementary** engagement and approaches on Functional and other support, with a focus on the Montreux Document, the Voluntary Principles, other Business and Human Rights Initiatives and DCAF work on private security governance. Joint activities and outputs should be central to the next stage of the project, but will have to be developed on a case-by-case basis. This will have to take into account specific roles in the different initiatives (DCAF plays the role of the MDF secretariat, and is a partner in a project with the ICRC in the VP initiative).

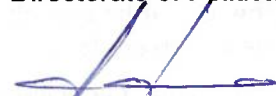
(iii) Develop a joint strategy and approach, including outreach program, to better profile and integrate the DCAF-ICoCA project into the overall Swiss initiative, and other relevant international, multilateral and multi-stakeholder initiatives. There is potential for existing web pages, like the security and human rights hub, to provide greater visibility to the DCAF-ICoCA project.

(iv) Develop joint strategy and approach to strengthen the role of and engagement with CSOs within DCAF-ICoCA project. The report underscores that the potential of the important role that Civil Society Organizations potentially have in supporting the DCAF-ICoCA project is untapped and that the role of CSOs as ICoCA members and/or 'monitors' is not fully defined. The synergies between the CSO membership of the ICoCA CSO Pillar, and DCAF's *Private Security Governance Observatory* need to be harnessed.

(v) Identify opportunities to promote ICoCA membership and support states, corporate clients and NGOs in including ICoCA membership in legislation, regulatory frameworks and procurement policies, where feasible. The sustainability and impact of ICoCA require a diverse and strong PSC and Government membership base, client recognition of ICoCA membership, and the raising of standards to ensure responsible provision of private security providers.

(vi) Building on ICoCA Field Based Reviews, operational footprint and industry feedback, as part of the project, DCAF and ICoCA should look to identifying key resources to be shared with PSCs and Clients, and any additional tool-kits and guidance that need to be developed.

Directorate of Political Affairs DP



Heidi Grau
Ambassador
Human Security Division



ANNEX: management response to the recommendations

Findings	Recommendation	Management response
Absence of an explicit logical framework. The existing project reports present lists of activities, however, there was no qualitative or quantitative monitoring data allowing for an assessment of the extent to which objectives were being achieved.	1) Monitor performance: develop a logical framework.	Agreed : to implement in the next phase of the project, based on DCAF's Theory of Change and Results Based Management framework.
Several stakeholders noted their limited knowledge about the project', and were not able to differentiate between activities supported by the project and other related ICoCA and / or DCAF activities.	2) Strengthen visibility: consider a more visible 'branding' of the project to attract other donors to commit to funding.	Partially agreed: there is merit in 'branding' the project to other possible government donors, including ICoCA members. However the visibility of ICoCA as an independent and sustainable organization should be prioritized in the long run, particularly as direct support to the secretariat will have to be favored.
Stakeholders noted that the Swiss Initiative is not supported by any dedicated strategy document, i.e. a strategy document specifically dealing with the Swiss Initiative, setting out the objectives of and relationships between the Montreux Document, the Voluntary Principles and ICoC/A.	3) Communicate the Swiss Initiative: Consider the development of a strategy document outlining the objectives of different initiatives (Montreux Document, Voluntary Principles, ICoC/A) and their relationships between each other.	Partially agreed: a document that highlights the relationship between Montreux Document and ICoCA already exists. With respect to the Voluntary Principles, this initiative is independent from ICoCA and led by other stakeholders. Measure : develop a joint strategy and approach, including outreach program, to better profile and integrate the DCAF-ICoCA project into the overall Swiss initiative and other relevant international, multilateral, multi-stakeholder initiatives
Under the Montreux Document Forum, the ICoCA Working Group has been meeting twice a year. The Working Group has experienced a prominent role of ICoCA member governments.	4) Intensify the dialogue between the Montreux Document and ICoCA and consider attracting non-ICoCA members to assume a more prominent role in leading the ICoCA Working Group to promote the engagement of Montreux Document members (not already members of ICoCA).	Agreed, but not directly related to the project. The MDF working group on ICoCA has a clear mandate to engage with it and meetings are regularly taking place. FDFA, in particular the Public Law Directorate (responsible for the Montreux Document) has invited other governments to lead the Working group, with no success so far.
There might be room for ICoCA to benefit from the experience that the Voluntary Principles have gathered over the years in terms of engaging with the private sector.	5) Assess potential to benefit from the experience of the Voluntary Principles: Consider establishing a structured exchange with OHCHR and UNLIREC to review experiences	Partially agreed: exchange with VP is already taking plac. Participation by ICoCA in the next plenary in Washington is foreseen. ICoCA has observer status before VPI.

		of engaging with private sector stakeholders (DCAF and ICoCA).	The second part of the recommendation is not clear as OHCHR and UNLIREC have no role in the Voluntary Principles. UNLIREC has a joint project with DCAF, with which, ICoCA could benefit from a more intense exchange.
CSOs noted their role in terms of contributing to effective monitoring, e.g. by contributing with methodological support and by pointing the monitors to specific areas and regions affected by higher risks of compliance issues. DCAF was considered well positioned to promote CSO involvement, drawing on its networks; stakeholders also considered that in this context, DCAF could provide capacity development for CSOs.		6) Develop CSO monitoring and complaints capacities: consider the possibility of future project support for the capacity development of CSOs, ideally in cooperation between ICoCA, DCAF and CSOs experienced in the provision of capacity development for other CSOs.	Agreed : with the clarification of the role of CSOs with respect to ICoCA monitoring, the exchange with DCAF's civil society observatories should be identified.
The need for a stronger CSO engagement was noted; the number of 22 CSOs was considered small in the face of the challenges posed by the monitoring and complaints functions; more important than the number, some CSO stakeholders considered that there is a need for a better definition and development of their role in ICoCA.		7) Strengthen CSO membership: Consider addressing the issue of CSO membership and role by directly engaging in a structured dialogue with leading CSOs in regions witnessing the operation of PSCs. The project could support this by conducting research on the role of CSOs in other multi-stakeholder initiatives (e.g. some of the European Union Agencies include governance arrangements involving CSOs) (DCAF and ICoCA).	Agreed : research on the role of CSOs in other MSIs to be included in the next phase of the project. DCAF to facilitate exchange between CSO observatories and CSO ICoCA members.
With regard to outreach, it appears that there was no joint ICoCA / DCAF planning document or work programme detailing scheduled activities.		8) Joint programming of outreach: A more structured approach might help ensuring that all opportunities for outreach are seized. The very fluid communication between ICoCA and DCAF already contributed to this during the course of the project; and ICoCA is now envisaging a more structured approach to cooperation.	Agreed
Stakeholders noted that PSCs from French- and Spanish-speaking countries challenged the requirement for translation of documentation into English, noting additional costs. However, stakeholders also noted limited evidence regarding the 'language barrier'.		9) Assess the language barrier: Consider tasking DCAF with engaging with certifying bodies in French- and Spanish speaking regions to collect evidence on the scope of the language barrier. On the basis of the findings, initiate a discussion on the use of French / Spanish in certification .	Not agreed , as not part of the project. Certification is an ICoCA core task and secretariat will engage with certifying bodies.
Stakeholders stressed that governments have an important role in terms of motivating PSC certification, suggesting that this could be achieved by procurement and other legislation, or 'soft-law' initiatives. Similarly, stakeholders also considered that private sector clients, e.g. insurance or financial sector companies should play a more important role in terms of requiring certification.		10) Incentivise ICoCA membership: Consider tasking DCAF with the preparation of background research on the different government and private sector client initiatives to incentivise certification (including research on the effectiveness of these initiatives); engage in a dialogue with governments and private sector clients for the dissemination and promotion of identified 'good practices'	Not agreed : certification is ICoCA core function