

- (a) The presumed offender is in Swiss territory;
- (b) The presumed offender has not been extradited to another competent jurisdiction.

The requirement of “close ties” with Switzerland, which existed for war crimes, was abandoned following the amendment of its civilian and military criminal legislation with a view to implementing the Rome Statute (amendments that entered into force on 1 January 2011).

The scope of universal jurisdiction is defined in the general provisions of the Swiss Criminal Code (CP; Recueil systématique 311.0, http://www.admin.ch/ch/f/rs/c311_0.html). Switzerland recognizes and applies the principle of universal jurisdiction for certain offences against minors (art. 5 CP), crimes or offences prosecuted under the terms of an international agreement (art. 6 CP), and particularly serious crimes proscribed by the international community (art. 7, para. 2 (b) and art. 264m CP), namely genocide (art. 264 CP), crimes against humanity (art. 264a CP) and war crimes (arts. 264b to 264j CP).

Practice of the judicial authorities

Swiss courts are presently considering several cases brought against foreign nationals for allegations of crimes against humanity and/or war crimes committed abroad. The Public Ministry of the Confederation sent an indictment based on universal jurisdiction to the Federal Criminal Court for the first time on 26 March 2019. The case concerns A.K., a Liberian national, who is being prosecuted for war crimes.

One case was concluded on the basis of universal jurisdiction by a Swiss military court, when it was still competent to hear cases on the crimes concerned. F.N., a Rwandan national, was convicted of war crimes committed in Rwanda (decision of the Military Court of Cassation of 27 April 2001).

International legal cooperation plays a key role in facilitating the collection of evidence for such proceedings. Switzerland is committed to facilitating legal cooperation in relation to the relevant crimes and calls on all States to collaborate in order to promote the success of the related proceedings.

2006086E