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Interview with Claude Duboulet, Head of the Consular Protection Section of the Federal Department of Foreign Affairs

Consular Protection: Help in Emergencies

A basic principle of international law gives every state the right to protect its nationals abroad against unlawful treatment. When and how are the Swiss representations abroad able to act for the benefit of our compatriots?



Claude Duboulet

Swiss Review (SR): Mr Duboulet, you are responsible for the Consular Protection Section in Berne. What, in general, does consular protection mean?

Claude Duboulet (CD): Consular protection is the right of all individuals or corporate bodies, with the help of a national representation, to claim and enforce their rights. Every state has autonomy in determining the conditions for granting consular protection and the scope of that protection. Incidentally, the treaties and laws of the country of residence must be respected when protection is exercised.

SR: The public is often unclear about the difference between consular and diplomatic protection.

*CD: In the case of diplomatic protection a *state* is championing its nationals because it has itself been injured in its own right and is demanding that a norm of international law be respected. It is therefore not only assisting its nationals but safeguarding its own interests.*

SR: What kinds of case does a consulate encounter and which are the most common?

CD: The job is very varied. It can consist of help for Swiss citizens in distress because of illness, an accident, unemployment etc. But it can also concern compatriots who are in financial difficulties, do not know the language, laws and customs of the country, or have quite simply lost their passports. Then there are deaths and searches for missing persons. The most common cases are arrests: 600 a year, on average.

SR: What can a Swiss representation do in such a case?

CD: It is not possible to intervene in foreign investigation or

penal procedures and, contrary to what is sometimes supposed, the embassy or consulate cannot help a Swiss who is in custody to get his period in detention reduced or even to obtain immunity from punishment. On the other hand, care is taken to see that a compatriot in custody is subject, without exception, to the legislation corresponding to his situation and that international law is observed, that the conditions of his detention, such as accommodation and food, correspond to the *local* circumstances, that medical attention is provided if necessary, and that he can write to, and receive letters from the outside world. Our representatives must always intervene if the detention conditions are degrading. The representation must also see that, if the detainee or his family so wish, a lawyer is available to defend his interests. The embassy or consulate has the right to know the reason for the arrest.

SR: Can the person in custody receive visits?

CD: The number of visits per-

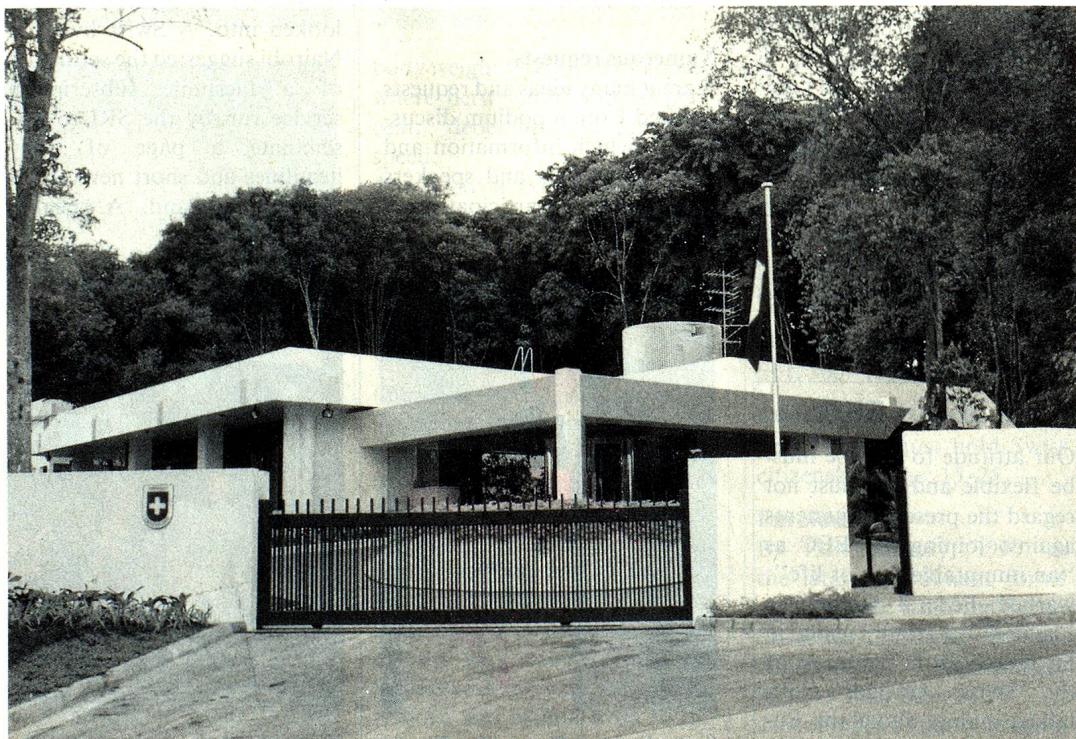
mitted depends on the particular legislation. If a detainee expresses a wish to receive additional visits he must himself bear the resulting costs.

SR: In what cases, apart from detention, can consular protection be given?

CD: As a second group of cases I would mention accidents and deaths (about 200 a year).

SR: What does a consulate have to do in such situations?

CD: I should like to start by pointing out that in these cases, as in all the others, the representation concerned works very closely with the Federal Office of Police of the Federal Department of Justice and Police, and also with my Consular Protection Section. Furthermore, from abroad, or from Berne, we often have contact with one of the many Swiss organizations specializing in emergency repatriation – if this is desired by the accident victim or his relatives. You would be surprised how many steps have to be taken. In the case of accidents a lawyer is provided or repatriation ar-



The Swiss chancellery in Singapore.



ranged (transport, ticket etc.) according to the particular situation. In the case of a death the family must be informed; the representation never does this itself but calls in a Swiss person in authority, mostly a clergyman. Then the official authorization to repatriate the remains has to be issued, a local firm of undertakers engaged, or transport to Switzerland arranged. It is essential, among other things, to contact the deceased's commune of residence to arrange for the burial. Of course, all these steps are not taken free of charge.

SR: Your last remark brings me to my next question. Can the representation also help Swiss who get into financial difficulties?

CD: It often happens, in fact, that a tourist's money runs out or is stolen. A compatriot who finds himself in a situation like that and is unable to help himself in any other way can turn to the nearest Swiss representation for help. However, this is only given on certain conditions and only for the journey back to Switzerland.

SR: What material help is given?

CD: Good question. In such cases many Swiss actually confuse the representations with sickness insurance schemes, travel agencies or credit institutions. It is above all a matter of enabling our compatriot to return to Switzerland quickly, paying the most essential board and lodging costs, or advancing money for medical and nursing care. But the money advanced must in no way enable the tourist to continue his holiday. We therefore try, when possible, to pay the advance not in cash but in the form of air tickets, vouchers or direct payment to the creditor.

SR: You spoke of an advance. But how can the representation ensure that it is repaid?

CD: If a compatriot applies to a



representation because of financial difficulties we first look to see if he is listed as a "wanted person". Within certain limits the representation can help a tourist out of its own funds. If larger amounts are involved the representation asks his family, his bank or other responsible persons for a guarantee that the sum to be provided will be repaid.

SR: We have learnt that representations abroad can only act within the framework of their host country's legislation. What freedom of action has a Swiss representation if a Swiss is missing?

CD: Such cases are difficult to solve, for many countries have no register of inhabitants. So it is easy to assume a new name and make a new life for oneself. It is usually impossible for Swiss authorities to find people like

that and searches through our embassies and consulates are nearly always in vain. On no account should we – representatives of the Federal Department of Foreign Affairs – be confused with detective agencies. If the family wishes the local police or, in grave cases, Interpol can also be notified. (This, too, can only be done against payment, of course.) Nothing more is possible on the Swiss side, however.

SR: We have been speaking of "Swiss" all the time. Do dual nationals also belong in this category?

CD: Dual nationals are actually not easy to classify. The focus is usually on the predominant nationality. But if it is ascertained that no support can be expected from the other country, Switzerland will also help a dual national.

SR: At the time of the events in China it was established that the Swiss there were helped very quickly.

CD: During times of crisis the Service for Consular Protection in Berne acts as a coordination and information point and takes care of the necessary safety precautions and repatriation. Thus the Service, which by the way can be reached at any time of the day or night, ensures quick and effective action.

SR: Have you got any advice in conclusion?

CD: Emergencies cannot be avoided, but in general tourists should prepare better for their journeys. By that I mean that they should find out more about their holiday country, its political situation and possible illnesses. I should like to refer you here to a little brochure with basic information produced by the Federal Department of Foreign Affairs. It is called "Wenn einer eine Reise tut . . ."/"Qui veut voyager loin ménage sa monture"/"Racconti di viaggio" and can be obtained from the Eidg. Drucksachen- und Materialzentrale (Office central fédéral des imprimés et du matériel, 3000 Berne), and from all embassies and consulates. In addition, more people should take out holiday insurances. Proper preparation would make the work of the representations somewhat easier.

Interview: Anne Baechtold

Federal Ballots

Dates for 1990

April 1st, June 10th, September 23th, and December 2nd. The issues to be voted on have not yet been chosen.

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