

Swiss Military Justice

7 questions - 7 answers
by Stefan Flachsmann

About Stefan Flachsmann

- Head of Swiss Military Justice
- Dr.iur, attorney-at-law
- lectureship in Military Criminal Law at UZH
- married, two children

7 questions - 7 answers

Question 1:
What is the legal basis of the
Swiss Military Justice (SMJ)?

What is the legal basis of the Swiss Military Justice (SMJ)?

- Constitution of the Swiss Confederation and Swiss Military Code
- Election of Judges by Parliament (Military Supreme Court) and by Government (Military Courts)
- Independence guaranteed by Constitution and by law

Question 2:
What is the meaning of the
system of active reserve forces?

What is the meaning of the system of active reserve forces?

- Members of Swiss armed forces are generally not soldiers of profession
 - Every soldier is also a civilian
 - Use of knowledge of civilian education and professional occupation
- Members of SMJ are lawyers with professional background

Question 3:

What is the jurisdiction of SMJ?

What is the jurisdiction of SMJ?

- Person person doing military service
- Commission of a criminal offence of the Swiss Military Criminal Code

→ Jurisdiction of SMJ

- according to the military unit,
- irrespective of where the offence actually took place.

What is the jurisdiction of SMJ?

- Swiss Army or a member of the Swiss armed forces are solely the victim of a criminal offence committed by a civilian perpetrator

→ No jurisdiction of SMJ

Question 4: How is the SMJ organized?

Organisation of the Swiss military tribunal system

3rd Instance: Military Supreme Court

2nd Instance: Military courts of appeal

1st Instance: Military tribunals

Question 5:
How does a Swiss Military Court
look like?

Swiss Military Court



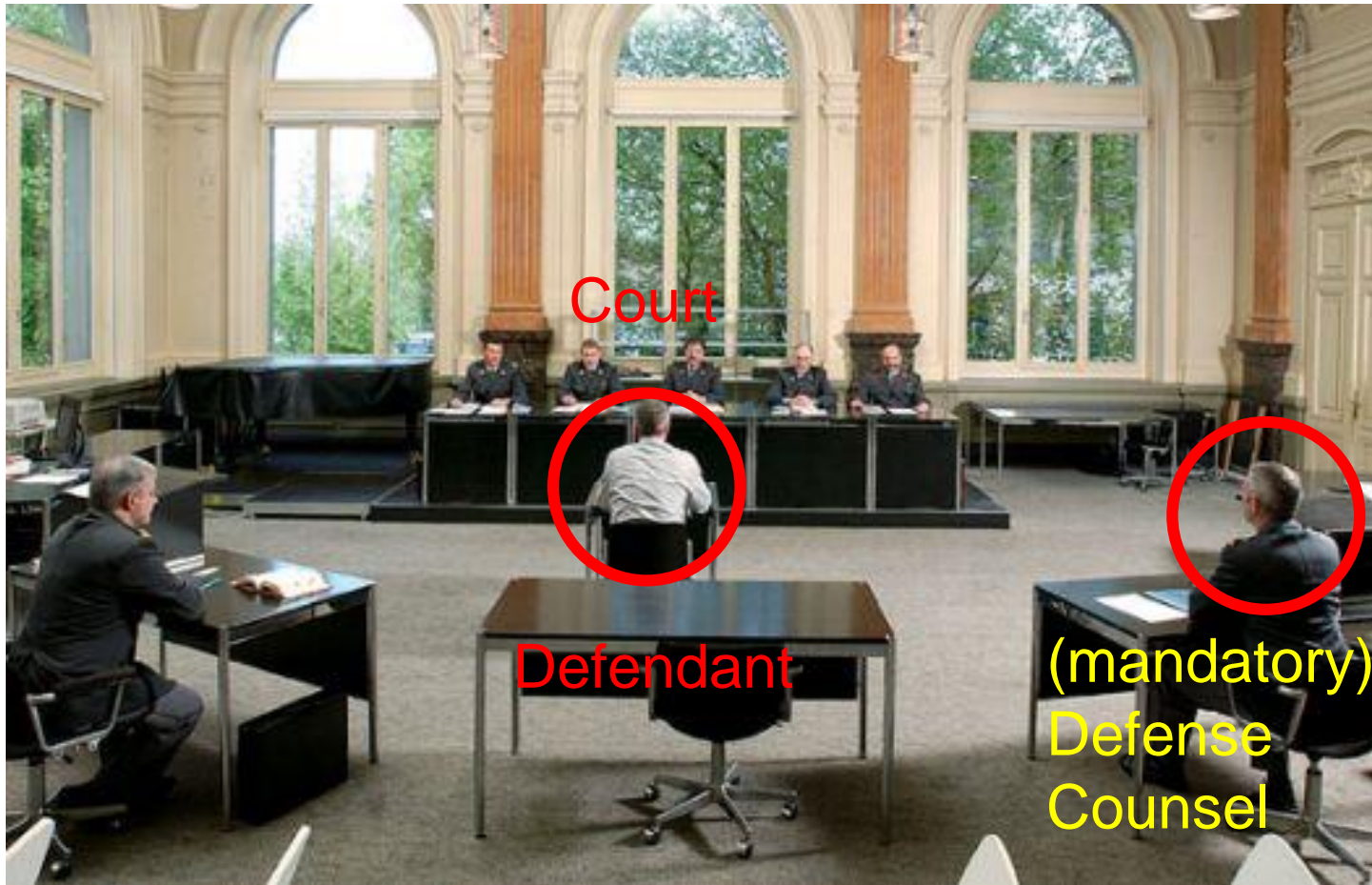
Swiss Military Court



Swiss Military Court



Swiss Military Court



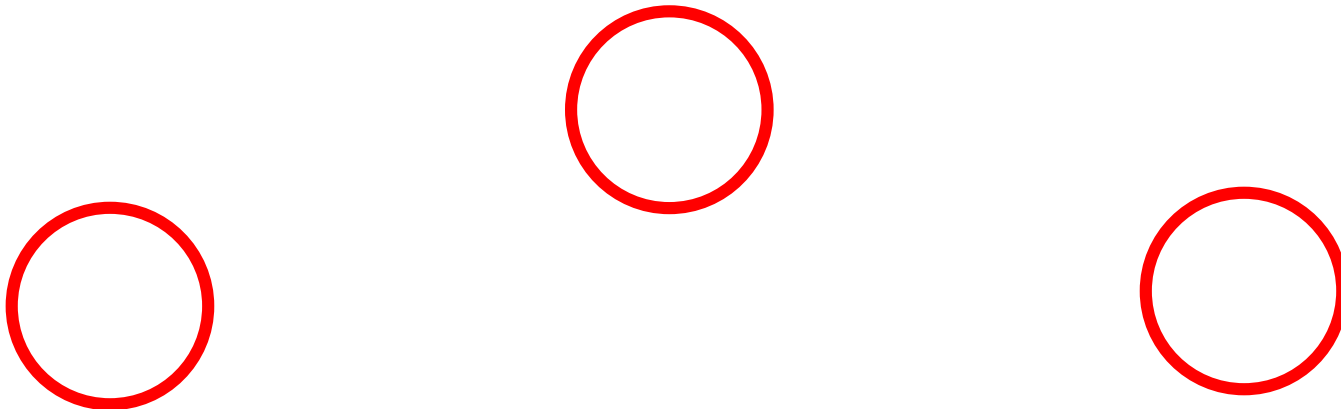
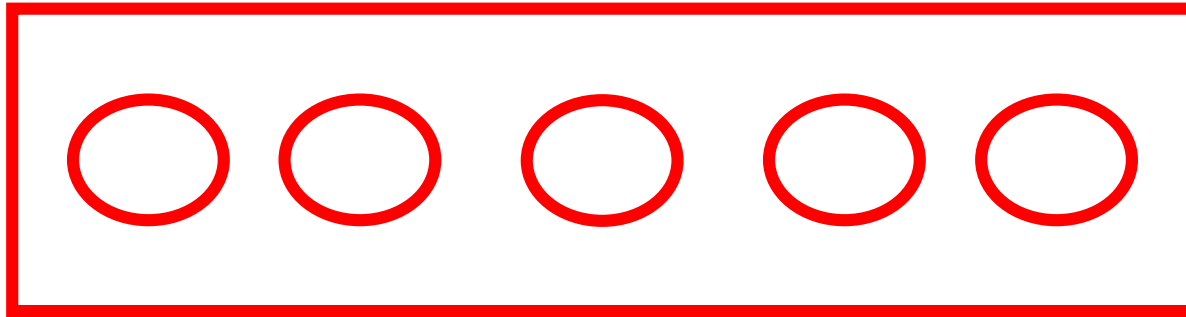
Swiss Military Court



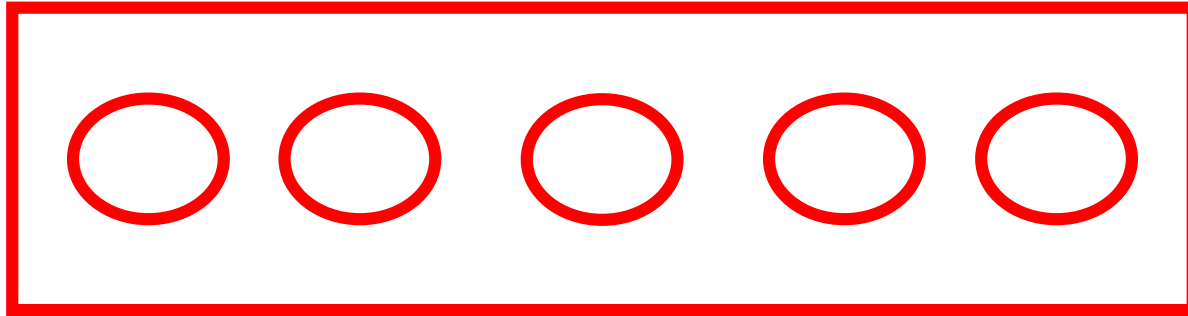
Swiss Military Court



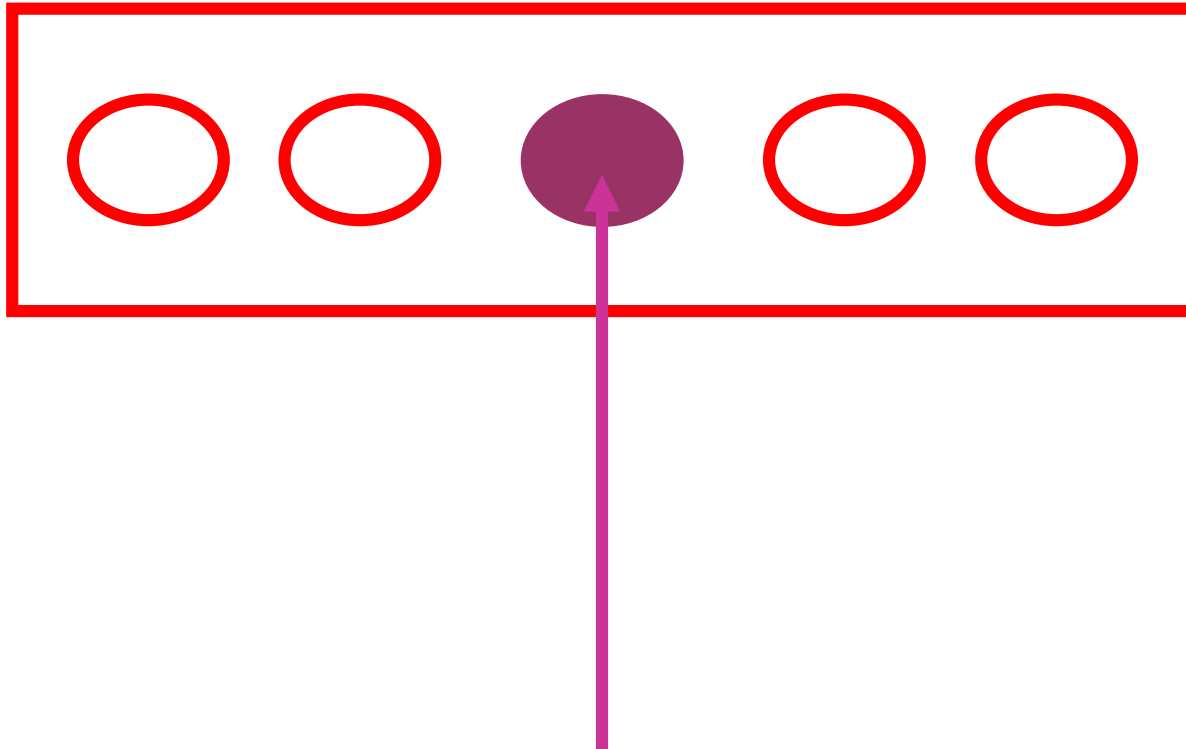
Swiss Military Court



Swiss Military Court

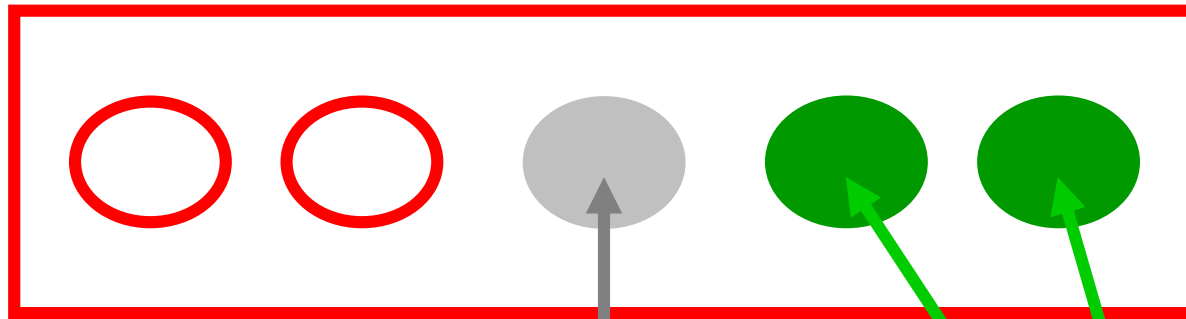


Swiss Military Court



President of court (lieutenant colonel / colonel)
Heads the court and presides over court hearings

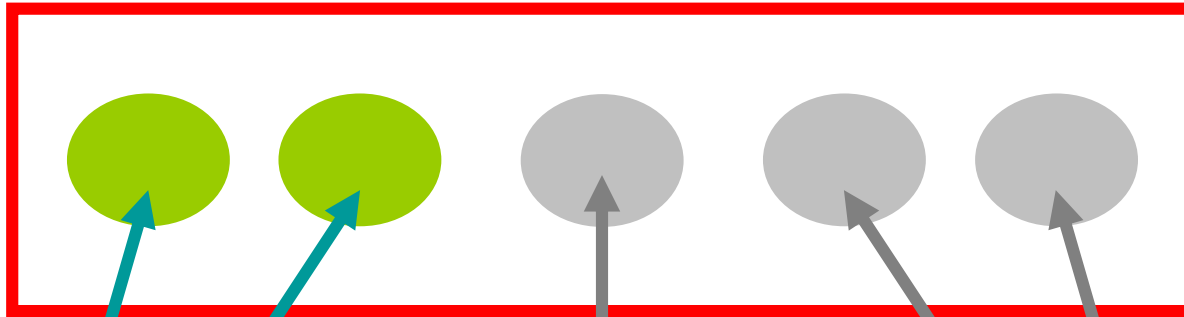
Swiss Military Court



President of court

Judges
(officers
from the troop unit)

Swiss Military Court

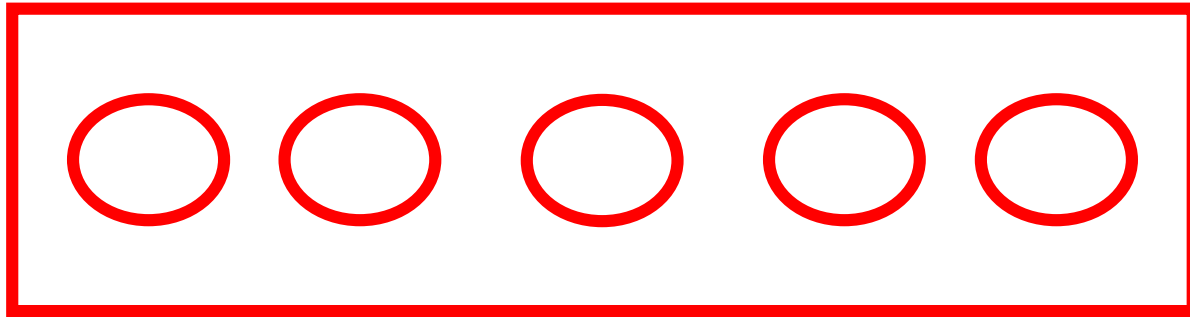


Judges
NCOs or soldiers
from the troop unit

President of court

Judges
(officers)

Swiss Military Court

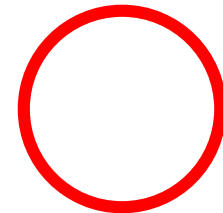
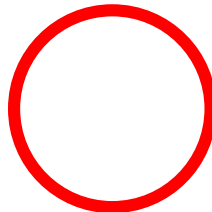
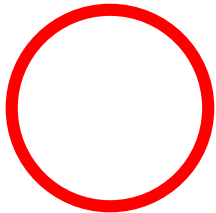
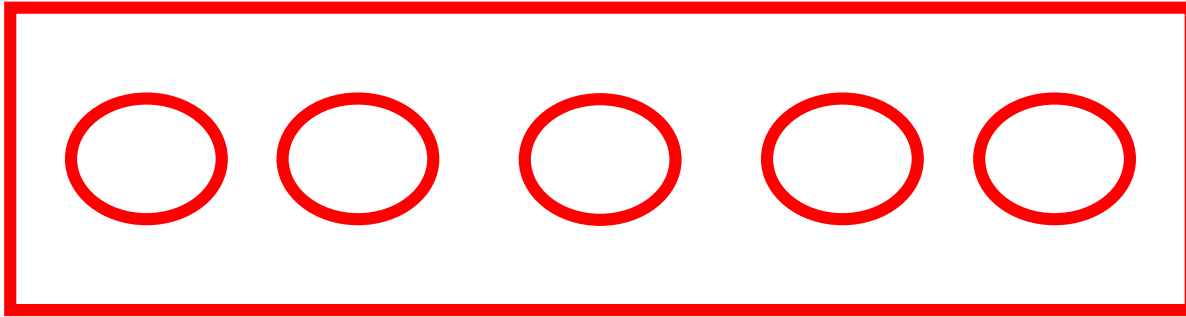


Court



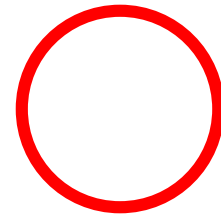
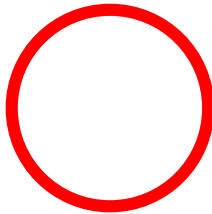
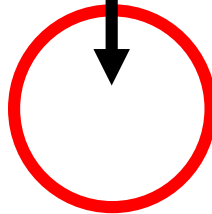
**Clerk of court
(normally specialist officer)**

Swiss Military Court

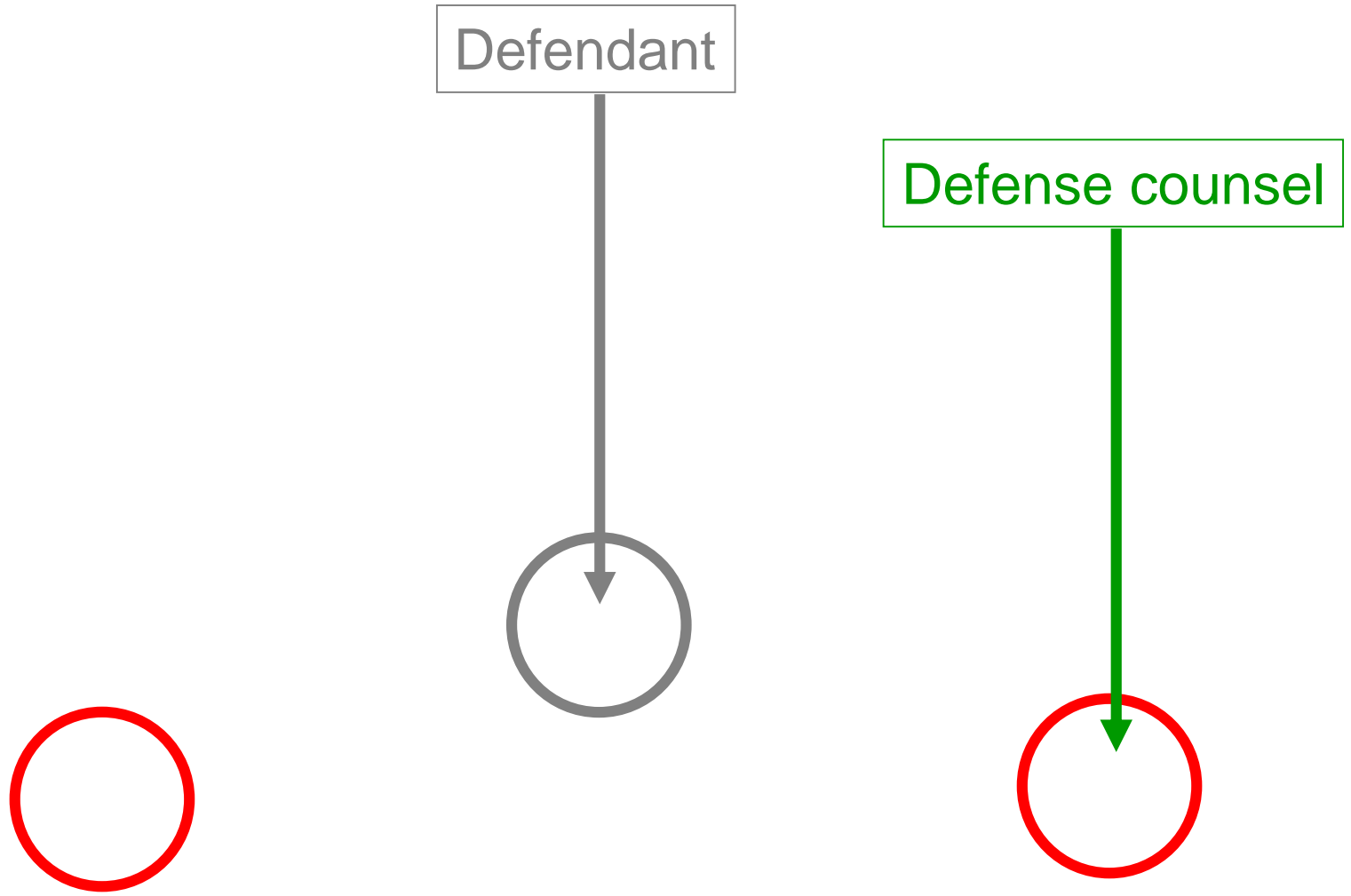


Swiss Military Court

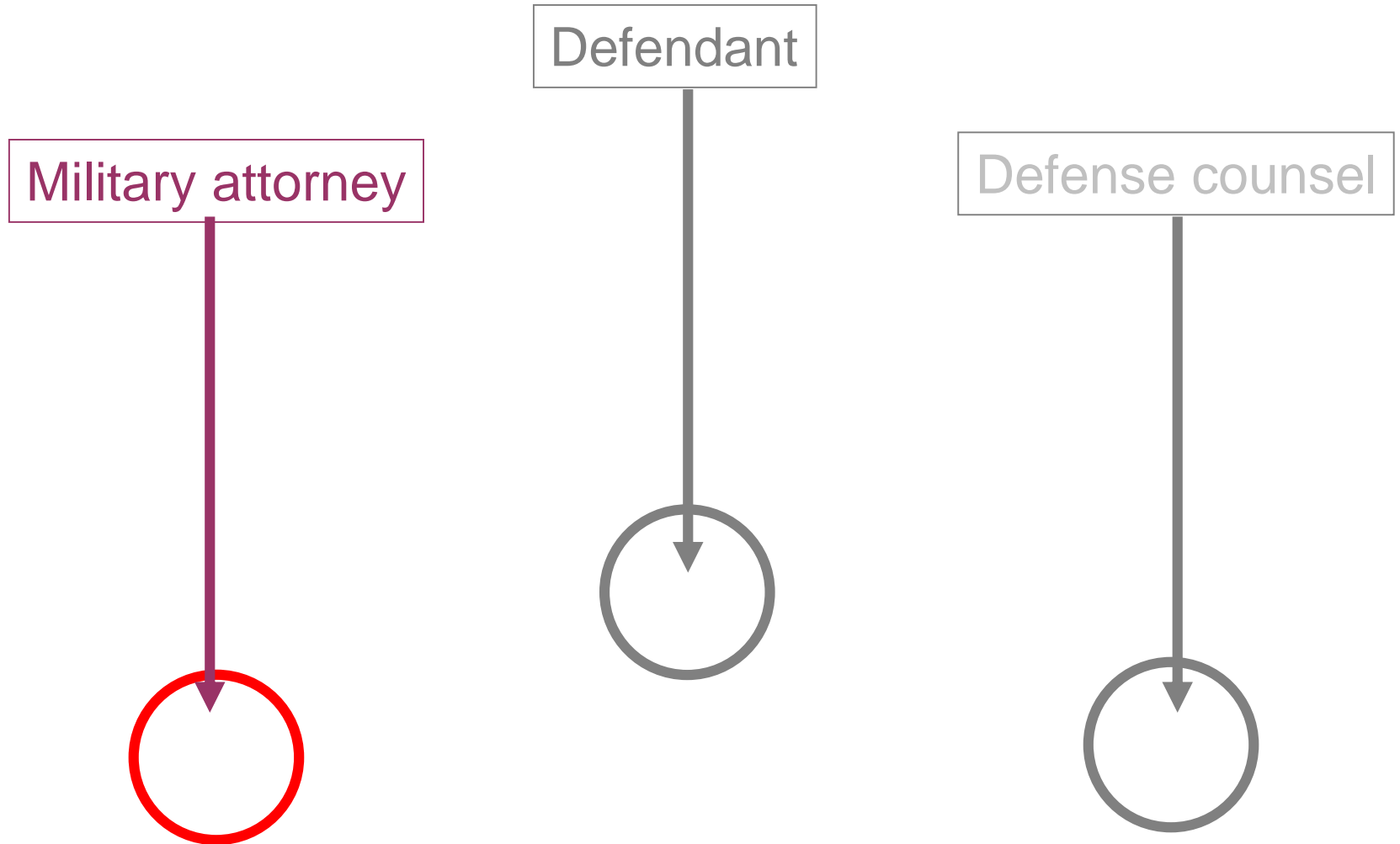
Defendant



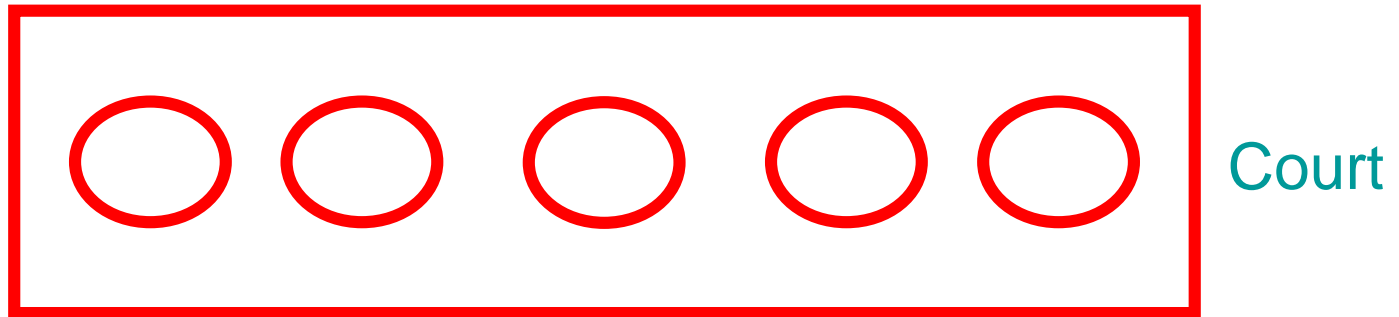
Swiss Military Court



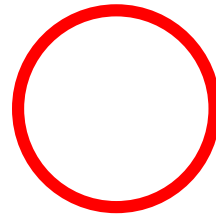
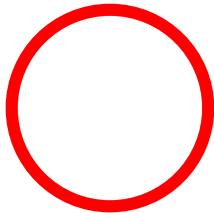
Swiss Military Court



Swiss Military Court

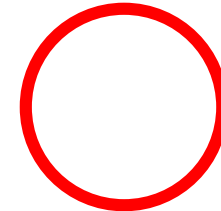


Military attorney



Defendant

Defense counsel



Question 6:

What happens before a case goes to court?

What happens before a case goes to court?

- **Examining magistrate (captain / major / specialist officer)**
- preliminary gathering of evidence
- preliminary investigations

Question 7: What are the standards of the procedures of the SMJ?

What are the standards of the procedures of the SMJ?

- European Convention of Human Rights
- Constitution of the Swiss Confederation
- Code of the swiss military criminal procedure

May I answer your questions?