



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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**List of issues to be taken up in connection with the consideration of the
fourth periodic report of SWITZERLAND (CAT/C/55/Add.9)**

Article 2

1. Please provide further information on the amendments contained in the draft federal code of criminal procedure on the rights of persons detained in police custody, in particular their rights: of access to counsel and to a doctor of choice, to be informed of their rights, to remain silent and to inform their family promptly about their detention. What is the current status of this draft code?

Article 3

2. The European Committee for the Prevention of Torture, after its visit to Switzerland in February 2001, stated that “the manner of forcible deportation operations under police escort presented a manifest risk of inhuman and degrading treatment”. Following this visit, a domestic working group on forcible deportations prepared cross-cantonal guidelines on restraint methods.

(a) Are the guidelines’ provisions relating to the use of sedative drugs that may be administered during forcible deportations in line with the United Nations Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment?

(b) What are the instructions given to prevent cases of positional asphyxia, as well as other types of injuries?

(c) Do the guidelines explicitly prohibit the wearing of masks or hoods by police officers during deportations?

(d) Have these guidelines been implemented at the cantonal level and when will they become legally binding?

3. Please provide statistics on the number of complaints received of torture and other cruel, inhuman or degrading treatment or punishment, including those leading to involuntary manslaughter, committed during deportations since January 2001. What types of injuries have the complainants suffered? What are the outcomes of these complaints, in terms of prosecutions, convictions and compensation? Please give examples of specific cases.

4. Please provide data disaggregated by age, sex and nationality, for the years 2001, 2002 and 2003, on:

(a) The number of asylum requests received;

(b) The number of persons granted asylum;

(c) The number of persons granted asylum on the basis of having been victims of torture or in danger of being subjected to torture (i.e. non-refoulement cases); and

(d) The number of persons forcibly expelled or deported (please indicate how many of these were rejected asylum-seekers).

5. The new law on asylum introduces changes regarding the rights of asylum-seekers retained at airports. What procedural rights are these persons granted by this new law and what practical application has been given to these rights? What is the maximum amount of time they can be held at the airport, and under what conditions are they retained, in particular regarding access to food, water and toilet facilities? What sort of legal assistance and legal representation do asylum-seekers have while awaiting deportation, in particular while at the airport? Are asylum-seekers ever detained in other places while awaiting a decision on their status? If so, please provide information on the places of detention and the maximum duration of this detention.

6. What measures have been taken to protect foreign women who experience domestic violence and whose residence permits are contingent on their living together with their Swiss spouse from being deported? What programmes exist to protect women living in the State party from domestic violence; do these programmes address the issue of female genital mutilation?

Article 4

7. Please explain why the definition of torture contained in article 1 of the Convention has not been incorporated into the Penal Code.

Article 5

8. Please provide information on domestic legislation establishing universal jurisdiction over the offence of torture. Please also provide information on the approval given by the Federal Parliament to a law that would allow Swiss military courts to open proceedings against suspected war criminals found on Swiss territory if the accused has a “close link” to Switzerland, such as close relatives or residence in the country.

Article 10

9. Paragraph 83 of the report states that the Swiss Prison Training Centre provides courses for prison personnel in order to improve detention conditions for prisoners suffering from mental problems.

(a) Do these courses also address the prohibition of torture and inhuman or degrading treatment or punishment?

(b) What training is given to police officers regarding the Convention and the prohibition of torture?

(c) Do the rules and instructions issued regarding the duties and functions of police officers and prison staff contain any information on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment?

10. Paragraph 51 of the report states that the federal organ SwissREPAT is responsible for hiring and training repatriation escorts. What type of training do these repatriation escorts receive?

Article 11

11. Please provide information on the number of imprisoned persons and the occupancy rate of the accommodation capacities for the years 2001, 2002 and 2003. Please provide information on the number of deaths in custody during this period, with a breakdown of the causes of death. Please also provide information on the delivery of timely and adequate health care (including mental health care) for detained persons, including persons with HIV.

12. Please provide further information on which cantons provide for incommunicado detention, and existing mechanisms for status review. Does the draft federal code of criminal procedure envisage its elimination?

13. Paragraph 88 of the report mentions that complaints were received after the establishment of a new system of transport of detainees, “Train-street”. How many complaints have been received since January 2001, what do they refer to and what have the outcomes, if any, of these complaints been?

Articles 12 and 13

14. Please provide data on the number of complaints of crimes of torture or acts amounting to cruel, inhuman or degrading treatment that have been filed since January 2001, as well as on the number of criminal and disciplinary proceedings instituted and sanctions imposed. Please provide examples of such complaints and the outcome of the investigations. What is the State party's response to the allegation that a fairly common reaction by the police to such complaints is to open an investigation against the complainant, accusing them of using threats and violence against the police?

15. In its previous concluding observations on Switzerland, the Committee against Torture recommended that "machinery ... be set up in all cantons to receive complaints against members of the police regarding ill-treatment during arrest, questioning and police custody". What progress has been made in implementing this recommendation?

16. What remedies do detainees have to appeal against disciplinary measures that may have been imposed on them? How does the State party ensure that such punishments are determined in a fair and impartial manner?

17. Are disciplinary proceedings for acts of torture or cruel, inhuman or degrading treatment equivalent to criminal proceedings for the same acts?

18. The extraparlimentary commission of inquiry established to investigate the conduct of the relevant Geneva authorities during the G-8 demonstrations announced that the investigations into 8 of the 15 existing complaints were being terminated without any further criminal action, on the grounds that it was impossible to identify the officers involved.

(a) What were the other findings of this commission of inquiry?

(b) Are regulations envisaged that would require officers to prominently display some form of individual identification when interacting with the public in demonstrations?

(c) Are any regulations envisaged to dissuade law enforcement officials, especially within the context of demonstrations, from using firearms such as rubber bullets and markers, dart-firing taser guns and disabling chemical irritant gases, amongst others?

Article 14

19. Does the right to compensation depend on the existence of a judgement in criminal proceedings ordering compensation? Can compensation be obtained by a victim of torture or cruel, inhuman or degrading treatment the perpetrator of which has been subjected to a disciplinary, but not to a criminal, sanction? Please provide statistics on the number of cases in 2001, 2002 and 2003 where victims of torture or ill-treatment have obtained compensation from the State for actions of its officials.

20. Please provide statistical information, disaggregated by gender, age and date of crime, on compensation measures provided to victims of torture or cruel, inhuman or degrading treatment since January 2001. Also provide information on the compensation granted to the families of Khaled Abu Zarifa and Samson Chukwu, both of whom died while being deported from Switzerland.

Other

21. What is the status of the bill classifying domestic violence as a specific and statutory crime, which would allow the authorities to prosecute offenders without needing an official complaint from the victim? What changes have been made to the Swiss Penal and/or Civil Code in this regard? Does the bill allow judges to, among other things, order offenders to leave the place of residence shared with the victim and ban them from re-entering for a specific period?

22. Please indicate whether there is legislation in your country aimed at preventing and prohibiting the production, trade, export and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment. If so, please provide information about its content and implementation. If not, please indicate whether the adoption of such legislation is being considered.

23. Please provide information on the legislative, administrative and other measures the Government has taken to respond to the threats of terrorism, and please indicate if, and how, these have affected human rights safeguards in law and practice.
