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## U.S. Department of State

### Switzerland Country Report on Human Rights Practices for 1996

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1997.

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#### SWITZERLAND

Switzerland is a constitutional democracy with a federal structure and an independent judiciary. The bicameral Parliament elects the seven members of the Federal Council, the highest executive body, whose presidency rotates annually. Because of the nation's linguistic and religious diversity, the Swiss political system emphasizes local and national political consensus and grants considerable autonomy to individual cantons.

The Swiss armed forces are a civilian-controlled militia based on universal military service for able-bodied males. There is virtually no standing army apart from training cadres and a few essential headquarters staff functions. Police duties are primarily a responsibility of the individual cantons, which have their own distinct police forces kept under effective control. The National Police Authority has a coordination role and relies on the cantons for actual law enforcement.

Switzerland has a highly developed free enterprise industrial and service economy strongly dependent on international trade. The standard of living is very high.

The Government fully respects human rights, and there were no major human rights problems. However, there continue to be verbal abuse against foreigners by private citizens and complaints by NGO's of occasional police harassment against foreigners, particularly asylum seekers (see Section 2.d.). Some laws still tend to discriminate against women, although a new federal law came into force in July that is designed to promote gender equality in the labor market. The Government is taking serious steps to address violence against women.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom from:

#### a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

#### b. Disappearance

There were no reports of politically motivated disappearances.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution proscribes such practices, and there were no reports of violations.

Prison conditions meet minimum international standards, although some nongovernmental organizations complain of prison overcrowding. The Government has taken measures to improve prison conditions and address overcrowding. The Government permits visits by human rights monitors.

#### d. Arbitrary Arrest, Detention, or Exile

The legal prohibitions on arbitrary arrest, detention, or exile are fully respected at all levels of government. The cantons are responsible for handling most criminal matters, and their procedures vary somewhat from canton to canton. In general, a suspect may not be held longer than 48 hours without a warrant of arrest issued by an investigative magistrate. However, asylum seekers and foreigners without valid documents may be held for up to 96 hours without an arrest warrant. A suspect has the right to choose and contact an attorney as soon as the warrant is issued; the State provides free counsel for indigents in most situations. Investigations are generally prompt, even if in some cases investigative detention may exceed the length of sentence. Release on personal recognizance or bail is granted unless the magistrate believes the person is dangerous or will not appear for trial. Any lengthy detention is subject to review by higher judicial authorities.

There is no summary exile, nor is exile used as a means of political control. Non-Swiss convicted of crimes may receive sentences that include denial of reentry for a specific period following completion of a prison sentence.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair and efficient judicial process.

The Constitution provides for public trials in which the defendant's rights are fully respected, including the right to challenge and to present witnesses or evidence. All courts of first instance are local or cantonal courts. Minor cases are tried by a single judge, difficult cases by a panel of judges, and murder (or other serious cases) by a public jury. Trials are usually held expeditiously. Citizens have the right to appeal to a higher instance court, ultimately to the Federal Court.

There were no reports of political prisoners.

## f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Cantonal laws regulate police entry into private premises. These regulations differ widely from canton to canton, but all prohibit such practices without a warrant. All government authorities respect these provisions, and violations are subject to effective legal sanction.

## **Section 2 Respect for Civil Liberties, Including:**

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom. The authorities may legally restrict these freedoms for groups deemed to be a threat to the State, but no groups were restricted during the year. In addition, an article of the Penal Code criminalizes racist or anti-Semitic expression, whether in public speech or in printed material.

Most broadcast media are government-funded but possess editorial autonomy, and foreign broadcast media are freely available.

### b. Freedom of Peaceful Assembly and Association

The Constitution provides for these rights, and the Government respects them in practice.

### c. Freedom of Religion

The Constitution provides for complete freedom of religion, and the Government respects this right in practice. There is no single state church, but most cantons support one or several churches with public funds. In all cantons, an individual may choose not to contribute to church funding. In some cantons, however, private companies are unable to avoid payment of the church tax.

### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Under the Constitution and the law, citizens are free to travel in or outside the country, to emigrate, and to repatriate.

Switzerland has traditionally been a haven for refugees, but public concern over the high number of asylum seekers generated pressure on the Government to tighten its policy.

Some human rights organizations have charged authorities with abuses in connection with the implementation of a law adopted in 1995 aimed at asylum seekers or illegal foreigners who are suspected of committing crimes or avoiding repatriation. In particular, these groups have alleged instances of abuse, including arbitrary detention as well as denial of access to established asylum procedures by police at the two main airports. They also charge that police have used the law to detain or harass refugees who are not suspected of having committed a crime. However, the allegations made by these groups have never been verified, and these groups now indicate that the situation has improved over the last year. Under the law, police actions are subject to judicial oversight and the federal court has overturned many cases in which it believed that there was not sufficient regard for the rights of asylum seekers or other foreigners.

The Government cooperates with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government provides first asylum and provided it to approximately 2,000 persons in 1996. Refugees whose applications are rejected are allowed to stay temporarily if their home country is experiencing war or insurrection.

### **Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government**

The Constitution provides citizens with the right to change their government peacefully (at all local, cantonal, and federal levels), and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In addition, initiative and referendum procedures provide unusually intense popular involvement in the legislative process.

Participation by women in politics continues to expand. Women were disenfranchised until 1971 at the federal level, but since then their participation in politics has expanded progressively.

Women occupy 51 of the 246 seats in the Parliament, 1 of 7 seats in the Federal Council (Cabinet), and record 19 in the cantonal government executive bodies. In 1995 and 1996, however, voters rejected two local initiatives designed to reserve a fixed percentage of elective seats for women. A vote on an initiative to mandate equal gender representation in all federal institutions will take place no later than 1999.

### **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

All major international human rights groups are active and operate without government restriction.

### **Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

The Constitution and laws prohibit discrimination on the basis of race, sex, religion, language, or social status, and the Government effectively enforces these prohibitions.

#### **Women**

While there are no data about violence against women, indications are that a problem exists and that many cases go unreported. The Federation of Women's Organizations and other groups have heightened public awareness on the problem of violence against women. The law prohibits wife beating and similar offenses, and spousal rape is explicitly considered a crime in the Penal Code. The Penal Code also criminalizes sexual exploitation and trafficking in women. The authorities effectively enforce these laws. Victims of violence can obtain help, counseling, and legal assistance from specialized offices sponsored by local and cantonal authorities.

Although the Constitution prohibits all types of discrimination, a few laws still tend to discriminate against women. However, as noted below, Parliament has passed significant legislation improving the treatment of women.

In July a new federal law on equal opportunity for women and men came into force. The law includes a general prohibition on gender-based discrimination and incorporates the principle of "equal wages for equal work." The new law also includes provisions aimed at eliminating sexual harassment and facilitating access to legal remedies for those who claim discrimination or harassment. At the aggregate level, men earn more than women, but it is not clear if this circumstance reflects overt discrimination or

other factors. Individual cases of denial of equal pay for equal work would be subject to the new law. A revised labor law eliminated special restrictions on working hours for women (see Section 6.e.).

## Children

The Government demonstrates its strong commitment to children's rights and welfare through a well-funded public education system and medical care. The federal and cantonal governments, as well as organizations defending children's rights, have devoted considerable attention in recent years to child abuse, especially sexual abuse. For convicted perpetrators of the latter, the law provides imprisonment for up to 15 years. Officials have proposed changes in the law that would raise the statute of limitations in cases of child abuse from 5 to 10 years.

With respect to child abuse abroad, current law provides for prosecution only if the act is considered a crime in the country in which it took place. However, experts have proposed making such acts punishable in Switzerland regardless of where the crime took place.

## People with Disabilities

Switzerland has strong legal prohibitions against discrimination directed at disabled persons in employment, education, and the provision of other state services. Advocates for the disabled have called for new measures to ensure greater protection for the rights of the disabled, including easier access to buildings and public transportation.

The Government has not mandated that building or transportation facilities be made accessible. A member of Parliament has proposed legislation to amend the Constitution to provide equality of opportunity for the disabled. The legislation has so far received broad support in Parliament, but it would be subject to a mandatory voter referendum.

In January 1995, a law came into force exempting disabled men from the tax imposed on those who have not fulfilled their military duty.

## National/Racial/Ethnic Minorities

According to nongovernmental organizations' statistics, which have not been verified, there were 41 reported attacks against foreigners in the first half of 1996, almost double the number reported for the same period in 1995. However, these figures include instances of verbal and written "attacks" which are much more common than physical assaults. Investigations of these attacks are conducted effectively and lead in most cases to the arrest of the persons responsible. Persons convicted of racist crimes are commonly sentenced to at least 1 year's imprisonment.

In accordance with the first antiracism law which was approved in September 1994 (and which criminalizes racist and anti-Semitic actions or public speech), the Government appointed in August 1995 a commission against racism. This group of experts is expected to focus on preventive measures and to serve as a mediator for conflicts between individuals.

## Section 6 Worker Rights

### a. The Right of Association

All workers, including foreigners, have the freedom to associate freely, to join unions of their choice,

and to select their own representatives. The Government does not hamper the exercise of these rights. About one-third of the work force is unionized.

The right to strike is legally recognized and freely exercised, but a unique labor peace under an informal agreement between unions and employers--in existence since the 1930's--has meant fewer than 10 strikes per year since 1975. There were no significant strikes in 1996.

Unions are independent of government and political parties, and laws prohibit retribution against strikers or their leaders. Unions can associate freely with international organizations.

#### b. The Right to Organize and Bargain Collectively

By law, workers have the right to organize and bargain collectively, and the law protects them from acts of antiunion discrimination. The Government fully respects these provisions. Periodic negotiations between employer and worker organizations determine wages and settle other labor issues at the national and local levels. Nonunion firms generally adopt the terms and conditions fixed in the unions' collective bargaining.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

Although there is no specific constitutional or statutory ban on forced or compulsory labor, it does not occur.

#### d. Minimum Age for Employment of Children

The minimum age for employment of children is 15 years, and children are in school up to this age. Children over 13 years may be employed in light duties for not more than 9 hours a week during the school year and 15 hours otherwise. Employment of youths between the ages of 15 and 20 is strictly regulated; they cannot work at night, on Sundays, or under hazardous or dangerous conditions. The Federal Office for Industry, Trade, and Labor effectively enforces the law on working conditions.

#### e. Acceptable Conditions of Work

There is no national minimum wage. The lowest wages fixed in collective bargaining are always adequate to provide a decent standard of living for workers and their families.

The Labor Act established a maximum 45-hour workweek for blue- and white-collar workers in industry, services, and retail trades, and a 50-hour workweek for all other workers. The law prescribes a rest period during the workweek. Overtime is limited by law to 120 hours annually.

The Labor Act and the Federal Code of Obligations contain extensive regulations to protect worker health and safety. There have been no reports of lapses in the enforcement of these regulations, but the degree to which enforcement is effective is unclear. The Government is currently overhauling the 1948 Labor Act, in part to strengthen provisions for workers' health and safety. Parliament passed a revised labor law, but it was defeated in a December referendum. A worker may opt out of a dangerous assignment without penalty.

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