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## 2009 Human Rights Report: Switzerland

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2009 Country Reports on Human Rights Practices

March 11, 2010

The Swiss Confederation, population 7.5 million, is a constitutional republic with a federal structure. Legislative authority is vested in a bicameral parliament (Federal Assembly) including the Council of States and the National Council. The 46 members of the Council of States are elected directly in the cantons by majority voting. The 200 members of the National Council are elected in each canton under a system of proportional representation. Free and fair elections to parliament took place in 2007. Parliament chooses the executive leadership (the Federal Council), which consisted of a coalition of five parties. Civilian authorities generally maintained effective control of the security forces.

There were reports that police at times used excessive force, occasionally with impunity. Other human rights problems were lengthy pretrial detention, instances of societal discrimination against Muslims, anti-Semitic incidents, violence against women, trafficking in persons, and discrimination against minorities.

#### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution prohibits such practices; however, there were reports that police occasionally used excessive force.

A report published on September 15 by the European Commission against Racism and Intolerance (ECRI) referred to allegations of police misconduct involving the use of excessive force, especially in asylum detention centers and during deportation operations, as well as "verbal excesses of a racist or discriminatory" character. The commission noted that on occasion, when an individual sought to make a complaint against the police, they immediately filed a countercomplaint with the sole aim of deterring the complainant from pursuing the matter. At the same time, the report noted that the authorities had taken a number of measures to improve training of police officers and other measures to counter police

misconduct, pointing particularly to the ombudsman of Zurich, whom it described as having achieved results in dealing with complaints against police and mediating disputes related to police behavior.

Authorities investigated and prosecuted a number of cases of alleged mistreatment by police officers. Following a March 4 complaint of mistreatment in a Solothurn prison by a rejected asylum seeker from Liberia, the general prosecutor of Solothurn opened an investigation on March 9. The authorities subsequently deported the complainant in May. Authorities said it was not possible to determine when the investigation of alleged abuse in custody of the complainant would be complete. Nongovernmental organization (NGO) representatives alleged that the deportation of the complainant impeded the investigation into the alleged abuse.

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On December 2, the Baden District Court acquitted two police officers of the death of a schizophrenic man who died while they were trying to subdue him. The court concluded that the officers had not been trained adequately about the risks of various methods of subduing a suspect.

On January 28, a court ordered a Zurich police officer to pay a fine of approximately 2,500 francs (\$2,430) for sexually assaulting and harassing a woman in prostitution who had rejected him as a client in April 2007.

At year's end charges against a police officer of assaulting and abusing a minor were again before the Lausanne District Court, which had acquitted him on January 16. The charges were that in 2006, police officers, after releasing a 16-year-old Eritrean boy they had taken into custody for insulting a police officer, took him to some woods where one of them sprayed his face with pepper spray and abandoned him. The attorney general appealed the not-guilty verdict. After hearing allegations from another police officer that his colleagues might have given false testimony, the appellate court returned the case for district-level review.

On May 4, a Geneva court sentenced a police officer to a suspended prison sentence of 150 days for having beaten a handcuffed suspect in 2006.

In January a law regulating the use of force by federal and cantonal police performing duties on behalf of the federal government entered into force. The government announced that the new law was designed to ensure the appropriate use of force and the greatest possible protection of the integrity of the affected persons. The law defined the types of weapons and auxiliary measures police could use in the course of police functions, and its implementing regulations further defined the circumstances in which they could be employed. For example, the new regulation allowed for the use of tasers in some circumstances but prohibited their use in others, including in conjunction with deportation of persons via aircraft.

#### Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the government permitted monitoring visits by independent human rights observers.

During the year, 6,084 persons were in prison or detention (31 percent remanded to custody and 59 percent convicts). Of the total, 371 were women (6.1 percent) and 55 were juveniles (0.9 percent).

The occupation rate of detention facilities was 91 percent, 5 percent higher than in 2008; however, prison overcrowding was a problem in some major urban areas such as Zurich, Bern, and Geneva. Geneva's Champ-Dollon prison was the country's most crowded; designed for a maximum of 270 occupants, it housed over 500 during the year.

On February 23, the inmates of the Waulwilermoos prison wrote to the cantonal government of Lucerne alleging mistreatment and substandard medical care by the prison staff. Cantonal authorities subsequently reported that an investigation of the allegations, undertaken together with the prison supervisory commission, found no major problems but concluded that certain aspects of the prison's medical care delivery needed improvement.

According to statistics released during the year by the Federal Department of Justice, the number of minors in preventive detention increased by 20 percent between 2005 and 2008. Of the minors in preventive detention, 998 were males between the ages 15 to 18 years, and 165 were females of the same ages. There were also 48 minors under 15.

The penal code for young offenders requires minimizing juvenile detention prior to conviction. It also requires that juvenile offenders be held in reform schools or separate wings of prisons where they can be given educational support; however, a study by the justice ministry published in 2007 found that during investigative detention, juveniles often were held with adults and kept in prisons rather than reform schools. Authorities began construction of a new prison for juveniles.

On October 20, the Federal Council appointed an independent 12-person National Commission for the Prevention of Torture with a mandate to undertake regular visits and inspections of conditions in prisons and detention facilities. Visits were scheduled to begin in 2010.

The government permitted independent monitoring of prison conditions by local and international human rights groups, the media, and the International Committee of the Red Cross. It was not known whether such visits took place during the year.

In Fribourg construction began to expand the prison of Bellechasse. In Geneva, whose prisons were the most crowded, the cantonal government allocated funds for a project to build a new prison that would hold a maximum of 500 detainees. Vaud Canton began construction of a new juvenile prison center in Palezieux, designed to accommodate juvenile offenders from the French-speaking part of the country.

#### d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

#### Role of the Police and Security Apparatus

Civilian authorities maintained effective control over police forces, which the cantons primarily organize and administer with federal coordination. The Federal Office of Police, in addition to performing coordination and analytical functions, can pursue its own investigations under the supervision of the attorney general in cases of organized crime, money laundering, and corruption. The government has effective mechanisms to investigate and punish abuse and corruption; however, in past years there have been some allegations of impunity.

#### Arrest Procedures and Treatment While in Detention

By law criminal suspects must be apprehended on the basis of warrants issued by a duly authorized official unless police must respond to a specific and immediate danger. In most cases authorities may not hold a suspect longer than 24 hours before presenting him to a prosecutor or investigating magistrate, who must either bring formal charges or order the detainee's release; however, asylum seekers and other foreigners without valid documents may be detained up to 96 hours without an arrest warrant. There was a functioning bail system, and courts grant release on personal recognizance or bail unless the magistrate believes the person charged is dangerous or a flight risk. A suspect may be denied legal counsel at the time of detention and initial questioning but has the right to choose and contact an attorney before charges are brought. The state provides free legal assistance for indigents charged with crimes for which imprisonment would be a possible punishment. Access to family members may be restricted to prevent tampering with evidence, but law enforcement authorities are required to inform close relatives promptly of the detention.

In some cases lengthy pretrial detention was a problem. During the year approximately one third of all prisoners were in pretrial detention, and the average length of such detention was approximately 50 days. All cases of prolonged pretrial

detention are subject to review by higher judicial authorities. The country's highest court has ruled that pretrial detention must not exceed the length of the expected sentence for the crime with which a suspect is charged.

In 2008 the European Court for Human Rights (ECHR) issued a judgment that found one violation by the country of the right to liberty and security as provided by the European Convention on Human Rights. The case involved an individual whose pretrial detention was extended more than two months beyond the end of the period for which his arrest warrant was valid. The court did not take issue with validity of the applicant's detention by authorities before or after this period or with his subsequent sentencing to six years' imprisonment for fraud and forgery. The court awarded the applicant 5,000 euros (\$7,150) for nonpecuniary damages and 4,000 euros (\$5,720) for costs and expenses.

#### e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

#### Trial Procedures

The constitution provides for the right to a fair trial, and the judiciary generally enforced this right.

Defendants enjoy a presumption of innocence. Trials are public. Juries are used only in the most serious cases, including murder. Defendants have the right to be present and to consult with an attorney in a timely manner, and an attorney is provided at public expense if defendants face serious criminal charges. Defendants have the right to confront or question witnesses and to present witnesses and evidence. They have the right to appeal, ultimately to the highest court, the Federal Tribunal. Authorities generally respected these rights in practice and extended them to all citizens.

The military penal code requires that war crimes and violations of the Geneva Conventions be prosecuted only when defendants have close ties with the country. Normal civilian rules of evidence and procedure apply in military trials. The military penal code allows the appeal of any case, ultimately to the Military Supreme Court. Any licensed attorney may serve as a military defense counsel, but in most cases, defendants used attorneys assigned by the courts. Under military law the government pays for defense costs. Civilians charged with revealing military secrets, such as classified military documents or classified military locations and installations, may be tried in military courts.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. Citizens have access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. Persons who have exhausted domestic courts may also apply to the ECHR.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

### 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 generally respected these rights in practice. An Independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press

The law penalizes public incitement to racial hatred or discrimination, spreading racist ideology, and denying crimes against humanity. There was at least one conviction during the year under this law. In June a district court found the president of the Bern Canton chapter of the Swiss Freedom Party guilty of racial discrimination for a February 2008 Internet blog posting in which he referred to asylum-seekers as "primates." The court sentenced the individual to a suspended fine.

A number of NGOs, politicians, and UN human rights experts raised concerns over a controversial poster campaign by supporters of the initiative to ban minarets. The poster depicted a woman in a burka and a Swiss flag with minarets reminiscent of missiles jutting out of it. Then-interior minister Pascal Couchepin acknowledged that the poster campaign was unnecessarily aggressive but stated that this was not sufficient reason to ban it. A number of cities outlawed the posters; others allowed them on grounds that laws governing freedom of expression protected them.

On February 3, the Cantonal Justice Department of Graubunden apologized to a shopkeeper of Davos who was forced by police to remove Tibetan literature and the Tibetan flag from her shopwindow during the visit of Chinese Premier Wen Jiabao to the World Economic Forum in 2008.

It is a crime to publish information based on leaked "secret official discussions." On September 17, the Zurich District Court acquitted two former employees of the Zurich Department of Social Affairs of this crime. The court acknowledged that the two employees had violated official secrecy by giving insider information to the press but determined, based on an earlier Federal Court ruling and an exception clause in the law, that this had been the only way to draw attention to a series of cases involving welfare abuse.

On June 24, a court in Zurich fined two reporters for violating the law concerning leaked official discussions when they published secret information on an investigation related to the resignation of a former federal prosecutor.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored email or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by email. Internet access was widely available. According to statistics compiled by the International Telecommunications Union, 77 percent of the population used the Internet.

#### Academic Freedom and Cultural Events

Authorities generally did not restrict academic freedom or cultural events. However, on September 29, authorities imposed a visa ban on the controversial ultranationalist Croatian singer Marko Perkovic, aka "Thompson." Taking into account some of Perkovic's lyrics and behavior that many considered offensive at previous concerts, the Federal Office of Police reportedly was concerned that there would be violations of the country's antiracism law during a concert the singer planned to give in Kriens, Lucerne Canton.

#### b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

### c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice.

There is no official state church; however, most cantons provided financial support from tax revenues to at least one of three traditional denominations, Roman Catholic, Old Catholic, or Protestant. Each of the 26 cantons has its own regulations regarding the relationship between church and state. Foreign missionaries must obtain religious worker visas to work in the country. Such visas generally were granted.

Islamic organizations have complained that authorities in many cantons and municipalities discriminated against Muslims by refusing zoning approval to build mosques, minarets, or Islamic cemeteries. Plans by some Islamic associations to build minarets next to their houses of worship in Wangen (Canton of Solothurn), Langenthal (Canton of Bern), and Wil (Canton of Sankt Gallen) provoked fierce political debates beyond the communities concerned. Despite opposition the minaret in Wangen was built and inaugurated on June 27. The minarets were symbolic; none of them was designed for use by a muezzin or as a source for broadcasting a call to prayer.

In a November 29 referendum, 57.5 percent of the voters approved a constitutional amendment banning the construction of minarets throughout the country. This followed several years of unsuccessful efforts by leaders in the Swiss People's Party and the Federal Democratic Union to hold similar referenda on a canton-by-canton basis, efforts the cantonal parliaments regularly rejected as unconstitutional. The binding referendum passed despite opposition to it by majorities in both parliament and the Federal Council and public statements by many of the country's leaders describing such a ban as contradicting basic values in the country's constitution and violating its international obligations; it resulted in an addition to the constitution: "The building of minarets is prohibited." This addition had no effect on the four existing minarets or on building, or worshipping in, mosques.

The country's laws penalize public incitement to racial hatred or discrimination, spreading racist ideology, and denying crimes against humanity. The law does not name anti-Semitism, Holocaust denial, or other specific offenses; however, convictions under this legislation have included anti-Semitism and Holocaust denial.

In advance of the referendum on the banning of minarets, and with reference to the law against incitement to racial hatred or discrimination, some cantons prohibited the display of a poster supporting the ban that depicted a woman in a burka together with a Swiss flag that had minarets reminiscent of missiles jutting out of it. Other localities permitted them, arguing that they were protected by laws governing freedom of expression.

The Department of the Interior's Federal Service for the Combating of Racism sponsored a variety of educational and awareness-building projects to combat racism, xenophobia, and other forms of discrimination.

#### Societal Abuses and Discrimination

There were isolated reports of societal abuse and discrimination, but the extent to which these instances were based on religious belief and practice or on ethnicity and culture was difficult to determine. Some observers remained concerned about the climate for members of religious minorities, particularly Muslims and Jews.

According to the 2000 census, the most recent official data available, there were 17,914 members of the Jewish community, constituting 0.24 percent of the population. The Geneva-based Intercommunity Center for Coordination against anti-Semitism and Defamation (CICAD) recorded 96 anti-Semitic incidents in the western, French-speaking, part of the country in 2008 compared with 38 in 2007. They ranged from verbal and written assaults to offensive graffiti and

acts of vandalism against Jewish property. The Swiss Federation of Jewish Communities assessed that incidents increased in the German-speaking part of the country as well.

On the night of January 11, unknown persons destroyed the front window of a Jewish study center in Geneva. According to the CICAD secretary general, this was clearly an anti-Semitic act. Police continued investigating the incident at year's end.

On March 2, according to CICAD, pro-Palestinian demonstrators targeted a Jewish fundraising event at the Kempinski Hotel in Geneva. They threw stones, gave Nazi salutes, and assaulted participants. Police apprehended the stone throwers. However, a spokesman for the police reportedly described the incident as a "nonevent" in which no more than three stones were thrown against the police officers.

At year's end no additional information was available regarding the status of the police investigation into a 2007 incident in which a 23-year-old Muslim man entered the Islamic Center in Crissier near Lausanne and fired several shots, seriously injuring a 43-year-old worshiper.

The law penalizes public incitement to racial hatred or discrimination, spreading racist ideology, and denying crimes against humanity, and there have been convictions under this legislation for anti-Semitism and historical revisionism, including Holocaust denial, in earlier years.

Proponents of the November 29 initiative to ban minarets contended that the construction of minarets symbolized a religious and political claim to power that called into question the country's secular legal system. However, many non-Muslim religious organizations called for the initiative's defeat and expressed regret over its ultimate passage. The Federal Council made its opposition to the banning of minarets clear throughout the year, issuing public statements describing the initiative as an infringement on "guaranteed international human rights" and contradicting "core values" of the Federal Constitution.

A number of NGOs, politicians, and UN human rights experts raised concerns over a controversial poster campaign by supporters of the anti-minaret initiative. The poster depicted a woman in a burka and a Swiss flag with minarets reminiscent of missiles. Then-interior minister Pascal Couchepin said that the poster campaign was unnecessarily aggressive but that this was not sufficient reason to ban it. A number of cities outlawed the posters.

Religious education is part of the public school curriculum in all cantons except for Geneva and Neuchatel. Authorities may exempt children from these courses upon request of their parents. Schools normally offer classes in Catholic and Protestant doctrines; some also cover the doctrines of other religious groups active in the country. A number of cantons have supplemented or replaced traditional classes in Christian doctrine with nonconfessional teachings about religion and culture.

The country is a member of the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research.

For a more detailed discussion, see the [2009 International Religious Freedom Report](http://www.state.gov/g/drl/rls/irf/2009/eur/136061.htm) at [www.state.gov/g/drl/rls/irf/](http://www.state.gov/g/drl/rls/irf/).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to

internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The constitution prohibits forced exile, and the government did not employ it.

#### Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and to the 1967 Protocol relating to the Status of Refugees. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

In practice the government provided protection against expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Federal Office for Migration relied on a list of "safe countries," and would-be refugees who originated in, or transited, these countries generally were ineligible to apply for asylum.

NGOs criticized the inclusion in the "safe countries" list of some countries in Eastern Europe and Africa that they considered not sufficiently stable to justify automatic rejection. During the year, the government received asylum requests involving 16,005 persons. Authorities adjudicated 17,326 cases, and granted refugee status or asylum to 2,622 persons.

The government required asylum applicants to present documentation verifying their identity within 48 hours of completing their applications, and authorities refused to process the applications of asylum seekers who were unable to provide a credible justification for their lack of acceptable documents or to show evidence of persecution. Authorities could detain uncooperative asylum seekers, subject to judicial review, for up to six months while adjudicating their applications. They could detain rejected applicants for up to three months to ensure their departure or up to 18 months if repatriation posed special obstacles. They could detain minors 15 to 18 years of age for up to 12 months pending repatriation; however, rejected asylum seekers generally were not detained, nor were they removed from the country. They were instructed to leave voluntarily. If they refused to return voluntarily, they could be forcibly repatriated.

Amnesty International and other NGOs working with refugees continued to complain that detained asylum seekers often effectively were denied proper legal representation in deportation cases because they lacked the financial means to obtain an attorney. Authorities provided free legal assistance only in cases of serious criminal offenses. The deportation of asylum seekers is an administrative, rather than judicial, process.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention and its 1967 Protocol and provided it to 4,053 persons during the year; there were 22,958 individuals with temporary protection status in the country at the end of 2008.

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

#### Elections and Political Participation

In 2007 citizens chose a new Federal Assembly in free and fair elections. Political parties operated without restriction or outside interference.

There were 68 women in the 246-seat Federal Assembly and three women in the seven-seat Federal Council (cabinet). The proportion of female representatives in cantonal legislatures remained 24 percent. Women held approximately one fifth of the seats in cantonal executive bodies.

There was one member of an ethnic minority in the 200-seat National Council, the lower house of the Federal Assembly.

#### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year.

Members of the Federal Assembly must disclose their financial interests, professional activities, supervisory board or executive body memberships, and expert or consulting activities every year. Investigating and prosecuting government corruption is a federal responsibility. A majority of cantons also require members of cantonal parliament to disclose their interests. A joint working group consisting of representatives of various federal government agencies works under the leadership of the federal Department of Foreign Affairs to combat corruption.

The constitution requires the government to inform the public about its activities, and government information was available to all persons living in the country, including foreign media. A transparency law provides for public access to government documents.

#### Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The government cooperated with international governmental organizations and permitted visits by UN and other international representatives. In October a government delegation met with the UN Human Rights Committee to discuss the country's third report on its implementation of the International Covenant on Civil and Political Rights. In September ECRI published its fourth monitoring cycle report on the country following an ECRI visit in 2008. In July the government presented its third periodic report on implementation of the Convention on the Elimination of All Forms of Discrimination against Women to the UN Committee on the Elimination of Discrimination against Women.

There was no national ombudsman. In its concluding observations, addressing the country's implementation of the International Covenant on Civil and Political Rights, published in October, the UN Human Rights Committee expressed concern that authorities had not established a national institution with broad competence in the area of human rights, in accordance with the Paris Principles.

#### Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, gender, disability, language, or social status. The government generally enforced these prohibitions effectively.

##### Women

Rape, including spousal rape, is a statutory offense, and the government effectively prosecuted those accused of such crimes. In 2008 police recorded 612 instances of rape (compared with 648 in 2007) and 429 prosecutions (compared with 571 in 2007).

Violence against women was a problem. The Federal Office of Public Health published a survey in 2008 showing that 80 percent of victims of domestic violence had suffered previous assaults. Domestic violence is a statutory offense. A court may order an abusive spouse to leave the family home as a temporary measure. Stalking is also an offense. Victims of domestic violence could obtain help, counseling, and legal assistance from specialized government agencies and NGOs or from nearly a dozen hotlines sponsored privately or by local, cantonal, and national authorities. In 2007 a total of 1,132 women and 993 children spent a cumulative 60,115 nights in 17 women's shelters across the country. Although shelters experienced an average of 70 percent occupancy, in the cantons of Basel, Bern, and Zurich, half of the applicants for shelter reportedly had to be turned away, mostly due to a lack of space or adequate staff for dealing with severely traumatized individuals. The Interior Ministry's Federal Office for Equality between Women and Men has a special unit that focuses on domestic violence. Most cantonal police forces had specially trained domestic violence units. A majority of cantons also had special administrative units coordinating the activities of law enforcement agencies, prosecutors, and victim assistance groups.

Forced marriage is illegal, but it reportedly occurred, mainly in less integrated immigrant families, making detection and prosecution difficult. Its extent was unknown.

Most prostitution is legal; however, street prostitution is illegal except in specially designated areas in the major cities. Police estimates from 1999, the latest nationwide data available, indicated that approximately 14,000 persons were engaged in prostitution. Information from individual cantons suggested that the number has increased since then.

The law prohibits sexual harassment and facilitates access to legal remedies for those who claim discrimination or harassment in the workplace; however, special legal protection against the dismissal of a claimant is only temporary. Employers failing to take reasonable measures to prevent sexual harassment are liable for damages equal to as much as six months' salary.

The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Health clinics and local health NGOs operated freely in disseminating information on family planning. There were no restrictions on access to contraceptives and these measures were used widely. Compulsory basic health insurance covered the cost of routine examination during pregnancy and the costs related to childbirth. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Women enjoy the same rights as men under the constitution, including in family law, property law, and in the judicial system; however, independent observers claimed that some laws, as interpreted by the courts, were discriminatory. For example, the Federal Tribunal ruled that the primary wage earner in a divorce must be left with sufficient income to remain above the poverty level. Since the primary wage earner in most marriages was the man, if the household income was too low to support both parties, the wife and children could be forced to resort to public assistance.

The Federal Office for Equality between Women and Men and the Federal Commission on Women worked to eliminate both direct and indirect gender discrimination. Many cantons and some large cities have equality offices to handle gender issues.

Discrimination against women in the workplace is illegal, but women disproportionately held jobs with lower levels of responsibility. Women were promoted less frequently than men and were less likely to own or manage businesses.

Under the constitution, women and men are entitled to equal pay for equal work; however, women's gross salaries were on average more than 19 percent lower than salaries for men. On March 2, the government initiated a nationwide

campaign to promote equal pay and combat gender discrimination at the workplace. As part of the five-year project, the government, employers' organizations, and trade unions urged companies to review their salary systems.

#### Children

Citizenship derives from one's parents (*jus sanguinis*).

Child abuse was a problem. In 2008 there were 3,504 reported cases of sexual assault against children compared with 4,243 in 2007. Most of the victims were girls younger than 18. Most abuse took place in the family or the immediate social environment.

The production, possession, distribution, or downloading from the Internet of pornography involving children is illegal and carries heavy fines or a maximum sentence of a year in prison. On September 23, the Council of States followed the National Council in approving a motion demanding that "child grooming," actions by an adult to form a relationship with a child with intent to have sexual contact, be made a punishable offense. The Council of States also approved a law making virtual depictions of child pornography illegal.

Female genital mutilation (FGM) is illegal, but there were reports that the practice occurred. The UN Children's Fund (UNICEF) estimated that there were nearly 7,000 circumcised women and girls in the country as a result of immigration from areas where FGM is practiced. UNICEF continued its efforts to raise awareness of FGM.

On September 29, the Federal Office of Police announced that in the previous 12 months, approximately 12 cases of suspected child sex tourism were reported on a Web site it established in 2008 to enable travel agencies and individuals to report suspicious travel. The federal police forwarded relevant information to the competent municipal, cantonal, or international police offices for further investigation.

With limited exceptions, the law designates 16 as the minimum age of consensual sex. The maximum penalty for statutory rape is imprisonment for 10 years.

A report issued on September 1 by the NGO Swiss Monitoring Body for the Rights of Asylum and Alien Law alleged that authorities often overlooked the needs and well-being of children when they were implementing the asylum and foreigner law. For example, the report indicated that, upon the expulsion of their parents, some children who had grown up in the country and were integrated fully into the country's life were forced to move to countries with which they had no connection. The Federal Office of Migration rejected the accusation and stated that government officials gave careful consideration to cases involving children ages 14 to 17 who were well-integrated into society.

#### Trafficking in Persons

The penal code prohibits trafficking in persons for all purposes and provides for extraterritorial jurisdiction; however, there were reports that persons were trafficked to, from, through, and within the country and forced into prostitution or domestic servitude. The country was a destination and, to a lesser extent, a transit point for women and children trafficked for the purposes of commercial sexual exploitation and forced labor.

Officials estimated the number of trafficking victims within the country to be a few hundred a year. Federal police assessed that potential trafficking victims numbered between 1,500 and 3,000. According to authorities, Romania, Hungary, Poland, Bulgaria, Slovakia, the Czech Republic, Slovenia, Ukraine, Moldova, Brazil, the Dominican Republic, Thailand, Cambodia, Nigeria, and Cameroon were the primary countries of origin during the year.

The great majority of trafficking victims were women trafficked primarily for purposes of sexual exploitation, although trafficking for domestic servitude also occurred. Traffickers were mainly individuals and small groups related through

ethnic, clan, or family ties and, occasionally, organized criminals. Trafficking of ethnic Romani minors, who reportedly were introduced from other European countries to various cities to beg and commit petty theft, was a rising concern of authorities.

Trafficking in persons is punishable by a prison sentence of up to 20 years, and coercing a person into prostitution by up to 10 years. In 2007 authorities convicted 20 persons of trafficking in persons and forcing others into prostitution. The highest sentence given to a convicted trafficker was four years in prison; however, the majority of convicted traffickers received suspended sentences. The Coordination Unit against Trafficking in Persons and Smuggling of Migrants, which is part of the Federal Office of Police, hired additional staff and coordinated and monitored all antitrafficking efforts, including those of a federal interagency task force. Authorities were active in international law enforcement activities and took the lead in coordinating several international trafficking investigations.

The government continued its victim protection efforts during the year. The federal and cantonal governments established some systems for human trafficking identification, and 13 of the 26 cantons had their own formal procedures for victim identification and referral. NGOs suggested that centrally determined standards for how individual cantons are to provide assistance to victims would be useful. Trafficking victims had access to free and immediate medical, psychological, and legal assistance in coordination with government- and NGO-funded victim assistance centers or battered women's shelters. Special protective measures were available for juvenile trafficking victims. On January 1, the victim assistance law was amended to provide incentives to victim assistance centers that tailor programs for trafficking victims. The government reported assisting 128 trafficking victims in 2007. The government continued a pilot program, begun in April 2008, to assist victims with repatriation to their home countries. The government funded several antitrafficking information and education campaigns around the world. The Ministry of Foreign Affairs continued to provide specialized training to its consular staff and to distribute trafficking awareness information to visa applicants in local languages.

The Department of State's annual *Trafficking in Persons Report* can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

The constitution and law prohibit discrimination against persons with physical and mental disabilities in employment, education, health care, and other state services and the prohibition was generally enforced. The law mandates access to public buildings and government services for persons with disabilities, and the government generally enforced these provisions in practice.

The Federal Equal Opportunity Office for Persons with Disabilities promoted awareness of the law and respect for the rights of the disabled through counseling and financial support for projects to facilitate their integration in society and the labor market. The government continued a three-year pilot project to empower persons with severe disabilities to live on their own.

NGOs acting on behalf of persons with disabilities appealed to the Federal Supreme Court against decisions in the cantons of Zug and Zurich to reject some citizenship applications because of the applicants' mental disabilities. Cantonal officials reportedly based their decisions on the assumption that the applicants did not have the required mental capabilities to understand the importance and consequences of naturalization or that the applicants would be dependent on social welfare. On January 23, the Federal Supreme Court ruled that a municipality in Zurich had to grant citizenship to an applicant from Angola with mental disabilities.

In December 2008 on the occasion of the International Day of Disabled Persons, the Federal Statistics Office released the results of a study indicating that 64 percent of persons with disabilities participated in the labor market.

#### National/Racial/Ethnic Minorities

Right-wing extremists, including skinheads, who expressed hostility toward foreigners, ethnic and religious minorities, and immigrants continued to be publicly active; police estimated that their numbers remained steady at approximately 1,200. Statistics gathered by the Foundation against Racism and anti-Semitism indicated that the total number of reported incidents against foreigners or minorities was 93 in 2008, down from the 136 incidents recorded in 2007. These figures included instances of verbal and written attacks, which were much more frequent than physical assaults. Many of the violent incidents were clashes between right- and left-wing extremist groups.

On July 9, the Federal Commission against Racism released a report analyzing 2008 feedback from the consulting network for victims of racism. According to the conclusions of the report, racism and xenophobia were general societal problems and occurred in all areas of life.

On May 1, a local newspaper reported that police officers from Geneva had written remarks such as "beggar" or "controlled for beggary" on passports of Romanian Roma. According to Dina Bazarbachi, President of the Association for the Rights of Roma People, half of the Roma in Geneva have such remarks in their passports. The director of the cantonal Justice Department subsequently announced that the actions of the police officers were totally unacceptable and illegal, and the city of Geneva would pay for replacement passports.

The extreme, xenophobic Party of Nationally Oriented Swiss (PNOS) continued to be the subject of judicial action. On January 29, the district court of Aargau Canton upheld the verdict, but lowered the fines, of five PNOS board members who had been convicted of racial discrimination in 2007. They were accused of distributing a pocket diary with anti-Semitic content and publishing on the Internet a party program that denigrated foreigners.

The Jenisch are recognized by the government as a minority group under the Convention for the Protection of National Minorities of the Council of Europe (COE). While the large majority of the 30-35,000 Jenisch in the country were settled, the Roma European Rights Center reported that representatives of the several thousand who continued to pursue an itinerant lifestyle urged the government to carry out its promises to create new campsites and parking areas for them. A lack of proper camping facilities and transit areas reportedly forced many Jenisch to occupy land illegally. The federal government allocated 750,000 francs (\$728,000) for measures and projects between 2007 and 2011 to improve living conditions for the Jenisch. In its September report on the country, ECRI expressed concern that, "despite the consensus regarding the lack of sites, rather than increasing, their number has apparently even decreased in recent years."

In September the COE's European Commission against Racism and Intolerance reported that racism was widespread in the country, despite authorities' continuing efforts to end discrimination.

The Department of the Interior's Federal Service for Combating Racism sponsored a variety of educational and awareness -building projects to combat racism, xenophobia, and anti-Semitism.

#### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There were no reports of societal violence or discrimination based on sexual orientation. From May 2 to June 7, Euro-Pride, Europe's largest festival for gay, lesbian, bisexual, and transgendered persons, took place in Zurich. Although some conservative religious organizations submitted a petition against the festival in 2008, the Zurich City Council did not intervene, and the festival attracted over 100,000 people celebrating the 40-year anniversary of the Pride movement.

#### Other Societal Violence or Discrimination

There were occasional reports of discrimination against persons with HIV/AIDS.

#### Section 7 Worker Rights

#### a. The Right of Association

The law permits all workers, including foreigners, to form and join independent unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. Approximately 25 percent of the workforce was unionized. The government may curtail the right of federal public servants to strike, but only for reasons of national security or safeguarding foreign policy interests. Public servants in some cantons and many municipalities are prohibited from going on strike.

The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right to strike, and workers exercised this right by conducting legal strikes. However, collective bargaining agreements commit the social partners to maintaining labor peace, limiting the right to strike for the duration of the agreement, which is generally several years.

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

Authorities effectively enforced the laws protecting collective bargaining. Collective bargaining agreements covered approximately 50 percent of the work force.

Trade union leaders criticized the absence of a legal requirement obliging employers to offer reinstatement to an employee who is found to be dismissed unjustly. The law provides that a worker found to have been illegally dismissed is entitled to maximum compensation of up to six months' wages. Trade union leaders complained that this penalty was insufficient to deter abusive dismissals of union activists.

According a survey by the International Trade Union Confederation released during the year, an increasing number of employers attempted to obtain court orders barring trade unions from workplaces. The retail chain Migros sought to charge visiting trade union members in Migros shops with trespassing. There were no reports that these charges were successful.

There are no export processing zones.

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

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. Women were trafficked for sexual exploitation and domestic labor; there were isolated reports of trafficking in children. Trafficked women often were forced into prostitution; in many cases, they were subjected to physical and sexual violence, encouraged toward drug addiction, and incarcerated. Many victims were forced to work in salons or clubs.

#### d. Prohibition of Child Labor and Minimum Age for Employment

The government effectively enforced laws and policies to protect children from exploitation in the workplace; however, there were isolated reports of trafficking in children (see section 6, Trafficking in Persons.).

The minimum age for fulltime employment is 15 years. Children 13 and 14 years of age may be employed in light duties for not more than nine hours per week during the school year and 15 hours at other times. The employment of youths from the ages of 15 through 18 is also restricted, and cantonal inspectorates strictly regulated these provisions. Children are not permitted to work at night, on Sundays, or in hazardous conditions.

The Economics Ministry monitored the implementation of child labor laws and policies, but actual enforcement was the responsibility of the cantonal labor inspectorates; government officials inspected companies to determine whether there were violations of the child labor laws.

e. Acceptable Conditions of Work

There was no national minimum wage, which resulted in relatively low average wages for workers and employees in the clothing, hospitality, and retail industries. A majority of the voluntary collective bargaining agreements, reached on a sector-by-sector basis, contained clauses on minimum compensation, ranging from 2,200 to 4,200 francs (\$2,100 to \$4,100) per month for unskilled workers and 2,800 to 5,300 francs (\$2,700 to \$5,100) per month for skilled employees. These wages generally provided a decent standard of living for a worker and family. According to government statistics published in April, 92 percent of nearly 15,000 employers inspected, including both those participating in collective agreements and those who reached wage agreements in other ways, complied with their obligations concerning wages.

The wage differences between local and foreign workers varied significantly according to their level of skills and their residence status. Skilled short-term resident foreigners earned approximately 1,235 francs (\$1,198) more, and skilled resident foreigners were paid approximately 2,256 francs (\$2,188) more, than citizens. The only exceptions were skilled cross-border commuters, who earned nearly as much as comparable Swiss workers. In contrast unskilled resident foreigners earned approximately 616 francs (\$598) less, short-term resident foreigners approximately 1045 francs (\$1,014) less, and cross-border commuters approximately 279 francs (approximately \$271) less than unskilled local employees.

The law sets 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 of 35 consecutive hours plus an additional half-day per week. Premium pay for overtime must be at least 25 percent; overtime is generally restricted to two hours per day. Annual overtime is limited by law to 170 hours for those working 45 hours a week and to 140 hours for those working 50 hours a week. The government effectively enforced these regulations.

The law contains extensive provisions to protect worker health and safety. The Economics Ministry and cantonal labor inspectorates effectively enforced the law. Workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment, and the authorities effectively enforced this right.