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## 2010 Human Rights Report: Switzerland

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2010 Country Reports on Human Rights Practices

April 8, 2011

The Swiss Confederation, population 7.9 million, is a constitutional republic with a federal structure. Legislative authority resides in a bicameral parliament (Federal Assembly), consisting of the Council of States and the National Council. Free and fair elections to parliament took place in 2007. Parliament chooses the executive leadership (the Federal Council), which during the year consisted of a coalition of five parties. Security forces reported to civilian authorities.

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 any politically motivated killings; however, security forces shot and killed one person during the year.

On the night of April 18, a group of young men from France stole three cars in the canton of Fribourg. When the stolen vehicle approached a police roadblock at high speed, one officer fired seven shots. Five bullets hit the car killing an 18-year-old passenger. The investigative judge from Fribourg opened a criminal investigation for homicide but left open the possibility that the charge might be reduced to involuntary manslaughter depending on the information developed. The case was pending at year's end.

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 individual police officers occasionally used excessive force.

A report published on May 25, by the UN Committee Against Torture (UNCAT) referred to allegations of police misconduct involving the use of excessive force against foreigners, especially in asylum detention centers and during deportation operations. The committee noted that only a minority of complaints of violence or mistreatment by the police resulted in prosecutions or charges, and few resulted in compensation being offered to victims or their families. The UNCAT recommended the government ensure that each canton create an independent mechanism empowered to investigate allegations of police violence.

The UNCAT also noted that the law regulating the use of force by federal and cantonal police performing duties on behalf of the federal government does not provide for the presence of human rights observers or independent physicians during deportation flights. An amendment to the Foreign National Act to include the creation of an effective forced return monitoring system as required by the European Community's Return Directive was scheduled to enter into force on January 1, 2011. Authorities investigated and prosecuted a number of cases of alleged mistreatment by police officers.

On October 12, the Federal Court confirmed the verdict of the cantonal Court of Neuchatel against a police officer for negligent injury during an August 2007 incident. While arresting a suspect, the police officer involved applied handcuffs too tightly, causing nerve damage in the individual's hands. The court fined the police officer and required him to pay court costs of 4,000 Swiss francs (\$4,269).

On October 15, three police officers from Lausanne were acquitted of charges of abuse of authority, assault, and causing bodily harm by negligence during a 2008 interrogation of two young men suspected of having set fire to a police van. One of the men alleged he was physically accosted, while the second stated he was bitten on the arm by a police dog and sprayed with pepper spray by a police officer. The president of the court determined that the police had acted appropriately and exercised proportionate use of force in the context of the inquiry. The president stated that the second individual had created a dangerous situation by not keeping his distance from the police dog despite clear orders from the police.

In a second trial on December 12, the Lausanne District Court dropped all charges against five police officers accused of assaulting and abusing a 16-year-old Eritrean youth in 2006 due to the complainant's lack of credibility. The court's finding confirmed an initial January 2009 court decision. The boy charged that police had originally arrested him for insulting a police officer and later released him in a wooded area, where one of the officers allegedly sprayed him with pepper spray.

### Prison and Detention Center Conditions

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

On March 10, a Nigerian asylum applicant who had been denied asylum died at the Zurich airport while awaiting forcible repatriation to Nigeria. An ensuing official report concluded that the death was the result of an existing heart condition and revealed that the asylum seeker had been on hunger strike for 45 days prior to the deportation. Following the incident, the Federal Office for Migration suspended all deportation flights and paid the individual's family 50,000 Swiss francs (\$53,362). Zurich's general prosecutor was investigating the case at year's end.

On March 11, Skander Vogt, a detainee in the Bochuz Prison in the canton of Vaud, died of smoke inhalation after setting fire to his mattress. Transcripts of phone conversations between prison officials, police, and rescue services published by

the media showed that prison staff delayed intervening until the arrival of special police units. By the time the special unit opened the door to his cell, Vogt had died. At the end of the year, an investigative judge closed the independent investigation due to lack of sufficient evidence of any wrongdoing by the medical staff, the supervisors, or the prison's director. In addition to this case, there were isolated suicides in prisons and detention centers.

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During the year 6,181 persons were in prison or detention centers (31 percent were remanded for custody, 61 percent for convicted crimes, 6 percent under compulsory measures in accordance with the federal law on foreigners, and 2 percent for other reasons). Of the total, 347 were women (5.6 percent) and 39 were juveniles (0.6 percent).

The occupancy rate of detention facilities was 92.5 percent during the year; however, prison overcrowding continued to be a serious problem in such major urban areas as Zurich, Bern, and Geneva. Geneva's Champ-Dollon Prison was the country's most crowded; designed for a maximum of 270 occupants, the prison housed 600 during the year.

According to statistics released in 2009 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. There were also 48 minors under 15.

Prisoners and detainees had reasonable access to visitors and were permitted to observe and practice their respective religions. They were allowed to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated such allegations.

The penal code states that police authorities may only detain young offenders for a minimal period but does not explicitly state the length. It also requires that juvenile offenders be held in reform schools or separate wings of prisons where they can receive 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.

In October 2009 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. The commission visited detention centers in the canton of Valais on May 27 and 28 and the Hindelbank Women's Detention Center in the canton of Bern on June 11 and 12.

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. There was no ombudsman at the national level, but a number of cantons instituted cantonal ombudsmen and mediation bodies, which served on behalf of prisoners and detainees to address the conditions and circumstances of their detention.

At the end of August, authorities inaugurated a new wing with 40 cells at the Bellechasse Prison in Fribourg. The canton of Geneva, whose prisons were the most crowded, began construction of a new penal institution for the treatment of mental disorders and for confinement in November 2009. Other projects in Geneva included extension of the existing Champ-Dollon Prison, which started on November 29, and La Brenaz Prison. On February 2, the canton of Vaud selected the project for the construction of a new juvenile prison center in Palezieux, designed to accommodate offenders from the French-speaking part of the country, with a scheduled completion date of 2013. Authorities in the canton of Zurich constructed new prisons for juveniles during the year.

#### 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 organized and administered 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; 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 are responding 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 is a functioning bail system, and courts granted release on personal recognizance or bail unless the magistrate believed the person charged to be 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. In 2009 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 for which a suspect is charged.

#### 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.

### Regional Human Rights Court Decisions

On June 10, the European Court of Human Rights (ECHR) ruled that the state had violated Article 5 of the European Convention on Human Rights in the case *Borer v. Switzerland*. In 1997 the applicant was sentenced to 11 years in prison for murder and theft and was ordered to undergo psychotherapeutic treatment. During his incarceration he demonstrated severe mental problems and refused psychotherapy. Upon completion of his sentence in 2006, the applicant was kept in detention because of the high risk of his becoming a repeat offender. The ECHR ruled that the provisional detention after completion of the applicant's sentence had no specific legal basis and that authorities had violated the applicant's right to liberty and security under the European convention.

On June 10, in the case *Schwizgebel v. Switzerland*, the ECHR ruled that the refusal to authorize adoption mainly on account of the applicant's age was not discriminatory. After adopting a first child in 2002, the applicant complained that the authorities prevented her from adopting a second child because of her age. She claimed that at the age of 47 she had been subject to discrimination as compared with other women who were able to give birth. The ECHR ruled that authorities had considerable discretion to decide on such matters, and that both domestic legislation and decisions taken seemed to comply with applicable international law.

On July 7, the ECHR ruled in the case *Neulinger and Shuruk v. Switzerland* that the Federal Court violated Article 8 of the European Convention on Human Rights in ordering the Swiss mother of an abducted child to return her child to the father in Israel. The court considered that it was not in the interest of the child to return to Israel, since the child was well settled in the country.

On July 27, the ECHR ruled that the state had violated the right to respect for private and family life under the European Convention on Human Rights in the case of *Mengesha Kimfe v. Switzerland*. Swiss authorities refused to assign two rejected female asylum seekers from Ethiopia to the same cantonal reception center as their husbands so that the couples could live together until their deportation. Since Ethiopian authorities denied their return, the couples had been officially prevented from living together for five years. The court ordered the country to pay one applicant 846 euros (\$1,134) for pecuniary damages and 5,000 euros (\$6,700) for nonpecuniary damages, and the second applicant 2,330 euros (\$3,122) for pecuniary damages, 5,000 euros (\$6,700) for nonpecuniary damage, and 526 euros (\$705) for costs and expenses.

On October 28, in the case *Schaller-Bossert v. Switzerland*, the ECHR ruled that the applicant was not given the right to a fair hearing (Article 6) after contesting her termination as a teacher. The court ordered the country to pay 5,000 euros (\$6,700) for nonpecuniary damage and 8,537 euros (\$11,440) to cover costs and expenses of the applicant.

On November 9, the ECHR ruled in the case *Losonci Rose and Rose v. Switzerland* that the country had violated Article 14 in conjunction with Article 8 in refusing to allow the two applicants to keep their own surnames after their marriage. The court concluded that the rules in force in the country gave rise to discrimination between binational couples according to whether the man or the woman had Swiss nationality and ordered the country to pay the applicants 10,000 euros (\$13,400) for nonpecuniary damage and 4,415 euros (\$5,916) for costs and expenses.

### 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. On September 29, the Federal Court upheld a conviction against the Europe-based representative of the Turkish Workers' Party and two of his colleagues for having denied the Armenian genocide at a public event in 2007. They were found guilty of violating the law on preventing racism.

According to federal law, it is a crime to publish information based on leaked "secret official discussions." A number of cases of violation of secrecy by the press were being investigated during the year; however, there no sentences were handed down for such offenses by year's end.

### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. 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.

### b. Freedom of Peaceful Assembly and Association

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

### c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt/](http://www.state.gov/g/drl/irf/rpt/).

### 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's 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.

Nongovernmental organizations (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 15,567 persons. Authorities adjudicated 20,690 cases and granted refugee status or asylum to 3,449 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 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 between 15 and 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 were effectively 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.

On November 28, Swiss voters adopted a referendum on the automatic expulsion of foreigners convicted of serious crimes, including premeditated homicide, rape, other serious sexual offenses, violence such as armed robbery, human trafficking, drug trafficking, burglary, or welfare fraud. Both the federal government and the parliament recommended that voters reject the initiative. The Justice Ministry convened a working group that has five years to bring the initiative into effect in compliance with bilateral agreements with the European Union and Swiss national and international laws. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention relating to the Status of Refugees and its 1967 protocol and provided it to 4,796 persons during the year; 23,471 individuals enjoyed temporary protection status in the country at the end of the year.

On September 14, the Council of States decided, following the March 3 approval of the National Council, that juvenile undocumented immigrants would in the future have the right to an apprenticeship in the country. In March the city of Lausanne opened its job training programs to four young undocumented migrants who grew up in the country.

### 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.

At the end of the year, there were 69 women in the 246-seat Federal Assembly and four 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, who was originally from Angola, in the 200-seat National Council.

#### 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.

On October 12, the press reported that the Federal Prosecutor's Office was investigating several officials of the Federal Office for the Environment for corruption and malfeasance. The case allegedly involved two information technology companies that received contracts valued at over two million Swiss francs (\$2.1 million) in the past three years.

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 parliaments to disclose their financial interests. A joint working group consisting of representatives of various federal government agencies operated 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.

The November 2009 report of the UN Group of Experts on the Democratic Republic of the Congo (DRC) presented information indicating that Cronimet Central Africa AG, which was based in Switzerland, indirectly funded conflict and perpetrators of human rights abuses in the eastern DRC.

#### 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.

There is no national ombudsman. Following the October 2009 recommendation of the UN Human Rights Council, the federal departments of foreign affairs and justice and police moved on September 3 to create a Swiss Competence Center for Human Rights. Based on a proposal submitted by a number of local universities in association with the Graduate Institute Kurt Boesch, the center was scheduled to begin work on January 1, 2011, with a mission to strengthen the country's capacities for implementing human rights by providing information, advice, tools, and forums for players in the field of human rights.

#### 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 2009 police recorded 666 instances of rape (compared with 612 in 2008) and 470 prosecutions (compared with 429 in 2008).

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. Although women's shelters experienced an average of 70 percent occupancy, in the cantons of Basel, Bern, and Zurich half of the applicants for shelter reportedly were 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 had 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 that coordinated the activities of law enforcement agencies, prosecutors, and victim assistance groups.

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

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 covers the cost of routine examination during pregnancy and the costs related to childbirth. According to estimates compiled by international organizations, there were approximately 10 maternal deaths per 100,000 live births in the country in 2008. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV. There were no legal, social, cultural, or other barriers limiting access to such services.

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 retain sufficient income to remain above the poverty level. Since men are the primary wage earner in most marriages, a household income too low to support both parties could force the wife and children 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 had 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 were and were less likely to own or manage businesses.

Under the constitution women and men are entitled to equal pay for equal work; however, a study published by the Federal Statistics Office in October showed that in 2008 women's gross salaries in the private sector were on average more than 19 percent lower than salaries for men. In the public sector women earned on average 15.5 percent less than men for the same job. In March 2009 the government initiated a five-year project urging companies to review their salary structures to eliminate the pay gap between men and women.

#### Children

Citizenship derives from one's parents, and citizenship may be derived from a single parent. Child abuse was a problem. In 2009 there were 1,526 reported cases of sexual assault against children, compared with 3,504 in 2008. Most of the victims were girls younger than 18 years old, and 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 one year in prison.

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

The law does not expressly prohibit prostitution by 16- and 17- year-old minors under all circumstances, leaving these children potentially vulnerable to trafficking for commercial sexual exploitation.

Female genital mutilation (FGM) is illegal but, according to NGOs, there were reports that the practice occurred in limited numbers. 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 was practiced. During the year UNICEF continued its efforts to raise awareness of FGM. On December 16, parliament voted to add a paragraph banning FGM to the criminal code. On November 2, the State Secretariat for Economic Affairs and the NGO ECPAT Switzerland launched, in conjunction with private companies and NGOs in Germany and Austria, a trilateral public awareness campaign for the protection of children from sexual exploitation in the tourism industry.

A report issued in September 2009 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 implementing the law. For example, the report indicated that, upon the expulsion of their parents, some children who had been raised in the country and were integrated fully into its way of life were forced to move to countries where they had no connections. The Federal Office of Migration rejected the assertion, maintaining that government officials gave careful consideration to cases involving children between the age of 14 and 17 years who were well integrated into society.

During the year several NGOs expressed concern about reports of hundreds of unaccompanied foreign minors entering the country annually, claiming many have disappeared from state care after arrival. Officials asserted that there had been only a few isolated cases of missing unaccompanied minors during the year.

For information on international parental child abduction, please see the Department of State's annual Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html).

#### Anti-Semitism

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 recorded 153 anti-Semitic incidents in the western, French-speaking part of the country in 2009 compared with 96 in 2008. They ranged from verbal and written assaults to offensive graffiti and acts of vandalism against Jewish property. The Swiss Federation of Jewish Communities recorded 28 anti-Semitic incidents in the German-speaking part of the country, compared to 21 incidents in 2008. The federation noted in its annual report that serious incidents such as violent attacks against Jews and denials of the Holocaust were very rare in the country.

The law penalizes public incitement to racial hatred or discrimination, spreading racist ideology, and denying crimes against humanity. On October 21, a farmer from Sigriswil was fined 3,600 Swiss francs (\$3,842) for having published anti-Semitic conspiracy theories in a local newspaper.

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

#### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

The constitution and federal law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services or other areas, and the government generally enforced the prohibition. 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 pilot project to empower persons with severe disabilities to live on their own by providing them with additional funding to pay for assistance in their daily lives.

On the fifth anniversary of the country's Disability Discrimination Law in December 2009, Egalite Handicap, a local NGO acting on behalf of persons with disabilities, published a report noting that important steps toward equality for persons with disabilities had been taken since the entry into force of the law. At the same time, the report criticized a number of defects in the fields of construction, transport, school, professional training, and state services; in particular, it criticized cantonal differences in access to inclusive education for children with disabilities.

On September 8, Egalite Handicap filed a complaint against the low-cost air carrier Easyjet at the Federal Office of Civil Aviation and the Geneva Civil Court for refusing to transport a man in a wheelchair without an escort on a flight from Geneva to Berlin in late 2009.

#### 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 the number of extremists 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 112 in 2009, compared with 93 incidents recorded in 2008. 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. Following the

November 28 adoption of the referendum on the automatic expulsion of foreigners convicted of serious crimes, left-wing protesters caused property damage at locations used by the conservative Swiss People's Party (SVP).

On August 16, the Federal Commission against Racism released a report analyzing 2009 feedback from the Consulting Network for Victims of Racism. According to the report, a significant number of cases of racism were linked to sociopolitical events, such as the antimigrant initiative or tensions in the relationship between Switzerland and Germany. Most victims of racial discrimination were from Central Europe, but a significant proportion were Swiss citizens. In 2009 the Consulting Network for Victims of Racism assisted 162 victims of racial discrimination, compared with 87 victims in 2008.

On June 19, a Swiss soldier showed his friend from Angola his army rifle in his car in Zurich. After an unknown person reported having seen two black men with a gun, the police sent an antiterror detachment and dragged the two men from their car. One police officer reportedly racially insulted the Angolan man and threatened to beat him. Police authorities were investigating the incident.

On November 26, a truck driver harassed, threatened, and physically attacked a woman wearing a headscarf at a gas station in the canton of Glarus. According to newspaper reports, a similar incident had happened a year earlier in a local supermarket.

According to the Party of Nationally Oriented Swiss (PNOS), about 100 right-wing extremists participated in the PNOS's annual meeting on November 13 in Morgarten to celebrate the historical battle of Morgarten in 1315. After the meeting, most participants attended a concert of a right-wing extremist band.

The Jenisch are recognized by the government as a minority group. While the large majority of the 30,000 to 35,000 Jenisch in the country lived settled lives, the Roma European Rights Center reported that representatives of the several thousand who continued to pursue an itinerant lifestyle had urged the government to carry out its promises to create new campsites and parking areas for them in recent years. A lack of proper camping facilities and transit areas reportedly forced many Jenisch to occupy land illegally. The federal government allocated 750,000 Swiss francs (\$800,000) for measures and projects between 2007 and 2011 to improve living conditions for the Jenisch.

On June 24, the Federal Commission against Racism expressed concern about the increase in hostile attitudes against Roma and urged the cantons and municipalities to create new campsites and parking areas to eliminate any systemic discrimination against them.

On June 6, a group of Roma attempted to set up a camp with about 60 cars near a highway exit in the canton of Fribourg. The landowner, who was also president of the municipality and a member of the canton's grand council, claimed the Roma were harassing citizens and causing damage to the fields. The son of the landowner spread manure on the field, up to a few meters from the caravan. The Roma chased the man away threatening him with axes and metal bars.

On June 19, an unidentified person fired two shots at a car belonging to a Rom in Ticino, destroying its rear window. A few days later, the president of the local right-wing party Lega dei Ticinesi stated that Roma should be prohibited from camping in Ticino. The Federal Commission against Racism, the Foundation against Racism and anti-Semitism, and the Society for Minorities in Switzerland expressed concern about the incident and condemned the reaction of the Lega representative.

During the year 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 occasional reports of societal violence or discrimination based on sexual orientation.

On the occasion of International Day against Homophobia held on May 17, the Swiss gay organization, Pink Cross, reported that homosexual children from immigrant families, particularly from the Balkans, Turkey, and the Middle East, suffered heavy reprisals by their families.

Throughout the year, representatives of the Young Social Democratic Party and lesbian, gay, bisexual, and transgender (LGBT) organizations complained that gay men suffered discrimination, as they were not allowed to donate blood.

On March 2, the Swiss section of Amnesty International filed a petition to the parliament calling for the gender-based persecution of LGBT persons to be incorporated into federal law as a category of persecution qualifying an applicant for asylum in the country.

On June 9, Zurich Pride, a festival for LGBT persons, took place in Zurich with the same level of security and police presence as many other large public events in the country.

#### 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 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 maintain labor peace, limiting the right to strike for the duration of the agreement, which is generally several years. 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. There was an ombudsperson in some cantons.

##### 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.

There were no specific laws against antiunion discrimination and employer interference. The law does not require employers to offer reinstatement to an employee who is found to have been 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.

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. For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### 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 of children to beg and commit theft. For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The minimum age for fulltime employment is 15 years of age. 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 between the ages of 15 and 18 years old is also restricted; 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, and cantonal labor inspectorates were responsible for enforcement. Cantonal labor inspectors effectively inspected companies to determine whether there were violations of the child labor laws.

#### e. Acceptable Conditions of Work

There is 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 Swiss francs (\$2,348 to \$4,482) per month for unskilled workers and 2,800 to 5,300 Swiss francs (\$2,988 to \$5,656) 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 2009, 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 Swiss francs (\$1,318) more per month, and skilled resident foreigners were paid approximately 2,256 Swiss francs (\$2,408) more per month than their Swiss equivalents. The only exceptions were skilled cross-border commuters, who earned nearly as much as comparable Swiss workers. In contrast unskilled resident foreigners earned on a monthly basis approximately 616 Swiss francs (\$657) less, short-term resident foreigners approximately 1,045 Swiss francs (\$1,115) less, and cross-border commuters approximately 279 Swiss francs (approximately \$298) 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 their health or safety without jeopardy to their continued employment, and the authorities effectively enforced this right.

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