

SWITZERLAND 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Swiss Confederation is a constitutional republic with a federal structure. Legislative authority resides in a bicameral parliament (Federal Assembly), consisting of the 46-member Council of States and the 200-member National Council. Free and fair elections occurred at both the cantonal and federal levels in 2011. Parliament elects the executive leadership (the seven-member Federal Council) every four years. A coalition of five parties made up the Federal Council. There were 12 political parties represented in the federal government. Security forces reported to civilian authorities. Security forces committed some human rights abuses.

The most significant problems included the occasional use of excessive force by security forces, particularly in connection with the arrests and deportations of asylum seekers and in the canton of Geneva. Authorities sometimes subjected asylum seekers to lengthy detention and mistreatment. Societal discrimination against Roma, members of other minorities, and immigrants also occurred.

Other human rights problems included overcrowded prisons, instances of violence against women, forced marriages in some immigrant groups, hostility towards Muslims, anti-Semitic incidents, and trafficking in persons.

The government took steps to prosecute and punish officials who committed abuses, whether in the security services or elsewhere in the government.

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. Cantonal state prosecutors and police generally investigated security force violence; however, in some cantons, the ombudsman's office investigated such cases.

b. Disappearance

There were no reports of politically motivated disappearances, abductions, or kidnappings.

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

The constitution prohibits such practices. There were, however, reports of individual police officers using excessive force and engaging in degrading treatment while making arrests.

In October 2012 the Council of Europe's Committee for the Prevention of Torture (CPT) published a report on its most recent visit to the country in 2011. The CPT identified a disturbing proportion of prisoners in the canton of Geneva, including juveniles, who complained of physical mistreatment by police during and after apprehension. The committee also identified several cases in which authorities detained persons suffering from psychiatric disorders in normal prison wards instead of special facilities suitable for the care or treatment of such detainees.

In May the UN Committee against Torture adopted three decisions regarding claims against the country regarding forced repatriations. The committee ruled none of the complaints were justified under the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In March the Geneva district attorney's office opened a criminal investigation against at least one prison guard for beating an inmate in Geneva's Champ Dollon Prison. The office also filed charges against nine other guards for not reporting the alleged abuse. The case was pending as of November.

In July the Federal Court opened a case against nine prison personnel for negligent homicide, exposure, and failure to render assistance in connection with the March 2010 death of a Bochuz Prison inmate by smoke inhalation after he set fire to his prison cell. The case was pending as of November.

On June 20, the National Commission for the Prevention of Torture (NCPT) issued its third annual report. The commission reported incidents of prison overcrowding, isolated conditions for women, lengthy solitary and pretrial confinement, and an insufficient number of prison guards. The commission also noted that foreigners awaiting deportation and individuals in administrative detention often faced harsher treatment than others in pretrial custody.

To make room for increasing numbers of asylum seekers, the Federal Office of Migration housed hundreds of asylum seekers in remote rural areas or in

underground, decommissioned military bunkers that were retrofitted to serve as short-term housing. Ten asylum seekers from Syria, Afghanistan, and Egypt camped for several days in August in front of the railway station in Solothurn to protest alleged inhuman housing conditions. Protesters maintained that their accommodations lacked sunlight and fresh air. Police eventually divided the protesters and sent them to different accommodations. On November 22, a federal judge ruled that the temporary housing of a rejected asylum seeker without family or medical issues in such conditions did not violate the right to privacy or amount to torture.

Prison and Detention Center Conditions

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

Physical Conditions: In 2012 there were 6,599 persons in prison or detention centers (authorities remanded 31 percent for custody, 50 percent for convicted crimes, 6 percent in accordance with the federal law on foreigners, and approximately 3 percent for other reasons). Of the total 323 were women (5 percent), 53 were juveniles (1 percent) and 4,870 (74 percent) were foreigners. In 2012 there were 2,051 persons in pretrial detention and 427 awaiting deportation, 5 percent of whom were women.

According to Federal Department of Justice and Police statistics, 30 individuals under the age of 18 were in preventive detention in 2012; 89 percent of those in custody were boys and 11 percent were girls.

The occupancy rate of detention facilities was 95 percent in 2012; prison overcrowding continued to be a problem especially in the French-speaking part of the country. Geneva's Champ-Dollon Prison remained the country's most crowded prison. Designed for a maximum of 376 occupants, it held 671 inmates during a 2012 NCPT inspection. According to independent observers, both guards and inmates criticized the poor detention conditions.

When the occupancy rate passed 800 inmates in April, 170 prison guards went on strike to protest the poor detention conditions, which led to the assignment of an additional 85 prison guards there. After a series of complaints about insufficient space at the prison, several prisoners filed for compensation at a Geneva district court. The judge denied the compensation claims, arguing that the space available complied with the standards outlined in the European Convention of Human

Rights. In Lausanne prisoners were forced to spend parts of their sentences in small cells at police stations and makeshift wards because of insufficient space.

While conditions for female prisoners generally were comparable to those for men, there were exceptions. In April the NCPT visited the central prison in Schaffhausen and complained that female inmates were too isolated. Additional problems included a lack of sufficient space for prisoners in some of the older blocks.

All prisoners had access to potable water, but some facilities lacked work and sport facilities as well as outdoor areas.

As of November the Federal Office for Statistics had not released the number of deaths in confinement for 2012 or during the year; however, press sources and nongovernmental organizations (NGOs) reported at least two suicides and two attempted suicides during the year. On April 17, a 32-year-old prisoner died in the Zug Cantonal Hospital after refusing food for several months.

The NCPT visited 10 prisons and asylum reception centers in 2012 and six during the first half of the year. While the commission found overall conditions at the inspected institutions satisfactory, it reported some prisons were under resourced, overcrowded, and lacked properly trained medical personnel. It also found that asylum seekers suffered under excessively restrictive conditions while awaiting repatriation and prison personnel lacked sufficient medical training. The committee criticized the Basel Asylum Reception Center for overcrowding and air quality issues. Originally built to hold 320, at times it held more than 485 individuals and as many as 12 individuals in one room. The commission found the overall detention conditions at Champ Dollon Prison in Geneva and the administrative detention conditions for asylum seekers at Martigny Prison “unsatisfactory.” The commission noted inmates at Martigny Prison spent 23 hours per day in their cells, and cited a negligible difference between detention conditions for asylum seekers and convicted felons at Martigny Prison. The committee further criticized the unregulated use of a monitoring cell in the Thorberg prison and lengthy periods of isolation for female inmates of the prison in Schaffhausen.

Administration: Recordkeeping on prisoners was adequate. Prisons created a “detention schedule” for each detainee and defined aims and interim goals for their time in prison. Authorities updated these detention schedules at regular intervals. Prisons also kept medical records of detainees. Prisoners and detainees had

reasonable access to visitors and could observe and practice their respective religions. Alternatives to incarceration for nonviolent offenders such as fines and charitable work were used. Prisoners could submit complaints to judicial authorities without censorship and request an investigation of credible allegations of inhumane conditions. Authorities investigated such allegations. There was no ombudsman at the national level, but a number of cantons instituted cantonal ombudsmen and mediation bodies, which acted on behalf of prisoners and detainees to address complaints about the conditions and circumstances of their detention. Entities able to address prisoner complaints were more readily available in the larger, more populous cantons than in smaller, less populated ones.

The penal code states police may detain young offenders only for a minimal period but does not explicitly state the length. In actuality, without an arraignment or arrest warrant, police could detain young offenders for a maximum of 24 hours (48 hours during weekends). Sentences for youths up to the age of 15 could be no longer than one year. For offenders 16 or older, sentences could be up to four years. The law also requires authorities to house juvenile offenders in reform schools or in separate wings of prisons where they could receive educational support. In 2012 authorities detained 399 youths; another 528 received suspended sentences.

In March 2012 the Zurich cantonal government reported that construction of the juvenile wing at Uitikon Prison would not be completed during the year as planned. Cantonal officials said the construction fell short of the required standards, thereby postponing the opening of the new wing. During the year juveniles continued to be housed in the old ward.

Independent Monitoring: The government permitted independent monitoring of prison and asylum reception center conditions by local and international human rights groups, the media, and the International Committee of the Red Cross. The CPT last visited the country in 2011.

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 security forces, which the cantons primarily organized and administered with federal coordination. In addition to performing coordination and analytical functions, the Federal Office of Police could pursue its own investigations under the supervision of the attorney general in cases of organized crime, money laundering, and corruption. The government had effective mechanisms to investigate and punish abuse.

Arrest Procedures and Treatment of Detainees

By law police must apprehend criminal suspects based on warrants issued by a duly authorized official unless responding to a specific and immediate danger. In most cases authorities may not hold suspects longer than 24 hours before bringing them before a prosecutor or investigating magistrate, who must either formally charge or order a detainee's release. Immigration authorities may detain asylum seekers and other foreigners without valid documents 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 or 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. Authorities may restrict access to family members to prevent tampering with evidence, but authorities require law enforcement officials to inform close relatives promptly of the detention.

Arbitrary Arrest: There were occasional reports of arbitrary arrest. On July 10, the country's federal court sentenced a high-ranking Zurich city police officer for abuse of authority and arbitrary arrest to a suspended sentence and a fine of 6,600 Swiss francs (\$7,300). This final in a series of related sentences stemmed from a 2007 incident in which police arrested and later injured a clergyman for intervening when police questioned a man on a Zurich street.

Pretrial Detention: In some instances lengthy pretrial detention was a problem. In 2012 approximately 31 percent of all prisoners were in pretrial detention. The country's highest court ruled that pretrial detention must not exceed the length of the expected sentence for the crime for which a suspect is charged.

Detention of Rejected Asylum Seekers or Stateless Persons: According to the NCPT, measures against asylum seekers awaiting repatriation were too restrictive. The NCPT specifically noted that the transit center at the Geneva airport resembled

a prison more than an asylum facility. The NCPT reported that other detention facilities lacked sufficient space and did not have the capacity to provide specific care requirements, particularly for pregnant women or parents of young children.

e. Denial of Fair Public Trial

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

Trial Procedures

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

Defendants enjoy a presumption of innocence. Trials are public. The courts use juries only in the most serious cases, such as murder. Defendants have the right to be present and consult with an attorney in a timely manner, and an attorney may be provided at public expense if a defendant faces serious criminal charges.

Defendants have the right to confront or question witnesses and present witnesses and evidence. They have the right to appeal, ultimately to the Federal Tribunal, the country's highest court. Authorities generally respected these rights and extended them to all citizens.

Military courts may try civilians charged with revealing military secrets, such as classified military documents or classified military locations and installations. There were no reports that military courts tried any civilians during the year.

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 exhaust their right of appeal in domestic courts may apply to the European Court of Human Rights (ECHR) for redress for alleged violations by the state of the European Convention on Human Rights.

Regional Human Rights Court Decisions

On December 17, the ECHR issued a chamber judgment in favor of Turkish politician Dogu Perincek. The court stated that Perincek's 2007 conviction for violation of the country's racial discrimination laws violated his right to freedom of expression provided for under Article 10 of the European Convention on Human Rights.

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

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

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and press, and the government generally respected these rights. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of speech and of the press.

Freedom of Speech: The law penalizes public incitement to racial hatred or discrimination, spreading racist ideology, and denying crimes against humanity. There were no convictions or arrests during the year under this law.

Press Freedoms: According to federal law, it is a crime to publish information based on leaked "secret official discussions."

The Neuchatel cantonal court ruled on September 11 that a police raid on the house of an investigative journalist was illegal. Under orders from the cantonal prosecutor's office, authorities confiscated the journalist's computer as well as computers belonging to his wife and 11-year-old son after the journalist refused to act as a witness in a university plagiarism case.

Internet Freedom

There were no government restrictions on access to the internet or credible reports that the government monitored e-mail or internet chat rooms without appropriate legal authority. According to the Federal Office of Statistics, 85 percent of the population over 14 used the internet during the year.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

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

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

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

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation; and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees

Access to Asylum: The country's laws provide for the granting of asylum or refugee status, and the government established a system for providing protection to refugees. In 2012 immigration authorities processed 24,941 of the 28,631 applications received during the year and approved 2,507 applications.

In September 2012 the government implemented a series of asylum policies to expedite the processing of asylum requests and institute new regulations on guaranteed refugee status. The measures stipulated that conscientious objectors and army deserters would no longer automatically qualify for refugee status, and Swiss embassies abroad would no longer accept asylum requests. On May 24, the Federal Commission against Racism warned that the tightening of the country's asylum laws would lead to increased stigmatization of asylum seekers. On June 9, voters in a nationwide referendum upheld the new measures in spite of opposition

from the commission, some political parties, and religious groups. On June 14, the Federal Council announced that the expedited processing of asylum requests would enter into force and that the Federal Office for Migration should process 60 percent of incoming asylum applications within 140 days. In October, Minister of Justice Simonetta Sommaruga urged the country to reconsider its decision to stop accepting asylum requests at embassies abroad but only in concert with other European countries.

Safe Country of Origin/Transit: The Federal Office for Migration relied on a list of “safe countries,” and would-be refugees who originated from or transited these countries generally were ineligible for asylum; however, during the year NGOs criticized this practice with regard to deportations to Italy and Sri Lanka. On August 26, the Federal Department for Migration suspended deportations to Sri Lanka and revised its procedures for processing asylum applications from Sri Lankans after two Tamils were arrested after being deported to their home country.

Refoulement: While the government generally did not force asylum seekers to return to countries where their lives or freedom would be threatened, there were reports of exceptions. For example, on July 12, the Federal Office for Migration authorized the repatriation of a 34-year-old Tamil man to Sri Lanka. The man was arrested in Colombo and imprisoned. On August 21, the Federal Office for Migration authorized the repatriation of a Sri Lankan family. Upon the family’s return, Sri Lankan authorities arrested the husband. The wife, who was pregnant, was left on her own in Sri Lanka with her two children.

Refugee Abuse: The government required asylum applicants to provide documentation verifying their identity within 48 hours of completing their applications, and authorities refused to process applications of asylum seekers 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. The government could also detain rejected applicants for up to three months to ensure their departure or up to 18 months if repatriation posed special obstacles. The government could detain minors between the ages of 15 and 18 for up to 12 months pending repatriation. Authorities generally instructed asylum seekers to leave voluntarily. Individuals who refused to depart voluntarily could be forcibly repatriated.

On June 20, the NCPT released its annual report on deportation flights. Between July 2012 and April 2013, the country deported 159 persons to their countries of

origin on 31 special flights. Each repatriation flight had an NCPT observer on board. Observers complained they were denied access to medical records and that authorities frequently used ketamine and other strong anesthetics to calm agitated deportees during flights. The NCPT noted, however, that authorities used body shackles less frequently than previously and that cantonal authorities in Zurich and Bern had instituted new deportation procedures to protect human rights better.

Amnesty International and other NGOs working with refugees continued to complain that officials often effectively denied detained asylum seekers proper legal representation in deportation cases due to their lack of financial means to hire an attorney. Authorities provided free legal assistance only in cases of serious criminal offenses; deportation of asylum seekers was deemed an administrative, rather than a judicial, process.

Access to Basic Services: Several NGOs and left-wing political parties complained about insufficient and inappropriate housing for refugees. Housing shortages for asylum seekers remained a problem (see section 1.c.).

Temporary Protection: The government also offered temporary protection to individuals who may not qualify as refugees, providing such assistance to approximately 12,820 individuals between January and October, of whom 629 were not yet qualified as refugees.

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 through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In 2011 voters elected a Federal Assembly in free and fair elections.

Participation of Women and Minorities: There were 61 women in the 200-person National Council (House) and nine women in the 46-member Council of States (Senate).

Section 4. Corruption and Lack of Transparency in Government

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.

Corruption: Prior to the 2011 parliamentary elections, media and international observers widely discussed the lack of federal campaign financing regulations. The NGO Transparency International concluded in 2011 that political party funding practices remained opaque. In 2011 the Group of States against Corruption of the Council of Europe (GRECO) voiced concerns about the limited transparency of political party funding. The country has no legal framework governing the funding of political parties, which left space for government corruption or favoritism. While observers from the Organization for Security and Cooperation in Europe criticized the lack of controls on party funding during the parliamentary elections, they cited no specific cases. In March 2012 GRECO stated in its *Addendum to the Compliance Report on Switzerland* that corruption in the country was more prevalent in the private than in the public sector.

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 Federal Audit Office maintained an ombudsman office to provide government employees a safe and confidential avenue for reporting government corruption. The ombudsman office handled 721 complaints in 2012. According to the office's annual report, the majority of complaints concerned educational facilities, the financial secretariat, the migration office, and state-owned hospitals.

On November 13, authorities arrested five members of the Zurich police vice squad on allegations of accepting bribes from a nightclub. The case received considerable national press attention. Authorities released two of the police officers shortly thereafter; three remained in investigative custody. They allegedly accepted sexual favors and other bribes for passing on information concerning planned raids to the nightclub owners. The investigation subsequently led to minor charges against an additional six police officers for accepting festival tickets as bribes from restaurant owners known to have ties to prostitution rings. The case was pending as of late November.

Whistleblower Protection: The country does not have a law to protect whistleblowers.

Financial Disclosure: Members of the Federal Assembly must disclose annually their financial interests, professional activities, supervisory board or executive body memberships, and expert or consulting activities. Investigating and prosecuting government corruption was a federal responsibility. A majority of cantons also required members of cantonal parliaments to disclose their financial interests.

Public Access to Information: 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.

Illicit Trade in Natural Resources: On November 4, the federal prosecutor's office announced that it was initiating a criminal investigation against gold refiner Argor-Heraus SA after reviewing a criminal complaint submitted by the Swiss NGO Track Impunity Always (TRIAL). TRIAL alleged that in 2004-05 Argor-Heraus refined almost three tons of gold from the Democratic Republic of the Congo that had been pillaged and sold by the illegal armed group Front des Nationalistes et Integrationnistes to finance its operations. Argor-Heraus representatives denied the charges, and the case was pending as of November.

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.

Government Human Rights Bodies: In 2011 the Federal Department of Foreign Affairs and the Federal Department of Justice and Police created a Swiss Competence Center for Human Rights (SCHR) consisting of a network of universities and human rights experts responsible for strengthening and supporting human rights capacities and bridging gaps between federal and cantonal authorities on human rights issues. During the year SCHR hosted presentations on human rights themes and conducted outreach on human rights best practices.

There were nine independent ombudsman offices located in the cantons of Basel-Land, Basel-Stadt, Zug, Zurich, and in the cities of Bern, St. Gallen, Rapperswil-Jona, Winterthur, and Zurich, which also assessed cases of police misconduct.

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.

Women

Rape and Domestic Violence: Rape, including spousal rape, is a statutory offense. The government effectively prosecuted those accused of such crimes. In 2012 police recorded 569 rapes, compared with 552 in 2011.

Violence against women remained a serious problem. Twenty-two individuals were killed as a result of domestic violence in 2012. In 2012 police registered 15,810 cases linked to domestic violence or domestic abuse and investigated 4,597 grave cases of domestic violence. The law criminalizes domestic violence as well as stalking. A court may order an abusive spouse to leave the family home as a temporary measure.

Victims of domestic violence could obtain help, counseling, and legal assistance from specialized government agencies and NGOs or from nearly a dozen private or government-sponsored hotlines. As of 2012 there were 17 official women's shelters that housed 2,067 women and children. Despite the high demand, the cantonal governments of Schaffhausen and St. Gallen closed two shelters during the year because of insufficient funds. With an average occupancy rate above 93 percent, women's shelters were fully occupied, and the demand for shelter space regularly exceeded existing capacity. The Ministry of Interior's Federal Office for Equality between Women and Men employed a special unit that focused on domestic violence. Most cantonal police forces included specially trained domestic violence units. A majority of cantons also had administrative units to coordinate the activities of law enforcement agencies, prosecutors, and victim assistance groups.

On November 22, the government organized a national conference on gender-based violence. Some 180 participants discussed the opportunities and challenges of international agreements and attended a series lectures, workshops, and an information "marketplace" to promote forward-looking projects on the prevention and elimination of gender violence at the federal and cantonal levels.

Harmful Traditional Practices: On July 1, a law took effect that prohibits forced marriage and provides up to five years in prison as punishment for violations. Foreign visa applicants would be denied permission to travel to the country if they were suspected of involvement in a case of forced marriage. Victims of forced marriage already residing in the country may remain and may change their marital status from “married” to “single” with no requirement to record a divorce. A 2012 University of Neuchatel study estimated that 1,400 women were victims of forced marriages or unwanted relationships between 2010 and 2012. An NGO working with victims of forced marriage handled an average of eight cases per week between June and September.

Sexual Harassment: The law prohibits sexual harassment and facilitates access to legal remedies for those claiming discrimination or harassment in the workplace. Special legal protection against the dismissal of a claimant was only temporary, however. Employers failing to take reasonable measures to prevent sexual harassment were liable for damages equal to as much as six months’ salary.

Reproductive Rights: 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, which were widely used. Compulsory basic health insurance covered the cost of routine examination during pregnancy and the costs related to childbirth.

Discrimination: Women enjoy the same rights as men under the constitution, including in family and property law and in the judicial system. 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 were the primary wage earners in most marriages, a household income too low to sustain both parties could force the wife and children to resort to public assistance.

The Federal Office for Gender Equality 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 a disproportionate share of women 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. In 2011 the median monthly income for women in the private sector was 5,176 Swiss francs (approximately \$5,700), while men earned 6,346 francs (\$7,000). During the year the difference in pay between men and women was approximately 16 percent for low-income jobs. In 2012 women received salaries that were approximately 18 percent less than their male counterparts. The pay for female university graduates was as much as 23 percent less than that of male peers.

While the 1996 equality law obliges companies to provide equal pay for equal work, most employers successfully disregarded this law.

Children

Birth registration: Citizenship derives from one's parents; a single parent may convey citizenship. Births are registered immediately, but there are no negative repercussions for delayed registration in cases of home delivery.

Child Abuse: Child abuse was a significant problem. In 2012 there were 1,203 reported cases of sexual assault against children; 949 cases resulted in convictions. A University of Zurich study released on August 4 indicated that the actual number of abuse cases was higher than shown on police records. According to the study, more than 4,000 cases of sexual assault against children occurred in 2012. Most victims were girls under the age of 18, with most of the abuse occurring in the family home or the immediate social environment. In 2012 the children's hospital in Zurich registered 444 cases of child abuse, 36 percent of which were cases of physical and sexual abuse. As of late November, no figures for the year were available.

Forced and Early Marriage: The legal minimum age of marriage is 18. A Neuchatel University study requested by government reported at least 300 forced marriages between mid-2010 and mid-2012. Forcing a person to marry is punishable by up to five years' imprisonment.

Harmful Traditional Practices: Female genital mutilation (FGM) is illegal, but according to NGOs the practice reportedly occurred in limited numbers. Under the penal code, FGM is punishable by up to 10 years' imprisonment.

Sexual Exploitation of Children: The production, possession, distribution, or downloading of pornography involving children from the internet is illegal, punishable by fines or a maximum sentence of one year in prison. With limited exceptions the law designates 16 as the minimum age for consensual sex. Consensual sex under the age of 16 is permitted in cases in which one of the partners is not more than three years older than the other. The maximum penalty for statutory rape is imprisonment for 10 years.

On September 19, both chambers of parliament approved a change in the penal code to outlaw prostitution for children under the age of 18 and punish pimps of underage prostitutes with sentences of up to 10 years. Engaging in commercial sex with an underage prostitute would be punishable by up to three years' imprisonment. The law was scheduled to enter into force on January 1, 2014.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's report on country-specific information at http://travel.state.gov/abduction/country/country_5923.html.

Anti-Semitism

According to the 2012 census, the most recent official data available, the Jewish community consisted of 16,763 individuals, which represented 0.2 percent of the country's population. Although there was no census update as of late November, the Foundation against Racism and Anti-Semitism (GRA) reported approximately 17,400 Jewish individuals in the country during the year. The largest Jewish communities were located in Zurich, Bern, and Geneva.

According to the *2012 Anti-Semitism Report*, produced jointly by the Swiss-Israelite Association and the GRA, there were 25 anti-Semitic incidents in the German-speaking part of the country in 2012. The Geneva-based Intercommunity Center for Coordination against Anti-Semitism and Defamation and the Swiss Federation of Jewish Communities recorded 87 anti-Semitic incidents in the French- and Italian-speaking regions of the country, one of which was deemed serious. In its summary of anti-Semitic incidents for the year, the GRA listed 13 cases of verbal racism, 15 right-wing extremist marches, three cases of threats or

harassment, seven cases of damage to property, six incidents of discrimination as well as one case of racism by government authorities, one attack against bodily integrity, and four cases not assigned to a specific category. The federation noted in its annual report that serious incidents, such as violent attacks against Jews and denials of the Holocaust, were rare. In 2012 authorities did not register any violent attacks on Jewish institutions or synagogues. In 2012 GRA registered two court convictions for spreading anti-Semitic propaganda. As of November 20, GRA had not reported any cases of spreading anti-Semitic propaganda for the year.

On July 15, Maurus Candrian, a former member of the cantonal government and employee of the St. Gallen construction department, sent an e-mail to the Israeli Embassy in Bern glorifying the 2012 terrorist attacks on Israeli tourists in Bulgaria, stating: “11 Jews killed in Bulgaria, great, very great – a good day in my life, a good day for the free and good world. I am very proud of the heroes who killed the Jews. Death to all Jewish terrorists all over the world.” The former member of the government lost his job and had to pay a fine of 1,175 Swiss francs (\$1,300). Members of the cantonal government explicitly distanced themselves from the statement. The head of the construction department sent an e-mail to all 650 employees strongly denouncing the statement and publishing Candrian’s name to protect other department employees from false accusations.

On June 20, the Geneva cantonal court sentenced a blogger who wrote a series of articles denying the Holocaust and insulting Swiss Jewish organizations to four months’ imprisonment for racial discrimination.

In November 2012 a German lawyer, who recently served a three-year prison sentence in Germany for Holocaust denial, spoke at a rally in the city of Chur to an audience of approximately 2,000. The lawyer reportedly spoke about her experience defending clients charged with Holocaust denial. She also reportedly called Holocaust denial laws an assault on freedom of speech and a hindrance to attorneys charged with defending clients in such cases. She allegedly encouraged the audience to learn from the Nazis and stated the Holocaust had not been legally defined and that no evidence of the Holocaust was ever introduced in cases against accused Holocaust deniers. An attorney from Bern filed a criminal complaint against the speaker and the event’s moderator, alleging both had violated the country’s laws against racism. The case was pending as of November.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/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, including air travel and other transportation, 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.

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.

In 2011 the Disabled Persons Federation criticized plans for new Swiss Federal Railways (SBB) double-decker trains (scheduled to start operations on interurban rail lines in 2013) for their lack of accessibility. The federation complained that entering the trains in a wheelchair was difficult and that the special cars for persons with disabilities alienated them. According to the federation, the trains did not meet the standards as defined by the disabilities act. The federation appealed to the federal administrative court and lost the court case against the SBB on February 22. The federal court stated that the SBB did not have to remodel the newly constructed trains as one car dedicated to individuals with disabilities was sufficient.

On June 1, a revised planning and building act entered into force in the canton of Zurich. According to the new law, residential buildings with more than five units must be barrier free.

Children with disabilities could attend schools, and in most cantons children with disabilities were well integrated into the school system. Special need schools were available for severely disabled children.

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 GRA indicated that there were 81 incidents against foreigners or minorities reported in 2012. During the year GRA recorded 44 such incidents. These figures included instances of verbal and written attacks, which were much more frequent than physical assaults. During the year the Federal Commission against Racism and the Department to Combat Racism issued a number of reports describing challenges and recommendations for dealing with racism in the country.

On January 19, a skinhead attacked a young Tamil man in a restaurant in the canton of Bern. The victim fled and sought shelter in another restaurant. Four skinheads followed him into the restaurant while performing the Nazi salute. One of the skinheads smashed a window of the restaurant, and another shouted that he would kill the victim in the event of a second encounter. The perpetrators received partially suspended fines ranging from 1,800 to 16,000 Swiss francs (\$2,000 and \$17,600).

During the year the five main groups responsible for actively spreading racist ideology and engaging in anti-Semitic rhetoric were Geneve Non Conforme, Europaeische Aktion, the Lega dei Ticinesi, the Party of Nationally Oriented Swiss (PNOS), and Parti Nationaliste Suisse (PNS), the French-speaking branch of PNOS.

On September 28, 40 right-wing extremists gathered in the Canton of Vaud to celebrate the first anniversary of the founding of the PNS, a far-right party headquartered in the canton of Bern. The party focused on anti-immigration issues and engaged in violent extremism.

On November 21, representatives of a number of minority youth groups gathered in Zurich to discuss police discrimination. Two youths reported that police sometimes stopped them as often as four times a day, with police even asking them to remove their clothing so their genitals could be inspected by flashlight. One man reported that when being inspected, he mentioned that he worked for the city government, to which the police officer responded, "I am sure someone like you does not work for the state."

The government recognized the Jenisch as a minority group with approximately 35,000 residents in the country. A lack of proper camping facilities and transit areas remained a problem.

The Roma Foundation Zurich estimated that approximately 50,000 Roma resided in the country. During the year the Federal Commission against Racism and the nongovernmental website humanrights.ch expressed concern about increasingly hostile attitudes toward Roma and itinerant minorities. The Roma Foundation maintained that negative stereotypes of Roma were increasingly discernible in public discourse and criticized certain newspapers for racist reporting and perpetuating negative stereotypes. In October the Commission against Racism released its 2012 report and mentioned the continuing plight of the Roma. Likewise, the NGO Roma noted continued prejudice against, defamation of, and generalizations about Roma in a weekly right-wing magazine. In another report the same NGO questioned a newspaper article on prostitution in Zurich, in which the writer described exploitation of Roma by Roma.

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

The country's antidiscrimination law does not apply to sexual orientation or specifically address lesbian, gay, bisexual, and transgender (LGBT) issues, which was a source of major concern to the country's LGBT community.

There were occasional reports of societal violence or discrimination based on opposition to LGBT orientation. The organization Pink Cops (gay and lesbian police officers) estimated there were 20 physical assaults against LGBT individuals in the eastern part of the country in 2012. The LGBT umbrella organization Pink Cross estimated there were one to two assaults per month.

The law permits same-sex couples to have registered partnerships but does not allow them to adopt children.

LGBT children from immigrant families, particularly from the Balkans, Turkey, and the Middle East, suffered serious reprisals, such as exclusion from their families.

During the year NGOs registered complaints that gay couples were not able to find housing due to their sexual orientation. This was especially common in rural areas. A 2012 study on homophobic and transphobic violence, in which more than 260 LGBT persons between the ages of 16 and 60 took part, revealed that 73 percent of respondents had experienced insults, 81 percent had been threatened, and 7 percent had been spat on because of their sexual orientation. Although only 1.5 percent of respondents experienced physical violence resulting in serious injuries, 5 percent

suffered minor injuries and 12 percent experienced minor physical violence, involving no injuries. According to the study, the attacks occurred mostly at night and were carried out by young men. When asked if they feared attacks, approximately 35 percent of gay and lesbian respondents and 70 percent of transgender respondents answered “to a high degree” or “to a very high degree.” The study – the first of its kind in the country – asserted that the reason for this difference was that the gay and lesbian movement was older and more accepted than the transgender movement. During the year LGBT activists worked to establish a central office with the task of collecting data and publishing statistics on verbal or physical attacks on LGBT individuals.

Other Societal Violence or Discrimination

There were occasional reports of discrimination against persons with HIV/AIDS. In 2012 the Swiss AIDS Federation registered 85 cases of discrimination against individuals suffering from HIV. Approximately 40 percent of the complaints concerned employment discrimination or other discrimination in the workplace. To combat harassment and unfair behavior, the Swiss AIDS Federation conducted multiple campaigns during the year to sensitize the public to the problem.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law, including related regulations and statutory instruments, provides the right for all workers, including foreigners, to form and join independent unions of their choice without previous authorization or excessive requirements. The law also protects the right of unions to conduct activities, including the right to strike, without interference, although strikes must be connected to industrial relations. The government may also curtail the right of federal public servants to strike for reasons of national security or to safeguard foreign policy interests. No specific laws prohibit antiunion discrimination and employer interference. The law does not require employers to offer reinstatement to an employee unjustly dismissed.

Authorities effectively enforced laws protecting freedom of association and collective bargaining. Collective bargaining agreements committed the social partners to maintain labor peace, thereby limiting the right to strike for the duration of an agreement, which generally lasted several years.

Employers at times unfairly dismissed trade unionists and used the legal system to limit legitimate trade union activities. Public servants in some cantons and many municipalities were prohibited from striking. Trade unions continued to report discriminatory behavior against their members. In November 2012 the Swiss Federation of Trade Unions (SGB) reactivated a complaint filed in 2003 and suspended in 2009 with the International Labor Organization (ILO) to urge an ILO-led investigation of allegedly unfair dismissals of trade unionists. The SGB reported that, in the wake of the financial crisis, it observed the dismissal of a larger percentage of union members than nonunion employees from their positions. The ILO Conference in Oslo from April 8-11 called for Swiss employers to treat union employees fairly.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced and compulsory labor, and the government enforced such laws. The Private Household Employees Ordinance governs working conditions for private household employees and defines minimum salary requirements. The ordinance was scheduled to expire in December but would be continued for another three years. The minimum wage was raised by 1 percent to adjust nominal wages. While the intent of the ordinance was to curb forced labor and the exploitation of foreign workers, there were reports that such practices occurred. Women were trafficked for domestic labor; many victims were forced to work in salons or clubs. During the year cases of labor exploitation were especially prevalent in the construction and tourism sectors. The government instituted several measures to prevent human trafficking of laborers aimed at reducing labor exploitation.

Also see Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/.

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for full-time employment is 15. Children who are 13 and 14 years of age may engage in light duties for no more than nine hours per week during the school year and 15 hours at other times. Employment of youths between the ages of 15 and 18 is also restricted. Cantonal inspectors strictly regulated these provisions. The minimum age for work under hazardous conditions is 16. Children are not permitted to work on Sundays, under hazardous conditions, or at night.

The government effectively enforced laws and policies to protect children from exploitation in the workplace. The economics ministry monitored the implementation of child labor laws and policies, and cantonal labor inspectors were responsible for enforcement. Cantonal labor inspectors effectively inspected companies to determine whether there were violations of the child labor laws. There were isolated reports of trafficking of children to beg and commit theft.

Violation of the country's child labor laws was punishable by six months' imprisonment. NGOs criticized the ease with which legal limits in place for regulating child labor could be eased by numerous exceptions and loopholes.

d. Acceptable Conditions of Work

There was no national minimum wage. Work contracts covering approximately 40 percent of (citizen) wage earners included minimum wage provisions, resulting in relatively low average wages for all 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 minimum compensation clauses, which provided for compensation ranging from 2,200 to 4,200 Swiss francs (\$2,400 to \$4,600) per month for unskilled workers and 2,800 to 5,300 Swiss francs (\$3,100 to \$5,800) per month for skilled employees. The poverty income level was officially estimated at 2,200 Swiss francs (\$2,400) for a single person, 3,800 Swiss francs (\$4,200) for a single parent with two children, and 4,800 Swiss francs (\$5,300) for a family with two children. Numbers varied slightly from canton to canton with the cost of living but remained the same overall during the year. 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 rules exclude certain professions, such as taxi drivers or medical doctors. 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. The law limits annual overtime to 170 hours for those working 45 hours a week and 140 hours for those working 50 hours a week. The law contains extensive provisions to protect worker health and safety.

The employer must grant workers at least four weeks of paid vacation per year and at least five weeks to workers up to the age of 20 years unless the worker performs work for a third party to the detriment of the employer's legitimate interests. Each worker was also entitled to one day off per week. In exceptional circumstances the

employer could grant the worker two half-days free instead of a full day, provided that it was required by specific work conditions and the worker consented to it.

Immigrants may work and have the same rights as other workers. There were no special provisions or requirements for noncitizen workers, apart from their having to have a legal immigration status and a valid work permit. Individuals without legal status or work permits were not permitted to work. Individuals who obtained legal status could request a work permit. Asylum seekers were usually not allowed to work during the first three months after they had applied for asylum but in exceptional cases could work as self-employed as needed.

The Ministry of Economics and cantonal labor inspectorates effectively enforced laws related to hours of work and occupational safety and health. The ministry also had oversight over collective bargaining agreements. Each of the 26 cantons maintained a labor inspectorate office with approximately six to eight employees. Approximately 100 labor inspectors worked in the country. Observers did not consider penalties for labor infractions sufficient to deter violations.

During the year several local NGOs and international organizations, including the International Organization for Migration, expressed concern that authorities were not addressing labor exploitation that was prevalent in the construction sector.

Migrant workers in low-wage jobs were more prone than other workers to exploitative labor practices. This was especially true in the construction, restaurant and hospitality, tourism, and agricultural sectors. There were 206,262 work-related injuries to men and 63,346 injuries to women reported in 2012.