

Council of Europe contribution for the 14th UPR session regarding Switzerland

Fight against racism and intolerance

European Commission against Racism and Intolerance (ECRI)

On 15 September 2009 ECRI released its fourth report examining racism, xenophobia, anti-Semitism and intolerance in Switzerland (attached below).¹

The Chair of ECRI, Eva Smith Asmussen, said the report noted positive developments in the country, but also detailed continuing grounds for concern.

In Switzerland, measures have been taken to foster the integration of immigrants in areas such as employment, housing and health. The federal bodies in charge of racism and migration have continued to raise awareness on racism and racial discrimination. Steps have been taken to combat right-wing extremism.

However, there has been a dangerous growth of racist political discourse against non-citizens, Muslims, Black people and other minorities. Legislation is insufficiently developed to deal with direct racial discrimination, which targets in particular Muslims and persons from the Balkans, Turkey and Africa. Travellers and Yenish communities with an itinerant life style are still faced with a shortage of stopping sites and prejudice leading to instances of discrimination. Legislation governing asylum seekers has been tightened and hostility towards them has increased.

The report contains findings and recommendations regarding the following issues:

- I. Existence and implementation of legal provisions²
- II. Discrimination in various fields including employment, education, housing, health care, goods and services for the public and naturalisation³
- III. Racism in public discourse⁴
- IV. Racist violence⁵
- V. Vulnerable/target groups including Muslim communities, travellers and the Yenish community, Roma, black people, non-citizens, asylum seekers and refugees⁶
- VI. Anti-Semitism⁷
- VII. Police conduct⁸
- VIII. Monitoring racism and racial discrimination⁹

ECRI selected the following three specific recommendations for which it requests priority implementation from the authorities:¹⁰

- ECRI recommends that the Swiss authorities pursue their efforts to train police officers, prosecutors, judges and future legal professionals in the scope and application of Article 261bis of the Criminal Code, which is intended to prohibit racist acts. In particular, provision should be made for training courses allowing the different members of the judicial system to

¹ A summary of the report can be found on pp. 7-10.

² pp. 11-20.

³ pp. 20-26.

⁴ pp. 26-31.

⁵ pp. 31-32.

⁶ pp. 33-43.

⁷ p. 43.

⁸ p. 43.

⁹ pp. 46-47.

¹⁰ p. 49.

exchange information and expertise in order to speedily bring about an improvement in the application of Article 261bis by all those concerned.

- ECRI recommends that the Swiss authorities assess the integration measures taken in order to determine which additional measures should be adopted to promote integration and counter racism and racial discrimination. During this assessment special attention should be paid to the integration agreements to verify that the applicable sanctions do not have a counter-productive effect on the integration of the persons concerned or on the climate of public opinion and debate concerning the target groups. Should the assessment result in a finding that the integration agreements are ineffective and counter-productive, all the necessary adjustments should immediately be made to rectify the situation.

- ECRI recommends that the Swiss authorities ensure that all members of the police, whether already in active service or in initial training, follow training and awareness-raising courses regarding the need to combat racism and racial discrimination in policing, including racial profiling. It recommends that structures be set up to enable the exchange of good practice in this field between the various police forces at the federal, cantonal and municipal levels.



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Protection of Minorities

Framework Convention for the Protection of National Minorities

On 19 November 2008 the Committee of Ministers adopted a resolution on the protection of national minorities in Switzerland (attached below). The resolution contains conclusions and recommendations, highlighting positive developments¹¹ but also mentioning issues of concern¹². Moreover it mentions a number of areas where further measures are needed to advance the implementation of the Framework Convention for the Protection of National Minorities.

The resolution states that Switzerland has taken a number of steps to improve the implementation of the Framework Convention following the adoption of the first opinion of the Advisory Committee in February 2003 and the Committee of Ministers' resolution in December 2003. The constitutional and legal framework has been complemented in a number of respects both at the federal and cantonal levels and this has, inter alia, resulted in significant reinforcement of the protection offered to the linguistic minorities. For example, promising measures to support national languages are expected to be developed and supported by the new Federal Law on National Languages and Mutual Understanding between Linguistic Communities.

In addition to the measures to be taken to implement the detailed recommendations contained in Sections I¹³ and II¹⁴ of the Advisory Committee's opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention:

- take measures to strengthen existing institutions promoting human rights and the fight against discrimination;

¹¹ Part 1 a) of the resolution

¹² Part 1 b) of the resolution.

¹³ pp. 4-7.

¹⁴ pp. 8-39.

- make particular efforts to ensure the full implementation of the new federal legislation on languages, including to promote more decisively multilingualism, mutual understanding and exchanges between linguistic communities;
- pursue efforts to promote the official use of the Romanche and Italian languages at the municipal and district levels in the canton of Graubünden by ensuring the swift implementation of the new cantonal Law on Languages;
- take further steps in the canton of Graubünden to encourage wider written and oral use of Italian and Romanche by the general public as well as within the administration and the judiciary;
- pursue the harmonisation process of language teaching requirements in compulsory education and consider complementing the existing offer of optional Italian-language courses outside the areas where this language is traditionally spoken on the basis of existing needs;
- ease and accelerate the planning and creation of transit sites and stopping places for Travellers through appropriate measures. Develop stronger financial and other incentives to promote action by the cantons and pursue further efforts to create stopping places and transit sites, including the reassignment of military sites. Develop stronger inter-cantonal co-operation from planning to operation of stopping places and transit sites;
- pursue efforts to support the language and culture of Travellers through various educational projects carried out in close co-operation with those concerned and to facilitate regular school attendance of children practising an itinerant way of life;
- ensure effective participation of Travellers' representatives in the work of various bodies dealing with Travellers' issues and set up mechanisms of systematic consultation at the cantonal and municipal level where appropriate.

The resolution is largely based on the corresponding Second Opinion of the Advisory Committee on the Framework Convention on Switzerland¹⁵. The concluding remarks, contained in Section III¹⁶, serve as the basis for the Committee of Ministers' Resolution. The Opinion of the Advisory Committee and the comments on the Opinion by the government of Switzerland are attached below.



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¹⁵ A summary of the report can be found on pp. 1-2.

¹⁶ pp. 40-42.

European Charter for Regional or Minority Languages

On 8 December 2010 the Council of Europe Committee of Ministers made public the fourth report on the application of the European Charter for Regional or Minority Languages in Switzerland. The report drawn up by a committee of independent experts, which monitors the application of the Charter, is attached below. It also includes the Committee of Ministers' Recommendation on the application of the European Charter for Regional or Minority Languages by Switzerland.

On the basis of this report, the Committee of Ministers recommends Switzerland to ensure that the introduction of Rumantsch Grischun is carried out in a way which is sensitive to the protection and promotion of Romansh as a living language.

Furthermore, the Committee of Ministers calls on Switzerland to organise language training in Romansh for administrative staff.



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Prevention of Torture

CPT ad hoc visit to Switzerland in September/October 2007

On 13 November 2008 the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report on its fifth visit to Switzerland, carried out in September/October 2007, together with the response of the Swiss Government. Both documents are attached below.¹⁷

During the 2007 visit, the CPT followed up a certain number of issues examined during previous visits, in particular the fundamental safeguards against ill-treatment offered to persons in police custody and the situation of persons deprived of their liberty under aliens legislation. Regarding prisons, the CPT paid particular attention to the conditions of detention of persons against whom a compulsory placement measure or institutional therapeutic measures have been ordered, as well as to conditions in the security units. It also examined the situation of juveniles and young adults in education centres.

A complete list of the CPT's recommendations, comments and requests for information is contained in Appendix I to the report.¹⁸

In their response to the visit report, the Swiss authorities provided information on the measures being taken to implement the CPT's recommendations.



Suisse rapport
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¹⁷ Available in French only.

¹⁸ pp. 99-119.

CPT ad hoc visit to Switzerland in October 2011

The Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out its sixth visit to Switzerland from 10 to 20 October 2011. The CPT's delegation reviewed the steps taken by the Swiss authorities following the recommendations made by the Committee after previous visits. The report on this visit has not yet been made public.

Social and economic rights

Switzerland has signed but not yet ratified the European Social Charter. The country is therefore not yet covered by the monitoring carried out by the European Committee of Social Rights.

Action against Trafficking in Human Beings and Preventing and Combating Violence against Women and Domestic Violence

Switzerland has signed but not yet ratified the Council of Europe Convention on Action against Trafficking in Human Beings. Thus, the country is not yet covered by the monitoring carried out by the Group of Experts on Action against Trafficking in Human Beings (GRETA).

Switzerland has not yet signed or ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence. For this reason, it not yet concerned by the monitoring procedure to be carried out by a Group of experts on action against violence against women and domestic violence (GREVIO) once the convention enters into force.

Council of Europe Commissioner for Human Rights

The Commissioner for Human Rights, Thomas Hammarberg, visited Switzerland from 20 to 23 February 2012. On 12 March 2012 he published his subsequent letter to the Swiss authorities which focuses on certain issues relating to measures against discrimination, the protection of the human rights of immigrants, refugees and asylum seekers, the Swiss institutional framework concerning human rights protection, and the outstanding accession by Switzerland to some major European and international human rights treaties. In the appendix to his letter attached below the Commissioner has elaborated further on the above-mentioned issues.

The comments from the Swiss authorities to the Commissioner's letter are attached below.¹⁹



CHR letter
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Reply
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¹⁹ Available in French only.