



# International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General  
23 November 2021

Original: English

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## Committee on the Elimination of Racial Discrimination 105th session

### Summary record of the 2839th meeting\*

Held at the Palais des Nations, Geneva, on Tuesday, 16 November 2021, at 3 p.m.

*Chair:* Ms. Li

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Consideration of reports, comments and information submitted by States parties under article 9 of the Convention

*Combined tenth to twelfth periodic reports of Switzerland*

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\* No summary record was issued for the 2838th meeting.

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*The meeting was called to order at 3 p.m.*

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention**

*Combined tenth to twelfth periodic reports of Switzerland (CERD/C/CHE/10-12; CERD/C/CHE/Q/10-12)*

1. *At the invitation of the Chair, the delegation of Switzerland joined the meeting.*
2. **Ms. Marti** (Switzerland) said that her country, which was proud of its cultural and linguistic pluralism, had always respected the principles of equality and non-discrimination. The European Commission against Racism and Intolerance of the Council of Europe had visited Switzerland in February 2019 and had published its sixth report on the country in March 2020. The Advisory Committee on the Framework Convention for the Protection of National Minorities of the Council of Europe had visited Switzerland in March 2018, and the Swiss Federal Council had adopted a combined report on compliance with the Framework Convention and the European Charter for Regional or Minority Languages in October 2021.
3. As Switzerland was a country with a monistic tradition, all ratified international norms became part of the internal legal order and were binding on State institutions at the federal and cantonal levels. It was thus incumbent on all federal and cantonal authorities to fight against racism and discrimination. The Service for Combating Racism could coordinate such action, but it was not in a position to impose specific measures.
4. While the current civil law was itself deemed to provide sufficient protection against racial discrimination, the Federal Council and the parliament were endeavouring to improve access to the civil courts so that the law could be better applied.
5. The number of cases concerning violations of article 261 bis of the Criminal Code, which addressed racial discrimination, had remained relatively stable, with a total of 47 rulings in 2019 and 52 rulings in 2020. Most of the cases concerned acts of antisemitism, anti-black racism and xenophobia. The Federal Supreme Court had confirmed, in several cases involving, for example, serious bodily harm or insults, that a racist or discriminatory motive constituted a particularly reprehensible ground that must be taken into account when imposing a penalty.
6. In September 2021, a large parliamentary majority had supported the Federal Council's proposal to establish an independent national human rights institution whose personnel would have the skills required to discharge its mandate and to respond rapidly to new developments.
7. The Federal Commission against Racism and the Federal Commission on Migration were basically independent bodies that enjoyed considerable freedom of action. However, they were not authorized to issue directives and had no executive authority. The Federal Commission against Racism played an important role in monitoring shortcomings and bringing them to light and in supporting victims of racism and discrimination. Its budget for 2021 was 218,000 Swiss francs (SwF). The Federal Commission on Migration advised the Federal Council and the administration on matters relating to migration and published studies and recommendations on migration policy. Its current budget totaled SwF 370,000.
8. The Service for Combating Racism played a predominant role in awareness-raising efforts and in preventing and combating racism and discrimination. It also provided financial and technical support for projects implemented by civil society and the administrative authorities. Its members were particularly active, together with other stakeholders such as educational establishments and social workers, in offering advice on racial discrimination at the cantonal and communal levels and in urban areas.
9. Hate speech and conspiracy theories, based in particular on antisemitism, had been proliferating during the coronavirus disease (COVID-19) pandemic. As the Federal Commission against Racism had observed an increase in judgments relating to online hate speech, it planned to launch a tool for reporting racist content on the Internet by the end of 2021. For its part, the Service for Combating Racism had been providing support for projects to combat online racism since 2020. In addition, several projects to combat hate speech were

supported by the Federal Office of Communications and the Federal Social Insurance Office. The Federal Office of Communications planned to publish a report in late 2021 on the shaping of public opinion via online platforms, and the Federal Commission against Racism had devoted the most recent issue of its TANGRAM journal to conspiracy theories, prejudice and stereotypes.

10. The Network of Advice Centres for Victims of Racism had identified 30 cases of racial profiling in 2020. All victims of ill-treatment by the police were entitled to lodge criminal complaints. The perpetrators were liable to prosecution, and within the police, disciplinary measures could also be ordered.

11. The Government was fully aware of its responsibility to enable Travellers to live a life consistent with their traditional culture. The decline in the number of permanent and transit sites had been halted and the situation had stabilized. The Confederation granted financial support, on request, to cantons wishing to construct new sites, and the cantons of Vaud, Jura and Bern had received such funding. A budget of SwF 2.5 million, which reflected an increase of 75 per cent, had been allocated for the period from 2021 to 2024.

12. The Federal Commission against Racism had published a legal opinion concerning the protection of nomadic communities and their organizations and addressing their right of access to reception sites. As Travellers had been particularly severely affected by the COVID-19 pandemic, the foundation known as “Assurer l’avenir des gens du voyage suisses” and the Federal Office of Culture had sent recommendations to the competent cantonal and municipal authorities aimed at mitigating the impact of the pandemic and adopting protective measures at reception sites.

13. Vigorous action had been taken to promote the integration of non-Swiss nationals, including migrants, asylum seekers and refugees, by means of the Foreign Nationals and Integration Act, cantonal integration programmes and the launching of a programme called Agenda Integration Switzerland. Integration was guaranteed primarily by public services such as schools, vocational training establishments and health-care services, but also by civil society actors. All cantons had set up advice services for victims of racial discrimination and were striving to ensure that all residents were treated equally by State institutions.

14. The Service for Combating Racism had drawn public attention, through studies, conferences and targeted press campaigns, to the situation of groups of potential victims, such as black people, persons of Jewish or Muslim faith and people of the Yenish and Sinti communities. It supported the activities conducted by the cantons, towns and municipalities during the Week against Racism, in March each year. One third of annual subsidies, amounting to about SwF 1 million, was reserved for projects implemented in educational establishments.

15. In order to succeed, measures to fight discrimination required close collaboration between the Confederation, cantons, towns and communes and partnership with private actors. The progress achieved to date was attributable to a vibrant direct democracy and the ability to develop flexible solutions that were well adjusted to local circumstances, for instance the action taken to protect the most vulnerable groups and minorities during the COVID-19 crisis.

16. **Mr. Diaby** (Country Rapporteur) said that, according to the State party’s report, Switzerland did not divide its population into ethnic groups in official statistics. As a result, the available statistical data were extremely vague when it came to determining the socioeconomic situation of the population in ethnic and racial terms and assessing cases of growth or decline.

17. It would therefore be interesting to know what measures were being contemplated to establish a data collection system based on indicators of diversity and ethnic origin and what tools would be available to obtain more detailed information on difficulties encountered by certain groups, especially regarding racial discrimination, and to monitor progress in implementing the Convention. The Committee would be grateful for recent and comprehensive statistical data on the demographic composition of the population, including migrants, refugees, asylum seekers and stateless persons.

18. In 2019, the Swiss Centre of Expertise in Human Rights had published a report on access to justice in cases of discrimination, in which it stated that many cases were not reported, especially those involving racism, domestic violence and discrimination against lesbian, gay, bisexual, transgender and intersex persons. The Centre had recommended that the Federal Council systematize and consolidate the collection of data on discrimination, but the recommendation had reportedly not yet been implemented. The Committee wished to know whether any of the recommended measures had been taken, particularly with respect to racial discrimination.

19. The Committee had been informed that all political attempts to introduce a general anti-discrimination law had so far failed. It therefore remained difficult, if not impossible, to seek legal redress against discrimination. To do so, it was necessary to resort to other judicial remedies, which reportedly failed to provide effective protection. The Committee would therefore like to know what steps had been taken to adopt federal legislation that contained a definition of direct and indirect racial discrimination consistent with the definition in article 1 of the Convention, that clearly prohibited racial discrimination and that provided victims with adequate remedies before administrative and civil courts, particularly in the areas of employment, education and housing.

20. With regard to article 261 bis of the Criminal Code on racial discrimination, it would be interesting to hear whether racist motivation had been taken into account by the courts as an aggravating circumstance during the past four years and whether there were specific cases in which it had influenced the penalty imposed.

21. The Committee would appreciate detailed information on complaints of racial discrimination and access to effective remedies. It wished to know how many complaints had been filed, how many investigations had been conducted, the number of convictions, the penalties imposed and the compensation awarded to victims.

22. The Committee would also be grateful for more detailed information on public access to information concerning national instruments pertaining to racial discrimination and the procedures for disseminating and raising awareness of the relevant legislation. In particular, it wished to know how many campaigns regarding the Convention had been conducted and the number of beneficiary population groups.

23. Given that the Convention had been directly applicable in the State party as from ratification, the Committee would be interested to know how it was implemented in the Swiss legal order. It would welcome disaggregated statistics on the Convention's application by the national courts and examples of references made to it by the Federal Supreme Court. He commended the State party's declaration under article 14 of the Convention and would be interested to know more about how that declaration had been implemented. It would like to have information on the training given to judicial officials and the judiciary, and specifically on measures to raise their awareness of domestic and international law on racial discrimination.

24. Referring to the latest report of the Service for Combating Racism, which had noted that the resources allocated to the cantonal integration programmes permitted only minimal counselling services and sporadic awareness-raising measures, he asked what steps had been taken to provide them with adequate resources. Given the importance officially accorded to local action in combating racial discrimination, he stated that he would like to know in what ways cantonal and municipal bodies were supported in their efforts to prevent and punish racist acts. He asked whether the Government intended to adopt a national plan against racism covering the entire territory and including a time frame for implementation, in line with the commitments it had undertaken in 2001 at the Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and whether an appropriately resourced body would be created to monitor its implementation.

25. Noting that court cases on discrimination were rare, he said that he wondered whether that could be attributed to the fact that the State party had no overarching law designed to combat all forms of discrimination. In respect of racial discrimination, the existing definition in Swiss law did not reflect the definition given in the Convention. Referring to paragraph 39 of the report, he said that he would like to have detailed information on the outcome of the steps taken by the Federal Council to remedy the situation.

26. He requested more information on the nature and scope of the State party's reservations to articles 2 (1) (a) and 4 of the Convention and how they were applied in domestic law. Did the Government plan to withdraw those reservations? He said that it would be interesting to receive more information on the functions and work of the Federal Commission against Racism and the Federal Commission on Migration and on the financial and human resources at their disposal. He welcomed the delegation's announcement of the parliament's acceptance of the proposal to establish a national human rights institution and said that he would like to know whether it would have an adequate budget, and in what ways it would interact with those two Commissions. Given that only 3 out of 32 civil society organizations had responded to the State party's invitation to provide input to the report, he wondered how the delegation explained such a poor response. He would like to know how the State party intended to strengthen its cooperation with civil society.

27. **Ms. Stavrinaki** (Country Task Force) said that the Committee had received reports that the use of racist hate speech against various groups had increased sharply during the pandemic, particularly in social media and even in the political arena, yet very few cases had come before the courts. She noted the efforts made by the Federal Department of Home Affairs, for example, to establish a counter-discourse encouraging social harmony and repudiating intolerance, but she would like to know whether the State party envisaged more systematic measures to open up the discussion on balancing freedom of expression and the prohibition of hate speech.

28. Noting the announcement in the delegation's opening statement of a new tool to be introduced by the Federal Commission against Racism in order to facilitate the reporting of racist content on the Internet, she asked what measures were in place to aid the authorities in addressing incidents of hate speech in political discourse and in the media, to ensure cooperation between the various authorities and to establish the responsibilities of Internet service providers. She said that she would also like to know what steps had been taken to strengthen the applicability of article 261 bis of the Criminal Code by drawing a distinction between the wearing of racist symbols or the making of racist gestures, as had been seen in recent demonstrations, and the propagation of racist ideology.

29. She would like to know how often the courts took account of racist motivation in sentencing individuals for offences under article 47 (2) of the Criminal Code. She would welcome specific examples of cases in which that had occurred, as that would help the Committee to assess the effectiveness of the legislation.

30. She said that it was well known that keeping specific records of racially motivated offences, separate from those concerning hate speech or other forms of discrimination, helped to draw attention to such crimes and to demonstrate the level of effectiveness of legislation on the matter. Accordingly, she would like to know whether the State party intended to adopt a systematic approach in that regard, including an obligation for law enforcement personnel to report race-based crimes and provisions on prevention and victim protection and support, in order to fully apply article 4 of the Convention. In the meantime, since reporting was not mandatory, she would be interested to know if training was available to make law enforcement personnel aware of the importance the authorities attached to combating racially motivated crime and to encourage them to record such incidents. What measures were in place in the State party to evaluate the situation in respect of race-based crimes?

31. She would appreciate receiving statistics on cases in which victims of racial discrimination had been awarded compensation under the Assistance to Victims of Offences Act. She would like to know what measures were in place to ensure victims' access to support and protection. It would also be interesting to hear how the State evaluated the contribution made by advice centres for victims of racism, and whether it provided financial support to enable those centres to coordinate their actions.

32. With regard to organizations seeking to promote racist ideology, she would like to receive statistics on the application by the courts of article 78 of the Civil Code, which empowered courts to dissolve such organizations. She asked what measures had been taken to shed light on the activities of such organizations, and whether the police and judicial authorities investigated with a view to demonstrating to the courts that their incitement of

racial discrimination was a matter not of individual initiative but of organized propaganda, and thus punishable under the law.

33. **Mr. Guissé** (Country Task Force) said that the Roma and the Yenish were two of the minority groups that had been subjected to stigmatizing statements and verbal errors of judgment in the political arena. The Committee would like information on the measures taken to raise public awareness of that issue and to combat the stereotyping of minorities.

34. According to recent research into migration and mobility by the National Centre of Competence in Research, a quarter of members of Asian and African groups in Switzerland had reported experiencing discrimination in recent years. He would be interested to know what measures had been taken to respond to that situation, what impact they had had, if any, and whether they were regularly evaluated.

35. With regard to the common goals for combating racial discrimination that had been set for the cantonal integration programmes – which, according to the State party’s report, effectively constituted a national plan of action – he would like to know specifically what political measures had been taken to open up institutions to minority groups and people who were victims of discrimination on the basis of their race or ethnicity. What best practices had emerged from those cantons that had more heterogeneous populations?

36. Recalling that the European Commission against Racism and Intolerance had recommended that human rights education should be integrated into school curricula at all levels and across all disciplines, he said that he would be interested to know what steps the State party had taken to help promote understanding between different groups. For example, noting that knowledge of Roma, Yenish and Sinti history and culture was limited in Swiss society, he asked whether such subjects were taught in school.

37. **Mr. Kut** (Follow-up Coordinator), recalling that the Committee had asked the State party, in the concluding observations on its combined seventh to ninth periodic reports, to provide further information within a year on racism and xenophobia in politics and the media, naturalization and persons granted temporary admission for residence (“F permit”) ([CERD/C/CHE/CO/7-9](#), para. 23), said that the State party had complied in a timely fashion, which had been appreciated. Subsequently, the Committee had asked for further information on the steps that had since been taken to address related outstanding issues and on their impact. Additional information had been provided in the current State party report and the delegation’s opening statement, yet it was still not clear what the practical effect of the measures had been. The Committee would therefore appreciate hearing from the delegation how the action taken by the Swiss authorities had actually changed the situation in the period since the State party had submitted its previous report.

38. **Ms. Shepherd** said that legal representatives had expressed concern at violent treatment and insulting behaviour towards minors from North Africa at federal centres for asylum seekers. She would like to know whether the State party addressed complaints of that nature in such a way as to increase understanding of and respect for cultural diversity, not only among security guards at the centres, but also among law enforcement officers in general.

39. She said that she would be interested to know about the effectiveness of the online training tool mentioned in paragraph 142 of the report for students and teachers wishing to study human rights and discrimination.

40. She understood that in their basic training, police cadets were taught to do their work with respect for the dignity and rights of each person, in accordance with the Swiss Constitution, national law and international treaties. Their training was designed to raise awareness of different cultures and minorities, migration issues and human rights. She would be interested to know therefore whether law enforcement officials were liable to penalties if they acted in ways that ran counter to that training, for example by discriminating against or profiling people on racial grounds.

41. Lastly, she said that she would like to know how successful the State party’s programme of activities for the International Decade for People of African Descent had been. Would the delegation say that the globalization of the Black Lives Matter campaign had

increased understanding in Switzerland of the problems of racial profiling and discrimination against people of African descent and the general situation of members of that group?

42. **Ms. Tlakula** said that, given that the State party did not collect statistics on ethnicity and race, she would be interested to know how it implemented article 1 (4) of the Convention, which referred to special measures to secure adequate advancement of certain racial or ethnic groups or individuals requiring protection.

43. She understood that security services at the federal centres for asylum seekers were provided by private companies. She would like to know whether the authorities had received reports of systemic violence in those centres, whether they conducted proactive monitoring there and whether the security guards received training on issues relating to racism. She would also like to know whether, as part of efforts to open up institutions and mainstream anti-discrimination policies and ensure that migrants had access to health services, migrants were able to obtain vaccinations against COVID-19.

*The meeting was suspended at 4.10 p.m. and resumed at 4.45 p.m.*

44. **Ms. Vollenweider** (Switzerland) said that article 261 bis of the Criminal Code had been amended to include sexual orientation as a prohibited ground for discrimination. Steps were being taken to gather disaggregated data on hate crimes so that reports based on those data could be published. Indicators based on a number of variables, including nationality, residency status, birthplace, language and religion, would be used to assess levels of social harmony in different areas of private and public life. Reporting on ethnicity in Switzerland was complicated by the fact that the term “ethnic group” was not widely understood by the general public.

45. **Mr. Galizia** (Switzerland) said that the Government currently did not hold any statistics on the number of persons of African descent in Switzerland. According to a study conducted with the participation of the Federal Statistical Office, over 60 per cent of Swiss persons did not have a clear understanding of the terms “ethnicity” and “race”, which made it difficult to gather data on those characteristics. However, other categories, such as migration status and native language, were being used to generate statistics that would provide an overview of the make-up of the population.

46. **Ms. Ehrich** (Switzerland) said that the absence of a general anti-discrimination law could be explained by the particular nature of the Swiss legal order, which was rooted in a monist and federalist tradition. In civil law, protection against racial discrimination was provided through other legal provisions concerning, inter alia, the protection of the person, the protection of the worker and protection against wrongful dismissal. An act of racial discrimination could constitute an attack on personal rights under article 28 of the Swiss Civil Code, and victims could take legal action to prevent such attacks from taking place or to establish their unlawful nature. In serious cases, they could seek redress in the form of compensation for damages. Such compensation varied from SwF 5,000 to SwF 20,000, depending on the seriousness of the harm. In certain cases, victims who had engaged in civil proceedings could also initiate criminal proceedings.

47. Under the civil law, persons initiating civil proceedings could be eligible for a reduction in the corresponding fees, in certain circumstances. Under administrative law, any person could challenge a discriminatory decision or act by invoking the relevant provisions of international law, which were directly applied by the courts. In 2012, the parliament had requested the Federal Council to prepare a report on the laws established to protect persons against discrimination in Switzerland. In order to prepare that report, the Swiss Centre of Expertise in Human Rights had conducted a study on access to justice in cases involving discrimination. One of the study’s conclusions was a recommendation that the Federal Council should not establish a general law on combating discrimination, as it would be very difficult to cover different forms of discrimination under a single law.

48. The Federal Council had analysed the report issued by the Swiss Centre of Expertise in Human Rights and had identified the recommendations that it felt should be implemented. It had concluded that the various laws currently in force provided sufficient protection against discrimination, which was prohibited by the Constitution and other specific laws, including the Federal Act of 24 March 1995 on Gender Equality and the Act on Equality for Persons

with Disabilities. On the basis of its analysis, the Federal Council had decided to strengthen the penalties handed down to employers convicted of unlawful dismissal in connection with racial discrimination. It had held public consultations on how that decision should be implemented, and the discussions had generated a significant level of disagreement. It was currently engaging with the social partners to find a possible solution to the problem.

49. The Federal Council had also decided to raise public awareness of the various instruments established to combat racial discrimination and to amend certain instruments to make it easier for collective action to be taken against acts of discrimination, including by organizations. A public consultation on facilitating collective action had taken place, but the proposals had met with a significant level of opposition. As a result, the Federal Council had decided that the issue should be dealt with separately, rather than as part of the general review of the Swiss Civil Procedure Code that was currently taking place.

50. The parliament had requested the Federal Council to examine proposals for increasing access to civil proceedings by reducing the cost of such proceedings. On 25 February 2020, the Federal Council had submitted a preliminary bill on amending the Swiss Civil Procedure Code, with a view to reducing the advance payments that parties must make if they wish to initiate civil proceedings. The bill would also enable costs to be awarded to victims of discrimination who won civil cases. In cases where the losing party was unable to pay, the cost of the proceedings would be borne by the State.

51. Since 1 January 2018, common law couples, including same sex couples, had been able to adopt children. On 18 December 2020, the parliament had approved an amendment to the Swiss Civil Code that would legalize same sex marriage. On 26 September 2021, the Swiss public had voted in a referendum to adopt that amendment, which was expected to become law in January 2022. On 18 December 2020, the parliament had also adopted an amendment to the Civil Code that would make it easier for persons to change their first name and gender in the register of births. That amendment was also expected to become law in January 2022. A report on the possibility of amending the law to allow individuals to identify as a gender other than male or female had been commissioned and was expected to be published before the end of 2021.

52. **Mr. Galizia** (Switzerland) said that the Federal Commission against Racism had been mandated by the Federal Council to collect data on all court cases involving racial discrimination and to make the information available on its website. Any member of the public could use the website to search for details of such cases, including information on the offences committed, the outcome of trials and any sentences handed down. Every two years, the Commission also published a report containing a compilation of such cases.

53. In Switzerland, there was no centralized training programme for the personnel of the justice system. Such training took place in universities, which were independent and had their own curricula. The Commission held workshops at universities in order to raise awareness of issues surrounding discrimination. However, participation in such workshops was not mandatory. The national integration programmes implemented jointly by the federal administration and the cantons, which received SwF 110 million of funding every year, amounted to the country's national plan against racism, in line with the commitments it had undertaken at the Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

54. The Commission had published a guide to help institutions diversify their staff and implement strategies to ensure that their services were accessible to all. Information on the Commission's activities in that regard appeared in the report that it published every two years.

55. The Federal Commission against Racism and the Federal Commission on Migration were independent bodies that were responsible for monitoring incidents of racial discrimination and identifying how efforts to respond to such incidents could be improved. A total of SwF 1 million was allocated annually to the Federal Commission against Racism, the Federal Commission on Migration and the Service for Combating Racism. The Government was conscious of the need to raise awareness of the various national and international mechanisms for combating racism. To that end, steps were taken to engage with civil society organizations through workshops and other activities.

56. **Mr. Spenle** (Switzerland) said that the Swiss Centre of Expertise in Human Rights, which operated on a pilot basis, had been established in 2011. In 2015, an assessment conducted by an external agency had determined that it was necessary for the Government to establish a permanent national human rights institution to replace the Centre. In 2019, the Federal Council had approved a bill providing for the establishment of a national human rights institution and had extended the mandate of the Centre until 2022. In 2021, that bill had been adopted by the parliament and would lead to the establishment of a permanent national human rights institution.

57. The legal provisions governing the institution would be incorporated in the Federal Act of 19 December 2003 on Measures pertaining to Civil Peace Support and the Promotion of Human Rights. The institution would be independent and composed of members from a diverse range of spheres. It would receive funding from the Confederation, but the cantons would be responsible for meeting the cost of the institution's infrastructure. The institution would have a broad mandate to promote and protect human rights and would be responsible for gathering information and documentation, conducting research, providing guidance, promoting dialogue, cooperation and human rights education and conducting awareness-raising activities and exchanges at the international level. As an independent body, it would be able to cooperate with government agencies, non-governmental organizations, private companies, research institutions and international organizations. It would be subject to a four-year limit on its spending and would also be entitled to receive funding from third parties. However, it would not act as a mediator or deal with individual cases. The Government was setting up a working group responsible for the launch of the institution, which was expected to take place in 2022.

58. **Mr. Eichin** (Switzerland) said that steps were being taken to protect vulnerable groups against hate speech in the media and to raise media professionals' awareness of related issues. In Switzerland, there were various ways of reporting incidents of racism and discrimination in the media. Under the Federal Constitution, media outlets were guaranteed the right to operate independently and were therefore responsible for regulating themselves. Under article 4 (1) of the Federal Act of 24 March 2006 on Radio and Television, traditional media outlets were self-regulatory and governed by two bodies: the Swiss Press Council and the Independent Complaints Authority for Radio and Television. The former received complaints concerning the code of journalistic ethics, while the latter issued decisions on complaints related to Swiss television and radio broadcasts. In 2019 and 2020, few cases related to racial discrimination had been brought to the attention of those bodies. Internet service providers were not subject to any specific law governing the content that they carried. In certain circumstances, however, such providers could be held responsible for unlawful content published through their services.

59. Any proposed regulation relating to public communication was assessed to determine what impact it might have on freedom of expression. If the Government proposed to restrict that freedom, it was required to ensure that the conditions established in article 36 of the Federal Constitution and article 10 (2) of the Convention for the Protection of Human Rights and Fundamental Freedoms were met. In other words, the restriction was required to have a sound legal basis, to be in the public interest, to be necessary to protect the fundamental rights of third parties and to respect the principle of proportionality. In dealing with hate speech, it was necessary to strike a balance between the protection of freedom of expression and the protection of the physical and mental integrity of individuals. The Federal Council had requested the Federal Office of Communications to draft a report on how online platforms influenced public opinion. That report would address the issue of online hate speech and would set out measures for tackling it.

60. **Mr. Galizia** (Switzerland) said that 110 cases involving online hate speech had been brought before the courts in the previous 10 years. Victims of hate speech could use the existing legal means to protect themselves and assert their rights. In almost all cases where politicians had used racist language on online platforms the incidents had been reported and the politicians in question had been required to resign from their positions.

61. **Ms. Simon** (Switzerland) said that the use of racist symbols with a view to disseminating ideologies aimed at the systematic denigration of a person or a group of persons on the grounds of their race, ethnic origin, religion or sexual orientation was

punishable under article 261 bis of the Criminal Code. On the other hand, a mere display of sympathy for a discriminatory cause was not yet punishable. Parliamentary attempts to make a broader range of uses of racist symbols criminal offences had invariably failed. In 2019, the Federal Council had organized a public consultation on the possible introduction of a broader prohibition. That proposal, however, had been the subject of fierce criticism. The Federal Council was nonetheless of the view that the issue was still topical.

62. After a criminal conviction, racist motivations for the offence were considered during sentencing. The delegation could send written information with examples of cases in which the country's courts, including the Federal Supreme Court, had ruled that a defendant's racist motivations constituted aggravating circumstances.

63. **Ms. Bonfanti** (Switzerland) said that prospective police officers had to take a number of tests, including as part of the selection process for admission to the country's police academies, even before they began their basic training. In 2020, the length of basic police training had been increased from one to two years, with one year spent in the classroom and the other in the field.

64. Ethics courses were a major component of basic police training. For prospective police officers in cantons such as Geneva, the training was also geared to helping cadets learn how to interact with people of highly diverse backgrounds. Partnerships with countries elsewhere in Europe and in Africa made it possible for trainees to participate in exchanges. A career in a police force could last up to 30 years, so there was also a considerable amount of in-service training.

65. In Geneva, organizers of demonstrations had to obtain prior authorization. If the authorities suspected that demonstrators were likely to cause a disturbance of the peace, for example by holding aloft banners containing messages of racial hatred, they could conduct a preliminary check and confiscate the material in question. In addition, demonstrations were filmed and could be broken up.

66. **Ms. Vollenweider** (Switzerland) said that the Federal Statistical Office did not have data on the nationalities of victims of racial discrimination who had been awarded compensation.

67. **Mr. Galizia** (Switzerland) said that the advice centres for victims of racism located in every canton could provide such victims with guidance on how to obtain compensation.

68. **Ms. Simon** (Switzerland) said that the Government was of the view that the State party's reservation to article 4 was necessary to ensure compatibility with freedom of association, for the reasons given in paragraph 58 of the periodic report. Despite that reservation, a judge could, at the request of the competent authority or any person concerned, order the dissolution of an association whose purpose was unlawful or immoral, such as a group that sought to promote racist ideology.

69. **Ms. Ehrich** (Switzerland) said that, pursuant to the Assistance to Victims of Offences Act, victims of racial discrimination were entitled to compensation if, as a result of the offence, they suffered direct physical, psychological or sexual harm of a certain degree of severity. The Federal Supreme Court had held that a person could be considered a victim, and thus entitled to compensation, in the event of a violation of article 261 bis (4) of the Criminal Code, if the racial discrimination was accompanied by an assault.

70. **Mr. Galizia** (Switzerland) said that the collection of data on persons who were victims of discrimination had begun only a few years earlier. Such data were published in the compilation report, which was widely covered in the media and informed long-term awareness-raising and outreach efforts.

71. **Mr. Wicht** (Switzerland) said that Swiss schools catered to a diverse population. A quarter of their students, and up to three quarters in large urban areas such as Geneva, were of immigrant origin, including students who spoke some 15 non-European languages. A two-year preschool programme had been introduced to help students of immigrant origin learn the language of instruction of their cantons and at the same time improve their knowledge of their mother tongues. Courses covering civics, human rights and the importance of tolerance had been made an integral part of all school curricula. *Éducation21*, a foundation recently

established by the cantons and the federal authorities, advocated for a perspective on sustainable development that was not only ecological but also human. Instructional materials and training for teachers who covered topics such as sustainable development would be provided with the support of that foundation.

72. The International Day of Commemoration in Memory of the Victims of the Holocaust was observed in schools on 27 January. Lessons on the Holocaust were not limited to that day, however. In Switzerland, as in the rest of Europe, the Romani genocide had been largely overlooked. Instructional material that would make it possible for students and teachers alike to learn about it had not yet been developed.

73. **Ms. Häusler** (Switzerland) said that material to help upper secondary students and teachers learn about the country's Yenish, Manush/Sinti and Roma communities had been developed and that efforts to develop similar material for use in lower secondary education, which were led by the minority communities concerned, were under way. Plans had also been made to familiarize teachers with the instructional material.

74. **Mr. Diaby** said that he would welcome further information on the involvement of civil society in the preparation of the State party's periodic report. He asked whether bodies such as the Federal Commission against Racism would have their budgets cut when the national human rights institution was fully functional, whether that institution was likely to be established in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and whether it was likely to be authorized to hear and consider complaints and petitions concerning individual situations.

75. **Ms. Stavrinaki** said that she would welcome examples of court cases showing that groups that promoted and incited racial discrimination could be prosecuted.

76. **Mr. Bossuyt** asked whether the two years of preschool education were compulsory and whether they were available only for children with immigrant backgrounds. He would appreciate more information on the preschool activities that helped such children improve their knowledge of their mother tongues.

77. **Ms. Izsák-Ndiaye** said that she wished to know more about the contribution of the State party's Yenish, Manush/Sinti and Roma communities to the development of the instructional material that would be made available to teachers in lower secondary schools.

*The meeting rose at 5.55 p.m.*