



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
29 August 2014
English
Original: French

Committee against Torture

Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure

Seventh periodic reports of States parties due in 2014
Switzerland* **

[Date received: 27 June 2014]

* The sixth periodic report by Switzerland is contained in document CAT/C/CHE/6. It was considered by the Committee at its 935th and 936th sessions, on 30 April and 3 May 2010 (CAT/C/SR.935 and 936). For its consideration, see the Committee's concluding observations (CAT/C/CHE/CO/6).

** The present document is being issued without formal editing.

GE.14-15209 (EXT)



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List of abbreviations

ASSM	Swiss Academy of Medical Sciences
ATF	Compendium of Decisions of the Swiss Federal Court
BFEG	Federal Bureau on Equality between Women and Men
CC	Swiss Civil Code (RS 210)
CCDJP	Conference of Directors of Cantonal Justice and Police Departments
CCPCS	Conference of Cantonal Police Commanders
CEP	Registration and Procedure Centres
CGFR	Border-Protection Services
CNPT	National Commission for the Prevention of Torture
CP	Swiss Criminal Code (RS 311.0)
CPP	Swiss Code of Criminal Procedure (RS 312.0)
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CR	Convention relating to the Status of Refugees (RS 0.142.30)
CSDH	Swiss Resource Centre for Human Rights
CSFPP	Swiss Centre for the Training of Prison Staff
Cst.	Federal Constitution of the Swiss Confederation (RS 101)
DARD	Rapid Action and Deterrent Squad
DFAE	Federal Department of Foreign Affairs
DFJP	Federal Department of Justice and Police
DPA	Federal Administrative Criminal Law Act (RS 313.0)
DPMin	Federal Act on Juvenile Criminal Law (RS 311.1)
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms (RS 0.101)
ECtHR	European Court of Human Rights
EFTA	European Free Trade Association
EPO	Plaine de l'Orbe Prisons
EU	European Union
Fedpol	Federal Police Office
FEPS	Federation of Swiss Protestant Churches
FF	Official Journal of the Confederation
ISP	Swiss Police Institute

LAsti	Federal Asylum Act (RS 142.31)
LAVI	Federal Act on Assistance to Crime Victims (RS 312.5)
LEtr	Federal Foreign Nationals Act (RS 142.20)
Ltém	Federal Act on the Extra-procedural Protection of Witnesses (RS 312.2)
LUsC	Federal Act on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation (RS 364)
MROS	Money Laundering Reporting Office
ODM	Federal Office for Migration
OERE	Ordinance on Enforcement of the Return and Expulsion of Foreigners (RS 142.281)
OFSP	Federal Public Health Office
OLUsC	Ordinance on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation (RS 364.3)
OSAR	Swiss Refugee Aid Organization
OSCE	Organization for Security and Co-operation in Europe
PAN	National Action Plan
PPMin	Federal Act on Juvenile Criminal Procedure (RS 312.1)
RMNA	Unaccompanied Juvenile Asylum seekers
RO	Official Compendium of Federal Acts
RS	Systematic Compendium of Federal Law
SCOTT	Coordination Service to Combat Trafficking in Persons and Trafficking in Migrants
SG	General Secretariat
SMPP	Prison Medicine and Psychiatry Service
SPS	Swiss Prison Health
TAF	Federal Administrative Tribunal
TPF	Federal Criminal Court
UCP	Psychiatric Prison Unit

Preliminary remarks

1. The Committee against Torture considered the sixth report of Switzerland (CAT/C/CHE/6) on 30 April and 3 May 2010, and adopted its observations on 11 May 2010. For the submission of the seventh report, Switzerland agreed to follow the new optional reporting procedure proposed by the Committee. At its forty-ninth session (from 29 October to 23 November 2012), the Committee adopted a list of issues to be addressed by Switzerland in its seventh report. The present report is therefore structured and drafted in the form of responses to the questions contained in the list of issues to be addressed (CAT/C/CHE/Q/7 and Corr.1).

Articles 1 and 4

Question 1: Please provide information on any steps taken to incorporate a specific definition of torture into the Swiss Criminal Code that covers all the constituent elements of the definition set out in article 1 of the Convention, as has repeatedly been recommended by the Committee in previous concluding observations (CAT/C/CHE/CO/6, para. 5).

2. In accordance with article 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹ (hereinafter referred to as the Convention against Torture), the criminal provisions in force in Switzerland cover and severely penalize all behaviour that could be described as acts of torture (such as offences against life and physical integrity, offences against liberty, offences against sexual integrity, offences against honour, abuse of authority and so on). The creation of a criminal law provision expressly criminalizing torture does not therefore appear necessary. Switzerland is convinced that this system does not hinder the fundamentally effective prevention and detection of acts of torture and that the objective of the Convention against Torture is therefore respected.

3. Complicity, participation and attempting offences are covered by Swiss criminal provisions. Furthermore, acts of torture offences are punishable by appropriate penalties that take into account their grave nature. Serious bodily harm is also punishable by a custodial sentence of up to ten years.

4. For now, doctrine, case law and specific cases give no grounds for thinking that this – pragmatic – approach would lead to loopholes in the criminalization of torture. Furthermore, this can also be applied to other obligations under the Convention, particularly in terms of expulsion or extradition (art. 3). By way of example the Federal Administrative Tribunal (TAF) regularly rules on whether there are serious grounds for believing that the person subject of a deportation order risks being subjected to torture under the terms of article 3 of the Convention. As a matter of course, this question is considered by the Tribunal and any authority deciding whether to implement a removal, expulsion or extradition. The authorities thus ensure that Switzerland complies with article 3, and the effectiveness of the Convention's application in Switzerland is not weakened by the lack of a specific provision formally criminalizing torture.

¹ Systematic Compendium of Federal Law (RS) 0.105.

Article 2

Question 2: Bearing in mind the Committee's previous concluding observations (para. 6), please provide information on any and all steps that have been taken to ensure that the authorities of all the cantons are aware of the rights set forth in the Convention and that they are able to give effect to those rights as soon as possible, notwithstanding the federal structure of the State party.

5. The Committee's concluding observations were brought to the attention of the Federal Council once they had been announced.

6. The federal councillor in charge of the Federal Department of Justice and Police (DFJP) sent a letter to each canton's government to inform them that some of the concerns and recommendations related to areas that come under their cantonal jurisdiction. The Committee's concluding observations were attached to the letter in German, French and Italian.

7. The concluding observations were published in German, French and Italian on the website of the Federal Justice Office (OFJ).²

8. The National Commission for the Prevention of Torture (CNPT) began its activity on 1 January 2010. After visiting establishments, the Commission members consider their findings with those in charge of establishments and the relevant authorities. The National Commission for the Prevention of Torture publishes its visit reports and the position taken by cantons. The Commission also publishes its annual reports. The chair of the National Commission for the Prevention of Torture meets regularly with the Committee on the Enforcement of Sentences and Detention Facilities (Committee of Nine) of the Conference of Directors of Cantonal Justice and Police Departments (CCDJP).

Question 3: Bearing in mind the Committee's previous concluding observations (para. 7), as well as those made by a number of other treaty bodies, please provide up-to-date information on the State party's ongoing efforts to establish an independent national institution for the protection of fundamental rights in accordance with the Paris Principles relating to the status of national institutions.

9. In July 2009, the Federal Council decided to set up a five-year pilot project in the form of the Swiss Resource Centre for Human Rights (CSDH). The project was put out to tender and awarded to a network made up of the Universities of Bern, Neuchâtel, Fribourg and Zurich, in partnership with the Kurt Bösch University Institute (Sion), the Lucerne School of Pedagogy and the Humanrights.ch Association. The centre began its activities in April 2011. It has six thematic areas (migration, policy and justice, gender policy, youth and children's policy, institutional issues, human rights and economics). At the end of its fourth year, the project will be the subject of an independent evaluation. In 2015, the Federal Council will decide on the project's fate, as well as any changes to be made (particularly in terms of possibly making the structure comply with the Paris Principles).

Question 4: With reference to the Committee's previous concluding observations (para. 20) and those made by the Committee on Economic, Social and Cultural Rights, please describe what action has been taken to ensure the adoption of all appropriate

² [> Thèmes > Droits de l'homme > Convention contre la torture](http://www.ofj.admin.ch) (accessed on 7.5.2014).

measures for preventing and combating violence against women and for punishing the perpetrators of such violence, including, in particular:

(a) Campaigns designed to raise public awareness of all forms of violence against women.

10. There is a national programme to combat forced marriage. This will last five years (2013 to 2018), and was introduced by the Federal Office for Migration (ODM) in close collaboration with the Federal Bureau on Equality between Women and Men.³

11. The Federal Public Health Office (OFSP) and the Federal Office for Migration have tasked Caritas Switzerland with setting up a consultation centre for health, social affairs and migration specialists who may observe or suspect female genital mutilation in the course of their work. The centre provides information on: the procedures to follow, what the relevant authorities are at canton level or the contact details of intercultural mediators trained in such matters. Caritas Switzerland convenes round tables on female genital mutilation with the relevant cantonal departments.

12. At the end of 2014, the Federal Council will present a report on the implementation of the Roth Bernasconi motion (05.3235 “Female genital mutilation, Awareness-raising and prevention measures”), in which it will detail the actions it intends to take. On 1 July 2012, the Council brought into effect a provision criminalizing the mutilation of female genital organs.

13. During the period considered, cantons used various means to raise public awareness about all forms of violence against women. Many of them set up specialized departments and consultation centres to carry out these tasks. The subjects covered are as follows: victim assistance (such as the victim assistance consultation centre in Saint Gallen - involving the cantons of Appenzell-Inner Rhoden and Appenzell-Outer Rhoden, specialist victim assistance department in Thurgau canton and cantonal victim support in Zurich), domestic violence (in the cantons of Aargau, Basel-Country, Basel-Town, Fribourg, Geneva, Schwyz, Thurgau, Zug and Zurich) and equality between men and women (in the cantons of Geneva, Jura, Vaud, Valais and Zurich).

14. The most common means of raising public awareness are brochures and prospectuses on domestic violence, sexual violence and forced marriage. Brochures have included: “Domestic violence is a crime” (Geneva canton), “What can be done about partner violence?” (Jura and Neuchâtel cantons) and “Stop domestic violence!” from Swiss Prevention of Crime.

15. Cantons often organize events, conferences, talks and round tables to explore the issues. Domestic violence is the most common subject (for instance in the cantons of Basel-Town, Obwalden, Saint Gallen, Vaud and Valais). Other subjects are sometimes covered. For example, the Geneva canton organizes seminars and round tables on sexual harassment in the workplace, while Solothurn canton has introduced a round table for representatives of relevant authorities to exchange information regularly on measures to combat trafficking in human beings.

16. The cantons of Basel-Country, Fribourg and Obwalden use cards featuring important addresses and telephone numbers for victims (accident and emergency departments, women’s shelters and so on) to raise public awareness. The cards are available in doctors’ surgeries, consultation centres and police stations. The same information is also available

³ [> Thèmes > Intégration > Thèmes > Mariages forcés](http://www.odm.admin.ch) (accessed on 7.5.2014).

online. Generally speaking, the key information is on the websites of cantons or consultation centres.

17. Cantons use various other awareness-raising techniques: poster campaigns (for example, in the cantons of Aargau, Bern, Jura, Neuchâtel and Zurich), television and radio advertisements and short films (for instance, in the cantons of Basel-Country and Basel-Town), helplines for victims (such as those in Geneva and Zurich), stands/stalls (in the Graubünden canton) and working groups on specific issues (forced marriage in the canton of Neuchâtel and trafficking in human beings and migrant trafficking in Solothurn canton).

18. The following actions deserve a special mention:

- In 2011, the Jura canton launched an awareness-raising campaign about partner violence among young people. Jura rapper Sim's wrote the song "Jamais deux" (never two) on the subject, and the CD was distributed in secondary schools. Teachers can find additional information in the brochure "I love you. Violence seriously damages love";
- Many Swiss organizations took part in the international campaign "16 Days of Activism against Gender Violence", during which various activities were organized. The subject of the 2013 national campaign was sexual violence. This was launched at the National Congress on Gender Violence, organized by the Federal Bureau on Equality between Women and Men (BFEG) and the General Secretariat of the Federal Department of Foreign Affairs (SG-DFAE).

19. Switzerland has signed the Council of Europe Convention of 11 May 2011 on preventing and combating violence against women and domestic violence.⁴ Specifically, article 13 stipulates that parties should promote or conduct, on a regular basis and at all levels, awareness-raising campaigns or programmes to increase awareness and understanding among the general public of the different manifestations of all forms of violence against women. Work is currently underway for Switzerland to ratify the Convention.

(b) Guarantees enabling women victims of violence to lodge complaints without fear of reprisal:

20. Since the entry into force of the amendment to the Criminal Code of 1 April 2004, the following offences are prosecuted automatically if committed against a spouse or partner: ordinary bodily harm (art. 123 (2), (3) to (5), Criminal Code)⁵, repeated assault (art. 126 (2), (b), (b *bis*) and (c), Criminal Code), threats (art. 180 (2), Criminal Code), sexual coercion (art. 189, Criminal Code) and rape (art. 190 Criminal Code).⁶ This mechanism ensures victim protection. Previously, there was a considerable risk of the victim withdrawing the complaint for fear of reprisals from the partner or because of being dependent on him. Nowadays, the prosecution of the perpetrators of such offences is not just up to the victim.

21. The Confederation and cantons are creating the necessary framework for victims of violence to be able to complain at any time to the cantonal police, without fear of reprisal. Criminal prosecution authorities guarantee victims' rights and ensure their protection as

⁴ Convention of Istanbul, STCE No. 210.

⁵ Systematic Compendium of Federal Law (RS) 311.0.

⁶ Official Compendium of Federal Acts (RO) 2004 1403, Official Journal of the Confederation (FF) 2003 1774.

much as possible. The new unified Code of Criminal Procedure (CPP)⁷ for all of Switzerland entered into force on 1 January 2011, replacing cantonal rules in matters of criminal procedure. Federal provisions on procedure contained in the Federal Act on Assistance to Crime Victims (LAVI)⁸ have also been transferred. The Swiss Code of Criminal Procedure has several measures in its articles 149 et seq. Victims are duly informed (art. 305, Code of Criminal Procedure). They have their personality protected (art. 152 (1), Code of Criminal Procedure), can be accompanied by a person of trust (art. 152 (2), Code of Criminal Procedure) and the authorities must avoid the accused and the victim being present at the same time if the victim so requests (art. 152 (3), Code of Criminal Procedure). In order to implement the latter, the canton of Schaffhausen uses a technical device to broadcast the victim's testimony on screen and ask questions through a microphone. This avoids direct confrontation between the victim and accused, while guaranteeing the rights of all parties. Victims of violations of sexual integrity benefit from special measures governed by article 153 of the Code of Criminal Procedure.

22. Switzerland has other tools for preventing reprisals:

- One of the most important is victim assistance. The police and the relevant public prosecutor are required to inform victims of violence of the possibilities offered to them and to liaise with canton consultation centres. These centres (see question 4 a) advise victims on how to complain and provide them with immediate and more long-term assistance, for instance by putting them in contact with a legal representative and financing that representation, arranging and financing temporary accommodation for them or accompanying them to hearings or to bring a complaint to the criminal prosecution authorities. In accordance with article 5 of the Federal Act on Assistance to Crime Victims, this assistance is free for victims and their families. People who work for a consultation centre must maintain confidentiality (art. 11, Federal Act on Assistance to Crime Victims). It is not always possible to remove the fear of reprisal from victims completely. Despite this, canton consultation centres (such as the one for Zurich canton) encourage female victims of violence to bring a complaint. This is difficult in the case of female genital mutilation. Out of family loyalty, victims often refuse any consultation or support;
- In the case of serious threats against a victim of violence who has complained, the victim can be placed in a safe house (known as women's shelters). They are then directly advised therein by specialized services. One example is the Makasi intervention centre for female victims of trafficking. The centre provides victims of violence with specialized advice and attention;
- The Federal Act on the Extra-procedural Protection of Witnesses (Ltém)⁹ entered into force on 1 January 2013. It governs the implementation of witness protection programmes for people threatened because of their cooperation with a criminal procedure (art. 2, Federal Act on the Extra-procedural Protection of Witnesses), including victims of violence. The measures, which are tailored to each case, aim to protect, advise and support those threatened, by protecting their personal interests and property, as well as protecting their willingness and capacity to testify (art. 3 et seq., Federal Act on the Extra-procedural Protection of Witnesses);
- It is also possible to adopt measures against the perpetrator. For instance, these may include coercive measures based on cantonal police laws. They could take the form

⁷ Systematic Compendium of Federal Law (RS) 312.0.

⁸ Systematic Compendium of Federal Law (RS) 312.5.

⁹ Systematic Compendium of Federal Law (RS) 312.2.

of movement restrictions and a vicinity-based restraining order. In particular, the perpetrator can be temporarily removed from the residence shared with the victim. In some cantons, perpetrators are offered, or obliged to attend, anger-management sessions (such as in the cantons of Lucerne and Schwyz). The aim of these sessions, which take place soon after the violent act, is to enable them to change their behaviour (and they represent a valuable preventive tool);

- Several cantons have adapted their legislation to prevent reprisals. The canton of Obwalden, for instance, has drafted a law aimed at protecting the victims of domestic violence. The canton of Saint Gallen has supplemented its police law with measures to combat domestic violence. Police of other cantons have issued service instructions on domestic violence (such as the Uri canton police);
- The website of the Federal Bureau on Equality between Women and Men (BFEG) has a list of the cantonal legal provisions concerning domestic violence.¹⁰

23. See response to question 21 for the fear of reprisals on the part of foreign victims of violence who are in Switzerland for reasons of family reunification.

(c) Steps taken to train and encourage members of the police force to protect victims of domestic violence, even when it occurs in the home, in accordance with article 5 of the Federal Victims Assistance Act (II);

24. Preliminary remark: article 5, Federal Act on Assistance to Crime Victims (LAVI), no longer exists in that form. That content now appears in article 152 (1), Code of Criminal Procedure (as provisions on criminal procedure in the Federal Act on Assistance to Crime Victims were transferred to the Code of Criminal Procedure).

25. Cantons are in charge of police training, although since 2005 the subjects have been the same throughout Switzerland and the examinations are governed by federal provisions. The Swiss Police Institute (ISP) provides the teaching material. The training also covers domestic violence, with theory and practice forming part of the teaching. Future police officers learn about the legal bases and psychological aspects of the problem.

26. Raising police awareness continues after their initial training. Cantonal police forces regularly organize events and training courses on this issue. Many take part in round tables and regional commissions made up of representatives of various relevant bodies (such as victim consultation centres, canton courts, Federal Office for Migration (ODM), public prosecutors and so on), where they benefit from experience, information and feedback. Some forces have domestic violence experts or specialist groups (as in the cantons of Aargau, Bern and Basel-Country) to explore the issues and check procedures in this area. All ensure a close collaboration with cantonal consultation centres.

(d) Steps taken to ensure that perpetrators of domestic violence are prosecuted and punished in a manner that is commensurate with the seriousness of their acts;

27. Since 1 April 2004, most offences linked to domestic violence are automatically prosecuted (see response to question 4 b). In this regard, the processes are well established: cantonal police intervene, inform victims of the legal options available, investigate suspects and bring criminal charges.

28. However, prosecutions are rarely successful. About 70 per cent of cases are dropped. It tends to be victims who ask for the case to be suspended under article 55a of the Criminal

¹⁰ [> Thèmes > Violence domestique > Législation](http://www.bfeg.admin.ch) (accessed on 8.5.2014).

Code. They can use this article to request a suspension or agree to a suspension proposed by the relevant authority. A decision to propose a suspension may be taken at the discretion of the corresponding authorities. The authority verifies if there is an overwhelming public interest in holding the trial, which may be the case (for instance) if the perpetrator pressurizes the victim or if there is a reason to believe that the perpetrator may have misled the victim (in order to have the proceedings suspended). Article 55a of the Criminal Code is not applicable in cases of sexual coercion (art. 189, Criminal Code) or rape (art. 190, Criminal Code). In these cases, the public interest always outweighs the victim's interest in suspending the case. The discretionary formulation means that the decision not to suspend the case does not fall solely to the victim. In addition, that formulation allows the relevant authority to pursue the case if it does not trust the statements or promises of the perpetrator. The authority must be sure that victims are making their decision with sufficient knowledge of the legal situation and fully independently (for more information see Official Journal of the Confederation (FF) 2003 1750). Legislators wanted suspension to be the exception, but it has become the rule. There are two motions recommending action in this area: 09.3059 "Stopping domestic violence" from national councillor, Bea Heim, and 12.4025 "Improving protection for victims of domestic violence", from state councillor, Karin Keller-Sutter. The Federal Council is currently studying the practice associated with article 55a, Criminal Code, and checking whether the legislation needs to be changed.

29. It could prove useful to change the sentences incurred for domestic violence, which are often perceived by victims to be too light. A return to short custodial sentences proposed in the draft amendment to sentencing law¹¹ could be a source of improvement. Financial penalties put a strain on already stretched family budgets (with victims also often suffering the effects).

30. Many public prosecutors have issued guidelines on the procedure to follow in cases of domestic violence. It is particularly important to initiate proceedings, to prioritize investigation over mediation and to prevent the perpetrator from pressurizing the victim in order to get the case dropped under article 55a, Criminal Code (see above).

31. A considerable number of cantons work with domestic violence specialists, either in police forces or in public prosecutors' offices. These collaborators question victims to establish whether they really wish to suspend proceedings.

(e) Information on criminal cases under examination and their outcomes.

32. At the national level, please refer to the research report by the Federal Bureau on Equality between Women and Men (BFEG) "Cost of violence in partner relationships"¹² on the cost of domestic violence for society, which is based on available statistics. The report's authors estimate that there were 5,531 domestic-violence related criminal proceedings in 2011 (including 3,882 dropped at the investigation stage, see p. 42 of the report). In the remaining 30 per cent, the Public Prosecutor is likely to have handed down a summary judgement in accordance with article 352 of the Code of Criminal Procedure (CPP), or presented an indictment by virtue of articles 324 et seq., Code of Criminal Procedure. For domestic violence convictions, the sentences are generally monetary penalties, fines or community work. Custodial sentences can be served using a tag bracelet. The judge can also order institutional therapeutic measures or out-patient treatment. Custodial sentences are rare, but this could change with the reform of the penalty law and the return to short custodial sentences (see question 4 d).

¹¹ See Official Journal of the Confederation (FF) 2012 4385.

¹² www.bfeg.admin.ch > Documentation > Publications > Publications sur la violence (accessed on 16.5.2014).

33. Here are the statistics from some cantons by way of example:

- The canton of Graubünden opened 46 proceedings in 2012, closed 15 investigations with a summary judgement, dropped 26 proceedings and suspended three (one temporarily for now). Two proceedings are still under way;
- The canton of Uri opened five criminal cases in 2012. There was one indictment, two summary judgements, one case dropped and one passed on to another canton;
- In the canton of Zug, there were 222 convictions relating to domestic violence in 2012. The courts used the following charges: ordinary bodily harm in 30 cases, assault in 89 cases, threatening behaviour in 52 cases, coercion in 14 cases and other offences in 37 cases.

Article 3

Question 5: Please provide data, disaggregated by age, sex and ethnic origin, on the number of asylum applications received, the number approved, the number of applicants who have been granted asylum either because they have been victims of torture or could be subjected to torture if they were to be sent back to their country of origin, and the number of entry refusals or expulsions carried out since the Committee considered the sixth periodic report of Switzerland in May 2010.

34. From 2010 to 2013 (as of 31.12.2013), the number of asylum applications was: 15 567 in 2010, 22 551 in 2011, 28 631 in 2012 and 21 465 in 2013.

- The most common age group was 0 to 17 years for females and 25 to 39 years for males;
- Female applications were in the minority (representing about a quarter of applications);
- Eritrea was the country with the highest number of applicants. There are also many applicants from Nigeria and Tunisia since 2011, Syria since 2012, Serbia up until 2012 and Morocco since 2013.

35. From 2010 to 2013, the number of asylum applications approved (asylum granted) was: 3 449 in 2010, 3 711 in 2011, 2 507 in 2012 and 3 167 in 2013. There were also subsidiary forms of protection granted by Switzerland (provisional admission) for 4 796 people in 2010, 3 070 in 2011, 2 060 in 2012 and 3 432 in 2013.

- The most common age group was 0 to 17 years, which is because of the high proportion of family groups granted asylum;
- Both sexes are represented in relatively equal proportion among those granted asylum, except in 2010 (when more men were accepted than women);
- The main country of origin for people granted asylum remained Eritrea.

36. The statistical data do not provide a breakdown of reasons for which asylum was granted. It is therefore impossible to specify the number of people granted asylum because of undergoing torture or because they could be subjected to torture if returned.

37. From 2010 to 2013, the total number of returns was: 3 770 from June 2010, 6 577 in 2011, 8 037 in 2012 and 7 752 in 2013;

- The number of returns to third countries was as follows: 153 from June 2010, 140 in 2011, 176 in 2012 and 165 in 2013;

- The number of returns to the country of origin was as follows: 1 697 from June 2010, 3 042 in 2011, 3 457 in 2012 and 3 520 in 2013;
- The number of returns to Dublin countries was as follows: 1 920 from June 2010, 3 395 in 2011, 4 404 in 2012 and 4 067 in 2013.

Question 6: Bearing in mind the Committee's previous concluding observations (paras. 10–14) and the responses to those observations provided by the State party as part of the follow-up procedure, please furnish information on new measures and initiatives undertaken by the State party to bring the procedures and practices employed when persons are being expelled, returned or extradited into full conformity with article 3 of the Convention. Kindly supply, in particular, information on:

(a) Steps taken to assess the risk of a violation of the principle of non-refoulement;

38. A risk assessment is carried out on a case-by-case basis. On appeal, the assessment is carried out by an independent and impartial court. The official guidelines of the Federal Office for Migration (ODM)¹³ explicitly state that the principle of non-refoulement must always be respected.

39. As for the expulsion of a refugee in application of article 33 (2) of the Convention relating to the Status of Refugees (CR),¹⁴ and that expulsion's compliance with article 3 of the Convention against Torture, article 5 (2) of the Federal Asylum Act (LAsi)¹⁵ states that the principle of non-refoulement does not apply if there are serious reasons for considering the refugee as a danger for the security of the country of location, or if the refugee poses a threat following final conviction for a particularly serious crime or offence.

40. However, the ban on torture (in application of article 3 of the European Convention on Human Rights (ECHR),¹⁶ and article 3 of the Convention against Torture) represents the absolute limit of the lawfulness of refoulement and protects all foreign nationals. If the person concerned is threatened with mistreatment or inhuman or degrading punishment, as referred to in article 3 of the European Convention on Human Rights and article 3 of the Convention against Torture, the removal cannot be carried out and temporary admission will be ordered. This provision also applies to foreign nationals excluded from refugee status in application of article 1 (F), Convention relating to the Status of Refugees, and to those who could be sent back to their country in application of article 5 (2), Federal Asylum Act and article 33 (2), Convention relating to the Status of Refugees. Furthermore, the absolute nature of article 3 of the European Convention on Human Rights forbids the enforcement of the removal, even in the face of overwhelming public interest.

41. On 10 October 2010, Switzerland adopted a Federal Act on coordination between the asylum procedure and the extradition procedure.¹⁷ When a person requesting asylum is also involved in extradition proceedings, the relevant authorities take the respective files into account in order to avoid reaching a contradictory solution. In the event of a dispute, the Federal Court (which is the Swiss Supreme Court) will decide.

¹³ Guidelines for the Federal Foreign Nationals Act (LEtr), chap. 9.1; [> Documentation > Bases légales > Directives et circulaires > I. Domaine des étrangers > Directives I. Domaine des étrangers](http://www.odm.admin.ch) (accessed on 16.5.2014).

¹⁴ Systematic Compendium of Federal Law (RS) 0.142.30.

¹⁵ Systematic Compendium of Federal Law (RS) 142.31.

¹⁶ Systematic Compendium of Federal Law (RS) 0.101.

¹⁷ Official Compendium of Federal Acts (RO) 2011 925.

42. In autumn 2010, the Federal Department of Foreign Affairs (DFAE) and the Federal Department of Justice and Police (DFJP) tasked an association of four universities with setting up the Swiss Resource Centre for Human Rights (CSDH). This centre is the driver and facilitator for Swiss implementation of the country's international human rights obligations, for instance that relating to the authorities' compliance with the principle of non-refoulement (at the communal, cantonal or federal levels). The centre also publishes academic works on human rights issues, such as the one entitled "Implementation of human rights in Switzerland".¹⁸

(b) Steps taken to ensure the availability of an effective procedure for lodging an appeal, with suspensive effect, against expulsion orders. Please also indicate what steps have been taken to make provision in the procedure for refusal of entry at airports (article 65 of the Foreign Nationals Act) for a thorough consideration of appeals against such decisions;

43. The European Directive's provisions on returns and a development in the Schengen acquis led to an adaptation of the Foreign Nationals Act (LEtr) and the Federal Asylum Act (LAsi) that entered into force on 1 January 2011. The Directive only concerns nationals of third States who do not have the right to free movement. Return, removal, expulsion and coercive measures are the most affected by the amendments introduced. The Directive on Returns aims to harmonize return procedures within the Schengen area for people from States not in the European Union or the European Free Trade Association (EFTA) (known as third States) who have entered illegally. It contains provisions on return decisions. As a result, the return procedure (which did not take a particular form until then) was replaced by a formal return procedure in article 64 of the Federal Foreign Nationals Act. The return decision must be handed down in writing, in accordance with the general principles of administrative procedural law. The content of the decision is described in 64 et seq. of the Federal Foreign Nationals Act and in articles 26b to 26e of the Ordinance on Enforcement of the Return and Expulsion of Foreigners (OERE): factual and legal substantiation, information on appeal procedures and, above all, indication of the obligation for the foreign national to leave Switzerland, from the day when he/she should have left Switzerland and the coercive measures applicable should the person not comply (art. 26b, Ordinance on Enforcement of the Return and Expulsion of Foreigners). Before the decision is handed down, the person concerned has the right to be heard on the subject of the planned removal and the entry ban that will eventually be issued.

44. Article 65 of the Federal Foreign Nationals Act (LEtr)¹⁹ provides that, if entry into Switzerland is refused to a foreign national at an airport border check, that person is required to leave Swiss territory immediately. The Federal Office for Migration (ODM) issues a reasoned decision that can be appealed within 48 hours by using the form in annex V, part B, of the Schengen Borders Code. The decision can be the subject of an appeal within 48 hours of its notification. The appeal does not provide for a suspension. The appeal authority rules within 72 hours.

45. Internal "border control" guidelines state that a reasoned decision subject to appeal must systematically be issued when border control authorities refuse a person entry. The relevant authorities provide the person with written information on the institutions that can

¹⁸ *Mise en oeuvre des droits humains en Suisse, Un état des lieux dans les domaines de la privation de liberté, de la police et de la justice*, Jörg Künzli/Alexander Spring/Andreas Kind/Anja Eugster/Evelyne Sturm (2013), ISBN 978-3-906029-77-1, Editions Weblaw.

¹⁹ Systematic Compendium of Federal Law (RS) 142.20.

provide details on legal representation and act on his/her behalf. The person must wait for the decision(s) on foreign territory (in the relevant transit area of the airport).

(c) Steps taken to review and limit the maximum duration of administrative detention and to ensure that it is ordered only in exceptional cases;

46. Detention with a view to removal or expulsion (art. 76, Foreign Nationals Act (LEtr)) is ordered when notice has been given of a decision – not necessarily enforceable – to remove or expel, when the enforcement of removal is imminent and when grounds for detention are given (the person concerned leaves the area in which he/she is compelled to reside, enters an area from which he/she is barred, crosses the border despite a prohibition on entering Switzerland and cannot be returned immediately, seriously threatens other people and so forth). Enforcement of removal must be objectively possible and applicable even against the wishes of the person concerned. The competent authority is required to undertake the steps necessary for removal without delay (principle of speed).

47. The relevant authorities can also order detention in the preparatory stage (art. 75, Federal Foreign Nationals Act) or detention for insubordination (art. 78, Federal Foreign Nationals Act). Detention in the preparatory stage is ordered during the preparation of a decision on the residence of a foreign national who has no short-stay, residence or permanent residence permit. Detention for insubordination is ordered when the foreign national has not obeyed the order to leave Switzerland by the established deadline and if the legally enforceable removal or expulsion order cannot be enforced because of that person's behaviour. The principle of speed also applies to the authority in these detentions. Since 1 January 2011, a person can be detained if the removal order has been notified to the cantonal authority under the Dublin Association Agreements and the enforcement of the removal is imminent. The duration of detention shall not exceed 30 days.

48. Since the entry into force of the European Returns Directive on 1 January 2011, the maximum duration for administrative detention has been limited to six months (art. 79 (1), Federal Foreign Nationals Act). The duration of detention for adults can be extended by 12 months at the most. For minors aged 15 to 18, the maximum duration of detention can be extended by six months at the most. The cantonal judicial authority may grant an extension to detention or a new detention in the event of a lack of cooperation from the person concerned or a delay in obtaining the documents needed for departure to a State outside the Schengen area.

49. Article 81 (3), Federal Foreign Nationals Act, stipulates the conditions for detention. These must take account of the needs of vulnerable people, unaccompanied minors and families with young children. Where possible, the cantonal authority will prioritize the placement of vulnerable people in homes, rather than administrative detention.

(d) Steps taken to review existing legislation with a view to ensuring that the services of a lawyer are made available free of charge to asylum seekers at all stages of the corresponding procedures, regardless of whether those procedures are routine or special in nature;

50. In December 2012, the Swiss Parliament adopted a draft amendment to the Federal Asylum Act (LAsi). Since 1 February 2014, the Federal Administrative Tribunal has been able to appoint a lawyer automatically to defend the interests of asylum seekers (free legal aid) in appeal procedures not relating to decisions handed down in the context of Dublin procedures, review procedures or multiple applications.

51. In June 2013, the Federal Council launched a public consultation on the draft review of the Federal Asylum Act, which included plans to provide asylum seekers with free assistance from a legal representative until the entry into force of the decision if the latter is handed down as part of an accelerated procedure. The Federal Council's message on the

new planned review of the Federal Asylum Act should be forwarded to the Swiss Parliament in the summer of 2014.

(e) Examples of decisions taken in cases relating to article 3 of the Convention.

52. Below are the main judgements handed down by the Federal Administrative Tribunal (TAF) in recent years in relation to article 3 of the Convention.

53. In judgement D-2797/2010 of 2 October 2012, the Federal Administrative Tribunal found that the presumption that Malta sufficiently respected fundamental rights guaranteed by the common European asylum system could not be unreservedly maintained. This does not mean that the shortcomings of Malta in relation to asylum seekers generally imply a risk of inhuman or degrading treatment. There should be a case-by-case consideration about whether an individual with a specific type of vulnerability risks having his/her fundamental rights violated upon transfer to Malta due to shortcomings in the asylum procedure and admission conditions (preambular paragraph 7.4).

54. Similarly, in judgement D-4751/2013 of 14 November 2013, which considered whether refugees in Italy risked having their fundamental rights violated, the Federal Administrative Tribunal found that Italy was party to the Convention against Torture, the Convention relating to the Status of Refugees (CR) and the European Convention on Human Rights (ECHR). Italy cannot be accused of generally failing to respect the obligations under these treaties. There may well be structural deficits in terms of accommodation and monitoring of applicants, particularly in the regions of arrival and large cities. However, refugees are able to settle where they wish. It goes without saying that smaller places and locations outside regions of arrival are more conducive. According to the Federal Administrative Tribunal, there is no reason not to send back to Italy people who have been granted refugee status there (preambular paragraph 5.5.2).

55. In judgement E-6220/2006 of 27 October 2011, the Federal Administrative Tribunal (which had been informed of the security situation in Sri Lanka) found that there was an increased risk of persecution for people belonging to certain risk groups (including people suspected of being political opponents, journalists and those working with critical media, human rights activists and representatives of non-governmental organizations critical of the regime, victims or witnesses of serious human rights violations or those initiating legal proceedings in this regard and people returning from Switzerland criticized for having close contact with the Liberation Tigers of Tamil Eelam (LTTE)) (preambular paragraph 8). The Tribunal nonetheless concluded that the situation had improved since the end of the armed conflict between the Sri Lankan Government and the Tamil Tigers in May 2009, and that it was reasonable to demand the enforcement of returns throughout the country (except to the region of Vanni) (preambular paragraph 13).

56. Extricating oneself from legitimate criminal proceedings does not constitute grounds for being recognized as a refugee. However, in judgement D-515/2013 (preambular paragraph 6.1), the Federal Administrative Tribunal found that asylum could be granted to someone who was wrongly accused of an ordinary offence for the real purpose of prosecuting that person for internal or external characteristics (race, religion, nationality, social group or political opinions) or prosecuting a person who has committed an ordinary crime that is considered much more serious just because of his/her characteristics. This probably applies if the person is sentenced to a disproportionately severe punishment (*malus absolutus*), the criminal procedure does not meet the requirements of the rule of law or the applicant risks having his/her fundamental rights violated (particularly acts of torture) if the punishment is handed down or served.

57. In judgement D-6041/2013 of 12 November 2013 (preambular paragraph 7.2.4), the Federal Administrative Tribunal associated itself with the case law of the European Court of Human Rights (ECtHR) by noting that a State was not required to refrain from sending back a foreign national threatening suicide, provided that the State takes measures to prevent the person from carrying through (see the European Court's decision of 7 October 2004 on admissibility of the case Dragan et al. versus Germany, No. 33743/03). The European Court of Human Rights had also concluded that the difference in the standard of medical care between the country of origin and the applicant's country of residence should not be taken into account when assessing compliance with the ban on torture (see judgement of the European Court of Human Rights of 27 May 2008 in the case of *N.* against the United Kingdom, (34) and (42) to (44)).

58. Assessing the general situation in Mogadishu in 2010, the European Court of Human Rights in its judgements on applications No. 8319/07 and No. 11449/07 found that anyone living in that Somali town was exposed to real risk. In judgement D-5705/2010 of 17 September 2013, the Federal Administrative Tribunal responded that the situation in Mogadishu had improved between 2010 and 2013, and that the violence there was no longer extreme and large scale enough for anyone living there to be in real danger of being subjected to inhuman treatment under article 3 of the European Convention on Human Rights (preambular paragraph 8.5.6). According to this judgement, it is therefore no longer generally unlawful to send someone back to Mogadishu.

Question 7: Since its consideration of the State party's preceding report, the Committee has found that Switzerland failed to fulfil the obligations it has assumed under article 3 of the Convention in four separate cases (communications Nos. 336/2008, 357/2008, 381/2009 and 396/2009). Please provide information on all the steps taken by the State party in response to the Committee's decisions. Please also describe the mechanisms used by the State party to make certain that persons who are returned to their country of origin do not run a risk of being subjected to torture.

59. In each of the four cases, the administrative authority (the Federal Office for Migration (ODM)) immediately reviewed the files in the light of the Committee's comments. This resulted in the status of those people concerned being definitively resolved within 90 days in three of the cases on which the Committee requested information on implementation of its comments. In the fourth matter, the time period initially imposed was not complied with, due to the complexity of the case. However, a decision that eliminated any risk of removal was handed down 121 days following the remittance of the Committee's comments.

60. Case No. 336/2008:

- By note verbale of 27 June 2011, the Committee forwarded its comments from 26 May 2011 to the Swiss Government;
- By a letter of 6 October 2011, the Swiss Government informed the Committee that, according to the Federal Office for Migration (ODM), the status to be granted to the applicants following the Committee's decision would require a detailed examination, and that the information on the implementation of the Committee's comments could not be provided in the time period initially set;
- By a letter of 22 December 2011, the Swiss Government informed the Committee that the Federal Office for Migration had granted the applicants provisional admission via a decision handed down on 28 October 2011, while refusing their request for asylum. A copy of the decision was attached to the letter. The letter also contained explanations on the legal framework of provisional admission;

- By e-mails on 15 March and 24 May 2012, and at the request of the Committee, the Swiss Government informed the Committee that the decision from the Federal Office for Migration had been appealed by the applicants with the Federal Administrative Tribunal, but that the appeal was immaterial as there was no longer any risk that the authors of communication No. 336/2008 would be sent back from Switzerland.

61. Case No. 357/2008:

- By note verbale of 20 June 2011, the Committee forwarded its comments of 23 May 2011 to the Swiss Government;
- By letter of 30 August 2011, the Swiss Government informed the Committee that the Federal Office for Migration had granted provisional admission to the author of the request (who was Iranian) by a decision handed down on 24 August 2011, and that the applicant was therefore no longer at risk of being sent back to Iran. A copy of that decision was attached to the letter. The Swiss Government described the legal framework of provisional admission, governed by chapter 11 of the Federal Act on Foreign Nationals of 16 December 2005: “Under the terms of art. 83 (3), Federal Foreign Nationals Act, enforcement is not lawful when sending the foreign national to his/her State of origin or a third State runs contrary to the commitments of Switzerland in international law”. Despite its name, and even if the Federal Office for Migration regularly checks if the foreign national fulfils the requirements for provisional admission, that status could only be lifted if there were a radical political change in the country of origin (namely a sustainable change of regime that would definitely remove the risk run by the person granted provisional admission). If provisional admission were lifted, the foreign national would have internal means of appeal (art. 112, Federal Foreign Nationals Act). Furthermore, the status ceases to apply if the person concerned leaves Switzerland permanently or obtains a residency permit (art. 84 (4), Federal Foreign Nationals Act). On the latter point, a provisionally admitted foreign national may submit a request for a residence permit after living in Switzerland for five years. The permit is granted based on a person’s level of integration and family situation (art. 84 (5), Federal Foreign Nationals Act). Lastly, under certain conditions, the spouse and underage children may benefit from family reunification (art. 85 (7), Federal Foreign Nationals Act);
- By note verbale of 8 February 2012, the Committee informed the Swiss Government that it was satisfied with the information provided, and that it had therefore decided to close the review of the communication in the framework of the monitoring procedure.

62. Case No. 381/2009:

- By note verbale of 13 December 2011, the Committee forwarded its comments from 21 November 2011 to the Swiss Government;
- By a letter of 13 February 2012, the Swiss Government informed the Committee that the Federal Office for Migration had granted provisional admission to the author of the request (who was Iranian) by a decision handed down on 31 January 2012 and that the applicant was therefore no longer at risk of being sent back to Iran. A copy of that decision was attached to the letter. The Swiss Government described the legal framework of provisional admission.

63. Case No. 396/2008:

- By note verbale of 4 June 2012, the Committee forwarded its comments from 1 June 2012 to the Swiss Government;

- By a letter of 17 April 2013, the Swiss Government informed the Committee that the Federal Office for Migration had reviewed the author's case and recognized the person as a refugee, granting him/her asylum by a decision handed down on 19 July 2012. A copy of that decision was attached to the letter.

64. Any request for asylum is considered on an individual basis. In the first instance, the authorities rule on the status of refugee and whether to grant asylum. If the requirements for being recognized as a refugee and granted asylum are not met, the authorities then consider the removal decision at the same time as considering whether it is lawful, reasonable and possible to enforce the removal. The lawfulness, particularly in the light of article 3 of the European Convention on Human Rights and article 3 of the Convention against Torture, is also individually considered on the basis of the applicant's statements, evidence submitted, the results of investigative measures ordered by the authorities and, where relevant, research carried out on the ground by Swiss representation in the country of origin. The situation in the country of origin is considered by analysing information from various sources. On this basis, the authority assesses whether there is a probable risk of the person being subjected to torture. If there is, provisional admission is granted.

65. The unit of the Federal Justice Office (OFJ) that is responsible for extradition has several tools for ensuring that the Convention against Torture is respected. There are three different types of situation (also see Federal Court judgement (ATF) 134 IV 156, preambular paragraph 6.7):

- The first situation concerns States with a democratic tradition and where there is not, *a priori*, a risk of violation of article 3 of the European Convention on Human Rights or article 3 of the Convention against Torture. For these — mainly western — States, extradition is not subject to any particular requirement in principle;
- The second situation concerns States where there are risks that a person involved in an extradition procedure could be subjected to acts of torture or inhuman or degrading treatment. These risks can be eliminated or greatly reduced if the country of destination provides diplomatic guarantees, such that the residual risk remains purely theoretical. Switzerland regularly cooperates with these States in matters of international mutual legal assistance. However, this cooperation can be halted at any time if it is the guarantees requested are found not to be respected. The guarantees that may be requested were set by the Federal Court in its judgement 134 IV 156, and can then be adapted to each case. In particular, this might involve complying with conventions on fundamental rights (such as the European Convention on Human Rights (ECHR) or the International Covenant). Examples include assurances that the extradited person will not be subjected to any treatment that infringes on his/her physical or mental integrity as provided for in articles 7, 10 and 17 of the International Covenant and article 3 of the European Convention on Human Rights; that his/her situation may not be aggravated when detained with a view to sentencing or serving of the sentence due to considerations based on political opinions or activities, membership of a certain social group, race, religion or nationality; or that the prisoner's health will be appropriately preserved (in particular through access to sufficient medical care). Compliance with these guarantees is checked in two ways. First, the Swiss embassy in the field must have the right to visit prisoners to check that the extradited person is actually benefiting from the assurances demanded during the extradition procedure. Indeed, the diplomatic representative in that country must be able to have a private and unmonitored talk with the extradited person to enquire about the conditions of detention. Second, the person concerned must also have the right to a lawyer who will also check compliance with the guarantees required. Should these not be complied with, the lawyer can then inform the relevant Swiss authorities;

- The third situation concerns States where not even a request for guarantees can rule out a violation of article 3 of the Convention against Torture, and extradition thus cannot be granted. The Federal Criminal Court (TPF) enshrined the principle that Switzerland must withdraw from any mutual assistance with States whose geopolitical situation means that even the demanding of guarantees does not protect the extradited person from receiving treatment contrary to the Convention against Torture. One such example is Iran. The Federal Criminal Court deemed that mutual assistance in the broad sense (so including extradition) should be refused in relation to this country.²⁰

Question 8: In the light of the Committee's preceding concluding observations regarding repatriation (para. 15), please provide information on:

(a) **Steps taken to ensure that human rights observers and independent physicians are present when persons are forcibly repatriated by air and to amend the federal law on the use of coercion and police measures in spheres within the jurisdiction of the Confederation (LUsC);²¹**

(b) **Steps taken to ensure that the orders that were being drafted in May 2010 by the Federal Office for Migration concerning the use of coercive measures by police escorts during forcible returns include provisions that will ensure the presence of human rights observers and independent physicians;**

For reasons of coherence, question 8 a) and 8 b) are dealt with together.

66. In terms of steps to ensure the presence of human rights observers, article 8 § 6 of the European Returns Directive²² stipulates that Member States should provide for an effective forced-return monitoring system. Switzerland has reflected this provision in national law with the introduction of article 71a in the Foreign Nationals Act (LEtr)²³ (entry into force 1 January 2011) and articles 15f et seq. in the Ordinance on Enforcement of the Return and Expulsion of Foreigners (OERE)²⁴ (also entering into force on 1 January 2011). Initially, the monitoring provided for in the Foreign Nationals Act was carried out as a pilot phase by the Federation of Swiss Protestant Churches (FEPS), in conjunction with the Swiss Refugee Aid Organization (OSAR). Since July 2012, monitoring has been permanently carried out by the National Commission for the Prevention of Torture (CNPT). The scope of the monitoring and other tasks for which the National Commission for the Prevention of Torture has a mandate is provided in the Federal Act on the Commission for the Prevention of Torture.²⁵ The National Commission for the Prevention of Torture drafts an annual report on its comments for the authorities. These comments, as well as the stance taken by the Expert Committee on Return and Enforcement of Removal, are published on the website.²⁶

²⁰ Judgement from the Federal Criminal Court (RR.2009.26) of 23 February 2010.

²¹ Systematic Compendium of Federal Law (RS) 364.

²² Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

²³ Systematic Compendium of Federal Law (RS) 142.20.

²⁴ Systematic Compendium of Federal Law (RS) 142.281.

²⁵ Systematic Compendium of Federal Law (RS) 150.1.

²⁶ [> Documentation > Rapports > Rapport d'activité 2012 > Rapport d'activité de la Commission nationale de prévention de la torture \(CNPT\) \(accessed on 17 December 2013\).](http://www.cnpt.admin.ch)

67. In 2010, the Federal Office for Migration (ODM) decided to provide a medical team on all charter flights and scheduled flights (only where indicated on the latter). This decision was taken following the tragic death of a foreign national while he was being removed. The decision is reflected in article 11 (4), Ordinance on Enforcement of the Return and Expulsion of Foreigners (entered into force on 1 January 2013). In order to guarantee the independence of the doctors accompanying removals, since April 2012 the Federal Office for Migration has tasked an external service provider with this activity. Specific rules on medical assistance and medication were also introduced in articles 22 et seq. of the Federal Act on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation (LUsC) on 1 January 2009.

(c) Steps taken to prevent police violence and mistreatment of persons being forcibly repatriated by air, to open inquiries into any such allegations, and to prosecute and punish perpetrators of such acts.

68. The entry into force on 1 January 2009 of the Federal Act on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation (LUsC) and the Ordinance on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation (OLUsC)²⁷ has made it possible to establish standardized legal foundations for the use of police force (physical force and auxiliary means - particularly restraints and weapons) and police measures (stop and search). Coercive means are only used in set circumstances, particularly when required due to the behaviour of the person concerned, and must limit individual liberty as little as possible while achieving the aim in question. The use of coercion and police measures must be in proportion with the circumstances, with due consideration for the age, sex and health of the people concerned. The use of coercion should only be a last resort, if the person being repatriated has refused to leave Swiss territory of his/her own accord (art. 9 (2), Federal Act on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation). Racist, sexist or degrading gestures, acts or comments are forbidden. For each repatriation flight, team leaders organize a briefing and debriefing with all escort agents and draft a report on each operation carried out. The use of coercive measures should, if possible, be announced in a language understood by the person concerned, so that he/she can obey the authority's requests. Use of coercion should be a last resort (art. 10, Federal Act on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation). Those called on to use police coercion must be identifiable (art. 12, Federal Act on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation). The authorized police measures are listed in articles 19 to 21, Federal Act on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation. The coercive measures that are authorized or forbidden during repatriation flights are listed in articles 11 and 13 to 16, Federal Act on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation, and in articles 6 to 12 and 23 of the Ordinance on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation. Where possible, coercive measures should be used on those being repatriated by police officers of the same sex (art. 24 (2), Ordinance on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation). Children and older adults must be transported in a way that is suited to their age, requirements and circumstances as a whole (art. 24 (1), Ordinance on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation). For escorted repatriations, a log must always be kept (art. 28 (1), (b) to (d), Ordinance on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation). Thanks to the log and the police intervention report, each police act

²⁷ Systematic Compendium of Federal Law (RS) 364.3.

is attributable to one or more people. All coercive means that have been ordered, strengthened, softened or lifted (as well as any medical measures and other important arrangements – such as food distribution) are therefore recorded in the log. The log should also state the exact time, reasons and the initials of the escort agents who gave and carried out the orders.²⁸ Article 31 of the Federal Act on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation makes the Confederation responsible for unlawful damage caused by Confederation bodies in the application of the Federal Act on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation, and for unlawful damage by cantonal or private bodies acting directly on behalf of or under the leadership of a federal authority.

69. The use of coercion is also governed by the list of measures of the Conference of Directors of Cantonal Justice and Police Departments (CCDJP).²⁹ The Federal Department of Justice and Police (DFJP) has produced a guide on repatriation of foreign nationals and asylum for repatriation enforcement services.³⁰

70. The National Commission for the Prevention of Torture (CNPT), which is responsible for monitoring removals and expulsions, also monitors the conduct of escort agents. Observers can address their claims and comments to the team leader in charge.³¹ These comments are discussed in the Joint Cantons-Confederation Expert Committee on Removals and Enforcement of Removals. This Expert Committee is tasked with improving the organizational aspects of enforcing removals at the operational level. For these purposes, it identifies necessary improvements and adapts the available instruments as a result. The recommendations from the National Commission for the Prevention of Torture are also discussed by the Committee, and if necessary are translated into operational terms.

Question 9: Please provide detailed information on the repatriation procedures carried out since the submission of the State party's preceding report to the Committee, on any inquiries undertaken into allegations of police violence and on the outcome of the inquiry into the death of Joseph Ndukaku Chiakwa (para. 16).

71. The Federal Act on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation (LUsC) and the Ordinance on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation (OLUsC) provide for the procedures applicable to organizing a removal. Generally speaking, the repatriation procedure is organized to promote an independent departure. Police coercion is only used as a last resort. The relevant enforcement authority follows a gradual scheme of levels of removal enforcement (art. 28, Ordinance on the Use of Force and Police Measures in Spheres within the Jurisdiction of the Confederation). The removal enforcement levels define the rules to follow on a case-by-case basis for forced repatriation;

- Level 1: the person to be repatriated has agreed to an independent return. The person is escorted to the airport by police, but continues the journey alone;

²⁸ DFJP Guide, *Rapatriements dans les domaines des étrangers et de l'asile*, Bern-Wabern 2012, p. 16.

²⁹ List of measures, Optimization of charter flights (Massnahmenkatalog Optimierung Sonderflüge, Germany only), approved by the Conference of Directors of Cantonal Justice and Police Departments (CCDJP) at its 2010 spring Assembly.

³⁰ DFJP Guide, *Rapatriements dans les domaines des étrangers et de l'asile*, Bern-Wabern 2012.

³¹ DFJP Guide, *Rapatriements dans les domaines des étrangers et de l'asile*, Bern-Wabern 2012, p. 32 et seq.

- Level 2: the person to be repatriated has not agreed to an independent return. The person boards a scheduled flight and is escorted by two plain-clothed police officers. The person may be handcuffed if necessary;
- Level 3: the person to be repatriated is likely to offer physical resistance, but boarding a scheduled flight is still possible. The person is escorted by two plain-clothed police officers. Handcuffs or other restraints may be used if necessary, and the use of physical force is a possibility;
- Level 4: the person to be repatriated is likely to offer strong physical resistance. The person can only be transported on a charter flight, and should be escorted by at least two officers. The means of restraint provided for in level 3 may be used.

72. The relevant enforcement authority will first attempt to return the person as a level 1. Failing that, level 2 will be attempted. If the person being repatriated offers strong resistance, then a charter flight is organized (in practice, level 3 is only very rarely used). Below is a breakdown of forced removals by level:

	<i>Level 1</i>	<i>Level 2</i>	<i>Level 4</i>
2010	5 432	140	136
2011	6 141	133	165
2012	7 381	277	178

73. About 5 per cent of people who are the subject of forced repatriation are sent back under level 2 or 4. The majority (about 95 per cent of those being repatriated) leave Switzerland under level 1.

74. The procedures that are applicable during a charter flight are provided for in the list of measures adopted by the Conference of Directors of Cantonal Justice and Police Departments (CCDJP) in 2011. This includes recommendations for the authority responsible for enforcing the return, in terms of how the operation is conducted: number of people for repatriation authorized on board a charter flight, briefing and debriefing, drafting of an intervention report detailing all stages of the flight, risk assessment, obstruction measures and training of escort officers, interveners and team leaders. It should also be noted that charter flights are monitored by the National Commission for the Prevention of Torture (CNPT) under the terms of article 8 (6), of the European Union Returns Directive, and a medical team travels on board (see detailed information in the answers to questions 8 a, b and c).

75. The cantonal police of Zurich carried out 38 685 forced removals from Zurich airport between 1 March 2009 and the end of September 2013. Of these, 37 361 left Switzerland on a scheduled flight without police escort; 713 people were placed under police guard with specially trained officers; and 611 were repatriated on a charter flight. By accepting the European Returns Directive (2008/115/CE), Switzerland has committed to establishing an independent monitoring system with long-term viability to have independent observers present on all charter flights. As part of a pilot phase from October 2010, the National Commission for the Prevention of Torture accompanied all level-4 forced repatriations by air. The Federation of Swiss Protestant Churches (FEPS) took over for six months, and then the responsibility was permanently handed to the National Commission for the Prevention of Torture. The observers draw up a report for the National Commission for the Prevention of Torture at the end of each accompanied flight. A special committee checks the reports before they are published. Any shortcomings noted by the observers are critically analysed, and any resulting changes and improvements are automatically implemented (see reports published on the subject). One problematic

situation occurred since the last CAT report. It took place on the ground prior to a charter flight between Zurich and Nigeria.

76. Joseph Ndukaku Chiakwa died on 17 March 2010. The Public Prosecutor's Office of Winterthour/Unterland dropped the proceedings it was bringing in this case, through a decision of 12 January 2012. Two medical examinations were requested as part of the investigation: one from the Zurich Institute of Forensic Medicine, and the other from the Institute of Forensic Medicine of the Justus Liebig de Giessen University, Germany. According to these reports, the death was the result of a physical defect. On the basis of these reports and other investigations, the Winterthour/Unterland Public Prosecutor's Office concluded that there were no elements to suggest that criminally punishable behaviour on the part of third parties had caused the death of Joseph Ndukaku Chiakwa (hence its decision to drop the proceedings). The family of the deceased appealed to the Zurich cantonal court against the decision to drop the case (dated 12 January 2012). In December 2013, the Zurich cantonal court decided to reopen the case, and the Public Prosecutor in the canton of Zurich is once again in charge of investigating the causes of death.

Question 10: Bearing in mind the Committee's preceding observations (para. 11), the report of the Special Rapporteur on the human rights of migrants {§8} and the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, {§9} please describe the proposed legislation that would introduce a new provision on deportation into the Criminal Code following the approval of the people's initiative regarding the expulsion of foreign criminals (the deportation initiative). Indicate what steps have been taken to ensure that these bills do not contravene the international obligations assumed by Switzerland, particularly those set forth in the Convention against Torture, and article 25 of the Swiss Constitution relating to the principle of non-refoulement.

77. In order to implement the constitutional rules adopted by popular vote, the Swiss Government (Federal Council) adopted a draft bill and a message for the Parliament on 26 June 2013.³² The bill proposed by the Government stringently adheres to mandatory international law (*jus cogens*). Expulsion is systematically deferred when demanded by the principle of non-refoulement or when impossible in practical terms (for instance, when the person has no identity documents).

78. In terms of non-mandatory human rights standards (international public law and constitutional rules), the bill seeks to find a middle way, so as to reconcile automatic expulsion (as provided for in the new constitutional provisions) with the respect for general constitutional principles, human rights guaranteed by international law and international public law standards to which Switzerland has made a commitment.

79. The Government's bill includes following measures to limit its potential impact on human rights:

- All procedural guarantees are respected, such as article 13 of the International Covenant and article 1 of Protocol No. 7 to the European Convention on Human Rights. The bill therefore provides no procedural restriction;
- The expulsion mechanism provided for is limited to an exhaustive list of offences;

³² Official Journal of the Confederation (FF) 2013 5373 5457.

- In principle, there is no expulsion if the sentence handed down is a custodial sentence shorter than six months. The only exception is where the public interest of expulsion is greater than the foreign national's interest of staying in Switzerland;
- If the sentence is for more than six months, expulsion can only be waived if it cannot be reasonably be demanded because it would seriously infringe the foreign national's personal rights protected by international human rights law.

80. In any case, expulsion is pronounced by the criminal authority following a full examination. It is ultimately up to the judge to rule on the link between national and international law. In terms of international standards to protect human rights, in principle these prevail over domestic law provisions.³³ Thus, when federal law clashes with the European Convention on Human Rights (ECHR), the Federal Court (supreme court) and other courts will apply the European Convention on Human Rights. This is even the case if the legislator deliberately chose to derogate from the Convention when the law was adopted. As for the specific case of returning a foreign criminal, the Federal Court issued an *obiter dictum* stating the primacy of international law.³⁴ This precedence has yet to be tested.

81. The parliamentary work on this bill is under way. Aside from political considerations, the fact that a new people's initiative was handed in on 28 December 2012 also plays a role. The "People's Initiative on the Expulsion of Foreign Criminals" (for implementation) calls for a more restrictive solution than the one proposed by the Government. The criminal authorities would not have the right to consider non-mandatory international law provisions. For this reason, the Swiss Government is proposing that Parliament partially invalidates the initiative, while also recommending that the valid part be rejected.³⁵ The initiative and bill are being simultaneously debated in Parliament.

Articles 5 and 7

Question 11: Please indicate whether, since the Committee's consideration of the preceding report, the State party has rejected, for whatever reason, an extradition request concerning a person suspected of having committed acts of torture and whether, as a result, it decided to initiate prosecution proceedings itself. If applicable, please give details on the status and outcome of such proceedings.

82. There is no known case of an extradition request for someone suspected of having committed acts of torture.

83. On the other hand, there have been several cases in which Switzerland has refused extradition due to the principle of non-refoulement (for ordinary offences and for acts of torture). In those cases, Switzerland has offered to take over the criminal prosecution of the person by delegation of the requesting State. There are no statistics on such matters.

Article 10

Question 12: In the light of the Committee's preceding concluding observations (paras. 8 and 15), please provide up-to-date information on the training programmes

³³ ATF 125 II 417 (jurisprudence PKK), 26 July 1999.

³⁴ ATF 139 I 16 [2C_828/2011], 12 October 2012, preambular paragraph 5.3.

³⁵ Official Journal of the Confederation (FF) 2013 8493.

that the State party has developed and put in place to ensure that all relevant personnel, including law enforcement officers and prison staff, as well as police officers and other persons involved in repatriation operations, are fully cognizant of the State party's obligations under the Convention and are aware that any failure to fulfil those obligations will not be tolerated, that any violation will be investigated and that offenders will be prosecuted. Indicate whether these training programmes cover the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

84. The police must respect the established legal system while carrying out their legal mandate. Police officers must therefore have sufficient knowledge of the law. This knowledge is imparted during initial training in police schools, ongoing training at the Swiss Police Institute (ISP),³⁶ specialized courses and regular workshops within police forces. The latter are based on the practical application of the law in the everyday work of police officers (which is multifaceted, as well as featuring exceptional circumstances). Actual events are used to illustrate the interpretation of the law and to teach officers the conduct they must adopt to comply with the law. Police training is the responsibility of police schools and the Swiss Police Institute in Neuchâtel.

Training tools:

85. In the framework of the role it is assigned, the Swiss Police Institute (ISP) has published three reference books for Swiss police training (on human rights and professional ethics in three languages):

- *Droit de l'homme et éthique professionnelle* (Editions ISP, 2009, 128 pages);
- *Diritti dell'uomo e etica professionale* (Editions ISP, 2011, 128 pages);
- *Menschenrechte und Berufsethik* (Editions ISP, 2012, 160 pages).

86. These teaching materials define, explain and specify what human rights are, the laws and bodies governing or resulting from them and the conduct demanded of public security forces in order to guarantee the rights enshrined in the European Convention on Human Rights. The issue of torture is duly covered in the books. In the section on professional ethics, the aims are to use examples and case studies to make students aware of all the factors that influence police decisions and how police officers must put themselves in a position to respect human rights. It is worth mentioning that this handbook on human rights and professional ethics has been translated into Ukrainian to train that State's police officers, as well as being used in a training project for Tunisian police (which was a Swiss project following the Arab spring).

Ongoing training:

(a) In terms of air repatriation, the Swiss Police Institute (ISP) organizes the following ongoing training courses:

- French – Italian:
 - Air repatriation: basic course of one week twice a year;
 - Refresher course on air repatriation: three days once a year.
- German:

³⁶ www.institut-police.ch.

- Begleitete Rückführung: basic course of one week twice a year;
- Refresher für Begleitete Rückführung: two days twice a year;
- Equipenleiterkurs: three days once a year;
- Intervention (d and f): two days once a year.

These training courses describe the legal foundations for air repatriation, the way of preparing for them and the conduct to be adopted. Various experts (on migration, human rights and so on) take part to explain the context of such missions.

(b) As part of the police officer training organized by the Swiss Police Institute, there is a one-week module on ethics and law. This module includes an entire morning on the European Convention on Human Rights, delivered by Cdt. Stefan Blättler from the Bern cantonal police. A member of the Swiss Committee against Torture is regularly invited to present additional information on the subject.

Police training is standardized at the Confederation level through the award of a federal police diploma. In order to obtain the diploma, the student must sit four series of examinations, including one on “police ethics and human rights”. The teaching is based on the handbook on human rights and professional ethnics, published by the Swiss Police Institute. Chapter 2.3 deals with the ban on torture and inhuman or degrading treatment.

87. The Swiss Centre for the Training of Prison Staff (CSFPP) in Fribourg is responsible for vocational training and offers advanced training courses needed by people working with imprisonment throughout Switzerland. The aim of basic training is to give trainees the professional, personal and social skills and knowledge to be able to dispense their duties appropriately. During work time, trainees follow the basic 15-week training at the Swiss Centre for the Training of Prison Staff (broken down into two- or three-week modules) over two years. Training covers four areas: psychology, law, medicine/psychiatry and prison. Different sectors are covered in this training. At the end of the second year, the training ends with a professional federal examination. The training, which is managed by the Secretary of State for Training, Research and Innovation (Bern), is a qualification that leads to the federal diploma of detention agent.

88. In the area of law, the Swiss Centre for the Training of Prison Staff teaches the following subjects:

- European Prison Rules: officers must know, but also understand, the importance of the content of some rules in relation to the European Code of Ethics;
- Constitutional rights and human rights: officers must understand that, as representatives of the State, detention agents are required to respect human rights and help apply them (art. 35 (2) of the Constitution).³⁷ As a result, they must in particular be able to cite the main stages of the procedure to highlight fundamental and human rights, illustrate certain fundamental rights in the Federal Constitution (principle of dignity, right to equality, right to life and personal freedom, prohibition on torture and inhuman or degrading treatment, protection of private sphere, freedom of thought and belief, freedom of opinion and information, right to be heard, deprivation of liberty and political rights) and give examples in practice. They

³⁷ Systematic Compendium of Federal Law (RS) 101.

must be able to apply this human rights knowledge to a concrete situation in their professional environment;

- Committee against Torture: officers must know about the Committee and other Swiss bodies (National Commission for the Prevention of Torture (CNPT) and cantonal parliamentary commissions).

89. In the area of psychology, the Swiss Centre for the Training of Prison Staff teaches the following subjects:

- Introduction to psychology, development psychology, transactional analysis, group psychology, stress and communication psychology. These areas are important and have an impact on the bond between detention agent and prisoner. Officers must be able to apply this knowledge in a professional setting.

90. As for prisons, the Swiss Centre for the Training of Prison Staff teaches the following subjects:

- Professional relations: officers must be capable of reflecting on the main aspects of containing and handling inmates during imprisonment. They must be able to modify their relations with prisoners by respecting the right distance (not too close, not too far), as well as in reference to the content of the European Code of Ethics;
- Security: officers must be able to cite different kinds of security (technical, administrative and social security), but mainly to be able to understand the differences. In addition, there is dynamic security (which is essential in a prison environment), as stipulated in article 51.2 of the European Prison Rules: “The security which is provided by physical barriers and other technical means shall be complemented by the dynamic security provided by an alert staff who know the prisoners who are under their control”. This article shows the importance of the role of staff and their relationship with prisoners in guaranteeing security;
- Module on foreign nationals: officers must be able to explain concepts such as migration, integration, culture and racism. They reflect on and reconsider their points of view on such issues. They work on situations from their day-to-day work that require intercultural skills in order to act professionally. Officers must be able to understand religious and social rules governing other cultures. As a result, they study subjects such as “foreign nationals from Africa”, “coercive measures” and “Islam”.

91. In the area of medicine/psychiatry, the Swiss Centre for the Training of Prison Staff teaches the following subjects:

- Psychiatry: officers must be able to explain the functioning of psychiatry. They learn about the main mental illnesses and symptoms to take into account in prisons, so as to be able to act appropriately on the ground. They observe in order to be able to identify risk behaviour and save lives (which is an essential standard guaranteed by the State and a human right). They are not only able to act correctly but also react in a proportionate way within their professional setting;
- Drugs: officers must know about the basic mechanisms of dependency and co-dependency, as well as knowing what to expect with a drug addict and possible contact with that person. They can explain the causes of such problems and the effects of different substances, as well as their physical, mental and social consequences. They can list the main possible treatments and methods. Once these have been learned, the officers are able to understand, interpret but also act appropriately in their professional setting.

92. That was a summary of the basic areas covered to provide direct or indirect tools for detention agents to relate appropriately with prisoners, observe and analyse their behaviour with all due care and make correct assessments of events in order to manage them appropriately on a case-by-case basis.

93. Since April 2013, the canton of Geneva has had a prison-training centre. Several courses are provided to new students at the training centre for detention agents in Geneva. There are 170 hours of training over three weeks, with a variety of topics (use of force and proportionality, officer rights and duties, psychology, tactics and intervention techniques). The training does not yet incorporate the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

Question 13: Please indicate whether the State party has developed a methodology for assessing the effectiveness and impact of these training programmes in order to determine whether they have led to a reduction in the number of cases of torture, violence and ill-treatment. If this is the case, describe that methodology, the way in which it is applied and its results.

94. During the two-year course, the Swiss Centre for the Training of Prison Staff assesses the knowledge and skills acquired by staff through role-play exercises, group work, interpretation of real cases and intermediate and final examinations. The Swiss Centre for the Training of Prison Staff has no method for evaluating the effectiveness and impact on the ground of its training programmes, as there are other factors underlying torture, violence and ill-treatment. While remaining an extremely important means of prevention, training alone is insufficient.

95. The Swiss Police Institute (ISP) has no information on this subject, in terms of teaching manuals for ongoing training or police management training. The Institute ensures that authors and trainers give appropriate coverage to human rights and (by extension) the issue of torture, as expected in a modern training that respects the laws and conventions that define the action and conduct of public security forces in Switzerland.

96. In the traditional sense of the word, there is no method for evaluating the effectiveness of training programmes in the same way in all cantons. Each police force ensures a robust training for officers and immediately debriefs them in a transparent way after negative events, in order to avoid a repeat of the situation and to provide an impeccable service that complies with the relevant rules.

Article 11

Question 14: Please provide information on any and all new rules, instructions, methods or practices used during interrogations, as well as any other provisions relating to police custody that have been introduced since the Committee's consideration of the preceding periodic report. Also indicate how often such provisions are reviewed and applied.

97. Hearings, questioning and interviews with witness are based on the Federal Administrative Criminal Law Act (DPA),³⁸ particularly articles 38 to 41. People attending a hearing are informed of their rights (including Miranda rights) under articles 39 to 41, Federal Administrative Criminal Law Act (articles resulting from article 31(2) of the

³⁸ Systematic Compendium of Federal Law (RS) 313.0.

Constitution and article 6(3)(e) of the European Convention on Human Rights) and, since 1 January 2011, articles 158 et seq. of the Code of Criminal Procedure (CPP)).

98. The Code of Criminal Procedure also has provisions on custody (articles 212 et seq. governing imprisonment, custody and detention for security reasons). There were 29 different codes of procedure before the entry into force of the Code of Criminal Procedure, 26 cantonal codes and three federal codes. The unification of criminal procedures was motivated by a determination to enforce the principles of equality in the face of the law and the rule of law.³⁹

99. As well as federal provisions, each police force tends to have a relatively large collection of service instructions and internal memos governing officer conduct in specific situations either generally or in more concrete terms (in the context of custody, for instance). These orders are binding and take account of the geographical, organizational and tactical characteristics of each canton.

Question 15: Bearing in mind the Committee's preceding concluding observations (para. 17), the concerns expressed by the National Commission for the Prevention of Torture following its visits to places of deprivation of liberty and the concerns voiced by Swiss non-governmental organizations, indicate what action has been taken in response to the Committee's concern about prison overcrowding, especially at the Champ Dollon Prison, and what steps have been taken to make greater use of alternative and non-custodial sentences, as well as the outcome of those efforts.

100. On 23 November 2012 the canton of Geneva adopted a 10-year prisons plan, on the basis that a policy on prisons, detention and prisoner support cannot be devised on a case-by-case basis using measures introduced in reaction to events after they happen. The approach must change from reactive to proactive, as part of a genuine long-term framework that nonetheless leaves room for the changes that will be needed in the face of future events than cannot be planned for because of their unpredictable nature.⁴⁰

101. There is a plan to build a 450-person capacity prison in 2017 (Dardelles prison), with an additional 100 places to be built in Brenaz. The number of places at Champ-Dollon will rise from 376 to 405 in 2014. The latter prison will therefore only be used for pretrial detention. In addition, the Curabilis prison was opened on 4 April 2014. Those are the highlights of the prisons plan of the canton of Geneva, which also involved a management reorganization and significant reinforcement of prison staff.

102. Prison planning does include alternative sentences, as the latter are designed to maintain the social integration of the convicted or preventively detained person. However, it is vital to be aware of their limitations when it comes to people without valid residence permits and no ties in Geneva canton or anywhere in Switzerland. Having said that, there should eventually be more possibilities to arrange for sentences to be served under house arrest. There are also plans to increase the number of support staff for those convicted.

103. As for the use of measures to replace pretrial detention, the legislator has provided for this in articles 237 et seq. of the Code of Criminal Procedure (CPP), and they have also

³⁹ See Official Journal of the Confederation (FF) 2006 1057.

⁴⁰ [> Thèmes > État > Conseil d'État > Communiqués de presse par législature > 2012 > Le canton de Genève se dote d'une planification de la détention pour les dix prochaines années](http://www.ge.ch) (accessed on 7.5.2014).

been incorporated into prison planning. It should be noted that the Confederation has banned the use of GPS/satellite surveillance mechanisms for the serving of custodial sentences outside prison.

104. On 22 May 2013, the Court of Justice, the Criminal Court, the Public Prosecutor's Office and the Security Department concluded an agreement on measures to replace imprisonment with house arrest and the use of tagging devices attached to the person (tag bracelets). This agreement covers situations where replacement measures can be ordered instead of pretrial detention or for security reasons. Unfortunately, these measures are not commonly used because prisoners often have no known address. Despite the considerable increase in the number of arrests, particularly since the entry into force of the Code of Criminal Procedure, the number of requests for pretrial detention or detention for security reasons submitted by the Public Prosecutor to the court on coercive measures remains stable (as shown below):

- 528 requests for pretrial detention or detention for security reasons in the first half of 2012 (22.3 per cent of total arrests: 2 371);
- 506 requests for pretrial detention or detention for security reasons in the first half of 2013 (18.7 per cent of total arrests: 2 707);
- Overcrowding in Champ-Dollon is largely due to the increase in the number of prisoners serving sentences.

Question 16: With reference to the report of the National Commission for the Prevention of Torture regarding Bochuz Prison, please provide information on the steps taken to limit the use of solitary confinement and to ensure that it is employed only as a last resort, that it lasts for the shortest amount of time possible and that it is closely supervised.

105. In 2013, a concept for managing prisoners in solitary confinement for security reasons was established in the Plaine de l'Orbe Prisons (EPO). Changes were made to the living space, activities and staff interacting with the prisoner. The premises are more spacious and airy. A workshop, library and gym have been created. This section now only has four places. This is a reminder that solitary confinement is a last resort, and should not continue if a less restrictive alternative seems suitable again. The management model for solitary confinement for security reasons is based on individual and multidisciplinary assistance.

106. A "prison hospital" project to handle institutional treatment measures is still being studied.

Question 17: Please indicate what steps have been taken to ensure the application of legislation and procedures concerning health-care access for all prisoners, especially those suffering from psychiatric disorders.

107. The principle of equivalence, which is one of the European principles for sentence enforcement, derives from the standardization established in article 75 (1), of the Criminal Code. It was in this spirit of equivalence that Switzerland signed the United Nations Convention on the Rights of Persons with Disabilities (of 13 December 2006) on 15 April 2014. The principle of equivalence also features in the guidelines of the Swiss Academy of Medical Sciences (ASSM) on practising medicine on inmates. The principle of equivalent care for prisoners and non-prisoners is a fundamental principle of medicine in the

framework of sentence enforcement.⁴¹ Although prisoners cannot choose their doctor freely, they should have the same rights as another patient. Prison managers, doctors and nurses must ensure respect for these rights, which include access to prevention, diagnosis, treatment and care, as well as for the basic rules underlying the doctor-patient relationship (such as the right to self-determination, information and confidentiality). Doctors and nurses practising in prisons are bound by professional secrecy (art. 321, Criminal Code) and are not authorized to supply third parties with information on their patients beyond the limited framework provided for by law (see chapter 10 of the Guidelines and the annex Practical Advice on Applying the Directives, approved by the Central Ethics Board of the Swiss Academy of Medical Sciences (ASSM) on 20 January 2012).

108. Swiss Prison Health (SPS)/Expert Council on Health Issues in Prison: in spring 2013, the Conference of Directors of Cantonal Justice and Police Departments (CCDJP) (in conjunction with the Conference of Health Directors) approved recommendations for a harmonization of prison health practices nationwide (recommendations formulated by cantons and federal authorities in close collaboration with actors on the ground). A technical council with 12 members representing cantons and the Confederation was set up to ensure project continuity. The council has equal representation of the prisons sector (Conference of Heads of Cantonal Prison Services, managers of prisons, Federal Office of Justice) and the health sector (Swiss Association of Cantonal Doctors, Conference of Swiss Prison Doctors, Forum of Health Workers in Swiss Prisons, Federal Public Health Office). This is the first national structure to coordinate prison health practices for all prisons and to provide a focal point for issues in this regard. In concrete terms, Swiss Prison Health has the following aims:

- Making information on all health issues in the prison context available to all parties throughout Switzerland;
- Applying the same medical, ethical and organizational standards of care in prisons nationwide;
- Establishing a permanent dialogue among actors of various disciplines, with a view to developing consensual solutions for care provided in prison.

109. The Expert Council on Health Issues in Prison began its activities in June 2013 for a pilot phase of two years under the administrative umbrella of the Swiss Centre for the Training of Prison Staff. Its future will depend on the assessment made at the end of the two years.

110. The Working Group on the Placement of Prisoners with Mental Disorders (art. 59 (3) of the Criminal Code): On 2 February 2012, the Committee on the Enforcement of Sentences and Detention Facilities (Committee of Nine) of the Conference of Directors of Cantonal Justice and Police Departments (CCDJP) decided to create, within the Working Group on Prison Planning, a Subgroup on the Placement, Treatment and Monitoring of Offenders Suffering from Mental Disorders. The Committee invited the Conference of Health Directors and the Conference of Swiss Prison Doctors to take part. The Subgroup includes representatives from prisons and the medical profession, as well as a representative from the Federal Office of Justice. Its terms of reference are to define standards for

⁴¹ Since 1994, the Confederation (through the Federal Office for Migration) has been supporting the measures of the Swiss Red Cross (CRS) to treat victims of trauma in the sphere of asylum (not prisoners). This is based on article 91 (3), Federal Asylum Act, in relation to article 44, of the Ordinance on the Federal Asylum Act (OAsi2). In 2004, a group of four out-patient services for torture and war victims was created (supported by the Federal Office for Migration through subsidies). This support for torture victims (www.torturevictims.ch) treats around 600 people a year.

psychiatric monitoring in prisons and sentence-enforcement establishments and for the institutional treatment of mental disorders in accordance with article 59 of the Criminal Code, profiles of illnesses that must be treated in psychiatric hospitals and profiles of illnesses that must be treated in secure institutions for sentence enforcement or other kinds of enforcement institutions (special divisions). The Subgroup is also investigating the number of places needed in psychiatric clinics and institutions for sentence enforcement or other kinds of enforcement institutions. It began its activities on 12 August 2012. Since then, it has drafted standards for the monitoring and treatment of prisoners with mental disorders.

111. **Geneva** has several different structures that deal with prisoners with psychiatric disorders. There is a hospital unit at the psychiatric prison unit that provides hospital psychiatric treatment and care to patients in severe crisis who are imprisoned or sectioned (Psychiatric Prison Unit (UCP)). Curabilis is a new centre providing social-therapeutic care next to the Champ-Dollon prison, which treats mainly prisoners with severe personality disorders authorized to receive treatment there by a joint decision from the head doctor and the relevant prison authority. There is a medical service in the Champ-Dollon prison that provides mainly psychiatric care. In addition, the construction of the Curabilis unit within the Champ-Dollon prison will initially (in 2014) enable transfers from the Psychiatric Prison Unit and La Pâquerette and the provision of 15 places in total, as well as the opening of two units for institutional treatment measures as stipulated in the Criminal Code (32 places). Two additional units for institutional measures will be opened in stages in 2015 and 2016, in application of the Council of State decision in 2011. Thanks to Curabilis, the canton of Geneva will have 92 additional places for treating prisoners with psychiatric disorders, with some places made available to the Latin Concordat.

112. The establishment of a prison medical service is well under way. Until this comes on line, the organization of care and medical treatment in prisons in **Neuchâtel** is the subject of a judgement on health and care in prison dated 13 May 2009. Article 4a of this judgement provides for access to care upon entering prison. Therefore, every prisoner meets a member of the medical staff no later than 24 hours after entering the prison. Prisoners can access nurses and doctors at any time, irrespective of the detention regime to which they are subjected. An emergency mechanism has been arranged and, if necessary, prisoners are transferred to the emergency department of Neuchâtel Hospital or a prison medical unit outside the canton at the discretion of the treating doctor.

113. Specifically in relation to prisoners with psychiatric disorders accessing care, their psychiatric or psychotherapeutic consultations take place several times a week in Swiss establishments. Special emphasis is placed on assessing suicide risk in collaboration with detention agents. At the discretion of the psychiatrist, any prisoner can be admitted to the cantonal psychiatric emergency department or a unit outside the canton.

114. In the canton of **Vaud**, the Prison Medicine and Psychiatry Service (SMPP) was supplemented by two psychiatrist posts on 1 April 2011. Furthermore, an additional 3.5 nursing posts have also facilitated seven-day-a-week service during opening hours and a nurse on call outside those hours. The increase in resources allocated to the Prison Medicine and Psychiatry Service enables some aspects of the care stipulated in United Nations procedures to be respected. For instance, the treatment of somatic symptoms and psychiatric out-patients. Since the sixth periodic report in 2008, significant improvements have been made. On the other hand, there are still improvements to be made to other aspects, particularly hospital care and treatment of prisoners. Lastly, the possibility of sending patients with extreme psychological disorders to specialized institutions (not prison) does exist but is not guaranteed. In some prisons (Plaine de l'Orbe Prisons and Tuilière), the psychiatric units are out-patient hospitals that may provide a suitable therapeutic setting for people who are not in complete psychiatric collapse. They are always

full and have a largely insufficient number of places (13 and 8) for responding to the needs of all prisons. The situation remains difficult for people in total collapse, as they must be transferred to the prison psychiatry unit in Geneva or the prison division of the Hôpital de l'Île in Bern (which are often overcrowded themselves). The situation is also unsatisfactory for prisoners with chronic psychological disorders who do not have a suitable setting for when they enter a crisis. International guidelines on people placed in solitary confinement then apply. In conclusion, despite limited means and a surge in the prison population, the spirit of international guidelines is respected in terms of out-patient consultations. The Prison Medicine and Psychiatry Service provides out-patient care to all of the prison population in the form of somatic treatment, comprehensive psychiatric treatment or psychotherapeutic monitoring. The pending issue is related to the treatment of prisoners under special measures. However, as stated above, the plan to create a prison treatment centre to cater for institutional therapeutic measures is under way.

115. In order to ensure implementation of the principle of equivalence in institutions for the enforcement of sentences and other measures, as well as the canton police detention centre in **Zurich**, all establishments that come under the Legal Enforcement Office of the canton of Zurich must meet the criteria of the list of services drawn up by the East Switzerland Concordat. Under the heading of psychosomatic and mental illnesses, the list explicitly enshrines the principle of equivalence by requiring all medical services provided in sentence enforcement institutions to meet Swiss standards applied outside such establishments. In order to respond to those requirements, there is either a large medical service inside the prison (like at Pöschwies), or a regulated arrangement with general practitioners or specialists who come to the prison or are visited by prisoners where necessary. Prisoners are sometimes sent to the hospital or psychiatric clinic. Each establishment is able to perform a medical examination when prisoners arrive at the prison. Prisoners can request a consultation with the medical service or an external doctor at any time. Specially trained and attentive staff from the sentence/measures enforcement sector, social sector or the security sector provide medical services to the weakest prisoners or those with physical disabilities. Establishments guarantee a medical and psychiatric emergency service. In the cantonal detention centre, the Zurich police concluded agreements with University Hospital Zurich for 24/7 treatment of prisoners' psychosomatic and psychiatric conditions. The centre's psychiatrist refers people suffering from psychiatric illness to suitable clinics. Generally speaking, the average stay in police detention centres in the canton of Zurich is 3.2 days (with a maximum stay of seven days).

Articles 12, 13 and 14

Question 18: Please furnish detailed statistics, disaggregated by ethnic group, age and sex, on complaints concerning acts of torture or ill-treatment committed by law enforcement officers, together with statistics on the related investigations, prosecutions and the criminal or disciplinary penalties imposed. Specific examples of offences committed and the corresponding penalties should also be provided.

116. Within the Swiss federal structure, cantons are responsible for receiving complaints against the police. They are free to define the procedures they deem appropriate within their remit (provided that the procedures are compatible with federal law and international law). The Federal Court has refused to hand down a judgement of principle on the need to establish specific remedies for police incidents.⁴²

⁴² For instance, see judgement 1B 471/2011 of 24 November 2011.

117. Swiss justice is independent at all levels of the State. As a result, many cantons consider it pointless to establish specific mechanisms to consider complaints against the police. The Public Prosecutor is responsible for prosecuting offences committed by police officers. Complaints about police officer conduct are dealt with by the monitoring authority as part of an administrative procedure.

118. By way of example, here are some statistics from certain cantonal police forces.

Geneva

119. None of the complaints against police officers mention acts of torture. Such complaints are only lodged after the use of force by law enforcement services. The legal department counted 21 criminal complaints against law enforcement services following the use of force on duty, and the Public Prosecutor has put the General Services Inspectorate in charge of investigations into criminal procedures brought against police officers. In accordance with the provisions of the Criminal Procedure Code, the reports on such matters are sent directly to the Public Prosecutor.

120. Criminal complaints gave rise to eight orders of non-consideration, eight orders of dismissal and no summary judgements. At present, five cases are being processed by the criminal authorities.

121. Cantonal police have no data on the ethnicity or age of complainants, and such data are not included on orders of dismissal or non-consideration handed down by the Public Prosecutor or on the complaints submitted. However, the orders handed down by the Public Prosecutor do include the sex of the complainant. There were 13 male complainants and 8 female ones.

122. In terms of orders of dismissal or non-consideration handed down by the Public Prosecutor, and the lack of conviction against police agents, there have been no disciplinary procedures following the end of criminal proceedings. Having said that, this does not apply to criminal proceedings still under way.

Vaud

123. Analysis revealed an average of 10 annual cases of racial discrimination (261, Criminal Code) since 2009. However, there is no way of distinguishing the profession of the accused, and this therefore does not show an overall trend for the canton of Vaud.

124. On the criminal and disciplinary level, the cantonal police closely monitor all cases of complaints for mistreatment against their staff (police officers, public security assistants, transfer and surveillance agents). These statistics are not official, however, as their main aim is to enable management to follow up cases in criminal and disciplinary terms.

- In 2013, the cantonal police recorded five cases of complaints against staff. In all cases, the complaints were for bodily harm and abuse of authority. Race was not an issue in any of the cases;
- Of the five cases from 2013, one (involving a group of five police officers) resulted in non-consideration from the Public Prosecutor, one was dismissed (one police officer), one is being dismissed (one police officer) and proceedings are still under way for two more in 2014 (one police officer and one transfer agent);
- Since 2011, the cantonal police cannot recall a conviction for offences described in the question that would have led to disciplinary measures.

Zurich

125. In 2012, the cantonal police of Zurich had 12 such cases; and eight cases reported in 2013. The complaints for abuse of authority were forwarded to the Public Prosecutor.

126. The statistics for these cases are as follows:

- Sex of complainants: 19 men and 1 woman;
- Age of complainants: 16 to 20 years: 2; 21 to 30 years: 5; 31 to 40 years: 5; 41 to 50 years: 4; 51 to 57 years: 4;
- Origin of complainants: Switzerland: 7, Tunisia: 3, Algeria: 2, Egypt: 2, Iran: 2, Germany: 1, France: 1, Uzbekistan: 1, Colombia: 1;
- Final result of proceedings: no authorization from cantonal court to open proceedings due to insufficient grounds (§ 148 of the Judicature Act of the canton of Zurich; LS 211.1): 3; non-consideration from the Public Prosecutor due to lack of – sufficient grounds: 3; proceedings dismissed by Public Prosecutor as initial grounds not confirmed: 4; acquittal: 1; summary judgement: 1 [In the canton of Zurich, the Public Prosecutor cannot automatically open criminal proceedings against officials under article 110 (3), Criminal Code. Under article 7 (2) (b), Code of Criminal Procedure and § 148 of the Judicature Act of the canton of Zurich, the 3rd criminal division of the cantonal court must first check whether there are grounds. If this requirement is fulfilled, the cantonal court authorizes the Public Prosecutor to open criminal proceedings or decide not to proceed. If that does not happen, the Public Prosecutor cannot act.];
- Criminal proceedings pending as of 22 April 2014: 3 concerning cases from 2012, 5 concerning cases from 2013;
- Disciplinary sanctions: 1 dismissal;
- Proceedings resulting from violence or threats against complainants: 2.

127. The Border-Protection Services (CGFR), which come under the Federal Customs Administration, is the largest civil security service in Switzerland. Its representatives are armed and uniformed. There were eight whistleblowing proceedings in regions where border guards work between 2008 and 2013 for disproportionate use of force or racist behaviour. Six of the eight proceedings were related to ethnic origin or gender. The people concerned were a man from Mali, four French men and one French woman. All cases were suspended without any disciplinary or criminal sanctions.

Question 19: Bearing in mind the Committee's previous concluding observations (paras. 8, 9 and 19) and the responses to those concluding observations provided by the State party as part of the follow-up procedure, {§10} please furnish detailed information on any and all measures adopted in order to set up an independent mechanism to receive all complaints regarding acts of violence or ill-treatment by the police and to conduct impartial, thorough and effective inquiries into such allegations.

128. In principle, all police activities are subjected to judicial control. The criminal authorities are required, under articles 5 and 6 of the Code of Criminal Procedure (CPP), to initiate criminal proceedings immediately (principle of speed) and to investigate carefully the circumstances in favour of and against the accused (principle of investigation). Investigations concern the respect for the principles of lawfulness, proportionality and need and appropriateness of police action (for instance if the police have made an allegedly disproportionate use of violence).

129. Anyone can contact the relevant public prosecutor to report police actions deemed violent or abusive, to request an examination of the lawfulness and proportionality of those actions. Several towns and cantons have independent mediators (for instance in the cantons of Zug and Zurich or in the city of Bern),⁴³ who citizens can contact if they feel that the police or other administrative units have violated their rights.

130. In cases where police officers are suspected of committing offences, public prosecutors' offices investigate exhaustively and rigorously, so that perpetrators are brought to account. All charges are investigated in depth and impartially. There is therefore no point setting up an (additional) independent body to investigate cases of alleged abuse.

131. The police is a State body that does all it can to act lawfully (basic principle). Although this does not rule out individual mistakes, it is in the police's own interest to learn from its mistakes and optimize its interventions. That is why all police forces take into account the legal decisions concerning their work and face the consequences in terms of discipline and for the system as a whole.

Question 20: Bearing in mind the Committee's previous concluding observations (para. 22), please supply information on the steps taken to prevent and combat human trafficking, especially of women and girls for purposes of sexual exploitation, and to prosecute and punish the perpetrators. Indicate whether such steps have included the adoption of a comprehensive strategy to combat human trafficking. Please apprise the Committee of any ongoing investigations and their outcomes.

132. Switzerland bases its action against human trafficking on the Additional Protocol to the United Nations Convention against Transnational Organized Crime, which aims to prevent, repress and punish human trafficking (especially involving women and children)⁴⁴ and on the resulting international standards gathered together in the Council of Europe Convention on Action against Trafficking in Human Beings.⁴⁵ In particular, The Swiss 2012–2014 National Action Plan (PAN) against human trafficking adopted in 2012 is based on these standards. The Plan was devised by the Coordination Service to Combat Trafficking in Persons and Trafficking in Migrants (SCOTT), which is a national task force that brings together representatives from non-governmental organizations and various departments of the Confederation and cantons. The Action Plan has 23 measures with the following aims:

- Raising awareness of and providing information to the public;
- Strengthening criminal prosecutions against perpetrators;
- Strengthening victim identification, as well as the effectiveness of assistance and protection;
- Improving cooperation in Switzerland and abroad.

133. The services and organizations represented in the Coordination Service to Combat Trafficking in Persons and Trafficking in Migrants are implementing measures that require legislative work, organizational improvements or the development of additional tools.

⁴³ Seventh to ninth periodic reports submitted by Switzerland to the Committee for the Elimination of Racial Discrimination in application of article 9 of the International Convention on the Elimination of all forms of Racial Discrimination (CERD/C/CHE/7-9), para. 305.

⁴⁴ Systematic Compendium of Federal Law (RS) 0.311.542.

⁴⁵ Systematic Compendium of Federal Law (RS) 0.311.543.

134. The table below shows the number of cases of human trafficking and incitement to prostitution recorded by the police in recent years:

	2009	2010	2011	2012
Trafficking in human beings (art. 182, Criminal Code)	50	52	45	78
Incitement to prostitution (art. 195, Criminal Code)	104	99	69	148

135. The number of convictions is as follows (judgements are only recorded once they enter into force):

	2009	2010	2011	2012
Trafficking in human beings (art. 182, Criminal Code)	9	6	9	13
Incitement to prostitution (art. 195, Criminal Code)	26	7	15	17

Question 21: In its preceding concluding observations (para. 21), the Committee emphasized its concern about the requirements set forth in article 50 of the Foreign Nationals Act of 2005 and, in particular, about the requirement that the persons concerned provide proof that they would have difficulty in resettling in their country of origin. The Committee has noted that these provisions make it difficult for foreign women who have been married for less than three years to a Swiss national or a foreigner holding a residence permit and who are victims of domestic violence to leave their spouse or to seek protection because they fear that their residence permits may not be renewed. In view of the Committee's concerns on this point and those voiced by the Committee on Economic, Social and Cultural Rights, {§11} please describe the steps that have been taken to amend article 50 of the Federal Foreign Nationals Act of 2005 in order to enable migrant women who are victims of violence to seek protection without forfeiting their residence permits.

136. Article 50 of the Foreign Nationals Act (LEtr) has been amended. Since 1 July 2013, article 50(2) reads as follows: "The personal reasons referred to in 50 (1) (B) apply in particular if the spouse is the victim of spousal abuse, the marriage was concluded in violation of the free will of one of the spouses or social reintegration in the country of origin seems seriously compromised". As a result, these conditions are now alternative, rather than cumulative.

137. The guidelines from the Federal Office for Migration (ODM) also make this clear by stating: "These conditions are not cumulative, as one alone can constitute a major personal reason depending on intensity".⁴⁶ As a result, it is no longer completely necessary for a woman to show that social reintegration in the country of origin would be seriously compromised in order to benefit from the protection described at article 50 of the Federal Foreign Nationals Act.

Question 22: Please furnish information on the steps taken since the preceding periodic report was considered in 2010 to provide court-ordered redress and compensation, including rehabilitative measures, to victims of acts of torture or ill-treatment at the hands of law enforcement officers. Please indicate how many claims

⁴⁶ Guidelines for the Federal Foreign Nationals Act (LEtr), October 2013, chap. 6.14.3, p. 265.

have been filed, how many have been successful and, in each of those cases, the amount of compensation that was granted and the amount that was actually paid out.

138. As stated under question 18, Switzerland has no statistics on the number of cases of ill-treatment by law enforcement officers. This is mainly related to the federal and decentralized organization of Switzerland. Statistics on victim assistance do not make it possible to draw up such figures either.

139. In terms of court decisions, they are not recorded at the federal level. However, all cantonal judgements of second instance since 2010 in application of the Federal Act on Assistance to Crime Victims (LAVI)⁴⁷ have been reviewed. That Act enables each victim of crime to contact a victim assistance centre. However, none of the judgements reviewed concerned ill-treatment by law enforcement officers.

Article 16

Question 23: Bearing in mind the Committee's preceding concluding observations (para. 23) and the responses to those concluding observations provided by the State party as part of the follow-up procedure, {§12} please describe the steps that have been taken to pass a specific prohibition on the corporal punishment of minors into law. Please also detail the steps taken to raise public awareness of the negative effects of violence against children, especially corporal punishment.

140. The Federal Council has twice considered whether it should adopt specific provisions to prohibit corporal punishment of children: in 2012, in relation to the 07.3725 Fehr Jacqueline proposal “Violence in the family. Protection of children and young people”, and in 2013, in relation to the 13.3156 Feri Yvonne motion “For a non-violent education”. The Council ruled that existing laws were sufficient. The Parliament has not yet discussed the above-mentioned motion.

141. From 1 July 2014, the Civil Code (CC)⁴⁸ will enshrine the principle that parental authority should be for the child's benefit above all else (art. 296(1), new Civil Code). The child protection authority will rule to withdraw parental authority when child protection measures prove fruitless or seem insufficient from the outset, if parents are violent towards their children. It makes no difference whether the child is a direct victim of domestic violence or an indirect one because of violence between the parents (art. 311 (1) (1), new Civil Code).

142. Preventing violence against children and adolescents is mainly down to cantons, which carry out awareness-raising campaigns (particularly on education without violence). For instance, in 2012 the specialized child protection service in the canton of Solothurn launched the campaign “Erziehung ohne Körperstrafen” (education without violence).⁴⁹ The first phase of the campaign involved informing specialists in the relevant sectors of the scale and consequences of the issue, the legal situation in Switzerland and means of reprimanding children without using corporal punishment. The second phase involved setting up specialized telephone advice for parents who hit their children or are likely to do so. From 2014, there is a plan to inform the general public (and parents in particular) about

⁴⁷ Systematic Compendium of Federal Law (RS) 312.5.

⁴⁸ Systematic Compendium of Federal Law (RS) 210.

⁴⁹ www.kinderschutz-so.ch > Dienstleistungen > Prävention > Aktuelles Schwerpunktthema: Erziehung ohne Körperstrafen (accessed on 16 May 2014).

the unlawfulness of using force (while highlighting the existence of the telephone advice service).

143. Non-governmental organizations also have prevention projects. Since 2013, The Swiss Child Protection Foundation has been preparing a national awareness-raising campaign on non-violent education. Since 2011, the Swiss National Coalition Building Institute has been carrying out a project in and outside schools entitled “Keine Daheimnisse – Erhebe deine Stimme gegen Körperstrafen und hole Hilfe!” (No smacks! No child deserves them, let’s speak out for a non-violent education),⁵⁰ which encourages people to think about the subject and communicates to children and adolescents that corporal punishment is anything but acceptable.

144. The Confederation, by virtue of the 11 June 2010 Ordinance on Protection Measures for Children and Young People and on Strengthening Children’s Rights⁵¹, can give financial assistance to national organizations that implement preventive and awareness-raising measures in the realm of child protection.

Question 24: With reference to the Committee’s preceding concluding observations (para. 17), the concerns expressed by the National Commission for the Prevention of Torture following its visits to places of deprivation of liberty and the concerns voiced by Swiss non-governmental organizations, please supply detailed information on:

(a) The steps taken to improve conditions in all places of detention in Switzerland and particularly in reception centres for asylum seekers;

145. There are plans to increase the number of places in some prisons to solve the problem of overcrowding. For instance, the prison of Brenaz in the canton of Geneva will have an additional 100 places by 2015. The Favra prison, which is also in Geneva canton, has created 30 extra places for administrative detention. The Curabilis enforcement establishment opened in spring 2014 to offer 90 places within Geneva canton. In May 2014, the new Im Schache treatment centre opened in the canton of Solothurn, and now offers 28 more places. In late June 2014, a new prison was due to open in Muttenz in the canton of Basel-Country, and will eventually replace the prisons of Arlesheim and Laufon. Both of those prisons will continue to be used for some time to tackle overcrowding. The sentence and measures enforcement establishment in Lenzbourg and the Aarau-Amtshaus district prison in the canton of Aargau, Sarnen prison in the canton of Obwalden, the prison in Saxerriet and the enforcement establishment in Bitzi (Saint Gallen canton) have all been totally renovated. Renovations are under way in the prison of Thorberg (canton of Bern), prison of Porrentruy (Jura canton) and in the Kalchrain enforcement establishment (Thurgau canton). An architecture competition will be held in the canton of Saint Gallen in 2014 for a design to extend the regional prison of Altstätten, with a view to closing the smaller prisons of Widnau, Flums, Bazenheid and Gossau.

146. Several establishments, such as the Lory youth institution in Münsingen and the prison of Thorberg (both in Bern canton), have improved access to care. The prison of Thorberg extended its treatment division and has been using dogs in that division and the integration division since spring 2013. The intercantonal prison of Bostadel (used by the cantons of Basel-Town and Zug) has also carried out improvements in this area, having hired more specialized staff and expanded its psychiatric services.

⁵⁰ [> de > Programme > Keine Daheimnisse](http://www.ncbi.ch) (accessed on 20 February 2014).

⁵¹ Systematic Compendium of Federal Law (RS) 311.039.1.

147. Staff working conditions have also improved. At Hindelbank and Thorberg in the canton of Bern, staff now have additional premises; in Bässlergut in the canton of Basel-Town, there are now more supervision and control staff.

148. Several establishments have expanded the training they offer. This is the case in Hindelbank prison and the Bern regional prison (canton of Bern), Bostadel intercantonal prison (cantons of Basel-Town and Zug) and the enforcement establishment at Kalchrain (canton of Thurgau). Many prisons are also offering more leisure activities (for instance in the cantons of Schwyz and Valais).

149. Cantons take additional staffing requirements (for instance in Basel-Town and Obwalden) and training/advanced training seriously. The canton of Graubünden draws the attention of staff to intercultural aspects, while staff in Neuchâtel canton speak several languages.

150. Free movement of prisoners is a topical issue. Some prisons have increased the duration of daily walks (Bässlergut prison in the canton of Basel-Town, and the intercantonal prison of Bostadel managed by the cantons of Basel-Town and Zug, canton of Neuchâtel). The Bässlergut prison has also increased the amount of time for which cells are open and improved contact and visiting arrangements. Similar improvements have been made in the canton of Bern (regional prison and Thorberg prison) and in the Jura canton (Porrentruy prison).

151. Since its creation in 2010, the National Commission for the Prevention of Torture (CNPT) has visited many establishments and published a report of recommendations for each visit. Generally speaking, cantons report quickly taking on board CNPT recommendations and implementing them wherever possible. Some cantons (particularly Appenzell Outer-Rhoden and Glarus) point out that architectural measures take longer to implement.

152. Registration and Procedure Centres (CEPs) are in no way places of deprivation of liberty. They allow for asylum procedures to be carried out, and are no more secure than cantonal centres for asylum seekers. Asylum seekers can move freely within the facility and leave during set hours (9.00 a.m. to 5.00 p.m. Monday to Friday; 9.00 a.m. Friday to 7.00 p.m. Sunday at weekends). They are not restricted to a certain radius when they go out. Failure to return on time may result in disciplinary sanctions. The details are governed by the Ordinance of the Federal Department of Justice and Police on the Operation of Confederation Accommodation in the Sphere of Asylum of 24 November 2007.⁵² Applicants can leave CEPs when they wish if they do not intend to continue applying for asylum. The two relevant judgements of the European Court of Human Rights (ECtHR) refer to another legal situation. The *Amuur* versus *France* case raises the question of an applicant's arrest in an airport transit zone. Under Swiss law, such an arrest is categorized as deprivation or restriction of freedom and must be submitted to a judge for assessment (art. 22(4) of the Federal Asylum Act (LAsi)). In *Saadi* versus *the United Kingdom*, the authorities apparently ordered a detention at the preparatory stage (detention with a view to extradition) during the asylum procedure (without grounds for detention).

(b) The steps taken to ensure that the following categories of persons are held in separate detention facilities or areas: (i) minors and adults, (ii) women and men, and (iii) convicted prisoners and persons being held in pretrial detention.

⁵² Systematic Compendium of Federal Law (RS) 142.311.23.

153. (i) Article 28 of the Federal Act on Juvenile Criminal Procedure (PPMin)⁵³ enshrines the separation of children and adults in pretrial detention and detention for security reasons. Cantons had 10 years from the entry into force of the Federal Act on Juvenile Criminal Law (DPMIn)⁵⁴ to set up the necessary establishments (art. 48, Federal Act on Juvenile Criminal Law). This period expires on 31 December 2016. Most cantons are already meeting this requirement. They have created divisions reserved for young people in normal establishments (as in the canton of Nidwalden), or establishments for young people (such as the Platanenhof Youth Institute in the canton of Saint Gallen, Pramont Secure Educational Centre in the canton of Valais and the Aarbourg Youth Institute in the canton of Aargau). A new children's establishment, Aux Léchaires, opened in Vaud canton in spring 2014. Some cantons fail to separate adults and young people but only for short sentences and when absolutely necessary.

154. (ii) Switzerland does detain men and women separately. Women stay in separate sections of the same establishment or in their own establishments (such as the Hindelbank prison in the canton of Bern). There are exceptions linked to capacity problems, but even in such cases steps are taken to ensure that sentences and measures are enforced in a suitable way and separate from men.

155. (iii) Article 234 (1) of the Code of Criminal Procedure (CPP) enshrines the separation between pretrial detention and detention for security reasons. Most cantons fulfil this requirement. However, unlike the requirements listed in i) and ii), the large number of prisoners and the architecture of prisons makes this more of a challenge for cantons. In small cantons, the strict separation types end up leading to solitary confinement for some during their free time or work. Cantons are making efforts to achieve a stricter separation based on detention type. For instance, 450 additional places are planned in the canton of Geneva by 2017. The canton of Zurich intends to reorganize its prisons in 2014. A prison with 300 places (Polizei – und Justizzentrum) is planned.

Question 25: In its preceding concluding observations (para. 18), the Committee noted with concern that article 123a of the Constitution, which is referred to in the Act of 1 August 2008, permits the imposition of a sentence of life imprisonment for dangerous or sexual offenders deemed to be incorrigible. Please provide information on the steps taken to review the manner in which this article is applied and to examine the conditions in which such prisoners are held. In this connection, also please inform the Committee of the outcome of the inquiry conducted into the death of Skander Vogt.

156. The ordinance of 26 June 2013 of the Federal Commission tasked with judging the possibilities of treating people serving a life sentence⁵⁵ entered into force on 1 January 2014. The Federal Council set up the Commission on 14 May 2014. In accordance with article 64c (1) of the Criminal Code, this independent commission examines, at the request of the relevant sentence and measures enforcement body, if new scientific knowledge could enable the perpetrator to be treated in order to no longer represent a danger for the public. If the enforcement authority concludes that the perpetrator can be treated, then treatment will be offered in a secure establishment (art. 64c (2), Criminal Code). If the treatment has significantly reduced the danger posed by the perpetrator, and the danger can be further reduced so that the person no longer poses a threat to the public, then the judge lifts the life imprisonment and orders therapeutic measures in a secure establishment (art. 64c (3), Criminal Code).

⁵³ Systematic Compendium of Federal Law (RS) 312.1.

⁵⁴ Systematic Compendium of Federal Law (RS) 311.1.

⁵⁵ Systematic Compendium of Federal Law (RS) 311.039.2.

157. On 2 February 201, the Committee of Nine of the Conference of Directors of Cantonal Justice and Police Departments (CCDJP) decided to set up a working group to tackle the issues of accommodation, treatment and monitoring of criminals with psychiatric disorders. The working group was set up to include representatives from sentence enforcement institutions and the Federal Justice Office, as well as doctors. Since then, the working group has established standards for the monitoring and treatment of prisoners with psychiatric illnesses.

158. In a judgement of 22 November 2013,⁵⁶ the Federal Court stated what it meant by “lastingly incorrigible” (see article 64 (1) *bis*, (c), Criminal Code). In contrast with the previous body, which considered that around 20 years was enough to be “lastingly” incorrigible, the Court stated that only a person that can effectively access no treatment during his/her lifetime could be imprisoned for life. According to the Court, life imprisonment applies to people who put society at risk for an unlimited period of time. The Court stated that such a limit does not come from legal texts or their history. The Court’s judgement underlined the absolutely exceptional nature of life imprisonment.

159. Claude Rouiller, former federal judge, who was placed in charge of the investigation into the death of Skander Vogt, made the following recommendations:

- On the subject of the imprisonment of Alexandre Vogt and its extension of 12 years in total: the goal of imprisonment is to ensure public safety and also one of resocialization. Those in charge should bear in mind that the two aims only appear to be contradictory. Cantons should set up, as soon as possible, specialized institutions. In order to respond to the goal of treatment, prison staff must have better information on those they are looking after every day;
- Special regime: tightening of the regime (lockdown, individual cells) should take account of proportionality. This does not only apply to the duration of such measures, but also to the conditions of detention (in cells, for instance). Where appropriate, the disciplinary mechanism applied in sentence and measures enforcement should be reviewed;
- Information and additional training for prison staff: staff should be informed in a transparent, clear and regular way on the standards and rules applicable in enforcement. Staff should also be more aware of prisoners’ rights to be treated with respect and dignity. This principle also applies to information and training on technical auxiliary means. They should be regular simulations of emergency situations;
- Plaine de l’Orbe Prisons staff: more staff (night watchmen) are needed, as well as a supervisor permanently on the premises. There is no point organizing a guard service without supervision if the stand-by official does not know the establishment well (number of prisoners, regimes, location, architecture, staff and so on);
- Guidelines and regulations: current guidelines should be checked and compared against counterpart establishments in Switzerland. The aim is to make them as simple as possible. All employees in an establishment should receive a copy of guidelines, or the latter should be accessible to everyone. The rules must also be explained. It is important for staff to understand the substance of their job and the meaning of the rules, in order to show initiative in exceptional circumstances (rather than following the rules blindly);

⁵⁶ Federal Court judgement 6B 93/2013.

- Use of external auxiliary staff: the Rapid Action and Deterrent Squad (DARD) does not have a permanently staffed night unit. Police officers are called at home, which can take longer than a daytime intervention. When the Rapid Action and Deterrent Squad is called, it should be able to tell people in the field a time frame for its intervention, so that the latter can react accordingly. It may also be worth considering setting up an internal intervention team;
- Collaboration between sentence enforcement and doctors: the different rationale that each group has for or against an intervention cannot be tolerated in this kind of event. Those in charge in the various domains must know what to do when.

160. The canton of Vaud took note of all these recommendations and has implemented many of them.

Question 26: In the light of its preceding concluding observations (para. 24) and those of the Committee on Economic, Social and Cultural Rights, {§13} please furnish a thorough assessment of the situation of unaccompanied minors seeking asylum in Switzerland. Please also describe any and all measures adopted to prevent the disappearance of unaccompanied minors and to improve the level of protection afforded to them.

161. Cantons have reception centres to house families and unaccompanied minors while their asylum application is considered. They often provide collective accommodation for unaccompanied minors, whatever their status. Some children are housed with families, and all receive schooling.

162. The Unaccompanied Juvenile Asylum seeker (RMNA) has a summary hearing at the Registration and Procedure Centre, and his/her status as a minor is evaluated at the start of the asylum procedure. If the person is found to be a minor, legal representation will be appointed by the relevant canton. Any suspicion of human trafficking can be raised by the Federal Office for Migration (ODM) or the cantonal tutorship authorities. In the event of doubts, the person responsible for such issues at the Federal Office for Migration is immediately informed. To date, the Federal Office for Migration has not had the cantonal authorities informing it of possible human trafficking involving minors.

163. In practice, Unaccompanied Juvenile Asylum seekers (RMNAs) are very well supported once they have been assigned to a canton (legal representative, possible statutory representative specializing in issues relating to Unaccompanied Juvenile Asylum seekers, social workers, host family, school teacher/apprentice supervisor and so on). Therefore, the disappearance in Switzerland of an Unaccompanied Juvenile Asylum seeker (whose status as a minor is not questioned by the authorities, in other words who is considered to be a genuine minor) remains extremely rare.

164. The canton of Solothurn has set up a guardian for Unaccompanied Juvenile Asylum seekers, although there is nothing to suggest a link between the disappearance of Unaccompanied Juvenile Asylum seekers and human trafficking or other forms of exploitation.

Other issues

Question 27: Please provide up-to-date information on the measures adopted by the State party to guard against terrorist threats and indicate whether or not such measures have undermined the effectiveness of human rights safeguards, in law or in practice, and, if so, how. Also indicate how the State party ensures that antiterrorism measures do not conflict with the fulfilment of its obligations under international law

and particularly under the Convention, in accordance with relevant Security Council resolutions, including, in particular, resolution 1624 (2005). Please describe the training given to law enforcement officers, the number of convictions handed down under antiterrorism laws, and the nationality of the persons convicted under those laws and the offences concerned. Describe the legal safeguards and remedies available to persons subject to antiterrorism measures, in law and in practice. Also indicate whether or not there have been complaints of non-observance of international standards and, if so, what their outcome has been.

165. Switzerland has ratified the main convention protecting human rights and combating terrorism. The ratification procedure is currently under way for the International Convention for the Protection of all Persons from Enforced Disappearance (which was signed by Switzerland on 19 January 2011). On 11 September 2012, Switzerland signed the Council of Europe Convention on the Prevention of Terrorism of 16 May 2005. Switzerland has also concluded bilateral police cooperation agreements with several States (including cooperation to combat terrorism).

166. Switzerland respects human rights in its fight against terrorism, in accordance with the Constitution and the obligations under international law to which it has committed. In particular, it respects the right to a free trial, freedom of opinion, protection of the private sphere and protection against refoulement of a person towards the territory of a State where there is a risk or torture or any other cruel or inhuman treatment or punishment.

167. Everyone benefits from the guarantees of criminal procedure in Switzerland, irrespective of the stage of inquiry. A presumed terrorist is an ordinary defendant, with all the rights of procedure and appeal.

168. Switzerland also protects the freedom of opinion and the private sphere in a digital world. A new Act on the intelligence services is currently being drafted. The bodies responsible for applying the Act will have to respect the framework established by the Constitution and international conventions.

169. In operational terms, between 2011 and 2013 Switzerland received about 20 requests for arrest and extradition involving terrorism from various States. Before a person can be extradited, Switzerland carries out a detailed analysis of risk whenever the person invokes the danger of being subjected to torture or inhuman or degrading treatment, or if required by particular circumstances or the general situation of human rights in the country concerned.

170. As for the financing of terrorism, in 2012 the Money Laundering Reporting Office (MROS) received 15 messages from financial intermediaries about suspected terrorist funding. Of these, 14 were forwarded to a criminal prosecution authority. One of the messages led to a decision of non-consideration as the initial suspicions were not confirmed. The 13 other cases led to the opening of proceedings for money laundering, belonging to a criminal organization or other criminal offences.

171. As stated above, criminal proceedings follow the same procedures against people suspected of terrorism. During 2012 for instance, the Confederation's Public Prosecutor opened a criminal investigation into suspected support of a criminal organization linked to terrorism, following the arrest by foreign anti-terrorism police of a Jordanian national resident in Switzerland.

172. In 2012, Swiss police authorities continued their investigations to combat online jihadism. The Federal Police Office (Fedpol) handed down 23 bans on entering Swiss territory in 2012 against people active in terrorist or extremist circles.

173. In accordance with its Constitution and its obligations under international law, Switzerland applies Security Council resolution 1624 adopted in 2005.

174. At the national level, the authorities are required to respect human rights and help enforce them. Any restriction of fundamental rights requires a legal basis, must be justified by the public interest and must be proportionate. The essence of fundamental rights is non-derogable. Any person whose rights have been violated can contact Swiss courts. The European Court of Human Rights (ECtHR) in Strasbourg is authorized to handle applications regarding Switzerland.

175. At the international level, Switzerland commits to cooperation with other States in the spheres of the police, criminal proceedings and intelligence being carried out with respect for human rights and the central role of the United Nations. The United Nations strategy defines the outline of Swiss commitment to combating terrorism. Within federal administration, the Federal Department of Foreign Affairs (DFAE) is tasked with coordinating the fight against terrorism with other States and chairing the interdepartmental working group against terrorism. The latter ensures that all federal administration units follow the overall approach, particularly in terms of respecting the fourth pillar (namely guaranteeing the respect for human rights in the fight against terrorism).

176. As 2014 President of the Organization for Security and Co-operation in Europe (OSCE), in April Switzerland organized an international conference on the fight against terrorism, and focused discussions on the issue of kidnapping for ransom; lawfulness, transparency and responsibility in fighting terrorism; and the issue of foreign fighters.

177. For nearly 10 years, Switzerland has been working on ensuring that people affected by United Nations Security Council sanctions have their procedural rights respected. On 17 December 2009, the Security Council adopted a resolution providing for the creation of a mediator role for people affected by sanctions against Al-Qaida to contact. This solution takes better account of individual rights at the international level and legitimizes the sanctions system. Switzerland continues to strive for improvements in procedural law.

178. There are no accurate statistics on complaints for failure to respect international rules, as Switzerland knows of no specific criminal procedure governing anti-terrorism. The general rules of the Code of Criminal Procedure apply. More generally, it is worth mentioning the Nada case in relation to the implementation of United Nations resolutions. The Grand Chamber of the European Court of Human Rights (ECtHR) delivered a judgement on 12 September 2012 in the case of Nada versus Switzerland (request No. 10593/08). The Court unanimously found that, in its implementation of United Nations resolutions to combat terrorism, Switzerland had violated the European Convention on Human Rights. The restrictions on Mr. Nada were entirely lifted in September 2009, after his name was removed from the list of Security Council sanctions. Switzerland paid the applicant 30 000 euros for costs and expenses.

179. In terms of the training of law enforcement agents, please refer to the answer to question 12 on the same subject.

General information on the human rights situation in the country, including new measures and developments relating to the implementation of the Convention

Question 28: Please provide detailed information on any new developments since the consideration of the last periodic report and the submission of responses to the corresponding concluding observations in relation to the legal and institutional

framework for the promotion and protection of human rights at the national level, including any relevant court decisions.

180. Most information on developments in the legal and institutional framework for human rights is already provided above (for instance, the answer to question 3 on the Swiss Resource Centre for Human Rights (CSDH)). The relationship between human rights enshrined in international law and certain rules under domestic law was dealt with in relation to the bill on a new form of expulsion provided for in the Criminal Code (see answer to question 10).

181. More generally, the Federal Council has noted that there could be compatibility problems between popular initiatives, international law and the Federal Constitution. The Council considers that the issue of compatibility between domestic law (particularly popular initiatives) and international law is as topical. To date, several solutions have been considered. The Government has tasked the administration with continuing its reflections, with a view to submitting its proposals for consensual solutions.

182. Another new development is the creation of the National Commission for the Prevention of Torture (CNPT) on 1 January 2010. The National Commission for the Prevention of Torture publishes its visit reports and activity reports online.⁵⁷ In addition, the CPT visited Switzerland from 10 to 20 October 2011. Its report and the Government's response are also available online.⁵⁸

183. Lastly, on 27 September 2013, Switzerland adopted a Federal Act on the Provision of Private Security Services Abroad (LPSP). The Act aims to prevent security enterprises established in Switzerland from carrying out activities likely to encourage serious human rights violations, such as torture. They will not be able to operate a prison in a country known to practise torture.

Question 29: Please provide detailed information on any new political, administrative and other measures taken since the consideration of the last periodic report and the submission of responses to the corresponding concluding observations for the purpose of promoting and protecting human rights at the national level, including any national human rights plans or programmes, the resources allocated for them, and their objectives and results.

184. In 2012, the Swiss Resource Centre for Human Rights (CSDH) carried out an initial study to coordinate the implementation of international human rights recommendations, which itself came up with various recommendations. On 5 March 2013, the Swiss Resource Centre for Human Rights invited representatives from the Confederation, cantons and civil society to debate the results of the study. On the basis of these discussions and subsequent work, the Swiss Resource Centre for Human Rights prepared a second study presented in October 2013 containing more concrete proposals for report procedures and the implementation of recommendations. In January 2014, a session was held where Confederation and canton representatives assessed the proposals aimed at determining the extent to which procedures can be harmonized and coordinated.

Question 30: Please provide any additional information, including relevant statistics, on any new measures and initiatives undertaken in order to implement the Convention and give effect to the recommendations made by the Committee following its consideration of the preceding periodic report and its receipt of the State party's

⁵⁷ [> Documentation > Rapports](http://www.cnpt.admin.ch) (accessed on 7 May 2014).

⁵⁸ [> Français > États > Suisse](http://www.cpt.coe.int) (accessed on 7 May 2014).

responses to its concluding observations, as well as on any other events that have occurred in the State party that are relevant to the Convention.

185. In recent years, cantons have invested in responding to the requirements of the Committee against Torture, the CPT and the National Commission for the Prevention of Torture (CNPT). There are certain points that need to be raised that have not yet emerged in the responses to questions so far.

186. Several cantons have emphasized staff training (as in the cantons of Obwalden, Aargau and Saint Gallen). The canton of Solothurn placed special emphasis on immigration, by reminding all police officers of the importance of human rights in their daily work. The canton of Zug added several practical training modules to its training on police tactics, without neglecting psychological aspects. Police officers in Zug now have training on reacting appropriately during interventions and behaving proportionately.

187. The canton of Aargau focused on suicide prevention in district prisons, and made some changes to cells (such as smoothing sharp edges of furniture).

188. The canton of Schwyz is devising ways of optimizing the intervention measures of the authorities, and is gradually introducing a complete threat management system to recognize dangerous developments in violence (domestic or other) and to adopt targeted and coordinated measures.

189. The state council in the canton of Zurich instructed the canton's Public Prosecutor to prioritize protection and the fight against violence for the period 2012 to 2015, with the following objectives:

- To raise the population's awareness and to encourage people to report their observations on preparations to commit offences (prevention through early warning);
- To encourage interdisciplinary collaboration between the authorities and specialized departments;
- To critically examine the legal framework;
- To set up a specialist committee to assess seriously dangerous or urgent situations.

190. The canton of Ticino launched the project "in-Oltre", which enables teachers from general and vocational public schools to provide a wide range of lessons to prisoners. The service is highly successful, with almost 80 per cent of prisoners in La Stampa prison attending one or more lessons.
