

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

**Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/CHE/CO/7)**

SWITZERLAND

(...)

C. Principal subjects of concern and recommendations

(...)

Police violence

10. The Committee is concerned at information received to the effect that alleged cases of excessive use of force and of racist behaviour by the police and immigration services are not systematically reported to the authorities, even where there is medical evidence of injury. It also notes with concern the reports indicating the lack of prompt and effective investigations, as noted by the European Court of Human Rights in the case of *Dembele v. Switzerland* (2013). In this regard, the Committee finds it regrettable that the State party has not yet established an independent body to investigate individual cases, despite the Committee's repeated recommendation in its previous concluding observations (see CAT/C/CR/34/CHE, para. 4 (g), and CAT/C/CHE/CO/6, para. 9). The Committee also finds it regrettable that the State party has not provided adequate statistical data at the national level concerning allegations of violence and ill-treatment by law enforcement officers. With regard to the data relating to the cantons of Geneva, Vaud and Zurich, it notes with concern that a large number of cases were discontinued and that, in the few cases that resulted in penalties being applied, these were only disciplinary sanctions (arts. 2, 12, 13 and 16).

The Committee urges the State party to:

(...)

(b) Ensure that medical reports of injuries indicating ill-treatment are sent without delay to the independent mechanism responsible for carrying out a thorough examination;

(...)

Non-refoulement

13. The Committee notes the information provided by the State party indicating that an assessment of the risk of violation of the principle of non-refoulement is made in each case. However, the Committee is concerned at reports that the assessment does not take proper account of information concerning the situation in the country of

origin. In this regard, the Committee notes with concern the allegations that two Tamils who were forcibly returned to Sri Lanka were subjected to torture, and notes the State party's undertaking to bring them back to Switzerland and to discontinue returns to Sri Lanka. Lastly, the Committee is concerned at reports to the effect that extradition is sometimes carried out only on the basis of diplomatic assurances provided by the country of origin and that, according to information received, those assurances do not appear to have been honoured in some cases (art. 3).

The State party should under no circumstances expel, return or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture. The Committee recalls that it has adopted the position that under no circumstances should a State party regard diplomatic assurances as being a safeguard against torture or ill-treatment when there are substantial grounds for believing that a person would be in danger of being subjected to torture upon his or her return. The State party should thoroughly consider the merits of each individual case, including the overall situation with regard to torture in the country of return. It should put in place effective post-return monitoring arrangements for use in the event of refoulement and ensure that returned persons receive protection, re-entry and reparation in the event of torture or ill-treatment as a result of decisions on return or extradition, in accordance with article 14 of the Convention.

(...)

Unaccompanied asylum-seeking minors

18. The Committee shares the concerns of the Committee on the Rights of the Child regarding reception conditions for asylum-seeking minors, who are sometimes accommodated in military bunkers (see CRC/C/CHE/CO/2-4, para. 69 (f)). The Committee is also concerned at the fact that there are no persons of confidence or legal advisers present at hearings for unaccompanied minors during the asylum procedure. Lastly, the Committee notes with concern that 44 asylum procedures for unaccompanied minors were discontinued in 2014 because the minors disappeared from their reception centres (arts. 3, 12 and 16).

The Committee invites the State party to:

- (a) Ensure that reception conditions for asylum-seeking minors are appropriate to their status as minors;**
- (b) Honour its commitment to ensure that persons of confidence and legal advisers are present at all hearings for unaccompanied minors;**
- (c) Make thorough inquiries into the disappearance of unaccompanied minors staying at reception centres, identify them and launch a search for them, as they could have become victims of trafficking.**

Prison conditions

19. The Committee is concerned about overcrowding at Champ-Dollon prison, which prompted the Federal Tribunal to confirm in 2014 that detention conditions in that prison could amount to degrading treatment. The Committee also notes with concern that ethnic tensions between prisoners in the prison led to three days of clashes in February 2014 that left 26 prisoners and 8 wardens injured. As to pretrial detention, the Committee notes the State party's undertaking to apply a less restrictive prison regime to those awaiting trial. However, it remains concerned that strict separation between women and men is not yet guaranteed at Champ-Dollon, and that the same applies to the separation between minors and adults in most regional prisons, where children are not adequately catered for. As to prisoners' access to health care, while the Committee takes note of the forthcoming Swiss Prison Health Board report, it urges the State party to resolve the issue of unequal access to health care in the different cantons, particularly in respect of persons with mental disorders. In this respect, the Committee agrees with the conclusions of the National Commission for the Prevention of Torture regarding solitary confinement for persons with mental disabilities, with no possibility of therapy, in high security facilities. Lastly, the Committee notes with concern that, according to an evaluation by the Federal Tribunal in July 2014, the physical conditions of police detention in the canton of Vaud amount to degrading treatment given the unreasonable length of detention (arts. 11 and 16).

The Committee recommends that the State party pursue its efforts to improve prison conditions as a matter of urgency, in accordance with the recommendations of the National Commission for the Prevention of Torture, and, in particular, that it:

(e) Make thorough and impartial inquiries into all acts of violence committed in prison facilities and continue its efforts at prevention of violence in Champ-Dollon;

(...)

Follow-up procedure

22. The Committee requests the State party to provide, by 14 August 2016, information on its follow-up to the Committee's recommendations as contained in paragraph 10, on police violence, particularly subparagraph (b), on the need to send medical reports of injuries indicating ill-treatment to the independent mechanism responsible for examining them; paragraph 13, on the principle of non-refoulement; paragraph 18, on unaccompanied asylum-seeking minors; and paragraph 19, on prison conditions, particularly subparagraph (e), on the need to make inquiries into all acts of violence committed in prison facilities.

(...)