

# Switzerland

**NGO PROGRESS REPORT**  
**ON THE FOLLOW-UP OF THE CONCLUDING**  
**OBSERVATIONS**  
**(CCPR/C/CHE/CO/3)**

## NGOs submitting the report:



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With the support of:



**Paragraph 10**

The Committee regrets that the Federal Commission against Racism does not have a mandate to initiate legal action on complaints of racial discrimination and incitement to racial hatred. (art. 2, 20, 26)

Committee recommendations	Measures taken on a federal level	Further steps needed	Other statements by NGOs
<p>As previously recommended by the Committee, the state party should consider strengthening the mandate of the Federal Commission against Racism to investigate all cases of racial discrimination and incitement to national, racial or religious hatred, or to create an independent mechanism with the competence to initiate legal action in this respect.</p>	<p>The mandate of the Federal Commission against Racism (FCR) has not been modified. The Federal Council established a specialised “Competence Centre for Human Rights” at the University of Bern in cooperation with the universities of Fribourg, Neuchâtel and Zurich. But this service centre lacks, among other things, a mandate to independently monitor the human rights situation.</p>	<ul style="list-style-type: none"> <li>• The Federal Council strengthen the mandate of the Federal Commission against Racism to investigate cases of racial discrimination.</li> <li>• The Federal Council strengthen the mandate and the resources of the FCR to enlarge activities in providing legal assistance for victims of racial and religious discrimination.</li> <li>• During the planned 4 year pilot measures should be taken to transform the “Competence Centre” into a true human rights institution in accordance with the Paris Principles.</li> </ul>	
<p>Furthermore, the state party should increase its efforts to promote tolerance and cultural dialogue among the population.</p>	<p>Numerous measures are taken on different levels to integrate foreigners but only few to promote tolerance among the dominant “majority society”.</p>		<ul style="list-style-type: none"> <li>• The discussion on the initiative on the expulsion of foreign criminals which, in November 2010, gained the majority of votes in a plebiscite showed an increasing xenophobic attitude in Switzerland. This attitude is promoted by the fact that contrary to the past, anti-constitutional initiatives are submitted to the vote of the population and politicians with racist opinions are getting a platform by the campaigns preceding these votes.</li> <li>• On a federal level, budgets for the prevention of racial problems and racist acts have remained at a low level for several years now.</li> </ul>

			<ul style="list-style-type: none"><li>• In Switzerland there is no effective legal protection for victims of discrimination according to article 2 of the CCPR and no possibility to oppose injustice – in particular in the fields of work, housing and services (see also Concluding Observation of the Committee on Economic, Social and Cultural Rights, 26 November 2010, par. 7 at <a href="http://www.humanrights.ch/home/upload/pdf/101123_Sozialpakt_Concluding_Obs_Switzerland.pdf">http://www.humanrights.ch/home/upload/pdf/101123_Sozialpakt_Concluding_Obs_Switzerland.pdf</a>)</li></ul>
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**Paragraph 14**

The Committee voices its concerns about reports on violent treatment of arrested or detained persons and, in particular, asylum-seekers and migrants. There are concerns about lacking possibilities to file independent complaints against the police in most cantons. In this respect, the Committee states that the possibility of filing a complaint before a court should eliminate the creation of such mechanisms. The Committee also voices its concerns about the generally low rate of minorities represented in the police force, despite the high percentage of minorities in the population in general. (art. 7)

Committee recommendations	Measures taken on a federal level	Further steps needed	Other statements by NGOs
The state party should ensure that all cantons create independent authorities possessing the right to effectively investigate into all complaints of excessive use of force, ill-treatment or other abuse by the police and take the necessary legal steps.	None.	Switzerland decided on standardised criminal law proceedings in 2007 (SR 312.0) effective as of 1 January 2011. As an amendment, the Federal Council should now propose to add to this law an obligation for all cantons calling for the establishment of an independent investigation authority and/or a special public prosecutor's automatically taking action in cases of police brutality.	Some cantons established "round tables" Although this can be of help it is no "independent" investigation mechanism whatsoever. The problem of "round-tables" is that only a small delegation of the corps and not even the whole direction is present and that the general impact of these round-tables is not measurable. We don't even know how large the information is spread inside the corps.
All perpetrators should be prosecuted and punished, and victims compensated.			The problems are still the same: Accused police members are still systematically protecting themselves against complaints and/or criminal proceedings by filing a counter complaint against the resisting victims. Therefore, fallible police officers are practically never punished. Proceedings take very long and for the victims they are very burdensome and incriminating. Many foreign nationals don't even have access to the penal complaint. In the joint case, the abuse has largely been committed by a private security-firm, but the police officers were also involved because they covered the members of this firm and partially, they also committed abuse instead of accepting complaints. (See added letter)
The state party should create a national statistical database on complaints lodged	None.	The Federal Government has to take steps for installing a national	In addition to the unwillingness of politicians or responsible authorities to spend the money

<p>against police forces.</p>		<p>statistical database on complaints lodged against the police.</p>	<p>on this issue, there also lacks the will and motivation to introduce a national database.</p>
<p>The state party should also increase its efforts to ensure that minorities are adequately represented in the police forces.</p>	<p>In some cantons there is a discussion on the recruitment of foreigners with a permanent permit of residence (permit C). The canton of St. Gallen, for example, opposes this idea.</p>	<p>At least the KKJPD (Conference of Cantonal Directors of Justice and Police) should further the idea.</p>	<p>During the last year, some minority members have been recruited but only few corps have a real strategy to recruit minority members. The Swiss People's Party SVP announced in the last few days an intervention in the federal parliament with the aim to prohibit the recruitment of Non-Swiss-Nationals.</p>

**Paragraph 18**

The Committee takes note of the information that asylum-seekers are duly informed of their right to legal assistance and that free legal assistance is provided during the ordinary asylum procedure. It is concerned, however, that free legal assistance may be subject to restrictive conditions when asylum-seekers file an application in the framework of the extraordinary procedure. (art. 13)

Committee recommendations	Measures taken on a federal level	Further steps needed	Other statements by NGOs
<p>The state party should review its legislation in order to grant free legal assistance to asylum-seekers during all asylum procedures, whether ordinary or extraordinary.</p>	<p>No change.</p> <p>A proposal by the Federal Council suggesting a – minimal - provision of free legal counselling was refused by the parliament in November 2010.</p>	<p>The Federal Council develops a new proposal to guarantee free legal counselling during all asylum procedures.</p> <p>The authorities and courts should change their restrictive interpretation of the constitutional right to free legal assistance.</p>	<p>Free legal assistance is fundamentally guaranteed by the Federal Constitution (Article 29) under certain conditions, but in the case of asylum seekers, this guarantee is interpreted restrictively and requests in this vein fail regularly at the hurdle of the likelihood of the case to success and the need for legal counsel. In fact, without the assistance by charities and other nongovernmental organizations most asylum seekers could not appeal against a negative decision. For asylum seekers, as for other foreign nationals (for example those in detention awaiting deportation) even an access to legal counsel proves to be very difficult in many cases. The fact that in Switzerland there exists <i>only one appellate level</i> in asylum law, in comparison to other branches of law and other European states, the lack of sufficient legal counselling constitutes a huge problem and often leads to insufficient outcome, because the asylum seeker simply does not reach the legal councillor timely. Because of the fact that there exists only one appellate level, it should be obvious that the right to appeal, right to legal counselling and effective remedy should be more effectively provided by the State.</p> <p>The proposition of the Swiss Federal Council, which has been stopped by the parliament, is far away from a real free legal assistance. NGO's are actually involved in discussions leading to a more effective solution.</p>