



General Assembly

Distr.
GENERAL

A/HRC/WG.6/2/CHE/3
3 April 2008

ENGLISH
Original: ENGLISH/FRENCH

HUMAN RIGHTS COUNCIL
Working Group on the Universal Periodic Review
Second session
Geneva, 5-16 May 2008

**SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF
THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1**

Switzerland*

The present report is a summary of seven stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The periodicity of the review for the first cycle being four years, the information reflected in this report mainly relates to events that occurred after 1 January 2004.

* The present document was not edited before being sent to the United Nations translation services.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

1. A coalition of 30 non-governmental organizations (NGO Coalition) emphasized that Switzerland should ratify the Optional Protocol to the International Covenant on Civil and Political Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities.²
2. The Swiss League for Human Rights (LSDH) and the International Federation for Human Rights (FIDH) mentioned that, although Switzerland had taken the lead during the negotiation and adoption phase of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the ratification procedure was progressing very slowly. Switzerland signed the Optional Protocol in 2004 and a bill on its ratification and the creation of a federal prevention commission was submitted by the Federal Council in 2006. LSDH and FIDH noted that the bill did not provide for the creation of a permanent secretariat³ and recommended that the Protocol should be put into effect, not least by establishing a permanent secretariat and committing the necessary resources for operating the national preventive mechanism.⁴

B. Constitutional and legislative framework

3. The NGO Coalition reported that the federalist system posed serious obstacles to the coordinated and consistent realization of human rights. Although the Confederation is responsible for ratifying treaties, it is principally the cantons that put them into effect. Such structural complexity therefore warrants specific measures at the national level to ensure effective implementation of treaties, yet according to the NGO Coalition, the political authorities shy away from recognizing the need to adopt such measures, thus hindering the emergence of a genuine national human rights policy. The NGO Coalition added that, in Switzerland, the Federal Court does not monitor the constitutionality of federal laws.⁵ The NGO Coalition argued strongly that any law adopted by Parliament should be subject to such monitoring to ensure their conformity with Switzerland's international obligations, as required by article 190 of the Federal Constitution.⁶
4. According to the NGO Coalition, the Constitution recognizes the majority of economic, social and cultural rights as social goals and not as justiciable fundamental rights. It noted that the Federal Court had on numerous occasions found that the International Covenant on Economic, Social and Cultural Rights was not directly applicable and that the victims of violations of Covenant rights could not obtain reparation. That position also explains why Switzerland is not party to the revised European Social Charter, which enshrines, among other rights, the right to housing and the right to protection from poverty and social exclusion.⁷ The NGO Coalition recommended that Switzerland should recognize economic, social and cultural rights as justiciable rights and not as social goals, and take the necessary legal measures to make them applicable.⁸
5. The NGO Coalition maintained that, in accordance with article 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Swiss legislation should be amended to allow torture to be made a specific offence in domestic legislation, since criminal law does not explicitly prohibit it.⁹

C. Institutional and human rights infrastructure

6. The NGO Coalition reported that, despite the recommendations of various United Nations treaty bodies, Switzerland's commitment to implementing the 1993 Vienna Declaration and Programme of Action and initiatives adopted by the Parliament, Switzerland has not yet established a national human rights institution in conformity with the Paris Principles.¹⁰ According to the NGO Coalition, Switzerland could substantially enhance its human rights performance if it instituted a genuine, independent national human rights institution, with sufficient resources to make good the considerable institutional gaps in implementing human rights. It would allow monitoring of the human rights situation and improved coordination between the various institutional levels, and would help promote a coherent and credible approach to Swiss policy in this field.¹¹

7. The Council of Europe's Commissioner for Human Rights (CoE CHR) recommended that the Swiss authorities promote the appointment of ombudspersons in cantons (and towns) and give them the powers and resources they need, among other things, to assist prison inmates and asylum-seekers; reconsider favourably, within a reasonable time, the appointment of a federal ombudsperson; and set up an independent national institution for the protection of human rights.¹² The State provided comments to these recommendations.¹³

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

8. The NGO Coalition noted that the recommendations of United Nations treaty bodies have not been officially published by the authorities. Statistical data on various human rights issues is still seriously lacking, according to the NGO Coalition, making it difficult to form a proper picture of the human rights situation in Switzerland and efforts to improve human rights.¹⁴ It stressed that recommendations by the bodies responsible for the treaties to which Switzerland is a party should be incorporated into national plans of action and regularly followed up.¹⁵

B. Implementation of international human rights obligations

1. Equality and non-discrimination

9. According to the NGO Coalition, the legal framework on discrimination remains ineffectual. Not only is there no federal law prohibiting all discriminatory practices, but Switzerland also maintains its reservation to article 26 of the International Covenant on Civil and Political Rights, thereby limiting the scope of the general principle of non-discrimination to only those rights guaranteed under the Covenant. Furthermore, Switzerland maintains its reservations to articles 2, paragraph 1 (a), and 4 of the International Convention on the Elimination of All Forms of Racial Discrimination.¹⁶ The NGO Coalition recommended that the legislative framework on discrimination should be reinforced by the introduction of a federal law prohibiting discriminatory practices.¹⁷

10. The NGO Coalition reported that at the institutional level there is still insufficient promotion of equality between men and women. There have been hefty budget cuts and the powers of the special federal and cantonal equality offices have been curtailed. Attempts to integrate gender mainstreaming at the administration and policy level sometimes has perverse effects, according to the NGO Coalition; for example, the discontinuation of some measures to help women.¹⁸

The NGO Coalition noted that routine discrimination against women continues, principally with regard to their position on the labour market: this is partly a result of discrimination in training, but is also due to direct discrimination. Women continue to be underrepresented at senior levels. In terms of wage discrimination, Switzerland ranks fortieth in the world, with women's pay for equal work as much as 23 per cent lower than men's.¹⁹

11. Migrant women are often subject to dual discrimination because of their status as foreign nationals and women, according to the NGO Coalition. This is particularly true for women who have no legal status, or whose residency status is insecure or linked to their husband's: there is little chance their fundamental rights will be respected, and they risk deportation if they report any violence that they have suffered (sexual violence, trafficking of women and domestic violence). The NGO Coalition emphasized that it is problematic from a human rights point of view that the Foreign Nationals Act is given precedence over the protection of the victims of violence.²⁰ The CoE CHR recommended the Swiss authorities to abolish the rule that an alien who leaves the home of a violent Swiss spouse, or turns to the social services for help, forfeits the B permit.²¹

12. The NGO Coalition reported that persons of foreign origin and marginalized persons (in particular the unemployed and those receiving social benefits) are regularly stigmatized in campaigns run by certain political parties to highlight abuses. The Government, which should be leading the way in combating such practices, has taken no substantial steps to do so, according to the NGO Coalition.²² The NGO Coalition mentioned that, the Foreign Nationals Act which entered into force in 2008, discriminates by nationality in the granting of work permits. It particularly affects those who are not nationals of the European Union or the European Free Trade Association and are not considered highly qualified. According to the NGO Coalition, more than 90,000 persons live and work in Switzerland without legal status or documents.²³

13. National programmes of action and strategies to eradicate racism, xenophobia, discrimination and stigmatization should be developed, according to the NGO Coalition, not least to ensure proper implementation of the International Convention for the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.²⁴ With respect to racism and xenophobia, the CoE CHR recommended the Swiss authorities to sign and ratify the relevant international instruments; adopt laws to prohibit and punish racial discrimination in the private sphere; give the authorities responsible for combating xenophobia and racism adequate resources; establish an effective system to monitor and punish racist incidents; repress racist and offensive publicity campaigns; teach police to respect foreigners, and set up independent and effective bodies, which can be asked, without fear or reprisal, to investigate allegations of maltreatment and misconduct by police officers.²⁵ The State provided comments to these recommendations.²⁶

14. Regarding the rights of persons with disabilities, the NGO Coalition reported that the Federal Disabled Persons (Equality) Act displays numerous flaws that favour discriminatory practices. It encourages the cantons to support the integration of children with disabilities into mainstream schools, but most cantons continue to give preference to special schools. It contains no provisions protecting persons with disabilities from discrimination in the workplace, and private service providers are not obliged to adapt their services to disabled people's needs. Lastly, the financial independence criterion in certain municipalities means the de facto exclusion of certain persons with a mental disability from any naturalization procedure, according to the NGO Coalition.²⁷

15. The NGO Coalition reported that lesbian, gay, bisexual and transgender persons in Switzerland have no institutional means of asserting their rights, while discrimination against them is left unquestioned. In addition, sexual orientation and gender identity are not explicitly mentioned in the Constitution as grounds for possible discrimination. Currently, according to the NGO Coalition, no law punishes discriminatory acts against this minority.²⁸

2. Right to life, liberty and security of the person

16. Human Rights Watch (HRW) expressed concern about a number of practices which have led to serious instances of human rights violations, in particular concerning the use of “diplomatic assurances” against torture and ill-treatment. In recent years, the Government has sought and secured diplomatic assurances against torture and other ill-treatment from several countries, in its effort to extradite foreign nationals, some of whom faced terrorism charges in the requesting country. Diplomatic assurances are promises given by a government receiving a person to a sending government that a person returned will not be ill-treated. According to HRW, diplomatic assurances of humane treatment are inherently unreliable and unenforceable in practice.²⁹ HRW recommended that the Government use the opportunity of the UPR to unequivocally reject the use of diplomatic assurances in all transfer contexts where a person is at risk of torture and other ill-treatment, and commit to promoting system-wide efforts to eradicate torture throughout the world.³⁰

17. According to the NGO Coalition, the police continue to be involved in human rights violations despite the considerable progress made, in particular with regard to police training. The Coalition stated that a recent report details several cases of disproportionate use of force and the use of dangerous methods and equipment, for example, the postural asphyxiation position, which has led to several deaths in recent years, and the use of tear gas in enclosed spaces, and of paintballs. The NGO Coalition reported that racist and discriminatory behaviour also occurs, in particular against migrants and especially during the process of deportation. Police officers who have committed human rights violations often go unpunished, one of the reasons being the absence in most cantons of an independent body to receive and examine complaints against the police.³¹ LSDH and FIDH were extremely concerned at the police violence that occurred during the deportation of detainees at the Frambois Centre, a holding centre for foreign nationals in Geneva Canton. In certain cases where the deportation failed, say LSDH and FIDH, detainees reported acts of violence against them. Although inquiries were made into some of those cases, no action appears to have been taken. Furthermore, there are numerous cases of detainees being swiftly deported by the cantonal authorities, while an inquiry was still being carried out, the main consequence of which was that the proceedings were discontinued, as there was no further reason to proceed.³²

18. The NGO Coalition stressed that various forms of administrative detention could be applied for any number of reasons in order to ensure the deportation of foreign nationals. Such detention could be cumulative, totalling up to two years, a situation that seriously violates the principle of proportionality. Even minors can be detained for up to a year as a coercive measure.³³

19. The NGO Coalition reported overcrowding problems in certain prisons; for example, overcrowding has become chronic in the Champ-Dollon prison in Geneva, where, in 2006, the average occupation rate was 175 per cent. That situation has obvious consequences on detainees’ living conditions, including sanitary conditions and access to health care and legal counsel, but also general and workplace safety.³⁴ LSDH and FIDH added that under such circumstances it was difficult in Champ-Dollon to segregate the various categories of prisoners, notably by detention regime and state of mental health.³⁵ According to LSDH and FIDH, experts commissioned by the legislative authorities of Geneva Canton to assess prison overcrowding came to the conclusion that one of its main causes was longer periods spent in prison and, in particular, the length of pretrial

detention - the main reason for admittance to Champ-Dollon.³⁶ LSDH and FIDH emphasized that separation of detainees according to their detention regime (pretrial or post-conviction) should be a priority. Furthermore, access to health care at Champ-Dollon should be given particular attention, especially with regard to persons suffering from mental disorders. The authorities should pledge to build special establishments in order to accommodate such a diverse prison population appropriately.³⁷

20. According to the NGO Coalition, the five State registration and processing centres where asylum applications can be made do not have the infrastructure to accommodate the asylum-seekers assigned there, who may have to stay for several weeks under prison-like arrangements. Access to health care and screening for diseases is no longer satisfactorily guaranteed since systematic medical visits have been discontinued for budgetary reasons.³⁸

21. Regarding the situation in certain places of detention, the CoE CHR recommended the Swiss authorities to take all appropriate measures, including the use of alternative sanctions, to reduce the population of the Champ-Dollon prison to an acceptable level very rapidly, to immediately entrust the supervision of under-age prisoners in the “La Stampa” prison to properly trained warders and educators, and improve the premises in which these young people are held, and to stop using the cells in the Central Police Station at Bellinzona for detention purposes.³⁹ The State provided comments to these recommendations.⁴⁰

22. The NGO Coalition reported that, contrary to the requirements of the Convention on the Rights of the Child, corporal punishment of children in the home has still not been formally prohibited.⁴¹ The Global Initiative to End All Corporal Punishment of Children (GIEACP) added that corporal punishment is lawful in the home. A 2003 Federal Court judgement ruled that repeated and habitual corporal punishment is unacceptable but did not rule out the right of parents to use corporal punishment. According to GIEACP, research in 2004 by Fribourg University commissioned by the Federal Social Insurance Office found that the use of corporal punishment by parents is in decline.⁴² GIEACP strongly recommended that Switzerland introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including in the home.⁴³

23. Regarding the issue of trafficking in human beings, the CoE CHR recommended the Swiss authorities to ensure that victims of trafficking benefit from all the protective measures advocated in the CoE Convention in Trafficking in Human Beings, issuing them with residence permits for humanitarian reasons and also to allow them to cooperate with the police, and make it possible to waive punishment for those forced to take part in unlawful activities; and to supervise the real working and living conditions of “cabaret dancers” more closely.⁴⁴ The State provided comments to these recommendations.⁴⁵

24. Stop Suicide referred to a report by the Federal Office of Public Health that put the suicide rate at 19.1 per 100,000 inhabitants, significantly higher, therefore, than the world average. In addition, Stop Suicide reported that suicide among young persons is a particular problem: for young persons between 15 and 24 years of age, suicide ranks alongside road traffic accidents as the leading cause of death.⁴⁶ Despite those figures, Switzerland has no federal programme or plan to prevent suicide, according to Stop Suicide.⁴⁷ Stop Suicide claimed that, the initiatives of certain cantons notwithstanding, Switzerland does not abide by its international commitments on mental health and, in particular, its obligation to act to address the high suicide rate of young persons in Switzerland.⁴⁸

25. With 35.7 per cent of households owning firearms, Switzerland has one of the highest rates of gun ownership in the world, according to Stop Suicide. This is because access to firearms is only loosely regulated in Switzerland. The Firearms Act is still seriously deficient and, furthermore, allows minors to take guns home.⁴⁹ According to the NGO Coalition, firearms are often at the root of spousal and domestic violence. One in every two murders is committed by a partner and around 35 per cent of those are committed using a gun.⁵⁰ Stop Suicide reported that around 240 suicides each year are carried out with a gun⁵¹ and maintained that, to reduce the number of youth suicides, Switzerland should adopt protection measures to make access to firearms more difficult.⁵² The NGO Coalition noted that, at the international level, Switzerland has not signed the 2001 Firearms Protocol,⁵³ supplementing the United Nations Convention against Transnational Organized Crime.

3. Administration of justice and the rule of law

26. According to the NGO Coalition, the Lifelong Detention Act adopted by the Swiss Parliament at the end of 2007 may prove to contravene the European Convention on Human Rights, as it offers detainees the possibility of having their detention regularly reviewed only under very restrictive conditions.⁵⁴ In 2004, the CoE CHR recommended the Swiss authorities to scrutinize cases in which lifelong detention of sex offenders or violent offenders regarded as dangerous and beyond rehabilitation is ordered; examine judicial practice to establish whether such detention is compatible with the European Convention on Human Rights and its Protocols; and to provide for judicial appeal against decisions to maintain lifelong detention.⁵⁵ The State provided comments to these recommendations.⁵⁶

27. LSDH and FIDH emphasized that efforts must be made to expedite trial proceedings, to find alternatives to deprivation of liberty in the pretrial period and to introduce non-custodial criminal sentences.⁵⁷ Regarding the issue of independence of the judiciary, the CoE CHR recommended the Swiss authorities in 2004 to maintain the independence of the Attorney General of the Confederation and scrupulously respect the authority and independence of the Federal Court and its judges.⁵⁸ The State provided comments to these recommendations.⁵⁹

4. Right to family life

28. The NGO Coalition reported that Switzerland had submitted a reservation to article 10, paragraph 2, of the Convention on the Rights of the Child, as Swiss legislation did not guarantee family reunification for certain categories of person, specifically those with B, F or short-term residence permits, and minors over 12 years of age. In such cases, according to the NGO Coalition, family reunification is at the authority's discretion.⁶⁰

29. The NGO Coalition reported that, in binational marriages, the right to marriage has suffered numerous restrictions. The new Foreign Nationals Act introduces provisions to the Civil Code to prevent marriages of convenience, which allow civil registrars ample discretion. Even if a couple marries, certain relationships are considered to be relationships of convenience and the spouse is refused a residence permit even though the couple have been living together.⁶¹

5. Freedom of expression

30. The Office of the Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE RFOM) noted that the overall situation of media in Switzerland is good. The OSCE RFOM reported that he intervened on four occasions in the period 2005-2007 regarding the freedom of the media in Switzerland.⁶²

6. Right to social security and to an adequate standard of living

31. Despite the overall high standard of living in Switzerland, one person in seven cannot ensure their own livelihood, according to the NGO Coalition. Furthermore, the absence of consistent statistical data on the extent of poverty in Switzerland indicates the limited importance the authorities attach to this problem. The NGO Coalition referred to estimates showing that one single-parent family in four - most of them single mothers - is affected by poverty.⁶³

32. The NGO Coalition reported that asylum-seekers whose applications have been rejected and who have been ordered to leave Switzerland have no right to welfare benefits, a rule that is also applicable to minors. They are entitled only to the emergency assistance guaranteed by the Constitution, which, in reality, is often only granted under off-putting conditions that are incompatible with the enjoyment of that right.⁶⁴

33. The NGO Coalition noted that trade relations, whether bilateral or multilateral, could not be exempted either from the obligation to “promote human rights” provided for under article 54, paragraph 2, of the Constitution or from the general principles of international human rights law. Yet in bilateral free trade agreements with third countries, Switzerland includes clauses obliging those countries to adopt provisions exceeding the requirements of the World Trade Organization, particularly with regard to intellectual property. Such clauses impede access to generic medicines and treatments, and the realization of the right to information, of access to scientific and educational resources, and to traditional uses of seeds and natural resources, and thus the right to food.⁶⁵

7. Right to education

34. The NGO Coalition reported that a recent survey on the rights of the child had shown that the level of the Swiss population’s human rights knowledge is rather low. That lack of knowledge stems from several factors: human rights education does not systematically figure in basic teaching programmes and is not an integral part of vocational training in key sectors such as cantonal administration and State institutions like hospitals and nursing homes.⁶⁶ The NGO Coalition emphasized that steps should be taken to publicize human rights instruments more widely and automatically include human rights in school curricula and vocational training.⁶⁷

8. Minorities and indigenous peoples

35. According to the NGO Coalition, the Jenisch, Roma and Sinti populations, of whom there are around 30,000 resident in Switzerland, 2,500 of them Travellers, continue to suffer various types of discrimination, particularly in terms of stopping sites. Yet there is still no legal means of obliging the cantons to adopt appropriate measures, while the Confederation - which has, however, recognized the need to act because of its international and constitutional obligations - does not wish to commit to additional expenditure.⁶⁸ The CoE CHR recommended that the Swiss authorities allow, in regional planning programmes and decisions, for the special needs and traditions of Travellers, and attempt to provide them with more long-term and short-term campsites in all parts of Switzerland.⁶⁹ The Council of Europe’s Advisory Committee on the Framework Convention for the Protection of National Minorities (CoE AC) stated that there is scope for improvement to allow Travellers to develop the essential elements of their identity. Furthermore, participation mechanisms for travellers should be strengthened.⁷⁰

36. As concerns the implementation of the Framework Convention, the CoE AC considered that Switzerland has made particularly commendable efforts in a number of fields in respect of its linguistic minorities. The institutional framework enables the French, Italian and Romanche-speakers, as well as German-speakers of the Fribourg and Valais Cantons, to preserve and develop the essential elements of their identity, in particular their language and their culture. Moreover, a number of institutional arrangements ensure an extensive political participation of linguistic minorities at all levels.⁷¹ The CoE AC noted that the legal guarantees as concerns the use of minority languages in relations between persons belonging to minorities and the administrative authorities are very extensive and it is to be welcomed that numerous efforts have been undertaken to reinforce the position of Romanche in recent years. Increased attention could however be given to authorizing, at the infra-cantonal level, the use of a minority language in the aforementioned relations. In the field of education, the authorities should also ensure that the needs of persons belonging to linguistic minorities as regards instruction in a minority language outside its area of traditional establishment are addressed, in particular as far as Italian and Romanche-speakers are concerned.⁷²

9. Migrants, refugees and asylum-seekers

37. The NGO Coalition claimed that, because of an unprecedented tightening up in migration policy, the rights of migrants have been subject to restrictions that are sometimes incompatible with Switzerland's international human rights obligations. According to the NGO Coalition, the tougher stance is primarily a result of manipulation of people's feelings of insecurity and mistrust in political speeches and racist and xenophobic media campaigns.⁷³ LSDH and FIDH reported that a people's initiative is now proposing legislation to automatically deport any foreign national guilty of certain crimes. The initiative is currently at the signature-gathering stage.⁷⁴

38. HRW noted that at a time when asylum applications are falling worldwide, the Government is seeking to raise the obstacles faced by people seeking a country of safe refuge from persecution at home.⁷⁵ In 2006, as mentioned by HRW, Swiss citizens adopted in a referendum amendments to the Law on Asylum. This law denies access to asylum procedures for asylum-seekers who do not produce valid travel and identification documents upon arrival, or who do not submit their applications on time. Modifications to the national asylum law represent a dramatic retreat from the international standards Switzerland accepted when it ratified the Refugee Convention. The amendment to the Law on Asylum would bar from the asylum procedure persons declared "non-entrée en matière", according to HRW.⁷⁶ The NGO Coalition noted that the authorities' practice in that regard does not guarantee compliance with the Refugee Convention and frequently had been criticized on that score by the Office of the United Nations High Commissioner for Refugees (UNHCR). According to the NGO Coalition, the Committee against Torture, in a decision of 16 November 2007, had found that, by refusing on those grounds to proceed further with certain requests for asylum, the Swiss authorities may be in breach of article 3 of the Convention against Torture.⁷⁷ HRW recommended that the Parliament launch an initiative to revisit the recently adopted Law on Asylum in compliance with international human rights standards, including the Universal Declaration of Human Rights and the Refugee Convention.⁷⁸

39. The NGO Coalition reported that in Switzerland there is no State-funded legal aid granted ex officio and free of charge when notification had been given of an unfavourable asylum decision. Charities cannot fill the gap, as they have limited means.⁷⁹

40. The CoE CHR recommended that the federal, cantonal and local authorities make sure there are no cases of refoulement or return on arrival; stop using private services to control or interview passengers; issue no non-admission orders unless a witness has confirmed that the person concerned does not wish to apply for asylum; extend the 24-hour time limit for applying for suspension of the decision to deport following rejection of an asylum application; and continue to involve the UNHCR in asylum procedures at airports, unless that procedure is modified to include systematic assistance and adequate time limits.⁸⁰ The CoE CHR further recommended the Swiss authorities to forbid the use of stun guns during deportation operations; not to employ private firms on such operations; to suggest that relevant NGOs accompany police officers effecting deportations; to avoid using children to trace unlawfully resident aliens; and to provide continued training and supervision to ensure that police officers responsible for deportation measures always respect the rights and dignity of aliens.⁸¹ The State provided comments to these recommendations.⁸² The CoE CHR also recommended the Swiss authorities to stop rejecting applications out of hand (decisions de non-entrée en matière) when people are unable to produce identity papers within 48 hours of being asked to do so.⁸³

41. In the context of Swiss migration policy, the NGO Coalition reported that an unaccompanied minor was considered as a foreign national first and a vulnerable child seeking protection second. Furthermore, certain provisions of the legislation on asylum and foreign nationals do not comply with the provisions of the Convention on the Rights of the Child. In addition, minors do not have adequate care and protection provision in registration and processing centres, or free legal aid as provided for in the Convention on the Rights of the Child.⁸⁴

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

42. HRW highlighted that Switzerland has a long tradition of support for international human rights and humanitarian law. Switzerland is hosting on its soil most of the UN's human rights bodies, as well as various international human rights organizations and humanitarian agencies.⁸⁵ The NGO Coalition noted that Switzerland had been very active in improving the international institutional framework, for example with the creation of the Human Rights Council and its enhancement, as well as for the creation of the International Criminal Court.⁸⁶

43. The NGO Coalition reported that the Optional Protocol to the Convention on the Rights of the Child had been ratified on 19 September 2006.⁸⁷ Concerning Switzerland's reservations to international instruments, the NGO Coalition reported that, with the introduction of the Act on the Federal Court and the Federal Administrative Court, it is now possible to submit criminal judgements for review by a higher court which had made it possible to withdraw the reservations to article 14, paragraph 5, of the International Covenant on Civil and Political Rights and to article 40, paragraph 2 (b) (v), of the Convention on the Rights of the Child. The NGO Coalition noted that the amendments made to the Federal Act on Acquisition and Loss of Swiss Nationality allow stateless children who have been resident in Switzerland for five years to apply for fast-track naturalization, meaning the reservation to article 7, paragraph 2, of the Convention on the Rights of the Child could be withdrawn. With the entry into force of the Federal Act Governing the Status of Minors in Criminal Law which provides for the separation of young persons and adults in detention, the reservation to article 10, paragraph 2 (b), of the International Covenant for Civil and Political Rights has also been withdrawn.⁸⁸

44. The NGO Coalition noted that a 2006 amendment to the Civil Code making specific provision for the protection of the personality in cases of violence, intimidation or harassment had made for definite improvements in the area of women's rights. In force since 1 July 2007, protection measures include expulsion of the perpetrator of the violence from the couple's home and a ban on approaching or contacting a specific person. The NGO Coalition reported that certain cantons are already implementing those protection measures.⁸⁹

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

N/A.

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

N/A.

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.)

Civil Society

- Coalition d'ONG ACOR SOS Racisme, Action des Chrétiens pour l'Abolition de la Torture (ACAT),* Action de Carême, alliance sud, Amnesty International* Section suisse, Association pour la prévention de la torture (APT),* Association de soutien à une institution suisse pour les droits humains, ATD Quart-Monde,* Caritas,* Centre d'information pour femmes migrantes (FIZ), Coalition Post-Beijing, Centre de conseils et d'appui pour les jeunes en matière de droits de l'homme (CODAP), Collectif de soutien aux sans-papiers, Déclaration de Berne, Ecole Instrument de Paix,* Egalité Handicap, Fédération Internationale des Droits de l'Homme (FIDH),* Femmes Juristes Suisse, Fighting Hunger with human rights (FIAN Suisse),* humanrights.ch/Mers, Ligue suisse des droits de l'homme, Organisation suisse d'aide aux réfugiés (OSAR), Organisation Mondiale contre la Torture (OMCT),* PLANeS - Fondation suisse pour la santé sexuelle et reproductive, Pink Cross, Société des peuples menacées, Swissaid, Stop Suicide, Réseau pour les droits de l'enfant, Terre des Hommes - aide à l'enfance,* Joint UPR submission, February 2008, Bern (Switzerland)
- GIEACP Global Initiative to End All Corporal Punishment of Children, UPR submission, February 2008, London (United Kingdom)
- HRW Human Rights Watch,* UPR submission, February 2008, Geneva (Switzerland)
- LSDH & FIDH Ligue Suisse des droits de l'Homme, Fédération internationale des Ligues des droits de l'Homme,* avec la collaboration de l'Association pour la prévention contre la torture, Joint UPR submission, February 2008, Geneva (Switzerland)
- Stop Suicide Stop Suicide, UPR submission, February 2008, Geneva (Switzerland)

Regional intergovernmental organizations

- CoE Council of Europe, UPR submission, February 2008, consisting of
- Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on Switzerland, adopted on 20 February 2003, ACFC/INF/OP/I(2003)007
 - Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, CommDH(2005)7

- Committee of Ministers, Resolution ResCMN(2003)13 adopted on the implementation of the Framework Convention for the Protection of National Minorities by Switzerland, 10 December 2003
- Rapport au Conseil fédéral suisse relatif à la visite effectuée en Suisse par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT), du 5 au 15 février 2001, CPT/Inf (2002) 4
- Réponse du Conseil fédéral suisse au rapport du CPT, CPT/Inf (2002) 5
- Lettre au Secrétaire général, 21 février 2006
- Table of pending cases against Switzerland
- European Social Charter fact sheet

OSCE RFOM Office of the Organization for Security and Co-operation in Europe Representative on Freedom of the Media, UPR submission, February 2008

² Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 5.

³ Ligue Suisse des droits de l'Homme, Fédération internationale des Ligues des droits de l'Homme, Joint UPR submission, February 2008, Geneva (Switzerland), p. 3. See also Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 5.

⁴ Ligue Suisse des droits de l'Homme, Fédération internationale des Ligues des droits de l'Homme, Joint UPR submission, February 2008, Geneva (Switzerland), p. 5.

⁵ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 1.

⁶ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 5.

⁷ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 1.

⁸ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 5.

⁹ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 2.

¹⁰ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 1.

¹¹ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 5.

¹² CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, p. 49.

¹³ CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, p. 57.

¹⁴ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 2.

¹⁵ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), pp. 4-5.

¹⁶ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 1.

¹⁷ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 5.

¹⁸ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), pp. 2-3.

¹⁹ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 3.

²⁰ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 3.

²¹ CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, p. 48.

²² Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 4.

²³ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 2.

²⁴ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 5.

- ²⁵ CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, p. 48.
- ²⁶ CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, p. 55.
- ²⁷ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), pp. 1-2.
- ²⁸ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 2.
- ²⁹ Human Rights Watch, UPR submission, February 2008, Geneva (Switzerland), pp. 1-2.
- ³⁰ Human Rights Watch, UPR submission, February 2008, Geneva (Switzerland), p. 5.
- ³¹ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 2.
- ³² Ligue Suisse des droits de l'Homme, Fédération internationale des Ligues des droits de l'Homme, Joint UPR submission, February 2008, Geneva (Switzerland), p. 2.
- ³³ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), pp. 3-4.
- ³⁴ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 4. See also Ligue Suisse des droits de l'Homme, Fédération internationale des Ligues des droits de l'Homme, Joint UPR submission, February 2008, Geneva (Switzerland), p. 1.
- ³⁵ Ligue Suisse des droits de l'Homme, Fédération internationale des Ligues des droits de l'Homme, Joint UPR submission, February 2008, Geneva (Switzerland), p. 2.
- ³⁶ Ligue Suisse des droits de l'Homme, Fédération internationale des Ligues des droits de l'Homme, Joint UPR submission, February 2008, Geneva (Switzerland), p. 1.
- ³⁷ Ligue Suisse des droits de l'Homme, Fédération internationale des Ligues des droits de l'Homme, Joint UPR submission, February 2008, Geneva (Switzerland), p. 5.
- ³⁸ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 3.
- ³⁹ CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, p. 49.
- ⁴⁰ CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, p. 56.
- ⁴¹ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 2.
- ⁴² Global Initiative to End All Corporal Punishment of Children, UPR submission, February 2008, London (United Kingdom), p. 2.
- ⁴³ Global Initiative to End All Corporal Punishment of Children, UPR submission, February 2008, London (United Kingdom), p. 1.
- ⁴⁴ CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, p. 48.
- ⁴⁵ CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, pp. 54-55.
- ⁴⁶ Stop Suicide, UPR submission, February 2008, Geneva (Switzerland), pp. 1-2. See also Coalition d'ONG, p. 4.
- ⁴⁷ Stop Suicide, UPR submission, February 2008, Geneva (Switzerland), p. 2. See also Coalition d'ONG, p. 4.
- ⁴⁸ Stop Suicide, UPR submission, February 2008, Geneva (Switzerland), p. 6.
- ⁴⁹ Stop Suicide, UPR submission, February 2008, Geneva (Switzerland), p. 5. See also Coalition d'ONG, p. 4.
- ⁵⁰ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 4.
- ⁵¹ Stop Suicide, UPR submission, February 2008, Geneva (Switzerland), p. 5.
- ⁵² Stop Suicide, UPR submission, February 2008, Geneva (Switzerland), p. 6.
- ⁵³ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 4.

- ⁵⁴ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 2.
- ⁵⁵ CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, p. 49.
- ⁵⁶ CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, p. 56.
- ⁵⁷ Ligue Suisse des droits de l'Homme, Fédération internationale des Ligues des droits de l'Homme, Joint UPR submission, February 2008, Geneva (Switzerland), p. 5.
- ⁵⁸ CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, p. 49.
- ⁵⁹ CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, p. 56.
- ⁶⁰ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 2.
- ⁶¹ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 2.
- ⁶² Office of the Organization for Security and Co-operation in Europe Representative on Freedom of the Media, UPR submission, February 2008, p. 1; see also for information on individual cases.
- ⁶³ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 4.
- ⁶⁴ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 3.
- ⁶⁵ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 4.
- ⁶⁶ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 2.
- ⁶⁷ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 5.
- ⁶⁸ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 4.
- ⁶⁹ CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, p. 49.
- ⁷⁰ CoE Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on Switzerland, adopted on February 2003, ACFC/INF/OP/I(2003)007, UPR submission, February 2008, p. 2. See also CoE Committee of Ministers, Resolution ResCMN(2003)13 adopted on the implementation of the Framework Convention for the Protection of National Minorities by Switzerland, 10 December 2003, UPR submission, February 2008.
- ⁷¹ CoE Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on Switzerland, adopted on February 2003, ACFC/INF/OP/I(2003)007, UPR submission, February 2008, p. 2.
- ⁷² CoE Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on Switzerland, adopted on February 2003, ACFC/INF/OP/I(2003)007, UPR submission, February 2008, p. 2. See also CoE Committee of Ministers, Resolution ResCMN(2003)13 adopted on the implementation of the Framework Convention for the Protection of National Minorities by Switzerland, 10 December 2003, UPR submission, February 2008.
- ⁷³ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 1. See also CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, p. 47.
- ⁷⁴ Ligue Suisse des droits de l'Homme, Fédération internationale des Ligues des droits de l'Homme, Joint UPR submission, February 2008, Geneva (Switzerland), p. 3.
- ⁷⁵ Human Rights Watch, UPR submission, February 2008, Geneva (Switzerland), p. 3.
- ⁷⁶ Human Rights Watch, UPR submission, February 2008, Geneva (Switzerland), p. 4.
- ⁷⁷ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 3. See CAT/C/39/D/299/2006.
- ⁷⁸ Human Rights Watch, UPR submission, February 2008, Geneva (Switzerland), p. 6.
- ⁷⁹ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 3.

⁸⁰ CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, p. 47.

⁸¹ CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, p. 48.

⁸² CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, pp. 51-52.

⁸³ CoE, Report of Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Switzerland, 29 November-3 December 2004, UPR submission, February 2008, pp. 52-53.

⁸⁴ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 3.

⁸⁵ Human Rights Watch, UPR submission, February 2008, Geneva (Switzerland), p. 1.

⁸⁶ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 4.

⁸⁷ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 5.

⁸⁸ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 5.

⁸⁹ Coalition d'ONG, Joint UPR submission, February 2008, Bern (Switzerland), p. 5.
