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Committee against Torture

Concluding observations on the seventh periodic report of Switzerland

Addendum

Information received from Switzerland on follow-up to the concluding observations*

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Consideration of the seventh periodic report of Switzerland by the Committee against Torture

Position adopted by Switzerland following the adoption of the concluding observations by the Committee against Torture on 13 August 2015

1. The Committee against Torture requested Switzerland to report, by 14 August 2016, on its follow-up to the Committee's recommendations in paragraphs 10, 13, 18 and 19 of its concluding observations.

Paragraph 10

The Committee urges the State party to create an independent mechanism empowered to receive complaints relating to violence or ill-treatment by law enforcement officers and to conduct timely, impartial and exhaustive inquiries into such complaints.

2. Since 1 January 2011, all cantons have been subject to a single, unified criminal procedure code.[1] However, under article 123 (2) of the Federal Constitution, the organization of the legal system, administration of justice and enforcement of criminal sentences remain within the jurisdiction of the cantons, except when otherwise provided by law. The cantons are therefore free — within the limits set in the Criminal Procedure Code — to decide to establish specific mechanisms for conducting criminal proceedings against police officers who commit acts of ill-treatment.

3. However, a number of cantons have opted not to establish specific mechanisms for investigating criminal complaints against police officers, for the following reasons in particular:

- The criminal prosecution authorities are independent (Criminal Procedure Code, art. 4).
- The judicial authorities are duty-bound to investigate (Criminal Procedure Code, art. 6) and are required to open and conduct proceedings whenever they become aware that an offence has been committed or have evidence suggesting that an offence has been committed (Criminal Procedure Code, art. 7).
- The allegedly injured person may submit a request for the recusal of a person acting for a criminal justice authority to the director of proceedings if there are grounds to suspect that the person may not be impartial (Criminal Procedure Code, art. 56 et seq.). If the request is opposed in a case involving the police, the matter is referred to the public prosecutor's office for a final decision (Criminal Procedure Code, art. 1 (a)).
- The allegedly injured person may submit their complaint to the public prosecutor's office directly (Criminal Procedure Code, art. 301).
- Judicial officials, including police officers, are required to report any offences that come to light in the course of their official activities to the competent authorities (Criminal Procedure Code, art. 302).

[1] Classified Compilation of Federal Legislation [RS] 312.0.

- The parties may appeal against the decisions and procedural actions of the police and the public prosecutor's office (Criminal Procedure Code, art. 393).

4. In order to strengthen these safeguards, some cantons have adopted additional measures, such as stipulating that hearings may be conducted only by representatives of the public prosecutor's office, by an officer of a police force not involved in the case or, as in Geneva, by a special police unit dedicated to cases of this kind (in the case of Geneva, the Inspectorate General of Services).[2]

5. Certain other cantons have established alternative mechanisms to those envisaged under the Criminal Procedure Code for managing complaints against police officers. For example, mediation offices have been established in the cantons of Zurich, Vaud, Basel-Stadt, Basel-Landschaft and Zug, and community ombudsman services are available in Bern, Lucerne, St. Gallen, Rapperswil-Jona, Wallisellen, Winterthur and Zurich.[3]

The Committee urges the State party to ensure that medical reports of injuries indicating ill-treatment are sent without delay to the independent mechanism responsible for carrying out a thorough examination.

6. As highlighted recently by the Federal Supreme Court, the medical confidentiality guaranteed under article 321 of the Criminal Code and article 171 (1) of the Criminal Procedure Code is a very important principle of Swiss law. The principle is underpinned by the constitutional right to respect of privacy (article 13 of the Constitution and article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms) and intended to protect the fundamental relationship of trust existing between doctors and patients.[4]

7. Under article 321 of the Criminal Code,[5] doctors are liable, upon complaint, to a prison sentence not exceeding three years or a monetary penalty if they divulge information that has been confided in them or has come to their knowledge in the course of their professional activities (art. 321 (1)). Disclosure is not punishable if the information is shared with the consent of the party to whom the information pertains or on the basis of a written authorization issued by a higher or supervisory authority on the application of the person holding the confidential information (art. 321 (2)). Federal and cantonal provisions establishing an obligation to provide information to a given authority or to testify in court remain applicable (art. 321 (3)). Pursuant to article 171 of the Criminal Procedure Code, doctors may refuse to testify in relation to confidential information that has been confided in them or has come to their knowledge in the course of their professional activities (art. 321 (1)). However, they are required to testify when they are subject to a disclosure obligation and when they have been relieved of their duty of confidentiality by the person to whom the information pertains or by the competent authority, in writing (art. 321 (2)).

8. Many cantons have opted to incorporate in their health-related legislation a provision establishing an obligation, or at the very least a duty, to report any violations of physical or sexual integrity that they observe in the course of their professional activities (Criminal Code, art. 321 (3)). In such cases, the doctor concerned is authorized to report any instance of suspected physical violence to the competent judicial authorities without himself facing prosecution for having violated medical confidentiality (Criminal Code, art.

[2] A detailed analysis of all cantonal systems in Switzerland can be found in the report of the Swiss Centre of Expertise in Human Rights of 21 February 2014 entitled "La Protection juridique contre les abus de la part de la police" (Legal protection against police abuse), p. 43 et seq.

[3] See the aforementioned report of the Swiss Centre of Expertise in Human Rights, p. 28 et seq.

[4] Official compilation of Swiss Federal Supreme Court Decisions (ATF) IV 77, observation 4.4; Federal Supreme Court Decision of 20 August 2013 (1B_96/2013), observation 5.1.

[5] RS 311.0.

14, acts required or permitted by law). In the few cantons that have not adopted explicit regulations, doctors may only report offences that they have observed if they have first been relieved of their duty of medical confidentiality by the department responsible for health care or by the canton's chief physician. It should be noted that some forensic medicine specialists favour a system that gives doctors the right to decide whether or not to report suspected offences against life or physical or sexual integrity. These specialists believe that introducing a general obligation to report such offences would undermine the trust essential to the doctor-patient relationship.[6]

The Committee urges the State party to try those suspected of acts of torture or ill-treatment and, if they are found guilty, sentence them to punishment commensurate with the gravity of their acts.

9. As stated previously, the criminal prosecution authorities are required to open and conduct proceedings whenever they become aware that an offence has been committed or have evidence suggesting that an offence has been committed (Criminal Procedure Code, art. 7). In addition to this legal obligation, and as stated in the response of Switzerland to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment dated 17 June 2016 and the periodic report of Switzerland to the Committee against Torture dated 29 August 2014, criminal proceedings may be brought against police officers and, if the facts are proven, may give rise to punishment commensurate with the gravity of the offence committed. Disciplinary penalties, extending in some cases to dismissal, have also been imposed upon perpetrators.[7]

The Committee urges the State party to ensure that victims have access to effective remedies and reparation.

10. Victims have numerous rights in criminal proceedings in which they are the plaintiff. In such cases, they benefit from all rights enjoyed by parties to proceedings, including the right to be heard (Criminal Procedure Code, art. 107 (1)); the right to consult the case file and to participate in proceedings (Criminal Procedure Code, arts. 109 and 110); the right to legal counsel (Criminal Procedure Code, art. 127) and, if necessary, to free legal assistance (Criminal Procedure Code, art. 136); the right to be consulted on the case and on the proceedings (Criminal Procedure Code, art. 346 (1) (b)); the right to submit evidence; and the right to appeal (Criminal Procedure Code, art. 382). Plaintiffs are also permitted to claim civil damages before the criminal courts (Code of Criminal Procedure, art. 122 et seq.).

11. Requests for review may be lodged against procedural actions of the police and the public prosecutor's office, against rulings, decisions and procedural actions of the courts of first instance, and against decisions of the court competent to order detention and other measures of constraint (Criminal Procedure Code, art. 393). Such requests may be lodged on the following grounds: (a) infringement of the law, including exceeding or abusing discretionary powers, denial of justice and undue delay; (b) incomplete or erroneous assessment of the facts; and (c) unreasonableness.[8] Victims may also use the appeals

[6] Zollinger/Hartmann, Ärztliche Melderechte und Meldepflichten gegenüber Justiz und Polizei, Swiss Medical Journal, 2001; 82: No. 26, p. 1,387.

[7] See response of Switzerland of 17 June 2016 to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, para. 16.

[8] As highlighted by the Swiss Centre of Expertise on Human Rights: "The provisions of article 393 (1) of the Criminal Procedure Code are intended to provide alleged victims with an effective procedure for submitting police acts to judicial review (primarily by giving them the means to contest procedural acts and immediate access to an independent court with comprehensive powers of review)".

process to contest judgments of courts of first instance that conclude the proceedings in their entirety or in part (Criminal Procedure Code, art. 398). Appeals may be lodged on the same grounds as those mentioned above for reviews, and the appeals authority is fully competent to address all contested points (Criminal Procedure Code, arts. 398 (2) and (3)).

12. With regard to reparation, victims may present a claim for civil damages resulting from the offence in the criminal proceedings (Criminal Procedure Code, art. 122 (1)). In such cases, they may seek reparation for damages within the meaning of articles 41, 45 and 46 of the Code of Obligations (Classified Compilation of Federal Legislation [RS] 220) and compensation for moral damage within the meaning of articles 47 and 49 of the Code of Obligations. Damages are defined as a diminution in the value of property and include reductions or stagnations in the value of assets and increases or non-reductions in the value of liabilities resulting from a bodily, material or financial injury. Thus, victims may request the reimbursement of medical costs, the cost of repairing personal belongings such as glasses, watches and clothes, and earnings lost because they were unable to work. Victims may also be entitled to the support available under the Federal Victim Support Act[9] — namely the right to counselling, immediate assistance and longer-term assistance including help with meeting the cost of longer-term support provided by a third party (art. 12 et seq.). The Act provides for reparation for damages and compensation for moral damage on a subsidiary basis only, as highlighted in a Federal Council Dispatch stating that: "Assistance is provided to victims only when the persons concerned, for legal or other reasons, receive insufficient support, if any, from the primary debtors".[10]

13. Thus, victims have access to effective remedies within the framework of the criminal proceedings and are able to obtain reparation for damage suffered.

Paragraph 13

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.

14. During the asylum process, an individual's reasons for requesting asylum are given serious, in-depth examination, considering both the possible recognition of refugee status and any possible impediments to expulsion, should their request for asylum be rejected, that might emerge as a result of the international obligations of Switzerland, including, specifically, the obligation to respect the principle of non-refoulement. The human rights situation in asylum seekers' countries of origin is monitored continuously by a specialist country analysis unit and taken into consideration in decisions in terms of its relevance for the individual profile of the person due to be deported. In other words, in deportation cases,

[9] RS 312.5.

[10] Federal Council Dispatch of 9 November 2005 regarding the full review of the Federal Act on Assistance to Crime Victims, Official Journal of the Confederation, 2005 6683, p. 6,724.

the risks to the individual posed by the situation in the country concerned are considered when the decision on the asylum request is made. The regrettable incidents mentioned in the Committee's concluding observations that involved the deportation of two Tamils to Sri Lanka were isolated cases, which are fortunately extremely rare, and were attributable to a combination of factors. The State Secretariat for Migration immediately adopted all necessary measures to ensure that such incidents are not repeated.

15. The extradition process falls within the remit of the Extraditions Unit of the Federal Office of Justice and is initiated on the basis of a request from another State — by means of an international warrant for arrest with a view to extradition or a formal extradition request — submitted in respect of a person sought either to stand trial or to serve a prison sentence. The Federal Office of Justice proceeds to execute such requests — particularly those seeking a person's arrest with a view to extradition — only after prior, in-depth consideration of the documentation provided by the requesting State.

16. As a State party to the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950,[11] Switzerland is duty-bound to respect the fundamental rights enshrined therein. Under article 2 of the Federal Act on International Mutual Assistance in Criminal Matters of 20 March 1981,[12] requests for cooperation in criminal matters are inadmissible if it is believed that proceedings in the requesting State do not conform to human rights standards. Consequently, this consideration is taken into account by the Federal Office of Justice in all extradition requests.

17. In such matters, the Federal Office of Justice adheres strictly to federal jurisprudence, which distinguishes between States whose respect for human rights is not, in principle, in doubt; States with which extraditions may be agreed provided specific guarantees are obtained; and States to which extraditions are not permitted because of the real risk of prohibited treatment.[13] When there are serious doubts as to whether the principles governing the process will be respected if the requested person is extradited (see below), the Federal Office for Justice may request further clarification and/or formal guarantees from the requesting State and ask the Federal Department of Foreign Affairs to provide information on the political, legal and social situation in the State, the extent to which it respects fundamental rights, and the guarantees that it would provide as part of the extradition process.

18. Under the aforementioned jurisprudence, the first category of countries consists of democratic States — particularly Western ones — that do not present any problems in terms of respect for human rights or, therefore, under article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Extradition to these countries is not subject to any conditions.

19. The second category consists of countries where, although there may be a risk of violations of fundamental human rights or principles, the risk may be eliminated or, at the very least, greatly reduced by obtaining diplomatic assurances from the destination country in order to ensure that the residual risk remains purely theoretical. Countries in the second category have for the most part joined the Council of Europe and are therefore subject to its monitoring, meaning that they can be assumed to respect the rights established under the European Convention for the Protection of Human Rights and Fundamental Freedoms. For this second category of States, a theoretical risk of violations is not sufficient grounds to refuse extradition. When the Swiss authorities request formal guarantees, they routinely demand, firstly, that extradited persons are not subjected to treatment injurious to their

[11] RS 0.101.

[12] RS 351.1.

[13] See, for example, Federal Criminal Court ruling RR.2015.315/RP.2015.77, of 16 March 2016, observation 4.3.

physical or psychological integrity and that their situation while in pretrial detention or serving their sentence will not be aggravated by considerations linked to their political opinions or activities or their belonging to a particular social group, race, religion or nationality; and, secondly, that they are not detained in conditions that are inhuman or degrading within the meaning of article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and that their health is duly protected, notably through the provision of adequate treatment and care appropriate to their physical and psychological state.

20. The third category consists of countries in which there are particular reasons to believe that the requested persons are at risk of torture, and that this risk cannot be eliminated or mitigated by obtaining guarantees. In such cases, extradition requests are void ab initio.

21. Extradition requests are also refused when the requested person has refugee status, in accordance with the principle of non-refoulement enshrined in article 33 (1) of the Convention relating to the Status of Refugees of 28 July 1951.[14] Accordingly, where necessary, the authorities check whether the requested persons have refugee status prior to placing them in pre-extradition detention.

22. Requested persons are questioned during the extradition process so that they have the opportunity to state their position on the extradition request and explain their personal circumstances, in accordance with article 52 (2) of the Federal Act on International Mutual Assistance in Criminal Matters. They are subsequently invited to provide the Federal Office of Justice with written observations on the formal extradition request within two weeks, pursuant to article 55 (1) of the Act.

23. When the requested person's extradition to the requesting State is authorized by the Federal Office of Justice subject to the provision of formal guarantees, the inclusion in the agreement of a clause providing for the extradited person's situation to be monitored is automatically requested. Thus, any representative of the Government of Switzerland in the requesting State may visit the extradited person. The extradited person may, in turn, contact the representative of the Government of Switzerland in the State at any time, and meetings between the two parties may not be monitored in any way, including visually. If the person has been extradited to face criminal prosecution, the representative of Switzerland may enquire as to the status of the proceedings and attend all judicial hearings, and shall be provided with a copy of the decision handed down at the end of the criminal proceedings. Thus, the Swiss authorities are able to verify at regular intervals, either on the request of the extradited person or on their own initiative, whether or not the guarantees previously given by the requesting State are being duly respected. If the guarantees are violated, extradition relations between Switzerland and the State at fault are immediately suspended.

Paragraph 18

The Committee invites the State party to ensure that reception conditions for asylum-seeking minors are appropriate to their status as minors.

24. The competent authorities make every effort to ensure adequate accommodation for asylum seekers. However, in view of the large number of persons requesting asylum, the authorities sometimes face certain constraints when it comes to selecting the accommodation.

[14] RS 0.142.30.

25. In the initial phase, which may be up to 90 days but is on average between 20 and 40 days, asylum seekers are housed by the Confederation. Some asylum seekers may, during that time, be accommodated in military bunkers. However, the vast majority of lodgings provided by the Confederation are not underground, and the needs of unaccompanied minors are taken into account. In registration and processing centres, unaccompanied minors are housed, to the extent possible, in rooms with persons who share the same language and culture, with persons of the same sex, or even with their travel companions. Only an individual assessment of the situation allows for the best solution for the child's welfare to be found. Brothers, sisters and other minors from the immediate family are, in any event, housed together. Very young children may be housed in private accommodation if it is deemed to be in the child's interests. Such accommodation is generally only possible in the home of a relative or, failing that, and as an exceptional measure, in foster homes that have the requisite capacities.

26. Some unaccompanied minors may have to be housed in underground shelters, albeit exceptionally and for a limited period only, but, in terms of comfort and space, the conditions in these shelters are sometimes better than in the registration and processing centres, insofar as individual bedrooms are available.

27. After their stay at the facilities of the Confederation, asylum seekers are distributed among the cantons, at which point their accommodation becomes the responsibility of the cantonal authorities and is not subject to any directives of the Confederation. To the extent possible, the cantons try to avoid housing asylum seekers in nuclear bunkers; however, in view of the current situation, this is sometimes unavoidable. In most cases it is young single men who are lodged in bunkers. In accordance with the right to the protection of family life, families are not split up and are normally placed in the same accommodation. Inter-cantonal recommendations related to unaccompanied minors and young asylum seekers were adopted by the General Assembly of the Conference of Cantonal Ministers of Social Affairs on 20 May 2016.

The Committee invites the State party to honour its commitment to ensure that persons of confidence and legal advisers are present at all hearings for unaccompanied minors.

28. Under the Asylum Act, the competent cantonal authorities must immediately appoint a person of trust to represent the interests of unaccompanied juvenile asylum seekers in the following four situations:

(a) Throughout the procedure at the airport, if procedural acts decisive for the outcome of the asylum decision are carried out;

(b) Throughout their stay in a registration and processing centre if, outside of the initial summary hearing, procedural acts decisive for the outcome of the asylum decision are carried out;

(c) Throughout the entire asylum procedure, after the interested parties have been assigned to a canton;

(d) Throughout the Dublin procedure.

29. Once a person of trust has been appointed, summons to attend hearings are addressed to this person by the State Secretariat for Migration, with a copy to the unaccompanied juvenile asylum seeker. Except when the Dublin procedure is applied, the person of trust is usually summoned to appear only at the second main hearing concerning the grounds for asylum. As a general rule, the person of trust complies with the summons. According to jurisprudence, if the person of trust has manifestly acted against the interests of the unaccompanied minor or has manifestly omitted to perform the actions required for

the defence of the minor's interests, the person must be considered to have failed in their task and to have behaved in a manner that constitutes a violation of the unaccompanied juvenile asylum seeker's right to be heard. Such violations may be rectified by the appeals body if necessary.

The Committee invites the State party to make thorough inquiries into the disappearance of unaccompanied minors staying at reception centres, to identify them and to launch a search for them, as they may have become victims of trafficking.

30. The chief of the Federal Department of Justice and Police addressed this subject on 7 March 2016 in response to a parliamentary question from national councillor Claudia Friedl (16.5026: Missing unaccompanied juvenile asylum seekers).[15] The chief explained that disappearances of unaccompanied minors are automatically reported to the cantonal police, thereby triggering the publication of a missing person notice. Moreover, experience shows that unaccompanied minors often leave Switzerland to join family members resident in other countries. The Federal Office of Police (fedpol) has been following developments closely and, at present, there is no evidence to suggest that unaccompanied minors are victims of prostitution or other forms of exploitation. Nevertheless, in conjunction with partner organizations, fedpol is considering whether any additional measures might be necessary.

Paragraph 19

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:

(a) Be more persistent in its attempts to reduce prison overcrowding at Champ-Dollon, in particular by increasing the use of alternatives to custodial sentences, such as community service, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);

31. The management team of the Champ-Dollon prison is proceeding to modify prisoners' call classification as often as is possible and necessary, in line with the recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. In particular, it is putting an end to situations in which three inmates are held in a nominally individual cell and six inmates are held in a nominally triple cell for periods deemed excessively long by the judicial authorities. An end to prison overcrowding is a strong possibility under the prison plan adopted by the Cantonal Council in 2012, which provides for the construction of a 450-person capacity prison in Dardelles by 2020. In the meantime, on 30 June 2016 around a hundred prisoners were transferred to La Brenaz after the extension to this prison facility was brought into service.

32. The situation in the Champ-Dollon prison has eased slightly. The facility was housing 856 prisoners on 30 June 2014, but this number had decreased to 685 by 30 June 2015. As of 30 June 2016, the total number of inmates was 584, a figure that, if it remains stable, will allow for the minimum cell space per detainee recommended by the European

[15] See https://www.parlament.ch > Parliamentary Business > Search Official Bulletin > 16.5026 (last accessed 25 May 2016).

Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to be respected.

(b) Honour its commitment to modify the regime for pretrial detainees to reflect their status as unconvicted persons;

33. Conditions in pretrial detention are an issue to which more and more attention is being accorded in Switzerland. The National Commission for the Prevention of Torture provided further fuel for the discussion in devoting an entire chapter to the issue in its 2014 progress report.[16] As far as available financial, human and material resources allow, many cantons have adopted programmes designed to modify the regime of pretrial detainees in order to reflect their status as unconvicted persons, notably by offering more arts and crafts, cultural and sporting activities, as mentioned by the Swiss Federal Council in its response to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.[17] Contact with the outside world is a more sensitive issue for pretrial detainees, since in the interests of the criminal investigation it is very often necessary to restrict or at least monitor such contact. However, the liberty of pretrial detainees may be restricted only to the extent required by the purpose of the detention and the need to maintain order in the detention facility (Code of Criminal Procedure, art. 235).

(c) Take the necessary steps to guarantee strict separation and appropriate treatment for adults and minors, and for men and women;

34. The principle that minors should be separated from adults is established, for pretrial detainees, in article 28 of the Federal Act on Juvenile Criminal Procedure (PPMin, RS 312.1) and, for prisoners serving sentences, in article 27 of the Federal Act on the Criminal Law applicable to Minors (Juvenile Criminal Law Act (DPMin), RS 311.1), the relevant sections of which are as follows:

Federal Act on Juvenile Criminal Procedure

Article 28. Pretrial detention and detention for security reasons

(1) Minors placed in pretrial detention or detention for security reasons are held either in a segregated facility for minors or in a special unit of a detention facility where they are separated from adult detainees. Appropriate care is provided.

(2) At their request, juvenile pretrial detainees may engage in employment provided that their work does not interfere with the proceedings and that the situation in the facility or prison allows.

(3) The period of detention may be served in a private facility.

Juvenile Criminal Law Act

Article 27. Sentence execution

(1) Custodial sentences not exceeding one year may be served in the form of semi-detention (Criminal Code, art. 77 (b)). Sentences not exceeding one month may be served on a daily basis (Criminal Code, art. 79 (2)) or in the form of semi-detention.

[16] See the 2014 progress report of the National Commission for the Prevention of Torture, in particular chapter 3 (p. 25 et seq.).

[17] See response of Switzerland of 17 June 2016 to the 2015 report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, paras. 47, 48 and 52.

(2) Custodial sentences are served in juvenile facilities that are required to provide each minor with an educational programme adapted to their needs, including coaching to prepare them for social integration upon their release.

(3) The facility must be able to support the juvenile's personal development. Minors must have the opportunity to begin, continue or conclude some form of training or to undertake some form of gainful activity if the possibility of attending a school, undertaking an apprenticeship or being employed outside the facility is not possible.

(4) Treatment should be administered to juveniles whenever required by their condition and provided it is carried out openly.

(5) If the custodial sentence exceeds one month, juveniles are supported by a person with the necessary skills who is independent of the facility and helps them to assert their rights.

(6) The period of detention may be served in a private facility.

35. With regard to the separation of men and women, the authorities responsible for criminal prosecution and the enforcement of sentences and other punitive measures are accorded greater flexibility from the regulatory point of view. There is no federal-level requirement during the pretrial detention stage, since the matter falls under the jurisdiction of the cantons. With regard to the sentence execution stage, under article 377 (2) of the Criminal Code, cantons are advised that they may provide separate units for certain groups, including for women (Criminal Code, art. 377 (2) (a)). In practice, detention facilities ensure that direct contact between women and men is not possible.

(d) Improve the physical conditions of detention in police stations in the canton of Vaud and ensure the strict application of the maximum duration of police custody;

36. Physical conditions of detention in police stations are continuously upgraded to the extent possible within the limits imposed by the architecture of the buildings and the resources available.

37. Since prison overcrowding became a problem and police stations began to be used for periods of custody exceeding 48 hours, a great number of measures have been taken to bring conditions of detention in police stations as closely in line with conditions in prisons as possible. Examples of such measures include an increase in security personnel (guards and transfer officers) and medical staff (on-site nurse available seven days a week while a doctor and psychiatrist from the prison psychiatry and medical service visit weekly); the establishment of an infirmary to guarantee access to care; the installation of infrared cameras in cells so that detainees can be monitored even while the lights are switched off at night; the provision of a toll-free telephone line to enable detainees to make national and international calls; improvements to meals and laundering of detainees' clothes so as to improve their hygiene; the creation of a library, which includes religious works, among others; and the distribution of free cigarettes to detainees who smoke, helping to provide them with some relief. New measures are implemented on a regular basis, particularly following visits by the Board of Prison Visitors of Vaud Cantonal Parliament, which frequently calls at police stations to monitor conditions of detention and issues recommendations that the Vaud police endeavour to fulfil.

38. It is evident, however, that only with a significant decline in the current level of overcrowding in prisons will it be possible to curb the use of police stations for periods of detention exceeding the 48 hours legally permitted and bring conditions back more closely into line with the law. This observation has a bearing on the second part of the Committee

against Torture's recommendation, namely, to ensure the strict application of the maximum duration of police custody.

39. The canton of Vaud has been actively fighting prison overcrowding for many years and, since 2012, has taken various measures to this end. For example, 250 additional prisoner places have been created over a three-year period; a department of institutional affairs and security was established on 1 January 2014, bringing together the main players in the criminal justice system with a view to strengthening cooperation between them; the expulsion of foreign nationals without Swiss residence permits who have committed criminal offences has been made a priority; and an agreement to "rent" prisoner places has been concluded with the canton of Zurich. The prison infrastructure is also set to be upgraded; in June 2014, the Vaud Cantonal Council adopted a prison infrastructure plan and allocated a budget of SwF 100 million to the prison service for the period to 2022. Several projects are currently being considered to address the needs of the prison system from both the quantitative and qualitative point of view. The first round of projects will be unveiled by the end of 2016. The canton of Vaud has also adopted a prison policy, details of which were published in a report issued in January 2016. This exercise, which is the first of its kind in Switzerland, has laid the foundations of prison policy for the next 10 years and made the issue of prison overcrowding a priority concern.

40. However, the actual implementation of these ambitious projects will take time. In the meantime, the Vaud cantonal police are working tirelessly to ensure that, while the situation persists, conditions of detention in police stations are as comfortable as possible.

(e) Make thorough and impartial inquiries into all acts of violence committed in prison facilities;

41. The rules of criminal procedure establishing the principles of mandatory criminal prosecution and investigation are fully applicable to offences committed in the prison environment. In this regard, please refer to the information provided above and to the positions of individual cantons detailed in paragraph 55 et seq. of the Federal Council's response to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment,[18] which addresses similar issues.

(f) Ensure that solitary confinement in high security facilities is never applied to persons with a psychosocial disability;

42. According to the latest available data,[19] there were a total of 16 persons with mental disorders being held in special secure units at six prisons. The prison wardens at these facilities have confirmed that the detainees in question were under therapeutic supervision (although some detainees were refusing any form of treatment) and that every effort was made to find the most appropriate solutions while respecting the principle of proportionality. It should be remembered that providing care for persons with mental disorders is a complex issue, which involves striking the right balance between the well-being of the detainee and the safety of the detainee, and also of fellow inmates, prison staff and society in general. For more information, please refer to the Federal Council's response to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.[20]

[18] See response of Switzerland of 17 June 2016 to the 2015 report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

[19] Official figures as of August 2015.

[20] See response of Switzerland of 17 June 2016 to the 2015 report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, para. 96 and paras. 109-121, in particular paras. 114, 119 and 120.

(g) Ensure that therapeutic treatment in appropriate facilities is guaranteed in all cantons.

43. As previously indicated, the cantons make every effort to ensure that detainees with mental disorders are held in conditions suited to their situation. That said, the cantons are well aware that many challenges remain to be addressed in this area. For that reason, a number of projects are currently being considered with the aim of ensuring personalized therapeutic care for all inmates with mental disorders.[21] The recent inauguration of the Curabilis centre in Geneva constitutes an important advance in this respect. A closed facility with 92 prisoner places, the Curabilis centre is designed to receive detainees placed under the terms of a cooperation agreement between the "Latin" cantons. It is envisaged that all its units will be fully operational by December 2016.[22] Similar initiatives include a project in the canton of Zurich that will make 39 additional closed prison places on the site of the Rheinau forensic clinic available under the Eastern Switzerland cooperation agreement on sentence execution, and a project in the canton of Grisons involving the establishment of a large closed facility on the site of the Realta prison that will provide 20 places for execution of the measures envisaged under article 59 (3) of the Criminal Code.[23]

[21] For an overview of the situation, see the Response of Switzerland of 17 June 2016 to the 2015 report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, para. 96.

[22] See response of Switzerland of 17 June 2016 to the 2015 report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, para. 32.

[23] See response of Switzerland of 17 June 2016 to the 2015 report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, para. 112, response of the canton of Zurich.