

**QUESTIONS BY THE RAPPORTEUR**

IN CONNECTION WITH THE CONSIDERATION OF  
THE FOURTH TO SIXTH PERIODIC REPORTS OF  
**SWITZERLAND**  
(CERD/C/CHE/6)

**Composition of the population**

1. Please provide an update of the statistics on foreign persons living in Switzerland, linguistic and religious minorities and the Travellers (State report, paragraphs 15 to 19). What percentage of foreign persons resident in Switzerland acquires Swiss citizenship each year? Do the percentages in this regard differ among the various nationalities of origin? Do the percentages of foreigners granted citizenship vary widely between cantons, or are acceptance rates relatively uniform?

**Institutional Framework**

2. In light of the Committee's recommendation in its previous concluding observations (CERD/C/60/CO/14, paragraph 13), please provide information on efforts to strengthen the mandate, composition, independence, resources, activities and results of the activities of the Federal Commission against Racism. Please provide information on recent developments in the debate on the establishment of an independent national human right institution in accordance with the Paris principles (General Assembly Resolution 48/134 of 20 December 1993). How do the efforts to create such institution blend with, or enhance the work of the Swiss Commission against Racial Discrimination? Please also provide statistical data on the activities of the Federal Commission against Racism, including with regard to its advisory role and its role as a mediator (paragraph 210 of the State report). At what level (communal, cantonal or federal) would government bodies have the ability to enforce findings of any discrimination-monitoring body?

### **Implementation of the Convention**

3. In light of its previous recommendations (paragraphs 8, 10), and while noting that the implementation of some of the Convention's provisions falls in the competency of the cantons, the Committee would like to know whether the adoption of comprehensive federal legislation on racial discrimination, including with appropriate remedies, is being considered.<sup>1</sup> Please clarify the exact status of the Convention in the domestic legal order of the State party and indicate which provisions of the Convention can be directly invoked before a federal or cantonal court. Please provide examples of such cases, if any.

#### **Article 1**

4. Please provide information on legislative provisions, in addition to the provisions in article 8 of the Swiss constitution, which define the understanding of racial discrimination at the federal and cantonal levels, and explain the extent to which such provisions correspond to the definition in article 1, paragraph 1 of the Convention.

#### **Article 2**

5. Please provide information on legislative provisions on the prohibition of racial discrimination in the cantonal constitutions and legislation (paragraph 52 of the State report).
6. Please provide information on the practical outcome of studies and projects to prevent racial discrimination and combat xenophobia and racial discrimination (State party report, paragraphs 241 to 248). Please also provide further information on measures undertaken to protect ethnic minorities (paragraph 60 of the State report). Please also provide information on the impact of the activities of the "media observation centre" of the Swiss Federation of Jewish Communities (paragraph 63 of the report).
7. Please provide information on legislative measures taken or intended to be taken, at the federal and cantonal level, to end indirect discrimination against Travellers (paragraph 287 of the State report). Please provide information on zones and areas

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<sup>1</sup> CERD/C/304/Add.44

identified as suitable for occupation by Travellers. Please provide information on policies and practices applicable to Travellers who are not of Swiss nationality.

8. Please indicate whether any measures have been taken to restrict the use of racial profiling, including in airports, identified as an issue of concern in the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/4/19/Add.2, paragraph 52) and other sources before the Committee.
9. Please provide information on the number of members of national minority groups and foreign nationals working in the civil service. (State report, paragraph 128.) What policies does the civil service follow to prevent discrimination in selection and recruitment practices? Please provide information on the number of members of national minority groups working in the police force throughout the State party. Please indicate the number of non-citizens serving in the police forces in Basel-Stadt, Schwyz and Geneva, where nationality is no longer a criterion of admission to the police (State report, paragraph 274). Please indicate if other cantons are considering adopting such policy.
10. Please indicate whether Switzerland intends to maintain its reservation to article 2 of the Convention.

#### **Article 4**

11. Please indicate if Switzerland is considering withdrawing its reservation to article 4 of the Convention, bearing in mind that the Swiss Penal Code, article 261*bis*, already criminalizes acts and conduct described in article 4 of the Convention. Please provide statistical data on criminal prosecutions and convictions under article 261*bis* of the Penal Code. Please also indicate whether, in addition to the provisions criminalizing the conduct of individuals under article 261*bis* of the Swiss Penal Code, the State party intends to enact legislative provisions prohibiting organizations promoting racial discrimination. Have any preventive measures been taken under article 386 of the Penal Code with regard to offences punishable under article 261*bis* or related to it (State report, paragraph 21)?

## Article 5

12. How does the State party fulfill its obligations under the Convention relating to the absence of discrimination in the right to work, to housing and to access any place or services intended for use by the general public? Please provide information on measures to prevent such discrimination, including measures taken by the Federal Commission against Racism to seek an “explicit ban on discrimination between private individuals” in the areas of employment and housing (paragraph 207 of the State report).
  
13. With reference to the Federal Supreme Court decisions referred to in paragraphs 250 and 251 of the State report, please indicate how many cantons or communes apply popular ballots on naturalization applications. In light of the recent referendum abolishing citizenship votes by secret ballot, please provide information on how the State party intends to increase transparency in the citizenship approval process. Please provide information on any appeal processes available to a would-be citizen if his or her application is rejected at the communal level. Is appeal at the cantonal or federal level available? Does the federal government have plans to implement standards and practices for the approval of citizenship applications, or will that power remain at the communal level? What powers do the federal and/or government or courts have to enforce anti-discrimination policy at the communal level regarding the citizenship approval process?
  
14. Please provide information on the reasons for the decrease of the number of asylum applications by nearly one third (32.3%) between 2003 and 2004, as cited in paragraph 11 of the State Party Report. In light of the amendments to the Asylum Act adopted in 2005, please provide statistical data on how the new, stricter provisions of this Act are applied across different ethnic groups or nationalities (State report, paragraph 38).  
What has been the impact of these amendments in practice? Aside from the harmonization of the time limit on holding a person for the purpose of establishing his or her identity, in what other areas is the federal government working to harmonize cantonal execution of asylum policies? Please provide information on the content of the recommendations issued by the Conference of Cantonal Directors of Social Affairs that services are provided to asylum-seekers according to uniform criteria throughout the country (paragraph 40 of the State report).

15. Please provide information on cases of police violence in connection with the expulsion of foreigners, including in connection with the two cases of death that occurred in 1999 and 2001, and on the content of the CCJDP guidelines on the use of force (State report, paragraph 124). Please provide information on the status of the draft legislation on the use of coercion against foreigners/the use of constraints (State report, paragraphs 48, 125 of the State report). Please provide statistical data on complaints, prosecutions and convictions relating to police violence in all cantons. Do ombudsmen institutions and independent police complaints units exist in all cantons?
16. Please provide detailed statistical data and information on foreign nationals participating in cantonal voting, standing for election to communal commissions of experts, and being elected to rent tribunals and labour courts in the cantons and communes where voting rights have been granted to foreign nationals. (State report, paragraphs 127 and 147.)

#### **Article 6**

17. Please provide detailed statistical data and information on ethnically motivated violence and other related acts, including hate speech, during the reporting period, especially against members of the African, Muslim and Jewish communities and against Roma and Travellers (State report, paragraphs 57 and 59). According to paragraph 99 the State report, half of the 212 acts of racial discrimination brought before the judicial authorities from 1995 to 2002 led to criminal proceedings. Please update these data for the reporting period and indicate the penalties applied. Please also provide statistical data on cases of extremism and racist acts in the Swiss army (State report, paragraph 110) and provide information on their investigation and prosecution.
18. Please provide an overview of all complaints mechanisms for racial discrimination in the State party, and indicate the number of complaints registered during the reporting period. Please indicate how many complaints concerning racial discrimination were received by the Independent Complaints Authority for Radio and Television

(paragraph 225 of the State report). What action has been taken in response to such complaints?

19. Please provide statistical data on the application of the Federal Assistance to Victims of Offences Act and clarify if it has ever been applied to acts of racial discrimination (State report, paragraph 193; Core Document, paragraph 62). According to information before the Committee, associations are not permitted to bring judicial proceeding, whether civil or criminal, on behalf of victims of racial discrimination, except in the Geneva Canton. Please indicate the reasons for this restriction, in light of its potential impact on the effective protection of victims.

#### **Article 7**

20. In addition to the effort made by the Service for Combating Racism and the Federal Commission for Foreigners (paragraph 194 *et seq.* of the report), what measures are taken to promote understanding, tolerance and friendship among racial and ethnic groups and to counter trends of xenophobia in Swiss society?
21. What are the applicable criteria for the “successful integration” of immigrants devised by the FOM (paragraph 75 of the State report), and what policies does the Swiss Conference of Integration Officers follow to prevent discrimination (paragraph 76 of the State report)? Are there federal guidelines establishing the basic operations and programs of cantonal integration offices (State report, paragraph 74)? Is there a wide disparity in the levels of successful integration between cantons? How influential has the Swiss Conference of communal, regional and cantonal integration officers (CDI) been in harmonizing integration protocol across cantons? What efforts are being made to increase harmonization in this area?
22. Please provide detailed information on any specific training programmes and courses for members of the judiciary, law enforcement officials and other public officials on the provisions of the Convention and their application. Please provide statistical information on the percentage of judiciary and law enforcement officials as well as other public officials who have participated in such programs.

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