Addendum

Swiss NGO-Report

Supplementary Information to the

UN-Committee on the Rights of the Child

Follow-up of the NGO-Hearing on 7th of February 2002

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PRELIMINARY REMARKS

On the 7th of February 2002, the UN-Committee on the Rights of Child invited representatives of non-governmental organisations to comment on their joint report «Swiss NGO-Report, Commentary to the report of the Swiss Government to the UN-Committee on the Rights of the Child» that was submitted in October 2001.

In the course of this hearing the UN-Committee on the Rights of the Child raised a number of questions which the present report will try to answer. The authors hope that the respective responses will help clarify the raised issues, but also regrets that – due to the shortage of available data – the present report remains incomplete. Therefore, in the view of the organisations it is imperative to improve the availability of data on all matters concerning children.

The present report focuses foremost on the question to which extent the federal structure of Switzerland results in unequal treatment of children. This question will be addressed by looking at the various cantonal systems with respect to family allocations, means-tested benefits and health insurance schemes. In its second part the report will concentrate on providing further information on the high incidences of juvenile traffic victims in Switzerland.

The hearing on the 7th of February also requested further information about the situation of children of travelling families in Switzerland. Investigations and inquiries to the «Radgenossenschaft der Landstrasse» (Travellers' Co-operative), an organisation committed to serve the interest of travelling families in Switzerland, have shown that, due to the lack of hard data, statements about the situation of juvenile travellers are not possible at the present moment. However, we hope to be able to provide information on this subject in Switzerland's second State report to the UN-Committee on the Rights of the Child.

The organisations will be pleased to provide the UN-Committee on the Rights of the Child with any further information it should require.

IMPACT OF FEDERALISM ON CHILD AND FAMILY POLICY

In its State report the Swiss Government frequently³ refers to the Swiss federal structure and to the sovereignty of the cantons in matters such as compulsory education, imprisonment, health policy, promotion of culture as well as central aspects of social and family policy.

The cantonal authority in these matters constitutes one of the pillars of Switzerland's governmental system. However, in our context the sovereignty of the cantons poses a problem because the Swiss Government as the signatory of the Convention on the Rights of the Child has but limited influence on the implementation of the Federal Convention by the cantons.

The restricted authority of the federal Government can be demonstrated in the field of education. Whilst compulsory education is enshrined in the Federal Constitution, it is the cantons and the municipalities who are responsible for the organisation and financing of the educational system. As a result of the fact that the Confederation has no legislative competence in this matter, Switzerland has 26 different cantonal systems of education. This situation may cause difficulties for children if their families, for professional or other reasons, have to move to another canton. Since curricula as well as the definition of the various class grades differ from canton to canton, parents may well be obliged to accept that the mother and children remain in one canton whilst the father moves to the canton where his work is located.

The federal system may serve the population well in many ways, but the principle of subsidiarity may in certain respects, namely as far as child and family policy is concerned, hinder the coherent implementation of the Convention on the Rights of the Child and result in unequal treatment of children and their families.

The following observations intend to illustrate this problem by referring to the various cantonal systems with respect to family allocations, means-tested benefits and health insurance contributions. However, the report does not claim to be complete in this matter.

FAMILY ALLOCATIONS

The Confederation's restricted competence in the area of family policy is stipulated in article 116 of the Federal Constitution. According to this article the Confederation, in fulfilling its task, shall take into account the needs of the family. In addition to this general regulation the article mentions the Confederation's competence to legislate on family allocations and to operate a family compensation fund. However, as yet the Confederation has only adopted legislation on the family allocations for the agricultural sector and for federal employees⁴.

³ §17, §18, §25, §59, §93, §243, § 249, §255, §372, §494, §499, §594, §608, §628, §713 in the Report of the Swiss Government.

⁴ http://www.bsv.admin.ch/fam/grundlag/d/politik.htm

For this reason, family allocations (child allowance, education allowance and maternity benefits) are not regulated in a nationwide, coherent manner, but each canton adopts its own laws on the entitlement to and types and amounts of allocations. As a result, Swiss employees are confronted with 26 different cantonal family allocation systems.

The nature of family allocations

Family allocations form part of the social insurance services. However, family allocations serve a very different purpose than other services of that kind since they are not considered a replacement of but a supplement to salary income. When gainful employment is interrupted or abandoned, family allocations usually are cancelled as well. In other words: Family allocation is generally only paid to parents who are part of the active work force.

Unequal amounts of family allocation

The present system in Switzerland denies some population groups the right to receive family allocation. Employees are entitled to family allocation, the self-employed do enjoy this right only in some cantons (and depending on their level of income), and unemployed residents receive family allocation only in exceptional cases.

 In only nine cantons, the self-employed are entitled to receive family allocations: Lucerne, Uri, Schwyz, Zug, Schaffhausen, Appenzell Inner-Rhodes, Appenzell Outer-Rhodes, St. Gall, Grisons.

The remaining 17 cantons do not pay family allocation to self-employed persons.

In only four cantons, namely in the cantons of Valais, Fribourg, Geneva and Jura, residents outside the labour force can – under certain conditions – claim the right to receive family allocation.

The remaining 22 cantons do not pay any family allocation to unemployed residents.

The number of affected children in both populations groups, the self-employed and the unemployed, is not known. For this reason, the organisations once again emphasise the need to study this situation further and to improve the availability of relevant data.

The following table shows that the amount of family allocation varies substantially from canton to canton and lies between 150 and 260 Swiss francs per month.

Canton	Amount per child and		Age limit		Maternity benefit
	month				
	Child	Education	General	Specific ²	
	allowance	allowance ¹			
ZH	170/195 ^{3, 4}	_	16	20/25	-
BE	160/190 ³	-	16	20/25	-
LU	165/195 ³	225	16	18/25	800 ⁵
UR	190	-	16	18/25	1000
sz	160	-	16	18/25 ⁶	800
ow	170	-	16	25/25	-
NW	175/200 ³	-	16	18/25	-
GL	160	-	16	18/25	-
ZG	230/280 ⁷	-	16	20/25	-
FR	210/230 ⁷	270/290 ⁷	15	20/25	1500 ⁸
SO	175	-	18	18/25 ⁹	600
BS	150	180	16	25/25	-
BL	150	180 ¹⁰	16	25/25	-
SH	160	200	16	18/25	-
AR	170	-	16	18/25	-
AI	180/185 ⁷	-	16	18/25	-
SG	170/190 ⁷	190	16	18/25	-
GR	150	175	16	20/25 ¹¹	-
AG	150	-	16	20/25	-
TG	190	-	16	18/25	-
ті	183	-	15	20/20 ¹²	-
VD ¹⁶	150 ¹³	195	16	20/25 ¹¹	1500 ^{8, 14}
vs	260/344 ⁷	360/444 ⁷	16	20/25	1500 ^{8, 15}
NE ¹⁷	160/180	220/240	16	20/25 ¹¹	1000
	200/250	260/310			
GE	200/220 ³	-	18	18/18	1000 ⁸
JU	154/178 ¹⁸	206	16	25/25 ⁸	782 ⁸
	132 ¹⁹	132 ¹⁹			

Cantonal family allocations for employees with children in Switzerland As per 1st of January 2002

¹ The education allowance replaces the child allowance; cantons that do not pay education allowance generally grant child allowance until the child has completed his or her education, but not beyond the specific age limit. The table only shows the education allowance if it exceeds the child allowance.

² The first figure applies to disabled children (ZH: children partially unfit to work), the second to children in education.

³ ZH, BE and LU: The first amount applies to children up to the age of 12 years, the second to children above 12 years of age. NW: The first amount applies to children up to the age of 16 years,

the second to children above 16 years of age. GE: The first amount applies to children up to the age of 15 years, the second to children above 15 years of age.

- ⁴ When exactly in 2002 the relevant legislation enters into force is not yet known. Up to that date the present amount of 150 Swiss francs will be applicable.
- ⁵ Maternity benefit is restricted to children born in Switzerland and registered in a Swiss birth register.
- ⁶ Employees are entitled to receive family allowance for legitimate children residing abroad until completion of the 16th year.
- ⁷ The first amount applies to the first two children, the second to the third and any further child.
- ⁸ The allocation applies also to adopted children.
- ⁹ The age limit for children who are disabled since birth or childhood is 25 years.
- ¹⁰ The allowance amounts to 150 francs for children in education residing abroad.
- ¹¹ Children receiving invalidity insurance payments are not entitled to allowances. The cantons of Ticino and Vaud pay 50% of the child allowance if the child is entitled to 50% of the invalidity insurance payments and Ticino upgrades the child allowance to ¾ if ¼ of the invalidity insurance payments are granted.
- ¹² Applies to disabled children in special education and children in Swiss education.
- ¹³ The third and every further child receives an additional 170 francs provided he or she resides in Switzerland. Disabled children between the age of 16 and 20 years are entitled to receive a child allowance of 195 francs.
- ¹⁴ The maternity benefit is doubled in case of multiple-births or if more than one child is adopted at the same time.
- ¹⁵ The maternity benefit is doubled in case of multiple-births or if more than one child is adopted at the same time.
- ¹⁶ Legal minimum; funds can increase this amount depending on their financial capacity.
- ¹⁷ Shown amounts apply in the given order to the first, second, third and forth (further) child.
- ¹⁸ The first amount applies to families with one or two children, the second to families with three and more children.
- ¹⁹ Beneficiaries of child or education allowances receive a household allowance of 132 francs per months.

Source: Federal Office for Social Security, Arten und Ansätze der Familienzulagen (Types and amounts of family allocations), as per 1st of January 2002.

Unequal amounts of maternity benefit

Maternity benefit is a one-time payment to parents after the birth of a child. The above table shows considerable differences between cantonal policies with respect to maternity benefit.

- Parents residing in the following cantons have no right to receive maternity benefit: ZH, BE, OW, NW, GL, ZG, BS, BL, SH, AR, AI, SG, GR, AG, TG, TI.
- The canton of Solothurn pays maternity benefit amounting to 600 Swiss francs; next in line with 782 francs is the canton of Jura. Parents residing in the cantons of Lucerne and Obwalden receive 800 francs whilst residents of the cantons Uri, Neuchâtel and Geneva receive 1000 francs. The highest amount of 1500 francs is paid in the cantons of Fribourg, Vaud and Valais.

Recommendations for the harmonisation of family allocations

In view of overcoming the existing differences with respect to child allowance, Pro Familia Switzerland, the umbrella organisation of family organisations in Switzerland, and the Eidgenössische Koordinationskommission für Familienfragen (Federal Coordination Commission for family matters) have recommended the nation-wide introduction of a harmonised system based on the principle «one child – one allowance». Both institutions propose to stipulate a minimum amount of 200 francs to be paid to all parents (self-employed, unemployed, part-time and full time employees). This amount is in line with the recommendations, which the Nationalrätliche Kommission für Soziale Sicherheit und Gesundheit (Commission for Social Security and Health of the National Council) has proposed in 1995. So far no respective draft has been submitted to Parliament.

MEANS-TESTED BENEFITS

The nature of means-tested benefits

Means-tested benefits are structured in accordance with <u>supplementary benefits</u>⁵; they are a mix between social insurance and social welfare benefits. Whilst in principle there is legal entitlement to receive benefits, entitlements as well as granted amounts are dependent on the claimant's level of income.

Only eleven cantons (Zurich, Lucerne, Glarus, Zug, Fribourg, Schaffhausen, St. Gall, Grisons, Ticino, Vaud and Neuchâtel) pay means-tested benefits to needy mothers and – in certain cases fathers – of small children. The duration for which benefits can be claimed varies considerably from canton to canton (between 6 months and 2 years). Conditions for eligibility and waiting periods (no waiting periods up to three years of domicile in the canton) also differ. (see annex A).

⁵ Supplementary benefits may be claimed when the family income is not sufficient to meet minimal living costs. Supplementary benefits are means-tested and granted on demand. They are not social welfare benefits. Beneficiaries have to fulfil certain personal and economic prerequisites. There must be overspending, that is the family income must be too small to meet their legally accepted expenses.

The model of the canton of Ticino: Example for a nation-wide legislation on a meanstested benefit system for families with low income

Ticino is the only canton that has introduced a means-tested benefit system providing benefits for a child until the completion of the 15th year if the child's family is in need. In addition to income-neutral child and education allowances amounting to 183 francs, this model knows two further allowances for families on a low income:

- Supplementary benefit for children between 0 and 14 years of age (up to the 15th birthday) and
- Infant supplementary benefit for households with children between 0 and 2 years of age and an income that – after reception of supplementary benefit – still lies below the minimum standard of living.

Recommendations for the nation-wide introduction of a means-tested benefit system in accordance with the Ticino-model

The Swiss Parliament has approved two parliamentary initiatives supporting the introduction of supplementary benefits for families in need. The Parliament is expected to express its views to a respective bill in the course of the coming year. Several organisations such as the Eidgenössische Koordinationskommission für Familienfragen (Federal Coordination Commission for family matters), the Städteinitiative (Municipal Initiative), the Schweizerische Konferenz für Sozialhilfe – SKOS (Swiss Conference for Social Welfare), Pro Familia Switzerland and pro juventute have recommended the nation-wide implementation of the Ticino-model. Experts expect that this highly targeted system of supplementary benefit will substantially reduce poverty and will help bring the percentage of families in poverty from the present figure of 6% down to 2,6 - 3,7%. The nation-wide implementation of the Ticino-model would cost a relatively modest amount of 370 million francs.

HEALTH INSURANCE

Health insurance premiums – a burden for families with a low income

Families on a low income suffer under a compulsory health insurance system that fixes the contribution costs to the number of heads per family. In this context it needs to be pointed out that the monthly health insurance costs for children aged 0 to 18 do not only differ from canton to canton, but also within each canton from insurer to insurer. (see annex B).

In the canton of Geneva, the monthly health insurance premium for one child amounts on average to 95 francs. This premium is more than twice (56%) as high as a monthly premium in Appenzell Inner-Rhodes where parents only have to pay 41 francs. In view of the fact that premiums generally reflect costs of services as well as risks, a comparison between the costs in Geneva and in Appenzell Inner-Rhodes has to be put in perspective.

However, even a comparison between Geneva and Zurich, which in terms of number of inhabitants per medical doctor or level of income are closer than Geneva and Appenzell Inner-Rhodes, reveals a considerable difference in premium costs. Parents in Geneva have to pay the above-mentioned amount of 95 francs, whilst parents in Zurich pay only 63 francs.

Upon adoption of the Federal Law on Health Insurance in 1996, the legislator foresaw the possible discrepancies between the health insurance contributions in the various cantons. In order to alleviate these discrepancies, a system of premium reductions was introduced for policyholders living on a low income. These premium reductions that are covered by federal as well as by cantonal contributions were also laid down in the Federal Law on Health. However, the adoption and implementation of concrete measures was left to the cantonal governments. As a result, 26 different systems of premium reduction emerged, all differing greatly as far as their social effectiveness is concerned. The necessary preconditions for entitlement as well as the calculation also differ substantially from canton to canton.⁶

Premium reduction in the compulsory health insurance

It its message concerning the Federal Law on Health Insurance, the Federal Council has stated that health insurance costs should not exceed 8% of the taxable income of a family. A study requested by the Federal Office for Social Security⁷ shows that in some cantons, even after reception of the premium reduction, the financial burden for families and single parent families remains very high. On the basis of their own calculations the authors of the study estimate that 8% of the taxable income generally equal 6% of the disposable income. The disposable income equals the net income minus the federal, cantonal and municipal taxes.

The study examines the health insurance premium costs for the four following population categories:

- A female pensioner with a retirement pension of 35 000 Swiss francs (our report will no longer refer to this example);
- A single mother with two children (aged 6 and 8) and a gross annual income of 40 000 francs:
- A middle class family with two children (aged 10 and 15) and a gross annual income of 70 000 francs:
- A large family with four children (aged 2, 4, 7 and 10) and a gross annual income of 70 000 francs.

The study shows that the Federal Council's intention to limit the health insurance premium costs to a maximum of 8% of the taxable income was not achieved in the cantons of Zurich, Lucerne, Solothurn, Basle-Town, Basle-Country, Schaffhausen, Argovia, Thurgovia, Ticino, Vaud, Geneva and Jura.⁸

⁶ Die sozialpolitische Wirksamkeit der Prämienverbilligung in den Kantonen: Monitoring 2000 (The social effectiveness of premium reduction in the cantons: Monitoring 2000), by: A. Balthasar, Interface Institut für Politikstudien, 31th Januar 2001, Lucerne. http://www.interface-politikstudien.ch/Deutsch/aktuell.htm, S. 29

Die sozialpolitische Wirksamkeit der Prämienverbilligung in den Kantonen: Monitoring 2000 (The social effectiveness of premium reduction in the cantons: Monitoring 2000), by A. Balthasar, Interface Institute für Politikstudien, 31th January 2001, Lucerne http://www.interface-politikstudien.ch/Deutsch/aktuell.htm ⁸ Idem, p. 7

The study also established the following facts:

- Even after having been granted premium reduction, «middle-class families» in 20 cantons still pay more than 6% of their disposable income on compulsory health insurance. In many cantons premium costs for «middle-class families» remain relatively high despite of the reduction. In the cantons of Zurich, Schwyz, Glarus and Ticino «middle-class families» are not even entitled to receive a premium reduction.⁹
- The following results were established for «single-parent families»: Only members of this study-group that reside in the cantons of Basle-Country or Geneva have to pay more than 6% of their disposable income for compulsory health insurance. The premium reduction eases the financial burden of many single-parent families. However, the study also shows that the effectiveness of premium reductions for single-parent families has decreased between 1998 and 2000. Whilst in 1998 the average Swiss single-parent family only had to spend 3,5% of the disposable income on health insurance premiums, by year 2000 this figure had risen to 5,4%.¹⁰
- «Large families» in the cantons of Zurich, Lucerne, Schwyz, Soloturn, Basle-Town, Basle-Country, Thurgovia, Ticino and Geneva pay more than 6% of their disposable income for health insurance premiums. Premium reductions do help ease the financial burden of this study-group, but in many cantons the social objectives of premium reductions are not fully achieved.

Furthermore it should be noted, that the present system of premium reduction fails to harmonise the substantially cantonal differences in health insurance costs. For the category of «single-parent families» for example it was shown that the average annual health insurance premium after premium reduction in the canton of Geneva is still roughly 10 times higher than in Appenzell Outer-Rhodes (2952 francs in Geneva, 252 francs in Appenzell Outer-Rhodes).¹¹

But not only premium costs differ from canton to canton, the access to health services is also very different. Parents residing in deprived rural cantons are obliged to take out additional health insurance policies for their children in order to make sure that their children, should the need arise, can be treated in a different canton. Often the closest child clinic is located only a few kilometres away, but might be administered by a different canton. Parents of seriously ill, disabled or chronically affected children have to overcome bureaucratic hurdles before health insurance, invalidity insurance or other institutions are prepared to cover the cost for the required medical treatment of their children.

VICTIMS OF TRAFFIC ACCIDENTS

The rapidly increasing traffic volume and the high number of casualties on Swiss roads point to the need of developing a new road safety policy. Traditional concepts of road safety were

⁹ Idem, p. 7- 8

¹⁰ Idem, p. 8 and 10.

¹¹ Idem, Annex A4, p. 95

generally based on the presumption that a certain number of casualties cannot be avoided. But in October 1997, Sweden has adopted a pioneer regulation for road safety, the «vision zero». This vision aims at making sure that in future no road user will be injured or killed in a road accident.

The reorganisation of the transportation system has to focus on its weakest and most vulnerable users: pedestrians, cyclists, motorcyclists and first of all children. The transportation system has to be organised in such a way that children and vehicles can coexist.

In its evaluation of causes of death, the Swiss Council for Accident Prevention has revealed that between 1991 and 1995 almost half (49,3%) of all fatal accidents of children between 0 and 14 years of age were road traffic accidents. The OECD-countries reported that an average of 41% accidental child deaths were due to road traffic accidents.¹²

The most recent table on causes of deaths (1998) shows that 20% of all causes of death (not only due to accidents as mentioned in the previous paragraph, but also to illnesses) of male children aged 1 to 14 were due to road traffic. The respective figure for girls in the same age category was slightly lower, namely 12%. Hence, in 1998 road traffic accidents were the main cause of death for male children aged 1 to 14, followed by death due to cancer. For girls, road traffic accidents were the second most frequent cause of death, general accidents being the main cause.

According to statistics complied by the Swiss Council for Accident Prevention, in the year 2002 a total of 2562 children were injured in road traffic accidents. In the same year, 28 children were killed on Swiss roads.¹³ It has to be noted that these statistics only cover road accidents involving children aged 0 to 14 years. The respective figures for the age group defined by the Convention of the Rights of the Child, that is the age group between 0 and 18, will probably be higher.

Further statistics of the Swiss Council for Accident Prevention show the number of injured persons by age group and traffic participation. This table reveals that in 2000, most of the accident victims in the traffic participation categories pedestrians, cyclists and motorcyclists were children:

- The majority of all pedestrians involved in road traffic accidents, irrespective of age, were children between 5 and 9 years of age (440).
- The majority of all cyclists involved in road traffic accidents, irrespective of age, were children between 10 and 14 years of age (507).

¹² Innocenti Report Card, No. 2, Child Deaths by Injury in Rich Nations, UNICEF Innocenti Research Centre, Florenz, February 2001, p. 9 ¹³ Swiss Council for Accident Prevention (bfu), Statistics 2001, Accident – Road traffic, Accident victims among

children (aged 0-14) in road traffic 1980-2000, http://www.bfu.ch/forschung/statistik/statistik_%202001/usv_t_09.htm

• The majority of all motorcyclists involved in road traffic accidents, irrespective of age, were young people between 15 and 17 years of age (402).¹⁴

The analysis of road accident data shows an overall gradual decline in road accidents involving children. However, this reduction is limited to the younger age groups. Today, roughly as many children aged 9 and children using a vehicle are involved in road traffic accidents as there were 20 years ago. The fact that the number of juvenile road traffic victims of both categories is relatively constant shows that our preventive measures have clearly failed. The decreasing number of younger traffic victims might well be explained by the fact that, over the years, children have increasingly been expelled from their traditional playing areas and are nowadays more and more frequently accompanied by adults. Today, between one quarter and one third of the five year-olds can no longer leave their flat or house without being accompanied. The drastic loss of freedom and the reduction of open spaces have a negative impact on the development of a child's motor skills. However, good physical coordination and control are indispensable prerequisites for competent traffic navigation. Our children are loosing out: Increasing traffic volumes prevent them from exercising precisely those skills that they need to successfully navigate the growing danger that increasing traffic volumes entails.

In Switzerland as a whole, road safety campaigns form a compulsory element of kindergarten and primary school education. Since no such obligatory traffic education exists for secondary schools, several institutions such as the police, transport associations, driving instructors and insurance companies provide their services in order to inform young road users. But Switzerland is still a long way away from implementing a coherent road safety campaign.¹⁵

In this context it seems a major shortcoming that Switzerland has so far failed to set up a specialised road safety office or department which concentrates and coordinates all measures for the improvement of road safety and which elaborates, coordinates and implements a coherent road safety policy. At present this challenging task is divided between the Confederation, cantons, public offices and numerous private organisations and traffic associations.

Due to the initiative of Federal Counsellor Leuenberger, Switzerland now and for the first time intends to elaborate a coherent road safety policy. In late 2000 the Swiss Council for Accident Prevention was given the mandate to draft a report on the principles of a nation-wide, harmonised road safety policy and to elaborate a possible concept. This report was recently submitted to the Federal Department of Environment, Transport, Energy and Communications, but has not yet been made public. We await which measures the Department will adopt in order to improve road safety in Switzerland.

¹⁴ Swiss Council for Accident Prevention (bfu), Statistics 2001, Accident – Road traffic, Injured persons by age group and traffic participation, 2000, http://www.bfu.ch/forschung/statistik/statistik_%202001/usv_t_19.htm
¹⁵ Report 36, Swiss Council for Accident Prevention, Konkretisierung eines Ausbildungskonzeptes für Velo- und Mofafahrer an der Oberstufe (Defining a curriculum for cyclist and motorcyclists in secondary school), Jacqueline Bächli-Biétry, 1998.

ANNEXES (pdf-files, available only in French)

Annexe A

Prestations en cas de besoin versées aux parents dans les cantons, Etat au 1er janvier 2002 : Description sommaire des réglementations cantonales sur les prestations en cas de besoin versées aux parents, Office fédéral des assurances sociales, <u>http://www.bsv.admin.ch/fam/beratung/d/bedarf.pdf</u>, page 32-36.

Annexe B

Assurance-maladie : Primes cantonales moyennes pour enfants (de 0 à 18 ans) de 1997 à 2002, Statistique de l'assurance-maladie 2000, Assureurs reconnus par la Confédération, Office fédéral des assurances sociales, Section statistique, http://www.bsv.admin.ch/statistik/details/f/kv00f.pdf, page 70.