



**Concluding observations of the Committee against Torture :  
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A/53/44, paras.80-100. (Concluding Observations/Comments)**

Convention Abbreviation: CAT  
COMMITTEE AGAINST TORTURE  
Nineteenth session  
10 - 21 November 1997

Concluding observations of the Committee against Torture

Switzerland

80. The Committee considered the third periodic report of Switzerland (CAT/C/34/Add.6) at its 307th and 308th meetings, on 14 November 1997 (CAT/C/SR.307 and 308), and adopted the following conclusions and recommendations.

1. Introduction

81. The Committee against Torture expresses appreciation to the State party for its third periodic report, which was submitted within the time limit, and is drafted in accordance with the Committee's guidelines regarding periodic reports.

82. The Committee is satisfied with the clarifications and the clear and detailed replies provided by the delegation which made it possible to conduct a fruitful and constructive dialogue.

2. Positive aspects

83. The Committee notes with satisfaction that no governmental or non-governmental body has confirmed the existence of cases of torture in the terms of article 1 of the Convention.

84. The Committee notes with satisfaction that a provision has entered into force prohibiting racial discrimination.

85. The Committee welcomes the fact that, on 21 December 1994, the Swiss Parliament adopted a provision concerning cooperation with international tribunals under which Switzerland undertook to respond to requests for the arrest and transfer of persons accused of serious violations of humanitarian law in the former Yugoslavia and in Rwanda.

86. The Committee welcomes the revision of a number of provisions of the codes of criminal procedure in various cantons, to strengthen the rights of the defence and the rights of persons in pre-trial detention.

87. The Committee also welcomes the fact that a 24-hour medical service attached to the police and run by the Geneva University Institute of Forensic Medicine has been in operation since 15 October 1992.

88. Lastly, the Committee welcomes the financial support that Switzerland has been providing for a number of years to the United Nations Voluntary Fund for Victims of Torture and to non-governmental organizations (NGOs) operating in various countries throughout the world.

### 3. Factors and difficulties impeding the application of the provisions of the Convention

89. The Committee observes that the lack of an appropriate and specific definition of torture makes the full application of the Convention difficult.

### 4. Subjects of concern

90. The Committee is concerned about frequent allegations of ill-treatment in the course of arrests or in police custody, particularly in respect of foreign nationals. Independent machinery for recording and following up complaints of ill-treatment does not seem to exist in all the cantons. The Committee is seriously concerned at the lack of an appropriate response on the part of the competent authorities.

91. The Committee regrets the non-existence in some cantons of legal guarantees, such as the possibility for a detainee to contact a family member or lawyer immediately after his or her arrest and to be examined by an independent doctor at the commencement of police custody or when he or she is brought before an examining magistrate.

92. The Committee is concerned about the non-existence of a suspect's right to remain silent.

93. The Committee is concerned about allegations made by non-governmental organizations that, during the expulsion of certain aliens, doctors have engaged in medical treatment of those persons without their consent.

### 5. Recommendations

94. The Committee recommends that machinery should be set up in all cantons to receive complaints against members of the police regarding ill-treatment during arrest, questioning and police custody.

95. The Committee recommends harmonization of the various cantonal laws governing criminal procedure, especially as regards fundamental guarantees during police custody or when persons are held incommunicado.

96. The Committee emphasizes the need to allow suspects to contact a lawyer or family member or friend and to be examined by an independent doctor immediately upon their arrest,

or after each session of questioning, and before they are brought before an examining magistrate or released.

97. The Committee recommends that an explicit definition of torture should be included in the Criminal Code.

98. The Committee recommends to the State party that it should devote the greatest possible attention to the handling of files concerning accusations of violence made against public officials with a view to the opening of investigations and, in proven cases, the application of appropriate penalties.

99. The Committee recommends the adoption of legislative measures granting suspects the right to remain silent.

100. Lastly, the Committee recommends that the authorities should investigate the allegations of medical treatment carried out on persons who are being expelled, without their consent.



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