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Press Release

XXXXXXXXXX **HUMAN RIGHTS COMMITTEE TAKES UP REPORT OF SWITZERLAND** XXXXXXXXXXXX

Human Rights Committee
73rd session
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Morning

**Government Representatives Outline Efforts to Battle Racism,
Xenophobia, Violence against Women, and Sexual Inequality**

The Human Rights Committee began its review this morning of a second periodic report of Switzerland, querying an 11-member Government delegation on matters related to the country's Constitutional and legal framework; non-discrimination; equality of the sexes; prohibition of torture; liberty and security of the person; and rights of prisoners and other detainees.

Heinrich Koller, Director of the Federal Office of Justice of Switzerland, responding to a series of written questions prepared in advance by the Committee, said among other things that racially motivated incidents were not frequent but nonetheless had increased in recent years and the Government, concerned, had taken steps to prevent further occurrences, including by forming recommendations for dealing with right-wing extremists and by introducing an ordinance last June to back projects to raise awareness and to combat anti-Semitism, racism and xenophobia.

Mr. Koller also said steps had been taken to reduce what was termed a high level of domestic violence against women, and to increase representation of women in the Federal Council and Council of State, on university faculties, and in high-level positions in the private sector.

Committee members, in oral questions posed at the end of the morning meeting, asked among other things about two deaths that had resulted during forceful expulsions of foreigners, and about a death that occurred when a foreigner, who apparently was psychologically disturbed, was "subdued".

Mr. Koller, in a brief introduction to the Swiss report, said an update had been provided -- unfortunately too late for translation into languages other than the original French -- that drew attention to legislative amendments recently passed and other steps taken to improve protection of human rights since the second periodic report was sent to the Committee in 1998.

Other members of the Swiss delegation were Philippe Boillat, Deputy Director of the Federal Office of Justice and representative of the Swiss Government to the European Court of Human Rights; Patricia Schulz, Director of the Federal Bureau of Equality between Men and Women; Jean-Daniel Vigny, Minister responsible for Human Rights at the Permanent Mission of Switzerland to the United Nations Office at Geneva; Stephan Arnold, Acting Chief of the Division of International and Judicial Affairs of the Federal Office of Refugees; Frank Schurmann, Chief of the Human Rights Section and of the Council of Europe Section of the Federal Office of Justice; Arthur Mattli, Chief of the Human Rights Section of the Federal Office of Foreign Affairs; Michael Braun, Scientific Assistant of the Section of International Affairs and Analysis of the Federal Foreign Office; Carl-Alex Ridore, Scientific Collaborator of the Section of Human Rights of the Federal Office of Justice; Urs Rechtsteiner, Chief of the Judicial Police of Geneva and member of the Cantonal Conference of Chiefs of Judicial Police; and Boel Sambuc, Vice-President of the Federal Commission against Racism.

Switzerland, as one of the 198 States parties to the International Covenant on Civil and Political Rights, must provide periodic reports to the Committee on efforts to implement the Covenant's provisions.

The Committee will reconvene at 3 p.m. to continue its examination of the report of Switzerland.

Second periodic report of Switzerland

The report (CCPR/C/CH/98/2) reviews implementation of the Covenant on an article-by-article basis. It notes that a number of reforms are under way, including of the Constitution, through which persons' rights now found throughout the Constitution and in caselaw of the Federal Tribunal will be listed in a "catalogue"; of the Swiss Civil Code, relating to civil status, marriage, divorce, filiation, alimony, homesteads, guardianship and marriage brokerage; and of the Federal Asylum Act, among other things to combat illegal entry to Switzerland. Under consideration is a possible reform of cantonal laws and criminal procedure which might result in a uniform code of criminal procedure applicable throughout Switzerland.

A revision of the Swiss Penal Code on the occasion of the accession of Switzerland to the International Convention on the Elimination of All Forms of Racial Discrimination has criminalized such acts as public incitement to racial hatred and racist propaganda, attempts to deny or minimize or justify genocide or other crimes against humanity, and refusal of public services on grounds of race, ethnicity or religion, the report notes. Just under 30 sentences have been handed down to date at the Cantonal level, including the sentencing in 1998 of a "revisionist" author and his publisher to one year in prison. A Federal Commission against Racism, established in 1995, has focused in its initial activities on integration of foreigners and the possible effects on them of racism and xenophobia, the situation of Muslims in Switzerland, and the resurgence of anti-Semitism as a result of recent discussions about dormant Jewish accounts in Swiss banks.

The report also remarks, among other things, that a Federal Decree related to political speeches by foreigners has been rescinded by the Federal Council; that Switzerland has ratified the Convention on the Elimination of All Forms

of Discrimination against Women; that the Civil Code is being revised to bring about equality between men and women in family law; that violence against women "unfortunately" exists in Switzerland, and a survey revealed that one-fifth of the women in Switzerland had at some time been victims of physical or sexual violence inflicted by their partners; that the Federal Tribunal has admitted the existence of an unwritten enforceable Constitutional right to a living wage; that federal officials have issued guidelines to restrict the immigration of cabaret dancers and to give them better protection in an effort to deal with problems of trafficking in women for purposes of prostitution; and that the Federal Tribunal has clarified certain principles relating to the humane treatment of detained and imprisoned persons.

Introduction of report

HEINRICH KOLLER, Director of the Federal Office Justice of Switzerland, in brief remarks, said the second periodic report had been updated, since three years had elapsed since the report had been submitted to the Committee; the update drew attention to legislative amendments recently passed and other steps taken to improve human rights.

Discussion

Discussion during the morning session focused on the general topics of Constitutional and legal framework; non-discrimination; equality of the sexes; prohibition of torture; liberty and security of the person; and rights of prisoners and other detainees.

Responding to written questions put by the Committee in advance, Mr. Koller said among other things that a new federal Constitution, reform of the justice system, revision of the Civil Code, and a federal law on asylum, had come into force as foreseen in Switzerland's last report to the Committee. The Constitution had attracted interest worldwide and in fact had been published in numerous languages; it was published on the Internet. One article of the Constitution requested lawmakers to adopt measures to eliminate inequalities suffered by persons with disabilities, and as a result a bill was currently before Parliament; a second article provided for equality under law between men and women in law and fact, in family, in training and employment; current reform of the army would provide for equal access for both sexes to all personnel classifications within the army. There was an article stating that all human beings were equal before the law and it reflected the caselaw of the Federal Tribunal, where Swiss law was applicable to Swiss citizens and to citizens of any other nationality. Protection was offered to all forms of religious belief.

The new Civil Code, among other things, focused on equality in various ways, including equality of women in economic terms following divorce, Mr. Koller said. The new law on asylum had been approved by voters in 1999.

Racially motivated incidents were not frequent in Switzerland, Mr. Koller said, apparently despite latent xenophobic feelings in some sectors of the population. Nonetheless racist and xenophobic incidents had increased in recent years and the Government, concerned, had taken steps to prevent further occurrences. The Federal Police Force had issued a report last year on "skinheads" and recommendations had been formulated for dealing with right-

wing extremists to aid police in taking preventive measures to prevent racist or xenophobic incidents. Steps had been taken to prevent the wearing of racist emblems, the uttering of racist statements, and to ban blatantly racist political parties. The Federal Council had introduced an ordinance last June to back projects to raise awareness and to combat anti-Semitism, racism and xenophobia. The ordinance provided support to projects, among other things, to prevent racism in school and to provide counselling to victims. A Swiss law prohibiting racial discrimination had resulted in some 50 convictions in 1999 and 2000 -- in one sense that was worrisome since it seemed to indicate an increase in racist acts, but on the other it was reassuring because it was clear that the illegality of such acts was becoming known to the Swiss population.

Members of Parliament enjoyed absolute immunity for statements made inside Parliament and its commissions, Mr. Koller said.

Members of a Swiss Commission against Racism came from a wide range of society, Mr. Koller said; among the activities carried out were educational programmes in schools, public institutions, and in the working world. A report on anti-Semitism in Switzerland had been published, and another had been published on discrimination against itinerant minorities. The Commission had further published a report on the situation of Muslims in Switzerland.

Switzerland's binary system for recruitment of foreign workers did raise questions about compliance with the Covenant, Mr. Koller said, since the Covenant did not allow distinctions among its rights as applied to individuals; however, no provision of the Covenant guaranteed the right of a foreign national to be admitted to the territory of a State party; thus the Government considered that its binary system, as applied, was consistent with the Covenant. The binary system of admission of foreign workers also was compatible with article 26 of the Convention, the Government felt.

Policies had been enacted to increase the number of women in the National Council and the Council of State, Mr. Koller said, and were beginning to achieve results; the number of women had increased, if modestly; further, this year a woman chaired the Council of State. In addition, women served in the posts of Chancellor of the Confederation and Secretary-General of the Federal Parliament, which were among the highest posts in the federal Government. There had been notable increases in the number of women in intellectual and scientific professions and in senior and director's posts in private corporations. Although women's wages were still lower than those for men, there had been a recent closing of the gap; much of the remaining differences should be reduced in intellectual and scientific professions as women who had recently joined those professions advanced from junior to more senior posts. In one recent case the Federal Tribunal, based on the law on equality of 1996, had decreed that a woman had been subject to discrimination in that her salary was some 30 to 40 per cent of those of her male colleagues, and had ordered a payment to her of 20,000 Swiss francs in damages; this case was not unique -- there had been dozens of such cases since 1996, of which 30 had resulted in final decisions of the Federal Tribunal.

Programmes had begun to correct inequalities in personnel at universities and other higher educational institutions, Mr. Koller said, and to ensure equality of treatment of men and women at all levels of such institutions. An action plan, furthermore, had been put into effect to foster equality between men and women in all State and non-State activities, in essence to ensure gender

mainstreaming in all aspects of public and private life. The action plan had 287 measures aimed at promoting sexual equality.

Measures had been taken to address a high incidence of violence against women, and forced prostitution, Mr. Koller said. Domestic violence had long been considered a taboo subject, but federal and cantonal actions recently had been aimed at preventing such violence; unfortunately it was hard to judge the effectiveness of these measures. The Government did feel that the population was becoming more aware of the problem and more committed to its eradication. More and more, domestic violence was considered simply as violence, and unacceptable, rather than as a "private matter" that was no one else's business. Parliament was considering measures that would remove violent persons from the home. The Federal Government, meanwhile, had been requested to set up a programme to protect victims of trafficking in women; the Federal Council had decided to submit the question as a whole to a full inquiry and had asked the Police and Justice Departments to set up a joint working group to decide how the Criminal Code might be adjusted to better protect victims of trafficking. The Federal Council also would consider ratification of the Optional Protocol to the United Nations Convention against Transnational Organized Crime aimed at preventing and punishing trafficking in persons. The Government was aware that numerous cases of trafficking were not brought to the authorities, and would study with great interest recommendations offered on this matter by a working group that had been formed.

Details of the procedure for investigation of complaints of police harassment and other misconduct in various cantons were given in the written report, Mr. Koller said. These varied from canton to canton. The Canton of Geneva had provided the most detailed statistics, citing 715 cases of intervention with use of force by the police in 1999 and 736 in 2000. In 1999, 33 of the 715 cases of use of force were followed by formal complaints. In general, from canton to canton, complaints over police use of force were few and far between; some cantons had reported that no complaints against the police had been registered in years. In Geneva, there had been only a single conviction of a police officer for the years 1999 and 2000. An individual feeling he had been subject to police abuse not only had channels and remedies for launching a complaint but would be given compensation where appropriate.

Geneva had specific measures designed to prevent ill-treatment of persons deprived of their liberty, Mr. Koller said; details were in the written report. It had been indicated that the Geneva system could serve as a model for other cantons, and the Federal Council had recommended that they imitate it. While other cantons had not done so, exactly, it was worth noting that the protection of citizens against abuse of police powers had noticeably increased in all cantons. Several cantons had emphasized the importance of training police recruits in human rights protection, for example.

Towards the end of the morning meeting, Committee members put a number of oral questions, asking, among other things, for information on the cases of two people who died from forceful methods used, including one person who died of suffocation, while being forcefully expelled from country, and what measures the Swiss Government had taken to avoid such occurrences. They also asked about a Turkish Kurd, apparently psychologically disturbed, who was "subdued" and died in the process.

Committee members queried the Swiss delegation about allegations that foreigners, who make up one-fifth of the population of Switzerland, continued to encounter problems when exercising their rights, especially persons from outside the European Union; about the situation of undocumented workers who contributed significantly to the economy but suffered from lack of security and precarious situations; about how rights were affected for foreigners wedded to Swiss citizens, and if it was true that following divorce from a Swiss person a foreigner could be expelled from the country if he or she had been married for less than five years; if Switzerland had considered setting up an independent national human rights commission; and if a reservation cited by Switzerland amounted to a violation of Covenant article 26, which stated that all persons are equal before the law, meaning all persons on the territory of a country.

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