Activity Report National Commission for the Prevention of Torture (NCPT)

2015

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Foreword by the designated Chairman of the NCPT

The NCPT has been given a statutory duty to regularly review the circumstances of persons deprived of their liberty, to regularly visit the places where such persons are detained, and to submit recommendations relating to the prevention of cruel, inhuman or degrading treatment or punishment and which generally "improve the treatment and circumstances of persons who have been deprived of their liberty".

For a commission whose 12 members were appointed largely on an honorary basis, whose office is understaffed and has only very limited financial resources at its disposal, this is a daunting, indeed nearly impossible, task. For this reason, there is no choice but to focus only on the essential. A strategy is required that takes as its point of departure the vulnerability of persons who have been deprived of their liberty or who are subject to measures that restrict their liberty. The process of setting priorities was performed early on by the NCPT, which has identified the following categories of detainees as particularly vulnerable: persons in solitary confinement, notably those in security units; asylum seekers in centres imposing limitations on their freedom of movement; persons being held in administrative detention under immigration law and being subject to forced removal by air; persons being held in pre-trial

detention; persons subject to correctional measures; children and adolescents; the elderly; the mentally disabled; and, lastly, persons belonging to the LGBTI (gay, lesbian, bisexual, transgender and intersex) community.

The reasons these persons face special risks differ. Age, disability or language difficulties may reduce their ability to communicate with their surroundings; some persons deprived of their liberty may have little family in Switzerland to watch out for them; others have no legal counsel, or are unaware of or unable to exercise their rights. These are just a few of the determinant factors.

This past year, as in 2014, the Commission devoted particular attention to the conditions of pre-trial detention. The particular feature of this form of detention is that although the presumption of innocence applies, detention commences immediately following arrest, which causes many of the persons concerned to experience "prison shock" – a factor that increases the risk of suicide. Last year, after an incident in the Canton of Zurich, where a mother took her own life, there was a broad public debate concerning the possibilities of preventing such acts. This included discussion of potential improvements, based, among other things, on the recommendations of the NCPT. A second matter to which priority has been given is a review of the circumstances surrounding the execution of correctional measures, which is especially critical for persons deprived of their liberty because of the uncertainty of their release dates. There is a need for clear statutory rules and effective procedural controls, in order to set limits on the far-reaching powers and responsibility that has been delegated to the administrative authorities in this area. Finally, in 2015, the Commission also examined the situation of juveniles in detention facilities, irrespective of whether the young people concerned had been placed in the facility on criminal or on civil grounds. Specifically, the NCPT conducted a critical review of the applicable legal provisions at the cantonal level, which were found to be incomplete (and coming short) in many respects. Also addressed were the difficulties inherent in clearly distinguishing between educational measures and disciplinary sanctions.

Finally, the Commission announced that in the coming years it would also like to take a closer look at the circumstances of persons – in particular, the elderly and the disabled – living in social institutions such as homes or clinics. The immediate response to this announcement was in many cases positive, but there were also a large number of negative reactions. Criticism was based, among other things, on the argument that the term torture is in no way applicable to the circumstances in homes and that such institutions are already subject to sufficient regulatory controls. In answer to this argument, the following observations may be put forward: the problems connected with the official name of the Commission, which was determined by federal statute, is something of which we are aware of. Nevertheless, the scope of our mandate covers not only the prevention of torture, in the strict sense, but also extends to the prevention of degrading treatment, and thus also to defending the dignity of the individual. Our duty under the law, as formulated in art. 3 of the Federal Act on the Commission for the Prevention of Torture, is to examine "every form of detainment or imprisonment of individuals or their placement in public or private institutions which they may not leave at will, provided it is done on the orders or at the instigation of a public authority or with the consent of a public authority". This includes – given their particular vulnerability, as noted above – especially the elderly and the mentally disabled who have been placed in facilities such as nursing homes or psychiatric institutions. Under the terms of its mandate, the Commission focusses its attention in such cases primarily on the proportionate use of restrictive measures (e.g. physical restraints), and on making certain that the highest possible degree of personal autonomy is respected. In addition, under the Convention on the Rights of Persons with Disabilities, which has also been ratified by Switzerland, the State Parties are required to ensure the monitoring of all facilities by independent authorities. Until such time as the requisite monitoring mechanisms have been put into place in all cantons, we thus feel all the more bound to assume responsibility for performance of this task.

The NCPT is a prevention mechanism, not an investigative body. We proceed on the understanding that the veneer of civilisation, in every part of the world, is very thin – a lesson repeatedly taught by history. In the coming years, it is likely that human rights efforts will

come under a heavy strain due to the threats of terrorism and war. It is an important mission to work in dialogue with the authorities and civil society representatives to ensure that detainees and persons held in public social facilities are treated with dignity. We are fully conscious of the limitations we face. This notwithstanding, we remain committed to making our contribution to ensuring respect for all fundamental and human rights in Switzerland.

I will be assuming the office of Chairman at the beginning of 2016, as successor to Jean-Pierre Restellini, who headed the Commission for six years, from the time of its founding. The Commission owes him a great debt of gratitude. Bringing his immense experience and professional expertise to bear, he has made a major contribution towards establishing the identity of this new institution in Switzerland and giving it a widely respected voice of authority. As Chairman, he was courageous and undeterred, nonetheless always guided by a strong sense of reality. The compass that has given direction to him, will continue to guide us in the future. For this and for the instructive, interesting and inspiring example he has provided, I warmly thank Jean-Pierre on behalf of the entire Commission.

Alberto Achermann

The NCPT: an overview

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1.1 Strategic priorities

This reporting year, the Commission continued its review of the conditions of pre-trial detention throughout Switzerland and set several processes in motion in connection with the publication of its activity report for the preceding year. With a view to the potential harmonisation of detention conditions it conducted various discussions at the intercantonal level, and with representatives of the correctional justice authorities and the heads of the respective facilities, concerning the Commission's recommendations. It noted with satisfaction that the Commission's recommendations provided an impetus for the Conference of Cantonal Justice and Police Department Heads and, specifically, the Canton of Zurich to conduct a comprehensive review of the conditions of detention for pre-trial detainees. The Commission looks forward with great interest to the results of that review.

In addition, the Commission continued its work in connection with its thematic priorities and conducted reviews of additional closed juvenile detention facilities and facilities for the enforcement of correctional measures. The Commission's focus is now on the drafting of thematic reports, which will deal in greater depth with issues of relevance throughout Switzerland with regard to restrictive measures, including a critical examination of such measures in terms of their constitutionality and their use in practice. In this same connection, the Commission is also planning to conduct round table discussions to encourage exchange between the various stakeholders concerning the Commission's findings and recommendations. This will contribute, among other things, to a wider exchange between interested actors throughout Switzerland on questions of constitutional relevance.

Following the appointment of an additional professional with specialist experience in psychiatry, the NCPT plans to devote increased attention to psychiatric facilities in the future and to focus, in particular, on the use of restrictive measures. With this in mind, in November 2015, an internal training course was held, in which also the new members of the Commission participated, and which addressed questions and specific matters relating to visiting methodology and the applicable standards for reviewing restrictive

measures. Over the middle term, the Commission is also considering devoting special attention to a review of public welfare facilities where persons with disabilities or, in some cases, patients suffering from dementia, are placed. In preparation for this review, the Commission will first hold discussions with the various stakeholders at the cantonal level, in order to better familiarise them with their responsibilities in connection with the prevention of human rights abuses.

1.2 Organisation

a. Members

The Commission is made up of 12 members, appointed by the Federal Council, who serve on a voluntary basis. They are chosen for their professional expertise and come from the fields of human rights, judiciary, medicine, psychiatry and police work. Following the resignation of two members at the end of 2014, some delays occurred in connection with the recruiting of new members. The vacancies within the NCPT constisting of 10 members were thus not filled until the end of September.

The Commission board was composed of the following members:

- Dr. Jean-Pierre Restellini, Chairman
- Prof. Alberto Achermann, Vice-Chairman
- Leo Näf, Vice-Chairman

- Franziska Plüss, High Court judge, Canton of Aargau
- Stéphanie Heiz-Ledesma, psychologist and criminologist
- Esther Omlin, Chief Public Prosecutor, Canton of Obwalden
- Nadja Künzle, sociologist
- Dr Thomas Maier, psychiatrist
- Dr Philippe Gutmann, physician
- Daniel Bolomey, organisational development consultant

New members as of 1 October 2015 are Mrs. Dr. Corinne Devaud-Cornaz, psychiatrist and head of the Medical-Psychiatric Services department of the Canton of Fribourg, and Mrs. Helena Neidhart, a former police officer.

Also formally appointed to the Commission was Giorgio Battaglioni, attorney and former head of the Correctional Justice Office of the Canton of Ticino, whose term as a member will commence on 1 January 2016.

b. Observers

The Commission avails itself of outside specialists for the regular observation of police transfers and forced removals by air, as part of its monitoring of immigration law enforcement procedures. During the past year, two observers resigned from their positions. They have not been replaced – among other reasons, because the members of the Commission are now themselves increasingly involved in the observation of police transfers and special flights.

Continuing in their functions as observers are the following:

- Prof. Martina Caroni, Professor of International Law, University of Lucerne
- Fred Hodel, Integration Officer, City of Thun
- Lea Juillerat, legal expert
- Barbara Yurkina, asylum coordinator/special department BEST
- Thomas Mauer, former judge on the High Court of Bern
- Hans Studer, former director or the Wauwilermoos Correctional Facility
- Dr. Danielle Siero, physician

c. Secretariat

The NCPT secretariat is responsible for overall planning and organisation of the Commission's monitoring activities. It is in charge of advance preparations and follow-up for the Commission's monitoring activities and prepares all reports addressed to federal and cantonal authorities. It is also the main platform for contact for persons deprived of their liberty, and for the authorities, the media and civil society organisations.

In 2015 the secretariat employed four part-time employees for a total of 260%. The secretariat also benefits from the assistance of a student intern.

d. Budget

The NCPT has an overall annual budget of CHF 760,000.–. One third of these funds are used for the remuneration of Commission members and observers for the performance of their monitoring tasks. Last year, the Commission also used part of its budget to finance two external grants for academic studies on constitutional issues relating to the Commission's prevention mandate. Personnel costs for the secretariat account for just under two thirds of the Commission's budget.

The financial resources only allow for an average of 12 NCPT visits a year, which is significantly lower than the 20–30 yearly visits the Federal Council envisaged in the Dispatch of the Federal Council[1].

[1] Dispatch of the Federal Council (Botschaft zum Bundesbeschluss über die Genehmigung und die Umsetzung des Fakultativprotokolls zum Übereinkommen der Vereinten Nationen gegen Folter und andere grausame, unmenschliche oder erniedrigende Behandlung oder Strafe vom 8. Dezember 2006, BBl. 2007 265), p. 271.

Detention monitoring

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2.1 Visits and inspections

In 2015, the NCPT conducted a total of nine visits to facilities where persons are deprived of their liberty. It inspected three pre-trial detention facilities, a prison facility, and various police facilities in two different cantons. It also conducted four follow-up visits to evaluate the implementation of recommendations that previously had been addressed to the authorities and which concerned a number of different facilities. The Commission followed up on these visits with a total of 9 reports addressed to the cantonal authorities concerned and requesting their response.

During that same period, the Commission accompanied 43 forced removal flights and 46 transfers to the airport of persons scheduled for repatriation[2]. All of the flights accompanied by the Commission were level 3 or 4 repatriations, as defined in art. 28, para. 1 of the Ordinance on the Use of Constraint[3]. 12 of those flights were in execution of deportations orders under the terms of the Dublin Association Agreement[4], in keeping with the terms of art. 64a of the Federal Act on Foreign Nationals (FNA)[5]. Based on the observations made by the Commission when accompanying these flights and transfers, meetings were held with nine cantonal authorities in order to discuss certain cases, in particular, those that involved police intervention. The Commission's observations have been set forth in an annual report on deportation monitoring under immigration law, which has been submitted to the Expert Committee on Repatriation and Deportation for their opinion.

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2 Placement in detention cells and the transport of one or more persons.

3 Ordinance on the Use of Constraint (Verordnung über die Anwendung polizeilichen Zwangs und polizeilicher Massnahmen im Zuständigkeitsbereich des Bundes vom 12. November 2008 [Zwangsanwendungsverordnung, ZAV]), SR 364.3.

4 Agreement of 26 October 2004 between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland (with Final Act), SR 0.142.392.68.

5 Federal Act of 16 December 2005 on Foreign Nations (Foreign Nationals Act, FNA), SR 142.20.

2.2 Visits to institutions of deprivation of liberty

In the course of its visits – which, depending on the situation, are carried out with or without advance notice– the NCPT's visiting delegation holds meetings with board members of the visited institution, with individuals deprived of their liberty, and with members of the institutional staff. In addition, it reviews all documents that are considered relevant, including, for example, internal regulations, orders for disciplinary and safety measures, medical records, and sentence execution plans. At the end of each visit, the delegation provides the enforcement authorities and the executive administration of the institution with an account of its observations before proceeding with a final assessment. The findings and recommendations are then set forth in a report, which is adopted by the Commission and submitted to the cantonal authorities for their response.

The main observations gathered by the NCPT during its 2015 visits are summarized below.

The facilities are presented by category[6].

a. Pre-trial detention facilities

i. Pre-trial Detention Facility of Solothurn

Primarily designed for pre-trial detention and administrative detention, this facility also houses persons who have begun serving sentences, until they can be transferred to a more suitable place. It also possesses two double cells for women being held in pre-trial detention or serving out sentences. While the conditions of detention were, in the Commission's view, adequate, it regrets that a separation between the detention regimes – that is, between pre-trial detention and service of sentences – is possible only on a cell-by-cell basis. As concerns the implementation of administrative detention, the Commission considers the situation to be problematic, given the architectural limitations and the restrictions on freedom of move-

[6] The complete reports are available online at the following address: http://www.nkvf.admin.ch/nkvf/de/home/publiservice/berichte/besuche-2015.html.

ment imposed on persons subject to coercive measures under the provisions of immigration law. In view of these findings, the Commission welcomes the planned construction of a new facility.

ii. Pfäffikon Prison

This prison facility, whose infrastructure has been classified as good by the Commission, houses persons being held in pre-trial detention or on bail, as well as persons serving short sentences. The Commission particularly welcomes the wide range of vocational activities on offer for persons in pre-trial detention, but notes with regret that the hours of access to the gymnasium overlap with the time allotted for outdoor exercise, to which according to the ruling of the Federal Supreme Court detainees are entitled to. With regard to the issue of contact with the outside world, the Commission deplores the use of restrictive practices in this area. It recalls that persons being held in pre-trial detention or on bail must be permitted unrestricted contact with their lawyers, particularly by telephone. It also calls upon the administration of the institution to allow weekend visits, and to limit the use of glass partitions to exceptional cases.

iii. District Prison of Biel

The Commission is of the opinion that the age of the District Prison of Biel, which houses persons in pre-trial detention as well as detainees serving out their sentences, creates difficult conditions of detention for the people who are detained there. It considers as particularly critical the excessive restrictions on freedom of movement and the limited opportunities for vocational activities. From the perspective of the relevant international standards, the situation is particularly problematic for juveniles detained at this institution. Such persons should have the possibility of spending a minimum of eight hours per day outside their cells and have access to recreational activities. In this connection, the Commission is pleased to take note of the new practice that was inaugurated in April 2015 under which juvenile detainees are transferred to more suitable facilities within 48 hours. Finally, the Commission recommends that the authorities accelerate construction of the planned new facility.

b. Facilities for service of sentences and execution of correctional measures

i. Solothurn Correctional Facility

The conditions of detention at this facility, which is designed primarily for the execution of stationary therapeutic measures in application of articles 59 and following of the Swiss Criminal Code (SCC)[7], have been qualified as very good. The new building, which was inaugurated in 2014 and is equipped with a new, modern infrastructure, was visited by the NCPT. The Commission notes with satisfaction that the concept developed for the execution of therapeutic measures is designed to promote reintegration and includes progressive measures and clearly defined steps for the relaxation of the detention regimes. The only point of criticism raised by the Commission during its visit was the fact that, for reasons of security, persons in the observation and evaluation unit do not have regular access to the exercise yard. Although these persons do enjoy permanent access to a covered terrace, the Commission calls on the institutional administration to find a solution that will provide these persons with an opportunity to take outdoor exercise for at least one hour per day. It also recommends that a clear distinction be drawn between disciplinary sanctions and security measures.

c. Facilities administered by the police

i. Prisons administered by the Police Department of the Canton of Saint Gallen

The Commission made unannounced visits to the detention facilities administered by the cantonal police of St Gallen, some of which house, in addition to persons under temporary confinement, also persons held in pre-trial detention or administrative detention. St Gallen is the only canton in Switzerland where organisational direction of the prison system is the responsibility of the cantonal

[7] Swiss Criminal Code of 21 December 1937 (SCC), SR 311.0.

police department. This situation, in the Commission's view, is no longer compatible with current standards.

In Flums and Gossau, the Commission deplores the fact that segregation of the different detention regimes is not possible for operational reasons. The confusion of the different detention regimes gives rise to excessive restrictions on the fundamental rights of all categories of detainees. In addition, the Commission considers as problematic the restrictive and disparate regulations on contact with the outside world in all of the facilities it visited.

Overall, the infrastructure of the facilities visited no longer satisfy current construction standards. Because of the lack of opportunities for vocational activities in the Flums prison, the Commission recommends that the use of this facility be limited to short-term detention only, which is for persons being held in pre-trial detention or serving short prison sentences.

d. Follow-up visits

During the period under review, the Commission carried out four follow-up visits in order to assess implementation progress of its recommendations.

i. Central Prison of Fribourg

The Commission welcomes the fact that the majority of the recommendations it addressed to the Government Council following its 2011 visit have been implemented, including, in particular, the enlargement of the exercise yard. It is pleased to observe that the Central Prison no longer houses women being held in pre-trial detention and that minors are no longer incarcerated in the Central Prison other than in exceptional cases prior to their transfer to an appropriate facility. The Commission has also taken note that persons placed under administrative detention under the provisions of immigration law are housed here only in exceptional cases and for a very limited duration. Nevertheless, the Commission regrets that contacts with the outside world are still subject to a partition regime and calls on the competent authorities to review their practice in this area in the light of the applicable domestic and international standards.

ii. Sion, Martigny and Brigue Prisons; Granges Administrative Detention Facility

The Commission first visited the Pre-trial Detention Facility in Brigue and the administrative detention centre in Granges in 2010; the pre-trial detention facilities in Sion and Martigny were first visited in 2012.

On the whole, the Commission recognises that the administration of these facilities is endeavouring to bring about improvements within the bounds of the existing possibilities, but notes that certain recommendations on which it placed a high priority on its earlier visits have not yet been effectively implemented. Staff shortages in all of the facilities visited remain a problem and are having a negative impact on the daily life of both detainees and personnel. Nevertheless, the Commission welcomes several concrete measures that have been taken by the administration of the different facilities subsequent to the Commission's follow-up visits. For example, a brief information flyer on the different detention regimes has been prepared and has also been translated into nine languages. The Commission also took note that the Pre-trial Detention Facility in Martigny will shortly be closing down. It nevertheless calls on the competent authorities to speed up this closure due to conditions of detention that have been classified as unacceptable under the terms of applicable international and domestic standards.

In Sion, the Commission noted with satisfaction that work opportunities for detainees have been increased. In the Commission's view, however, this is still insufficient, given the number of detainees. In addition, it regrets that the gymnasium, which is both modern and well-equipped, is accessible only one hour per week due to staff shortages.

In Brigue, the NCPT has expressed concern about the conditions of detention considered to be too harsh, due, in particular, to a lack of sufficient space and understaffing. While it welcomes the fact that detainees now enjoy longer exercise periods, it recommends that the administration of the institution institute measures that will allow detainees to take part in at least a minimum level of vocational and recreational activities.

In Granges, the NCPT noted with satisfaction that a large room has been equipped for sports and leisure activities, accessible three hours per day to persons in administrative detention. In addition to the three hours of daily exercise, administrative detainees are also permitted to spend at least six hours outside their cells, which constitutes a major improvement since the last two visits by the Commission. Conversely, the Commission sees it as a matter of concern that the preparation and distribution of medicines is handled by the guards, due to a shortage of medical personnel. It wishes to recall that the preparation of medications is a task that should remain solely within the responsibility of health professionals and is pleased to note that urgent measures have been taken by the administration of the institution to achieve compliance with the relevant standards.

iii. Lenzburg Prison Facility

In August 2015, the Commission made a follow-up visit to the correctional facility in Lenzburg. The primary focus was on high security detention. Some difficulties were encountered here when the NCPT subsequently requested permission to consult the correctional regimes for individual inmates. For a comprehensive assessment of the circumstances of individuals who have been placed in the high security unit, a detailed review of the correctional regime imposed is essential. The Commission will accordingly be compelled to conduct this review again at a later point in time and thus will therefore refrain from reporting on the findings of its follow-up visit to the Lenzburg Prison Facility for the moment.

iv. Pöschwies Prison Facility

The purpose of the Commission's follow-up visit to this facility was to monitor the implementation of its recommendations concerning the high security unit, where the correctional regime had been qualified as too restrictive on the Commission's initial visit in 2013. The Commission welcomes the numerous measures that have been taken by the administration of the institution in implementation of the Commission's recommendations and which were presented to it during the follow-up visit. The Commission is pleased

to note that a review of whether isolation measures are to be maintained in effect is now conducted every three months, in keeping with international standards. Nevertheless, it continues to be of the opinion that responsibility for ordering the prolongation of such measures should lie with the enforcement authorities and not with the prison administration. As concerns the detention regime in the high security unit, the Commission encourages the administration of the institution to further increase the amount of time detainees are permitted to spend outside their cells and to facilitate contact with other detainees. The Commission also regrets that meetings between detainees and the psychiatric services are normally made subject to a partition regime. Lastly, the Commission reiterates its serious concerns with regard to the length of time that one inmate has been held in isolation in the high security unit, a measure that the Commission already qualified as disproportionate at the time of its initial visit.

Other activities

3

3.1 Dialogue with federal and cantonal authorities

a. Federal Department of Justice and Police (FDJP)

In connection with the appointment of new members to the Commission, regular discussions were held with the General Secretariat of the FDJP and representatives of the Federal Office of Justice (FOJ), concerning, in particular, the applicable procedure for the recruitment of new members and the involvement of the Commission in the recruitment process. Regular discussions also took place with the various services of the General Secretariat, as results from the Commission's administrative affiliation with the FDJP.

b. Federal Department of Foreign Affairs (FDFA)

At the invitation of the FDFA, in September 2015, the NCPT accompanied a delegation from Tajikistan on a visit to the La Croisée prison facility in the Canton of Vaud, where the Commission made a presentation of its work, its methodology and procedures. Following a discussion between the Commission, the administration of the institution, and the delegation from Tajikistan, the delegation was guided through the facility. This event was organised within the framework of the human rights dialogue that Switzerland has been conducting with Tajikistan since 2013, and which is intended, in particular, to support the efforts of authorities in that country to establish a national mechanism for the prevention of torture.

c. The Committee of Nine of the CCJPD

At the February meeting of the nine-member Penal and Correctional Justice Committee of the Conference of Cantonal Justice and Police Department Heads (CCJPD), the Commission reported on its annual programme. Specifically, it informed the committee with regard to the status of the studies mandated by the Commission and regarding the execution of correctional treatment measures within the meaning of SCC art. 59, para. 3, and the examination of closed facilities for minors. It further presented its first findings and recommendations concerning pre-trial detention in Switzerland from a human rights and a fundamental rights perspective.

In December 2015, the Commission met once again for informal discussions with the Deputy Secretary General of the CCJPD and the Secretaries of the Conference; the discussions focussed, in particular, on various projects under way in the areas of pre-trial detention, stationary treatment measures, and juvenile detention facilities. These meetings are considered to be extremely valuable. They provide an opportunity for the Commission to hold a regular dialogue with the cantons, which are its principal active partners in matters of detention.

d. Specialised dialogue with representatives of the Repatriation and Deportation Committee of the CCJPD

The Commission held three meetings with representatives of the expert committee on "Repatriation and Deportation", dealing with the remarks and recommendations formulated by the Commission in connection with its monitoring of forced removals by air. These meetings contribute to a regular exchange of information and provide an opportunity to discuss issues of concern.

e. Bilateral meetings with cantonal authorities

The NCPT held high level bilateral meetings with representatives of authorities of the Canton of Vaud, focussing, in particular, on inspections of the premises of the cantonal and municipal police in Lausanne. It also held discussions with the authorities in Bern, dealing, in particular, with the circumstances of two cases of the use of coercive measures in the juvenile detention facility of Prêles in the canton of Bern.

f. Participation in police training

During the year under review, the Commission participated in police training programmes, at the invitation of the police departments of the cantons of Geneva, Solothurn and Schwyz. Specifically, the Commission made a presentation of its organisational structure and of its work in connection with the accompaniment of forced repatriation flights. These exchanges provided an opportunity to discuss the Commission's observations and recommendations with regard to the application of coercive measures during the different phases of deportation procedures.

3.2 Dialogue with civil society

a. Forum on questions relating to the observation of deportations under immigration law

In June 2015, the NCPT organised another meeting with representatives of civil society groups to discuss the conclusions and recommendations set forth in its annual report with regard to the observation of forced removals carried out under immigration law. Representatives of the State Secretariat for Migration (SEM) also raised the issue of the harmonisation of procedures for the transmission of medical records and the use of coercive measures, which entered into effect in 2015.

b. Swiss Centre of Expertise in Human Rights

In 2015, the Commission attended a meeting of the Advisory Board of the Swiss Centre of Expertise in Human Rights (SCHR), of which it is a member. The Commission also renewed the mandate it had given to the SCHR to prepare a compilation of international and domestic case law of relevance to the issue of deprivation of liberty.

c. Centre for Migration Law

In April 2015, the Commission participated in a colloquium on the subject of "Execution of deportation orders and the use of coercive measures: new perspectives from the Confederation and the cantons". Organised by the Centre for Migration Law (CML), the colloquium brought together speakers from the academic community, from public institutions of the Confederation and of the cantons, and from international organisations and NGOs.

d. Association for the Prevention of Torture (APT)

Within the context of the 2nd Jean-Jacques Gautier Symposium, organised by APT in Geneva, 3–4June 2015, the Commission participated in discussions on the question "How to respond when LGBT persons in detention are in vulnerable situations?" The symposium was attended by some 15 National Prevention Mechanisms (NPM), and was intended as a forum for discussions centring on the issue of the vulnerability of LGBT persons deprived of their liberty.

3.3 International contacts

a. European Committee for the Prevention of Torture (CPT)

In March, the Commission attended a conference in Strasbourg organised by CPT in celebration of its 25th anniversary. Following a high-level opening session, the Conference took up a number of subjects, including "Minors in detention", "CPT psychiatric standards" and "Placement in isolation". These conferences also provide an opportunity to meet and exchange views with other European NPMs.

b. United Nations Committee against Torture (CAT)

At its 55th session, which met from 27 July to 14 August 2015, the CAT reviewed the periodic report submitted by Switzerland concerning the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In preparation for this review, the NCPT submitted a position paper[8] highlighting various points of concern with regard to respect for basic rights, particularly in connection with administrative detention and pre-trial detention, and with forced removals by air. It had the opportunity to discuss these issues in greater depth at a bilateral meeting with members of the Committee against Torture prior to the review of Switzerland's report. Following the review, the Committee against Torture recommended, among other things, that Switzerland continues its efforts to establish structures specifically designed for housing migrants who have been placed in administrative detention, together with a detention regime suited to that purpose; and that Switzerland honours its commitment to adapt the regime for persons under accusation to reflect their status as persons who have not been convicted of a crime. In addition, the Committee encouraged Switzerland to take steps to ensure that in all cases where constraint is used while carrying out repatriation orders, such measures be justified in terms of proportionality. Finally, the Committee underscored the fact that the Commission must be granted the necessary resources for the effective performance of its mandate as a National Prevention Mechanism.

[8] The position paper is available online on the website of the NCPT. http://www.nkvf.admin.ch/dam/data/nkvf/Stellungnahmen/150303_stn_nkvf.pdf .

c. Exchanges with the National Prevention Mechanisms (NPM)

On 2–3 July 2015, the NCPT organised a meeting in Geneva with its UK and Dutch counterparts. The purpose of the meeting was to discuss the working methods and the various problems that these Mechanisms encounter in the performance of their mandates. The Commission welcomes these informal meetings with other NPMs, which provides it with an opportunity to exchange experiences and good practices.

At the invitation of the National Prevention Mechanism of Austria, the NCPT and its counterpart from Germany accompanied an Austrian delegation on a visit to three homes for the elderly in Vienna and the vicinity. The Commission thus had an opportunity to familiarise itself with the standards and methods employed on visits to this type of facilities. The Austrian NPM, which includes 48 independent experts from various disciplines, is composed of a Board of Public Advocates (Volksanwaltschaft) and six regional committees established by that board. The mandate of the Board of Public Advocates, which is based on the Optional Protocol of the Convention against Torture (OPCAT) and the Convention on the Rights of Persons with Disabilities (CRPD), authorises it to conduct inspections of private and public social welfare facilities, in particular, homes for the elderly and institutions designed for persons with disabilities. To date, it has visited over 300 social welfare facilities and has acquired extensive experience in this area.

Findings and recommendations of the review of closed juvenile facilities

4

4.1 Introduction

During the past two years, the Commission visited a total of seven closed juvenile facilities financed and run by the Confederation in the cantons of Aargau, Bern, Fribourg, Geneva, Vaud, Valais, and Zurich. These facilities, in addition to housing juveniles sentenced for criminal behaviour, sometimes also accommodate juveniles who have been committed under provisions of civil law. The NCPT reviewed the living conditions of the juveniles placed in those facilities, taking as its basis for assessment the international standards for children and juveniles deprived of their liberty and the applicable standards under Swiss federal law for the accreditation, and for the review of accreditation, of educational institutions.[9]

According to the Federal Office of Statistics, as of September 2015 there were a total of 433 juveniles being detained for correctional measures, of whom 388 were boys and 45 were girls. There were 408 juveniles over the age of 15, and 25 who had not yet reached the threshold age of 15 years. A total of 23 juveniles were being held in pre-trial detention; 32 juveniles were under stationary observation; and 174 were being detained as a precautionary measure, 20 of whom had been placed in a closed facility. 195 juveniles had been sentenced to protection measures under Juvenile Criminal Law Act (JCLA)[10] art. 10 f.; of whom 25 were being held in a closed facility. The deprivation of liberty had only been ordered in nine cases.

As part of the nationwide review, the Commission devoted particular attention to the conditions of the detention regime, which was examined in the light of international child rights standards. Of relevance from a fundamental rights point of view were, in particular, compliance with the segregation requirement; restrictions

[9] The main statute of relevance here is the Federal Act of 5 October 1984 on Federal Subsidies for the Execution of Sentences and Measures (SMSA), SR 341 and the appurtenant ordinance of 21 November 2007 (SMSO), SR 341.1. The law allows the Confederation the possibility of granting operational subsidies for special educational expenses incurred by public and private non-profit establishments, provided that those establishments accommodate the following categories of persons:
a. Young adults, as defined in SCC art. 61;
b. Children and juveniles, in application of arts. 15 and 25 of the Juvenile Criminal Law Act (JCLA);
c. Children and juveniles suffering from serious social behaviour disorders;
d. Young adults up to the age of 22, in application of art. 397a of the Civil Code.

[10] Juvenile Criminal Law Act of 20 June 2003 (JCLA), SR 311.1.

on the freedom of movement of juveniles and, in particular, the length of time during which they are confined to their cells; policies on educational and disciplinary measures; access to schooling and vocational training opportunities; and the policies regarding contact with the outside world, including permission to use telephones and to receive family visits.

The Commission's review covered, in particular, the following aspects:

- The applicable statutory bases, including, specifically, the cantonal legislation in implementation of international standards on execution of juvenile correctional measures and the internal rules and directives of the individual juvenile detention facilities.
- Infrastructure and living quarters, in particular, cell furnishings, light and air supply, meals and hygiene, rooms and space available to detainees.
- Restrictions on the freedom of movement, in particular, the duration of periods of confinement in cells and access to sports, vocational, and recreational activities;
- Policies on outside contacts, in particular, telephone access and visitation rights.

The review revealed that there were a number of constitutional issues that required further clarification. The Commission thus commissioned a legal assessment[11], the mandate being to describe the legal bases in Switzerland for the placement and accommodation of juveniles under civil and criminal law, and to assess that regime in the light of accepted norms of basic rights and children's rights, and of international standards and recommendations. Other issues requiring critical examination concerned the use of disciplinary measures for rule violations and the sharing of quarters by juveniles placed in a facility on civil grounds with juvenile offenders convicted under criminal law.[12]

[11] Gerber, Jenni Regula and Blum, Stefan, Die Rechtsstellung von zivil- und jugendstrafrechtlich platzierten Minderjährigen: Gesetzliche Grundlagen und Problemfelder bei der gemeinsamen Unterbringung, Legal Opinion, prepared for the National Commission for the Prevention of Torture, May 2015 (cited Gerber Jenni/Blum, Legal Opinion).

[12] Gerber Jenni/Blum, Legal Opinion, pp. 6 and 7.

The Commission discussed the conclusions of the assessment in the light of its own observations and findings, and set forth recommendations concerning the execution of civil and criminal correction measures for juveniles in closed facilities, taking into account the relevant international standards and legal provisions governing the rights of children and juveniles. The present summary is based on the accompanying thematic priorities report[13], which was presented in March 2016 to the relevant stakeholders at a round table, including the representatives' of the juvenile institutions under review, representatives of the Federal Office of Justice, and the competent cantonal correctional authorities. A copy of the report was then submitted for a statement to all of the actors involved.

4.2 Applicable Standards for children and juveniles deprived of their liberty

The protection of minors in detention is the subject of various international conventions. The main principles are set forth in the UN Convention on the Rights of the Child (UNCRC)[14], and in the International Covenant on Civil and Political Rights (ICCPR)[15]. Under the terms of UNCRC art. 37 (c), all children deprived of their liberty are to be kept separated from adults, and are to be treated in a manner respective of their special needs. In addition, there is a wide range of applicable soft-law instruments, which elaborate on these principles in greater detail, particularly with regard to procedural safeguards and the conditions of detention.[16]

Of particular relevance for the execution of civil or juvenile correctional measures are the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules).[17] They establish clear standards for the treatment of juveniles being held in

[13] Cf. Thematic Priorities Report (Gesamtbericht über die schweizweite Überprüfung der geschlossenen Jugendeinrichtungen durch die Nationale Kommission zur Verhütung von Folter 2014/2015) (cited Thematic Priorities Report).

[14] Convention on the Rights of the Child of 20th November 1989 (UNCRC), SR 0.107.

[15] International Covenant on Civil and Political Rights of 16 December 1966 (ICCPR), SR. 0.103.2.

[16] Thematic Priorities Report, p. 14 Rz. 45 und Fn. 30.

[17] United Nations Rules for the Protection of Juveniles Deprived of their Liberty, adopted by General Assembly resolution 45/113 of 14 December 1990, which are broken down into 87 individual points, the rules cover the entire domain of deprivation of liberty (cited Havana Rules).

detention, in order to mitigate, as much as possible, the negative effects of the deprivation of liberty. Of particular importance is proper respect for the principle of presumption of innocence in cases of juveniles being held in pre-trial detention. For this reason, deprivation of liberty measures should, as a general rule, be avoided, and applied only in exceptional circumstances.[18]

At the level of the European Union, the principal instrument is the "European Rules for Juvenile Offenders Subject to Sanctions or Measures"[19] These rules, which are formulated as recommendations, are largely based on the UNCRC and all of the other UN guidelines referred to above.[20]

a. Swiss domestic law

At the federal level, the JCLA sets out the most important rules with regard to the ordering of juvenile correctional measures. The procedures for execution of those measures, however, are dealt with in only a rudimentary manner. Specifically, art. 27, para. 2, of the JCLA and art. 28 of the Juvenile Criminal Procedure Code (JCrimPC)[21] require that juveniles be housed separately from adults both when serving out sentences and when being held in pre-trial detention.[22] Unlike JCLA art. 16, which applies solely to the execution of orders for the placement of juveniles in a facility, the rules on execution of correctional measures contained in JCLA art. 17–20 apply to all protection measures.[23] It is incumbent upon the cor-

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18 Cf. Havana Rules, at 17–77. The Havana Rules also impose the principle of separation of juveniles from adults and the requirement that juveniles be housed only in facilities that have been specially designed for their needs and which meet minimum standards for the material conditions of detention.

19 Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures, 5 November 2008 (cited Recommendation Rec(2008)11).

20 Including, in particular, the Havana Rules for the Protection of Juveniles Deprived of their Liberty.

21 Juvenile Criminal Procedure Code (JCrimPC), 312.1 SR 312.1.

22 With regard to pre-trial detention, the Federal Supreme Court has ruled very clearly that juveniles subject to correctional measures must be kept separated from adult detainees and that no exceptions to this rule are permitted (BGE 133 I 286, 1P.7/2007). As concerns implementation of this ruling by the cantons, the Federal Supreme Court notes that the terms of pre-trial detention are not referred to in any way in JCLA art. 48. It concluded therefrom that the scope of application of JCLA art. 48 does not extend to the conditions of detention prior to conviction, so that the transition period granted to the cantons for the establishment of suitable facilities does not apply. BGE 133 I 286, consid. 3.3 and 5.2 and 5.3. The 10-year transition period (ending 1 January 2017) mentioned in JCLA art. 48 for the separation of juveniles and adults does not relate to the terms of pre-trial detention, but only to the terms governing placement in a facility and the deprivation of liberty.

23 In these provisions the statute consistently uses the term "measures", thus departing from the terminology otherwise in use, in which juvenile correction measures are normally referred to as "protection measures".

rectional authority to ensure that juveniles receive education and training as appropriate to their needs.[24] It is further required that an annual review be conducted as to whether and when a measure may be dispensed with.[25] With regard to the execution of disciplinary measures, however, the Swiss Juvenile Criminal Law Act states only that the maximum period permitted for the confinement of juveniles is seven days.[26] In connection with issues surrounding the execution of correctional measures, the rules on execution set forth in SCC art. 74 are equally applicable for juvenile detention.[27] Under those rules, juveniles must be treated with dignity and their rights may be restricted only to the extent made necessary by the terms of their detention and the requirements of coexistence in the correctional facility.

With the exception of these individual provisions, however, only a limited number of rules related to the conditions of detention are to be found in the federal legislation as this domain is the concern of the cantons.[28] It is only in the cantons of Western Switzerland[29] that an intercantonal agreement has been signed – under the auspices of the Conference of Justice and Police Department Heads of Latin Switzerland – with provisions governing the terms of pre-trial detention and placement in a closed facility.[30] Those rules are largely based on the above-mentioned international standards, such as the UNCRC and the so-called Havana Rules[31], and impose binding obligations concerning, among other things, the separation of living quarters, medical care and freedom of movement.[32] The cantons

[24] JCLA art. 17.

[25] JCLA art. 19, para. 1.

[26] JCLA art. 16, para. 2. Cf. also Gerber Jenni/Blum, Legal Opinion, p. 57.

[27] Cf. JCLA art. 1, para. 2 (e).

[28] Gerber Jenni/Blum, Legal Opinion, p. 33.

[29] Fribourg, Vaud, Valais, Neuchâtel, Geneva and Jura. Partially in the canton of Ticino.

[30] Cf. the Intercantonal Convention of 24 March 2005 on the execution of correctional detention measures for juveniles in the cantons of Western Switzerland (and partially in Ticino) (cited Intercantonal Convention of Western Switzerland (and partially in Ticino).

[31] Cf. Thematic Priorities Report, p. 14.

[32] Cf. esp. Intercantonal Convention of Western Switzerland (and partially in Ticino) Chapter IV, art. 19–32.

of Western Switzerland have incorporated the provisions of the intercantonal agreement into their own legislation in various ways.[33] Conversely, the rules in effect in German-speaking Switzerland, in particular, the intercantonal agreements between the cantons of Northwest Switzerland, Inner Switzerland and Eastern Switzerland are unsatisfactory and apply only to the terms of juvenile sanctions in cases where the measures in question are executed in an intercantonal facility.[34]

A detailed review of the cantonal legislation concerning the treatment of juveniles thus reveals numerous disparities, and must be characterized overall in terms of regulatory density as being incomplete and unsatisfactory. Particularly conspicuous is the fact that while the majority of the cantons have introduced into their legislation, in the form of implementation laws, provisions on juvenile correction measures, issues relating to the conditions of detention have been left largely unregulated in those laws. In some cantons,[35] individual provisions may be found that deal with the conditions of detention and/or disciplinary measures in detention, but which can hardly be said to constitute comprehensive regulation of the matter. The canton of Basel-City is the only German-speaking canton in Switzerland that possesses a formal law regulating the execution of juvenile correctional sanctions.[36] Conversely, in the cantons of Aargau, Bern and Zurich, the rules governing general issues connected with the execution of juvenile correctional measures are found in the cantonal criminal and correctional codes applicable to adults. From the perspective of child rights, this is extremely questionable, inasmuch as the situation hardly takes into proper account international standards on the treatment of juveniles.[37] These findings con-

[33] Canton of Geneva: Ordinance of the Clairière Detention and Observation Educational Facility (Règlement du centre éducatif de détention et d'observation de la Clairière [RClairière]), 1 50.24; Canton of Valais: Internal Ordinance of 3 January 2007 on Juveniles for the Pramont Educational Facility (Règlement interne des mineurs pour le Centre éducatif de Pramont du 3 janvier 2007). In addition, further ordinances relating to disciplinary measures have been enacted by all three cantons. In the canton of Vaud, the applicable statute is the Ordinance of 4 June 2014 on Juvenile Disciplinary Measures (Règlement sur le droit disciplinaire applicable aux personnes mineures et aux jeunes adultes détenus provisoirement ou faisant l'objet d'une condamnation prononcée en vertu du droit pénal des mineurs et détenues dans l'Etablissement de détention concordataire du Canton de Vaud [RDDMin-VD]), 340.07.2.

[34] Cf. Gerber Jenni/Blum, Legal Opinion, p. 33.

[35] This is the case in the cantons of Aargau, Appenzell-Innerrhoden, Saint Gallen, Basel-Landschaft, and Zurich.

[36] Juvenile Correction Act of 13 October 2010 (JStVG), SR 258.400.

[37] Gerber Jenni/Blum, Legal Opinion, p. 34.

cerning the legislative situation prompted the Commission to address appropriate recommendations to the competent authorities.[38]

4.3 Findings and Recommendations concerning the enforcement of civil and juvenile correctional measures

a. Common placement

As part of its review, the Commission addressed, among other things, the issue of the common placement of juveniles placed on civil grounds and those being held in detention under criminal law. While other countries, such as Germany, for example, have made provisions for the use of separate facilities for the two categories of juvenile detainees, orders for civil and juvenile correction measures in Switzerland are executed, as a rule, in common institutions.

In the juvenile institutions subjected to review by the Commission, no noteworthy difference was to be discerned between the restrictions on freedom of movement and contact with the outside world to which both categories of juveniles were subject. In institutions where both measures under civil and criminal law are being executed , the Commission observed that the juveniles are permitted to spend, as a rule, eight hours outside their rooms and have access to various sports and leisure time activities. Conversely, in several cases the Commission noted that juveniles placed in an institution on civil grounds normally remained in that facility, on average, for a minimum of six months whereas juvenile correction measures tended to be of a significantly shorter duration. The Commission also encountered a number of juveniles who had been placed in a facility on civil grounds who, for disciplinary or other reasons, had been refused permission to use the telephone over a period of several months. These findings prompted the Commission to conduct further research, in order to consider from a fundamental rights perspective the potential consequences ensuing, in particular, from the use of common placement.[39] The research concluded that in view of the clearly similar needs and behavioural habits of the juveniles' concerned, common placement

[38] See Thematic Priorities Report, p. 21.

[39] Cf. here Gerber Jenni/Blum, Legal Opinion, p. 61.

should not, as a matter of principle, be considered as problematic. This view is also held by Gerber Jenni and Blum, who clearly oppose any segregation between juveniles placed in a facility on civil grounds and those being held in correctional detention. The Commission urged the authorities to adopt policies suited to the requirements of each individual case and to use discernment in the imposition of restrictions on contact with the outside world.

b Pre-trial detention

The Commission has qualified the conditions of pre-trial detention encountered in individual juvenile institutions[40] as generally too restrictive and not suitable for juveniles.[41] The Commission noted with concern that, in some cases, the period of confinement in cells was over 20 hours.[42] At the same time, it also acknowledged the efforts of individual juvenile facilities to achieve greater compliance with the recommendations of the European Rules[43] to the effect that a minimum of eight hours outside the cell be permitted. In the new Palézieux juvenile correction facility, and in the juvenile unit of the Limmattal facility, the period of cell confinement has already been limited to a maximum of 17 hours. While juveniles in Palézieux are permitted open-air exercise for a minimum of half an hour three times a day, juveniles in the Limmattal juvenile unit are allowed two hours of such exercise on weekdays; in the remaining facilities, however, the amount of time allowed for outdoor or other exercise is limited, as a rule, to one hour a day. This practice is not consistent with international standards, under which juveniles should spend a minimum of eight hours outside their cells and a have at least two hours of open-air exercise every day.[44] The Commission therefore addressed recommendations to this effect to the authorities responsible for these matters.

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40 JCLA art. 15.

41 The Commission has already voiced criticism of these excessive confinement periods in connection with its review of individual district and police department prisons where juveniles are also detained – even if, in most cases, for only short intervals. This was the case, specifically, with regard to the Thun District Prison, the Zurich Police Prison, the Biel District Prison, and in the police stations of the Canton of St Gallen and, prior thereto, in the juvenile facilities of Uitikon and Arxhof (see the relevant NCPT reports).

42 Specifically, in the juvenile institutions of Pramont and La Clairière.

43 Cf. Recommendation Rec(2008)11, points 80.1 and 81. Similarly, Havana Rules, point 47.

44 Cf. Recommendation Rec(2008)11, points 80.1 and 81.

c. Measures of restraint

As an element of its prevention mandate, the Commission devoted particular attention to the use of restraint measures on juveniles.[45]

i. Disciplinary sanctions

With the exception of the mandatory maximum time limit of seven days for confinement, as prescribed in the JCLA and thus binding on all cantons, there do not appear to be any unified rules, applicable throughout Switzerland, for the ordering or execution of disciplinary, security or protection measures.[46] The cantons of Western Switzerland have enacted a unified regime of disciplinary law in the form of an intercantonal ordinance.[47] In it, the constituent elements of acts subject to disciplinary measures and sanctions, and the minimum standards for execution of those measures, are set forth in keeping with the terms of the JCLA and the European Rules.[48] By contrast, the rules set forth in the intercantonal agreements on correctional justice between the cantons of Northwest Switzerland, Inner Switzerland and Eastern Switzerland, are applicable to the execution of juvenile sanctions only where the measures are to be executed in an intercantonal facility.[49]

Bern, with the cantonal Act on Measures for the Deprivation of Liberty in Juvenile Correction (Gesetz über freiheitsbeschränkende Massnahmen im Vollzug von Jugendstrafen [FMJG])[50], is the only canton to have passed a specific law for the comprehensive regulation of matters relating to the ordering and execution of restraint measures in stationary juvenile welfare facilities or prisons where

[45] This includes all measures that place restrictions on the freedom of movement, such as disciplinary confinement, security and protection measures, or the use of coercive measures such as bonds or defensive sprays.

[46] Cf. Gerber Jenni/Blum, Legal Opinion, p. 38 and p. 57.

[47] Intercantonal Ordinance of 31 October 2013 on Disciplinary Measures for persons held in correctional detention or placed in closed facilities for juveniles (cited Intercantonal Ordinance).

[48] For further details see Gerber Jenni/Blum, Legal Opinion, p. 39.

[49] Cf. Gerber Jenni/Blum, Legal Opinion, p. 33.

[50] Act on Measures for the Deprivation of Liberty in Juvenile Correction (Gesetz über freiheitsbeschränkende Massnahmen im Vollzug von Jugendstrafen [FMJG]), 341.13; Cf. section iii. Instruments of restraints and force below.

juveniles are placed for the execution of correctional justice or child protection measures.[51] The FMJG establishes the constituent elements of the acts by juveniles that call for disciplinary measures, and the sanctions to be applied, and prescribes a clear procedure for the imposition of such disciplinary sanctions.[52] At the same time, however, the FMJG does not contain any further details concerning the use of cell confinement or strict lock-up regimes.[53] No other German-speaking canton possesses as detailed a statutory basis in this domain.

In reviewing the sanctions journal, the Commission noted with satisfaction that the orders issued were, as a rule, well-grounded and comprehensible, and that the sanctions imposed were, as a rule, duly proportionate to the infringement in question. It must, however, be deemed unsatisfactory that orders for the imposition of the sanctions prescribed by law are issued, for the most part, orally, rather than in writing.[54] In one juvenile institution in the canton of Fribourg, the Commission noted even that no formal disciplinary journal was maintained, in clear violation of the documentation and reporting duties imposed by international law.[55] In addition, it was discovered that in most juvenile facilities the sanctions provided for by statute are complemented by additional educational sanctions, which normally take the form of a cancellation of privileges allowing greater freedom of movement or more contact with the outside world; the orders for these additional sanctions are not issued in writing. While educational measures for pedagogical purposes may well prove useful on occasion, it is important that they be clearly distinguished from measures imposed as a punishment for disciplinary violations. The Commission has voiced criticism over the fact that no formal procedure is applied for the imposition of these so-

[51] FMJG arts. 2, 4, 9 and 10.

[52] Cf. FMJG arts. 8–12.

[53] Cf. Gerber Jenni/Blum, Legal Opinion, p. 68.

[54] The Commission noted the presence of this problem, in particular, in the juvenile institutions of Pramont, Prêles, Lory and Time-Out.

[55] Cf. Havana Rules, point 70.

called educational sanctions; the absence of written orders creates a de facto situation in which the legal safeguards[56] are rendered ineffective. The Commission therefore urged the juvenile facilities to institute as a fixed rule that all orders for restraint measures or on contacts with the outside world be issued in writing.

The disciplinary units available for the execution of sanctions were found by the Commission to be adequate in terms of infrastructure. The Commission nevertheless noted disparities that were, in part, quite substantial. While the disciplinary cells in some individual juvenile facilities[57] resemble the cells used for cell confinement in prisons, in two facilities[58] they rather resemble a friendly decorated room appointed for reflection. Conversely, in one juvenile institution in the canton of Geneva,[59] the Commission deemed that a basement confinement cell, with no light supply, is entirely inappropriate for the execution of juvenile sanctions.[60] Under international standards, confinement in a cell equipped only with concrete blocks for sitting and sleeping purposes, is, as a matter of principle, prohibited.[61] Finally, the Commission takes a critical view of the use of outside facilities, including prisons, for the execution of disciplinary, security, and protection measures. The Commission also noted that the use of confinement, particularly solitary confinement, was not an uncommon practice. Despite the fact that there were, in part, substantial variations in the number of confinement orders issued in the different facilities, the Commission spoke with a number of juveniles who had already been held in confinement for periods of several days. The Commission deemed it a matter of concern that in some individual cases the period of confinement had exceeded

[56] Cf. Brägger Benjamin F. (Edit.), Das schweizerische Vollzugslexikon, Basel 2014, p. 136, who emphasises the importance of legal protection. "Disciplinary sanctions impose further limitations on basic rights, in particular, personal liberty, that are already severely restricted in detention. For this reason, extremely great importance attaches to the legal protection of inmates who have been made subject to this special legal relationship."

[57] Specifically, in Prêles, Pramont, La Clairière, and Palézieux.

[58] In the juvenile institutions of Lory and Aarburg.

[59] In the La Clairière juvenile home.

[60] The use of this cell was deemed unacceptable by the CPT as early as 2011. Cf. CPT (2012)7, p. 51, point 93.

[61] Cf. Recommendation Rec(2008)11, point 95.3.

seven days,[62] and urged the juvenile facilities not to exceed the statutorily prescribed limit of seven days under any circumstances.

The Commission also encountered a practice that, from the perspective of child and juvenile protection law, must be viewed with a critical eye. In multiple instances juveniles were barred from receiving any family visits when being held in the disciplinary unit[63], in other cases restrictions were placed on such visits as part of a disciplinary measure that had been imposed.[64] The Intercantonal Ordinance of the cantons of Western Switzerland also makes provision for the restriction of outside contacts as a possible disciplinary sanction.[65] The FMJG in Bern, by contrast, authorises such restrictions only where the disciplinary infraction stands in close relation with the family visits.[66] This is presumably the provision that is most consistent with child protection standards and, in particular, with the European Rules[67], which do not prescribe any restrictions on visits or family contact. In the Commission's view, this should be taken into consideration, as a minimum standard, by all juvenile facilities.

ii. Security and protection measures

The Commission noted that there were, in part, substantial differences in the juvenile facilities under review with regard to their policies on ordering security and protection measures for detainees who pose a risk to themselves or others. According to the Commission's findings, juveniles were placed, as a rule, for up to 24 hours in seclusion cells without a formal order for such placement having

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62 Cf. JCLA art. 16, para. 2 This was observed, specifically, with reference to the Lory Juvenile Home, where a review of the sanction journal revealed that in the year 2014 there were at least four instances in which strict lock-ups were ordered for periods ranging from 8 to 15 days.

63 Thus, expressly, in art. 41 RClairière (Geneva) and in § 161 of the Correctional Justice Ordinance Zurich (Justizvollzugsverordnung vom 6. Dezember 2006 [JVV]), 331.1, under which a person in confinement may not receive any visits.

64 Thus, for example, § 74, para. 1 (b) of the Correctional Justice Ordinance of Aargau (Verordnung über den Vollzug von Strafen und Massnahmen vom 9. Juli 2003 [Strafvollzugsverordnung, SMV]), 253.111 provides that restrictions on outside contacts may be ordered as a sanction.

65 Art. 5, para. 1 (c) of the Ordinance on Disciplinary Law applicable to persons in criminal detention or placed in closed facilities for minors (Règlement sur le droit disciplinaire applicable aux personnes détenues pénalement ou placées dans des établissements fermés pour mineurs [RDDPDM]), E. 458.03.

66 FMJG art. 9, para. 2.

67 Cf. UNCRC art. 9, para. 3, and Recommendation Rec(2008)11, point 95.6.

been issued. The inquiries carried out by the Commission revealed, in general, that there was a lack of clear rules in this domain. By contrast, the regulations in the cantons of Bern and Vaud must be qualified as positively exemplary, inasmuch as they prescribe the procedure to be followed, the division of responsibilities and, in particular, the requirement that a formal order be issued and that the health services be consulted for every security measure imposed.[68] The Commission accordingly recommended that the competent authorities always issue formal orders for all security and protection measures.

There were also very wide policy differences with regard to the same security and protection measures. The Commission was pleased to note that at the juvenile unit in Limmattal no formal security or protection measures were imposed and that juveniles at risk of suicide were transferred within 24 hours to the Rheinau Psychiatric Clinic or to the University of Zurich Psychiatric Clinic. Conversely, in one juvenile facility in the canton of Valais, the Commission noted with concern that security and protection measures for juveniles were executed in a nearby prison, in a basement confinement cell where there was nearly no sunlight and which was under constant video surveillance.

iii. Instruments of restraints and force[69]

The Commission reviewed all cases in which instruments of restraints and force were applied and verified the corresponding orders and journal entries, insofar as available. The United Nations Committee on the Rights of the Child and the Havana Rules expressly restrict the use of instruments of restraints and force to situations in which there is an immediate risk that the juveniles in question will inflict harm on themselves or others; the use of such means is further subject to the condition that all other measures of control have failed.[70] Furthermore, these measures of restraint should at no

[68] In the canton of Bern, art. 15 of the FMJG provides for a clear procedure to be followed when ordering special security or protection measures. In the canton of Vaud, security and protection measures are ordered in reliance upon a directive that applies to all correctional facilities in that canton.

[69] Physical constraint, handcuffs and shackles, chemical irritants (e.g., pepper spray).

[70] Havana Rules, points 63 and 64.

time be employed for punitive purposes and must in all cases be monitored by medical and/or psychiatrist.[71] The Commission noted that there were a number of different problems in this area. With the exception of the juvenile facilities in the canton of Bern, where the provisions of the FMHG are applicable, the controls carried out by the Commission revealed that there is hardly a juvenile institution where the use of instruments of restraints and force is ordered in a formally correct manner or is recorded in a separate journal. In view of the serious infringements of fundamental rights that the use of such methods entails, the Commission has advocated that unified rules modelled on the provisions of the FMJG in Bern be enacted throughout Switzerland. The Commission also expressed its opinion concerning the use of defence sprays, having reviewed in the course of its visit to a juvenile facility in Bern two incidents in which such sprays were deployed.[72] Because of the health risks connected with the use of such deterrents,[73] the Commission shared with the authorities its concerns over this matter and reiterated the importance of the mandatory safety measures to be taken when using such means.[74]

d. Access to basic education and/or vocational training

In all of the facilities reviewed by the Commission, the juveniles had access to schooling on a regular basis. Nevertheless, there were, in part, substantial differences in both the number and the length of the lessons. While in some facilities,[75] school lessons on the premises were organised on an individual basis and according to the needs of the pupils, in other juvenile facilities[76] lessons were held only on certain days or, in some cases, were limited to only one or two hours per week. In a few individual cases the Commission discovered that

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71 Committee on the Rights of the Child, General comment no. 10, at 89; Havana Rules, point 55.

72 For further remarks on this subject, see the Thematic Priorities Report, p. 28.

73 Cf. the recommendations of the Federal Office of Public Health (FOPH) on the use of defence sprays. These are summarized in the FOPH fact sheet on defence sprays: Fact Sheet defence sprays, Federal Department of Home Affairs, Federal Office of Public Health (FOPH), Consumer Protection Directorate, July 2015.

74 Defence sprays should never be used in closed spaces and persons on whom they have been used should be examined immediately by a health professional.

75 According to the information available to the Commission, this was the case in the juvenile institutions of Palézieux and Pramont.

76 This was the case in the juvenile institutions of La Clairière, Lory and Limmattal juvenile unit.

juveniles were being excluded – apparently because of their behaviour – from basic education opportunities on the premises; they thus remained in the facility without activities to occupy their time. This is a problem, in particular, for juveniles who are regularly subject to strict disciplinary measures, since this causes them to be deprived of regular access to a basic education.[77] In order to ensure respect of relevant child rights standards[78], in particular, as with respect to the right to education, the Commission urged the authorities to provide lessons on the premises for minors of compulsory school age, on a daily basis, if possible, but in no case fewer than three times per week, or to organise a possibility for off-premises schooling. At the same time, the Commission welcomed the fact that in different juvenile facilities[79] there was a varied selection of vocational training opportunities and that efforts were made by the staff to support the juveniles in their desire to acquire vocational skills and to encourage contacts, where necessary, with off-premises training facilities.

e. Access to medical and psychiatric care

The available medical and psychiatric care was deemed by the Commission to be satisfactory in nearly all of the facilities under review. Conversely, it felt that there was a need for improvement with regard to the absence of initial medical examinations of juveniles by medical professionals when they enter a facility; contrary to international standards, such examinations are performed in only a small number of the juvenile facilities. Another source of criticism was the occasional practice of allowing support and security staff to distribute medication; the Commission addressed recommendations in this regard to the juvenile facilities concerned.

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[77] Cf. Gerber Jenni/Blum, Legal Opinion, p. 57, according to whom the education mandate anchored in the Federal Constitution is not properly being performed; this constitutes simultaneously a violation of the prohibition on discrimination.

[78] Cf. on this the Havana Rules, point 38. Similarly, JCLA art. 27, para. 3: An opportunity must be provided for school attendance, vocational training or employment outside the facility or, alternatively, on facility premises.

[79] This was impressively the case, in particular, in Pramont, Prêles, La Clairière and Palézieux.

f. Contact with the outside world

Juveniles should be allowed to have regular contact with the outside world and, in particular, with their families. This is a requirement imposed by international standards, and includes both unrestricted mail privileges and telephone access, and the right to receive visits.[80] In the juvenile facilities reviewed by the Commission, the regimes for permitting contact with the outside world were found to be somewhat restrictive in terms of child rights standards. The Commission noted with surprise the wide differences in terms of procedures and, in individual cases, the restrictions qualified as excessive, on telephone contact with the family. While such contact was limited to five minutes per week in certain facilities,[81] juveniles were allowed access to the telephone during 15 minutes daily[82] or, in some cases, twice per week.[83] The Commission branded as unacceptable in terms of fundamental rights the complete ban on telephone access that was in force in certain individual facilities.[84] By contrast, the practice with regard to receiving visits was found to be more unified. In the juvenile facilities under review, juveniles were permitted, as a rule, to receive visits for one hour at least once a week.[85] Substantial differences remain, however, depending on the reason for which the juvenile has been placed in the facility. In individual cases, juveniles in pre-trial detention were prohibited from receiving any visits at all; in other cases, visits were permitted only behind a glass partition. Although such restrictions may be entirely justified under certain extraordinary circumstances,[86] a minimum level of outside contact must nevertheless always be assured,[87] even in such cases.

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80 Cf. the remarks at 28 and 28, above. See also the Havana Rules, points 59, 60 and 61. Committee on the Rights of the Child, General comment no. 10, at 83; Havana Rules, point 59.

81 This was the case under the house regulations for the Lory juvenile facility.

82 This custom was noticed in Pramont.

83 In the canton of Vaud, telephone contact is permitted twice per week, in accordance with art. 51 of the Ordinance on the Status of Persons detained in a Juvenile Detention Facility (Règlement sur le statut des personnes détenues placées dans un établissement de détention pour mineurs [RSDMin]).

84 In La Clairière, telephone access was not provided for in either the internal institutional regulations or in practice. In the Limmattal juvenile unit, telephone access was prohibited entirely.

85 This is the case, specifically, in the juvenile institutions of Pramont, La Clairière and in the Limmattal and Palézieux juvenile units.

86 Committee on the Rights of the Child, General comment no. 10, at 89.

87 Recommendation Rec(2008)11, point 85.2.

Finally, the Commission has qualified as problematic the confusion of educational and disciplinary measures, which has also been criticised by Gerber Jenni and Blum.[88] In some cases undesirable behaviour is punished also by placing restrictions on visitation rights or telephone access. While this practice can be characterised as common in some individual facilities,[89] in other juvenile facilities telephone access was even prohibited entirely in response to repeatedly poor ratings in the juvenile behaviour assessment system.[90] Here, the Commission referred the authorities to the relevant standards for the rights of children and juveniles and urged them to implement less restrictive policies in this area.

Overall, it may be stated that civil and juvenile correction measures in Switzerland are executed within an educational framework that respects the needs of the juveniles and offers them both a suitable infrastructure and a wide range of recreational activities and vocational training opportunities. Conversely, from a formal legal point of view, and as a result of the division of authority between the federal government and the cantons, there is a need for further action in order to ensure that child and juvenile rights standards are fully adhered to in all cantons. This would appear to be urgently the case, in particular, with regard to the use of measures that place restrictions on liberty, such as disciplinary sanctions, security and protection measures, and with regard to the use of coercive means. Finally, there is a need to formulate rules for restrictions on outside contacts that are able to meet the requirements of individual cases and that reflect international standards. This must be done in such a way as to give adequate consideration to both the requisite educational framework and to the special needs of juveniles.

88 Cf. Gerber Jenni/Blum, Legal Opinion, pp. 59 and 60.

89 This was the case, specifically, in the juvenile homes of Aarburg, Lory and La Clairière.

90 This practice was encountered, for example, in the Lory juvenile home.

Overview of the recommendations submitted in 2015

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5.1 In general

- The Commission recommends that the authorities of the Canton of St. Gallen delegate the responsibility for operational administration of the prisons to the Office of Corrections.
- The Commission recommends that the administration in the pre-trial detention facilities of Solothurn and Pfäffikon Prison ensure that they hire staff according to the language diversity of the detainees.

5.2 Strip searches

- The Commission recommends that strip searches routinely be conducted in two steps, and that the internal regulations of the pre-trial detention facilities in the Cantons of Solothurn and St. Gallen be amended to that effect.
- In the Biel District Prison in the canton of Bern the Commission urges the authorities to ensure that the two steps conduct of strip searches becomes a standard.

5.3 Material conditions of detention

- The Commission is of the view that cells should allow for more access to day light and recommends that the administration in the Biel District Prison and the Pre-trial Detention Facility in Solothurn take urgent steps to improve the lighting situation in the cells.
- The Commission urges the cantonal authorities of St Gallen to take urgent steps to renovate the cells in the Mels police station.
- The Commission is of the view that proper respect must be shown for the privacy of detainees. It recommends that the management of the Pre-trial Detention Facility in Biel takes appropriate measures.
- The Commission recommends to review meal serving times at the Pre-trial Detention Facility in Biel.

- The Commission is of the view that cell calls in the Gossau Prison in the canton of St Gallen should be answered as quickly as possible, particularly in emergency situations. The Commission urges the police authorities to take appropriate measures.
- The Commission recommends to separately accommodate smokers and non-smokers and to install non-smoking rooms. While the Commission noticed that smokers and non-smokers are separated on a cell by cell basis, non-smokers are often accommodated in cells that have been previously used by smokers.
- The Commission is of the view that the exercise yard in the Pre-trial Detention Facility in Solothurn is not appropriate and recommends to renovate it.

5.4 Detention regimes

- The Commission calls on the police authorities of the Canton of St Gallen and Solothurn to separate detainees according to their regime, i.e. pre-trial detainees from common law and from persons being held in administrative detention under immigration law in the Flums and Gossau prison facilities, as prescribed in the rulings of the Federal Supreme Court; and to maintain compliance with the applicable provisions of the Criminal Procedure Code and the relevant international standards in its pre-trial detention regime.
- The Commission is of the view that the Flums Prison in the Canton of St Gallen is unsuitable for the accommodation of women detainees.
- The Commission considers the Flums and Gossau prisons in the Canton of St Gallen as unsuitable for the detention of juveniles. It recommends that the police authorities segregate juveniles from adults and that they implement the segregation requirement in accordance with the jurisprudence of the Federal Supreme Court.
- Although the average length of detention can be qualified as relatively short (8.6 days), women in the Biel District Prison should spend an adequate part of the day outside their cells.

5.5 Pre-trial detention

- In light of international standards, the Commission regards cell confinement for a period of 22 respectively 23 hours as unacceptable and recommends that the authorities of the Canton of Bern and Solothurn take into proper consideration the requirements of the Criminal Procedure Code and the applicable international standards in their pre-trial detention regime.
- As a matter of principle, contact with the outside world should be guaranteed during pre-trial detention, within the boundaries of the purpose of the pre-trial investigation.
- The Commission recommends that the pre-trial detention regime in the Pfäffikon prison of Zurich respects the principles of the Criminal Procedure Code and of the relevant international standards.

5.6 Administrative Detention under immigration law

- The Commission considers the Pre-trial Detention Facility of Solothurn and the Widnau Prison in the Canton of St Gallen as unsuitable for the execution of administrative detention orders issued under immigration law. Furthermore, the detention regimes both in Widnau and in Bazenheid Prison are deemed to be too restrictive and unsuitable for detention under the terms of immigration law. The Commission therefore recommends that the authorities of the pre-trial detention facilities of Solothurn increase the access to leisure activities.
- The Commission is of the view that due to the lack of exercise possibilities the Pre-trial Detention Facility of Solothurn is not suitable for administrative detention orders issued under immigration law and recommends to place administrative detainees, for that purpose, in a more adequate facility.

5.7 Disciplinary regimes and sanctions

- The Commission recommends that the police authorities, the migration office and the competent authorities in St Gallen review the organisational procedures regarding disciplinary sanctions and, where necessary, amend the applicable ordinance accordingly.
- The Commission recommends, as a matter of principle, that international standards on the maximum duration of cell confinement are being respected and that the maximum period during which a person is placed in an arrest cell be limited to 14 days; it recommends that the legislative authorities in the Cantons of Bern, St Gallen and Zurich prescribe shorter periods of confinement and amend the applicable legislation accordingly.
- The Commission recommends that the management of the Biel District Prison in the Canton of Bern provides detainees with appropriate clothing while held in the disciplinary cell.
- As a matter of principle, reading during disciplinary confinement should not be restricted to religious literature. The Commission therefore recommends that the management of the Biel District Prison in the Canton of Bern takes steps to improve the lighting in the disciplinary cell.
- The Commission once again recommends that the legislative authorities of the Canton of Bern use all disciplinary sanctions prescribed in SCC art. 91, para, 2, and amend the applicable laws accordingly.

5.8 Protection and security measures

- Given the need for clarification, the Commission recommends that the authorities in the Canton of Bern and Solothurn issue an official ordinance to improve regulation of protection and security measures.
- In the Pre-trial Detention Facility of Solothurn the Commission recommends to bring the terminology of the internal regulations in line with the cantonal legislation and to ensure proper registration in a detailed journal.

- The Commission requests that the management of the Biel District Prison, considers moving detainees who are at risk of self-harm to a psychiatric institution or, at the least, take steps to ensure they are kept under permanent psychiatric surveillance.
- The Commission recommends that the management of both the Fribourg Central and the Pfäffikon Prison in Zurich, as well as the police authorities of the Canton of St Gallen and the administration of the Pfäffikon Prison in Zurich issue separate regulations regarding the procedures applicable to detainees who pose a risk to others or of self-harm. In addition, an official order should be issued for all protection and security measures, and each placement order of a detainee in a security cell should be properly registered in a detailed journal.
- The Commission recommends that in line with statutory requirements administrative decisions be issued in all cases where security or protection measures are pronounced at the Pöschwies Correctional Facility in the Canton of Zurich. Such decisions should contain available avenues of appeal and the measures ordered should be recorded in a journal.
- The Commission recommends to the cantonal authorities in Zurich that mentally disturbed persons be placed in adequate and suitable institutions.

5.9 High security detention

- The Commission recommends to the cantonal authorities in Zurich that the authority for ordering placement of a detainee in a high security unit be assigned to the correctional authorities.
- In view of the severe infringements in terms of fundamental rights related to the placement in Security Unit 1, the Commission suggests that steps be taken to ensure that detainees may exercise their right to be heard at regular intervals in the presence also of a member of the management of the Pöschwies Correctional Facility in the Canton of Zurich.

- It recommends that regulations be issued for Security Unit 1 of the Pöschwies Correctional Facility in the Canton of Zurich, and detainees provided with,– insofar as permissible under the principle of legality – at the minimum with a written fact sheet outlining, in a language they are capable of understanding, the rights and duties that apply to them.
- In view of the recommendation submitted by the Commission in this connection,[91] it further requests that the management of the Pöschwies Correctional Facility in the Canton of Zurich re-examines, within the framework of the current revision of the in-house rules, the legality of the provision allowing for placement in high security of detainees who cause "other grave disturbances to the orderliness and security of facility operations."
- The Commission recommends to the management of the Pöschwies Correctional Facility in the Canton of Zurich to examine the possibility of establishing separate work rooms in Security Unit 1.
- The Commission recommends to the management of the Pöschwies Correctional Facility in the Canton of Zurich to actively encourage opportunities for interpersonal contact among detainees in Security Unit 1 and to ensure detainees regularly take their daily walks in pairs.
- It further suggests that, insofar as security considerations permit, visits to Security Unit 1 should be allowed on a regular basis and without the routine use of glass partitions.
- The Commission considers that therapy sessions should be conducted without the use of glass partitions in Security Unit 1 of the Pöschwies Correctional Facility in the Canton of Zurich, and that measures to that effect should be taken.
- The Commission recommends to further develop exercise possibilities and to consider setting up separate work rooms in the high security unit in Pfäffikon Prison.
- The Commission strongly encourages the management board of the Pöschwies Correctional Facility in the Canton of Zurich to strengthen its efforts with respect to the special case

[91] Cf. Activity Report 2013, point 3.3.

monitored in Security Unit 1, and to examine all measures allowing for a gradual reintegration of the detainee in collective activities.

5.10 Medical care

- The Commission recommends that the Biel District Prison ensure that the medical condition of all new detainees be examined by a medical professional upon arrival and that the policy concept for psychiatric care and suicide prevention be implemented.
- The Commission is of the view that the person in charge of administering and supplying medication should possess basic professional medical knowledge and asks the police authorities of the Canton of St Gallen to take steps to ensure that they comply with this obligation.

5.11 Information for detainees

- The Commission recommends that the administration of the Biel District Prison and the Pre-trial Detention Facility of Solothurn routinely distribute information sheets to all new detainees upon arrival and translate them into the most common languages.

5.12 Opportunities for exercise and leisure activities

- The Commission recommends that the management of the Biel District Prison and Pre-trial Detention Facility of Solothurn provide detainees with more opportunities for exercise and leisure activities.
- The Commission recommends that more opportunities for participating in sports and leisure activities be made available to persons held in prisons administered by the St Gallen Cantonal Police Department and in the Pre-trial Detention Facility of Solothurn.

5.13 Contact with the outside world

- The Commission recommends that the administration of the Biel District Prison and of the Pfäffikon Prison allow for visits without the routine use of glass partitions and that they facilitate visits on weekends.
- In the opinion of the NCPT, visits should be conducted without the routine use of glass partitions. The Commission encourages the competent authorities in the Fribourg Central Prison not to use glass partitions on a routinely basis, but only in response to specific security concerns and as a principle to allow physical contact between the detainees and their families.
- The Commission deems the restrictive and irregular visiting hours and the routine use of glass partitions to be unreasonable and recommends that the police authorities of the Canton of St Gallen extend the visiting hours, adapt them to the different categories of detainees, and permit visits without the routine use of glass partitions.
- The Commission emphasizes that the unrestricted access to a lawyer must be guaranteed at all time and recommends that the management board of the Pre-trial Detention Facility of Solothurn and Pfäffikon Prison respect this principle in practice.
- The Commission is of the view that persons without means in administrative detention in the Pre-trial Detention Facility of Solothurn should be granted free access to the telephone.