

Nationale Kommission zur Verhütung von Folter (NKVF)
National Commission for the Prevention of Torture (CNPT)
National Commission for the Prevention of Torture (CNPT)
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National Commission for the Prevention of Torture (NCPT)

Women in Prison: Switzerland

Analysis from the National Preventive

Mechanism

| July 2024



association pour la prévention de la torture
asociación para la prevención de la tortura
association for the prevention of torture



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Switzerland



UNCAT ratification
2 December 1986

OPCAT ratification
24 September 2009

National Preventive Mechanism (NPM)

National Commission for the Prevention of Torture (CNPT)

NPM legal framework
Federal Act on the Commission for the Prevention of Torture (20 March 2009)

NPM operationalisation
Since May 2010

NMP structure
Specialised independent inspection body

NMP composition
12 members (6 women) and 7 staff (6 women)

I. Figures

Prison population

Total prison population

6,881

Women in prison

385 (5.7%)

Women in pre-trial detention

131

Source: Swiss Federal Statistical Office, January 2024³

Prisons for women

Number of facilities for women

26

Number of facilities exclusively for women¹

3

Number of mixed facilities with special units for women²

23

Source: National Commission for the Prevention of Torture, December 2023

¹ Justizvollzugsanstalt (JVA) Hindelbank (BE), Tuilière prison (VD) and Gefängnis Dielsdorf (ZH). These three facilities have a special unit that can accommodate women with children up to the age of 3.

² Figures as at January 2020. Federal Statistical Office, Catalogue of prisons, January 2020:

<https://www.bfs.admin.ch/bfs/fr/home/statistiques/catalogues-banques-donnees.assetdetail.12687484.html>. There have been changes since this publication. In addition, in Glarus prison, there is 1 place for 1 woman, but this is not really a women's section.

³ Federal Statistical Office, January 2024: <https://www.bfs.admin.ch/bfs/fr/home/statistiques/criminalite-droit-penal/execution-penale.gnpdetail.2024-0236.html>. In Central and North-Western Switzerland in January 2024, there were 155 women detainees (7% of the total prison population of Central and North-Western Switzerland of 2,226). In the Latin cantons, in January 2024, there were 139 women detainees (5.1% of the prison population of the Latin cantons, which totalled 2,700). In Eastern Switzerland, in January 2024, there were 101 women detainees (5.2% of the prison population of Eastern Switzerland, which totalled 1,955).

II. Recommendations

Separation

- + The Commission recommends that women be placed in facilities that are appropriate for them.
- + Women should only be detained in small mixed facilities that meet the specific needs of women.
- + Take steps to create a cell block reserved for women detainees, and not just separate women detainees from men by means of cells.
- + Take measures as soon as possible to allow women detainees to walk around out of sight.

Isolation

- + Given the *de facto* isolation of women detainees and the fact that they are only separated from male detainees by their cells, and given the sometimes lengthy detentions, the Commission strongly recommends that women be placed in facilities that are appropriate for them or that alternatives to detention be considered.

Access to healthcare

- + Facilities housing women detainees should provide gender-sensitive health care, in accordance with the provisions in force. These services must take fundamental aspects into account such as free access to hygiene products, contraceptives and screening, as well as appropriate accommodation and treatment for pregnant detainees or mothers.
- + Ask sex-specific questions as part of the intake interview.
- + Provide healthcare services with at least one female healthcare professional or doctor.
- + Ensure that at least one female staff member is present during medical examinations, with the consent of the woman concerned.

Contact with the outside world

- + Family visits must always be guaranteed.

Sanitary facilities and personal hygiene

- + Considering the special hygiene needs of women, the Commission recommends allowing daily access to showers.

Life in prison: regime and activities

- + The Commission believes that cell confinement times of more than 20 hours are inappropriate and recommends that cell confinement times be reduced.
- + Based on international standards, the Commission recommends implementing or expanding opportunities for meaningful activities for women detainees.

Alternatives to detention

- + Consider alternatives to detention for women detainees.

III. Detention Issues

In detention, the needs of women can be very different from those of men, whether due to gender-specific characteristics or vulnerabilities due to possible violence suffered in the past. These differences affect all aspects of detention. As the Bangkok Rules now recognise, the needs of women detainees require specific attention and measures.⁴

In Switzerland, only three facilities (Dielsdorf, Hindelbank and La Tuilière) exclusively house women detainees. And not one of these three facilities was designed to detain women. For example, the Hindelbank prison is partly located in a former castle, which was converted into a charitable institution for women in 1866 by the Bernese authorities.⁵ The other prisons in Switzerland mainly detain men, but may have a section reserved for women or a few cells for them. It is therefore difficult to compare the treatment of women detainees in these facilities.

In Switzerland, a federal state, police legislation is mainly the responsibility of the cantons. In some cantons, women in police custody are transferred to a nearby prison to ensure that they receive adequate care; in other cantons, they are detained in the police station's cell block. In none of the cantons the Commission visited was there a directive on the treatment of women detained in solitary confinement. In practice, the Commission found that it is not systematically guaranteed that a female police officer will look after a woman while she is being detained at a police station.

Separation

When it comes to material conditions in small facilities⁶ and in mixed facilities, i.e. those that accommodate both men and women, women face more difficult conditions than men.

It is important to mention that, since 1^{er} January 2007, the former provision of the Swiss Criminal Code⁷ (art. 46 para. 1), which provided for the separation of men and women in prisons, is no longer formally in force. However, the separation of men and women in closed prisons is still applied without exception.⁸ This separation is achieved by the existence of an area reserved for women or, in small facilities, by cells. Several women were detained for long periods in mixed facilities that did not have separate units reserved for women. In various facilities, they were placed in cells separate from those for men, which can lead to further isolation during their stay, with consequences for their psychological health.

Bearing in mind that women detainees may experience more difficult conditions and therefore find themselves in a discriminatory situation, it is the Commission's opinion that women detainees should be placed in facilities that are appropriate for them or that alternatives to detention should be considered. Furthermore, family visits must always be guaranteed. In addition, women should only be detained in small mixed facilities that meet their specific needs.

Solitary confinement, isolation

a. Legal and regulatory framework

The Criminal Code stipulates the possibility of solitary confinement as a disciplinary sanction⁹ as well as the forms of disciplinary sanctions (arrests, as an additional restriction on freedom¹⁰). The Criminal Code also stipulates that the cantons must issue disciplinary provisions regarding the execution of sentences and measures. These provisions define the constituent elements of disciplinary offences, the

⁴ Bangkok rules, rule 1.

⁵ [Portrait \(be.ch\)](#).

⁶ The 91 prisons in Switzerland vary greatly in size. Capacity ranges from 5 to 398 places.

⁷ Swiss Criminal Code of 21 December 1937 ([RS 311.0](#)).

⁸ The principle of separation is stipulated in the provisions of the concordats and the majority of cantonal laws.

⁹ Swiss Penal Code, art. 78 c): https://www.fedlex.admin.ch/eli/cc/54/757_781_799/fr#art_78

¹⁰ Swiss Penal Code, art. 91.2 d): https://www.fedlex.admin.ch/eli/cc/54/757_781_799/fr#art_91

nature of the sanctions and the criteria for determining them, as well as the applicable procedure.

The cantonal directives differentiate between solitary confinement for disciplinary reasons or for safety reasons (self-aggressive or hetero-aggressive behaviour). For example, the directive issued by the canton of Berne specifies what clothing women have to wear when they are placed in a secure cell. However, the directive does not specify that pregnant women, breastfeeding women or women who have their children with them in prison may not be placed in a security cell.¹¹

b. In practice

With regard to solitary confinement, the Commission found, when examining the records of disciplinary sanctions, that they were generally well kept and that all sanctions were the subject of a written decision with an indication of the means of appeal. Nevertheless, the Commission noted that the distinction between disciplinary measures and security measures was not always clear in practice.

In at least one case, at La Tuilière prison, the reasons for placement in disciplinary arrest were mainly psychiatric, according to the files consulted. Similarly, at Hindelbank prison, all admissions to the security cell in 2019 were related to acute self-harm. For both facilities, the Commission pointed out that a disciplinary order must be issued following a disciplinary offence, and security or safety measures in the event of self-aggressive or hetero-aggressive behaviour. Therefore, in cases of self-harm and suicidal tendencies, the Commission recommends that placement in a security cell should only be considered as a brief and temporary measure, and that the persons concerned should be transferred to a psychiatric hospital as soon as possible.

During its visits, the Commission rarely encountered disciplinary arrests that lasted more than 14 days.¹² One of the problems identified by the Commission concerning solitary confinement relates to video surveillance. On several occasions, the Commission noted that male detention officers were supervising the video surveillance. For example, in Limmattal prison, both solitary confinement cells were under video surveillance, except for the bathroom area. During its visit, the Commission criticised the fact that video surveillance of women detainees was conducted by male staff.

Because of the small number of women in prison, women detainees often find themselves in a situation of *de facto* isolation.¹³

Use of means of restraint

a. Legal and regulatory framework

The use of means of restraint is provided for in cantonal police laws¹⁴, in ordinances and regulations concerning judicial execution, and in the law on the use of coercion and police measures in areas under federal jurisdiction. For example, art. 35 of the Regulations governing the organisation and staffing of La Tuilière Prison provides for the use of physical restraint¹⁵. Article 134 of the Canton of Bern's Ordinance on Judicial Enforcement¹⁶ also provides for the use of coercive measures.

b. In practice

The Commission mainly focused on the use of restraints during transfers as part of its visits to police

¹¹ Canton of Bern, Office of Judicial Execution, *Anordnung und Vollzug von Disziplinarsanktionen und besonderen Sicherheitsmassnahmen in den Vollzugseinrichtungen des Kantons Bern*, 1^{er} December 2018.

¹² The duration of disciplinary arrests is regulated at cantonal level. Some cantons still have provisions allowing placement in a disciplinary cell for up to 30 days, which was criticised by the Commission.

¹³ For example: During its visit to Fribourg central prison in 2011, the Commission found that the small number of women detained led to a *de facto* situation of isolation. The Commission recommended that the closure of this sector be considered. During its follow-up visit in 2015, the Commission was informed that women were no longer detained at the central prison.

¹⁴ For example, the law on the police (LPol) of the canton of Berne of 10 February 2019, 551.1.

¹⁵ Regulations governing the organisation and staffing of La Tuilière prison: Supervisors may, in the performance of their duties, use force to an extent proportionate to the circumstances, when there is no other way of acting.

¹⁶ Ordinance on judicial execution (OEJ) of 22 August 2018, 341.11.

stations and detention facilities. With regard to arrests and transfers by police officers, the Commission noted that in none of the cantons it visited was there a directive that prohibited the use of restraints on pregnant women. When police officers accompany a woman detainee for medical examinations outside of the detention facilities, not only are they restrained for the transfer, but they are sometimes even restrained during the medical examination. Some women detainees told the Commission that they preferred to avoid outside medical visits in order to escape the shackles and this humiliating treatment.

Access to healthcare

In accordance with the principle of equivalence, healthcare in prisons must be equivalent to that available to the general population. Detainees should be offered services that are adapted to their individual circumstances, including sexual and reproductive health services for women. Detainees with mental health problems are considered a particularly vulnerable group. The Commission examined the gender dimension of healthcare, including psychiatric care, in detention and published its findings in a thematic report.¹⁷

As far as somatic care is concerned, the Commission found that facilities are making every effort to take gender-specific needs into account. Some facilities have guidelines on gender-specific care. Some detention officers have knowledge of certain requirements such as the Bangkok Rules. However, gender-specific questions are not systematically asked during the medical interview upon admission to the facilities. The Commission is of the opinion that these questions should be asked by female medical staff, if the woman in question wants them to.

In women's facilities, external gynaecologists come in regularly for check-ups and examinations. In mixed facilities, gynaecological consultations are organised outside of the facility if necessary.¹⁸ A number of cases have been reported to the Commission regarding delays in being referred to gynaecological consultations. The Commission is of the opinion that all women's facilities must guarantee fast, low-threshold gynaecological care.

Mental health

Detainees with mental health problems are considered a particularly vulnerable group. The Commission noted shortcomings in psychiatric care, particularly in small or mixed prisons. There is no psychiatric care specifically for women detainees. According to these facilities, this shortcoming is due to the small number of women detainees.

The Commission visited three special units for detainees suffering from mental disorders. However, these units are only accessible to male detainees. Given this discriminatory treatment, the Commission believes that special units should be set up to accommodate women detainees in need of psychiatric care.

Sanitary facilities and personal hygiene

In terms of access to gender-specific hygiene items, the practice varies across Switzerland. Apart from one exception¹⁹, all the facilities we visited provide hygiene items for women free of charge, although some limit the number or make distinctions between the different items. In fact, some facilities only provide these items on request.

The Commission believes that hygiene articles should be made available free of charge, in unlimited

¹⁷ Summary of the National Commission for the Prevention of Torture's thematic report on medical care in Swiss detention facilities (2019-2021), April 2022.

¹⁸ Usually in a clinic close to the hospital or with an external gynaecologist.

¹⁹ Gmünden Prison.

quantities and offering different choices (sanitary pads, tampons and other desired items). Access should be simple and discreet. Furthermore, daily access to showers for women detainees is not guaranteed in all facilities.

Life in prison: regime and activities

The detention regime itself can also be discriminatory. In several mixed facilities, women detainees are locked in their cells for 23 hours, except for their daily one-hour walk. Occupational activities, if available, are done in their cell. Although the detention period may be relatively short before their release or transfer, the Commission does not consider these prisons suitable for women.²⁰ The Commission considers cell confinement of more than 20 hours inappropriate and recommends that cell confinement times be reduced.

It is important to have a wide range of activities to ensure that detainees can make meaningful progress during their sentence. The European Prison Rules prohibit gender discrimination in the type of work that is offered.²¹ As women are in the minority in mixed prisons, work activities are often primarily designed to be suitable for men.

The small number of women also plays a role in terms of access to occupational and sporting activities. Women-only facilities offer a wide range of occupations and sporting activities. However, in mixed prisons, women have less access to these leisure activities than men because there are fewer of them and they are housed in a separate unit. In the Delémont and Schaffhouse prisons, for example, men have access to workshops and workstations. Women, on the other hand, can only do simple tasks in their cells. Often, the tasks to be carried out are highly stereotyped in terms of gender (embroidery, ironing, applying false nails, etc.).

Opportunities for physical activity are particularly important for physical and mental health during imprisonment. The Commission found that, in some mixed facilities, the exercise yards for women may be smaller and less equipped than those for men. In some of the facilities we visited, women detainees have no or limited access to the gym. For example, in one of the facilities we visited, while men had access for an hour, women only had access for 30 or 45 minutes. In Zurich Prison, women detainees have to share the access hours to the exercise yard with their male fellow detainees and therefore only have limited access to the exercise yard. The Commission believes that these practices are discriminatory.

The Commission is of the opinion that in specific cases, and if an isolated woman would like to, she should be allowed to take part in mixed group activities (sports or work).²²

Staff

During its visits, the CNPT observed that, in virtually every facility (with one exception), there were both male and female detention officers working there. For example, during a visit to Zurich Prison (a mixed facility at the time), the Commission recommended that the facility should guarantee the presence of female staff at night and on the weekends.

Some prisons ensure in their staffing schedules that there is always at least one female staff member present. In some prisons, male detention officers can only enter the women's unit if they are accompanied by a female officer, while in others they are simply not allowed to enter the cells of women detainees.

Often, the majority of healthcare staff in these facilities are women. Moreover, if a woman detainee

²⁰ The Commission met women who had been detained in such conditions for up to 71 days.

²¹ European Prison Rules Rule 26.4

²² CNPT, 2014 Activity Report, p. 43.

would like this, a female healthcare staff member can be present during a consultation with a doctor. The Commission noted that, in large mixed facilities, women detainees can also consult a female doctor if they wish.

IV. Women in Special Situations of Vulnerability

From an intersectional perspective, the vulnerability of women detainees is further exacerbated by other factors, such as age, ethnic origin, disability, sexual orientation or gender identity. However, the Commission has noted that in terms of access to health care, the specific needs of elderly women, women of foreign nationality and lesbian and transgender women in particular are given very little consideration.

V. Other relevant NPM information on women in prison

- + CNPT , [Thematic report on medical care in Swiss prisons \(2019-2021\)](#), April 2022
- + CNPT , [Activity reports](#)

This report is part of the NPM's global report on women in prison.

The full report is available here: www.apr.ch/global-report/