



**“I ASK THAT THEY TREAT ASYLUM  
SEEKERS LIKE HUMAN BEINGS”**

HUMAN RIGHTS VIOLATIONS IN SWISS FEDERAL ASYLUM CENTRES

AMNESTY  
INTERNATIONAL



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**Quote in the title of this briefing:**

"I ask that they treat asylum seekers like human beings", taken from an Interview conducted by Amnesty International with Brahim Daouadji, 4 May 2021

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# INTRODUCTION

**“I ask that they treat asylum seekers like human beings.”**

Interview conducted by Amnesty International with Brahim Daouadji, 4 May 2021.

This briefing contains Amnesty International’s findings from an investigation into violations of asylum seekers’ human rights in Swiss federal asylum centres. It is based on interviews with 32 people including victims, current and ex-security guards, legal representatives, social care workers and social education officers, as well as medical records, official criminal complaints and other pertinent documentary information.

This briefing raises the alarm about situations in federal asylum centres and highlights measures that the State needs to take in order to comply with its international legal obligations to prevent torture and other ill-treatment and protect the human rights of people, including children, residing in the federal asylum centres.

At the end of the briefing, Amnesty International concludes by making several key and urgent recommendations regarding the Swiss government’s obligations under international law, particularly around preventing the abuse of people in the centres through improved, more robust and pro-active safeguarding and monitoring, the strengthening and reform of whistle blowing systems to make sure they are effective, adequate and secure for people working in the centres and victims alike, as well as increased accountability for perpetrators of abuses, tackling and dismantling pre-existing negative and harmful stereotypes and racist views of all people, but particularly those from North Africa, as well as ending the practice of housing unaccompanied children seeking asylum in these centres.

# 1. CONTEXT AND METHODOLOGY

Since 2016, the Swiss authorities have devised and implemented a reform of the Swiss asylum system. The changes made were aimed at accelerating the asylum process and were endorsed by two-thirds of voters in a nationwide ballot on the issue.

When the new asylum procedure entered into force in March 2019, the system was decentralised and federal asylum centres were created to house people who are seeking asylum or are appealing a failed asylum application. In January 2020, the Secretariat for Migration (SEM) contracted out the running of the federal asylum centres to private companies, namely Protectas AG and Securitas AG. A third company was awarded perimeter security responsibilities.<sup>1</sup>

Although the people seeking asylum who stay at these centres are ostensibly free to come and go during the day, there are curfews imposed<sup>2</sup> and rules that are enforced by the guards who provide security services at the centres on behalf of the SEM.

There are currently 21 federal asylum centres across 6 regions in Switzerland.<sup>3</sup> In February 2020, Amnesty International expressed some specific concerns about the then new federal asylum centres, notably the security focused management of the centres, the difficulties for civil society organisations to access them and some of the centres' isolated and remote locations.<sup>4</sup>

As of 25 April 2021, some 1422 asylum seekers, including 311 children, are housed in the 21 federal asylum centres. 133 unaccompanied minors are currently in the care of the SEM.

Since February 2020, Amnesty International started to receive allegations about abuses occurring in federal asylum centres, namely Basel, Giffers, Boudry, Altstätten and Vallorbe. Concerns about abuses and ill-treatment of people housed in the centre were initially brought to Amnesty International's attention by social care workers and security guards and ex-security guards, and then subsequently asylum seekers themselves, legal representatives and other professionals who work or have worked in the federal asylum centres. Amnesty International requested permission from the SEM to visit the new federal asylum centres and was granted access to seven centres between February and September 2020.<sup>5</sup>

The research for this briefing was conducted through interviews with asylum seekers, former and current security guards, legal representatives, social care workers, including social education workers. Where possible, additional witness testimony, medical certificates, pictures, official criminal complaints and recordings were sought to supplement the testimony of abuse. Amnesty International has also examined reports written by security guards on incidents which record when a breach of the rules was deemed to have occurred, when force was used and the details of sanctions imposed.

Amnesty International interviewed fourteen asylum seekers including two children, who reported suffering abuse at the hands of security guards. We also interviewed eight former or current security guards, six of whom have personally witnessed people being mistreated. We have additionally interviewed six legal representatives or lawyers who support or represent people who are seeking asylum and four social care or

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<sup>1</sup> State Secretariat for Migration (SEM), SEM awards mandates for security services at federal asylum centres (Press release, 1 October 2019), <https://www.sem.admin.ch/sem/de/home/aktuell/news/2019/2019-10-01.html>

<sup>2</sup> Art. 17 of the Ordinance of the Federal Office of Justice and Police on the operation of federal centres and accommodations at airports of December 4, 2018, SR 142.311.23, <https://www.fedlex.admin.ch/eli/cc/2019/1/de>

<sup>3</sup> French-Speaking Switzerland: Federal Asylum Centres Boudry, Giffers, Vallorbe and Special Federal Asylum Centre les Verrières; Bern: Federal Asylum Centres Bern, Boltigen and Kappelen; North-Western Switzerland: Federal Asylum Centres Basel, Flumenthal, Allschwil and Reinach; Ticino and Central Switzerland: Federal Asylum Centres Chiasso (Administration), Chiasso (Accommodation), Pasture and Glaubenberg; Eastern Switzerland: Federal Asylum Centres Altstätten, Kreuzlingen and Sulgen; Zurich: Federal Asylum Centres Zurich, Embrach and Brugg.

<sup>4</sup> Amnesty International, «Ein Jahr beschleunigtes Asylverfahren, Rigides Regime in den Zentren und sehr kurze Fristen», 28 February 2020, <https://www.amnesty.ch/de/laender/europa-zentralasien/schweiz/dok/2020/ein-jahr-beschleunigtes-asylverfahren>.

<sup>5</sup> Federal asylum centres Zurich, Embrach, Giffers, Bern, Altstätten, Basel and Chiasso.

education workers who also work regularly with people in the centres. In four cases, Amnesty International has seen medical reports which substantiate the injuries alleged or the hospital stays of the people reporting abuse. In six cases there are ongoing criminal complaints for the abuse which have been filed by the victims, whom we interviewed. The earliest case of abuse documented by Amnesty International occurred in January 2020, and the most recently documented incident of abuse occurred in April 2021.

Amnesty International expresses its deep appreciation to those who agreed to speak with us and share their experiences and concerns. We acknowledge the courage it has taken both survivors of abuse, as well as witnesses of the same, to come forward and share their experiences.

Because of consistent concerns expressed by the victims, witnesses and professionals interviewed, and as is the norm in many Amnesty International investigations, we provide the date and record of when the interview took place, but have protected the identity of those whom we have spoken to by using a pseudonym or other means to anonymise the individual, in accordance with their wishes.

Amnesty International has brought these concerns to the SEM. We appreciate the willingness of the SEM to engage in a dialogue with the organisation on the concerns raised in this briefing, and for responding promptly to our requests for further information and official data. Amnesty International welcomes the very recent public commitment made by the SEM on 5 May 2021 to conduct an internal review of the situation and an external investigation of certain cases, as well as to examine the possibility of establishing an independent complaint mechanism.<sup>6</sup> Given the gravity of the abuses raised by both victims and security guards themselves, as well as other professionals working in the centres, we hope that in addition to the welcome initial commitments made by the authorities, further urgent measures will be taken to ensure the state complies with its international and national legal obligations to guarantee people's – including children's – right to live free from torture or other ill-treatment, discrimination, to the highest attainable standard of health, as well as their right to freedom of movement.

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<sup>6</sup> State Secretariat for Migration (SEM), SEM lässt Gewaltvorwürfe untersuchen (Press release, 5 May 2021), <https://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-83389.html>.

## 2. LEGAL FRAMEWORK

Switzerland is a state party to several human rights treaties including the European Convention on Human Rights (ECHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the United Nations Convention on the Rights of the Child (CRC), the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ICAT) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). These treaties require the Government of Switzerland to respect, protect, promote and fulfil human rights, including the rights to freedom from torture and other ill-treatment and to freedom from discrimination, as well as the freedom of movement and the right to the highest attainable standard of health.<sup>7</sup> These rights apply equally to all human beings, regardless of their immigration-, refugee-, asylum-seeker or other status.<sup>8</sup>

In the most general terms, the definition of torture in Article 1(1) of the UN Convention against Torture contains four salient elements:

- The element of intent. The act (causing pain and suffering) was intentional;
- The element of severe pain or suffering. The act caused the victim “sever pain or suffering, whether physical or mental”;
- The element of purpose (or discrimination). The act was performed for a certain purpose – including obtaining information, punishment, intimidation and coercion;
- The element of official involvement. The act was performed or instigated by officials, or at least with official consent or acquiescence.

The prohibition of torture is also a rule of customary international law, binding on all states whether or not they are parties to particular treaties which contain the prohibition. It is one of a small number of peremptory norms of general international law (also known as *jus cogens* rules). Thus, international law leaves no room for states or individuals ever to try to justify any act of torture or other ill-treatment, anywhere, at any time, against any person, for any reason.

“Cruel, inhuman or degrading treatment or punishment” has not been similarly defined in international law, perhaps because it was not meant as a narrow or strict concept. However, from the practice of international and regional human rights monitoring bodies these acts may roughly be described negatively, as ill-treatment which does not involve all of the key elements of the torture definition described above. Thus conditions of detention may cause severe pain or suffering, but in the absence of a purpose (or discrimination) of the type contained in the torture definition, would constitute, instead, cruel, inhuman or degrading treatment.<sup>9</sup> It must be emphasised that, just like torture, cruel, inhuman or degrading treatment or

<sup>7</sup> The prohibition of torture and discrimination are absolute and can never be justified in any circumstance whatsoever. Certain other human rights can be limited under very strict conditions.

<sup>8</sup> “The enjoyment of rights and freedoms on an equal footing, however, does not mean identical treatment in every instance”, HRC General Comment 18, para 8 “Once an alien is lawfully within a territory, his freedom of movement within the territory and his right to leave that territory may only be restricted in accordance with article 12, paragraph 3. Differences in treatment in this regard between aliens and nationals, or between different categories of aliens, need to be justified under article 12, paragraph 3. Since such restrictions must, inter alia, be consistent with the other rights recognized in the Covenant, a State party cannot, by restraining an alien or deporting him to a third country, arbitrarily prevent his return to his own country (art. 12, para. 4).”; HRC General Comment 15, para. 5.

<sup>9</sup> See the Report of the United Nations Special Rapporteur on Torture on his visit to the Russian Federation, UN Doc E/CN.4/1995/34/Add.1, 16 November 1994, para 71, where the Rapporteur, commenting on conditions of detention in certain prison cells, states: “The conditions are cruel, inhuman and degrading; they are torturous. To the extent that suspects are confined there to facilitate the investigation by breaking their wills with a view to eliciting confessions and information, they can properly be described as being subjected to torture.” Prof. Sir Nigel S. Rodley, who was the Special Rapporteur, later explained that without evidence of purpose, he could not make a finding of torture, and legally described the conditions as cruel, inhuman and degrading, “torturous” being a description of the Special Rapporteur’s revulsion rather than a legal finding. See Nigel S. Rodley, “The Definition(s) of Torture in International Law”, 55 Current Legal Problems 465 (2002).

punishment is prohibited at all times and in all circumstances under international law. At least deliberate acts of ill-treatment, such as “inhuman treatment” under international humanitarian law,<sup>10</sup> constitute international crimes.

Restriction of the freedom of movement and the unequal power relations generated in asylum centres induce vulnerability to torture and other ill-treatment. This is further enhanced by and intersects with the specific needs and vulnerabilities of the various categories of individuals concerned such as ethnicity, age, gender and sexual orientation. Furthermore, people who are seeking asylum are frequently vulnerable not only due to their circumstances, but also their past experiences which have led them to request international protection.

The state must take positive measures to ensure that all residents in the asylum centres are protected from ill-treatment and discrimination. Violent manifestations of prejudice are often facilitated and encouraged by a failure of the authorities to take action to protect people from such abuse or to hold those responsible accountable. International human rights standards require that there must be effective monitoring and safeguarding against abuse and systems in place to ensure protection of their human rights, including the right to be free from torture or other ill-treatment.

Like the prohibition of torture, the prohibition of racial discrimination is a peremptory norm of customary international law (as *jus cogens*), which means that it applies to all states independently of their treaty obligations, and gives rise to obligations *erga omnes* (i.e. that are owed to the international community as a whole) from which states cannot derogate.<sup>11</sup> It is also contained within numerous treaty provisions, such as in the International Covenant on Civil and Political Rights,<sup>12</sup> the International Convention on the Elimination of All Forms of Racial Discrimination<sup>13</sup> and the European Convention on Human Rights,<sup>14</sup> to all of which Switzerland is a state party.

Under international human rights law, the state has a general duty to protect against abuses by non-state actors, including companies, through regulation, oversight, investigation, adjudication and punishment. It is also important to note that private companies have a responsibility to respect human rights, including by carrying out due diligence.<sup>15</sup>

Included within the legal definition of torture in the CAT is the notion that torture could occur with the “consent” or “acquiescence” of a state. These terms have been interpreted by the UN Committee against Torture as meaning that states will be responsible for acts committed by non-state actors (private individuals) where they have failed to take steps to adequately protect against such acts and prevent them. The Committee against Torture has noted that where “State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistently with the Convention, the State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts.”<sup>16</sup>

Where states choose to outsource certain sovereign tasks to private companies, there is an enhanced obligation on the competent authority to exercise legal and technical supervision of the agents. The state

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<sup>10</sup> See for instance Geneva Convention IV, Article 147; Rome Statute of the International Criminal Court, Article 8(2)(ii).

<sup>11</sup> Case Concerning the Barcelona Traction, Light and Power Company, Limited (Belgium v Spain) (Judgement) International Court of Justice Rep 3 (1970), paras. 33–34.

<sup>12</sup> International Covenant on Civil and Political Rights,

Article 2 (1): Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 26: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

<sup>13</sup> International Convention on the Elimination of All Forms of Racial Discrimination,

Article 1(1): In this Convention, the term ‘racial discrimination’ shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Article 2 (1): States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, (...).

<sup>14</sup> European Convention on Human Rights,

Article 14: The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

<sup>15</sup> See for example, *Treasure Island: How Companies are Profiting from Australia’s Abuse of Refugees on Nauru*, at p. 22, <https://www.amnesty.org/download/Documents/ASA1259422017ENGLISH.PDF>.

<sup>16</sup> CAT, General Comment 2, para 18.



therefore has a clear duty to ensure proactive systems of safeguarding and monitoring systems in such situations, as these are essential to ensure the protection of people's human rights.<sup>17</sup> It must also make sure that the security personnel are qualified, trained and effectively monitored as well as investigated and held to account should any abuses occur. Robust and proactive formal oversight by state officials is crucial to prevent human rights violations at either an individual or systemic level. Effective safeguarding systems should include a provision for consistent monitoring by state officials who actively seek information as well as clear channels and mechanisms through which whistle-blowers – be they security guards, other professionals or people seeking asylum – can safely report any incidents and concerns. Without such systems in place and fully functioning it is difficult to prevent abuse and highlight areas that need improvement, to ensure the full respect of fundamental rights to dignity and humane treatment for people over whom the state is exercising authority. Furthermore, states must ensure that all credible accusations against private companies of illegal conduct linked to human rights abuses are thoroughly investigated and, where appropriate, lead to criminal prosecutions.

States are also under the obligation to conduct a prompt, thorough, effective and impartial investigation into allegations that may amount to torture or ill-treatment of people in the federal asylum centres. The investigation must establish if there has been any ill-treatment and identify anyone responsible for abuse.<sup>18</sup>

Connectedly, the International Covenant on Economic, Social and Cultural Rights to which Switzerland is party requires states to respect, protect and fulfil the right to adequate and timely medical treatment and healthcare. Importantly, UN General Comment 14, which outlines state obligations under Article 12 of the Covenant (right to the highest attainable standard of health), underlines that “States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum-seekers and illegal immigrants, to preventive, curative and palliative health services; abstaining from enforcing discriminatory practices as a State policy.”<sup>19</sup>

The International Convention on the Elimination of All Forms of Racial Discrimination requires that States take action to eradicate racism, and that it prevents, investigates, prosecutes and provide effective remedies for racist or xenophobic incidents. Equality before the law and equal treatment before the tribunals and all other organs administering justice should also be guaranteed.<sup>20</sup>

Children who are unaccompanied benefit from a specific protection according to the Convention on the Rights of the Child, to which Switzerland is party. Unaccompanied children under the age of 18 should not be housed with adults and should instead be accommodated and cared for in ways which serve their best interests as children, as well as uphold their right to education.

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<sup>17</sup> egovernment Schweiz, “Übertragung öffentlicher Aufgaben an Private”, <https://www.egovernment.ch/de/dokumentation/rechtliche-fragen/zusammenarbeit/ubertragung-von-offentlichen-aufgaben-an-private/>.

<sup>18</sup> UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ; Art 4.

<sup>19</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant), para. 34, 11 August 2000, UN Doc. E/C.12/2000/4.

<sup>20</sup> Articles 5(a) and 6 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

# 3. MAIN FINDINGS

## 3.1 CONCERNS ABOUT HUMAN RIGHTS VIOLATIONS IN FEDERAL ASYLUM CENTRES

All fourteen asylum seekers interviewed by Amnesty International, including two children, reported suffering abuse at the hands of security guards. Two individuals interviewed by Amnesty International said that during the abuse, the sustained force used restricted their breathing to an extent that led to both individuals suffering an epileptic seizure.<sup>21</sup> Eight of the people seeking asylum interviewed by Amnesty International who had been housed in either Giffers, Basel or Altstätten federal asylum centres, reported being beaten by guards, including being punched and/or kicked.<sup>22</sup> In one case, a person who suffered from asthma was sprayed with pepper gel and lost consciousness as a result, until he arrived at the hospital. Subsequently, he was hospitalised for two weeks.<sup>23</sup> In four cases, individuals reported to Amnesty International that guards either used their foot to press their head down or kicked them in the head as they laid on the floor.<sup>24</sup> These specific incidents were reported to have occurred in the centres of Giffers and Basel.

Another person was locked in a metal container, outside, in minus temperatures, resulting in hypothermia.<sup>25</sup> Six of the people harmed this way required hospital treatment,<sup>26</sup> and two were denied access to a doctor even though they requested assistance.<sup>27</sup> The cases documented give raise to concerns about ill-treatment by security guards which in some individual cases may amount to torture.

Shockingly, six people told Amnesty International that they had been taken to a ‘reflection room’ or another separate room where they were either subsequently beaten by guards or the beating that had started outside continued inside the room.<sup>28</sup> Two social care workers interviewed by Amnesty International also shared their experiences – separately and without being prompted – of witnessing people being taken forcibly into the ‘reflection room’, from where the individuals subsequently emerged with injuries.<sup>29</sup>

In addition, Amnesty International has received information from other organisations that indicates further concerning reports of abuse occurring in the Asylum Region Ticino and Central Switzerland. It is important to note that we have not conducted any interviews or investigation to corroborate these reports. However, it is worth noting that the alleged incidents of abuse in those centres are similar in nature to those Amnesty International has documented in Giffers, Basel, Boudry, Altstätten and Vallorbe.

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<sup>21</sup> Interviews conducted by Amnesty International with “Omar”, 6 October 2020 and “Khaled”, 27 November 2020 (names have been changed to respect the interviewees’ anonymity).

<sup>22</sup> Interviews conducted by Amnesty International with “Kamel”, 22 July 2020, “Hassan”, 22 July 2020, “Jamil”, 30 July 2020, “Souleymane”, 30 July 2020, and “Oumarou”, 30 October 2020, “Khaled”, 27 November 2020, “Daouda”, 31 December 2020, “Mamadou”, 7 April 2021 (names have been changed to respect the interviewees’ anonymity).

<sup>23</sup> Interview with “Mamadou”, 7 April 2021.

<sup>24</sup> Interviews conducted by Amnesty International with “Kamel”, 22 July 2020, “Hassan”, 22 July 2020, “Jamil”, 30 July 2020 and “Oumarou”, 30 October 2020 (names have been changed to respect the interviewees’ anonymity).

<sup>25</sup> Interview conducted by Amnesty International with “Farid”, 4 March 2021 (name has been changed to respect the interviewee’s anonymity).

<sup>26</sup> Interviews with “Oumarou”, 30 October 2020, “Daouda”, 31 December 2020, “Farid”, 4 March 2021, “Mamadou”, 7 April 2021, “Jamil”, 30 July 2020 and “Omar”, 6 October 2020.

<sup>27</sup> Interviews with “Kamel”, 22 July 2020 and “Khaled”, 27 November 2020.

<sup>28</sup> Interviews conducted by Amnesty International with “Jamil”, 30 July 2020, “Kamel”, 22 July 2020 and “Souleymane”, 30 July 2020, “Mamadou”, 7 April 2020, “Daouda”, 31 December 2020 and “Khaled”, 27 November 2020 (names have been changed to respect the interviewees’ anonymity).

<sup>29</sup> Interview conducted by Amnesty International with “Alex”, 22 August 2020 and “Gabriel”, 22 September 2020 (names have been changed to respect the interviewees’ anonymity).

## THE USE OF A 'REFLECTION ROOM' OR CONTAINERS

According to the SEM's internal guidelines, the federal asylum centres have lockable rooms ('reflection room') in which asylum seekers who are deemed to pose a danger to themselves, to other asylum seekers or to staff can be temporarily detained. An individual is meant to only be locked in this room in compliance with certain rules, otherwise it is considered an unlawful deprivation of liberty. The confinement of a person in the 'reflection room' is to be permitted only if

- at the same time the police is alerted;
- it lasts until the arrival of the police or a maximum of 2 hours;
- the SEM is informed; and
- an event report is drafted, which provides information about each time an individual is locked –in the 'reflection room'.<sup>30</sup>

According to the same guidelines, it is not permitted to detain children in the 'reflection rooms'.<sup>31</sup>

Amnesty International is concerned about the way the 'reflection rooms' are used in practice, and by the allegations received about the same by both people living at the federal asylum centres and professionals working there. Three ex-security guards told Amnesty International that they were strongly encouraged by their superiors to use the 'reflection room' as the only means to control a 'situation'.<sup>32</sup> One of the former security guards explained: "We were expressly told by the person in charge of the security company (...) that there was 'zero tolerance'. We were told thousands of times that we should stop talking to the asylum seekers and that if there was any kind of conflict, we should use the pepper spray and put them in a cell."<sup>33</sup> A social care worker also told Amnesty International: "To date, I have never come across a situation that actually would have required locking an asylum seeker in the reflection room. However, in the beginning of 2020 it happened again and again that people were unjustly and unnecessarily detained in the reflection room."<sup>34</sup>

Despite the rules governing the use of the 'reflection room', including not detaining people there for more than 2 hours and not being permitted to lock children in the same, three asylum seekers interviewed by Amnesty International, including one unaccompanied child, claimed they were detained in the 'reflection room' for more than 2 hours.<sup>35</sup> A social care worker informed our organisation that they had witnessed two separate incidents in which two minors were held in the 'reflection room' and when they asked the security staff and the social care management whether it was allowed to lock up children in the 'reflection room', the answer was "yes".<sup>36</sup>

Most recently, Amnesty International has received gravely concerning reports of guards using a metal container located outside of the centre in Boudry, as an improvised holding cell and location to implement punishment. A person resident at the centre told Amnesty International that one afternoon in February 2021 he was locked in the container by guards who suspected that he had been drinking. He was taken out and locked in the container located outside the centre on a day when the outside temperatures were freezing and according to the weather records for that day was well below zero. Initially, he told Amnesty International that he was placed in a container with two other asylum seekers against his will, and despite the fact that the guards knew he had accused the other two asylum seekers of stealing something from him. The individual alleges he was beaten up by the two asylum seekers and the guards removed him and placed him in a separate container. The container had no heating and sometime later the individual had to be taken to the hospital after fainting. Medical staff in the hospital found he had a head trauma and was suffering from hypothermia. As the person himself explains: "The security guards put me in another container. That's where I got hypothermia and was taken to the hospital. There was no heat and not even a blanket to cover myself with. There were strange smells like urine and vomit in that container. I don't remember exactly what

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<sup>30</sup> SEM, Betriebskonzept Unterbringung (BEKO), Version 2.0, 1 July 2020, p. 54, 10.6, [https://www.plattform-ziab.ch/wp-content/uploads/2020/09/SEM\\_BEKO\\_2020.pdf](https://www.plattform-ziab.ch/wp-content/uploads/2020/09/SEM_BEKO_2020.pdf).

<sup>31</sup> SEM, Betriebskonzept Unterbringung (BEKO), Ibid , p. 55, 10.6.

<sup>32</sup> Interviews conducted by Amnesty International with "Momo", 10 June 2020, "Nino", 16 October 2020 and "Charlie", 18 October 2020 (names have been changed to respect the interviewees' anonymity).

<sup>33</sup> Interview with "Charlie", 18 October 2020 (name has been changed to respect the interviewee's anonymity).

<sup>34</sup> Interview with "Alex", 22 August 2020.

<sup>35</sup> Interviews with "Jamil", 30 July 2020, "Hassan", 22 July 2020 and "Farid", 4 March 2021.

<sup>36</sup> Interview with "Alex", 22 August 2020.

happened. I fainted and fell on the floor. All of a sudden, there was an ambulance. They gave me oxygen and put me in a blanket.”<sup>37</sup> This incident has also been reported in the media.<sup>38</sup>

According to the testimonies of two asylum seekers, they were also locked in a metal container located off the premises in separate instances.<sup>39</sup> One of the two reporting being locked in an improvised ‘reflection room’ was a female asylum seeker. In January 2021, the woman asylum seeker who was resident in the federal asylum centre of Boudry at the time, criticised the security staff for not intervening after a child’s cell phone was allegedly stolen. A security guard explained to her that security staff are not responsible for the residents’ valuables. She then asked the particular security guard for his official identification number in order to file a complaint against him. The security guard refused and then invited the woman to take his picture. As she took the photo, the security guard approached her and tried to take her phone away. She took a step back and avoided him. Another security guard joined and together the two security guards dragged her down the stairs, across the kitchen to a metal container outside the centre. A group of 5 to 6 security guards was standing next to the container. They asked her to delete the picture and she agreed, they proceeded nonetheless to confiscate her phone, took her jacket and belt and then they pushed her into the container where she was locked for two hours and a quarter without the security guards alerting the police. As the woman describes in her own words:

“It was very small, like a cubicle and it was all white inside. It reminded me of an isolation cell in a psychiatric hospital. There was no furniture. You could only sit on the naked floor. There was one window which had bars and could not be opened. Everywhere was pee, dark blood stains and cigarette butts and the floor had not been cleaned for a very long time. It was so disgusting. But I was not surprised, there was no toilet. I think if someone needs to go to the bathroom, they would have to pee on the floor. There was also a camera with which they observed me. I did not notice any ventilation. Outside, it was dark and in the container was illuminated with strong white artificial light. I felt terrible. I was scared and I was shaking from the cold. I was only wearing a very light sweater after they had taken away my jacket and it was very cold outside since it was winter. They said that they were going to turn the heating on, but it did not work. The white light in the container was overly intense and made me feel dizzy. After half an hour, I sat down on the floor and I curled up in a ball shaking, because I was freezing. I just felt powerless. There was nothing I could do to defend myself. I am normally very composed, but in this situation, I was only able to focus on my fear. I think I really understand now how people who are arbitrarily detained feel. I still think about this detention, sometimes I even have flashbacks. I am traumatised by this incident. I have serious trust issues and I am scared that there is no justice even if there is evidence for human rights violations... (...) ... Just before the woman security guard closed the door, she claimed that I should not have taken the pictures and that I was aggressive. When my partner looked for me, the security guard seemed to feel he had to justify his behaviour and they lied to my partner saying that I had jumped on four guards and bitten and scratched them. My partner did not believe them and asked for evidence.”<sup>40</sup>

## ARBITRARY SANCTIONS AND PUNISHMENTS

According to the “Ordinance on the operation of federal centres and accommodations at airports”, asylum seekers and persons in need of protection housed in federal centres may be sanctioned with disciplinary measures if they violate the house rules, their household chores or attendance duties, or endanger public safety and order.<sup>41</sup> Attendance duties are the requirements imposed on people in the centres to be present at the centre at certain set times and for requisite periods of time. The ordinance requires that disciplinary measures meted out by security guards to people residing at the centres have to be time-limited. The permitted punishments include the prohibition on entering certain premises, temporary bans on going out/leaving the centre, denial of public transportation tickets, withdrawal of pocket money, exclusion from the premises for 24 hours or less or assignment to a special centre pursuant to Article 24a AsylA.<sup>42</sup> According to the list of disciplinary measures in Basel, Altstätten, Boudry and Giffers provided to Amnesty International by

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<sup>37</sup> Interview conducted by Amnesty International with “Farid”, 4 March 2021.

<sup>38</sup> RTN, *Etat d’hypothermie au Centre de Perreux*, 15 February 2021, <https://www.rtn.ch/rtn/Actualite/Region/20210215-Etat-d-hypothermie-au-Centre-de-Perreux.html>.

<sup>39</sup> Interview conducted by Amnesty International with “Aleksandre”, 11 April 2021 and with “Maria”, 27 April 2021 (names changed to protect the interviewees’ anonymity).

<sup>40</sup> Interview with “Maria”, 27 April 2021.

<sup>41</sup> Art. 24 of the Ordinance of the Federal Office of Justice and Police on the operation of federal centres and accommodations at airports of December 4, 2018, SR 142.311.23, <https://www.fedlex.admin.ch/eli/cc/2019/1/de>.

<sup>42</sup> Art. 25 of the Ordinance of the Federal Office of Justice and Police on the operation of federal centres and accommodations at airports of December 4, 2018, *Ibid*.

the SEM, the most common sanctions used are the deprivation of pocket money for seven days and ban on going out for 24 hours.<sup>43</sup>

Except for the exclusion from the accommodation for more than eight hours and the assignment to a special center, disciplinary measures can be ordered verbally. If the exclusion from the accommodation is ordered for longer than eight hours or if the accommodation is closed after a shorter period, the person seeking asylum or in need of protection should be provided with a separate room. If the asylum seeker or person in need of protection has legal representation or a person of trust, the SEM will inform this person of the measure.<sup>44</sup> For reasons of legal certainty, the National Commission for the Prevention of Torture (NCPT) has recommended that all disciplinary measures be ordered in writing instead of issued verbally, and that the person concerned be heard in the process, and that he or she be informed of the reasons for and duration of the measure as well as of the possible legal remedies in an appropriate form and language.<sup>45</sup>

Twelve people interviewed by Amnesty about their experiences in the federal asylum centres reported that ‘punishments’ were issued randomly, such as being woken up earlier than others, and on other occasions arbitrarily and randomly being refused entry to the Centre, forcing the individual to remain outside for the night.<sup>46</sup> This happened in two cases<sup>47</sup> reported to Amnesty International, one was a young man who had recently had surgery and despite his obvious delicate condition and ill-health was forced to sleep outside: “Two days after my arrival in the centre I was hospitalised and had a kidney operation. I had a catheter for three months and had to go to the toilet every 30 minutes. The day before my first asylum hearing my friend and I were kicked out of the centre by the security guards. I was told several times by the security and by SEM staff that I had no right to apply for asylum in Switzerland and that I should not be here and had to leave. I spent the night at the train station. But the police performed an identity check and took us to the police station to take our fingerprints. ... (...)... At 10 am I was allowed in again. When I went to the hearing, I explained that I had not slept and that I was not able to do the interview. My objection was not recorded and I was forced to continue the interview.”<sup>48</sup>

People resident at the centres are not alone in having concerns at the way punishments are imposed and in what circumstances. Two security guards<sup>49</sup> and three social care workers<sup>50</sup> also pointed out to Amnesty International that they were concerned about this and felt that there were too many rules or that most of the rules were too strictly and quickly applied and exacerbated any pre-existing tensions between asylum seekers and security guards.

An ex-security guard shared her concerns about the system, the sanctions which are imposed and how this creates a volatile atmosphere at times: “Having people in uniform is not a good system. There are too many security guards and there are so many rules. When a woman asked for milk for her very hungry child, my colleague told her that she should ask the social care worker. But there was no one to help her. And when she got upset, my colleague imposed a penalty. In other situations people could be disciplined for arriving 10 minutes late. This is what makes asylum seekers ‘aggressive’. These people are already in a state of distress because they don’t know what to expect. In addition, they are traumatised by their experiences. I think that the reporting and sanctioning system does not work very well. It should be the social workers who decide on sanctions. In any case, there should be a more neutral person to prevent asylum seekers from getting upset.”<sup>51</sup>

A former security guard explained to Amnesty his view about the punishments: “Regardless of the ‘offence’ committed by the asylum seekers, it is always the same penalty that is imposed. As a result, there is often a feeling of injustice. It is mostly a ban on going out for the following 24 hours and the withdrawal of the weekly pocket money that amounts to 21 CHF. This makes some asylum seekers angry, and this is the reason why we intervene.”<sup>52</sup>

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<sup>43</sup> List of disciplinary measures, July to December 2020, Federal Asylum Centres Boudry, Giffers, Altstätten, Basel, requested by Amnesty International from the SEM on the basis of the Freedom of Information Act (FoIA).

<sup>44</sup> Art. 26 of the Ordinance of the Federal Office of Justice and Police on the operation of federal centres and accommodations at airports of December 4, 2018, Ibid.

<sup>45</sup> Nationale Kommission zur Verhütung von Folter, Bericht betreffend die Überprüfung der Bundesasylzentren durch die Nationale Kommission zur Verhütung von Folter (2019 – 2020) p. 6, § 9, <https://www.nkvf.admin.ch/dam/nkvf/de/data/Berichte/2020/baz/ber-baz-de.pdf.download.pdf/ber-baz-de.pdf>.

<sup>46</sup> Interviews with “Oumarou”, 30 October 2020, “Kamel”, 22 July 2020, “Jamil”, 30 July 2020, “Amir”, 22 August 2020 “Alex”, 22 August 2020, “Jonathan”, 9 April 2021, “Gabriel”, 22 September 2020, “Momo”, 10 June 2020, “Allan”, 21 October 2020, “Charlie”, 18 October 2020, “Luisa”, 7 April 2021 and “Lucas”, 3 July 2020 (names have been changed to protect the interviewees’ anonymity).

<sup>47</sup> Interviews conducted by Amnesty International with “Oumarou”, 30 October 2020 and “Amir”, 22 August 2020 (name has been changed to protect the interviewee’s anonymity).

<sup>48</sup> Interview with “Amir”, 22 August 2020.

<sup>49</sup> Interviews with “Luisa”, 7 April 2021, and “Momo”, 10 June 2020.

<sup>50</sup> Interviews with “Alex”, 22 August 2020, “Gabriel”, 22 September 2020 and “Jonathan”, 9 April 2021.

<sup>51</sup> Interview with “Luisa”, 7 April 2021.

<sup>52</sup> Interview with “Momo”, 10 June 2020.

As one social care worker said: “The restrictive measures imposed by the SEM only create a bad atmosphere, e.g. music ban, no eating in-between meals, far too little time out for unaccompanied minors. Everything, even a tiny speaker, will be confiscated by the security guards. If you arrive just a few minutes late for the food distribution at the centre, you are not allowed in until after the meal. The cleaning times are too long in the morning. Asylum seekers are not allowed to enter their room from 8:15 until 10:30 am. This does not make sense since the cleaning staff always finish earlier.”<sup>53</sup>

## HUMAN RIGHTS OF CHILDREN

Amnesty International is also concerned about reports about children and especially unaccompanied minors staying in federal asylum centres, particularly as they share facilities with adults. Additionally, the organisation is concerned at the cases it has documented of ill-treatment of children, including deeply worrying reports of them being beaten and locked in the “reflection room” by security guards, violating their human rights in multiple ways, as well as being contrary to the rules governing the use of the “reflection room”.<sup>54</sup>

An unaccompanied minor who stayed in a federal asylum centre at the beginning of 2020 told Amnesty International that he had been repeatedly beaten by security guards. He claimed that in one instance he was kicked by security guards until he was unconscious: “I was lying on the ground and they kicked me with their feet in my face, in the stomach and everywhere. I was bleeding from my nose and passed out. ...(. . .). . . The security guards took me to the reflection room and left me there until the evening.”<sup>55</sup> In another instance, the minor was beaten in the ‘reflection room’ and was subsequently admitted to the children’s hospital where he received treatment. Three other asylum seekers<sup>56</sup> and one social care worker<sup>57</sup> who worked in the centre also told Amnesty International that the security guards had repeatedly attacked the adolescent. Injuries of this nature are highly likely to have caused the child in question severe pain or suffering, and so could therefore constitute torture under international human rights law.

Another unaccompanied minor, who was known to the social care workers and legal representatives as usually of a very calm and cooperative disposition, explained to Amnesty International that in December 2020, a security guard who was on night shift had provoked him repeatedly. The security guard ordered him to hand over his phone or to spend the night in a separate room for forgetting to put on his mask before entering the building. While he was trying to sleep in this sparsely equipped room without a mattress, he took off his mask. When the security guards checked on him, they ordered him to put his mask back on and wanted to confiscate his phone. When he refused to give his phone, one of the guards struck him in the chest with his knee and he was pushed to the floor by two security guards. He told Amnesty: “I fell to the ground. One security guard was sitting on my feet and the other was on my neck. They hit and kicked me in my back, belly, and face ...(. . .). . . I never tried to defend myself. I started to cry in pain ...(. . .). . . At the hospital they found that I had a swollen neck and face, three loose teeth and a swollen left foot. Both arms hurt a lot and I had red spots on my left arm.”<sup>58</sup>

It is worth noting that in a separate case, one of the legal representatives interviewed by Amnesty International said that she had witnessed force used against a child which in the legal representative’s view was totally disproportionate. The legal representative saw three to four guards push the screaming and crying child against a glass wall. This occurred in May 2020. Another legal representative told Amnesty that she knew the 15-year-old Asylum seeker: “I did not perceive him as violent. The way he was treated certainly aggravated the situation.”<sup>59</sup> She further added: “The uniforms scare young people a lot. Moreover, the security guards are not trained in dealing with children. They treat them exactly the same as adults. They are just put straight into the ‘reflection room’.”<sup>60</sup>

The same legal representative explained to Amnesty that she was frustrated and concerned by the inefficient reporting mechanism to raise the alarm about allegations of ill-treatment of children: “You report it to the management and they go directly to the SEM ...(. . .). . . We cannot inform child protective services directly because they do not consider themselves competent. The SEM is in a dialogue with the child protective services, but they have not found a solution yet. Child protective services are over-burdened and the SEM

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<sup>53</sup> Interview with “Gabriel”, 22 September 2020.

<sup>54</sup> SEM, Betriebskonzept Unterbringung (BEKO), Version 2.0, 1 July 2020, p. 54, 10.6, [https://www.plattform-ziab.ch/wp-content/uploads/2020/09/SEM\\_BEKO\\_2020.pdf](https://www.plattform-ziab.ch/wp-content/uploads/2020/09/SEM_BEKO_2020.pdf).

<sup>55</sup> Interview with “Jamil”, 30 July 2020.

<sup>56</sup> Interview with “Kamel”, 22 July 2020, with “Hassan”, 22 July 2020 and “Amir”, 22 August 2020.

<sup>57</sup> Interview with “Alex”, 22 August 2020.

<sup>58</sup> Interview with “Daouda”, 31 December 2020.

<sup>59</sup> Interview conducted by Amnesty International with “Françoise”, 21 October 2020.

<sup>60</sup> Interview with “Françoise”, 21 October 2020.

has generally no idea about child protection. Since the SEM does not want the legal representatives to keep reporting endangerment of children's welfare to child protective services, legal representatives first have to contact the SEM and seek internal solutions. The SEM can then report to the child protection authorities. Only if there is no report from the SEM, the legal representative could inform child protective services."<sup>61</sup>

It is impossible to overstate the severity of these accusations. Subjecting children to torture or other ill-treatment constitutes a human rights violation, and, as stated by the then United Nations High Commissioner for Human Rights: "Torture inflicts massive physical and emotional damage on the developing bodies and minds of children and adolescents. In addition to its sometimes very significant physical and cognitive impact, the experience of such profound helplessness may fundamentally impair the child's ability to trust, to freely develop her or his personality and skills, and to navigate changing circumstances with confidence".<sup>62</sup>

## XENOPHOBIC AND RACIST ATTITUDES

Amnesty International is concerned about the xenophobic and racist attitude displayed by certain security guards which may strengthen their readiness to commit violence against asylum seekers. A security guard told Amnesty: "The problem is that some security guards don't understand that this is not a prison. Some guards are disgusted by the asylum seekers and treat them all like criminals. There is racism and xenophobia. This behaviour is known to colleagues and superiors. I don't understand why these people continue to work in a social centre to help people who have been through difficult things."<sup>63</sup>

Further, three social care workers who regularly worked in the centres<sup>64</sup> and one legal representative<sup>65</sup> also expressed their specific concern that particular hostility was shown by security guards to people of North African descent housed in the centres. One social care worker stressed that xenophobic attitudes were very common among security guards: "I have observed discriminatory behaviour against North Africans in particular. There is a real prejudice. This everyday racism is then also reflected in the work."<sup>66</sup>

Another social care worker stated: "I was once told by a superior that these asylum seekers from North Africa must not be treated like normal people."<sup>67</sup> A legal representative interviewed by Amnesty International expressed her specific concern about the particularly violent treatment of minors from North Africa: "Several unaccompanied minors from Maghreb countries have told me that the previous security company was very rough with them. We have the feeling that these young people are targeted because they are perceived as more temperamental and have also experienced a lot of bad things and are not easy to deal with. My impression is that the attitude of the security guards contributes to this. These youths are considered delinquent and drug addicts from the start. ...(...)... It's a self-fulfilling prophecy. If you treat them like that, they become what you make them. With unaccompanied minors, however, in any case, the authorities have to take special measures with due regard to the best interest of the child, regardless of their behaviour."<sup>68</sup>

An asylum seeker described a situation, where he pointed out certain inconsistencies regarding the sanitary rules to a security guard while he was in quarantine: "he replied: 'you don't have the right to ask, you stay here and shut up'. I told him that he should avoid insulting behaviour and behave in a professional manner. He replied: 'I don't care, I have more rights than you. My word is worth ten times yours'."<sup>69</sup>

An asylum seeker from Cameroon told Amnesty International about what happened to him in May 2020 when he was recovering from Covid-19 and after having been in quarantine for three weeks. On the doctor's orders he went for a walk outside, but still felt very weak. When he arrived back at the centre, he waited for almost 30 minutes to be permitted entry. He knocked on the reception window and requested the security guards to conduct the body search in order for him to go back to his room and lay down in bed. The situation quickly escalated. As the victim himself explains: "They said: 'If you talk like that, we'll throw you out'. I told them that I had not insulted anyone and that I had not fought with another asylum seeker. 'Why do you want to throw me out?', I asked. They pushed me three times against the wall ...(...)... They jumped on me and started to abuse me. They continued to hit me with their fists on my head when I was on the

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<sup>61</sup> Ibid.

<sup>62</sup> Statement by Zeid Ra'ad Al Hussein, United Nations High Commissioner for Human Rights at the 43rd session of the Board of Trustees of the UN Voluntary Fund for Victims of Torture (Geneva, 8 April 2016), <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=19797&LangID=E>

<sup>63</sup> Interview with "Charlie", 18 October 2020.

<sup>64</sup> Interviews with "Alex", 22 August 2020, "Gabriel", 22 September 2020 and "Jonathan", 9 April 2021.

<sup>65</sup> Interview with "Françoise", 21 October 2020.

<sup>66</sup> Interview with "Jonathan", 9 April 2021.

<sup>67</sup> Interview with "Alex", 22 August 2020.

<sup>68</sup> Interview with "Françoise", 21 October 2020.

<sup>69</sup> Interview conducted by Amnesty International with Brahim Daouadji, 4 mai 2021.

ground. I had wounds on my head and I was bleeding. Then they kicked me hard in the knee. They took me and threw me out by force ...(...)...They told me that there was nothing I could do against them because they were European and I was an illegal immigrant.”<sup>70</sup>

A young asylum seeker reported he and others were subjected to insults including about their ethnic origin, particularly connected to them being of North African descent. The individual, who shared their experience of abuse with Amnesty International, said that after several incidents of abuse, he asked why people from the Maghreb like him were treated so badly. He was told by the guard that it was “because you are all troublemakers”.<sup>71</sup>

Connectedly, Amnesty International is also concerned about the reports by the human rights defender and activist Brahim Daouadji. He was arbitrarily detained, tortured and ill-treated and subsequently criminalised in his country of origin,<sup>72</sup> and is currently seeking safety and asylum in Switzerland. Brahim was not aware that Amnesty International was investigating the situation in federal asylum centres when he reached out to share his concerns with Amnesty International about the treatment of asylum seekers by security guards. Brahim found that the prayer room was only open for evening prayer, and that he was treated with hostility and disrespect when trying to pray in the morning, which is particularly important during the holy month of Ramadan. He shared a concerning interaction with a security guard who unnecessarily, aggressively and deliberately interrupted his morning prayer. As Brahim explains in his own words: “Normally we are supposed to leave the room for cleaning at 8:30. I started to pray at 8:05 and it was going to take me 5 to 10 minutes. Around 8:10 a security guard interrupted me while I was praying in the room. Other people were still asleep. Since I could not answer as I was praying. I was going to finish just a few minutes later. He started to shout in my ear: ‘this is not a mosque’, then touching my shoulder he called out: ‘hey I’m talking to you!’. Then he went out to tell his colleague that I was doing my prayer. There is a prayer room in the building, but it is accessible during Ramadan only for the collective evening prayer. When I asked the director of the centre about the incident, he told me that the officer could not have known how long the prayer would take. I got the impression that he always wanted to justify the actions of his staff.”<sup>73</sup>

These allegations indicate a concerning pattern of discrimination on the basis of race, colour, descent, religion, national or ethnic origin. This is in contravention of the international legal obligations of the Swiss state, as underlined in Chapter 2 of this briefing.

## 3.2. CONCERNS ABOUT WEAK AND INADEQUATE MONITORING AND SAFEGUARDING MECHANISMS

When Amnesty International requested information from the SEM about the monitoring mechanisms in place, the SEM told Amnesty International that the information flow is assured through ordinary weekly and monthly meetings at the level of the section and the regional management. If an incident of a certain significance/scope takes place, it can be immediately reported to the State Secretary for Migration.<sup>74</sup> Furthermore, the system of quality management provides for regular audits which are performed by SEM staff every one and a half to two years, spot checks carried out twice a year in each centre, and monthly reports completed at the end of each month.<sup>75</sup> Following any incident where force is used, security guards are required to draft reports. According to the SEM, these reports are intended to serve as a mechanism to control the security guards’ work.

Amnesty International requested information from the SEM about which, if any, individuals hold a specific mandate to pro-actively monitor, investigate, seek information, and safeguard the human rights of individuals in the federal asylum centres on their behalf. In their response, the authorities did not specify who exactly in the SEM is responsible for safeguarding the human rights of people in the federal asylum centres, nor whether they regularly monitor the situation in the centres and proactively seek information regarding violent incidents. It seems that there is no one specifically mandated with safeguarding and monitoring the human rights of people in the centres, but rather many different individuals at the SEM who are in charge of different connected aspects.

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<sup>70</sup> Interview with “Oumarou”, 30 October 2020.

<sup>71</sup> Interview with “Kamel”, 22 July 2020.

<sup>72</sup> Amnesty International, déclaration publique, *Répression de la liberté d’expression et du droit de réunion : les militant·e·s du Hirak en Algérie*, 22 février 2021, MDE 28/3707/2021, <https://www.amnesty.org/download/Documents/MDE2837072021FRENCH.pdf>.

<sup>73</sup> Interview conducted by Amnesty International with Brahim Daouadji, 4 May 2021.

<sup>74</sup> Response letter by the SEM to Amnesty International, 26 January 2021.

<sup>75</sup> SEM, Betriebskonzept Unterbringung (BEKO), Version 2.0, 1 July 2020, p. 77, 19, [https://www.plattform-ziab.ch/wp-content/uploads/2020/09/SEM\\_BEKO\\_2020.pdf](https://www.plattform-ziab.ch/wp-content/uploads/2020/09/SEM_BEKO_2020.pdf).



An ex-guard interviewed by Amnesty International considered that the SEM did not sufficiently monitor the behaviour of security staff: “They had people coming by to check on us from time to time, but there should have been more regular controls by the SEM.”<sup>76</sup> Another security guard explained that “the only means of monitoring us were the reports, because the supervisors were never present while we were on duty.”<sup>77</sup>

Six current or ex-guards<sup>78</sup> and three social care workers<sup>79</sup> in federal asylum centres interviewed by Amnesty International, expressed concerns about the accuracy of some of the reports that are written by guards about incidents where force was employed. They observed that there was a disconnect between events they witnessed and how they were subsequently described in the official record submitted about the same. A former security guard told Amnesty that “often the security reports were falsified, but without accurate reports, it is difficult for superiors to assess the real atmosphere of the centre and the real work done by security staff.”<sup>80</sup> Another former security guard said that “the main problem is that the security guards at the reception who was never present during the intervention have to write the reports. If there are 4 guards who dictate the report, there are 4 different versions of the events. So, you don’t know what really happened”.<sup>81</sup> A third former guard explained: “The supervisors were not aware of the security guards’ behaviour because the reports were always biased in favour of the guards.”<sup>82</sup> This was confirmed by one of his colleagues: “It is clear that the intention is to choose the words to cover us and to erase the errors, the faults or the violence. The reports are written in a hurry, in the hour following the events and most of the time the guards do not reread them before sending them.”<sup>83</sup>

A young man and asylum seeker explained to Amnesty International that after he had been pulled out of bed and his cell phone had been confiscated by the security guards, he ran to the kitchen in a state of desperation and took a knife to hurt himself. He declared that he did not threaten anyone around him.<sup>84</sup> However, the security guards’ report stated that he had threatened the security staff with a knife. Witnesses who had been present during the incident were able to confirm that he had not directed threats of harm at anybody apart from himself.

Amnesty International was also made aware of an incident in January 2021, during which an asylum seeker was restrained by security guards and placed in an improvised ‘reflection room’. During the interaction, the victim pressed “record” on their phone, which the guards confiscated and took with them to their office. The subsequent discussion between the security guards on the way the report should be formulated and events described to best portray and justify their actions was recorded on the phone which they had confiscated.<sup>85</sup>

It is worth noting that the national preventative mechanism, the National Commission for the Prevention of Torture (CNPT), does carry out some crucial visits and monitoring. It provides important advice to the authorities on places of detention and other locations where there is a possibility of abuse against individuals who are in the care of the state. However, this is an independent mechanism, and its existence does not relinquish or constitute compliance with the specific state duty to take action to prevent torture and other ill-treatment through its own proactive safeguarding and monitoring systems and measures in the case of the federal asylum centres. This is perhaps particularly the case when it has outsourced the running of the same to private companies.

## LACK OF AN INDEPENDENT, ADEQUATE AND EFFICIENT COMPLAINT MECHANISMS FOR REPORTING ABUSE

In January 2021, the SEM informed Amnesty International that pursuant to the operating concept (“Betriebskonzept”), when entering the federal asylum centres asylum seekers receive a leaflet which includes information on the contact person at the SEM responsible for receiving complaints. Furthermore, there is also a “feedback-box”, where people can lodge a written complaint. According to the SEM,

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<sup>76</sup> Interview with “Luisa”, 7 April 2021.

<sup>77</sup> Interview with “Nino”, 16 October 2020.

<sup>78</sup> Interviews with “Momo”, 10 June 2020, “Nino”, 16 October 2020, “Luisa”, 7 April 2021, “Yannick”, 28 July 2020, “Lucas”, 3 July 2020 and name withheld, 17 December 2020.

<sup>79</sup> Interviews with “Alex”, 22 August 2020, “Gabriel”, 22 September 2020 and “Jonathan”, 9 April 2021.

<sup>80</sup> Interview with “Momo”, 10 June 2020.

<sup>81</sup> Interview with “Luisa”, 7 April 2021.

<sup>82</sup> Interview with “Nino”, 16 October 2020.

<sup>83</sup> Interview with “Allan”, 21 October 2020.

<sup>84</sup> Interview with “Kamel”, 22 July 2020.

<sup>85</sup> Recording published by SRF Rundschau, “Gewaltzone Asylheim”, 5 May 2021, <https://www.srf.ch/play/tv/rundschau/video/gewaltzone-asylheim-mario-gattiker-agrar-initiativen?urn=urn:srf:video:2f455cf0-dcc8-4824-aafc-1f2a16d9cc6e> and RTS 19.30, 5 May 2021 “Des abus et violences répétés ont eu lieu contre des requérants d’asile dans les centres fédéraux. Notre enquête.”, <https://www.rts.ch/play/tv/19h30/video/des-abus-et-violences-repetes-ont-eu-lieu-contre-des-requerants-dasile-dans-les-centres-federaux--notre-enquete-urn=urn:rts:video:12176622>.

information and report flow is designed to allow for complaints to be first dealt with by the management of the centre and by the regional management, and then by the staff unit at the headquarters of SEM. This is intended to minimise the risk of collusion. Furthermore, each asylum seeker could file a criminal complaint with the police.<sup>86</sup>

None of the asylum seekers interviewed by Amnesty International knew how they could report abuse to the SEM. It was clear from the interviews that the information regarding the existing complaint mechanisms is not clearly communicated. Even once cognisant of the mechanism for reporting – either putting a note in the suggestions box located in the centre or speaking directly to any available SEM official/director of the centre – the lack of trust in the authorities also often prevents asylum seekers from speaking to SEM staff, as SEM staff are perceived as working closely with the security staff so not independent or trustworthy. In several cases flagged to Amnesty International, asylum seekers reported a violent incident to their legal representative, who subsequently informed the SEM and referred them to the cantonal service for victims. It is worth noting that these complaints were made by victims off their own initiative supported by a lawyer, and not following any officially outlined procedure.

It was brought to Amnesty International's attention that almost always when a criminal complaint is filed by the asylum seeker regarding abuse, there is a formal counter charge by the security guard against the asylum seeker. Given the precarity of the asylum seeker's situation, sometimes the language and the difficulties that some asylum seekers face in finding or paying for a lawyer, filing criminal complaint is wrought with challenges and a huge step for them to take. The legal representatives in the centre are only mandated for the asylum procedure and often have no expertise in the field of criminal law. It seems that only in cases where asylum seekers were supported by civil society organisations, criminal proceedings were instituted. In a few cases, asylum seekers were transferred to another state, a so called "Dublin transfer"<sup>87</sup>, while the proceedings were still ongoing. Any possibility for accountability thus diminishes significantly, as the ability of the individual to pursue their claim from another country is very small.

The absence of an adequate complaints mechanism for asylum seekers wanting to report abuse has been raised in Parliament, although the proposal was subsequently rejected. On 18 March 2020 a group of 21 Members of Parliament submitted a proposal for the creation of an independent ombudsperson's office for asylum seekers as a point of contact in cases of violence, discrimination and other serious problems in asylum accommodations.<sup>88</sup> They stressed that "asylum seekers currently only have the possibility to turn to the personnel within the centre, which is inhibiting and does not guarantee independent treatment. Asylum seekers fear negative consequences in their housing situation or in the asylum procedure if the complaints office is not independent." On 26 August 2020, the Federal Council requested the rejection of the postulate. In the Federal Council's view, there was no need for the creation of an additional independent ombudsperson's office.<sup>89</sup> On 5 May 2021, the SEM issued a statement indicating that it was considering once again the establishment of an independent complaint mechanism.<sup>90</sup> Should such a mechanism be created, Amnesty International urges that it be done in accordance with international human rights standards and in consultation with a broad range of actors including victims of abuse.

## **LACK OF AN EFFECTIVE, INDEPENDENT AND SECURE WHISTLEBLOWING MECHANISM OR INFORMATION ABOUT EXISTING MECHANISMS**

According to the SEM, concerns about abuse from private individuals and federal employees may be sent in writing on the secure external platform [www.whistleblowing.admin.ch](http://www.whistleblowing.admin.ch), which is run by the Swiss Federal Audit Office (SFAO).<sup>91</sup> However, when asked about the complaint mechanisms for staff in place in the federal asylum centres, none of the current and ex-security guards, social care workers or legal representatives employed in the federal asylum centres interviewed by Amnesty International knew that there was a whistleblowing mechanism in place.

Amnesty International is concerned that people – both people working in the centre and housed in the centres – are not aware of the process for whistle blowers. We also underline that any whistle-blower system

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<sup>86</sup> Response letter by SEM to Amnesty International, 26 January 2021.

<sup>87</sup> The transfer of responsibility for the examination of the merits of an application for international protection from a State party to the Dublin Regulation to another State party to the agreement.

<sup>88</sup> Postulat 20.3776, "Schaffung einer unabhängigen Ombudsstelle für Asylsuchende", 18 June 2020, <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaefft?AffairId=20203776>

<sup>89</sup> Ibid.

<sup>90</sup> State Secretariat for Migration (SEM), SEM lässt Gewaltvorwürfe untersuchen (Press release, 5 May 2021), <https://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-83389.html>.

<sup>91</sup> Swiss Federal Audit Office (SFAO), Whistleblowing, accessed on 26 April 2021, available at <https://www.efk.admin.ch/en/whistleblowing-e.html>.

for reporting abuse must be robust, swift in its response and tailored to deal with the particular risks and human rights concerns that are arising in the federal asylum centres.

Amnesty International is worried about the absence of information on a secure, independent and rapidly responding whistle-blowing system for concerned individuals to report any incidents or practices which are abusive or foster an environment which enables abuse to occur. The lack of effective safeguards and channels to report abuse or concerns means people are vulnerable to repercussions when they try to raise the alarm. For example, a former security guard told Amnesty International that she was reprimanded by her colleagues after she told the SEM she felt that asylum seekers were treated unfairly: "I once disagreed with the drafting of a report where there were many different versions. I knew some asylum seekers and I knew that they were not all bad. So I refused to write this unfair report. When I made a comment to the SEM, my colleagues got very upset and told me that I had no right to tell the SEM. Sometime later I was fired..."<sup>92</sup>

A social care worker described to Amnesty International how they tried to intervene when they witnessed a young man being unfairly punished after he had been provoked and attacked by another asylum seeker: "His punishment was harsh and unjustified. The other asylum seeker, on the other hand, was not sanctioned at all, although everyone saw how he started the fight. If a third person wants to intervene and give a different account of the incident, we are told to write a report, but nothing happens when we do."<sup>93</sup> The social care worker further explained that they felt powerless and did not know how to react to the injustice they had repeatedly witnessed: "Some colleagues and I have considered quitting several times. But I decided to fight. However, I realise that I am very small and cannot change anything. In situations where I or some colleagues who want non-violent contact are present, we can prevent violence. Otherwise, there is not much we can change. The question is 'if, those who are against harassment and violence leave, who will stay?'"<sup>94</sup>

## **NEED FOR ACCOUNTABILITY AND THE ABSENCE OF PROMPT, THOROUGH, EFFECTIVE AND IMPARTIAL INVESTIGATIONS**

In January 2021, the SEM told Amnesty International that it had been informed about a total of 20 cases of "disproportionate use of violence". One case was transferred to the police for further investigation, in three cases the security agents were dismissed. In two cases the security guards were transferred to different centres for their own safety after being threatened by asylum seekers. In all other cases the allegations were found to be unsubstantiated.<sup>95</sup>

While welcoming the recent commitment by the Swiss authorities to undertake an investigation into allegations of abuse,<sup>96</sup> Amnesty International urges that these investigations comply with international human rights law. The state must ensure any such mechanism is independent, effective, transparent, prompt and impartial, and has a clear mandate, including to identify systemic concerns. These are required for effectiveness, to ensure accountability for acts of torture and other ill-treatment, and provide redress for victims. If there is sufficient admissible evidence, cases should be referred to the criminal justice system to bring to account to all those suspected of criminal responsibility in fair trials, as well as ensuring redress for victims.

A social care worker told Amnesty that when the SEM investigates a case, in his view, it "gives too much weight to the statements of the employees" and "rarely considers the version of the asylum seekers or witnesses".<sup>97</sup> This was also mentioned by a former security guard who told Amnesty International: "In the event reports, the point of view of the asylum seekers is never reported, it is up to the receptionist to write the report but sometimes it is the perspective of only one guard. You write what you want. In general, the police is alerted and they simply arrest the asylum seeker without asking any questions. Sometimes the director of the centre listens to the asylum seekers, but I have serious doubts that they carry out investigations on the basis of the asylum seekers' version of the events."<sup>98</sup>

A legal representative interviewed by Amnesty International shared how difficult he had found it to access the information necessary to be able to advocate properly for his clients. He also expressed concern about the lack of follow-up by the SEM when complaints about violence are made by asylum seekers staying at the

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<sup>92</sup> Interview with "Luisa", 7 April 2021.

<sup>93</sup> Interview with "Alex", 22 August 2020.

<sup>94</sup> Interview with "Alex", 22 August 2020.

<sup>95</sup> Response letter by SEM to Amnesty International, 26 January 2021.

<sup>96</sup> State Secretariat for Migration (SEM), SEM lässt Gewaltvorwürfe untersuchen (Press release, 5 Mai 2021), <https://www.sem.admin.ch/sem/de/home/sem/medien/mm.msg-id-83389.html>.

<sup>97</sup> Interview with "Jonathan", 9 April 2021.

<sup>98</sup> Interview with "Momo", 10 June 2020.

centre. As he explains: “In general, it is very difficult for legal representatives representing asylum seekers to obtain information about disciplinary measures imposed on their clients, especially following allegations of violence and ill-treatment by security officers. While the procedures established by the SEM provide for incident reports to be forwarded to legal representatives, this is hardly ever the case in practice. When confronted with accounts from asylum seekers alleging that they have been victims of violence, the legal representatives receive no information from the SEM. Communication on this issue is practically non-existent. When legal representatives submit accounts from asylum seekers alleging violence and abuse, they generally receive no response from the authorities, except sometimes they are provided a summary of the incident report which is strongly unfavourable to the asylum seeker. I have been confronted on at least two occasions with situations in which, following a violent altercation with security staff, asylum seekers have self-harmed or attempted suicide, requiring hospitalisation. In view of the seriousness of the situation, I repeatedly called on the state service in charge of accommodation, relaying what asylum seekers had told me. After several unanswered requests, the SEM only sent me a summary of the incident report concluding that the asylum seekers had behaved badly and confirming their hospitalisation. I have not had information about of any follow-up to these events.”<sup>99</sup>

A legal representative observed that in her view, the way the investigations were conducted was not transparent. As she describes: “What surprises me is how the SEM deals with cases of violence. As legal representatives, we have several times requested access to the reports and the files on cases of violence involving unaccompanied minors, the SEM however, only sent us the report of the security guard. The SEM has never tried to speak with the unaccompanied minor in any case [sic: that the legal representative was aware of] to inquire about his/her version of events. Also, the notes or reports of the social care workers or social education workers have never been taken into account. Therefore, the investigation of a case of violence by the SEM is completely deficient, if not negligent.”<sup>100</sup> She added that every time legal representatives would tell the SEM about cases of alleged ill-treatment of minors, they would get exactly the same vague standard phrased response: “self-inflicted violence” or “behaviour that is hurtful to others and therefore proportionate use of force by security staff.”<sup>101</sup>

In a separate interview, a social care worker described an official high-level visit that occurred shortly after an incident of abuse as follows: “The control visits of the State Secretary for Migration are a total token exercise. He simply comes for a meeting with the SEM staff. He does not visit the centre. The social care manager informs all of us to organise as many activities as possible for that day. When such a control visit takes place, everything is nicely arranged to portray a certain image.”<sup>102</sup>

A security guard considered that an investigation should be undertaken if a security guard is involved repeatedly in violent incidents: “I have not seen any sanctions against guards who have physically attacked asylum seekers, on the contrary, they are favoured and given more important tasks. The directors of the centre and of regional security cover the guards. If a guard’s name comes up repeatedly in the security reports, they would have to investigate. This has not been done to my knowledge.”<sup>103</sup>

International law requires that states conduct a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture or ill-treatment has been committed within its jurisdiction.<sup>104</sup> They must ensure that individuals have the right to complain to, and to have their case promptly and impartially examined by, a competent authority, such as an ombudsman or the police.<sup>105</sup> Steps must then be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of their complaint or any evidence given.<sup>106</sup>

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<sup>99</sup> Interview conducted by Amnesty International with “Peter”, 15 Mai 2021 (Name has been changed to respect the interviewee’s anonymity).

<sup>100</sup> Interview with “Françoise”, 21 October 2020.

<sup>101</sup> Ibid..

<sup>102</sup> Interview with “Gabriel”, 22 September 2020.

<sup>103</sup> Interview with “Momo”, 10 June 2020.

<sup>104</sup> UN Convention Against Torture, Article 12: “Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.” (See also Article 16 as regards ill-treatment).

The UN Human Rights Committee has also repeatedly recognised the obligation to investigate in order to realize the right to an effective remedy. (See Article 2(3) of the ICCPR; see also HRC: *Hugo Rodríguez v Uruguay*, UN Doc. CCPR/C/51/D/322/1988 (1994) and para 15 of UN Human Rights Committee General Comment 31 on the right to an effective remedy.

The European Court of Human Rights has similarly required an effective investigation into allegations of torture: European Court: *Assenov and Others v Bulgaria* (90/1997/874/1086), (1998) §102. See also *Aydın v Turkey* (23178/94), Grand Chamber (1997) §103; *Selçuk and Asker v Turkey* (23184/94 and 23185/94), (1998) §96; *Kurt v Turkey* (24276/94), (1998) §§133 and 135-9; *Keenan v UK* (27229/95), (2001) §123.

<sup>105</sup> UN Convention Against Torture, Article 13.

<sup>106</sup> Ibid.

In accordance with Article 12 of the Convention against Torture, an investigation must be made wherever there is “reasonable ground” to believe that torture or other ill-treatment has been committed. In practice this means an investigation should be undertaken both in situations where: (i) a complaint to the authorities has been made; and (ii) no complaint has been made but there are indications that torture or other ill-treatment may have occurred.<sup>107</sup>

## INADEQUATE TRAINING

The SEM informed Amnesty International that the employees are all trained in intercultural communication by the Swiss Refugee Council (SRC). This course is repeated every two years. Furthermore, there are 3 days of basic training.<sup>108</sup>

According to the security staff interviewed by Amnesty International the recruitment process does not focus on social skills. Several ex- and current security guards expressed their concern that most interview questions were about physical shape and their willingness to use force. One security guard was surprised about the recruitment process: “The first question I was asked during the interview was: ‘Do you have a problem with violence?’, meaning ‘Do you have a problem with using violence?’. I was very shocked by that, and that was what made me hesitate to work there.”<sup>109</sup> Security guards also reported to Amnesty that they felt the training they were offered was inadequate. For example, a former security guard considered the 1-day course on intercultural communication and the introductory training insufficient: “I think it’s way too short, we’re briefly touching on the subject. We’re staying on the surface... (...) It is too little, in order to train staff who have no experience with asylum seekers. I find that the training lacks depth.”<sup>110</sup> Another security guard shared this view: “I think we have not been trained enough because we are dealing with human beings. One day of training in intercultural communication at the Swiss Refugee Council is not enough. The social side is missing. I think there should be more de-escalation training. But you do also need some common sense.”<sup>111</sup>

At least six of the eight current and ex- guards told Amnesty that they felt security guards respond with force in situations that could be de-escalated instead.<sup>112</sup> As a security guard interviewed by Amnesty International shared in an interview, he was shocked about the feedback he received when he handled a situation non-violently and intervened to curtail the behaviour of a fellow guard: “I remember one case of a security guard who bothered an asylum seeker. The response of the other security officers, including myself, was to wait what happens. We quickly realised that the conflict was not caused by the asylum seeker but by the guard who had been hovering around him and ‘bugging’ him for 2 days and we asked the guard to leave him alone. When the security guard left, the asylum seeker calmed down instantly. The next day we were openly reproached for not putting the asylum seeker in the cell because he had been ‘violent with his words’. He had supposedly threatened the security guard. They insinuated that in this kind of situation the procedure to adopt was to simply put the asylum seeker in the reflection room, even if the provocation came from the security guard.”<sup>113</sup>

A former security guard reported that initially while he was working at the centre things were going well and there was no incidence of violence. However, when he came back after taking some leave, he read the reports written by some of his colleagues and saw that there had been a significant number of violent incidents during his absence. He asked various asylum seekers and they all confirmed that the security guards had provoked some other asylum seekers: “[until then] I had always come across security teams where things went quite well. We tried to create a relationship with the asylum seekers based on mutual respect (...) I consider that we are here to help asylum seekers, not to discipline or beat them. But some security guards want to take their stress out on them.”<sup>114</sup>

Another former security guard complained to Amnesty International about the use of force by fellow security guards: “I noticed that the interventions of security guards were very ‘messy’, in the sense that they could

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<sup>107</sup> Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Principle 2.

<sup>108</sup> The SRC explained to Amnesty International that this one-day course for employees of security companies focusses on understanding other cultures and discrimination and can in no way replace training in violence prevention. Moreover, the course is not repeated, but offered regularly to new employees. According to the SRC the three-day basic training mentioned by the SEM is also insufficient, as it does not focus on violence prevention and is too short.

<sup>109</sup> Interview with “Nino”, 16 October 2020.

<sup>110</sup> Interview with “Momo”, 10 June 2020.

<sup>111</sup> Interview with “Yannick”, 28 July 2020.

<sup>112</sup> Interviews with “Momo”, 10 June 2020, “Nino”, 16 October 2020, “Yannick”, 28 July 2020, “Allan”, 21 October 2020, “Charlie”, 18 October 2020 and “Lucas”, 3 July 2020.

<sup>113</sup> Interview with “Nino”, 16 October 2020.

<sup>114</sup> Interview with “Charlie”, 18 October 2020.

often injure the people they were trying to restrain. It takes experience to restrain an individual. I notice that ego often gets in the way. What struck me most is a lack of communication... It is clearly the attitude of “the strong man” that was valued. We were asked to adopt a ‘zero tolerance policy’, the problem is that they did not explain to us what that meant, so everyone makes their own interpretation. For me, they were inferring that if something is wrong, we don't really try to think about it, we react and just lash out ...(...)... In many cases we could have just imposed a sanction, but the guards used force instead, even though they did not fear for their lives. I clearly noticed a disproportionate use of violence.”<sup>115</sup> Amnesty International is concerned that the security guards’ testimonies indicate that some of the systems currently in place are predicated on the assumption that the people housed in the federal asylum centres are potentially violent and dangerous and this potentially reinforces pre-existing negative stereotypes and prejudices about them.

A former security guard expressed his concerns about the poor working conditions for the security staff in the federal asylum centres: “You sleep very little if you work fulltime. This causes a lot of problems for social life, health and can even have an impact on relations with asylum seekers. We were often understaffed. I have many colleagues who have fallen into depression, who have had burnouts or road accidents. I know people whose health has deteriorated and people who have started to lose their patience at work. With such working conditions you lose some of your flexibility and become less tolerant.”<sup>116</sup>

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<sup>115</sup> Interview with “Momo”, 10 June 2020.

<sup>116</sup> Interview with “Allan”, 21 October 2020.

# 4. CONCLUSION AND RECOMMENDATIONS

In light of the information and testimonies gathered and analysed for this briefing, Amnesty International is particularly concerned about the failure of the Swiss authorities to respect, protect and fulfil its obligations to take effective measures to prevent violations of adults' and children's human rights in federal asylum centres. The information collected gives rise to concerns about failures by the authorities to meet their obligation to prevent and prohibit their agents from committing acts which may amount to torture, inhuman or degrading treatment or punishments, through measures such as beatings, locking people in metal containers or forcing them to sleep outside. Amnesty International is increasingly concerned at the lack of improvement in oversight, safeguarding and proactive monitoring by the state of the federal asylum centres, and the urgent need to guarantee the human rights of people seeking safety and asylum in Switzerland given the serious and multiple reports of abuses of victims housed in federal asylum centres as well as current and ex-security guards, legal representatives and social workers who work or have worked in the centres.

Amnesty International therefore urges the Swiss authorities to comply with its international human rights obligations, including to protect the right of all people to be free from ill-treatment, as well as ensuring accountability by investigating those suspected and punishing those convicted of committing abuses, and makes the following recommendations **to the State:**

- Conduct an independent, impartial, prompt and thorough root and branch investigation into allegations of the abuses that in some cases may amount to torture and other ill-treatment, with a view to urgently reforming any systemic failings that are found to be putting people seeking asylum's human rights at risk. The findings and recommendations from the investigation should be made public.
- Urgently enhance and strengthen the safeguarding and proactive monitoring of federal asylum centres. There should be robust, regular and proactive monitoring conducted and individuals mandated with seeking information about the situation of human rights protection for people resident in the federal asylum centres.
- Urgently revise the current central national oversight and safeguarding mechanisms that are in place and designate a person/s specifically responsible for monitoring and enforcing the rights of people in the federal asylum centres and protecting them against human rights abuses.
- Immediately stop the locking of individuals in improvised metal containers, as well as urgently review the rules and practice of locking people in 'reflection rooms'.
- Immediately take measures to protect and uphold the rights of children, including by prohibiting the placing of children in the 'reflection room', as well as stopping the practice of housing unaccompanied minors in federal asylum centres.
- Ensure the right to health and access to medical treatment of people in the centres is respected, protected and fulfilled.
- Adopt an independent and effective complaints mechanism and ensure people who are housed in the federal asylum centres are aware of what the complaints procedure is and how they can access it.
- Ensure an independent, secure, confidential, safe and effective whistle-blower mechanism is established and that security guards and other staff in the centres are aware of its existence as well

as how to access it. Steps must be taken to ensure its independence and to guarantee the safety and confidence of those wishing to report concerns to the state.

- Ensure accountability for abuses by thoroughly, promptly and impartially investigating allegations of ill-treatment of people housed in the federal asylum centres and where evidence is found bringing perpetrators to account through the justice system. Finally, guarantee victims right to reparation when violations of their human rights are found to have occurred.
- Take measures to tackle and eradicate racist attitudes and negative and harmful stereotypes about racialised people, particularly seeking to dismantle prejudices towards people of North African descent. This should not only take the form of reforming the recruitment process, training or other pertinent programmes for security guards, but also in the development of systems of accountability with anyone breaching rules disciplined and if a crime is suspected of occurring, referred to the criminal justice system for investigation.
- Identify if any methods, policies, practices or absence of the same, as well as management, are contributing to the situation where the abuse of people in asylum centres is occurring.
- Ensure that any investigation is conducted with a view to identifying policies or practices that need revising in order for Switzerland to comply with its obligations under international law to respect, protect and fulfil human rights.
- Integrate stricter requirements in relation to quality standards and training, including human rights standards, into contracts with private security providers in federal asylum centres and ensure that the security company recruits experienced and skilled security personnel and trains them specifically and in depth for assignments in the federal asylum centres.
- Comply with the recommendation by the Committee against Torture to ensure a definition of torture in the criminal code which is compliant with the Convention against Torture.<sup>117</sup>

**To the companies Securitas AG and Protectas AG:**

- Take action to fulfil the responsibility companies have to respect human rights, including by carrying out due diligence.

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<sup>117</sup> Committee against Torture (CAT), Concluding observations on the seventh periodic report of Switzerland, UN Doc. CAT/C/CHE/CO/7, 7 September 2015, para. 7.



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